

ADVISORY OPINION NO. 86-6

The Commission received a request for an advisory opinion from a state supervisor who wished to know whether employees in her agency could accept travel expenses in order to receive awards for outstanding service at an out-of-state awards ceremony.

The supervisor stated that the national headquarters of a nonprofit organization had requested nominations for the selection of outstanding employees in an area the organization was concerned with. The organization planned to pay travel expenses for winning nominees and their office managers so that they could receive national awards at an awards ceremony to be held on the mainland. The supervisor also stated that the local office of the nonprofit organization offered to pay travel expenses for nominees who were not award winners so that those nominees might also participate in the award ceremonies. Finally, the supervisor stated that her division took no action that affected the nonprofit organization.

The sections of the ethics code relevant to the questions the supervisor raised were section 84-11, Hawaii Revised Statutes, pertaining to gifts, and section 84-13(2), pertaining to the acceptance of additional compensation for the performance of one's state responsibilities. These sections read in pertinent part as follows:

§84-11 Gifts. 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.

§84-13 Fair treatment. 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; including but not limited to the following:

....

- (2) Accepting, receiving, or soliciting compensation or other consideration for the performance of his official duties or responsibilities except as provided by law.

The gifts section of the ethics code prohibits the acceptance of a gift if one can reasonably infer that the gift is intended to influence or reward official action. Since the nonprofit organization, however, was not subject to action taken by the supervisor's division, the Commission concluded that the acceptance of travel expenses would not violate the gifts section of the ethics code. The Commission also noted that the travel expenses were to be paid in conjunction with a national award program to recognize outstanding service. Under these conditions, the Commission believed it was unlikely that any untoward inference could arise.

Section 84-13(2) prohibits state employees from receiving additional compensation or consideration for the performance of their state responsibilities. The Commission believed, however, that the receipt of an award and travel expenses to receive the award did not constitute the kind of additional compensation or consideration this section of the ethics code intended to

prohibit. The Commission noted that it is a custom of our society to recognize outstanding achievement with awards, and, so long as the award is reasonable and given in good faith, the Commission believed that the acceptance of an award and travel expenses to attend a national award ceremony would not violate any of the sections of the State Ethics Code.

The Commission told the supervisor that it appreciated her seeking its advice in this matter at an early time and commended her for her sensitivity to the ethical considerations involved in this matter.

Dated: Honolulu, Hawaii, March 7, 1986.

STATE ETHICS COMMISSION
Tim S. Farr, Chairperson
Allen K. Hoe, Commissioner
Edith K. Kleinjans, Commissioner
Rabbi Arnold J. Magid, Commissioner

Note: Vice Chairperson Laurie A. Loomis was not present during the discussion and consideration of this opinion.