

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 03-35

October 16, 2003

RE May correctional facility allow facility employees to take, free of charge, compost and firewood from cleared facility land?

DECISION: Yes, within limitations.

This opinion is in response to your request of August 6, 2003, for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the October 16, 2003 meeting of the Commission and the following opinion is issued.

Northpoint Training Center ("Northpoint"), an adult correctional facility within the Department of Corrections (the "Department"), has recently cleared some of its property and has compost and firewood in abundance. Northpoint management would like to allow Northpoint employees to take the excess compost and firewood free of charge. You ask if this could create an actual or perceived ethics problem.

KRS 11A.020(1)(d) provides:

(1) No public servant, by himself or through others, shall knowingly:

...

(d) 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.

The Commission has long held that use of state resources is a management decision (see Advisory Opinions 99-7, 98-6, 98-15), with a caution that excessive misuse may be in violation of the statute cited above. Similarly, the Commission believes that the issue as to whether

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compost and firewood may be given to employees at no cost is also a management decision, provided that such a decision complies with applicable statutes and regulations regarding the disposal of surplus property. In making that decision, management should also consider if the public will perceive this action as a conflict of interest by, or advantage to, the employees.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Joseph B. Helm, Jr.