



COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION

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EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 23-02
MAY 17, 2023

RE: Are public servants who are in the position of Facilities Regional Administrator with the Department of Juvenile Justice in the Corrections Cabinet considered “officers,” as that term is defined in KRS 11A.010(7)?

DECISION: Yes

This opinion is issued in response to the request of the Office of the Secretary of the Justice Cabinet for an advisory opinion from the Executive Branch Ethics Commission (the “Commission”) regarding whether the position of Facilities Regional Administrator with the Department of Juvenile Justice (DJJ) in the Corrections Cabinet should continue to be considered an “officer,” as defined by KRS 11A.010(7). This matter was reviewed at the May 17, 2023 meeting of the Commission and the following opinion is issued.

According to the Personnel Cabinet, individuals in the position of Facilities Regional Administrator within DJJ have been classified as “officers” and required to file Statements of Financial Disclosure (SFD) since at least 2013, when the position was reviewed by Commission staff who determined that these public servants should be considered “officers,” pursuant to KRS 11A.010(7). According to your inquiry you request that the Commission revisit this issue through a formal advisory opinion. You have provided the Position Descriptions and the Job Specifications. In your opinion these employees should not be considered “major management personnel” or “officers.”

The Job Specification for the DJJ Facilities Regional Administrator indicates that the characteristics of the job include managerial responsibility for overseeing residential and/or detention facilities in a geographical region. A master's degree in one of the behavioral or social sciences, education, public administration or a related field, and five years of professional administrative experience in public or private social service programs or juvenile justice or correctional programs are the minimum requirements for this position. Examples of duties or responsibilities include:

“Responsible for overseeing all aspects of the daily operations of state run facilities and for monitoring all contracted facilities located in a defined geographic region. Ensures the implementation of services and programs designed for the successful treatment of residents assigned or committed to the Department of Juvenile Justice. Interprets and applies pertinent laws, rules, regulations, and policies applicable to the administration of youth treatment programs. Routinely visits facilities in a defined geographic region to problem solve and provide the necessary technical assistance for ensuring compliance with all relevant state and federal mandates. Provides supervision and guidance to facility and program directors in the development of appropriate plans of correction when deficiencies are found. Prepares budget recommendations, coordinates training, develops staffing plans, evaluates subordinates, attends Departmental meetings, as well as meetings with civic groups, public officials, and the general public to explain program policies and regulations and to respond to questions concerning operational procedures and goals. Conducts and/or attends training sessions to develop future plans for meeting the needs of the juvenile population assigned to a defined geographic region.”

The Position Descriptions for the employees indicate that the DJJ Facilities Regional Administrator provides oversight responsibilities to the facilities, and assists with budget development, problem solving, and provision of services. Additionally, the DJJ Facilities Regional Administrator is the direct supervisor of the Superintendents of the Juvenile Detention Centers in the region, evaluates employee performance in those institutions, and assumes and carries out the duties of the Division Director in their absence.

KRS 11A.010(7) defines “officer” as follows:

“Officer” means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor’s chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Kentucky Teachers’ Retirement System board of trustees, Public Service Commission, Worker’s Compensation Board and its administrative judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection.

In determining whether a position meets the definition of “officer,” the Commission first considers the definition in KRS 11A.010(7), which provides a list of job titles, which is not exhaustive. Those listed public servants are generally required to file SFD’s, unless the Commission reviews and determines that those positions are not major management.

For all other positions, the Commission reviews job specifications, position descriptions, and further information provided by an agency concerning the employee’s job responsibilities to determine what constitutes “major management.”

As stated in Advisory Opinion 17-05:

“Generally, speaking, when the Commission reviews the job duties of potential officers, it looks for factors such as the employee has responsibility for managing a division, department, or Cabinet, supervises a geographical region, oversees a state facility, coordinates a state program, makes decisions concerning how state funds are spent or dispersed, or makes decisions on setting state policy. The Commission may also determine that any public servant who is in a position that could require him or her to step into the role of the decision-makers in the event such individual cannot fulfill his or her role, such as assistant executive director, then that public servant may also be an officer.”

The commission has reviewed the job requirements for DJJ Facilities Regional Administrator. The job specifications indicate that Facilities Regional Administrator is in a position of trust, supervising all aspects of detention facilities and Superintendents of those facilities in a geographical region and assuming and carrying out the duties of the Division Director in their absence. Therefore, the Commission determines that the position should be considered “major management,” as that term is used in KRS 11A.010(7).

EXECUTIVE BRANCH ETHICS COMMISSION


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