

OPINION NO. 245

A state employee asked us for an advisory opinion on whether a state program for the solicitation of funds for a charitable organization was proper under the state ethics law. He expressed concern that the solicitation of funds for this charitable organization was done on state time and by state personnel and that the State actually put staff into positions responsible to put on the campaign and supplied necessary funds for materials and supplies.

We found that state employees were significantly involved in the solicitation of funds for the organization and that high-ranking state officials supported this involvement and participated in the program personally.

We determined that HRS §84-13(3) (Supp. 1975) was relevant to this case. This subsection prohibits the use of "state time, equipment or other facilities for private business purposes."

It was our opinion that HRS §84-13(3) was not violated by the extensive participation by state employees on state time in this solicitation program. We stated that the program was not "a private business purpose."

The organization had broad-based community support. Its annual solicitation program involved participation by many segments of the community. The participation by state employees, we believed, rested on this support and had been made "public business" by the State. Therefore, use of state time, facilities, and equipment on behalf of this organization was not prohibited by the ethics law.

While we held that the state's solicitation program did not violate HRS §84-13(3), we stated that a state employee must be careful that he does not use his state position to put unwarranted pressure on an employee to make a contribution. We cited HRS §84-13 (Supp. 1975) which states:

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

We noted that in past cases we had stated that this section is violated in circumstances where a reasonable man can infer that a state employee is using or attempting to use his official position to grant unwarranted advantages or treatment to himself or others.

We advised the state employee who had requested the opinion that if he became aware of specific instances where he believed a state employee had used his position in violation of HRS §84-13 to put unwarranted pressure on another employee to make a contribution or had taken administrative action against an employee for failing to make a contribution that he should let us know.

The employee's request also raised questions relating to state civil service policies. Because these matters lay outside of our jurisdiction, we referred him to the Civil Service Commission or its counsel for answers to these questions.

We expressed our appreciation for his concern for ethics of public servants and in government.

Dated: Honolulu, Hawaii, March 19, 1976.

STATE ETHICS COMMISSION
Audrey P. Bliss, Chairman
Paul C.T. Loo, Vice Chairman
I.B. Peterson, Commissioner

Note: There were two vacancies on the Commission.