

## OPINION NO. 482

The Commission received a request for an advisory opinion from a neighbor island state practitioner who wished to serve in a private capacity on a certain panel frequently convened on Oahu. Hawaii law required that the panel on which the requester wished to serve consist of a state practitioner and two practitioners from the private sector. For Oahu panels, the state practitioner was chosen by a certain state entity from the staff of a branch of a certain state department. Although the requester was a member of this department, he was not a staff member of the branch. When panels were convened on the requester's own island, he himself served as the panel's state practitioner.

The State Ethics Code prohibits state employees from being paid twice for performing their official duties [HRS §84-13(2)], and also bars state employees from acquiring financial interests in any business or other undertaking that they have reason to believe may be directly involved in official action to be taken by them [HRS §84-14(b)]. Since it was not one of the requester's state responsibilities to serve on Oahu panels, his membership on such a panel was permissible under HRS §84-13(2). Further, since the requester did not take official action that directly involved Oahu panels, serving on such a panel was permissible under HRS §84-14(b). And, finally, since private practitioners were selected by a state entity from an open list it maintained, the requester's position in his department appeared to give him no unwarranted advantage in being placed on an Oahu panel. For these reasons, the Commission found that the requester could serve on Oahu panels without contravening the State Ethics Code so long as his position with his department did not give him an unwarranted advantage in the selection process and so long as such outside employment did not hinder him in the performance of his state responsibilities. However, the Commission advised the requester that before submitting his name to the state entity that selected panel members, he might wish to contact the state attorney general for an opinion as to whether a state practitioner could serve on a panel in a private capacity without violating the statute that set forth the qualifications of panel members.

The Commission also drew the requester's attention to HRS §84-13(3), which prohibits state employees from using state time, equipment, or facilities for private business purposes. Thus, the Commission informed the requester that work on Oahu panels had to be performed during non-state hours and could not involve the use of state equipment, such as state telephones.

The Commission commended the requester for bringing this matter to the Commission's attention at an early time. The Commission told the requester that such diligence on the part of state employees helps to preserve and enhance public confidence in government officials--the primary goal of the State Ethics Code, as set forth in its preamble.

Dated: Honolulu, Hawaii, December 30, 1982.

STATE ETHICS COMMISSION  
Edith K. Kleinjans, Chairman  
Paul C.T. Loo, Vice Chairman  
Robert N. Mitcham, Commissioner

Note: Commissioner Allen K. Hoe was excused from the meeting at which this opinion was considered. Commissioner Gary B.K.T. Lee was not present during the discussion and consideration of this opinion.