



# HAWAII STATE ETHICS COMMISSION

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

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April 27, 2000

## MEMORANDUM

To: State Officials, Department Heads, Agency Heads  
and State Employees

From: Daniel J. Mollway  
Executive Director and General Counsel  
Hawaii State Ethics Commission

Subject: Candidate Campaign Walk-Throughs

At its meeting held on April 26, 2000, the Hawaii State Ethics Commission voted unanimously that the practice of state officials and state employees allowing candidates for elective office to walk through state agencies to meet with state officials and state employees for campaign purposes, would violate the State Ethics Code, set forth in chapter 84 of the Hawaii Revised Statutes ("HRS").

The section of the State Ethics Code relevant to this issue is HRS section 84-13, entitled "Fair Treatment." Section 84-13 provides, in pertinent, part as follows:

**§84-13 Fair treatment.** No legislator or employee shall use or attempt to use the legislator's or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others; including but not limited to the following:

.....

- (3) Using state time, equipment or other facilities for private business purposes.

The State Ethics Commission has generally interpreted HRS section 84-13 and HRS section 84-13(3) to prohibit state officials and employees from using state resources for campaign purposes. The State Ethics Commission has interpreted these two laws in the past to prohibit campaign activities during state time, in state facilities, with the use of state equipment, or with the use of other state resources. The only exception to this has been that the State Ethics Commission determined in 1986 that state officials and employees could allow candidates, in conjunction with their campaigns, to walk through state agencies to meet with state officials and employees without violating Hawaii's state ethics laws, so long as all candidates were accorded equal and fair treatment.

When the State Ethics Commission decided this issue in 1986, the Commission perceived candidates walking through state agencies, or "candidate walk-throughs" as this activity came to be called, as being simple and innocuous.

However, after the State Ethics Commission issued its flyer on campaign ethics guidelines in 1986 and noted that campaign walk-throughs were allowed (although other campaigning would not be allowed) a number of inquiries and complaints were brought to the attention of the State Ethics Commission concerning the campaign walk-throughs. Many state employees (and state supervisors as well) complained that the walk-throughs were intrusive, and coercive in nature. Since 1986, during every election season, the State Ethics Commission has received numerous complaints about the walk-throughs.

The candidates who wished to walk through state agencies for campaign purposes also raised a number of very difficult issues for the State Ethics Commission. Immediately an issue arose as to who would "escort" the candidate through the state agency. Would it be the department head in some cases, or a "lesser" individual in other cases. Candidates also wanted to know if they could bring other individuals along with them as they walked through state agencies. Thus, though the Commission in 1986 thought that only a candidate would be passing through a state agency, the situation was in fact much more complex. Many candidates wished to be accompanied by an entourage of prominent and influential individuals.

Candidates also asked the State Ethics Commission whether they could pass out campaign literature, as well as campaign tokens or gifts such as pens, buttons, and so forth. A question also arose as to how much time candidates would be accorded for the walk-throughs. The State Ethics Commission also received questions as to whether other individuals, such as family members, could conduct a campaign walk-through in place of a candidate. Other issues arose as well, for example, whether the walk-throughs could be filmed or pictures taken.

All of these issues and complaints made it clear to the State Ethics Commission that the campaign walk-throughs were not simple and innocuous but rather constituted serious campaigning. The State Ethics Commission believed that the campaign walk-throughs thus violated Hawaii's ethics laws regarding the use of state resources for campaign purposes. At its meeting of April 26, 2000, the State Ethics Commission also concluded that it was simply not possible for candidate walk-throughs to be conducted in a manner that was fair and equal for all, given all the variations under which the candidate walk-throughs might be conducted.

It should be noted that the State Ethics Commission is required under the State Ethics Code to interpret the State Ethics Code "liberally" to promote high standards of ethical conduct in state government. HRS section 84-1, entitled "Construction," provides as follows:

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**§84-1 Construction.** This chapter shall be liberally construed to promote high standards of ethical conduct in state government.

Given this mandate to liberally construe the State Ethics Code to promote high standards of ethical conduct in state government, and given the history of campaign walk-throughs since 1986, the State Ethics Commission believes that campaign walk-throughs are violative of HRS section 84-13. Thus, the State Ethics Commission believes that state officials or employees who allow campaign walk-throughs would be in violation of Hawaii's state ethics laws, set forth in chapter 84, HRS. Anyone with questions regarding campaign walk-throughs or campaigning in the state work place should contact the State Ethics Commission at 587-0460.

Daniel J. Mollway  
Executive Director  
and General Counsel

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