

## OPINION NO. 493

The Commission received a request for an advisory opinion from an employee who asked the Commission to determine whether he might teach a course on his own time on the construction and installation of a mechanical apparatus for home use. The employee's main job responsibility was to encourage the use of the apparatus in the industrial and commercial sectors. The employee thus conducted seminars and workshops, distributed information to businesses, and answered individual questions. The employee also answered questions from homeowners who wished to purchase the apparatus for home use. Occasionally, about once a month, the employee received a call from a homeowner who wanted information on constructing the apparatus and installing it in his home. The employee usually referred these callers to a do-it-yourself manual and informed them of any classes that offered instruction on construction and installation. The employee also answered similar questions from individuals who stopped by his office, and, at least once, the employee reviewed plans for the construction of the apparatus designed by homeowners who had gone to his office for advice. The employee also occasionally went to the neighbor islands to assist other state employees with their two-day workshops on building and installing the apparatus. The employee received compensatory time for the time he spent conducting these workshops.

In light of these facts, the relevant ethics code provision was HRS §84-13(2), which prohibits state employees from accepting, receiving, or soliciting compensation or other consideration for the performance of their official duties or responsibilities except as provided by law. The Commission believed that this provision of the code would prohibit the employee from teaching the course on the construction and installation of the apparatus for home use. Although the course provided "hands-on" experience, the Commission believed that the employee's state duties and the course content overlapped to an extent substantial enough to come under the prohibitions of HRS §84-13(2). The Commission also believed that it would be inappropriate for the employee to teach the course on a substitute basis or if the instructor scheduled to teach the course withdrew. The Commission believed that in such cases a strong appearance of impropriety would arise.

The Commission told the employee that it appreciated his interest in providing such a course for consumers and that it realized that there were probably few individuals in the State with his expertise. Nevertheless, the Commission believed that the course would be more appropriately offered as one of the employee's job responsibilities. The Commission understood that the employee's other official duties precluded him from teaching the course as a state employee. However, the Commission encouraged the employee to see if there was any way that arrangements might be made through his office or department so that he might teach the course. Clearly, the course was in line with state objectives and offered a savings to those who had the time and mechanical ability to build their own apparatus for home use.

The Commission commended the employee for bringing this matter to the Commission at an early time and told the employee that it appreciated his candor in discussing the facts of this case.

Dated: Honolulu, Hawaii, April 8, 1983.

STATE ETHICS COMMISSION  
Edith K. Kleinjans, Chairperson  
Allen K. Hoe, Commissioner  
Gary B.K.T. Lee, Commissioner  
Robert N. Mitcham, Commissioner

Note: Vice Chairperson Paul C.T. Loo was excused from the meeting at which this opinion was considered.