

OPINION NO. 516

The Commission received a request for an advisory opinion from a high-ranking official who asked the Commission to determine whether his position as an elected board member of a political organization conflicted with his official position.

The relevant code provisions dealing with conflicts of interests, HRS §§ 84-14(a) and (b), read in pertinent part as follows:

- (a) No employee shall take any official action directly affecting:
 - (1) A business or other undertaking in which he has a substantial financial interest; or
 - (2) A private undertaking in which he is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

A department head who is unable to disqualify himself on any matter described in items (1) and (2) above will not be in violation of this subsection if he has complied with the disclosure requirements of section 84-17; and

....

- (b) No employee shall acquire financial interests in any business or other undertaking which he has reason to believe may be directly involved in official action to be taken by him.

HRS §84-14(a) requires state employees to abstain from taking official action that would directly affect any business in which they have a substantial financial interest. HRS §84-14(b), on the other hand, prohibits state employees from acquiring a financial interest in any business that will be directly involved in official action to be taken by them.

Since the official stated that his position did not require him to take official action that directly affected or would later directly affect his political organization, the Commission concluded that neither of these sections would prohibit him from serving as a board member of the political organization.

Although the Commission found that no conflict of interest existed between the official's state position and his board membership, the Commission pointed out that the fair treatment section of the ethics code, HRS §84-13, prohibits state employees from using their official titles in conjunction with their private political activities. The Commission informed the official that he should therefore avoid using his official title on political literature or in conjunction with activities of his political organization. Furthermore, the Commission noted that HRS §84-13 prohibits state employees from using state time, equipment, or facilities for political purposes. The Commission informed the official that this provision of the code would prohibit him, for example, from using his state telephone to conduct business for his political organization.

The Commission commended the official for bringing this matter to the attention of the Commission at an early time. The Commission has found that this kind of attention to ethical matters furthers public confidence in state employees and contributes to an improved ethical climate in state government.

Dated: Honolulu, Hawaii, December 15, 1983.

STATE ETHICS COMMISSION
Edith K. Kleinjans, Chairperson
Allen K. Hoe, Vice Chairperson
Mildred D. Kosaki, Commissioner
Rabbi Arnold J. Magid, Commissioner

Note: Commissioner Gary B.K.T. Lee was not present during the discussion and consideration of this opinion.