

Resolution of Investigation
2019-2

(COMPL-I-18-00205)

Department of Education Employee's Alleged Violations of Fair Treatment Law

October 17, 2019

The Hawai'i State Ethics Commission ("Commission") has resolved an investigation of a Department of Education ("DOE") employee (hereinafter, "Respondent") for alleged violations of the State Ethics Code, Hawai'i Revised Statutes ("HRS") chapter 84.

I. Facts

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

- a) The Respondent, at all times relevant herein, was employed by the DOE.
- b) The Respondent, at all times relevant herein, was a state employee as defined in HRS § 84-3. As a state employee, the Respondent was required to comply with the State Ethics Code.
- c) On multiple occasions from 2013 to 2018, the Respondent used a state computer and the Respondent's state e-mail address for private business purposes: specifically, to conduct business for the Respondent's rental property business. 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, the Respondent is a state employee for purposes of the State Ethics Code.³ As a state employee, the Respondent is required to comply with the State Ethics Code. A provision of the Fair Treatment Law, HRS § 84-13(a)(3), prohibits state employees from “[u]sing state time, equipment or other facilities for private business purposes.”

The Commission investigated the Respondent’s actions and believes that the Respondent likely violated the Fair Treatment Law by using state e-mail, state computer equipment, and state time for private business purposes.

III. Resolution of Investigation

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

The Respondent has not previously been the subject of a Commission charge or investigation. Insofar as the Respondent does not have supervisory authority over other

¹ Hawai‘i State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

³ HRS § 84-3.

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

employees, and given the nature of the violations at issue, the Commission agreed to resolve this matter without disclosing the Respondent's identity.

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, and (2) requiring the Respondent to pay an administrative penalty of \$1,500 to the State of Hawai'i.