



HAWAI‘I STATE ETHICS COMMISSION

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

Resolution of Investigation **2021-01**

(COMPL-I-17-00164)

Hawai‘i Youth Correctional Facility Administrator’s Violations of the Fair Treatment law

February 24, 2021

The Hawai‘i State Ethics Commission (“Commission”) has resolved the investigation of Mark Patterson (“Respondent Patterson”), Administrator, Hawai‘i Youth Correctional Facility (“HYCF”), Department of Human Services (“DHS”), for alleged violations of the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.

I. Facts

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

- a) At all times relevant herein, Respondent Patterson was employed as Administrator, Hawai‘i Youth Correctional Facility (“HYCF”), Department of Human Services (“DHS”), and was required to comply with the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.
- b) As Administrator, Respondent Patterson is responsible for HYCF’s operations and personnel.
- c) Beginning in or around 2018, and continuing until late 2020, Respondent Patterson authorized a private religious organization to store several trailers, with the organization’s private equipment, on HYCF property. The private religious organization did not pay any rental fee for the use of state property, though the private religious organization offers some services to HYCF’s wards.

¹ This Resolution does not make formal findings; instead, the Commission relies on the facts admitted by Respondent Patterson.

- d) After speaking with Ethics Commission staff, Respondent Patterson directed the private religious organization to remove its trailers from state property.
- e) In or around June 2019, Respondent Patterson authorized a subordinate employee to use an HYCF tractor to mow/clear a private pasture in preparation for a fundraising rodeo event for a private non-profit organization with connections to HYCF.
- f) Around 2019, Respondent Patterson authorized a subordinate employee to use an HYCF trailer for non-HYCF purposes. Respondent Patterson was unsure whether the trailer was to be used to help another rancher or the Hawaii Cattlemen’s Council, a private non-profit organization. HYCF has conducted cattle ranching operations on HYCF property for many years; Respondent Patterson maintains that other ranchers will help HYCF with its cattle operations from time to time, and that HYCF will sometimes reciprocate by helping others when they need assistance.
- g) After speaking with Ethics Commission staff, Respondent Patterson issued a memorandum to all staff making clear that HYCF equipment may not be taken for non-state purposes.

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 employee’s actions.

² Hawai’i State Constitution, Art. XIV.

³ HRS Chapter 84, Preamble.

B. Application of the State Ethics Code to Respondent Patterson

Respondent Patterson is a state employee⁴ and is bound by the State Ethics Code's Fair Treatment law, HRS § 84-13(a). Pursuant to HRS § 84-13(a), "No . . . employee shall use or attempt to use the . . . employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others[.]"

Respondent Patterson admits that he violated the Fair Treatment law on numerous occasions in 2019 and 2020. Among other things, Respondent Patterson admits that he violated the Fair Treatment law by:

- i. Authorizing the use of state resources, including state time and an HYCF tractor, to mow/clear land for the benefit of one or more private individuals and/or organizations;
- ii. Authorizing the use of a state trailer for the benefit of one or more private individuals and/or organizations; and
- iii. Authorizing a private religious organization to store several trailers, free of charge, on state property for more than two years.

Respondent Patterson violated the Fair Treatment law by authorizing the use of state resources to benefit private individuals or organizations. In general, these individuals or organizations had some connection to HYCF and could be described as "community partners" with HYCF. While the Commission understands the desire to help those who help HYCF, the Ethics Code prohibits the use of state resources to do "favors" for private individuals and organizations.⁵

III. Resolution of Investigation

Respondent Patterson admits that he violated the Fair Treatment law, HRS § 84-13(a). Respondent Patterson fully cooperated with the Commission's investigation: he took responsibility for his actions and he took immediate steps to address the violations noted herein.

⁴ HRS § 84-3.

⁵ To be clear, state agencies are free to contract with nonprofit organizations and others to promote the State's interests. In this case, however, the favors provided to the private religious organization and others benefitted those private organizations and individuals – not the State or the public at large – ostensibly because those private entities also provided some services to HYCF. The Fair Treatment law prohibits state officials from doling out state resources to benefit private organizations in this manner.

Given the violations of the State Ethics Code, the Commission believes it is reasonable, fair, and in the public interest to resolve this investigation by (1) issuing this Resolution of Investigation; (2) requiring Respondent Patterson to pay an administrative penalty of \$1,500 to the State of Hawai'i; and (3) referring this matter to DHS for further disciplinary action as appropriate.