

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39. Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Ethics Advisory Opinions

EAO-596: Whether expenditures made by a former legislator for general administration of his own campaign account are "direct campaign expenditures" that trigger the Section 253.007 two-year waiting period before engaging in activity that would require registration as a lobbyist. (AOR-692).

SUMMARY

Expenditures made by a candidate or officeholder that benefit only his or her own campaign are not "direct campaign expenditures" and therefore do not trigger the Section 253.007 lobby waiting period.

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Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800.

Issued in Austin, Texas, on December 18, 2023.

TRD-202304885

James Tinley

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Texas Ethics Commission

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EAO-597: Whether certain communications with a member of the legislative or executive branch to engender goodwill are communications to "influence legislative or administrative action." (AOR-694).

SUMMARY

A "communication to influence legislative or administrative action" includes any communication to establish (*i.e.* bring about, effect) goodwill that is made for the purpose of later communicating with the member to influence legislation or administrative action. This is true regardless of whether prior feelings of goodwill exist.

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EAO-598: Whether the Chapter 572 of the Government Code revolving door provisions apply to a former State Board of Education member's appearing before the Texas Education Agency, the Texas Commissioner of Education, or the Texas Permanent School Fund Corporation. (AOR-685).

SUMMARY

A former State Board of Education (SBOE) member must wait two years before appearing before or seeking to influence the Permanent School Fund Corporation on behalf of another because the Corporation board contains SBOE members. Tex. Gov't Code § 572.054(a).

A former SBOE member must wait two years after ceasing service as an officer before appearing before or seeking to influence the Commissioner of Education on behalf of another because the Commissioner is an officer of the SBOE for purposes of Section 572.054(a).

The requestor would be subject to the Section 572.054(a) restriction with respect to Texas Education Agency employees if they were also employees of the SBOE under the common law employee-employer test.

Section 572.054(b) would prohibit a former SBOE member from ever receiving compensation for working on contacts in which they participated as a SBOE member even if the SBOE subsequently amended these contracts to make the Permanent School Fund Corporation a party rather than the SBOE.

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EAO-599: Whether a former state employee may provide consulting services to company with which he participated in a procurement during his state service without violating Section 572.069 of the Government Code. (AOR-695).

SUMMARY

The requestor may provide consulting services to a company with which he participated in a procurement during his state service without violating Section 572.069 provided he does not become an employee of the company.

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TRD-202304892
James Tinley
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EAO-600: Whether Chapter 572 of the Government Code prohibits a former employee of a regulatory agency from accepting certain employment. (AOR-696).

SUMMARY

The requestor is not a member of the governing body or the executive head of a regulatory agency, so Section 572.054(a) does not apply. The requestor is not proposing to participate in any particular matter in which he participated as a state employee, so Section 572.054(b) would not prevent the requestor from engaging in his proposed employment. Merely reviewing a contract for conformity with certain form requirements, such as naming the correct party, does not constitute participating in the contract negotiation for purposes of Section 572.069. However, if the requestor gave approval, advice, or recommendation on whether to enter into a contract, or a substantive term of the contract such as how many employees to station at a given facility, he participated in that contract negotiation. If he participated in the contract negotiation, he would have to wait two years from when the contract was signed before accepting employment from any other person involved in that contract negotiation under Section 572.069.

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