



HAWAII STATE ETHICS COMMISSION

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

Resolution of Investigation **2016-3**

(COMPL-16-00449)

State Employee's Improper Use of State Resources for Campaign Purposes

October 20, 2016

The Hawaii State Ethics Commission ("Commission") has resolved an investigation of Respondent Donald B. Young, Dean, University of Hawaii College of Education, for alleged violations of the State Ethics Code, Hawaii Revised Statutes ("HRS") chapter 84.

The alleged violations came to the attention of the Commission by way of a report in the Hawaii Free Press, in which the reporter reproduced a copy of a letter – signed by Respondent Young and issued on University of Hawaii letterhead – endorsing a political candidate.

Respondent Young fully cooperated with the Commission in its investigation, and has not previously been the subject of a Commission Charge or investigation. The Commission and Respondent Young agreed to resolve the investigation with Respondent's payment of a \$500 administrative penalty to the State of Hawaii and the publication of this Resolution of Investigation. The Commission believes that, based on the allegations detailed below, the terms of the resolution are fair and in the public interest.

I. Alleged Facts

On September 11, 2016, an article appeared in the Hawaii Free Press reporting that Respondent Young had issued a letter of support for a Congressional candidate in American Samoa; the article reported that, a few weeks earlier, the candidate had re-printed the letter of support in a campaign advertisement. Respondent Young issued the letter on University of Hawaii letterhead.¹ Respondent Young also transmitted the letter to the candidate using Respondent's University of Hawaii e-mail account.

¹ Respondent Young states that the letterhead he used was for internal promotions within the College of Education, and that the letterhead is not "official" letterhead for the University. Even if the University were to make a distinction between internal and external letterhead, however, the letterhead states "University of Hawaii" and "College of Education" and also appears to contain the University's seal, thus giving the impression to those outside the University that the letter represents official University correspondence.

On September 12 (prior to any contact from the Commission), Respondent contacted the Congressional candidate and asked that she (the candidate) no longer use the letter in her promotional materials; the candidate agreed.

On September 15, the Commission contacted Respondent Young to inquire about the events described in the Hawaii Free Press article. Respondent Young responded promptly (on September 18), confirming the details of the article and disclosing that he had initially issued the letter to the candidate using his University of Hawaii e-mail account. Respondent Young recognized his error and asked the Commission for guidance as to the proper course of action.

II. The State Ethics Code, HRS Chapter 84

A. Constitutional Mandate and Statutory Purpose

The State Ethics Code arises from the declaration contained in the State Constitution that “[t]he people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government.”² To this end, the Hawaii Constitution further directs that the legislature enact a code of ethics that applies to all appointed and elected state officers and employees, including University of Hawaii faculty and administrators.

In accordance with this constitutional mandate, the legislature enacted the State Ethics Code and charged the Commission with administering and enforcing the law “so that public confidence in public servants will be preserved.”³ It is in this context that the Commission examines every employee’s actions.

B. Application of the State Ethics Code to Respondent Young

HRS § 84-13, the “Fair Treatment” section of the State Ethics Code, prohibits the use of state resources for political campaign purposes: the Ethics Code prohibits the preferential use of state resources or incidents of state office, and an endorsement represents the preference of one candidate over another. State resources include, among other things, state computers, state telephones, state copy machines, state fax machines, and state e-mail accounts. State e-mail cannot be used by state officials and employees for campaign purposes.

The State Ethics Code does not prohibit Respondent Young from endorsing a political candidate or otherwise engaging in campaign activities on his personal time. However, Respondent Young’s use of University of Hawaii letterhead and his University e-mail account raises issues under the “Fair Treatment” section of the State Ethics Code. As applied to Respondent Young, the State Ethics Code prohibits the use of State letterhead and/or an

² Hawaii State Constitution, Art. XIV.

³ HRS Chapter 84, Preamble.

official State seal for political campaign purposes. See Hawaii State Ethics Commission, “Campaign Restrictions for State Officials and State Employees” (Apr. 2014), available at <http://ethics.hawaii.gov/wp-content/uploads/2013/09/camprestrict.pdf>.

Similarly, the State Ethics Code prohibits state personnel from using state e-mail to generate campaign material. It also prohibits the use of state e-mail to send, forward, or reply to campaign material. Campaign material may include political campaign endorsements, fundraiser material, notifications of campaign events, political party material, or other material. See Hawaii State Ethics Commission, “Prohibited Use of State E-Mail for Campaign Purposes” (Apr. 2014), available at <http://ethics.hawaii.gov/wp-content/uploads/2013/09/prohibitStateEmail.pdf>.

Assuming the alleged facts to be true in this case, the Commission believes that Respondent Young appears to have violated HRS § 84-13 twice: by issuing a campaign endorsement on University of Hawaii letterhead, and by disseminating that letter using a State e-mail account. Each of these alleged violations could result in imposition of an administrative penalty of up to \$500.

III. Resolution of Investigation

Respondent Young fully cooperated with the Commission during its investigation of this matter. Indeed, prior to being contacted by the Ethics Commission, Respondent Young took steps to rescind the endorsement letter; upon being contacted by the Commission, he responded promptly to the Commission’s inquiry and recognized the Ethics Code’s applicability to his actions.

This Resolution of Investigation is being issued pursuant to the Commission’s agreement with Respondent Young to resolve this issue without any further administrative proceedings. It does not constitute an admission by Respondent Young or a determination by the Commission of any wrongdoing; however, if the allegations concerning Respondent’s actions were found to be true, the Commission could conclude that Respondent’s actions violated the State Ethics Code.

The Commission believes it is reasonable, fair and in the public interest to resolve the investigation by issuing this Resolution of Investigation and by Respondent Young’s payment of \$500 as an administrative penalty to the State of Hawaii.