

**AUTHORIZATION FOR EXCEPTION  
TO KRS 11A.045(1)**

**EXCEPTION NO. 2001-2**

May 11, 2001

RE:           May employees accept reimbursement for training costs from non-profit agency?

DECISION:   Yes.

This opinion is in response to your February 2, 2001, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the February 9, March 30, and May 11, 2001, meetings of the Commission and the following opinion is issued.

You state the relevant facts as follows. The National Fire Protection Association ("NFPA") is a non-profit organization that engages in fire safety and fire investigations, and develops standards in the area of fire protection. The NFPA is composed of individual members, both Department of Housing, Buildings and Construction (the "Department") employees and non-employees. Members may participate in code development for the NFPA. However, the NFPA has paid staff members as well.

The Department does not regulate the NFPA in any way. However, the Department does purchase code books from the NFPA. If the Department wishes to use the standards set up by the NFPA, then it must purchase the code books that the NFPA publishes.

Currently, through the NFPA, the state of Kentucky has a well established and beneficial children's program called "Learn Not to Burn." The NFPA, in partnership with Lowe's Home Safety Council, recently developed a new injury

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prevention program, entitled *Risk Watch*®. This program, if implemented in Kentucky, will be implemented locally through local fire, police, health, and education units cooperating in the schools, pursuant to statutory authority.

The NFPA has invited the assistant director in the Office of the State Fire Marshal, and two colleagues, to attend a *Risk Watch*® training in Cambridge, Massachusetts. The training will prepare the individuals to implement and measure the effect of the *Risk Watch*® program in Kentucky. If the Department decides to implement the program, the materials for *Risk Watch*® must be purchased from the NFPA. You ask if the NFPA may reimburse the Department and other agencies for costs incurred by employees while attending the training necessary for implementation of the *Risk Watch*® program.

In considering your request, the Commission reviewed KRS 11A.045(1) that 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.

The Commission reviewed several advisory opinions (copies of which are enclosed) pertinent to your request, as well. Based on the provisions above, employees are prohibited from accepting gifts and gratuities from persons or businesses that do business with, or are regulated by, the state agency for the

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employee works. Additionally, in previously issued advisory opinions, the Commission stated that an agency's acceptance of gratuities from an entity seeking to do business with the agency would create a conflict of interest for the agency and would tend to damage public confidence in the integrity of government. Advisory Opinion 99-23 prohibited an employee from allowing a for-profit company to pay his travel expenses, meals and lodging while visiting a transportation research center and attending a demonstration of the company.

Although the NFPA seeks to sell its products to the Department, it does so in order to promote a benefit for the people of the Commonwealth, and it does not earn a profit. Thus, because neither the NFPA nor any individuals are benefiting from the sale of products to the state, the Commission believes that the employees are not prohibited from attending the training at no charge (if other participants also are not charged – see Advisory Opinion 00-63).

Additionally, the Commission authorizes an exception to allow the employees, as well as their state agencies, to accept reimbursement from the NFPA for other costs incurred while attending the training, such as meals and lodging. The Commission does not believe that such an exemption will create an appearance of impropriety.

**AUTHORIZED BY:**

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: Bertie Oldham Salyer, M.A., A.M.E.

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