



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 251

February 24, 1995

Whether a former employee of a state regulatory agency may accept employment as an instructor of courses for individuals seeking technical certification by the state agency. (AOR-281)

The Texas Ethics Commission has been asked about the application of the revolving door provision in section 572.054(b) of the Government Code to a particular situation involving a former employee of a state regulatory agency. The individual's duties as an employee of the agency included drafting rules governing courses for recertification of pesticide applicators and reviewing course sponsor applications for accreditation. The individual is now considering employment with a private company as an instructor of courses for pesticide applicators. The company offers courses approved by the agency for which the individual worked. (The private employment would be limited to teaching courses and would not include representing the company in seeking accreditation of courses by the former agency or commenting on the agency's rules or procedures.) The requestor asks whether the revolving door provision would prevent the individual from accepting a job as an instructor for courses approved by the former state agency, other Texas state agencies, or courses approved in other states.

The revolving door provision in question prohibits a former employee of a regulatory agency from representing a person or receiving compensation for services rendered on behalf of a person regarding a "particular matter" in which the former employee participated during the period of state employment, either through personal involvement or because the "case or proceeding" was a matter within the employee's official responsibility. Gov't Code § 572.054(b).¹ "Particular matter" is defined as a "specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding." *Id.* § 572.054(h)(2). See generally [Ethics Advisory Opinion No. 232](#) at 3 (1994) (communications to legislature about statutory changes not prohibited since decisions about legislation are matters for the legislature).

At the regulatory agency, the former employee worked on the "matter" of certain rules and on individual "matters" in regard to course accreditation. He does not propose to work on any of these matters in private employment. As the instructor of courses for people seeking recertification, the former employee will receive compensation for services rendered in regard to individual applications for recertification. As long as the former employee did not participate as an agency employee in any of his students' specific applications for recertification, he is not prohibited from teaching the recertification courses. As for the requestor's remaining questions, no law within the jurisdiction of the Ethics Commission would prevent an individual from teaching courses approved by another state agency or by another state.

SUMMARY

A former employee of a regulatory agency may teach courses required for recertification of pesticide applicators provided that he did not work on the applications for recertification of any of his students.

¹ Government Code section 572.054 actually contains two separate prohibitions. The first prohibition applies only to former board members and executive directors of regulatory agencies, and so is not relevant to the present request. See Gov't Code § 572.054(a).