

OPINION NO. 517

The Commission received a request for an advisory opinion from the administrator of a university unit on the following three questions:

1. Whether it would be a violation of the State's ethics code for a full- or part-time faculty member to post advertisements on campus promoting his or her licensing examination review course.
2. Whether it would be a violation of the State's ethics code for a full- or part-time faculty member to appear before students in a classroom to promote his or her licensing examination review course.
3. Whether it would be a violation of the State's ethics code for a full- or part-time faculty member to ask to appear before or to accept an invitation to appear before a group of students or a student organization to promote his or her licensing examination review course.

The Commission understood that these questions involved two faculty members in the administrator's unit, one who owned his own review course and another who was employed as an instructor for another review course.

The applicable sections of the ethics code were HRS §84-13 and HRS §84-13(3), which read as follows:

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:

....

- (3) Using state time, equipment or other facilities for private business purposes.

HRS §84-13(3) normally prohibits employees from posting company advertisements on state premises. However, because the university allows review courses to be advertised on campus as a service to students, the Commission determined that advertisements for a faculty member's own review course could be posted on campus so long as the advertisements were posted in the same manner as other review course advertisements. However, the Commission stated that a faculty member's advertisement must not contain any reference to the faculty member's position at the university or list a university telephone number. To do so would constitute a misuse of position in violation of HRS §84-13.

The Commission informed the administrator that HRS §84-13 also strictly prohibits faculty members from promoting their review courses before their own or other classes, before

student organizations, or when talking to individual students. The Commission advised the administrator that any violation of this section of the code should be brought to the attention of the Commission.

The Commission understood that there were occasions when students would be concurrently enrolled in a faculty member's university course and review course. This was a situation that the Commission would usually either prohibit or seek to discourage. However, in this case, the Commission realized that there were only a finite number of university courses to choose from and, in this case, only two review courses available. Since prohibiting faculty members from enrolling their own students in their review courses would create a hardship for students, the Commission determined that the double enrollment should not be prohibited in this case. However, the Commission recommended that faculty members take special care to prevent an appearance of favoritism from arising with regard to those students who enroll in a review course taught by a faculty member from whom they were taking classes.

The Commission informed the administrator that the restrictions discussed above applied equally to part-time and full-time faculty members. The Commission also stated that the advisory opinion was based on and limited to the facts presented in the opinion and did not prohibit the Commission from re-examining the situation should other ethical problems arise in the future.

Finally, the Commission told the administrator that it appreciated his bringing this matter to its attention. The Commission has found that this kind of concern for 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.