



# HAWAII STATE ETHICS COMMISSION

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

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## Resolution of Investigation No. 2018-1

(COMPL-I-16-00535)

Department of Education Assistant Superintendent's  
Alleged Violation of the Fair Treatment and Confidentiality Laws

January 18, 2018

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The Hawai'i State Ethics Commission ("Commission") has resolved an investigation of Corrin Suzanne Mulcahy ("Respondent Mulcahy") for alleged violations of the State Ethics Code, Hawai'i Revised Statutes ("HRS") Chapter 84.

### I. Facts

Respondent Mulcahy admitted the following facts:

- a. Respondent Mulcahy, at all times relevant herein, was employed by the Department of Education ("DOE") as the Assistant Superintendent of the Office of Curriculum, Instruction, and Student Support ("OCISS").
- b. Respondent Mulcahy, at all times relevant herein, was a state employee as defined in HRS § 84-3. As a state employee, Respondent Mulcahy is required to comply with the State Ethics Code.
- c. Respondent Mulcahy, at all times relevant herein, was pursuing a doctorate in education at the University of Hawai'i at Mānoa. Her dissertation topic concerned homeless children in the DOE and the implementation of the McKinney-Vento Homeless Assistance Act ("MVA") in Hawai'i public schools.
- d. According to policy and practice, all educational research and data requests involving the use of DOE students, personnel, or DOE data must be reviewed and approved by the Data Governance and Analysis ("DGA") Branch in order to use such information for external purposes.
- e. As the Assistant Superintendent of OCISS, Respondent Mulcahy used DOE personnel and other departmental resources to conduct research for her Ph.D. dissertation without obtaining approval from DGA's Internal Review Board.

- f. Respondent Mulcahy used DOE staff to design and conduct an on-line survey of homeless community liaisons with the Homeless Concerns Office (which falls under OCISS and her management authority), and interviewed multiple DOE staff.
- g. Respondent Mulcahy then used this and other confidential and/or non-public information in her dissertation without obtaining DGA approval or the written consent of the participants.

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 Hawai‘i 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.”<sup>1</sup> To this end, the Hawai‘i Constitution further directs that the legislature enact a code of ethics that applies to all appointed and elected state officers and employees.

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.”<sup>2</sup> Additionally, the legislature explicitly directed that the State Ethics Code be liberally construed to promote high standards of ethical conduct in state government. HRS § 84-1. It is in this context that the Commission examines every employee’s actions.

B. HRS § 84-13, Fair Treatment

HRS § 84-13 (the “Fair Treatment Law”) prohibits state employees from using their state position to obtain an unwarranted advantage or benefit for themselves or others.

Under DOE’s policies and procedures, all educational research involving the use of DOE students, personnel, or DOE data must be reviewed and approved by DGA to ensure that such research is conducted in an appropriate and ethical manner, and to protect the confidentiality and privacy rights of both students and DOE personnel. This requirement applies equally to external researchers and DOE employees conducting research for non-DOE purposes. Thus, even if a DOE employee may be authorized to conduct research and data collection activities as part of their DOE assigned duties, the

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<sup>1</sup> Hawai‘i State Constitution, Art. XIV.

<sup>2</sup> HRS Chapter 84, Preamble.

DOE employee must obtain DGA approval and the participants' consent before he or she may use such data for external purposes.

In this case, Respondent Mulcahy appears to have violated HRS § 84-13 by using her official position and authority as the Assistant Superintendent of OCISS to conduct research for her Ph.D. dissertation and failing to comply with DOE policies and procedures. Respondent Mulcahy not only failed to seek pre-approval to conduct her external research, she also directed DOE staff to help her design and administer the on-line survey given to other staff within OCISS, and used DOE resources in furtherance of her own personal benefit.

C. HRS § 84-12, Confidentiality

HRS § 84-12 (the "Confidentiality Law") prohibits a state employee from disclosing information which by law or practice is not available to the public, and which the employee acquires in the course of his or her official duties. The statute also prohibits a state employee from using such information for his or her personal gain, or the benefit of others.

Respondent Mulcahy appears to have violated the confidentiality statute by disclosing and using non-public DOE information in her Ph.D. dissertation without obtaining DGA approval to use the information for such purpose.

III. Resolution of Investigation

The Commission believes that, based on the facts admitted above,<sup>3</sup> Respondent Mulcahy likely violated the Fair Treatment Law (HRS § 84-13) and the Confidentiality Law (HRS § 84-12).

Based on the circumstances in this case, the Commission believes that, it is reasonable, fair, and in the public interest to resolve this investigation by: (1) issuing this Resolution of Investigation, and (2) requiring Respondent Mulcahy to pay an administrative penalty of \$1,500 to the State of Hawaii.

The Resolution of Investigation does not constitute an admission by Respondent Mulcahy or a determination by the Commission that Respondent Mulcahy's actions violated the State Ethics Code. The Commission believes it is reasonable, fair, and in the public interest to resolve this matter without further administrative action.

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<sup>3</sup> This Resolution does not make formal findings, but relies on the facts admitted to by Respondent Mulcahy.

Dated JAN 18 2018

Disagreed

Reynaldo D. Graulty, Chair  
Hawaii State Ethics Commission

Dated JAN 18 2018

Ruth D. Tschumy

Ruth D. Tschumy, Vice Chair  
Hawaii State Ethics Commission

Dated JAN 18 2018

David O'Neal

David O'Neal, Commissioner  
Hawaii State Ethics Commission

Dated JAN 18 2018

Susan N. DeGuzman

Susan N. DeGuzman, Commissioner  
Hawaii State Ethics Commission

Dated JAN 18 2018

Melinda S. Wood

Melinda S. Wood, Commissioner  
Hawaii State Ethics Commission