



# The HIGH ROAD

*"Preserving public confidence in public servants."*

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## REMEMBER TO REGISTER FOR THE 1994 COGEL CONFERENCE

There is still time to register for the 1994 Council on Governmental Ethics Laws ("COGEL") conference at the Ala Moana Hotel on December 4-7, 1994. The COGEL conference will feature an international array of superb keynote speakers: Judge Johann Kriegler from the South African Election Commission (to replace former Minister of Parliament Helen Suzman who, unfortunately, cannot attend the conference for health reasons); Mayumi Moriyama from the Japanese Diet; Joseph Gangloff from the U.S. Department of Justice; and Rushworth Kidder from the Institute for Global Ethics in Maine. Added to this will be 28 concurrent sessions on important issues relating to government ethics (including ethics in emerging native peoples' governments), campaign finance, elections, lobby law regulation, and freedom of information.

The 1994 COGEL conference will be hosted by the Hawaii State Ethics Commission, the Hawaii County Board of Ethics, and the State of Hawaii Office of Information Practices. Please do not hesitate to contact the State Ethics Commission at 587-0460 for conference registration forms or for additional information about the COGEL conference.

## COMMISSION CHARGES DELINQUENT FINANCIAL INTERESTS DISCLOSURE FILERS

The State Ethics Code requires about 1,600 state officials to file financial interests disclosure statements with the Commission between January 1 and April 30 each year. A number of officials failed to file their disclosure statements on time. The Commission charged fifteen of these individuals with violations of the ethics code.

All fifteen officials later submitted completed disclosure statements to the Commission. The officials offered various explanations for their late filings. These explanations included being preoccupied with other work, misplacing the disclosure forms, not having any financial interest changes to report, and not claiming their mail. The

Commission did not believe that any of these explanations was sufficient to excuse a late filing.

Because the officials filed their disclosure statements, the Commission determined that it was not necessary to proceed to administrative hearings on the violations. Instead, the Commission issued informal advisory opinions to all the officials.

The opinions explained the importance of the financial disclosure law, which is rooted in the Hawaii State Constitution. Financial disclosure statements enable the Commission to assess possible conflicts of interest between one's state position and private financial interests.

The Commission noted that some state officials view the financial disclosure requirement as an unwelcome chore. The Commission reminded officials, however, that those who accept appointment to government service also accept the legal responsibilities that accompany government service.

Finally, the Commission informed the officials that it would consider more serious proceedings under the ethics code should any future financial interest disclosures not be filed in a timely manner. Such proceedings could include formal hearings and, if a violation of the ethics code is found, referral of the Commission's findings to the Governor for appropriate action.

## CANDIDATES' FINANCIAL INTERESTS DISCLOSURES AVAILABLE FOR REVIEW

The State Ethics Code required candidates for state elective office to file financial interests disclosure statements with the Commission by August 29, 1994. The filing deadline for candidates for trustees of the Office of Hawaiian Affairs ("OHA") was October 19, 1994. Financial disclosure statements call for information concerning sources of income, business interests, debts, real property interests, officerships, directorships, and trusteeships in businesses, and other financial interests.

A total of 242 candidates filed financial disclosure statements with the Commission by

August 29; 43 OHA candidates filed financial disclosure statements with the Commission by October 19. State law requires the Commission to release to the public a list of all candidates who fail to file financial disclosure statements. The Commission has released the names of 23 candidates and 2 OHA candidates who failed to submit financial disclosures by the applicable deadline.

Candidates' financial disclosure statements on file with the Commission are public records. The public is invited to review copies of the disclosure statements at the Commission's office.

### **FAIR TREATMENT SECTION OF ETHICS CODE CAN NOT PROHIBIT LEGISLATOR FROM TAKING ACTION IN THE EXERCISE OF HIS LEGISLATIVE FUNCTIONS**

In September, the State Ethics Commission issued Informal Advisory Opinion No. 94-25 in response to a charge filed against a legislator by a member of the public. The legislator had written a letter to the governor criticizing a pending bill sponsored by the administration. The legislator used legislative resources to write the letter. The letter referred to the legislator's status as an employee of a private organization that would likely be affected by the bill. The charge alleged that the legislator violated HRS §84-13(3), which forbids the use of state resources for private business purposes.

HRS §84-13(3) is part of the fair treatment section of the ethics code. That section, HRS §84-13, prohibits the use of one's official position to obtain an unwarranted advantage. HRS §84-13 also specifically states that it can not be applied to prohibit a legislator from taking action in the exercise of his legislative functions. This provision was derived from the State Constitution.

The Commission examined the legislator's actions in this case. The legislator had written to the sponsor of a bill about the merits of a bill then before the legislature. The Commission determined that this was an exercise of the legislator's legislative functions. HRS §84-13 could not forbid the legislator from doing this.

The Commission stressed that this opinion did not mean that a legislator could never be found in violation of the Ethics Code. Use of legislative resources when no legislative function exists could certainly run afoul of HRS §84-13. The Commission noted, however, that under the law the legislature has the sole power to discipline its members for statements made and action taken in the exercise of their legislative functions.

**NEXT ISSUE:** Christmas is a time for giving...but state employees must beware of soliciting or accepting gifts from those with whom they transact state business. Our next issue of The High Road will explain why.

The High Road is a publication of the Hawaii State Ethics Commission.  
Commissioners: K. Koki Akamine, Chair; Sharon "Shay" Bintliff, Vice Chair; Leolani Abdul; Don Daley; Carl Sakata  
Executive Director: Daniel Mollway  
Address: P.O. Box 616  
Honolulu, HI 96809  
Telephone: 587-0460  
Fax: 587-0470