



# HAWAII STATE ETHICS COMMISSION

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

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## HOUSE COMMITTEE ON LEGISLATIVE MANAGEMENT

The Honorable Scott Y. Nishimoto, Chair

The Honorable John M. Mizuno, Vice Chair

### **H.B. No. 1725, Relating to Children and Youth Day**

Hearing: Wednesday, February 17, 2016, 2:00 p.m.

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The Hawaii State Ethics Commission has **no position** on the intent of H.B. No. 1725, which designates the celebrations of Children and Youth Day held in the area of the state capitol to be an official state event. The Commission, however, has concerns about the bills language and offers other information about the application of the State Ethics Code to Children and Youth Day activities.

#### Background

Last year, in response to concerns directed to the Commission about state resources being used to support Children and Youth Day, the Commission offered guidance that, because Children and Youth Day was a privately sponsored activity, i.e., it was not an event of the state, state resources could not be used to support Children and Youth Day.

Specifically, the Commission understood that one or more legislators were using their staff to: (1) organize volunteers; (2) create, print and mail solicitation letters to past and potential sponsors; (3) coordinate vendors and vendor booths; (4) create Children and Youth Day participant and sponsor forms; (5) answer telephone calls and emails regarding Children and Youth Day; (6) update the Children and Youth Day website; (7) record payments from participants; (8) record donations and transmit those donations to a fiscal agent; (9) direct disbursements and payments to vendors; (10) order toys for goodie bags; (11) prepare goodie bags; (12) disseminate Children and Youth Day-related information to Keiki Caucus Resource Group members and others; (13) prepare 150-200 participant packets; (14) order food for volunteers; and (15) prepare/organize meal tickets and parking passes for participants and volunteers. In addition to the staff time, state funds, state supplies, and state facilities were being used to plan and otherwise support Children and Youth Day. The Commission also understood that a legislator was using the legislator's position to secure permits and other approvals from the state and city and county of Honolulu for the private event.

The fair treatment provision of the State Ethics Code, HRS section 84-13, prohibits a legislator from using or attempting to use his or her official position to secure

or grant unwarranted privileges, exemptions, advantages, contracts, or treatment for the legislator or others. The statute further prohibits a legislator from using state resources for private business purposes, which includes support of a non-profit organization.

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The Commission suggests that certain language of the bill is ambiguous and should be clarified. Specifically, the bill designates “celebrations” of Children and Youth Day to be a state event. It is unclear what the term “celebrations” is intended to include. The Commission suggests that the Committee consider more clearly defining or identifying the specific “celebrations” that are intended to be part of the state event, including whether it includes activities on days other than the Sunday on which Children and Youth Day has traditionally been held in and around the state capitol.

The Commission also notes that, even if the Children and Youth Day is deemed to be a state event, the fair treatment law nevertheless may prohibit a legislator from using legislative resources, including his or her staff, legislative offices, and discretionary allowance money, to support Children and Youth Day. Generally, legislators may use state resource for official legislative business, i.e., to perform their legislative duties. A legislator’s official duties likely do not include organizing and working directly on Children and Youth Day activities.

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on H.B. No. 1725.