

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 03-17
May 29, 2003

THIS NUMBER VOIDED.

RE: May state employees use a “state certification to carry a firearm” to obtain a concealed carry permit without cost?

DECISION: No.

This opinion is in response to your March 31, 2003, request for an advisory opinion from the Executive Branch Ethics Commission (the “Commission”). This matter was reviewed at the March 29, 2003, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You are employed as a corrections training instructor with the Department of Corrections (“Corrections”). One of your duties as a certified firearms instructor is to train Corrections’ staff on the use of firearms so that they will be “qualified” to use firearms as a part of their official duties. This training and certification is conducted using state materials. Recently some employees have asked for a copy of Corrections’ records indicating that they are certified to carry firearms and a copy of the test they took to gain such certification. You believe that these employees want to use these records to obtain, without cost, concealed carry permits from the Department of State Police. You ask if release of the tests and certification paperwork to employees for their personal use is unethical. For purposes of this opinion, the Commission assumes that such information may not be released to the employee under the Kentucky Open Records Act.

KRS 11A.020(1)(d), in the Executive Branch Code of Ethics (the “Code”) provides that:

(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.

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KRS 237.110 *et seq.* provides a framework for licensing individuals to carry concealed deadly weapons. This licensing program is not carried out by Corrections, but rather by the Department of State Police. A person either must complete the training prescribed to obtain the license, or must be exempt under other statutes from needing a permit in order to carry a concealed deadly weapon. The training and certification for firearms use provided to Corrections' employees is not an exemption as provided under statute, and it does not appear to automatically entitle Corrections' employees to carry concealed deadly weapons.

Therefore, it does not appear proper for employees to attempt to use training and certification documentation obtained through their employment with Corrections to obtain a concealed carry permit at no cost. The Commission believes that such use of an employee's official position, would be to use one's official position to gain special treatment for himself in disregard of the statutory scheme set forth at KRS 237.110 *et seq.* whereby citizens may obtain a concealed carry permit.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

BY CHAIR: Joseph B. Helm, Jr.