Summary of Suggested Potential NAC Changes

Administrative

281A.065 – clarification of “presiding officer”

281A.100 – clarification of “subject” recognizing that not all complaints are filed against public officials

281A.180 – set deadline date for presentation of the Annual Report

281A.210 – elimination of 1 week prior to meeting requirement for materials from the NAC

281A.255 – elimination of description / restrictions on written filings

281A.280 – streamlining language related to oaths

281A.310 – recommended change in consanguinity chart

281A.615 – elimination of unnecessary language about availability of acknowledgment forms

New Regulation – Commission policies and procedures

Advisory Opinions

281A.351(6) & 281A.353(3) – sets time limit for responses to requests for supplemental information

281A.352 – allows acceptance of jurisdiction when election or appointment has happened but before the start date of service

Complaints

281A.177 – elimination of extra language related to review panel procedures

281A.405(2) & (3) – rejection of defective complaints by Executive Director and confirming ability of Executive Director to search out information related to a jurisdictional determination

281A.410 – eliminates requirement that waiver paperwork be included in the notice packet

281A.442 – streamlining of language related to motion procedures

281A.444 – clarity of language in discovery requirements

281A.448 – eliminating “at the office” language for filing subpoenas

281A.457(a) – elimination of redundant statutory language related to timing of adjudicatory hearing

STATE OF NEW YORK
JOINT COMMISSION ON PUBLIC ETHICS

Advisory Opinion No. 21-01:

Applying the two-year bar to a former State employee whose proposed employment entails receiving compensation for preparing and reviewing permit applications to be submitted to his former agency for approval and discussing such applications with his former agency.

INTRODUCTION

The following advisory opinion is issued in response to an inquiry from John Doe[1], a former [ ] with the New York State Department of Environmental Conservation (DEC), concerning the application of Public Officers Law §73(8)(a)(i), the two-year bar, to his proposed employment with a private engineering firm. Mr. Doe's proposed employment would involve preparing and submitting to the DEC for approval the same types of applications for permits that he reviewed and approved as a DEC employee. It is well settled that the two-year bar prohibits a former State employee from accepting compensation for rendering services in relation to the creation or development of an application to be submitted to the employee's former agency. Mr. Doe has not presented facts or argument that would distinguish this case from the extensive precedent on this question, or that would call for modification or expansion of Commission precedent.

As such, pursuant to the authority vested in the New York State Joint Commission on Public Ethics ("Commission") by § 94(16) of the Executive Law, for the reasons discussed below the Commission hereby renders its opinion that the two-year bar precludes Mr. Doe from accepting the employment with the engineering firm.

BACKGROUND

Mr. Doe retired from the DEC, [ ], on [ ], 2021, where he most recently served as an [ ]. Mr. Doe's job duties at the DEC included reviewing and approving applications for permits, together with reports and construction drawings, submitted by engineering firms, contractors, and private citizens.

Mr. Doe has been offered a position at a private engineering firm where his duties would involve working on the same types of applications for permits, reports, and construction drawings described above, in preparation for submitting those documents to the DEC for its approval. Mr. Doe has explained that he would either prepare the documents himself or review documents prepared by others for completeness and compliance with applicable State regulations. Mr. Doe

[1] The requesting individual's name and other identifying details have been changed or redacted.

reports that prior to granting approval, the DEC can, and often does, respond to these applications with comments that must be addressed by resubmitting the application.

Mr. Doe sought guidance from Commission staff to determine if this proposed work is permitted under the Public Officers Law. After consulting with Mr. Doe, Commission staff issued an informal opinion letter concluding that the proposed work would violate the two-year bar in the Public Officers Law, finding that it falls squarely within the type of conduct the two-year bar is designed to prohibit. Mr. Doe subsequently requested staff reconsider his request; the Commission's General Counsel confirmed staff's determination. Mr. Doe then requested review by the Commission.

APPLICABLE LAW

Public Officers Law § 73(8)(a)(i) proscribes:

> No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.

Section 73(8)(a)(ii), known as the "lifetime bar," states:

> No person who has served as a state officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any state agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration.

DISCUSSION

The post-employment restrictions are intended to prevent former State employees from utilizing . . . knowledge, experience and contacts gained in State service to the benefit of a private client or to his or her own personal gain."[2] For two years after leaving State service, the two-year bar prohibits former State employees from engaging in activity or communications, or being paid for rendering services, that are intended to influence a decision or action by their former agency or to seek information that is not publicly available from their former agency.[3] The "backroom services" clause of the two-year bar prohibits a former State employee from rendering services to a person or entity in connection with a matter before their former agency, even without a personal

[2] Advisory Opinion No. 89-07 at 3.
[3] Advisory Opinion No. 18-01.

appearance before the agency, and even if the agency does not know of the former employee's involvement.[4]

In accordance with these principles, it has been held, repeatedly and consistently, that participating in drafting or submitting an application to one's former agency within the two-year bar period violates the two-year bar.[5] This undisputed proposition applies squarely to Mr. Doe's proposed employment, which would require him to have direct contact with his former agency, including the submission of permit applications, discussions concerning such applications, and potentially re-submitting revised applications in response to agency comments, all intended to obtain a favorable outcome for his private clients. This is precisely the type of scenario, described in Advisory Opinion 99-17, where an "individual is seeking to influence [his] former agency[,] . . . [and creates] an appreciable risk that the associations and special knowledge which []he gained during government service could give [him] (or fairly be perceived to give [him]) an unfair advantage."[6]

The Commission notes that the two-year bar does not prohibit a former State employee from "provid[ing] services of a general nature to persons who and entities that appear before their former agency."[7] In Advisory Opinion 90-03, a former employee proposed to provide general advice to an entity that regularly applied for funding from his former agency, using knowledge he developed while working for the agency. This was held to be permissible because "the former State employee would not be personally working on any proposal or application to be submitted to his former agency . . . and his name would not appear in connection with any such document."[8] Similarly, in Advisory Opinion 94-18, it was held that the two-year bar did not prohibit a former State employee from educating his clients on the Medicaid application process and assisting them in improving the quality and quantity of their applications for reimbursement. The former employee would be calling upon knowledge developed in State service but would not work on any specific application to his former agency.[9]

Accordingly, Mr. Doe could utilize knowledge he acquired through his employment at the DEC to advise an employer *generally* with an aim to improve the quality of the employer's permit applications.[10] Mr. Doe cannot, as he has requested to do, prepare, review, or revise *specific* applications to be submitted to the DEC for approval or render guidance pertaining to specific applications to the DEC, nor can he allow his name to be included in an application submitted to the DEC.[11]

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[4] Advisory Opinion 90-07.

[5] *See, e.g.,* Advisory Opinion Nos. 89-7, 89-09, 90-03, 90-07, 94-06, 97-15, 99-17 *see also* Advisory Opinion 07-02 (two-year bar held to preclude a former DEC employee receiving compensation for services rendered in connection with the application process for regulatory approval of a utility transmission project).

[6] Advisory Opinion 99-17 at 4 (citing Advisory Opinions 90-4, 90-21, and 95-28).

[7] Advisory Opinion 90-03.

[8] Advisory Opinion 90-03 at p. 6.

[9] Advisory Opinion 94-18.

[10] Mr. Doe has suggested that allowing him to work on the applications would help the DEC by heading off time-consuming deficiencies before the applications reach the agency. Such a factor, while notable, is for the legislature to incorporate; the Commission is not in a position to write exceptions into the statute.

[11] Advisory Opinion 90-03, p. 6.

CONCLUSION

The Commission hereby concludes that Mr. Doe's proposed private sector employment, *i.e.*, preparing and or reviewing specific applications to DEC, would violate the two-year bar in Public Officers Law 73(8)(a)(i).[12] The Commission notes that the two-year bar does not prohibit Mr. Doe from using the general knowledge he acquired as a State employee in his new employment, and he can share with others his knowledge official DEC procedures and policies regarding applications for permits. The two-year bar prohibits applying that knowledge to a specific application that will be submitted to the DEC.

This opinion, until and unless amended or revoked, is binding on the Commission in any subsequent proceeding concerning the person who requested it and who acted in good faith, unless material facts were omitted or misstated by the person in the request for opinion or related supporting documentation.

All concur:

Camille Joseph Varlack, Chair

Richard F. Braun
William P. Fisher
Daniel J. Horwitz
Marvin E. Jacob
Gary J. Lavine
James W. McCarthy
David J. McNamara
George H. Weissman
James A. Yates

Members

Dated: July 27, 2021

[12] Mr. Doe has not presented specific facts implicating the application of the lifetime bar; however, under Public Officers Law Section 73(8)(a)(ii), he would be prohibited from rendering services in relation to any specific application with which he was directly concerned and in which he personally participated, or was under his active consideration while he was employed by the DEC. Conversely, as discussed above, Mr. Doe would not be prohibited by the lifetime bar from using general knowledge he acquired during State service concerning DEC policies and procedures.

Oregon
Tina Kotek, Governor

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September 11, 2023

Sent via e-mail and USPS

Kelli Steinberg
Oregon State Lottery
500 Airport Road
Salem, Oregon 97301

RE: Advice 23-334I

Dear Ms. Steinberg:

This letter of advice is provided in response to your request, which presented a question regarding application of the Oregon Government Ethics Law to an invitation to participate in a charity golf tournament. This analysis and advice is being offered under the authority provided in ORS 244.284 as guidance on how the current provisions of Oregon Government Ethics Law may apply to the specific circumstances presented.

We understand from the information provided that a Senior Manager at the Oregon State Lottery has received an invitation to participate in a charity golf event sponsored by Deloitte, the Oregon Fall Golf Classic Tournament held at Langdon Farms Golf Club. The Senior Manager is in charge of a project that Deloitte has contracted to work on for the Lottery. The Senior Manager would not be attending the golf event as a Lottery employee, but as a private citizen. The employee intends to personally pay for the $45 registration and has agreed to not accept any gifts or prizes while attending the event. This charity golf event is open to all of Deloitte's clients in the area, both public and private. According to the registration website, Deloitte is sponsoring the event to raise money for the Court Appointed Special Advocates (CASA) of Marion County. Deloitte is paying for 100% of the tournament and food costs. All funds from sponsorships, player registration fees, and other activities benefit CASA directly. You have asked whether this Senior Manager's acceptance of the invitation to participate in Deloitte's charity golf event is permitted under Oregon Government Ethics Law.

As you know, we initially examined the circumstances presented under both the gift clause in ORS 244.025(1) and the prohibited use of office clause in ORS 244.040(1). While both statutes could apply, based on all of the information provided, including the link to the event registration that Deloitte sent, it appears that the more appropriate analysis here would be under the gift clause in ORS 244.025(1).

Per ORS 244.025(1), a public official may not accept a gift or gifts valued in excess of $50 in a calendar year from a source that could be reasonably known to have a legislative or administrative interest in the public official's decisions or votes. ORS 244.020(10) defines a legislative or administrative interest as an economic interest, distinct from that of the general public, in the public official's decisions or votes.

In this case, Deloitte, the source of the offer, has a legislative or administrative interest in the decisions or actions of the Senior Manager. That fact alone is not dispositive here, because the first step in any gift analysis is to determine whether something qualifies as a gift at all. If an item being offered does not qualify as a gift, then the prohibitions in ORS 244.025(1) do not apply.

ORS 244.020(7)(a) defines a gift as something of economic value given to a public official without equivalent consideration or at a discount, and that is not offered to others who are not public officials on the same terms and conditions. In this case, the Senior Manager is being offered something of economic value (golf, food and beverages) without equivalent consideration; however, that offer is being extended to others who are not public officials on the same terms and conditions.

Deloitte's invited both its public and its private clients to register for this charity golf event. Those registering for the event, whether public officials or private citizens, all pay the same registration fee of $45, which is paid not to Deloitte but to CASA. Because the offer is extended to others, who are not public officials, on the same terms and conditions, the offer does not qualify as a gift. Accordingly, the gift clause prohibitions in ORS 244.025(1) would not apply, and the Senior Manager could participate in this charity golf event.

As further guidance, I have enclosed a copy of a gift clause flowchart that illustrates how the Oregon Government Ethics Commission analyzes gifts, in light of the Oregon Government Ethics Law.

If you have any additional questions regarding the application of the gift clause or any other provision of Oregon Government Ethics law, please feel free to contact me directly.

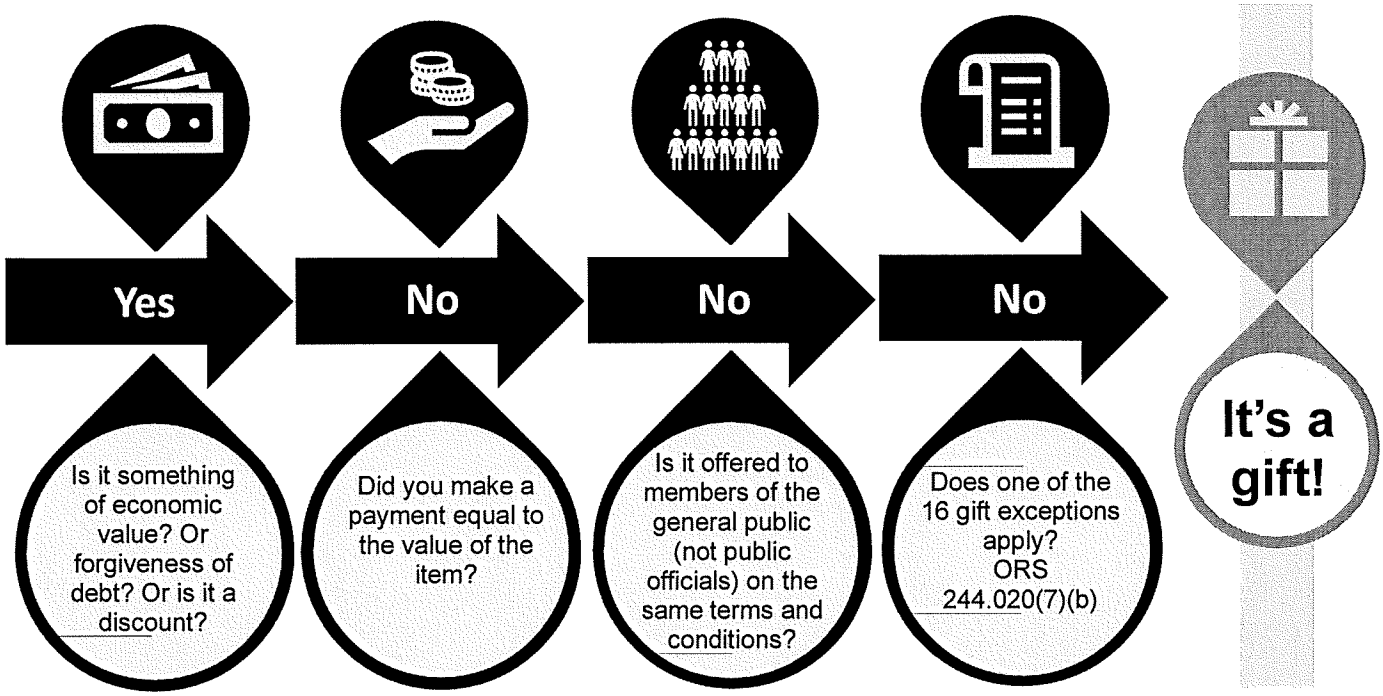
Sincerely,

Ronald A. Bersin
Executive Director

RAB/sm

Step 1: Is it a gift?

The restrictions in ORS 244.025 limit gifts that can be accepted by a public official, candidate, or a relative, or member of the household of a public official or candidate.



Step 2: Legislative or Administrative Interest?

Who is the source of the gift?

The source is the ultimate payer of the expense. OAR 199-005-0030

Does the source have a legislative or administrative interest?

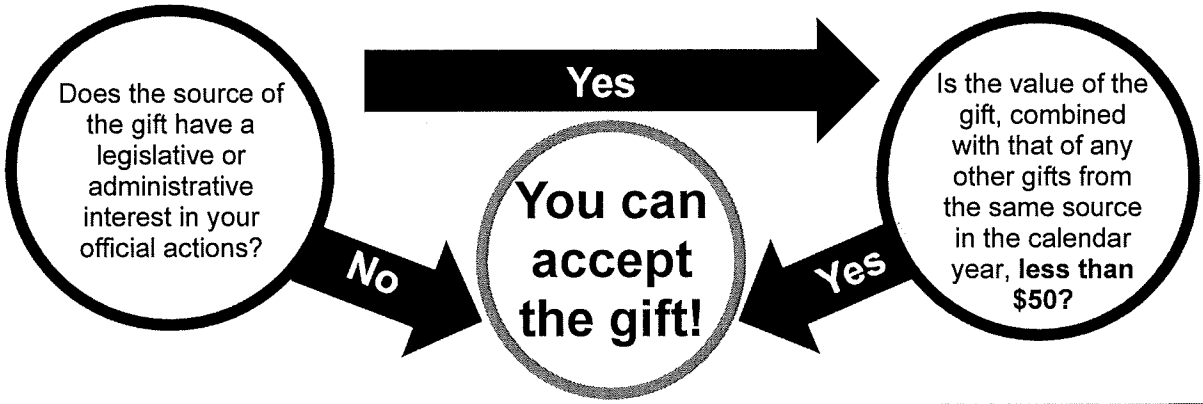
Are you in a position where you could take official action that could have an economic impact on the source of the gift that is distinct from that of the general public? ORS 244.020(10)

What is the value of the gift?

What is the fair market value of the item. OAR 199-005-0005

You must keep track of the value of all gifts from the same source during the calendar year.

Step 3: Can you accept the gift?



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INFORMATION SHEET: ADVISORY OPINION NO. 2012-04 REVOLVING DOOR LAW EXCEPTION—R.C. 102.03(A)(6)

What is the question in the opinion?

When can a former public employee represent a new employer before a public agency?

What is the revolving door restriction?

The revolving door restriction prohibits a former public employee from representing a client or acting in a representative capacity for any person on any matter if the employee "personally participated" in the matter during his or her public employment. The restriction applies to the former public employee for one year.

Can the former public employer represent his or her former public agency?

Yes. An exception to the restriction, R.C. 102.03(A)(6), enables a former public employee to be retained to "represent, assist, or act in a representative capacity for" his or her former employer on a matter in which he or she personally participated during his or her public employment. The exception in R.C. 102.03(A)(6) is available to a former public employee when he or she is employed or retained by: (a) the agency he or she formerly served; or (b) a third party employer if his or her former public employer has determined that his or her work for the new employer will assist the former public employer.

What prompted this opinion?

The Commission has been asked a number of questions about the application of the R.C. 102.03(A)(6) exception to former public employees.

When did the conclusions in this opinion become effective?

The opinion became effective on Thursday, October 25, 2012.

For More Information, Please Contact:

Paul M. Nick, Executive Director, **or**
Jennifer A. Hardin, Chief Advisory Attorney
(614) 466-7090

THIS COVER SHEET IS PROVIDED FOR INFORMATION PURPOSES.
IT IS NOT AN ETHICS COMMISSION ADVISORY OPINION.
ADVISORY OPINION NO. 2012-04 IS ATTACHED.

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Advisory Opinion
Number 2012-04
October 25, 2012
Representing or Assisting Former Public Employer

Syllabus by the Commission:

(1) The Revolving Door Law prohibits any former public employee from representing any person before any public agency on a matter in which the employee personally participated.

(2) The Revolving Door Law was enacted by the General Assembly in Am. Sub. H.B. 55, as part of the original Ethics Law, and became effective January 1, 1974. The law was amended and expanded, and the exception that is discussed in this opinion was enacted, in Am. H.B. 1040, effective August 27, 1976.

(3) An exception to the revolving door law provides that a former public employee may be retained or employed to represent, assist, or act in a representative capacity for the public agency that he or she formerly served.

(4) This exception applies when the former public employee is employed or retained by:

a) The agency he or she formerly served; or
b) Another public agency, private company, non-profit organization, or other third party employer, if the public agency he or she formerly served has determined that his or her work for the new employer will assist the former public employer.

The exception applies whether the former public employee is engaged as an employee, consultant, or independent contractor, and either as an individual or through a private company.

* * *

The Ohio Ethics Commission has been asked whether a former public employee can represent his or her new employer before his or her former public employer.

Revolving Door Law—History

The applicable restriction in the Ethics Law is the revolving door law, R.C. 102.03(A)(1), which applies to all public officials and employees during their public service and for one year thereafter.[1] The General Assembly included the revolving door law as an essential element of the Ethics Law since the law was originally enacted in 1973.[2] The Law became effective January 1, 1974. The law was amended and expanded, and the exception that is discussed in this opinion was enacted, in Am. H.B. 1040, effective August 27, 1976.

R.C. 102.03(A)(1) is designed to protect the public interest by prohibiting situations from arising in which a former public official or employee "will engage in a conflict of interest or realize personal gain at public expense from the use of 'inside' information."[3] In *State v. Nipps,* the Tenth District Court of Appeals held that the Revolving Door prohibition was constitutional. The Court determined: "The state has a substantial and compelling interest to restrict unethical practices of its employees and public officials not only for the internal integrity of the administration of government, but also for the purpose of maintaining public confidence in state and local government."[4]

Revolving Door Law—Prohibition

R.C. 102.03(A)(1) provides that no former public employee shall "represent a client or act in a representative capacity for any person on any matter" if the employee "personally participated" in the matter during his or her public employment.

Personal participation includes decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.

For one year after a person leaves his or her public position, the former public employee is prohibited from representing any person, including a new employer, on any matter in which he or she personally participated during public employment. Briefly:

- A "matter" is "any case, proceeding, application, determination, issue or question," and the term "represent" includes "any formal or informal appearance before, or written or oral communication with, any public agency on behalf of any person."[5]

- "Personal participation" includes "decision, approval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion."[6]

- "Represent" includes "any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person."[7]

    - A "public agency" includes the General Assembly, any state department, board, or commission, any political subdivision, or any other governmental entity in Ohio.[8]

Example of the Restriction

The director of a county program has retired. After she retired, the county entered into a contract with a private company (the Company) to operate the program. The Company would like to hire the former director. Her job would involve interacting with officials and employees of the county. The county has stated that it would like the former director to serve in the position.

The program is a "matter" in which the former director "personally participated." Therefore, for one year from the date she left her county job, R.C. 102.03(A)(1) prohibits the former director from representing the Company before her former county employer and any other public agency on the program.

Exception—R.C. 102.03(A)(6)

There are four exceptions to the revolving door law that may apply to a former public employee during the first year after he or she leaves the public position. The relevant exception in this situation, R.C. 102.03(A)(6), enables a former public employee to be retained to "represent, assist, or act in a representative capacity for" his or her former employer on a matter in which he or she personally participated during his or her public employment.[9]

The exception in R.C. 102.03(A)(6) is available to a former public employee only if he or she is representing, assisting, or acting for the former public employer.[10] This exception recognizes that there is no conflict of interest or potential personal gain at public expense in situations when a former employee represents, assists, or acts in a representative capacity for the public agency he or she formerly served.

R.C. 102.03(A)(6) allows a former public employee to accept employment with his or her former public employer. However, R.C. 102.03(A)(6) does not require that, in order to represent, assist, or act in a representative capacity for his or her former public agency, a former public employee must be retained or employed by his or her former public agency.

In limited circumstances, the exception can also apply when the former public employee is engaged by a third party provided that he or she can demonstrate that his or her work for the third party will assist the former employer. The governing board, legal counsel, or other administrative or managerial officials at the public agency by which he or she was formerly employed must review the proposed employment and make a determination that the former public employee's services would serve the agency's interests.[11] In that case, the interests of the former public employer are served and the former public employee has no conflict of interest or realization of personal gain at public expense.

The exception applies only when the work the former public employee is doing for his or her new employer assists his or her former public employer. The former public employee is prohibited from representing his or her new employer before any other public agency, on matters in which he or she personally participated as a public employee, if the former employer's interests are adverse to the position he or she is advocating for the new employer. If such a

situation arises during the first year after he or she leaves the public job, then his or her new employer must have someone other than the former public employee handle the matter on its behalf.

Example of the Exception

The former director of the county program described above can accept employment with the Company. Further, provided that the county commissioners, county prosecutor, or county administrator have determined that her work with the Company will assist the county, the exception in R.C. 102.03(A)(6) applies to the former director. As a result, the former director is not prohibited from representing the Company on matters in which she participated in her county position. For example, the former director would not be prohibited from:

- Calling, sending letters, notes and e-mails, or meeting or interacting with, county personnel in order to ensure the continuity and success of the program;
- Preparing and delivering to county personnel informational reports about the program and the relationship between the county and the Company;
- Interacting with county officials and employees who participate in the program as county residents in order to address their needs and problems as customers; or
- Working with formal or informal groups that include representatives of the county and other public agencies to discuss, mediate, and resolve operational matters regarding the program, if the interests of the county and the Company are aligned.

The exception applies only when the work the former county employee is doing for the Company assists the county. The former county employee cannot represent the Company on matters in which she personally participated if the Company has taken a position that opposes the county's position. For example, if the Company and the county are discussing funding for the program or labor relations matters that affect the program, and the interests of the two parties are not aligned, the former county employee cannot represent the Company in those discussions.

Other Restrictions

Whenever a person accepts another job after leaving his or her public position, there are two other restrictions that apply to that person. All public officials or employees who are leaving a public position to take another job should be aware of these restrictions. The other relevant restrictions are:

(1) R.C. 2921.42(A)(3), which prohibits a former public official or employee from profiting from a public contract he or she authorized during his or her public service unless the contract was competitively bid. If the former county program director had approved the county's contract with the private Company, this prohibition would apply to her. The restriction is fully discussed in Advisory Opinions No. 2011-03 and 91-009.

(2) R.C. 102.03(B), which prohibits a former public official or employee from disclosing or using, without appropriate authorization, any confidential information that he or she acquired during public service.[12] The former county program director is prohibited from disclosing or using any information she acquired in that role without appropriate authorization. She cannot share that information with her new employer. There is no time limit for this prohibition.[13]

Also, all private companies are subject to R.C. 102.03(F) and 2921.43(A), which prohibit them from offering or giving substantial things of value, or supplemental compensation, to any officials or employees of the public agencies to which they provide services.[14] Anyone seeking more information about these restrictions may contact the Ethics Commission for advice or guidance.

Conclusion

Therefore, it is the opinion of the Ohio Ethics Commission, and the Commission advises that: The Revolving Door Law prohibits any former public employee from representing any person before any public agency on a matter in which the employee personally participated. The Revolving Door Law was enacted by the General Assembly in Am. Sub. H.B. 55, as part of the original Ethics Law, and became effective January 1, 1974. The law was amended and expanded, and the exception that is discussed in this opinion was enacted, in Am. H.B. 1040, effective August 27, 1976. An exception to the revolving door law provides that a former public employee may be retained or employed to represent, assist, or act in a representative capacity for the public agency that he or she formerly served. This exception applies when the former public employee is employed or retained by: (a) The agency he or she formerly served; or (b) Another public agency, private company, non-profit organization, or other third party employer, if the public agency he or she formerly served has determined that his or her work for the new employer will assist the former public employer. The exception applies whether the former public employee is engaged as an employee, consultant, or independent contractor, and either as an individual or through a private company.

Merom Brachman

Merom Brachman, Chairman
Ohio Ethics Commission

The Ohio Ethics Commission Advisory Opinions referenced in this opinion are available on the Commission's Web site: www.ethics.ohio.gov

[1] R.C. 102.01(B) and (C). The restrictions discussed in this opinion apply to public officials and employees. For ease of reading, this opinion will use the term "public employee," but the prohibitions discussed also apply to public officials.
[2] Am. Sub. H.B. 55 (eff. Jan. 1, 1974).
3 *State v. Nipps* (1979), 66 Ohio App.2d 17, 21.

4 See also *Brinkman* v. *Budish* (S.D. Ohio Feb. 17, 2010), Case No. 1:09-cv-326. R.C. 102.03(A)(4) prohibits *a former employee or member of the general assembly*, for one year after the conclusion of his or her service with the general assembly, from representing any person on *any matter* before the general assembly, a committee of the general assembly, or the controlling board. The *Brinkman* court, considering the *Nipps* precedent, recognized that the stated purpose of the version of the statute considered in *Nipps* was closely tied to its narrow restriction against advocacy on matters on which the official had personally participated. The court decided that the current version of R.C. 102.03(A)(4),which prohibits former general assembly members from representing clients on any matter before the general assembly, regardless of whether it is a matter in which they personally participated while in office and on which they had the opportunity to gain inside information, was not narrowly tailored. R.C. 102.03(A)(1), the statute considered here and over which the Ethics Commission has jurisdiction, is similar to the statute considered in the *Nipps* case in that it limits a former public official or employee from representing anyone in a matter in which he has personally participated.

5 R.C. 102.03(A)(5).

6 R.C. 102.03(A)(1); Ohio Ethics Commission Advisory Opinion No. 91-009.

7 R.C. 102.03(A)(5); Adv. Op. No. 86-001.

8 R.C. 102.01(C).

9 The other exceptions are: (a) R.C. 102.03(A)(7), which allows a former public employee to perform ministerial functions on behalf of a client or employer; (b) R.C. 102.03(A)(8), which allows a former employee of one state agency to represent a new state employer on most matters in which he or she personally participated; and (c) R.C. 102.03(A)(9), which allows a former employee of a division of a local agency to represent another division of the agency on matters in which he or she personally participated. Advisory Opinion No. 2012-03 fully discusses the exceptions in R.C. 102.03(A)(8) and (9).

10 Adv. Ops. No. 91-005 and 91-009.

11 The former public employer can also engage an outside advisor to assist it in this review.

12 Adv. Op. No. 88-009.

13 Id.

14 Adv. Op. No. 90-001.