

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 95-5

March 23, 1995

RE: May student be employed by instructor's business as part of co-op class?

DECISION: No.

This opinion is in response to your February 15, 1995, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the March 23, 1995, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. Your office has received a request concerning a situation within the Department for Technical Education of the Workforce Development Cabinet (the "Department") which may be a violation of the Executive Branch Code of Ethics. You have forwarded that request to the Commission for an opinion. The situation is as follows:

The Department operates vocational and technical schools throughout the state. As part of the school curriculum, students may take a class which affords them the opportunity to work for local businesses and industries. An employee of the Department who works as a vocational or technical school instructor owns an interest in a business which is of the same nature as the program he teaches for the Department. The employee wishes to allow a student to work as a co-op in the employee's business, complying with the co-op regulations.

You ask if such employment of the co-op student would be a violation of the ethics code by the employee hiring the student.

The Commission previously reviewed a similar request concerning this matter. In Advisory Opinion 94-68 (a copy of which is enclosed), the Commission found that a placement agency of which a technical school co-op coordinator owned an interest should not accept any student of the school for placement.

Similarly, the Commission believes an employee of the Department for Technical Education should not employ co-op students of the school for which the employee works at a private business of which the employee owns at least a 5% interest. The Commission believes the following statute provides guidance in this matter.

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.

It is a conflict of interest for a public servant to receive compensation for teaching a student who is placed in the public servant's privately owned business for required practical experience. As a teacher, the public servant would be placed in a difficult position in choosing which students would work for his private business or grading students who also worked in his business.

Also, if the work is performed with no compensation to the student, the teacher would face a conflict between his private interest and his duties in the public interest since it would benefit the instructor to receive uncompensated service. He would be using his official position for personal benefit, which is prohibited by KRS 11A.005(1)(c):

11A.005 Statement of public policy.

(1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

....

(c) A public servant not use public office to obtain private benefits.

Therefore, the Commission believes that vocational students should not be placed for "co-op" work in a business in which their vocational-school teacher owns an interest of 5% or more.

Please inform the Commission as to your agency's actions to see that this opinion is carried out.

EXECUTIVE BRANCH ETHICS COMMISSION

By: Livingston Taylor, Chairman