

## OPINION NO. 137

The head of a department inquired whether he will be in violation of the State ethics law if he were to be reimbursed for research journals from his personal library which he will sell or transfer to his department for incorporation into the department library. As the department head and principal investigator of a research grant, he must approve this expenditure. He has indicated that these back issues of research journals generally increase in value with time, but that he is willing to sell them to his department at cost to him in the amount of \$490. He has indicated that the current market value of these volumes, not including shipping costs, would be in excess of \$565.

We initially stated that his authority to approve this expenditure will be "official action" as defined in HRS, §84-3(7), for such approval must invariably involve discretion relating to the department's needs for the property purchased as well as discretion relating to the allocation of funds to various department program objectives. Whenever such official action will directly affect a business or matter in which an employee has a substantial interest, a conflict of interest situation exists. The State ethics law, HRS, §84-14, prohibits an employee from participation in official action in such instances. We have advised that an employee should disqualify himself and defer to a higher official within the system. (See Opinion No. 78, part 2.)

In this instance, however, we noted that the transaction will involve approximately \$500, an insubstantial amount under the circumstances. Moreover, we further noted that no unwarranted privilege, contract, or advantage would accrue to the employee in violation of HRS, §84-13 (fair treatment), because 1) he was transferring these volumes at their original cost to him, even though they have actually increased in value, and 2) the journals were not otherwise locally available for purchase and delivery. We also noted that the contract was not prohibited under HRS, §84-16, since it involved an amount less than \$ 1,000. Because of these considerations, it was our opinion that he would not be in violation of the State ethics law if he were to be reimbursed for the journals in this instance. We recommended, however, that this transaction at least be disclosed to his superior, since he had indicated that he would be an indispensable party to the approval of the expenditure.

We cautioned that this opinion was limited to the unique circumstances of this case and was not intended to be a carte blanche approval for future reimbursements to him or any other state employee.

Dated: Honolulu, Hawaii, April 20, 1972.

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