



HAWAI‘I STATE ETHICS COMMISSION

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

Resolution of Investigation **2021-6**

(COMPL-I-18-00165)

Former Public Charter School Principal’s Violations of the Fair Treatment law

June 17, 2021

The Hawai‘i State Ethics Commission (“Commission”) has resolved the investigation of Alvin Parker (“Respondent Parker”), Former Principal, Ka Waihona o Ka Na‘auao Public Charter School, for alleged violations of the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.

I. Facts

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

- a) At all times relevant herein, Respondent Parker was employed as Principal of the Ka Waihona o Ka Na‘auao Public Charter School (hereinafter, “Ka Waihona”), and was required to comply with the State Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84. At all times relevant herein, Respondent Parker’s spouse was also employed by Ka Waihona.
- b) On four occasions in 2017, Respondent Parker authorized cash advances for Ka Waihona employees – that is, a loan of school funds to the recipients, as an advance on their salaries from Ka Waihona – as follows:
 - i. In or around July 2017, Respondent Parker approved a cash advance of \$10,000 to his spouse, who was an employee of Ka Waihona at the time.

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

- ii. In or around August 2017, Respondent Parker approved a second cash advance of \$3,000 to his spouse, who was an employee of Ka Waihona at the time.
 - iii. In or around September 2017, Respondent Parker approved a cash advance of \$25,000 to a school employee (hereinafter, “Ka Waihona Employee #1”).
 - iv. In or around October 2017, Respondent Parker approved a cash advance of \$5,000 to a different school employee (hereinafter, “Ka Waihona Employee #2”).
 - v. Ka Waihona Employee #1 and Ka Waihona Employee #2 each repaid these cash advances in full over the course of several months.
 - vi. Respondent Parker’s spouse repaid \$5,000 of the \$13,000 advanced. Respondent Parker contends that the remaining \$8,000 was offset against back pay owed to him, as explained more fully below.
 - vii. Respondent Parker did not seek approval from the Governing Board before authorizing these four cash advances, and after Respondent Parker had authorized these four cash advances, the Governing Board Chair instructed Respondent Parker not to issue any further cash advances to staff. However, Respondent Parker contends that he believed he had authority from the Governing Board to handle all fiscal matters involving Ka Waihona, and that this broad grant of authority allowed him to provide cash advances to staff.
- c) Respondent Parker contends that, beginning in or around 2009, and continuing for a number of years thereafter, the actual salary paid to him by Ka Waihona was less than the salary to which he was entitled pursuant to the salary chart for Hawaii Government Employees Association (“HGEA”) employees.²
- d) Ka Waihona’s Governing Board (“Governing Board”), which oversaw Respondent Parker’s employment, was aware of this matter and attempted to correct it over the course of several years. The Governing Board attempted to execute a renewal contract with HGEA in 2009 but did not finalize the contract. It appears that the contract was not finalized until 2017. The Governing Board, however, had previously approved

² The Commission notes that it does not make factual findings on this or any other matter, but instead relies upon the facts as recited by the Respondent. The Commission has not made, and is not now making, any factual findings as to whether the Respondent was paid the correct amount for his services.

Respondent Parker's pay pursuant to the HGEA salary chart and pay grades.

- e) As a remedy, over the course of the intervening years, the Governing Board authorized Respondent Parker to take “cash advances” from the school – inaptly named, as they were ostensibly for back pay – to be offset against that back pay. Respondent Parker also used the Ka Waihona credit card on certain occasions to pay for what arguably were for personal expenses; however, Respondent Parker maintains that any such expenditures had been approved by the Governing Board to be offset against back pay owed to him.
- f) Respondent Parker maintains that the non-salary funds he received – the “cash advances,” the funds expended via the Ka Waihona credit card to pay for personal expenses, and the \$8,000 of cash advance to his spouse that was not repaid – did not exceed the amount of back pay he was owed per the HGEA salary schedule. In other words, Respondent Parker maintains that he was not overpaid, and that he only received what should have been paid to him in the form of salary.
- g) On August 31, 2018, the State Public Charter School Commission voted to reconstitute the Governing Board of Ka Waihona, finding that “the Governing Board failed to manage the financial performance of the school[.]”
https://www.kawaihonapcs.org/m/news/show_news.jsp?REC_ID=523835&id=0.

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.”³ 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.”⁴ Additionally, the

³ Hawai‘i State Constitution, Art. XIV.

⁴ HRS Chapter 84, Preamble.

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.

B. Application of the State Ethics Code to Respondent Parker

At all times relevant herein, Respondent Parker was a state employee⁵ and was 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[.]"⁶

Respondent Parker admits that he violated the Fair Treatment law on four occasions by authorizing four cash advances to employees of Ka Waihona. Simply put, charter school officials may not treat the school, and its public funds, as though it is a bank that exists for the benefit of school employees. Cf. Public Charter School Contract, Ka Waihona o ka Na'auao Public Charter School (eff. July 1, 2017), § 6.8 (incorporating HRS chapter 37D, prohibiting certain financing agreements). In authorizing these cash advances, Respondent Parker used his official position to provide unwarranted benefits – namely, no-interest loans – to his spouse and two other school employees.

Further, while not making any findings regarding any ethics violations, the Commission's view is that Respondent Parker should have waited for retroactive salary payment – processed as a payroll payment, with all applicable taxes and contributions withheld – after his contract was finalized, notwithstanding the Governing Board's approval of the "cash advances." Respondent Parker also does not admit to violating any tax law and the Commission makes no findings relating thereto.

III. Resolution of Investigation

Respondent Parker admits that he violated the Fair Treatment law (HRS § 84-13(a)). Respondent Parker fully cooperated with the Commission's investigation and has not previously been the subject of a Commission charge.

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, and (2) requiring Respondent Parker to pay an administrative penalty of \$4,000 to the State of Hawai'i.

⁵ HRS § 84-3.

⁶ HRS § 84-13 was amended in 2019; these amendments included the addition of subsection enumeration (i.e., adding in "(a)" through "(d)") and substantive amendments not relevant here. The substantive text quoted herein has not changed since prior to the actions at issue herein.