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August 4, 1999

ADVISORY OPINION NO. 99-32

Chris D. Walker
Child Welfare Program Manager
Jefferson County Department of Human Resources
1040 Village Mill Road
Birmingham, Alabama 35215

Revolving Door/Former Child Welfare
Program Manager With The Jefferson
County Department Of Human Resources
Accepting Employment With The University
Of Alabama At Birmingham And Providing
Consultation Services To Social Service
Agencies Under Contract With The State Of
Alabama.

A former Child Welfare Program Manager
with the Jefferson County Department of
Human Resources may provide consultation
services to social service agencies under
contract with the State of Alabama, as he
had no involvement in the contractual
process; provided however, that he not use
public equipment, facilities, time, materials,
human labor or other public property under
his discretion or control to assist him in
obtaining the opportunities or in conducting
the consulting services.

A former Child Welfare Program Manager
with the Jefferson County Department of
Human Resources may not represent social

service agencies before the Jefferson County Department of Human Resources for a period of two years after his resignation.

Dear Mr. Walker:

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.

QUESTION PRESENTED

May a former Child Welfare Program Manager with the Jefferson County Department of Human Resources provide consultation services to social service agencies under contract with the State of Alabama, when he had no involvement in the contractual process?

FACTS AND ANALYSIS

The facts as have been provided to this Commission are as follows:

Chris D. Walker is currently employed with the Jefferson County Department of Human Resources as Child Welfare Program Manager. Mr. Walker plans to resign his position with the Jefferson County Department of Human Resources and accept a position with the University of Alabama at Birmingham. Mr. Walker would like to supplement his income by providing consultation services.

In Mr. Walker's capacity as Child Welfare Program Manager, he directly and indirectly provides supervision for all aspects of the Child Welfare Program in Jefferson County. Included under his supervision is the Resource Development Area which creates and enhances the array of services the Department provides to children and families. In this capacity, the county developed several contracts with local providers. Mr. Walker indicates that the county has no authority to enter into a contract with agencies but rather all contracts must be approved by the Commissioner of the Department and the Governor. Many of the agencies have both county and statewide contracts. The County Department has no involvement with the development of statewide contracts nor the awarding of the contracts.

Mr. Walker's expertise is in the area of Child Welfare, and as a Licensed Certified Social Worker in the State of Alabama, he is qualified to work in a private practice and therefore would

not be in the employ of any agency for which he will be providing services. As Mr. Walker would not be employed by these agencies, he would not be in the position of representing any of these agencies in contract negotiations with the Department Human of Resources, or any other State Agency.

Mr. Walker would like to provide consultation services to Social Service Agencies in the area of clinical consultation with staff, grant writing, program development and workshop development.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(23) defines a public employee as:

"(23) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

Section 36-25-1(24) defines a public official as:

"(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2."

Section 36-25-13(a) states:

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the

Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(b) states:

“(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such prohibition shall not include a former employee of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(c) states:

“(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.”

Section 36-25-13(d) states:

“(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.”

Based on the above law and the facts as provided, a former Child Welfare Program Manager with the Jefferson County Department of Human Resources may provide consultation services to social service agencies under contract with the State of Alabama, as he had no involvement in the contractual process; provided however, that he not use public equipment, facilities, time, materials, human labor or other public property under his discretion or control to assist him in obtaining the opportunities or in conducting the consulting services.

Further, a former Child Welfare Program Manager with the Jefferson County Department of Human Resources may not represent social service agencies before the Jefferson County

Department of Human Resources for a period of two years after his resignation.

CONCLUSION

A former Child Welfare Program Manager with the Jefferson County Department of Human Resources may provide consultation services to social service agencies under contract with the State of Alabama, as he had no involvement in the contractual process; provided however, that he not use public equipment, facilities, time, materials, human labor or other public property under his discretion or control to assist him in obtaining the opportunities or in conducting the consulting services.

A former Child Welfare Program Manager with the Jefferson County Department of Human Resources may not represent social service agencies before the Jefferson County Department of Human Resources for a period of two years after his resignation.

AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on August 4, 1999.



Camille S. Butrus
Chair
Alabama Ethics Commission