



STATE OF ALABAMA ETHICS COMMISSION



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December 4, 2024

ADVISORY OPINION NO. 2024-05

Richard E. Fikes
425 Harrison Shipman Road
Jasper, Alabama 35503

Public Employee / Outside Employment /
Use of Office for Personal Gain

A public employee who is a licensed attorney may continue to perform legal services for private clients provided he does not represent any client before his public employer and not use his position, including confidential information obtained from his position and equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to benefit himself or his business.

Dear Mr. Fikes:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

FACTS

Mr. Fikes is a licensed attorney seeking to become employed by the Walker County Probate Judge as the Chief Clerk.

QUESTION PRESENTED

May a public employee who works as the chief clerk of a probate judge continue to perform legal services for private clients?

ANALYSIS

The Ethics Act does not prohibit public employees from continuing to perform private professional services after they become public employees provided the public employee does not use their position, including confidential information obtained from their position and equipment, facilities, time, materials, human labor, or other public property under their discretion or control, to benefit themselves or their private business.¹ However, the Ethics Act does prohibit public employees from representing clients before their public employers.²

Therefore, Mr. Fikes may continue to perform legal services for private clients provided he does not represent any clients before the Walker County Probate Court and does not use his position, including confidential information obtained from his position and equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to benefit himself or his business.

This opinion extends only to the restrictions of the Ethics Act.

CONCLUSION

A public employee who is a licensed attorney may continue to perform legal services for private clients provided he does not represent any client before his public employer and does not use his position, including confidential information obtained from his position and equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to benefit himself or his business.

AUTHORITY

By 3/0 vote of the Alabama Ethics Commission on December 4, 2024.


Chair
Alabama Ethics Commission

¹ Ala. Code § 36-25-5; Ala. Code § 36-25-8.

² Ala. Code § 36-25-13(c).