

OPINION NO. 195

A state senator seeking reelection asked the following questions:

1. Whether he might include in his campaign brochure endorsements from state officials such as department and division heads with whom he had worked during legislative sessions in his role as a state senator and as a chairman or a member of Senate committees. The brochure would contain a picture of the endorser, a statement of the state position held by the endorser, and a brief statement by the endorser as to the senator's qualifications and effectiveness as a state senator.
2. Whether he might include in his campaign brochure endorsements from fellow legislators.
3. Whether he might publish in his campaign brochure congratulatory and "thank you" letters from state officials and state employees.

We were not able to give the senator an answer to question no. 1 listed above.[†] Because we had positions on our Commission that were not filled, we had only three commissioners present at the meeting at which the senator's request for an advisory opinion was considered, and we could not get the unanimity of opinion that was required in such a situation. We were also unable to render a decision on whether an endorsement from a department or division head with whom the senator had worked during legislative sessions that did not state or make reference to the endorser's state position might be included in his campaign brochure. We could not reach a consensus on how HRS §84-13 (the fairness section of the ethics law) should be applied to endorsements from these individuals.^{††} Some of the questions that we considered were whether HRS §84-13 prohibited the publication of all endorsements from state department or division heads with whom the senator had worked as a senator; or, on the other hand, whether any endorsement from these individuals might be published consistently with HRS §84-13; or, finally, whether only the solicitation of endorsements from these individuals was prohibited by HRS §84-13 and not the publication of unsolicited voluntary endorsements. We were cognizant that with respect to political contributions, we had earlier stated in our Campaign Practice Ethics Guidelines that although unsolicited voluntary contributions may be accepted by a state employee or legislator, political contributions should not be solicited from state officers receiving state funding who may feel that such contributions facilitate continued funding or support for their state programs or activities, from persons under consideration for appointment or nomination to state office or employment, and from persons subject to the state employee's or legislator's supervisory power.

While we were unable to render an opinion on question no. 1 listed above, we concluded that the senator might solicit and publish in his campaign brochure endorsements from individuals who did not hold positions where they would feel that an endorsement would facilitate continued funding or support for their state programs or activities or who were not under consideration for appointment or nomination to state office.

Also, in answer to questions nos. 2 and 3 listed above, we held that the senator might include in his campaign brochure endorsements from fellow legislators and prior existing

[†]See HRS §84-(a)(2), which states in part that "[i]f no advisory opinion is rendered within thirty days after the request is filed with the Commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the standards.

^{††}HRS §84-13 states, in part, the following: "No legislator or employee shall use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for himself or others"

congratulatory and "thank you" letters from state officials and state employees, provided that approval had been given to him for their publication.

We expressed appreciation for the senator's concern for ethics in government.

Dated: Honolulu, Hawaii, October 11, 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.