

Resolution of Investigation
2019-1

(COMPL-I-18-00205-01)

**Department of Education, Facilities Maintenance Branch,
General Maintenance and Services Superintendent's
Alleged Violations of Fair Treatment Law and Gifts Law**

October 17, 2019

The Hawai'i State Ethics Commission ("Commission") has resolved an investigation of Scot Y. Sueoka, General Maintenance and Services Superintendent, Facilities Maintenance Branch ("FMB"), Department of Education ("DOE"), for alleged violations of the State Ethics Code, Hawai'i Revised Statutes ("HRS") chapter 84.

I. Facts

Respondent Sueoka admitted and declared, under penalty of perjury, that the following facts are true and correct:

- a) Respondent Sueoka, at all times relevant herein, was employed by the DOE, a state agency, as the FMB General Maintenance and Services Superintendent. He has held this position since approximately 2004 or 2005.
- b) FMB provides repair and maintenance services for all public schools on the island of O'ahu and has approximately 200 employees, including carpenters, masons, electricians, and other laborers.
- c) Respondent Sueoka, at all times relevant herein, was a state employee as defined in HRS § 84-3. As a state employee, Respondent Sueoka was required to comply with the State Ethics Code.
- d) As the General Maintenance and Services Superintendent, Respondent Sueoka directly supervises six supervisors; those six subordinate employees in turn supervise other employees, such that Respondent Sueoka has supervisory authority over approximately 200 DOE employees who work for FMB.

- e) Beginning around 2013, Respondent Sueoka began the permitting process, and then the construction work itself, on an investment property he had purchased in the Kailua neighborhood of O‘ahu (hereinafter, “the Kailua property”). Over the course of several years, he worked to renovate the Kailua property into a five-unit apartment building; he has never resided on this property, but instead rents these units for income.
- f) Respondent Sueoka paid four subordinate DOE employees to work for him on the Kailua property. Respondent Sueoka paid a DOE electrician to work on the Kailua property approximately ten times, and he paid three DOE masons to work on the Kailua property approximately four to six times each. Each subordinate employee was paid a total of over \$1,000. Respondent Sueoka maintains that neither he nor any of these subordinate employees performed this work on state time.
- g) Respondent Sueoka also accepted roughly twenty days’ worth of free labor on the Kailua property, valued at several thousand dollars, from a fifth subordinate DOE employee. Respondent Sueoka states that he and this subordinate employee are friends.
- h) Beginning around 2016, Respondent Sueoka began the permitting process, and then the construction work itself, on his personal residence in the Pauoa neighborhood of O‘ahu (hereinafter, “the Pauoa property”). That personal residence is still under construction.
- i) Respondent Sueoka paid four subordinate employees to work for him on the Pauoa property. Respondent Sueoka paid a DOE electrician to work on the Pauoa property approximately ten times, he paid two DOE masons to work on the property approximately four times each, and he paid a DOE laborer to work on the property approximately twenty times. Each subordinate employee was paid a total of over \$1,000. Respondent Sueoka maintains that neither he nor any of these subordinate employees performed this work on state time.
- j) Respondent Sueoka also accepted roughly twenty days’ worth of free labor on the Pauoa property, valued at several thousand dollars, from a subordinate DOE employee. Once again, Respondent Sueoka states that he and this subordinate employee are friends.
- k) Respondent Sueoka also accepted roughly two days’ worth of free labor on the Pauoa property from another subordinate DOE employee.
- l) On more than fifty occasions from 2013 to 2018, Respondent Sueoka used his state computer and state e-mail address to conduct business for his rental property and personal property. These e-mails included correspondence to and from prospective tenants, correspondence relating to damages and

repairs to the rental property, and requests for quotes on construction materials to prospective vendors. Some of these e-mail messages were sent on state time.

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 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.”² 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. Application of the State Ethics Code to Respondent Sueoka

As a DOE employee, Respondent Sueoka is a state employee for purposes of the State Ethics Code.³ As a state employee, Respondent Sueoka is required to comply with the State Ethics Code.

HRS § 84-13(a) (the Fair Treatment Law) prohibits a state employee from using her or his state position to obtain unwarranted privileges, advantages, or benefits for the employee or others: HRS § 84-13(a)(3) prohibits state employees from “[u]sing state time, equipment or other facilities for private business purposes”; HRS § 84-13(a)(4) prohibits state employees from “[s]oliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the . . . employee inspects or supervises in the . . . employee’s official capacity.” HRS § 84-11 (the Gifts Law) provides in relevant part that employees may not solicit or accept any gift, including a gift of service, “under circumstances in which it can reasonably be inferred that the gift is intended to influence the . . . employee in the performance of the

¹ Hawai‘i State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

³ HRS § 84-3.

. . . employee's official duties or is intended as a reward for any official action on the . . . employee's part."

The Commission investigated Respondent Sueoka's actions and believes that Respondent Sueoka likely violated the Fair Treatment Law and/or Gifts Law by engaging in substantial financial transactions with subordinate employees, accepting free labor from subordinate employees, and using state e-mail, computer equipment, and time for personal and/or private business purposes.

III. Resolution of Investigation

The Commission believes that, based on the facts admitted above,⁴ Respondent Sueoka likely violated the Fair Treatment Law (HRS §§ 84-13(a), 84-13(a)(3), and/or 84-13(a)(4)) and/or the Gifts Law (HRS § 84-11).

Respondent Sueoka has not previously been the subject of a Commission charge or investigation. Respondent Sueoka cooperated fully with the Commission in its investigation, and was forthright and candid in speaking with the Commission and its staff.

Given the likely violations of the State Ethics Code, the Commission believes it is reasonable, fair, and in the public interest to resolve the investigation by (1) issuing this Resolution of Investigation, (2) requiring Respondent Sueoka to pay an administrative penalty of \$11,000 to the State of Hawai'i, and (3) referring this matter to DOE for further action as appropriate.

⁴ This Resolution does not make formal findings, but relies on the facts admitted by Respondent Sueoka.