



COMMONWEALTH OF KENTUCKY  
**EXECUTIVE BRANCH ETHICS COMMISSION**

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Executive Branch Ethics Commission  
**ADVISORY OPINION 22-07**  
November 17, 2022

**GIFT EXCEPTION NO. 2022-3**

**RE:** The Chief Communications Officer in the Office of the Commissioner of the Kentucky Department of Education requests an exemption to KRS 11A.045(1) to receive funds from a donation account established by her friends to assist with payment of emergency veterinary costs.

**DECISION:** The Executive Branch Ethics Commission grants the exemption pursuant to KRS 11A.045(1).

This opinion is issued in response to a request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 17, 2022, meeting of the Commission and the following opinion and exception is issued pursuant to KRS 11A.045(1).

An exemption from the application of KRS 11A.045(1) is requested so that friends of the public servant, who is also considered to be an officer pursuant to KRS 11A.010(7), may make contributions for the emergency medical expenses of her pets. The relevant facts given are as follows:

The public servant is a non-merit employee who serves as the Chief Communications Officer within the Kentucky Department of Education. In that capacity she oversees internal and external communications of the agency, as well as supervises employees engaged in the

development, implementation and distribution of informational programs and materials to the public. The Chief Communications Officer does not directly set departmental policy or direct how the funds of the Kentucky Department of Education are spent. The employee has two cats that have recently been diagnosed and treated for medical illnesses that have resulted in increasing veterinary bills. One of the pets has died and the second is receiving life-saving emergency care. During the treatment of the employee's pets her friends established a GoFundMe page to accept gifts of money to defray the expenses associated with the treatment. While donors are often anonymous on the page, donors may decide to be identifiable. Nevertheless, the employee cannot control who is identifiable and what amounts are donated to the page. As such, the amounts donated could exceed the minimum amount of gifts that are allowed to be received by public servants and may be donated by prohibited sources as listed in KRS 11A.045(1).

As such, the public servant asks to be granted an exception by the Commission from the application of KRS 11A.045(1) to accept the donations to the GoFundMe page.

KRS 11A.045(1) provides:

- (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. *Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.*

(Emphasis added).

A "gift" is defined by KRS 11A.010 as follows:

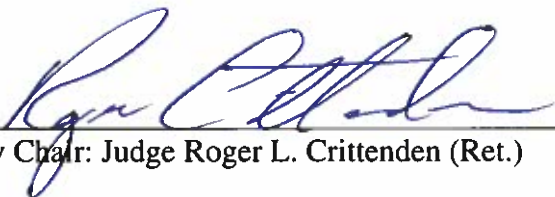
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, the waiver of a registration fee for a presenter at a conference or training described in KRS 45A.097(5), or door prizes available to the public.

Based on the language above, ordinarily a public servant would be prohibited from accepting gifts with a value of over \$25 from any person or business doing business with, regulated by, seeking grants from, involved in litigation against, or lobbying or attempting to influence the actions of their agency. However, the Commission may grant an exemption to allow a public servant to receive a gift from a prohibited source when receiving the gift would not create “an appearance of impropriety.”

The Commission has addressed somewhat similar situations in Advisory Opinions granting exemptions for donations to GoFundMe pages set up to cover personal and family medical costs. In those cases, high-cost medical expenses were incurred by the public servant or his/her family and the Commission permitted donations from “prohibited sources” that were doing business with the public servant’s employing agency. Here the donations, while not for the public servant’s personal or family medical expenses but for emergency medical expenses incurred in treating the family pet, are unlikely to come from prohibited sources. As the public servant does not directly set departmental policy or direct how departmental funds are spent and her friends set up the GoFundMe account to help pay for the expensive veterinary care, there is less likelihood that donations to this fund will be from prohibited sources or give the appearance of impropriety.

As with all these advisory opinions, the Commission continues to contend that the gift exception authorization in KRS 11A.045(1) was established for circumstances such as the one described above. The Commission believes that no appearance of impropriety will be created in this situation should the public servant be permitted to accept gifts from otherwise prohibited sources. The intent of the donations is not to influence decisions of the public servant in conducting public business. The Commission therefore grants your request for an exception pursuant to its authority contained in KRS 11A.045(1) in order for the public servant to accept donations from the GoFundMe page regardless of the source of the donation for the purpose of defraying the veterinary costs.

**EXECUTIVE BRANCH ETHICS COMMISSION**



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By Chair: Judge Roger L. Crittenden (Ret.)