

OPINION NO. 180

The principal of a state school inquired whether he might, without violating the ethics law, 1) receive, for free distribution to students, T-shirts (or other items for the personal use of students) which identify the donor, and 2) solicit sponsors for school uniforms from businesses or individuals seeking public office.

HRS §84-11 states the following:

No legislator or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

Thus, an employee should not accept a gift where it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for official action. In previous opinions, the Commission has stated that application of HRS §84-11 to a particular situation requires consideration of such matters as 1) the business relationship between the donor and the recipient of the gift, 2) the relationship of the gift to the official functions of the recipient, and 3) the benefits to the donor and the recipient of the gift. (Commission Opinions Nos. 42, 45, and 121.)

Receipt of T-Shirts and Other Items for the Personal Use of Students.

In answers submitted to questions set forth in our staff's letter to the principal, dated January 30, 1974, he indicated that he did not have a buyer-seller relationship, or any other business or contractual relationship, in his state capacity with the potential donors of T-shirts and other items. Because he did not take official action directly affecting the potential donors, he was not in a position to give unwarranted treatment to them.

We noted that while the T-shirts and other items would be given to the principal and distributed by a staff member, "either on a first come, first served basis or to participants of a particular school activity", it was our opinion that his role would be mainly of a conduit or distributor; the gifts were actually being made to the students. He would not receive any direct benefits from the gifts.

We recognized that donors of the gifts would receive substantial benefits; their names would be advertised and goodwill could be expected. It was likely that the gifts were being made for these benefits.

It was our opinion that the principal might receive T-shirts and other items for the personal use of students. We found that there were no circumstances in which it could reasonably be inferred that the gifts were intended to influence him in the performance of his official duties or were intended as rewards for official action.

Solicitation of Sponsors for School Uniforms.

In determining whether soliciting sponsors for school uniforms would violate HRS §84-11, we considered several factors. The principal indicated that he would solicit sponsors for school uniforms from businesses or individuals known by him or his staff. He further informed us that he did not have a business relationship in his state capacity with the potential sponsors of school uniforms. Once again, because he did not have a business relationship with the potential donors, he was not in a position to give unwarranted treatment to the potential sponsors.

He indicated that members of his staff were part owners or part-time employees of potential sponsors. As administrator of his school, he took official action affecting staff members who might be part owners of the sponsors. We pointed out to him that HRS §84-13 prohibited a state employee from giving unwarranted privileges, advantages or treatment to others.

We noted that while the gifts of uniforms would be made to the principal, the ultimate recipients of the gifts were actually the students and the State. He would not receive any direct benefits from the sponsorship of uniforms.

Finally, we were cognizant that the names of the sponsors would be on the uniforms. One could expect that the public image of the sponsors would be improved through the sponsorship of uniforms and that they might receive benefits from advertising of their names.

We held that he might solicit sponsors for school uniforms. We did not find circumstances in which it could be reasonably inferred that sponsorship of uniforms was intended to influence him in the performance of his official duties or intended as a reward.

We expressed appreciation for the concern that he had shown for ethical matters within his province.

Dated: Honolulu, Hawaii, March 28, 1974.

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

Note: Commissioner Walters K. Eli was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.