



The HIGH ROAD

"Preserving public confidence in public servants."

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TOO CLOSE FOR COMFORT? NEPOTISM AND THE STATE ETHICS CODE

Can a state official award a state job or contract to a relative? Can two related individuals work together in the same state office? Are these prohibited acts of nepotism under the ethics laws?

The dictionary defines "nepotism" as favoritism shown or patronage granted to relatives or close friends. While the State Ethics Code does not have a special section just about nepotism, its provisions do prohibit conflicts of interests and favoritism to relatives or friends. State employees should be aware of these provisions when dealing in their official capacities with relatives or friends, or companies to which relatives or friends may have financial ties.

The conflicts-of-interests section of the ethics code, HRS section 84-14(a), prohibits an employee from taking official action affecting a business in which the employee or the employee's spouse or dependent child has a financial interest. For example, an employee may not award a state contract to a business that is owned by the employee's spouse, or that employs the employee's spouse. In this situation, the employee would have a conflict of interest and must abstain from the matter.

Section 84-14(a) also prohibits an employee from taking official action affecting a spouse's or dependent child's employment with a state agency or department. This means, for example, that an employee may not hire the employee's spouse for a state job.

Spouses who work together in the same state office may encounter conflicts-of-interests problems if one spouse supervises the other.

Generally, supervision involves evaluating another's work performance and making recommendations about pay increases, promotions, etc. Section 84-14(a) prohibits an employee from taking such action with respect to the employee's spouse or a dependent child.

Does the conflicts-of-interest law prohibit an employee from taking action affecting other relatives, such as a sibling or cousin, or a close friend? No. However, another section of the ethics code, HRS section 84-13, prohibits an employee from giving preferential treatment to anyone, including any relative or friend.

Section 84-13, the "fair treatment" law, prohibits an employee from using the employee's state position to grant an unwarranted privilege or advantage to anyone. This section prohibits an employee from giving preferential treatment to a relative or friend, or to a business because of ties to a relative or friend.

Employees should contact the State Ethics Commission for advice if they may be taking action affecting a relative or friend, or a company with ties to a relative or friend. Employees should also check with their own departments regarding other applicable rules.

A HOLIDAY REMINDER ABOUT GIFTS. . .

Companies and individuals who deal with state agencies sometimes celebrate the holidays by giving gifts to state employees. Are such gifts acceptable? In some cases, they are. But in other cases, acceptance of the gifts may be prohibited by the ethics code.

HRS section 84-11 prohibits a state employee from accepting any gift if it is reasonable to infer that the gift is intended to influence or reward

the employee in the performance of his or her duties. There is no threshold dollar amount that determines whether or not a gift is acceptable under the law. The test is whether one can reasonably conclude that a gift is given to influence or reward official action by an employee.

In deciding whether or not a gift is prohibited, the State Ethics Commission considers a number of factors. What kind of gift is it and what is its value? What is the relationship between the company or person who is giving the gift and the state agency or employee who receives the gift? What kind of official action does the agency or employee take with respect to the gift-giver? These are some of the factors that will determine whether or not a gift is prohibited by the ethics code.

Gifts such as holiday cookies or candy or a small bouquet of flowers generally do not pose a problem under the ethics code. More substantial gifts (including gift certificates) should be cleared with the Commission.

MAY WE ASSIST YOU?

Every day, the State Ethics Commission and its staff assist state officials and employees, lobbyists, and members of the public. Here are some of the services that we provide.

Advisory opinions. Confidential advice to state officials and employees about the State Ethics Code, chapter 84, HRS. Confidential advice to lobbyists and organizations that employ lobbyists about the Lobbyists Law, chapter 97, HRS.

Investigation of Complaints. Review and investigation of complaints of alleged violations of the State Ethics Code and the Lobbyists Law.

Assistance with filing requirements. Assistance to state officials and employees in filing financial disclosure and gifts disclosure statements. Assistance to lobbyists and

organizations that employ lobbyists in filing lobbyist registrations and expenditures statements.

Educational Workshops. Workshops and presentations to state officials and employees, lobbyists, and the public about the State Ethics Code and the Lobbyists Law.

Publications. Free publications about the Commission, the State Ethics Code, and the Lobbyists Law, including brochures, copies of the Commission's advisory opinions, and the Commission's newsletter.

May we assist you in any of these areas? If so, please contact the Commission's office.

HAPPY HOLIDAYS!



**HAPPY THANKSGIVING
AND A JOYOUS AND SAFE HOLIDAY SEASON!**

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