

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93-63

November 22, 1993

RE: May golf professional give private lessons at state park?

This opinion is in response to your October 12, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 22, 1993, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. The Department of Parks employs at state park facilities golf professionals certified by the Professional Golf Association (PGA). As custom, a Class A golf professional provides lessons, for a fee to be retained by the professional, to customers at the facility where he is employed. You are inquiring whether state employees who hold PGA certifications may give golf lessons for personal gain as follows:

- 1) At the state park or other location;
- 2) On state time or their own time;
- 3) In exchange for goods or services;
- 4) If they do not hold a PGA Class A certification;
- 5) At a private facility where contact for customers was a result of state employment as a golf professional.

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

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

...

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

KRS 11A.040(5) provides:

No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

The Commission takes note of Department of Parks policy memorandum 90-01-3, which states

Employees of this Department are not permitted to receive additional compensation for any services rendered on state property. Sports instruction of any type, food preparation, equipment servicing, or other activity for personal profit are all prohibited, regardless of whether or not the employee

is on the clock.

This policy also includes the sale of any type of merchandise for personal profit.

(Note: "on the clock" means on state-paid time)

This policy provides for clear-cut separation between official duties and business for private financial gain. The Commission believes this policy is in strict compliance with the above statutes, and it affirms the policy.

While there are other policies which conceivably might be in compliance with the above statutes, the Commission will not address such possibilities unless they are presented to us.

As for a state golf pro giving lessons or operating a private business on his own time away from the state park, this is not prohibited by statute. However, the Commission believes the pro should maintain a clear separation between official duties and private activities. For instance, the pro should not solicit private business during state-paid work hours or use client lists compiled as a result of his state employment, and there should be no advertising of the pro's private business at the state park.