

**INFORMAL OPINION IO-2006-001
ISSUED SEPTEMBER 26, 2006**

Because your question is reasonably susceptible to a single analysis by the clear language of the rule, we have responded by an informal opinion, as provided by the Constitutional Ethics Rules, Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2006, Ch. 62, App.,¹ ["the Rules"]. You have asked:

Does Rule Section 257:20-1-6(b) of the Rules, supra, preclude a State Representative or State Senator from representing another person, firm, corporation or entity for a fee only in matters decided by the state governing board of an agency, or does the Rule preclude representation for a fee in any matter before a state agency?

FACTS

You have advised that a state legislator is representing a client before a state agency.

ANALYSIS

A governmental entity is defined in the Rules as follows:

Definitions

* * *

"Governmental entity"

(1) means any department, commission, authority, council, board, bureau, committee, legislative body, agency, state beneficial public trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma.

(2) shall not mean entities of political subdivisions of the State of Oklahoma.

Section 257:1-1-2

The Rules prohibit a legislator from representing a governmental entity of the executive branch.

¹Rules Section 257:1-1-6(h) provides:

...The executive director or the general counsel may issue informal written opinions, as time permits and with the prior approval of the chair or vice chair, pertaining to the provisions of this title on questions that are susceptible to a single analysis by the clear language of the rule and are not the subject of litigation, investigation or legislation.

Representation by state officers and state employees

* * *

(b) A legislator shall not receive or agree to receive compensation for representing or assisting any person or business in any transaction involving the state; or represent another person, firm, corporation or entity for a fee before any state department, agency, board or commission. The provisions of this subsection shall not:

- (1) apply to the practice of law before any court; or
- (2) preclude a member of the Legislature from acting on behalf of a constituent to determine the status of a matter before a state department, agency, board, commission, institution or instrumentality without accepting compensation therefor.

* * *

257:20-1-6

The clear language of the Rule is not limited to representation before an executive board only but includes a “department, agency, board, commission, institution or instrumentality”. The intent was that legislators would be precluded from representing any person or entity for a fee before any state governmental entity of the executive branch.

On the other hand, the Rule allows the Legislator to check on the status of a matter so that he or she may report the information to an inquiring constituent. This does not allow the legislator to argue a constituent’s case but was meant to allow him or her to determine to what stage the matter has progressed.

CONCLUSION

It is therefore the informal opinion of the Ethics Commission staff that Rule Section 257:20-1-6 prohibits a legislator from representing any person or entity for a fee before a governmental entity of the executive branch including an agency, department, board, commission, institution or instrumentality. It does not preclude a legislator from inquiring as to the status of a matter on behalf of a constituent but does not allow advocacy beyond an inquiry.

Like ethics interpretations, informal staff opinions are fact specific. They answer only the question or questions put forth in the underlying request according to information described in the “Facts” section [supra]. While they may shed light on other situations, this opinion does not necessarily control them.

The Rules permit the Commission staff to issue informal opinions, upon the approval of the Chair or Vice Chair, provided the matter is reasonably susceptible to a single analysis and is not the subject of litigation, investigation or legislation. We hope these informal letters shed light on the issues and provide guidance. They are not, however, official pronouncements.

This opinion letter has been approved by the Commission Chairman. According to policy, this opinion will be submitted to the members, any of whom can request that the matter be converted to an ethics interpretation and considered by the full Commission.

Informal opinions are published with sufficient deletions to prevent identification of the person or persons involved in the situations herein described. The name of the requestor is considered confidential. This letter has been labeled accordingly.