



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

HAWAII STATE ETHICS COMMISSION ETHICS GUIDELINES FOR ALOHA UNITED WAY FUNDRAISER ACTIVITIES CONDUCTED BY STATE AGENCIES

I. Introduction.

Every year, the State participates in a fundraising campaign for the Aloha United Way (“AUW”). State agencies participate in the campaign to help raise funds for the AUW and its member agencies, which provide health and human services to the community.

The State AUW Campaign includes the solicitation of employee donations through individual pledges and state agency-sponsored fundraising activities. These activities take many forms and vary from agency to agency. They include fairs, sales, auctions, contests, charity walks, and numerous other fundraising events and activities.

Fundraising activities in government offices raise questions and concerns about ethics. The following discussion will address some of those questions, and will provide ethics guidelines to assist state agencies when planning their AUW campaigns.

NOTE: The following discusses the general application of the Hawaii State Ethics Code, Chapter 84, Hawaii Revised Statutes (“HRS”), to Aloha United Way fundraising by state agencies. It should be kept in mind that these are general guidelines only. The precise application of the State Ethics Code depends upon the particular facts of a specific situation.

II. Questions and Answers about the State Ethics Code and AUW fundraising by state agencies.

Q: I will be helping my state agency’s AUW campaign this year. Why should I be concerned about the State Ethics Code?

A: The State Ethics Code, Chapter 84, HRS, is state law and establishes a code of conduct for all state officials and employees. Certain sections of the State Ethics Code are relevant to fundraising activities by state officials and employees. For example, there are ethics laws that apply to solicitations by state officials and employees; to the use of state government resources for private business purposes; and to the misuse of government office. State employees who authorize or participate in fundraising activities by their agencies should be aware of these laws to ensure that their activities are in compliance with the State Ethics Code.

Q: Does the State Ethics Code allow state agencies to fundraise for the AUW?

A: Yes. Although fundraising in state offices for “private business” purposes is generally prohibited by the State Ethics Code, the AUW Campaign has been adopted as a state function by the State and is therefore not considered “private business.” The State has authorized the use of state agency resources to support the AUW, which funds a broad range of community services in Hawaii. State agencies, therefore, may participate in fundraising for the AUW under the State Ethics Code. (See Advisory Opinion No. 245, issued by the Hawaii State Ethics Commission in 1976, in which the Commission determined that the AUW Campaign is a legitimate state function.)

Q: Can state agencies solicit contributions to the AUW from state employees at work?

A: Yes. But under the State Ethics Code, contributions by state employees to the AUW must be **voluntary**. State employees may not be coerced into contributing to the AUW. Supervisors in particular must be careful not to use their official positions to place unwarranted pressure on subordinate employees to contribute to the AUW.

Q: Does the State Ethics Code allow state agencies to hold fundraising activities, such as rallies, fairs, sales, and contests to benefit the AUW?

A: Yes. But fundraising activities must comply with the State Ethics Code. See the following ethics guidelines for AUW fundraising by state agencies.

Q: Does the State Ethics Code allow fundraising activities for the AUW to be held in state offices on state time?

A: Yes, so long as the activities are held as part of the State’s official AUW Campaign and are authorized by the agency. The extent to which state time, personnel, and other state resources can be used in planning and carrying out fundraisers for the AUW is generally an administrative decision for the head of an agency.

Q: My agency is planning a fundraiser for the AUW. How do I make sure that the fundraiser complies with the State Ethics Code?

A: Contact the Hawaii State Ethics Commission for advice. You can discuss your agency’s plans with one of the Commission’s attorneys and receive confidential advice about our ethics laws. Call the Commission’s office at (808) 587-0460 or email the Commission at ethics@hawaiiethics.org.

III. Ethics Guidelines for AUW fundraising by state agencies.

1. **Do not pressure or coerce state employees to contribute to the AUW.** Remember that contributions to the AUW Campaign must be voluntary. Do not pressure or coerce employees to contribute or participate in fundraising activities. For example, do not engage in the following activities:
 - A. Setting 100% participation goals for offices or agencies. This sends a message that employees who do not contribute are preventing their co-workers or agencies from meeting set goals.
 - B. Asking employees to donate suggested amounts.
 - C. Posting or otherwise announcing to the office the names of employees who have or have not donated to the AUW campaign.
 - D. Having supervisors “follow up” with subordinate employees by asking whether they have made a donation or intend to make a donation. Supervisors in particular must avoid any statements or suggestions that employees are expected to donate to the AUW campaign,
2. **Along with ensuring compliance with the State Ethics Code, make sure the fundraising activity is authorized by the head of your agency.** To avoid questions about the unauthorized use of state personnel or state resources, state agency heads should approve and authorize the fundraising activity that is to take place within the agency.
3. **Fundraisers that are kept “in-house” are less likely to raise ethics questions.** “In-house” fundraisers that are held among agency employees only are less likely to raise ethics questions than fundraisers that are extended to the public, or to private individuals or businesses.
4. **Check with the State Ethics Commission before soliciting the public, or private individuals or businesses, to participate in your fundraiser.** Soliciting the public, or private individuals or businesses, to participate in an agency’s fundraiser raises ethics questions. Check with the State Ethics Commission before engaging in any of the following activities:
 - A. Soliciting members of the public, or private individuals or businesses, to participate in agency-sponsored auctions, contests, or other fundraising activities.
 - B. Selling goods, products, services, or other items of value to members of the public or to private individuals or businesses.
 - C. Soliciting pledges or contributions from members of the public or from private individuals or businesses.

5. **Need donated items for your fundraiser? Donations from employees are less likely to raise ethics questions than donations from outside sources.** Donations of goods and services from agency employees, as opposed to outside sources, are less likely to raise ethics questions. For example, employees may donate their own goods and services for bake sales, book fairs, white elephant sales, auctions, etc. Employees may also donate their own money, gift certificates, and other items of value to their agency fundraisers. Donations from outside sources should be cleared first with the State Ethics Commission before they are accepted.
6. **Check with the State Ethics Commission before soliciting donations for your fundraiser from private individuals or businesses.** Any solicitation of donations from private individuals or businesses should be cleared first with the State Ethics Commission. This includes solicitations by state agencies for prizes, gifts, or money; food or refreshments; equipment or supplies; promotional items; and products, services, or other items of value (such as gift certificates, discount cards, etc.) to be given away, sold, or auctioned by the agency.
7. **Check with the State Ethics Commission before allowing private businesses to operate or advertise at a fundraiser.** State agencies should consult with the State Ethics Commission before inviting private vendors or other private businesses to operate or advertise at an agency-sponsored fundraiser. A “private business” includes any individual or organization carrying on a business activity, whether or not operated for profit (HRS § 84-3). This includes state employees who own or operate their own private businesses.

State agencies are advised to always clear the following activities with the State Ethics Commission:

- A. Allowing a private business to sell goods, products, or services at an agency-sponsored fundraiser.
 - B. Sharing proceeds from a fundraiser with any private individual or business.
 - C. Paying a commission or fee to a private business in connection with an agency-sponsored fundraiser.
 - D. Allowing a private business to advertise its goods, products, or services, or to distribute business cards, flyers, brochures, or other promotional materials at an agency-sponsored fundraiser.
8. **Incentive prizes and gifts for employees who make AUW donations are generally permissible, but may not be solicited from sources outside an agency.** An agency (or its employees on a voluntary basis) may provide prizes and gifts as incentives for employee donations to the AUW. However, prizes and gifts for employees may not be solicited from outside sources, such as private businesses.

9. **Check with the State Ethics Commission before awarding prizes and gifts of substantial value to State AUW coordinators.** State agencies sometimes wish to recognize their AUW coordinators for a job well done. Commendations, luncheons, and prizes of nominal value (stationery supplies, calendars, mugs, t-shirts, etc.) are acceptable under the State Ethics Code. However, prizes and gifts of more substantial value should be cleared first with the State Ethics Commission. Examples of prizes and gifts for state coordinators that may pose ethics concerns include money, gift certificates, airline tickets, and hotel accommodations.

10. **Check with other authorities regarding the application of other laws.** These guidelines are based solely on the application of the State Ethics Code, Chapter 84, HRS. In addition to the State Ethics Code, other laws may apply to agency fundraising activities. For example, fundraisers that involve raffles, drawings, casino-type games, and other gaming activities may be subject to gambling laws. Fundraisers that involve the sale of food may be subject to health laws. Agencies should check with other appropriate authorities, such as the Department of the Attorney General, the Department of Health, etc., regarding the application of other laws.

Remember: For additional advice about the application of the State Ethics Code to your agency's fundraiser, contact the Hawaii State Ethics Commission at (808) 587-0460.

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