

Executive Branch Code of Ethics KRS Chapter 11A

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What's the big picture?

- A public servant shall work for the benefit of the people of the Commonwealth.
- Public office is a public trust and requires that:
 - Public servants be independent and impartial;
 - Government policy and decisions be made through the established process of government;
 - Public servants not use public office to obtain private benefit; and
 - The public has confidence in the integrity of its government and public service.

BOPTROT gives rise to Code of Ethics

- 1990 FBI Investigation BOPTROT
 - Lead to passage of Legislative Branch Code of Ethics and Executive Branch Code of Ethics.
- 1992 Executive Branch Code of Ethics – KRS Chapter 11A



KBE Members are “Public Servants” and “Officers” under the Code of Ethics. So, all provisions of the Code of Ethics apply to KBE members.

Avoiding conflicts...

- No public servant, by himself or through others, shall knowingly:
 - **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;
 - **Use or attempt to use any means to influence a public agency** in derogation of the state at large;
 - **Use his official position or office to obtain financial gain** for himself or any members of the public servant's family; or
 - **Use or attempt to use his official position to secure or create privileges,** exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.
- If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

Some examples...

- The Deputy Secretary of a Cabinet (an Officer) is prohibited from calling subordinate employees to solicit campaign contributions from them, based on their salary, for the re-election of a constitutional officer.
- A Cabinet Secretary (an Officer) may attend a conference hosted by a state vendor, but should pay any fee charged to those in attendance.

Endorsements

- Active Endorsements are **Prohibited**
 - Public servants, acting as representatives of their agencies, should take great care **not to appear that they are endorsing or promoting a specific product or company** if that entity is regulated by or doing business with their agency.
 - Public servants should **not actively endorse or promote a company when no corresponding public benefit** to the citizens of the Commonwealth, or to the state's economic development, will occur.
 - Public servants should **not make statements indicating a product or service is better than other products or services**, or prejudging a future business relationship.
- Passive Endorsements are **Acceptable**
 - Information concerning vendors should be limited to verifying the existence of a contract, the facts of the performance of services or the receipt of a product, and whether or not the product or performance is satisfying the scope of the contract.

- Preferential Treatment of Family Members

- Public servants should not interview, recommend, or approve their family members for positions within their agency. They should not directly supervise, evaluate, or participate in disciplinary action related to a family member.
- “Family” includes: spouse, children, parents, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

- Abuse of State Time and Resources - Examples

- An officer traveling to an approved out-of-state conference should not book a more expensive flight in order to travel to an additional location to combine business with pleasure.
- A public servant should not use her state issued email address, cell phone, office space, and sick leave to run a private business on state time, even if she is getting her state work completed on time.

Disclosing Information & Self-Dealing

- Public servants shall not:
 - Disclose or use confidential information acquired in the course of official duties to further their own economic interests.
 - Receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in the servant's hands or to be raised through any state agency.
 - Act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or any business in which the public servant or a member of his family has any interest greater than 5% of the total value thereof.
 - Hold, bid on, negotiate or enjoy, in whole or in part, any contract, lease, sale, or purchase made, entered into, awarded, or granted by the public servant's agency.
 - Accept compensation, other than that provided by law for public servants, for performance of official duties without the prior approval of the Ethics Commission.

Examples...

- The spouse of the director (an Officer) of the division responsible for telecommunications owns an interest of more than 5% in a communications company that does business with the division for which the director works. The spouse may retain an interest in the company up to a value of 5%, but must divest any interest owned over 5%.
- A state employee cannot use her position to represent her agency in negotiations to have a business owned by her husband provide promotional products for events held by her agency.
- A Cabinet Secretary (an Officer) is asked to give a commencement address at a state university. Part of the Secretary's official duties involves speaking at commencement ceremonies. Without approval of the Ethics Commission, the Secretary may not accept payment for the speaking engagement. However, his agency may be reimbursed for his time and expenses.

Gifts

- **You, your spouse, or your dependent child** shall not knowingly accept gifts or gratuities totaling a value greater than \$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 your state agency, or from any group or association which has its primary purpose the representation of such persons or businesses.
- Gifts that are permitted:
 - From family members in their capacity as family members;
 - Door prizes available to the public;
 - Tickets for admission to sporting events if you pay face value for the tickets;
 - The waiver of a registration fee for a presenter at a conference training event.
- All gifts, even if allowable, from a single source received by an officer which exceed \$200 in value must be disclosed on the Statement of Financial Disclosure.

If you accepted a gift...

- If you accepted a gift you should not accept:
 - Return the gift to the giver; or
 - Pay the giver the market or face value of the gift.
- If these options are not practicable, you should:
 - Donate the gift to charity; or
 - Destroy the gift.
 - In either event, document how you disposed of the gift.

Examples

- A Cabinet Secretary (an Officer) cannot accept reimbursement for the cost of attending a program sponsored by a national association that represented entities regulated by the agency because the reimbursement for travel expenses in excess of \$25 in a calendar year may not be accepted from a business regulated by the agency.
- A Cabinet Secretary (an Officer) receives a painting with a \$300 value from an old college friend who has no business or regulatory relationship with the state. The officer may accept the painting, but must report the gift on his Statement of Financial Disclosure filed with the Commission.

Abstaining from a decision.

- In determining whether to abstain from action on an official decision because of a possible conflict of interest, a public servant should consider the following:
 - Whether a substantial threat to his independence of judgment has been created by his personal or private interest;
 - The effect of his participation on public confidence in the integrity of the executive branch;
 - Whether his participation is likely to have any significant effect on the disposition of the matter;
 - The need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the executive branch; or
 - Whether the official decision will affect him in a manner differently from the public or will affect him as a member of a business, profession, occupation, or group to no greater extent generally than other members of such business, profession, occupation, or group.
- When abstaining from action, the public servant shall disclose in writing that he has or may have a personal or private interest in the matter.

Help is only a call away.

- When in doubt, ask before you act.
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 - <https://ethics.ky.gov/Pages/default.aspx>