

## OPINION NO. 226

A former state employee submitted a request for an advisory opinion on whether the ethics law prohibited him from representing a client in a certain matter before a certain state agency.

The individual indicated that the client was a regular client for whom he had prepared numerous documents over the past several months. The former state employee had also represented this client in other private business transactions.

The former state employee stated that he had been informed by the state agency in question, "Agency A," that the case might be heard before an officer appointed by Agency A. The former state employee stated that he had been further informed by Agency A that the member of his former state department assigned to Agency A generally did not get involved in the type of hearing in question. In special cases, he might be consulted before a hearing by the officer.

The former state employee also indicated that a party in the hearing before the officer appointed by Agency A might appeal the decision of the officer to "Agency B." We were informed that the former state employee's department did not provide any services to this agency.

HRS §84-18(b) (Supp. 1974) states 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.

The former state employee informed our staff that he did not recall personally participating, while he was a state employee, in any matters directly relating to the instant case. Thus, we said this statutory provision was not relevant.

Then, HRS §84-18(c) 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.

We noted that in a recent case, we had held that this section prohibited a state employee from assisting or representing a business for a fee for a one year period after his termination of state service on matters involving official action by a state agency or a subdivision of a state agency which he had *actually served*. In that prior opinion, we said that HRS §84-18(c) did not prohibit a state employee from assisting or representing a business on matters involving official action by a state agency or a subdivision of a state agency to which the employee had been assigned to provide services but to which he had not in fact provided such services. We believed that this conclusion was consistent with the primary intent of HRS §84-18(c), which, in our opinion, is to provide for a "cooling off" period after an employee leaves state service to prevent him from using influence derived from contacts and associations that he made while in government for his personal gain or for the benefit of others. Finally, in the earlier opinion we stated that if a former employee did not actually work for a state agency, he would not have had the opportunity to develop contacts or associations in the agency.

The former state employee informed our staff that he personally served neither Agency A nor Agency B during the one year period immediately preceding the date of his termination of state service. Therefore, we held that HRS §84-18(c) did not prohibit him from assisting his client in the case in question.

We expressed appreciation for the individual's continued concern for ethics in government.

Dated: Honolulu, Hawaii, August 4, 1975.

STATE ETHICS COMMISSION  
Vernon F.L. Char, Chairman  
Audrey P. Bliss, Commissioner  
I.B. Peterson, Commissioner

Note: Vice Chairman Gwendolyn B. Bailey and Commissioner Paul C.T. Loo were excused from the meeting at which this opinion was considered.