

OPINION NO. 211

A former state employee asked us for an advisory opinion on his acceptance of a position with a certain private, non-profit organization.

Initially, we pointed out that the ethics law did not prohibit him from joining the organization as an employee. We stated that the law, however, did prohibit him from assisting the organization on certain types of matters.

First, HRS §84-18(a) (Supp. 1974) states:

No former legislator or employee shall disclose 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 use the information for his personal gain or the benefit of anyone.

We pointed out that this statutory section pertained only to information which by law or practice was not available to the general public.

Then, HRS §84-18(b) (Supp. 1974) provides the following:

No former legislator or 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.

Finally, HRS §84-18(c) (Supp. 1974) states:

No former legislator or 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.

Official action is defined in HRS §84-3(7) as a "decision, recommendation, approval, disapproval or other action, including inaction, which involves the use of discretionary authority." Thus, we said that HRS §84-18(c) would prohibit the former state employee from assisting the organization on a specific matter that required an employee of his former state agency to take discretionary action on the matter. This section would not preclude him from assisting the organization on a matter that involved only ministerial action by his former agency or on a matter that, although concerned with rules or policies of the agency, did not require any action to be taken by an employee of the agency. We suggested that he contact us again should a specific need arise in the future for him to assist the organization on a matter involving official action by his former state agency.

We expressed appreciation for his concern for ethics in government.

Dated: Honolulu, Hawaii, February 28, 1975.

STATE ETHICS COMMISSION
Vernon F.L. Char, Chairman
Gwendolyn B. Bailey, Vice Chairman
Walters K. Eli, Commissioner

Note: Commissioner Audrey P. Bliss was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.