



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813
50th ANNIVERSARY 1968-2018

Resolution of Investigation **2018-4**

(COMPL-I-18-00144)

University of Hawaii Employee's Fundraising Activities on Campus November 14, 2018

The Hawaii State Ethics Commission ("Commission") has resolved an investigation of Respondent Kristen Yamamoto, a former employee of the University of Hawaii at Manoa ("UH") Commuter Services Office, for alleged violations of the State Ethics Code, Hawaii Revised Statutes ("HRS") chapter 84.

The Commission initiated its investigation after receiving information that Respondent Yamamoto sold items for the 66th Annual Cherry Blossom Festival ("Festival") in state offices on the UH campus during work hours.

Respondent Yamamoto cooperated with the Commission in its investigation and has not previously been the subject of a Commission charge or investigation. The Commission and Respondent Yamamoto agreed to resolve the investigation with Respondent's payment of a \$1,000 administrative penalty to the State of Hawaii and the publication of this Resolution of Investigation. The Commission believes that the terms of the resolution are fair and in the public interest.

I. Facts

Respondent Yamamoto admitted the following facts.

Respondent Yamamoto was formerly employed by the UH Commuter Services Office from October 1, 2017 to June 4, 2018. She then transferred to, and is currently employed by, the UH College of Education.

Respondent Yamamoto was a contestant in the Festival. Contestants fundraise for the Festival, which receives all proceeds; contestants receive points for raised funds, and the amount raised by a contestant increases that contestant's chance of becoming "Miss Popularity."

During her employment at UH, Respondent Yamamoto sold approximately 30 Festival items to her co-workers – including items such as souvenir booklets, t-shirts,

and tickets to a contestant event – for a total of \$550. These sales and deliveries of the Festival items took place in the Commuter Services Office and other UH offices during state work hours.

Before selling the Festival items to coworkers, Respondent Yamamoto participated in an ethics training with her department, which informed her that private sales are prohibited in state offices even if they are not for profit. Additionally, Respondent Yamamoto’s supervisor twice told her to cease fundraising for the Festival at work, but Respondent continued her fundraising activities.

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.”¹ 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.

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.”² It is in this context that the Commission examines every employee’s actions.

B. Application of the State Ethics Code to Respondent Yamamoto

Under the Fair Treatment provision of the State Ethics Code, HRS § 84-13,³ employees may not use their official positions to secure unwarranted privileges or benefits for themselves or others. HRS § 84-13(3) specifically prohibits state facilities from being used for a private business purpose. Private business is defined to include any “individual or organization carrying on a business, whether or not operated for

¹ Hawaii State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

³ HRS § 84-13 provides:

“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; including but not limited to the following:

...

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

profit.” HRS § 84-3. Therefore, state employees are prohibited from conducting private fundraising or sales activities on state property or during state work hours.

Respondent Yamamoto likely violated the Fair Treatment law by fundraising for the Festival in UH offices during state work hours. Additionally, Respondent Yamamoto’s fundraising provided her with an unwarranted personal benefit by increasing her chance of winning “Miss Popularity.” Even without any personal benefit, however, private fundraising activities such as this provide unwarranted benefits to the organization receiving the funds.⁴

III. Resolution of Investigation

If this matter proceeded to a formal charge and contested case hearing, the Commission would likely find that Respondent Yamamoto violated HRS § 84-13. The Commission makes no such formal finding, however, given Respondent Yamamoto’s willingness to resolve this case and her cooperation with the Commission during its investigation of this matter. Instead, this Resolution is being issued pursuant to the Commission’s agreement with Respondent Yamamoto to resolve this issue without any further administrative proceedings.

In light of the foregoing, the Commission believes it is reasonable, fair, and in the public interest to resolve this investigation by: (1) issuing this Resolution of Investigation; and (2) having Respondent Yamamoto pay \$1,000 as an administrative penalty to the State of Hawaii.

⁴ State-sanctioned fundraising activities, such as the Aloha United Way campaign, are permissible under the Ethics Code.