



# HAWAII STATE ETHICS COMMISSION

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

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## **ETHICS ADVISORY 2013-04**

### **University of Hawaii Athletic Ticket Discount Policies**

October 15, 2013

At the request of the University of Hawaii at Manoa Athletics Department (“UHAD”), the Hawaii State Ethics Commission (“Commission”) reviewed two proposed ticket policies to determine whether they are consistent with the State Ethics Code, Chapter 84, Hawaii Revised Statutes (“HRS”). The first policy allows UHAD employees and volunteers to receive, at their request, complimentary tickets to University of Hawaii at Manoa (“UHM”) athletic events. The second policy allows UHAD employees and volunteers to purchase tickets to UHM athletic events at discounted prices. In reviewing this matter, the Commission was informed of another policy, which apparently has been approved by the University of Hawaii (“University” or “UH”) and has been in effect for many years, that allows UHM faculty and staff (including UHAD employees) to purchase season football tickets at a discounted price.

After thoroughly considering the information provided by UHAD, including UHAD’s underlying purposes in proposing special ticket policies for its employees, the Commission concludes that the two proposed policies constitute an “unwarranted” privilege or benefit to select UH employees and, therefore, are prohibited by the State Ethics Code.<sup>1</sup> The Commission also believes that the apparent longstanding UH policy that offers discounted season football tickets to UHM faculty and staff is inconsistent with the State Ethics Code and, therefore, must be discontinued.

#### **I. Proposed Ticket Policies for UHAD Employees and Volunteers**

Both of the proposed ticket policies are intended to apply exclusively to UHAD employees and volunteers.<sup>2</sup> Each policy provides that UHAD may issue tickets to UHAD employees and volunteers, subject to availability, in seating areas that do not

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<sup>1</sup> The Commission provided UHAD with advice consistent with this Ethics Advisory prior to the 2013 football season.

<sup>2</sup> It is the Commission’s understanding that “volunteers” include members of advisory boards and committees that advise the UHM Athletics Director; members of the UHAD medical referral staff who are volunteer team physicians and are asked to attend games and be available for consultation; and volunteers who assist with UHAD work and projects, as approved by the UHM Athletics Director.

require a premium seat contribution (“PSC”).<sup>3</sup> Based on the information provided by UHAD, the Commission understands UHAD’s proposed policies to be as follows:

A. Option 1

Every UHAD employee or volunteer<sup>4</sup> may receive up to two tickets (one of which must be used by the employee) to individual home games<sup>5</sup> for football, men’s and women’s basketball, men’s and women’s volleyball, and baseball at no charge. If an employee receives tickets to more than one-third of the total number of home games for a particular sport, the face value of those tickets is reported as miscellaneous income to the UHAD employee.<sup>6</sup>

B. Option 2

Every UHAD employee may purchase up to four tickets (one of which must be used by the employee) at a discounted price to individual home games for football, men’s basketball, women’s volleyball, men’s volleyball, women’s basketball, and baseball. Under Option 2, there is no limit to the number of home games for which an employee can purchase tickets at the discounted price. The discounted ticket prices are as follows:

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<sup>3</sup> It is the Commission’s understanding that season tickets in prime locations at Aloha Stadium, Stan Sheriff Center, and Les Murakami Baseball Stadium require a PSC. The price of a ticket in a PSC seating area includes the face value of the ticket and a monetary contribution (i.e., the PSC) to Ahahui Koa Anuenue (“AKA”), the primary fundraising organization for UHAD. AKA assists UHAD by raising money for scholarships, programs, and facilities. Seats in PSC seating areas are priced higher and considered “better” than seats in non-PSC seating areas.

<sup>4</sup> For ease of reference, the term “employee” or “employees” in this Ethics Advisory shall be deemed to include “volunteer” or “volunteers,” because the proposed ticket policies apply equally to employees and volunteers.

<sup>5</sup> It is the Commission’s understanding that an “individual home game ticket,” as the term is used by UHAD, is a ticket that can be purchased for a specific home game; whereas a “season ticket” is a package of tickets for all of the home games.

<sup>6</sup> In the Commission’s view, Option 1 in essence is a discounted ticket program for employees who receive tickets to more than one-third of the home games. Although the face value of the total number of tickets that the employee receives is reported as income to that employee, the employee only pays his tax liability on that amount, rather than the full value of the tickets.

The Commission learned that, under a previous and more liberal UHAD ticket policy, a UHAD employee was eligible to receive individual game tickets for himself, his spouse or partner, and his dependent children. If a UHAD employee requested tickets for over 50 percent of the home games in a given sport, the face value of the tickets received was considered miscellaneous income to the employee.

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|---|----------------|
| Football <sup>7</sup>                                       | \$8 per ticket |
| Men's Basketball and Women's Volleyball <sup>8</sup>        | \$7 per ticket |
| Men's Volleyball, Women's Basketball, Baseball <sup>9</sup> | \$5 per ticket |

## II. Justification

UHAD provided the following justification for its proposed ticket policies:

- UHAD employees mentor and provide other essential services to support and benefit the student athletes. By attending athletic events, UHAD employees are able to see first-hand the results of their efforts.
- UHAD employees are paid on the lower end of the University's salary ranges for their positions. UHAD has not been able to increase UHAD employees' salaries because of its financial status.
- The opportunity to receive complimentary or discounted athletic tickets will contribute to fostering UHAD employee morale, instilling UHAD employee loyalty, and maintaining a productive workplace. The ticket offerings are "non-cash compensation" for the hard work of UHAD employees toward the success of UHAD and the student athletes. Staff morale is of tremendous value, not only to UHAD but to Hawaii taxpayers.

## III. Application of the State Ethics Code

The State Ethics Code prohibits an employee from using his state position to obtain an "unwarranted" privilege, advantage, or benefit for himself or others.<sup>10</sup> In the

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<sup>7</sup> Based on available information, adult ticket prices for 2013 football individual home games range from \$22.00 (for senior citizens) to \$40.00. The student (through high school) ticket price is \$20.00.

It is the Commission's understanding that UHM students are admitted to home football, men's and women's volleyball or basketball, and baseball games free of charge with a valid UHM student ID. UHM students may purchase a reserved guest seat in certain sections of the venue and receive a complimentary reserved admission ticket next to it.

<sup>8</sup> Based on available information, adult ticket prices for 2013 women's volleyball individual home games range from \$10.00 (for senior citizens) to \$17.00. The student (through high school) ticket price is \$5.00.

<sup>9</sup> Based on available information, baseball ticket prices in 2013 ranged from \$6.00 (senior citizens) to \$10.00. The student (through high school) ticket price was \$4.00.

<sup>10</sup> HRS section 84-13, the "fair treatment" section of the State Ethics Code states in relevant part:

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 . . . .

context of the proposed ticket policies, UHAD cannot offer its employees a relatively significant privilege, advantage, or benefit that is available only to UHAD employees absent a legitimate state purpose.

The Commission recently issued guidance to the University regarding certain policies governing the University's distribution of complimentary athletic tickets to UH officials, UH employees and guests.<sup>11</sup> The Commission emphasized that, because the tickets are state "assets," the State Ethics Code prohibits the University from distributing those assets where it creates an "unwarranted" privilege or benefit for the recipient. The Commission explained that the distribution of complimentary tickets to any person, including UH officials and UH employees, must serve a legitimate state purpose. The Commission also explained that issuing complimentary tickets to a group of UH employees (e.g., all of the employees of a particular office) to "boost employee morale" raises concerns and most likely does not constitute a legitimate purpose.<sup>12</sup>

The Commission's reasoning as explained in the guidance offered to the University applies equally to the policies proposed by UHAD. The Commission does not consider the justifications offered by UHAD to support the proposed ticket policies, both Options 1 and 2, to be sufficient to constitute a legitimate state purpose. The Commission notes that UHAD's desire to support the student athletes, to compensate "undercompensated" employees, and to bolster employee morale is reasonable and well-intended. However, the Commission does not believe that the means by which UHAD proposes to recognize the work of its employees and foster morale is consistent with the State Ethics Code.<sup>13</sup> In the Commission's view, the proposed policies provide an unwarranted privilege or benefit to a select group of state agency employees and, therefore, are prohibited by the State Ethics Code.<sup>14</sup>

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<sup>11</sup> See Ethics Advisory 2013-01, "The University of Hawaii Athletic Event Ticket Policies for the Board of Regents, System Administrators, and Manoa Chancellor," dated May 30, 2013. <http://hawaii.gov/ethics/opinions/EthicsAdvisory/EthicsAdvisory2013-01.pdf>.

<sup>12</sup> See Ethics Advisory 2013-01, p. 12.

<sup>13</sup> The Commission notes that other state agencies similarly "control" state assets. For example, the Department of Accounting and General Services ("DAGS") has purview over state parking facilities; the Department of Land and Natural Resources ("DLNR") issues camping permits; and the Stadium Authority manages Aloha Stadium, which includes the rental of the facility for various types of events. Those state agencies may deal with issues similar to the issues which the UHAD contends the proposed ticket policies are intended to address. However, the State Ethics Code prohibits those agencies from offering their employees unwarranted benefits to address such issues. More specifically, DAGS cannot offer all of its employees complimentary parking or special reduced parking rates; DLNR cannot offer all of its employees complimentary camping permits or special reduced permit fees; and the Stadium Authority cannot offer all of its employees complimentary or discounted admission to events at Aloha Stadium.

<sup>14</sup> This ethics advisory is not intended to apply to student employees.

With regard to UHAD volunteers, the Commission notes that Ethics Advisory 2013-01 provides that an individual who must attend an athletic event in his state capacity for legitimate work purposes may receive a complimentary ticket or pass to that particular event.<sup>15</sup> However, the Commission does not believe that a UHAD volunteer is “automatically” entitled to receive a complimentary ticket for every athletic event, notwithstanding the valuable services and time that the person may be providing to the University as a volunteer.

#### IV. Football Season Ticket Discounts for UHM Faculty and Staff

The Commission was informed that for many years, UHM faculty and staff, including UHAD employees, have been allowed to purchase season football tickets, including in areas which require a PSC, at a discounted price. The Commission was informed that for the 2013 football season, a UHM faculty or staff member was allowed to purchase one discounted season ticket and one additional season ticket for home games in the “orange” field level seats in sections “LL” and “GG” at Aloha Stadium, as follows:

|                             | Faculty/Staff | Guest        | Price for Member of Public |
|-----------------------------|---------------|--------------|----------------------------|
| Season Ticket, Section LL   | \$114         | \$145        | \$145                      |
| Plus Premium Seating Charge | <u>\$150</u>  | <u>\$150</u> | <u>\$230</u>               |
| TOTAL COST PER SEAT         | \$264         | \$295        | \$375                      |
| Season Ticket, Section GG   | \$114         | \$145        | \$145                      |
| Plus Premium Seating Charge | <u>\$ 50</u>  | <u>\$ 50</u> | <u>\$ 50</u>               |
| TOTAL COST PER SEAT         | \$164         | \$195        | \$195                      |

UHM faculty and staff who did not wish to purchase seats in the above PSC sections were allowed to purchase season football tickets in non-PSC seating areas for \$99 to \$145 per ticket, which are the prices charged to members of the public.

The Commission understands that the discounted price for the football season tickets is offered only to UHM faculty and staff. Although the discount for faculty and staff appears to be a longstanding practice, the Commission is unclear as to the legitimate state purpose it is intended to achieve.<sup>16</sup> On its face, the “benefit” associated with the discount appears to be purely personal. For that reason, the discount for

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<sup>15</sup> See Ethics Advisory 2013-01, p. 3.

<sup>16</sup> The University did not offer any justification to support or otherwise justify the discount on the season football tickets offered to UHM faculty and staff.

football season tickets appears to be an unwarranted privilege or benefit that is prohibited by the State Ethics Code.

V. Conclusion

For the foregoing reasons, it is the Commission's opinion that UHAD's proposed policies to allow UHAD employees to receive complimentary tickets or to purchase tickets at exclusive discounted prices, Options 1 and 2, are inconsistent with the State Ethics Code. The Commission likewise believes that the practice of offering discounted football season tickets to UHM faculty and staff is contrary to the State Ethics Code.<sup>17</sup>

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<sup>17</sup> The Commission is aware that the University offers other types of discounts or benefits exclusively to UH employees. The Commission plans to review such discounts and benefits in the future.