

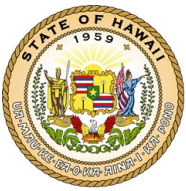


# Ethics Guide

## for State Board and Commission Members

Hawai'i State Ethics Commission

March 2023



## HAWAI'I STATE ETHICS COMMISSION

1001 Bishop Street, Suite 970 Honolulu, Hawai'i 96813 [ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org) (808) 587-0460

### Ethics Guide for State Board and Commission Members

This **Guide** summarizes the laws in the State Ethics Code that apply to all state board and commission members in Hawai'i. These laws require state officials to uphold high standards of ethical conduct.

We encourage all state board and commission members to learn more about their responsibilities under the State Ethics Code by taking the Hawai'i State Ethics Commission's online training program, [Ethics for State Board and Commission Members](#). The online training program only takes about 30 minutes to complete and covers all the laws discussed in this Guide.

**Note:** This Guide is intended for instructional purposes only and is not meant to be a complete statement of the law.

#### Introduction

The **State Ethics Code** is a set of laws that require ethical conduct by state legislators, state **employees**, and the members of state boards and commissions. These laws promote integrity and public confidence in government.

The State Ethics Commission administers the State Ethics Code by: (1) educating state officials about the ethics laws; (2) giving ethics advice to state officials; and (3) investigating and prosecuting ethics violations. The Ethics Commission also administers a **financial disclosure** law, which requires certain state officials — including the members of many boards and commissions — to file an annual disclosure of financial interests. These disclosures help ensure governmental accountability.

The State Ethics Code includes the following laws:

- Gifts and Gifts Reporting
- Fair Treatment
- Confidential Information
- Conflicts of Interests
- State Contracts
- Post-Employment Restrictions

If you are a state board or commission member, it is important to understand how these ethics laws apply to you.

#### FYI

The **State Ethics Code** is found in Hawai'i Revised Statutes ("HRS") chapter 84; the Ethics Commission's administrative rules interpret the Ethics Code (Title 21, chapters 1-10).

#### FYI

The State Ethics Code defines a state **"employee"** to include a state board or commission member.

#### FYI

**Financial disclosures** must be filed by state board and commission members whose original terms of office are more than one year and whose duties are not solely advisory. For more information, see [Financial Disclosure E-Filing Guide](#).





# Ethics Guide

## for State Board and Commission Members

### TABLE OF CONTENTS

I.	Gifts and Gifts Reporting	
A.	Prohibited Gifts .....	3
B.	Gifts Reporting.....	3
II.	Fair Treatment	
A.	Outside Employment .....	4
B.	Additional Compensation for State Duties .....	4
C.	Use of State Resources for Private Business .....	4
D.	Financial Transactions Between Supervisors and Subordinates .....	4
III.	Confidential Information .....	4
IV.	Conflicts of Interests	
A.	Disqualify Yourself When You Have a Conflict .....	5
B.	“Expert” Board Members .....	5
C.	No New Conflicts of Interests .....	6
D.	No Assisting or Representing Others Before Your State Agency .....	6
V.	State Contracts	
A.	Public Notice for Non-bid Contracts with State Employees .....	6
B.	No Contracting with Businesses Assisted by Former Agency Employees.....	6
VI.	Post-Employment Restrictions	
A.	Confidential Information.....	7
B.	No Representing Others for Pay Before Your Former Agency .....	7
C.	No Assisting or Representing Others on Certain Contracts.....	7
D.	Post-Employment Exceptions.....	7
VII.	Penalties for Violations of the State Ethics Code .....	8
VIII.	Contact Information .....	8

HAWAI'I STATE ETHICS COMMISSION

1001 Bishop Street, Suite 970 Honolulu, Hawai'i 96813 [ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org) (808) 587-0460

## I. Gifts and Gifts Reporting



**A. Prohibited Gifts (HRS § 84-11).** Do not accept a **gift** if it is reasonable to infer the gift is given to influence or reward your actions as a board or commission member.

**Can I Accept This Gift?** The State Ethics Commission looks at these factors to determine whether the Gifts Law allows you to accept a gift: (1) the relationship between your board and the donor of the gift; (2) the value of the gift; and (3) whether the gift provides any benefit to the State.

**Prohibited Gifts from Regulated Entities, Vendors, Contractors, and Others.** A gift is more likely to be prohibited if you take official action affecting the donor. You and your agency's staff generally may not accept any gifts from someone who is regulated by your board, a party to a contested case before your board, or vendors or contractors who do business with your board. For example, a member of a state board may not accept a free dinner from a consultant who has a contract with the board.

**Gifts of Travel.** Contact the State Ethics Commission for guidance if an organization offers to pay for your travel expenses for a trip (even if the trip is for a state purpose). The Commission will advise you whether you may accept a gift of travel based upon information about your situation.

**B. Gifts Reporting (HRS § 84-11.5).** File a gifts disclosure statement to report a gift that you (or your spouse/civil union partner or dependent child) receive if **all** of these conditions are met:

- (1) The value of the gift, or the combined value of two or more gifts from the same source, is more than \$200;
- (2) The source of the gift(s) has interests that may be affected by your actions as a state board member; **and**
- (3) The gift is not exempt from reporting by law.

Gifts disclosure statements are due on June 30 for gifts received between June 1 of the previous year and May 31 of the year of the report.

### FYI

The Gifts Law applies to **any gift**, whether in the form of money, service, loan, travel, entertainment, hospitality, or in any other form.

### FYI

For more information about the Gifts Law, see [Quick Guide on Gifts](#).

### FYI

To request guidance about a Gift of Travel, use [Travel Questionnaire Form for Travel Expenses Paid By Non-State Entities](#)

### FYI

For more information about the Gifts Reporting Law and instructions on how to file a gifts disclosure form, see [Gift Disclosure E-Filing Guide](#).



## II. Fair Treatment (HRS § 84-13(a))



Do not use your state position to give “unwarranted” privileges or advantages to yourself or others. In other words, do not use your state position to unfairly benefit yourself or anyone else.

The following prohibitions also apply to you:

- A. Outside Employment.** Do not use your state position to obtain outside employment or contracts for yourself.
- B. Additional Compensation for State Duties.** Do not accept any compensation for performing your state duties unless permitted by law. For example, do not accept any payment from a private organization for performing services that are part of your duties as a state board member.
- C. Use of State Resources for Private Business.** Do not use state time, equipment, facilities, or other state resources (such as state e-mail and state personnel) for private **business** activities, including private sales transactions, fundraising for private clubs or charities, and political **campaign activities**. For example, do not promote your private business at a state board meeting and do not sell tickets for a charity fundraiser in a state office.
- D. Financial Transactions Between Supervisors and Subordinates.** Do not enter into substantial financial transactions with subordinates or anyone you supervise or inspect as a state board member. For example, do not hire a subordinate state employee to perform outside work for you, and do not rent an apartment to or from a subordinate employee.

## III. Confidential Information (HRS § 84-12)



Do not disclose confidential information that you acquire from your state duties or use confidential information to benefit yourself or anyone else.

### FYI

A “**business**” includes a for-profit company, non-profit organization, and a political campaign.

For more information about **campaign activities**, see [Quick Guide on Campaign Activities](#).



## IV. Conflicts of Interests (HRS § 84-14)



### A. Disqualify Yourself When You Have a Conflict

**(HRS § 84-14(a)).** Do not take any **official action** affecting a **business** in which you have a **financial interest**.

You have a “**financial interest**” in a **business** if you (or your spouse, civil union partner, or dependent child) have any of these interests:

- **Ownership of a Business.** Owning a business, including owning shares of stock in a business.
- **Employment.** Being employed by a business, even if part time.
- **Officer or Director Position.** Serving as an officer or director of a for-profit company or a non-profit organization, even if you are not paid for your services.
- **Ownership of Real Property or Personal Property.**
- **Loan or Debt.** Having a loan or debt that you owe to a business.
- **Creditor of Insolvent Business.** Being a creditor of an insolvent business, such as a business that has filed for bankruptcy.

If you have any of these financial interests in a business, you must disqualify yourself from taking **official action** affecting that business. For example, if your spouse is employed by a company or is on the board of directors of a non-profit organization, you must disqualify yourself from taking any official action as a state board member affecting that company or non-profit organization.

**B. “Expert” Board Members.** Board members who are required by law to represent particular interests, or to have special qualifications for serving on their boards, may take official action affecting certain businesses or professions in general, but may not take action that specifically affects only their own businesses. For example, an “expert” member of a professional licensing board may take official action that will broadly affect all licensees, but may not take action that will specifically affect only his or her own license or business.

#### FYI

“**Official action**” means a decision, recommendation, approval, disapproval, or any other discretionary action that you take as a state board member. “Official action” is not limited to making motions or voting at meetings; it also includes participating in discussions or deliberations leading up to a vote or decision.

#### FYI

A “**business**” includes a for-profit company, non-profit organization, and a political campaign.





## Conflicts of Interests (HRS § 84-14) (continued)

**C. No New Conflicts of Interests (HRS § 84-14(b)).** Do not acquire a new financial interest in any business that may be affected by your official action as a state board or commission member. For example, do not get a job with a private company if your board takes official action affecting that company.

**D. No Assisting or Representing Others Before Your State Board (HRS § 84-14(d)).** Do not assist or represent others for pay (1) in transactions before your state board or commission, or (2) on matters in which you have participated or will participate as a state board member. For example, do not assist your private employer in applying to your state board—or any other part of your state agency—for a loan or contract.

**FYI**

For more information about the Conflicts of Interests Law and outside jobs, see [Quick Guide on Second Jobs and Other Private Business Activities](#).



## V. State Contracts (HRS § 84-15)

**A. Public Notice for Non-bid Contracts with State Officials, Including Board and Commission Members (HRS § 84-15(a)).** State agencies must post a public notice before entering into a non-bid contract over \$10,000 with a state legislator, employee, or board member, or a business in which a legislator, employee, or board member has a controlling interest. A copy of the notice must be filed with the State Ethics Commission at least 10 days before the contract is awarded.

**B. No Contracting with Businesses Assisted by Former Agency Officials, Including Board and Commission Members (HRS § 84-15(b)).** A state agency may not enter into a contract with any business that is assisted in the matter by someone who (1) was an employee or board member of the agency within the past two years, and (2) worked on the same contract matter as a state employee or board member.



## VI. Post-Employment Restrictions (HRS §§ 84-18 and 84-15(b))



**A. Confidential Information (HRS § 84-18(a)).** After you leave your state position, do not disclose any confidential information that you acquired from your state duties or use confidential information for your personal gain or anyone's benefit.

**B. No Representing Others for Pay Before Your Former Board or Commission (HRS § 84-18(c)).** For twelve months after you leave state service, do not **represent** others for pay on matters before your former state board, or on matters in which you participated as a state board member. For example, for twelve months after your state term of office ends, do not represent private clients on matters that come before your former board.

**C. No Assisting or Representing Others on Certain Contracts (HRS § 84-15(b)).** For two years after you leave state service, do not assist or represent anyone in obtaining a contract from your former state board if you participated in the same contract matter while you were a board member.

**D. Post-Employment Exceptions (HRS § 84-18(d), (e)).**  
The post-employment restrictions do not apply to you if you served on a state board for less than six months. Also, a state agency may contract with you to act on a matter on behalf of the State at any time after your service as a state board member ends.

### FYI

"**Represent**" means to directly communicate on behalf of any person or business with a state agency or its employees.

### FYI

For more information about the post-employment restrictions, see [Quick Guide on Post-Employment Laws](#).





## VII. Penalties for Violations of the State Ethics Code

Penalties for violating the State Ethics Code include the following:

- A. Fines of up to \$1,000 for each violation (HRS § 84-39)
- B. Disciplinary action, including a reprimand, probation, demotion, suspension, or termination of employment (HRS § 84-33)
- C. Recovery by the Attorney General of any gifts or profits received as the result of a violation (HRS § 84-19)
- D. Cancellation of state contracts and any other favorable state action obtained as the result of a violation (HRS §§ 84-16, 84-19)

## VIII. Questions? Contact the State Ethics Commission

The State Ethics Commission can assist you with any questions about the State Ethics Code. Please email or call, visit the Commission's website, and follow the Commission on Twitter:



Email: [ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org)



Phone: (808) 587-0460



Website: [www.ethics.hawaii.gov](http://www.ethics.hawaii.gov)



Twitter: @HawaiiEthics

Learn more about your responsibilities under the State Ethics Code by taking the Hawai'i State Ethics Commission's online training program, [\*\*Ethics for State Board and Commission Members\*\*](#).

***Mahalo for your state service and for taking the time to learn about ethics!***

### FYI

For a quick look at the State Ethics Code for new board members, see [\*Quick Guide for New Employees and Board/Commission members\*](#).

### FYI

The Commission's website contains more information about the State Ethics Code and other ethics publications, including [\*The High Road\*](#) newsletter.