

OPINION NO. 187

A head of a state department requested the State Ethics Commission to review the post-employment plans of an employee of his department.

The state employee was employed by one division (hereinafter referred to as "Division A") of the state department. The employee had been offered a position by a private consulting firm which a second division (hereinafter referred to as "Division B") of the department had contracted to do certain work. If the employee accepted the offer of employment, he would be working on certain projects that the firm had been contracted to do by Division B of the department. HRS §84-18(b)(Supp. 1973) states that "[n]o former ... employee shall, within twelve months after termination of his employment, assist any person or business or act in a representative capacity for a fee or other consideration, on matters in which he participated as an employee." The department head indicated that the state employee, who worked for Division A of the department, had not been involved in matters relating to Division B. Thus, we held that HRS §84-18(b) would not preclude the employee from assisting the private firm on projects in which he had not participated while a state employee.

Then, HRS §84-18(c) states that "[n]o ... employee shall, within twelve months after termination of his employment, assist any person or business or act in a representative capacity for a fee or other consideration, on matters involving official action by the particular state agency or subdivision thereof with which he had actually served." Pursuant to this statutory section, we stated that the employee should not assist the firm on matters involving discretionary action by Division A of the department; he would not be precluded from working on matters which involved official action by Division B of the department. Thus, we pointed out that HRS §84-18(c) did not prevent the employee from working on the projects which the private firm would be doing for Division B of the department.

Finally, we stated that an additional caveat would be applicable to the employee. HRS §84-18(a) prohibits a former state employee from "[disclosing] any information which by law or practice is not available to the public and which he acquired in the course of his official duties or [using] the information for his personal gain or the benefit of anyone."

In rendering this opinion, we relied upon facts submitted by the department head. The state employee had an opportunity to review the facts submitted by the department head and concurred with them.

We commended the department head for his concern for ethics in government.

Dated: Honolulu, Hawaii, July 12, 1974.

STATE ETHICS COMMISSION
Gwendolyn B. Bailey, Chairman
Vernon F.L. Char, Vice Chairman
Audrey P. Bliss, Commissioner

Note: Commissioner Walters K. Eli was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.