

SUBJECT: AGENCY ATTORNEY PRACTICING BEFORE AGENCY AFTER LEAVING  
AGENCY EMPLOYMENT

SUMMARY:

A public agency attorney is prohibited by Section 8-13-755(1) from representing clients before that agency for a period of one year on any specific matter in which he was directly and substantially involved.

QUESTION:

An agency attorney is considering leaving public employment to re-enter private law practice. The attorney questions whether there is an absolute bar from representing clients before the agency or whether the prohibition only extends to specific cases in which the attorney was involved while with the agency.

DISCUSSION:

This opinion is rendered in response to a letter dated October 24, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act (Act No. 248 of 1991; Section 8-13-100 et. seq., 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-755(1) provides in part as follows:

A former public official, former public member, or former public employee holding public office, membership, or employment on or after January 1, 1992, may not for a period of one year after terminating his public service or employment:

- (1) serve as a lobbyist or represent clients before the agency or department on which he formerly served in a matter which he directly and substantially participated during the public service or employment;

In Advisory Opinion 85-031, the State Ethics Commission looked at a similar question. In that opinion, the Commission advised that such bar applied to a specific matter or case which the employee directly and substantially handled while with the agency.