



The HIGH ROAD

"Preserving public confidence in public servants."

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1994 COGEL CONFERENCE PROVES TO BE AN INTERNATIONAL EVENT

On December 4 - 7, 1994, representatives from 27 nations met in Honolulu to discuss government ethics, campaign finance, lobbying laws, elections, open public meetings, and freedom of information at the 16th annual conference of the Council on Governmental Ethics Laws ("COGEL"). The Hawaii State Ethics Commission, the State of Hawaii Office of Information Practices, and the Hawaii County Board of Ethics co-hosted the conference.

Government officials from federal, state, and county levels across the United States attended the COGEL conference. Federal officials at the conference included an Assistant Counsel to President Clinton and representatives from the U.S. Department of Justice, the U.S. General Accounting Office, the Office of Government Ethics, and the Federal Election Commission. Hawaii officials at the conference included the members of all state and county ethics boards, the State Campaign Spending Commission, the Legislature, the Judiciary, the Department of the Attorney General, the Honolulu City Council, the Honolulu Police Department, the University of Hawaii, and the East West Center.

Nations with representatives at the conference included the following: Australia, Botswana, Cameroon, Canada, the Dominican Republic, Estonia, Ethiopia, Guam, India, Japan, Jordan, Latvia, Lesotho, Lithuania, Malawi, Mozambique, the Navajo Nation, Nepal, Papua New Guinea, the Phillipines, Puerto Rico, South Africa, South Korea, Sweden, Uganda, Zaire, and Zimbabwe.

Lieutenant Governor Mazie Hirono and Mayor Jeremy Harris welcomed the conference attendees to Hawaii and lauded their efforts to promote good government. Conference

highlights included keynote addresses by Rushworth Kidder of the Institute for Global Ethics; Joseph Gangloff of the U.S. Department of Justice; Mayumi Moriyama of the Japanese Diet; and Johann Krieger of the South African Election Commission. In addition, Vermont State Treasurer-Elect James Douglas moderated a spirited debate between Ellen Miller of the Center for Responsive Politics (Washington, D.C.) and Campaign Consultant Allan Hoffenblum (Los Angeles, CA) on the subject, "Should There Be Total Public Financing of Campaigns?"

Moderators and panelists participated in 28 concurrent conference sessions. Videotapes of the keynote addresses and audiotapes of all concurrent sessions will be available for purchase. Interested persons should contact the State Ethics Commission to request order forms. The Commission hopes to televise the keynote speeches on 'Olelo.

The COGEL Conference was extremely well-received and highly praised by attendees. The Hawaii State Ethics Commission is proud to have co-hosted this important event with the State Office of Information Practices and the Hawaii County Board of Ethics.

THE HOLIDAYS ARE A TIME FOR GIVING . . .

The Holiday Season is traditionally a time in which gifts are exchanged. State agencies and employees may be offered a number of different gifts from vendors, clients, private businesses, and members of the public. Although some of these items may be acceptable, state employees must be very careful about accepting or soliciting gifts.

What ethics law governs the acceptance of gifts by state officials or employees? Several different laws within the state ethics code concern the acceptance or solicitation of gifts. The main gifts law, Hawaii Revised Statutes

("HRS") §84-11, prohibits a state employee or legislator from accepting, soliciting, or receiving any gift if it is reasonable to infer that the gift is intended to influence or reward the employee or legislator in the performance of his or her duties. Whether or not a gift is acceptable depends on whether one could reasonably conclude that the gift is given to influence or reward the recipient of the gift. The gifts law was written in this way to preserve the public's confidence in state government.

What is considered a "gift" under the ethics law? A gift can take any form. Typical gifts offered to state officials include airfare and hotel accommodations for trips, tickets to shows, sporting events, and other entertainment events, golf privileges, and meals. During the holidays, state officials have also reported being offered cash, jewelry, artwork, and gift certificates.

How does one determine whether or not a gift is acceptable? There is no threshold dollar amount that determines whether or not a gift is acceptable under the ethics laws. The test is whether one can reasonably conclude that a gift is given to influence or reward official action by a state legislator or employee. The State Ethics Commission considers several factors in determining whether or not a gift is acceptable. These factors include the nature and value of the gift and the relationship between the donor and recipient of the gift. Anyone with questions about what is acceptable should call the State Ethics Commission for confidential advice.

My state office received a box of cookies from a vendor. Does the ethics code prohibit us from accepting even this? Generally speaking, modest gifts such as a box of cookies, pastries, or candy, or small floral arrangements that are offered to a state office during the holidays may be accepted. Anything of more substantial value, such as liquor, expensive gift baskets, or gift certificates should be cleared with the State Ethics Commission.

Our state agency is planning a holiday party for its employees and would like to solicit businesses to donate refreshments and door prizes for the party. Is this permissible under the ethics code? The short answer to this question is, No! HRS §84-13 of the ethics code prohibits state employees and legislators from using or attempting to use their official positions to grant

themselves or anyone else an unwarranted benefit. The State Ethics Commission has interpreted this law as prohibiting the solicitation of private businesses and members of the public for the personal benefit of state employees. The Commission has determined that the solicitation of a donation for an employee social event, such as a party, is a misuse of official position in violation of HRS §84-13. Such solicitations place businesses and individuals who are asked for donations in awkward positions because of the pervasive power of government.

Does the ethics code require the reporting of gifts received during the holidays? HRS §84-11.5 requires state legislators and employees to report certain gifts to the State Ethics Commission. This law should not be confused with HRS §84-11, discussed above. HRS §84-11 tells you whether or not a gift is acceptable. If a gift is acceptable, then HRS §84-11.5 will tell you whether it must be reported. A legislator or employee who receives from a single source a gift or gifts whose aggregate value is in excess of \$200 must report the gift(s) if the legislator or employee takes official action that affects the interests of that source. There are a number of exceptions to this law.

Got a gifts question? Call us! The State Ethics Code does not prohibit employees from enjoying the spirit and festivities of the holiday season. Sometimes, however, such festivities may lead to the acceptance or solicitation of prohibited gifts. The State Ethics Commission is happy to answer questions concerning gifts. If you are not sure whether a gift is acceptable, then you should call the Commission for advice. By doing so, you may avoid an inadvertant violation of the law and help promote public confidence in government.

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