



THE HIGH ROAD

"Preserving public confidence in public servants."

No. 2005-4

Hawaii State Ethics Commission

December 2005

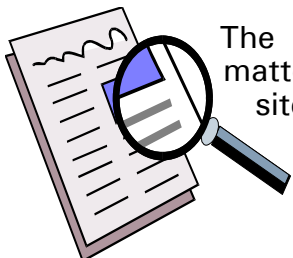


Reference to Official's Campaign Web Site in State Material Leads to Ethics Charge

A member of the public filed a formal charge against a state elected official. The charge alleged

that the official violated the State Ethics Code by issuing state material that directed recipients of the material to the official's campaign web site address. In response to the charge, the Hawaii State Ethics Commission recently issued Informal Advisory Opinion No. 2005-5. The full text of this opinion is available on our web site.

The charge alleged that the state official's inclusion of the web site address in the issued material violated the State Ethics Code's prohibition against the use of state resources for political campaign purposes. The Fair Treatment section of the State Ethics Code, HRS section 84-13, prohibits a state employee or official from using his or her state position to grant himself, herself, or anyone else any unwarranted advantage. One of the subsections of this law, HRS section 84-13(3), prohibits the use of state resources for private business purposes. The Commission has long maintained that political campaigning amounts to a private business. The Commission has consistently held that the use of state resources for political campaigning violates the Fair Treatment law.



The Commission investigated this matter and concluded that the web site referenced by the material was indeed a campaign web site. This had been contested by the respondent in the case.

The Commission noted that official material made available to the public cannot contain references to campaign related information or events. After discussions with the state official, the official agreed to pay restitution to the State's general fund that the Commission deemed appropriate for the use of state resources for a campaign purpose.

Commission Enters Into Settlement Agreement with Senator J. Kalani English



The Hawaii State Ethics Commission recently entered into a settlement agreement with Senator J. Kalani English. A full text of the agreement is available on the Commission's web site.

A member of the public filed a charge with the Commission alleging that Senator English violated provisions of the Hawaii State Ethics Code by being a non-paying passenger on Hawaii Air Ambulance flights between Oahu and Maui. In addition, he was a guest in a Honolulu condominium owned by an officer of Hawaii Air Ambulance. He also drove a vehicle belonging to this same officer.



In response to the allegations, the Commission conducted an investigation of this matter. The Commission then entered into settlement negotiations with Senator English through his private attorney. The settlement agreement was entered into in November. As a result of the agreement, Senator English agreed to pay a settlement amount of one thousand dollars to the State's general fund. He also agreed to fully comply with all of the provisions of the State Ethics Code.



Lobbying Reminder

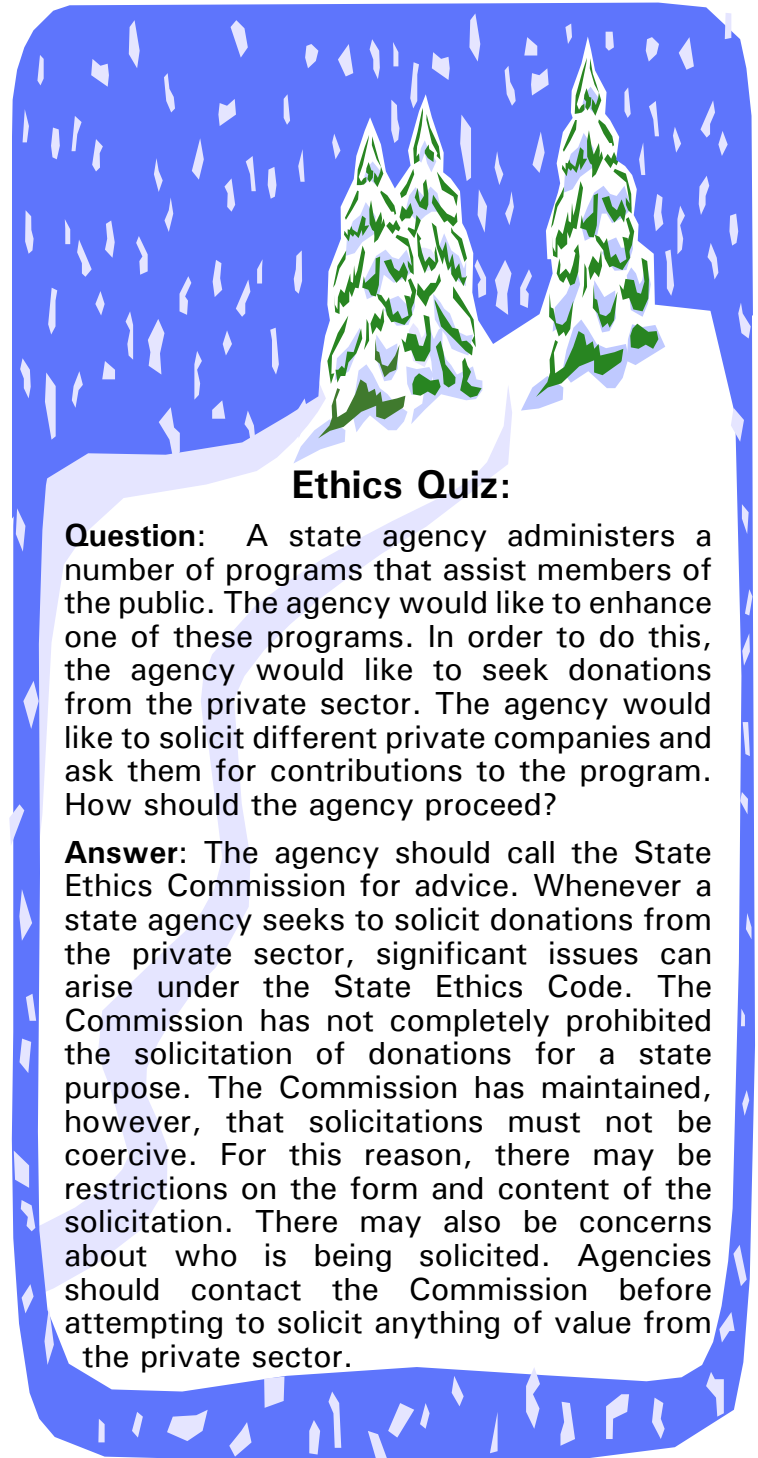
The 2006 legislative session will soon be starting. Lobbyists and their clients should keep in mind that their lobbying expenditures statement for the period May 1, 2005, to December 31, 2005, is due on January 31, 2006. An expenditures statement is due whether or not lobbying took place during this period.

If an individual registered as a lobbyist in 2005, then he or she does not need to renew his or her registration for the 2006 session. Lobbyist registrations must be renewed biennially on odd-numbered years. If an individual did not register in 2005 and would like to serve as a lobbyist in 2006, then he or she must register with the Commission.



Check Your Mailbox!

Certain state employees and officials are required annually to file financial disclosure statements with the Hawaii State Ethics Commission. The Commission is in the process of mailing out financial disclosure forms and instructions to those individuals who must file in 2006. Filers should note that there are some changes to the form this year. These changes reflect changes in the financial disclosure law made by Act 135 of the 2005 legislative session. Be sure to check your mailbox for your financial disclosure materials.



Ethics Quiz:

Question: A state agency administers a number of programs that assist members of the public. The agency would like to enhance one of these programs. In order to do this, the agency would like to seek donations from the private sector. The agency would like to solicit different private companies and ask them for contributions to the program. How should the agency proceed?

Answer: The agency should call the State Ethics Commission for advice. Whenever a state agency seeks to solicit donations from the private sector, significant issues can arise under the State Ethics Code. The Commission has not completely prohibited the solicitation of donations for a state purpose. The Commission has maintained, however, that solicitations must not be coercive. For this reason, there may be restrictions on the form and content of the solicitation. There may also be concerns about who is being solicited. Agencies should contact the Commission before attempting to solicit anything of value from the private sector.

The High Road is a publication of the Hawaii State Ethics Commission.

Commissioners: Dawn Suyenaga, Chair
Carl Morton, M.D., Vice Chair
Nadine Y. Ando
Robert R. Bean
Maria J. Sullivan

Executive Director: Daniel J. Mollway, Esq.

Address: P.O. Box 616
Honolulu, Hawaii 96809

Telephone: (808) 587-0460

Fax: (808) 587-0470

E-mail: ethics@hawaiiethics.org

Internet URL: <http://www.hawaii.gov/ethics>