

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 99-29

August 31, 1999

RE: May director provide training, at a university for compensation, when he is required to provide such training to jailers as a part of his official duty?

DECISION: No.

This opinion is in response to your June 10, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the August 31, 1999, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. As a second job, the director of the Division of Training in the Department of Corrections has conducted classes for the University of Kentucky Transportation Center for the past ten years. Such outside employment is permitted by KRS 11A.120 provided the employment does not interfere or conflict with the director's state duties. The University has recently asked the Department for Local Government to approve the director's class as part of the salary incentive for local elected officials under House Bill 810 enacted by the 1998 General Assembly. Jailers are included under that legislation.

In the director's official capacity for the Division of Corrections Training, he is responsible for providing training for jailers pursuant to KRS 441.115. You ask whether the director may conduct classes for local officials approved by the Department for Local Government for salary incentives.

KRS 11A.120 provides:

Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict a public servant from accepting outside employment in a state institution of higher education as long as that outside employment does not interfere or conflict with the public servant's state employment duties...

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Additionally, KRS 11A.040(5) provides:

(5) No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

It appears that, pursuant to KRS 441.115, it is a part of the director's official duty to provide needed training for jailers and jail personnel. Thus, the Commission believes that the director is prohibited from accepting compensation for training that should be provided as part of his official duty. (See enclosed Advisory Opinion 93-19.) However, the Commission believes that the director is not prohibited from accepting compensation for the presentation of classes for local officials who are not jailers or jail personnel.

If the classes that are being taught are limited to non-jail employees, the director is not prohibited from teaching classes approved by the Department for Local Government for salary incentives.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: CYNTHIA C. STONE
VICE CHAIR

Enclosures: Advisory Opinion 93-19