



HAWAII STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

Resolution of Investigation **2020-4**

(COMPL-I-20-00133)

Hawai'i House of Representatives, Representative Lynn DeCoite, Alleged Violations of Fair Treatment Law

August 20, 2020

The Hawai'i State Ethics Commission ("Commission") has resolved the investigation of Lynn DeCoite ("Respondent DeCoite"), Representative, House of Representatives, for alleged violations of the State Ethics Code, Hawai'i Revised Statutes ("HRS") chapter 84.

I. Facts

Respondent DeCoite admitted and declared, under penalty of perjury, that the following facts are true and correct:¹

- (a) Respondent DeCoite, at all times relevant herein, was an elected member of Hawaii's House of Representatives.
- (b) The House of Representatives is a "state agency" as defined by HRS § 84-3. Respondent DeCoite, at all times relevant herein, was a state legislator and was therefore required to comply with the State Ethics Code.
- (c) Respondent DeCoite is seeking re-election, and she faced an opponent in the 2020 primary election.
- (d) On July 9, 2020, Respondent DeCoite and her primary election opponent appeared on the television program "Insights" (on PBS) for a campaign debate via videoconference. At the conclusion of her time speaking during the debate, Respondent DeCoite referred viewers to her campaign website.

¹ This Resolution does not make formal findings, but relies on the facts admitted by Respondent DeCoite.

- (e) Respondent DeCoite participated in the July 9 debate via videoconference because of the social distancing restrictions of the COVID-19 pandemic. Respondent DeCoite used her Capitol office to participate in the debate, but maintains that she used her personal laptop computer (and not her state computer) for the debate.
- (f) Respondent DeCoite recognizes that the use of her Capitol office for campaign purposes was improper, and she takes full responsibility for her actions.

II. The State Ethics Code, HRS Chapter 84

A. Constitutional Mandate and Statutory Purpose

The State Ethics Code arises from the declaration contained in the State Constitution that “[t]he people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government.”² To this end, the Hawai’i Constitution further directs that the Legislature enact a code of ethics that applies to all appointed and elected state officers and employees.

In accordance with this constitutional mandate, the Legislature enacted the State Ethics Code and charged the Commission with administering and enforcing the law “so that public confidence in public servants will be preserved.”³ Additionally, the Legislature explicitly directed that the State Ethics Code be liberally construed to promote high standards of ethical conduct in state government. HRS § 84-1. It is in this context that the Commission examines every legislator’s actions.

B. Application of the State Ethics Code to Respondent DeCoite

As a legislator, Respondent DeCoite is required to comply with the State Ethics Code.⁴ Pursuant to HRS § 84-13(a), “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[.]” Pursuant to HRS § 84-13(a)(3), legislators are prohibited from “[u]sing state time, equipment or other facilities for private business purposes[.]”

As the Commission has previously explained, “there is general acceptance of the proposition that campaigning is a private, rather than official, activity. The Commission has thus held that use of state resources for campaigning is generally ‘unwarranted’ and

² Hawai’i State Constitution, Art. XIV.

³ HRS Chapter 84, Preamble.

⁴ HRS § 84-2.

therefore a violation of section 84-13.” Advisory Op. No. 89-1, 1989 WL 1842464, at *2. Legislators are prohibited from using state time, state personnel, state e-mail, or other state resources to promote their campaigns. Therefore, the Commission always advises that legislators separate their private business (i.e., their campaign activities) from their official legislative business.

Respondent DeCoite’s use of her Capitol office for a campaign function was improper. Legislators may not use state resources for campaign purposes, even if – as in this case – there is no apparent additional expense to the State from the use of those state resources. Respondent DeCoite recognizes the ethics concerns involved, and she takes full responsibility for her actions.

III. Resolution of Investigation

Respondent DeCoite has not previously been the subject of a Commission charge or investigation and cooperated with the Commission in its investigation.

The Commission concludes that, based on the facts admitted above, Respondent DeCoite likely violated the Fair Treatment law. Therefore, the Commission believes it is reasonable, fair, and in the public interest to resolve this investigation by (1) issuing this Resolution of Investigation, and (2) requiring Respondent DeCoite to pay an administrative penalty of \$250.00 to the State of Hawai‘i.