

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 95-01**  
February 9, 1998

RE: May employee provide training to state employees of another state?

DECISION: Yes, but may accept only reimbursement of actual expenses

This opinion is in response to your November 14, 1994, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 15, 1994, and February 9, 1995, meetings of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You are a training manager within the Division of Youth Services, Department of Social Services, Cabinet for Human Resources. You provided training to the juvenile system's training staff of the state of Pennsylvania using materials developed by your staff through the use of federal funds. These materials are free, upon request to any public or private agency. The training consisted of teaching ways to use the materials and the course and ways to implement the same program Kentucky has developed. You hoped to receive comments on the training curriculum in order to enhance the course.

The Director of Training for Pennsylvania's juvenile system is also a private consultant to the Kentucky Department for Social Services. As a consultant (and not as part of his responsibilities for the state of Pennsylvania), he provides yearly skills tests to your agency's trainers. You are on a committee which could affect this consultant's continued services to the Kentucky Department of Social Services.

The training you provided to Pennsylvania's juvenile system was provided on your own time and was not part of your official duty as a public servant. As reimbursement for your expenses to cover two trips to Pennsylvania, you have received \$1,000 from the state of Pennsylvania. You state you did not benefit financially by providing this service.

KRS 11A.020(1)(a) and (c) provide:

**11A.020 Public servant prohibited from certain conduct** -- Disclosure of personal or private interest.

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

....

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family;

Although you were not performing your official duty while providing the seminar to Pennsylvania employees, there is some basis to suggest that you were using your official position for financial gain. The fact that the Director of Training for Pennsylvania's juvenile system is a private consultant to your agency may present a conflict of interest for you if you are benefitting from the training you provide to Pennsylvania state employees. Because of this relationship, you may be more inclined to recommend that your agency continue using the Director's consulting services and he may be more inclined to hire you for Pennsylvania's training in order to improve his own chances with Kentucky.

The Commission does not consider reimbursement for expenses to be compensation, and thus, you may provide the training and accept expense money for actual expenses incurred in the presentation of training to the Pennsylvania training staff. However, from the information provided to the Commission concerning your expenses, it appears your total expense is less than \$1,000. You should assemble documentation of actual expenses, return any excess to Pennsylvania, and provide copies of supporting documentation to the Commission. If you accept only reimbursement for actual expenses, and not any form of compensation from Pennsylvania, the Commission believes you may provide the training.

Please be cautioned that if, in the future, you believe this situation has created a conflict of interest for you, you must refrain from making any decisions in your official capacity as a public servant which might be affected by that conflict as provided below.

KRS 11A.020(3) provides:

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

and KRS 11A.030 provides:

**11A.030 Considerations in determination to abstain from action or official decision -- Advisory opinion.**

In determining whether to abstain from action on an official decision because of a possible conflict of interest, a public servant should consider the following guidelines:

- (1) Whether a substantial threat to his independence of judgment has been created by his personal or private interest;
- (2) The effect of his participation on public confidence in the integrity of the executive branch;
- (3) Whether his participation is likely to have any significant effect on the disposition of the matter;
- (4) The need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the executive branch; or
- (5) Whether the official decision will affect him in a manner differently from the public or will affect him as a member of a business, profession, occupation, or group to no greater extent generally than other members of such business, profession, occupation, or group. A public servant may request an advisory opinion from the Executive Branch Ethics Commission in accordance with the commission's rules of procedure.

EXECUTIVE BRANCH ETHICS COMMISSION

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Livingston Taylor, Chairman