

Resolution of Investigation
2019-4

(COMPL-I-18-00205-03)

**Department of Education, Facilities Maintenance Branch,
Repair and Operations Section Administrator,
Alleged Violations of Fair Treatment Law and Gifts Law**

November 21, 2019

The Hawai'i State Ethics Commission ("Commission") has resolved an investigation of William Gebhardt, Engineer VI, Repair and Maintenance Operations Section, 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 Gebhardt admitted and declared, under penalty of perjury, that the following facts are true and correct:

- a) Respondent Gebhardt, at all times relevant herein, was employed by the Department of Education ("DOE"), a state agency, as an Engineer VI, overseeing the entirety of the Facilities Maintenance Branch ("FMB") Repair and Maintenance Operations Section. He has held this position since approximately 2004, before FMB was transferred from the Department of Accounting and General Services to the DOE.
- 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 Gebhardt, at all times relevant herein, was a state employee as defined in HRS § 84-3. As a state employee, Respondent Gebhardt was required to comply with the State Ethics Code.
- d) Respondent Gebhardt directly supervises five employees; several of those subordinate employees in turn supervise other employees, such that

Respondent Gebhardt has supervisory authority over approximately 200 DOE employees who work for FMB.

- e) Respondent Gebhardt has done several renovation/construction projects on his personal residence over the last few years. Around 2016, he completed an extension to his residence; he built a garage for his boat; and he poured a concrete driveway.
- f) For each of these three construction projects, Respondent Gebhardt accepted free labor from subordinate FMB employees. On each of the three projects, he accepted one or two days' free labor from his direct subordinate, the FMB General Maintenance and Services Superintendent. On the concrete driveway project, he accepted free labor from a subordinate mason. On the extension project, he accepted free labor from two subordinate carpenters; one of those carpenters provided Respondent Gebhardt with one or two days' free labor on the garage project as well. Respondent Gebhardt states that he and this carpenter are friends.
- g) Respondent Gebhardt offered to pay each of these subordinate employees for their time, but they declined payment.
- h) Respondent Gebhardt also paid a subordinate FMB electrician approximately \$200 to \$300 to work on the extension project.
- i) Respondent Gebhardt also accepted free labor from subordinate FMB employees on home renovation projects in 2005, 2006, and 2012.

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

¹ Hawai‘i State Constitution, Art. XIV.

² HRS Chapter 84, Preamble.

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 Gebhardt

As a DOE employee, Respondent Gebhardt is a state employee for purposes of the State Ethics Code.³ As a state employee, Respondent Gebhardt 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)(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 . . . employee’s official duties or is intended as a reward for any official action on the . . . employee’s part.”

The Commission investigated Respondent Gebhardt’s actions and believes that Respondent Gebhardt likely violated the Fair Treatment Law and/or Gifts Law by engaging in substantial financial transactions with subordinate employees and/or by accepting free labor from subordinate employees.

III. Resolution of Investigation

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

Respondent Gebhardt has not previously been the subject of a Commission charge or investigation.

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 Gebhardt to pay an administrative penalty of \$3,500 to the State of Hawai‘i, and (3) referring this matter to DOE for further action as appropriate.

³ HRS § 84-3.

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