

## OPINION NO. 126

A public official inquired whether hiring a member of the immediate family of the official as an administrative assistant would be a violation of the State ethics law. It was indicated that the family member was capable, well trained, and the most qualified to apply for the job.

Based upon the facts presented to us, we concluded that the contemplated action would not be in violation of HRS, §84-13, relating to the use of official position. We did indicate, however, that we would find a violation of that section under certain circumstances not present in this case, such as where the person hired was clearly incapable, or where the work was not in fact done, or where there was no bona fide employment situation.

In previous opinions, we had suggested that the appearance of unethical conduct be avoided. See Opinions Numbers 4, 45, 47, 70, and 110. We made these suggestions in light of the legislative history of the ethics law.<sup>†</sup>

We called attention to the suggestions in the previous opinions; however, we stated that we made no ethical ruling that appearance in and of itself is or is not unethical behavior. We called attention to it merely for consideration because "nepotism" may be undesirable under certain circumstances, particularly from the standpoint of its effect on public confidence.

We expressed appreciation for the inquiry prior to action being taken and the hope that we had set forth sufficient guidance so that the official could exercise administrative responsibility in a manner consistent with our mutual objective of making decisions which are both ethical and beneficial to the State.

Dated: Honolulu, Hawaii, January 17, 1972.

STATE ETHICS COMMISSION  
Vernon F. L. Char, Chairman  
Gwendolyn B. Bailey, Commissioner  
Audrey P. Bliss, Commissioner  
Fred S. Ida, Commissioner

Note: Commissioner Walters K. Eli was excused from the meeting in which this request for an advisory opinion was considered.

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<sup>†</sup>The legislative history of the ethics law indicates that a primary objective of the law was to avoid even the appearance of unethical conduct. In SCR 367, 4th Legislature, 1st Session (1967), p. 3, the House Judiciary Committee stated that, "If public confidence in government is to be maintained and enhanced, it is not enough that public officers avoid acts of misconduct. *They must scrupulously avoid acts which may create an appearance of misconduct.* (Emphasis added.)