



HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Education
Bill Number: S.B. 1287, Relating to Ethics
Hearing Date/Time: Friday, February 10, 2017, 2:45 p.m.
Re: Testimony of the Hawaii State Ethics Commission
IN OPPOSITION to S.B. 1287

Dear Chair Kidani and Committee Members:

The Hawaii State Ethics Commission (“Commission”) opposes S.B. 1287, which seeks to exempt certain conduct from the Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

The Commission respectfully submits that this measure is unnecessary, in light of the agreement reached between the Hawaii State Teachers Association (“HSTA”) and the Commission regarding teacher-led travel. That agreement is available in full on the Commission’s website, at <http://tinyurl.com/HSTA-HSEC-agreement>.

The Commission understands and appreciates the Legislature’s (and the public’s) concerns regarding teacher-led travel. Pursuant to the above-referenced agreement, however, teachers may continue to plan trips and serve as chaperones with private tour companies, subject to Board of Education policies. Typically, tour companies allow one chaperone to travel for free for every eight or ten travelers who pay for the tour; under the agreement announced today, this arrangement can continue, so long as teachers inform students and their families in advance that the teacher’s travel will be paid for by the tour company. The agreement also states that teachers may not collect any personal “perks” (such as tablet computers) for selling or leading trips, but may pass those rewards along to the Department of Education for use in the classroom. The tours must also satisfy Department of Education policies that trips have “educational benefits [that] are clearly linked to and support ongoing standards-based classroom studies.”

As written, however, this measure creates uncertainty regarding which employees, and which activities, are subject to the Ethics Code; this measure also results in confusion regarding the applicability of the fair treatment law, HRS § 84-13, in cases where state officials use their state positions to obtain additional compensation. Problematically, the measure appears to give the Department of Education authority to determine whether certain conduct satisfies the Ethics Code, when the Hawaii Constitution, article XIV, requires that the Ethics Commission make those determinations.

Additionally, these exemptions contravene Hawaii's constitutional mandate that public officers and employees exhibit the highest standards of ethical conduct.¹ This bill would set a dangerous precedent, as individual agencies or programs may seek to carve out exceptions to the Ethics Code (thus taking a strong regulatory framework to promote integrity in state government and weakening it through a series of exceptions).

Recent national events demonstrate the importance of ensuring that all government officials – at all levels of government – be held to uniform, fair, and reasonable ethical rules. As such, the Commission respectfully requests that the Committee defer this measure.

Thank you for considering the Commission's testimony on S.B. 1287.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

¹ Hawaii Constitution, Art. XIV.