

EXECUTIVE BRANCH ETHICS COMMISSION

ADVISORY OPINION 00-1

February 25, 2000

RE: May state park golf professional privately repair golf clubs for park customers?

DECISION: Yes, but he may not refer customers to himself.

This opinion is in response to your December 8, 1999, request for an advisory opinion from the Executive Branch Ethics Commission (Commission). This matter was reviewed at the February 25, 2000, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Department of Parks does not provide a repair service for golf clubs at its parks. A golf professional employed by the Department of Parks has equipment at his home to repair golf clubs. If a park guest requests that a club be repaired, you ask whether the professional may perform the service privately and be paid by the park customer.

KRS 11A.020(1) and (4) provide:

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

(a) 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;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

(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.

....

(4) The prohibitions imposed by subsection (1)(c) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will

accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

The Commission believes that the golf professional employed by the Department of Parks is not prohibited from repairing golf clubs of customers of the park on his own time, at his own residence, and with his own equipment. However, in Advisory Opinion 98-35 (a copy of which is enclosed), the Commission stated that neither the park manager, nor employees under his supervision, could refer customers to rental property which he owned. Similarly, the Commission believes that neither the golf professional, nor anyone under his supervision, may refer customers to his private golf repair business. Such referrals may appear to be using his official position to secure an advantage for himself privately.

Additionally, the Commission believes the golf professional should make a clear distinction between his official duties and his private activities.

Enclosure: Advisory Opinion 98-35