



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

Resolution of Charge **2014-1**

(Charge No. 13-Cg-14)

Hiring of Relatives

February 19, 2014

On November 20, 2013, the State Ethics Commission issued Charge No. 13-Cg-14 (“Charge”) against John Doe,¹ a principal employed by the Department of Education (“DOE”). The Charge alleged that John Doe violated: (1) Hawaii Revised Statutes (“HRS”) section 84-14(a), the conflicts of interests law, by recommending and/or proposing that one of the school’s supplemental learning programs hire his son, who at the time was a dependent; and (2) HRS section 84-13, the fair treatment law, by recommending, and/or proposing that the school’s supplemental learning programs hire his nephew and niece. John Doe filed an answer to the Charge, in which he provided further information but did not dispute the allegations of the Charge. John Doe has agreed to a resolution of the Charge, which includes the publication of this Resolution of Charge. As part of that resolution, John Doe has also paid an administrative fine of \$500 to the State of Hawaii.

Alleged Facts

Based on its investigation, including information from John Doe, the Commission understood the facts to be as follows:

John Doe is the principal of a DOE school. The school offers various supplemental learning programs. During separate conversations with two subordinate school employees, each of whom is in charge of coordinating a supplemental learning program, John Doe recommended and/or proposed that his dependent son be hired under one of the programs and recommended and/or proposed that his nephew and niece also be hired under the programs. The two school employees hired the relatives. John Doe’s dependent son worked for less than three weeks. His nephew and niece worked for short periods of time.

¹ “John Doe” is a pseudonym.

The Conflicts of Interests Law

The State Ethics Code prohibits a state employee from taking any official action directly affecting his own financial interests or the financial interests of his spouse, or dependent child. The statute provides in relevant part:

§84-14 Conflicts of interests. (a) No employee shall take any official action directly affecting:

- (1) A business or other undertaking in which the employee has a substantial financial interest. . . .

“Financial interest” includes, among other things, an employment interest held by the employee, the employee’s spouse, or the employee’s dependent children.² The term “official action” is defined as any discretionary action by the employee.³ “Official action” is not limited to a final decision but, rather, includes other types of discretionary action such as recommendations and approvals, including making a recommendation or taking any other discretionary action.

In this situation, John Doe appears to have taken official action directly affecting his financial interests in that he took action affecting his dependent child’s employment. In so doing, it appears that he may have violated the State Ethics Code’s conflicts of interests provision.

The Fair Treatment Law

The State Ethics Code also prohibits a state employee from using his state position to grant himself or anyone else any unwarranted privilege, exemption, advantage, contract, or treatment. In relevant part, the statute provides:

² The term “financial interest” is defined in HRS section 84-3:

“Financial interest” means an interest held by an individual, the individual’s spouse, or dependent children which is:

- (1) An ownership interest in a business.
- (2) A creditor interest in an insolvent business.
- (3) An employment, or prospective employment for which negotiations have begun.
- (4) An ownership interest in real or personal property.
- (5) A loan or other debtor interest.
- (6) A directorship or officership in a business.

³ HRS section 84-3 defines “official action” as:

a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

§84-13 Fair treatment. No legislator or employee shall use or attempt to use the legislator's or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others. . . .

John Doe appears to have used his position to recommend, and/or propose to subordinate employees that his nephew and niece be hired by the supplemental education programs. In so doing, it appears that John Doe may have violated the Fair Treatment Law.

Resolution of Charge No. 13-Cg-14

Based on its investigation, the Commission believed that it was likely John Doe may have violated the Conflicts of Interests Law and the Fair Treatment Law. Given that John Doe's actions were essentially limited to the conversations referenced above and that he took no further significant action involving the hiring of his dependent son, nephew, and niece; that there was no indication that John Doe's dependent son, nephew, and niece were not qualified for the positions; and that John Doe did not personally derive a monetary benefit from his actions, the Commission believed that it was fair and in the public interest to resolve Charge No. 13-Cg-14 by the issuance of this Resolution of Charge and by John Doe's payment of \$500 to the State of Hawaii.