

# ETHICS FOR THE LAND USE COMMISSION

Hawai'i State Ethics Commission

July 10, 2024



# Article XIV

## Hawai'i State Constitution

### Hawai'i Revised Statutes

#### Chapter 84 | State Ethics Code

*“ The 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. ”*

# State Ethics Code applies to:



State  
Legislators



State  
Employees



Members of  
State Boards and  
Commissions

A white silhouette map of the Hawaiian Islands is positioned in the upper right quadrant of the slide. The islands are arranged in a diagonal line from the top left towards the bottom right. The largest island, Hawaii, is at the bottom right, while the smallest, Midway, is at the top left. The text is centered in the lower-left area of the slide.

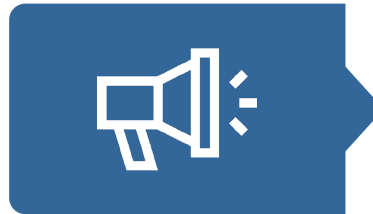
60,000+  
State Officials and  
Employees



# State Ethics Commission



Education



Advice



Enforcement



Disclosures

# Mandatory Ethics Training



***Act 165 – New!***

Effective Jan. 1, 2023

State elected officials,  
employees, and board/  
commission members

# Which Type of Training?

## Live Webinar

- State elected officials
- Department heads (Directors & Deputies)
- High-level state officials
- Members of key public boards

## Online Self-Directed


- **Everyone else** can take the self-directed version online
- ~ 30 min long

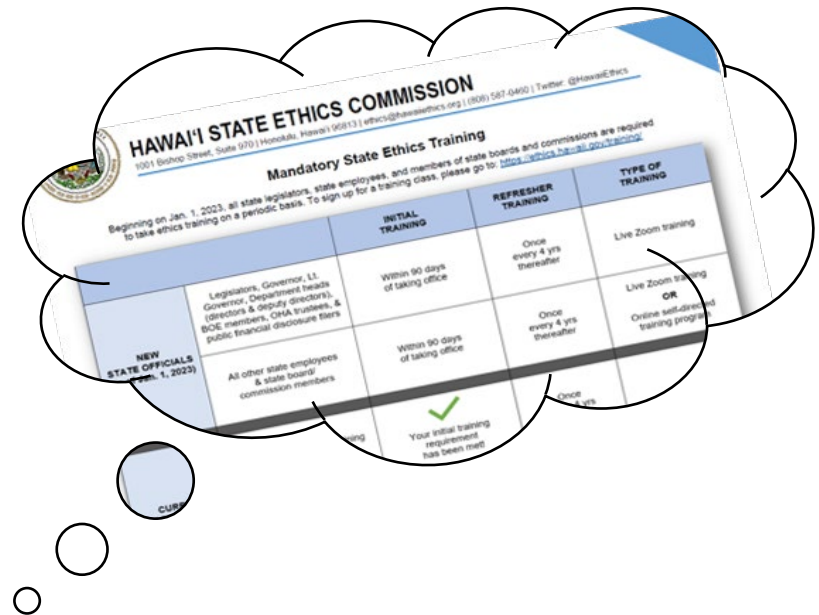
# When & How Often?

## New Officials

- Initial: within **90 days**
- Refresher: every 4 yrs

## Current Officials

- Initial: by **Jan 1, 2024**
- Attended training past 3 yrs? 
- Refresher: every 4 yrs



Go to **ethics.hawaii.gov**

- Training FAQs
- Register for live webinars
- Take self-directed online training



Gifts and Gifts Reporting



Fair Treatment



Confidential Information



Conflicts of Interests

# PROGRAM





State Contracts



Post-Employment



Financial Disclosures

# PROGRAM

# Gifts

HRS § 84-11



Don't accept any gift if it is reasonable to infer the gift is offered to influence or reward you for official action.



# What is a gift?



# Can I accept a gift?

## FACTORS TO CONSIDER



Relationship between  
you/your state agency and  
the donor?



Value  
of the gift?



Is there a State  
benefit?

# Can I accept a gift?

What is the relationship between you or your state agency and the donor?

- ▶ Inspect or Regulate? No Gifts!
- ▶ Vendor or Contractor? No Gifts!
- ▶ Lobbyists? No Gifts!

# Can I accept a gift?

What is the value of the gift?

- ▶ HIGH - Gift more likely prohibited
- ▶ NOMINAL - Gift more likely allowed



# Can I accept a gift?

Is there a benefit to the State if I accept the gift?

- ▶ YES - Gift more likely allowed
- ▶ NO - Gift more likely prohibited

# Quiz #1

A county official who appears before the LUC offers a gift basket to one of the Commissioners. Can the Commissioner accept?



# Quiz #2

A developer meets with Housing Director Zoe about an affordable housing RFP and offers to pay for dinner.

Can Zoe accept?



Unsplash: Han Xiao

# Gifts Exceptions

HAR §§ 21-7-3, 21-7-4



What gifts are ok?

Unsplash: Michele Eckert







# Gifts of Travel

(Travel paid for by non-state entity)



**BENEFIT TO THE STATE?**



# Quiz #3

Sean, a UH Hilo curriculum specialist, was invited to go to an education conference.

A federal grant will cover his travel costs.

Can he go?



# Gifts Reporting

HRS § 84-11.5



File a Gift Disclosure if:

1. Value of gift(s) from same source is more than \$200; and
2. Source has interests that may be affected by your official action.



Gifts Reporting  
Deadline:  
**June 30**

Gifts Disclosure Statement is a  
public record

# Summary: Gifts and Gifts Reporting



Don't accept a gift if it reasonably appears that the gift is intended to influence or reward you.



Report gifts over \$200 from anyone who may be affected by your actions as a state employee.



You can't accept a prohibited gift just because you report it on a Gifts Disclosure statement.



# Fair Treatment

HRS § 84-13



Don't use your state position to obtain unwarranted privileges, advantages, or treatment for yourself or others.

# Fair Treatment

HRS § 84-13(a)(1)



Don't use your state position to obtain outside employment or contracts for yourself.



# Quiz #4

Celia, a utilities regulator, is reviewing Oahu Solar's permit request. She plans to leave the agency.

Celia meets Oahu Solar's CEO and asks if they need a compliance officer.

Is this ok?



# Fair Treatment

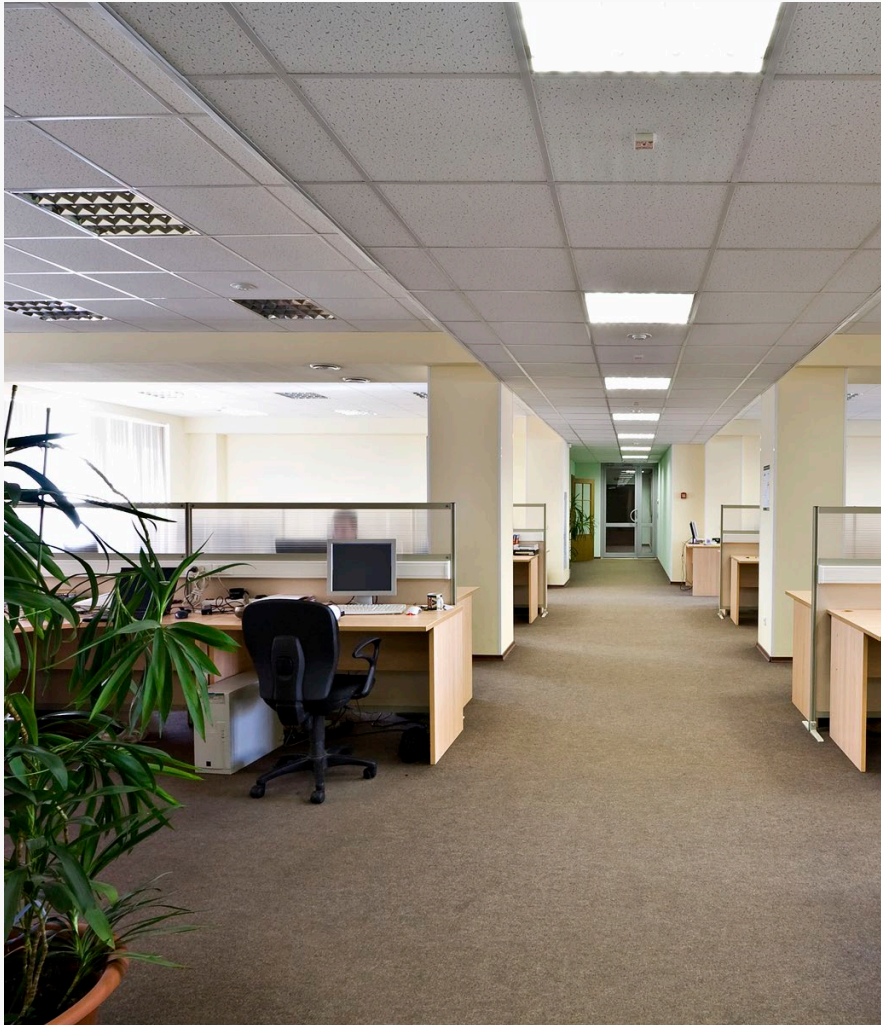
HRS § 84-13(a)(2)



Don't accept additional (“double”) compensation for performing your state duties unless permitted by law.

# Fair Treatment

HRS § 84-13(a)(3)



Don't use state time, equipment, facilities, or other state resources for private business purposes.

# What is a private business?



For-profit  
business



Nonprofit  
organization



Political  
campaign

# Prohibited Private Business Activities in State Offices



- Doing outside work for private employer
- Selling food, crafts, etc. to co-workers
- Fundraising for private clubs, organizations, charities
- Campaign activities (asking for campaign donations, planning campaign events, etc.)



# State-Sponsored Fundraising

State resources may be used to fundraise for some state-sponsored events.

- ▶ Aloha United Way
- ▶ Hawaii Foodbank
- ▶ Blood Bank of Hawaii



# Fair Treatment

## Misappropriation of State Property:

Don't take state equipment or  
machinery home for personal use.



# Quiz #5

Rich works for the Land Use Commission, and volunteers on a nonprofit board.

Rich uses his agency's Zoom equipment to help his nonprofit run a meeting.

Is this ok?



# Fair Treatment

HRS § 84-13(a)(4)



Don't enter into substantial financial transactions with subordinates or those you supervise or inspect.

# Quiz #6

Food inspector Jayna works as a real estate agent on the weekends.

During an inspection, she offers to help the restaurant owner find a new location.

Is this ok?



Unsplash-Tierra Mallorca



# Summary: Fair Treatment



Don't use your state position to get outside employment for yourself.



Don't accept additional ("double") compensation.



Don't use state resources for private business activities.



Don't enter into substantial financial transactions with subordinates.

# Nepotism Law



## ***Act 261 – Effective July 11, 2023!***

- **Who:** State employees & state board members, except employees in legislative & judicial branches
- **Purpose:** to ensure merit-based decisions in state employment & contracting

# Nepotism Law



## DON'T TAKE ACTION AFFECTING RELATIVES OR HOUSEHOLD MEMBERS

- Employment actions (hiring, supervising, etc.)
  - Contracts (awarding, administering, etc.)

# Nepotism Law



- Two month stay of enforcement (until 9/11/23)
- Resolve situation or seek good cause exemption
- Quick Guide & Other Resources

# Confidential Information

HRS § 84-12



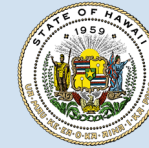
Don't disclose confidential information.

Don't use confidential information to benefit anyone.



# Conflicts of Interests

HRS § 84-14



Official  
State Actions

VS.

Private  
Interests

# Conflicts of Interests

HRS § 84-14(a)



DISQUALIFY YOURSELF IF YOU HAVE A  
CONFLICT OF INTEREST

Don't take official action directly affecting a business in which  
you have a financial interest.

# What is a Financial Interest?



Owner of a  
business



Employed by a business



Officer or director of  
a business even for  
no compensation



Owner of real or personal  
property

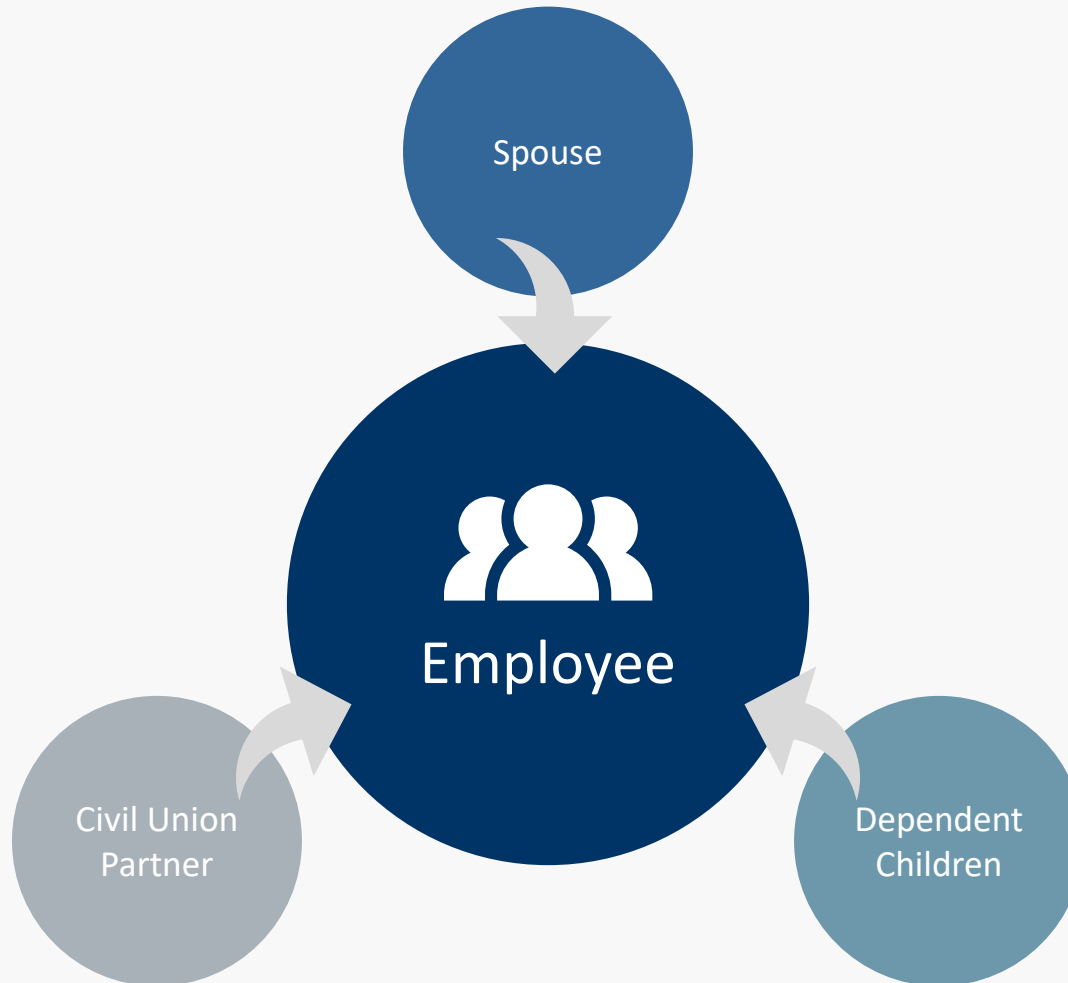


A loan or debt owed to  
a business



Creditor of an insolvent  
business

# Employee's Financial Interests



# What is Official Action?

## Definition

- Personal judgment or discretion
- Decision
- Recommendation
- Approval/disapproval

## Examples

- Performing inspections or investigations
- Purchasing goods, services
- Awarding contracts
- Supervising
- Giving advice, opinions



# Quiz #7

DHS issues an RFP for graphic design services.  
Ken was asked to serve on the evaluation panel.

His wife's employer,  
Noa Design Inc., is one  
of the bidders.

Any issue?



# Conflicts of Interests

HRS § 84-14(b)



## DON'T CREATE NEW CONFLICTS OF INTERESTS

Don't acquire a financial interest in a business if there is reason to believe you will take official action affecting that business.

# Quiz #8

Mari is the Director of Community Outreach and works with several nonprofits as part of her state job.



She would like to do more volunteer work and was asked by one of the nonprofits to serve on their board. Ok?

# Conflicts of Interests

HRS § 84-14(d)



## DON'T ASSIST OR REPRESENT OTHERS FOR PAY

- In a transaction before your agency
- On a matter in which you have participated or will participate

# Quiz #9

Greg is a DBEDT economist who does private consulting work in his spare time.

One of his clients asks him for help in applying for a DBEDT small business loan.

Is this ok?



# Summary: Conflicts of Interests



Disqualify yourself when you have a conflict of interest.



Don't create new conflicts of interests for yourself.

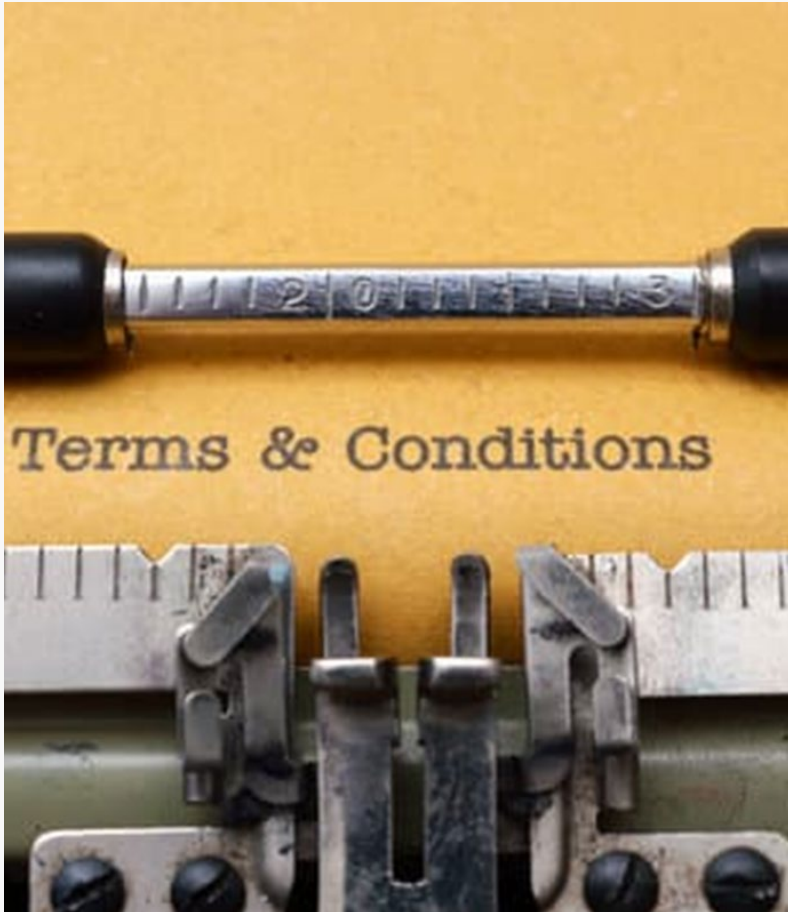


Don't assist others for pay before your agency.



# State Contracts

HRS § 84-15(a)



Public notice is required 10 days before awarding:

1. Non-bid contract
2. Valued over \$10,000
3. to a state legislator or employee

# State Contracts

HRS § 84-15(b)

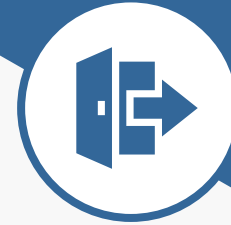


State agency is **barred** from contracting with a business that is assisted in the matter by someone who:

- (1) Was an employee or board member within the past 2 years, and
- (2) Worked on the same contract matter as an employee or board member.

# Post-Employment Restrictions

HRS § 84-18(b) and (c)



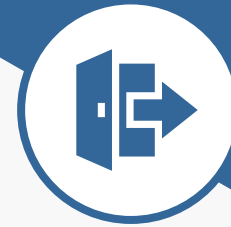
## 12 months:

Don't represent others as paid rep

1. before former agency/division or
2. on matters you worked on

# Post-Employment Restrictions

HRS § 84-18(b) and (e)



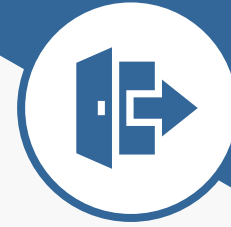
***Act 189 – eff. Jan 1, 2022!***

**12 months:**

Former legislators & certain high-level officials are barred from lobbying

# Post-Employment Restrictions

HRS § 84-18(a)



## Forever:

Don't disclose or use confidential information



# Quiz #10

DLIR Deputy Director Reina retired last month and is now working as a workforce consultant.

She calls up Senator Tom to discuss a job training bill on behalf of her client.

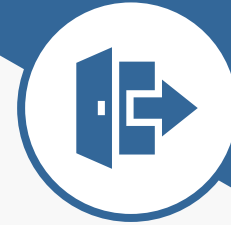
Is this ok?





# Post-Employment Exceptions

HRS § 84-18



- ▶ Employed by the State < 6 months  
**(confidentiality rule, however, applies regardless of length of service)**
  
- ▶ Contract to act on behalf of the State

# Penalties for Ethics Violations



- ➔ Fines up to \$1,000 per violation
- ➔ Disciplinary action
- ➔ State can recover illegal gifts or profits
- ➔ State can cancel contracts, licenses, or permits

# Financial Disclosure Statements

HRS § 84-17



Legislators: due January 31



Employees/Board Members: due 30 days of taking office, and by May 31 each year



File electronically on Commission's website



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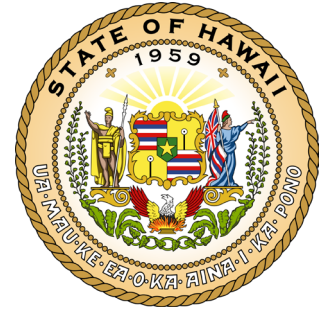


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# *Mahalo!*

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