



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

MEMORANDUM

TO: Department Heads

FROM: Daniel Mollway
Executive Director and General Counsel

SUBJECT: Use of State E-Mail for Campaign Purposes

DATE: January 12, 2001

At its December 20, 2000 adjudicatory meeting, the Hawaii State Ethics Commission considered a situation in which a state e-mail account was used to forward a message advocating the election of certain candidates for state office. The State Ethics Commission took appropriate action in the case and asked that I send a memorandum to all state department heads to ask that they remind the state officials and employees within their departments that state resources, including state e-mail accounts, may not be used for political campaigning.

The use of state resources for political campaigning is prohibited by Hawaii Revised Statutes ("HRS") section 84-13, the Fair Treatment section of the State Ethics Code. This section reads:

§ 84-13 Fair treatment. No legislator or employee shall use or attempt to use the legislator's or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others; including but not limited to the following:

- (1) Seeking other employment or contract for services for oneself by the use or attempted use of the legislators or employee's office or position.
- (2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the legislator's or employee's official duties or responsibilities except as provided by law.

- (3) Using state time, equipment, or other facilities for private business purposes.
- (4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the legislator or employee inspects or supervises in the legislator's or employee's official capacity.

Nothing herein shall be construed to prohibit a legislator from introducing bills or resolutions, serving on committees or making statements or taking action in the exercise of the legislator's legislative functions. Every legislator shall file a full and complete public disclosure of the interest or transaction which the legislator believes may be affected by legislative action.

HRS section 84-13 prohibits state employees and legislators from using their state positions to give themselves or anyone else any unwarranted benefit or preferential treatment. HRS subsection 84-13(3) prohibits state employees and legislators from using any state time, equipment, or facilities for private business purposes. For example, state employees may not use the state telephone, state fax machine, state computers, or the state internal mail system for private business purposes. For purposes of this section, the State Ethics Commission has determined that campaigning for state office is a private business activity, since candidates who win elections are generally compensated in their new employment. Further, their campaign organizations would generally be considered private businesses, as the term business is defined in the State Ethics Code. In any event, HRS section 84-13 bars preferential treatment, and thus state resources must be used for state purposes and not unfairly to promote one candidate over another. Thus, e-mail accounts that are provided by the State and supported by the State may not be used for political campaigning.

On behalf of the State Ethics Commission, I would like to ask you to circulate this memorandum or otherwise inform the state employees and officials in your department that the use of a state e-mail account for political campaigning violates the State Ethics Code. If there are questions regarding this matter, please do not hesitate to contact our office at 587-0460.

On behalf of the State Ethics Commission, I would like to thank you for your assistance in this matter.