

## OPINION NO. 515

The Commission received a request for an advisory opinion from a university faculty member who asked the Commission to determine whether he could perform consultant work for compensation for private companies engaged in the development of a certain product.

The faculty member told the Commission that he had been involved for a number of years in research designed to determine what land areas in Hawaii would be best suited for development of the product. The companies interested in hiring the faculty member as a consultant had already begun development of the product on lands leased for that purpose.

The Commission understood that the faculty member's duties at the university included assisting another department engaged in determining which lands in Hawaii could be used for development of the product. Generally, only land approved by the department could be used for development of the product.

The department had not as yet determined whether the lands leased by the companies would be approved by the department. If the companies' lands were not eventually approved by the department, the companies would have to obtain special permission from the department in order to proceed with their development of the product.

The relevant section of the ethics code was HRS §84-14(b), which reads as follows:

No employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

Because the faculty member's recommendations to the department regarding land approval would be official action that would directly affect the companies, the Commission concluded that HRS §84-14(b) would prohibit the faculty member from working as a consultant for compensation for the companies.

In his request for an advisory opinion, the faculty member also asked the Commission to determine whether assisting the companies in his private capacity without accepting compensation would require that the companies' records be subject to release as public information. However, this question did not fall within the Commission's jurisdiction. The Commission informed the faculty member that it could only state that assisting the companies on his own time without accepting compensation would not constitute a conflict of interest, since he would have no financial interest in the companies. The Commission informed the faculty member that HRS §84-13 would, however, prohibit him from using his official position to give the companies any special or favorable treatment.

The Commission commended the faculty member for bringing this matter before the Commission at an early time. The Commission has found that this kind of attention to ethical matters furthers public confidence in state employees and contributes to an improved ethical climate in state government.

Dated: Honolulu, Hawaii, December 15, 1983.

STATE ETHICS COMMISSION  
Edith K. Kleinjans, Chairperson  
Allen K. Hoe, Vice Chairperson  
Rabbi Arnold J. Magid, Commissioner

Note: Commissioner Gary B.K.T. Lee was not present during the discussion and consideration of this opinion. Commissioner Mildred D. Kosaki disqualified herself from discussion and consideration of this opinion.