



HAWAII STATE ETHICS COMMISSION

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THE STATE ETHICS CODE – A QUICK GUIDE ON SECOND JOBS AND OTHER PRIVATE BUSINESS ACTIVITIES

The following ethics guidelines are for employees who – in addition to their state jobs – have a second job, rent out property they own, or have some other private business.¹

I. Things to know before you take a second job or start a new business

The State Ethics Code does not prohibit you from having a second job or a private business, but you cannot create a conflict of interest with your state duties or misuse your state position. Follow these guidelines if you are looking for an outside job or thinking about starting your own business:

1. Do not take a job with a business if you are likely to take action as a state employee affecting that business. For example, if you purchase state equipment from a vendor, do not get a part-time job with that vendor.
2. Do not take a job with any business² that you inspect or regulate as a state employee.
3. Do not start a business if you would take action as a state employee affecting that business. For example, if in your state job you regulate plant nurseries, do not start operating your own plant nursery business.
4. Contact the Ethics Commission for advice before you start a business with another employee in your state agency or before you hire an employee in your agency to work for your business.

II. Things to know once you have a second job or some other source of income

If you already have an outside job or business, follow these guidelines:

1. Do not take any action as a state employee affecting your private employer, your own business, or your business clients. You must completely disqualify yourself from any "official action," which includes making any decisions or recommendations affecting your private employer or business.³
2. Do not use your state position to advertise or promote any private business (your own or someone else's) or to get special treatment for any business.
3. Do not use state time, equipment, facilities, or other state resources (including state personnel, state vehicles, and state e-mail) for private business purposes. This means: do not use state e-mail to rent out a property you own; do not use state time to make fundraising calls for a non-profit; and do not sell things, or ask for donations for a fundraiser,⁴ at work.
4. Do not accept private pay for doing something that is part of your state job. You may, of course, accept overtime pay from the State, but you cannot get extra money from a private party for doing your state job.⁵
5. Do not assist anyone for pay on a matter before your state agency or on a matter you worked on, or will work on, as a state employee. For example, do not work for pay to help someone obtain a permit from your agency.
6. Do not solicit or enter into substantial financial transactions with anyone you supervise or regulate as a state employee. For example:
 - a. Do not rent an apartment or sell a car to anyone you supervise or regulate.
 - b. Do not perform outside work for pay for anyone you supervise or regulate and do not do any outside work for pay for your state supervisor.
7. Do not disclose any confidential information you get from your state job.

Your state agency might have additional policies that apply to outside employment or private business activities by employees, so check with your supervisor if you have questions about other rules that may apply to you.

Questions? If you have any questions or would like to request confidential guidance about a specific situation, contact the Hawaii State Ethics Commission at (808) 587-0460 or ethics@hawaiiethics.org.

¹ These guidelines are based on laws in the State Ethics Code, Hawaii Revised Statutes ("HRS") Chapter 84, relating to conflicts of interests (HRS § 84-14) and the prohibited misuse of an employee's official position (HRS § 84-13).

² Under the State Ethics Code, a "business" includes any person or organization carrying on a business, including non-profit organizations. HRS § 84-3.

³ "Official action" also includes conducting inspections or investigations, issuing licenses or permits, and procuring goods or services. Even if you are not a final decision-maker, you are taking "official action" if you give your recommendations or opinions about something in your state job.

⁴ Things like the State's Aloha United Way campaign are okay. It is also okay to collect money for a co-worker's birthday cake, so long as no one is coerced to contribute.

⁵ Some employees, such as court reporters, are allowed by law to receive private pay for their state services. This is okay under the State Ethics Code.



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THE STATE ETHICS CODE – A QUICK GUIDE ON GIFTS

Whether you can accept a gift, an invitation to an event, or a trip, and what (and when) you need to report

This guide provides general guidelines on whether state officials can accept gifts. However, every situation is different, so please call us if you have questions!

Any time you are offered a gift, there are three ethics laws to consider:

1. The **gifts law** prohibits you from accepting any gift where there is a reasonable inference that the gift is intended to influence you in the performance of your job.
2. The **gifts reporting law** requires that you file an annual report (in June) if you have received, from one source, any gift(s) that, singly or together, are valued at more than \$200.
3. The **fair treatment law** prohibits you from getting extra perks (or “unwarranted” benefits) for yourself or someone else.

The first question is whether you can accept a gift. The State Ethics Commission looks at three factors:

1. **Donor.** Who is offering the gift to you? What is that person’s relationship to you? If you are directly regulating someone – that is, if you decide whether someone gets a permit, or funding, or a citation – then you generally should not accept anything from that person, regardless of its value. If the person giving the gift is a long-time personal friend who never does business with your state agency, that’s probably okay. This is usually the first question we ask – if the donor relationship creates a problem, we usually don’t even look at the second two factors.
2. **Value.** How much is the gift worth? Is someone giving you a pencil worth a few cents or a round of golf worth \$100? The public should trust you to do your job with integrity; this trust may be lost if people see you taking lavish trips, eating fancy meals, or otherwise enjoying expensive things that are paid for by someone else.
3. **State purpose.** How will the State benefit if you accept the gift?

Here are some things to consider when deciding whether to accept a gift:

Educational value. Will the gift (for example, a gift that involves travel to attend a conference) help you better perform your state job? Usually, we look at whether there is real educational value in attending an event or going on a trip (either for you to gain knowledge or for you to impart your expertise, if that’s within your agency’s mission). On the other hand, is the event really just entertainment, like a sports event or a concert? Keep in mind that “networking” alone probably isn’t enough to show that a gift will benefit the State.

Protocol. Going to an event with visiting dignitaries from another country is part of the job for some government officials, such as the Governor, and those officials have more discretion to go to events for protocol purposes. For legislators, the Ethics Commission gives some weight to events within the legislator’s district.

The Commission may allow individuals to accept certain gifts when refusing such a gift would be culturally inappropriate – for example, legislators can usually accept inexpensive (under \$25) “gifts of aloha” from constituents. The Commission looks at what your job is with the state and how your acceptance of this gift may – or may not – fit within the State’s mission and your job duties.

No State Purpose. Certain gifts are almost always prohibited:

- Travel upgrades (for example, an upgrade to first-class plane travel or to a nicer hotel room offered to you because of your position with the state);
- Golf;
- Tickets to concerts, sporting events, theatrical performances, movies, and other entertainment events;
- Cash or gift cards.

The following charts may help, but please remember, the State Ethics Commission is here to help you! Any time you have a question about the Ethics Code – for example, if you’re wondering whether you can (or should) do something – please contact us. We have an attorney of the day ready to take your (confidential) call or e-mail. You can reach us at ethics@hawaiiethics.org or (808) 587-0460. Also, the Ethics Commission offers trainings at least once a month. Check <http://ethics.hawaii.gov> for the latest schedule. We look forward to working with you – and more than 50,000 other state employees, board members, and commission members – to maintain the highest ethical standards in government!

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THE STATE ETHICS CODE – A QUICK GUIDE ON CAMPAIGN ACTIVITIES FOR STATE OFFICIALS AND EMPLOYEES

1. Restrictions on Using State Resources for Political Campaigns

The Fair Treatment law of the State Ethics Code, Hawaii Revised Statutes (“HRS”) § 84-13, prohibits state legislators, state employees, and state board and commission members from using state resources for private business purposes, including political campaign purposes. This includes the following:

-  **State Time:** State officials and employees may not conduct campaign related business during state work hours, or use state personnel to perform campaign tasks or activities during state work hours.
-  **State Position:** State officials and employees may not use their official position to pressure others into making campaign contributions, providing campaign assistance, or otherwise supporting a candidate.
-  **State Facilities:** State officials and employees may not solicit campaign donations or conduct campaign business on state premises, including state offices and meeting rooms. State employees may not post campaign signs in their state workplace. Additionally, state officials and employees may not allow candidates to conduct “walk-throughs” of state agencies. State premises or facilities that are available for public use may generally be used for campaign activities on the same terms that apply to the general public (for example, renting a school cafeteria for a public meeting), though some facilities - like Washington Place - prohibit campaign activities altogether.
-  **State Equipment and Supplies:** State officials and employees may not use state equipment (such as telephones, copy machines, fax machines, computers, vehicles), or state supplies (such as copy paper, stamps, and other office supplies) for campaign-related tasks or activities.
-  **State Email Server:** State officials and employees may not use their state email accounts to send campaign related emails, or respond to campaign emails received at a state account (other than to request that the sender stop sending such emails). Political candidates should avoid sending campaign emails to any state email address.
-  **State Websites or Social Media Pages:** State websites or official state social media pages cannot contain campaign related materials, such as campaign logos or photos of people in campaign t-shirts. State websites may not contain links to campaign websites.
-  **State Newsletters:** State newsletters cannot contain campaign materials, such as requests for donations or the campaign’s address/contact information.
-  **State Seal:** The State Seal generally may not be used on any campaign materials, as it gives the impression that the State of Hawaii is endorsing a particular political candidate. Use of the State Seal in any advertisement or in any manner likely to give the impression of official state approval is a misdemeanor. See HRS § 5-6.
-  **State Funds:** State funds may not be used to pay for campaign-related expenditures or activities, such as tickets to political fundraisers, campaign literature or signs, postage for campaign materials, food for campaign events, or travel made principally for a political campaign.



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THE STATE ETHICS CODE – A QUICK GUIDE FOR NEW EMPLOYEES AND BOARD/COMMISSION MEMBERS

Congratulations, and thank you for your service to the people of Hawaii!

As a state employee or board/commission member (even if you aren't paid!), you must now follow Hawaii's Ethics Code, a set of laws designed to ensure integrity in state government. Here are some of the key things you need to know:

- 1.** The State Ethics Commission is here to help you! Any time you have a question about the Ethics Code – for example, if you're wondering whether you can (or should) do something – contact us! We have an attorney of the day ready to take your call or e-mail. You can reach us at ethics@hawaiiethics.org or **(808) 587-0460**.
- 2.** The Ethics Code has several major requirements, including:
 - **No "gifts" for doing your state job.** You may not accept any gifts where there is a reasonable inference that the gift is intended to influence you in the performance of your job. There are some times when you can accept gifts, but you may have to report them to the Ethics Commission. Contact us if you have questions!
 - **No extra "perks" for doing your state job.** You may not use your state position to gain "unwarranted" benefits for yourself or someone else. This means:
 - Don't use your state position to try to get employment for yourself;
 - Don't accept any extra pay or perks for doing your job (like an honorarium or any type of extra money or prize);
 - Don't use state time, equipment, or resources for private business purposes (for example, don't do any fundraising for a non-profit or a school group in the office, and don't engage in anything campaign-related using state resources);
 - Don't engage in substantial financial transactions with subordinates (for example, don't sell a car or rent an apartment to a subordinate).
 - **No conflicts of interest.** You may not take official action affecting a company in your state capacity where you, your spouse, or your dependent children have a financial interest in the company. For example, you can't award a state contract to a company that employs your spouse, and you can't be paid to represent a company on a matter before your state agency or board/commission. Contact us if you have questions!
 - **Financial disclosures.** Many state employees and board/commission members are required to file a financial disclosure within 30 days of taking office (and annually thereafter). If you don't know whether you're covered, please contact us and we can help!
 - **Restrictions on post employment.** There are laws that cover what you can (and can't) do once you leave your state office – in many instances, there is a one-year or two-year "cooling off" period before you can represent a private company before your former state agency.
- 3.** The Ethics Commission offers trainings at least once a month. Check <http://ethics.hawaii.gov> for the latest schedule. Some employees and board/commission members are required to attend training – ask your department or contact us to find out whether this applies to you.

More information is available on our website and at <http://bit.ly/hsec-board-commission>. Don't hesitate to contact us if you have any questions! We look forward to working with you – and more than 50,000 other state employees, board members, and commission members – to maintain the highest ethical standards in government!

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THE STATE ETHICS CODE – A QUICK GUIDE ON POST-EMPLOYMENT LAWS

Are there any restrictions on me once I leave my job with the State of Hawaii? What if I'm an unpaid Board or Commission member?

Yes. The post-employment laws apply to anyone who has worked for the State for at least six months, as an employee, legislator, or unpaid Board/Commission member.

What are the post-employment rules?

There are three restrictions:

1. A one-year restriction on certain kinds of private work;
2. A two-year restriction on contracts with the State; and
3. A permanent restriction on revealing confidential information.

Here's how each one works:

1. **One-year "cooling off" period.** For one year after you leave state employment, you may not:
 - a. represent someone else, for pay, before your former agency; or
 - b. represent someone else, for pay, on any matters you worked on while at your former agency.

In other words, for one year, you may not communicate directly with your former agency on behalf of a private employer. Also, for one year, you can't represent your company before any state agency on matters you worked on while a state employee.

2. **Two-year restriction on certain kinds of contracts.** The Ethics Code prohibits a state agency from contracting with a private company if:
 - a. the private company is assisted by a former employee of the state agency;
 - b. the former employee worked on the same matter while s/he worked for the State; and
 - c. the former employee left state employment less than 2 years ago.

Here's how this works: let's say you work on a project for the State, and you then leave your state job to work for a private company. Your new employer wants to bid on a contract with the State involving the same project. If you assist the company with its bid, and you left your state job less than 2 years ago, the State cannot enter into the contract with your company. In other words, by assisting the company with its bid, you could "taint" the potential contract, costing your new private employer the opportunity to work on that contract. To see how this works in practice, see <http://bit.ly/Hlethics-2017-05>.

3. **Permanent restriction on using or revealing confidential information.** You may not disclose confidential information you learned while employed by the State or use it for anyone's benefit.

I'm retiring, but my agency wants to contract with me to finish up some work. Can we do that?

Yes, within limits. The State can contract directly with a former employee "to act on a matter on behalf of the State"; therefore, the State may enter into a limited contract with a former employee without any "cooling off" period. If you are thinking about doing this, please contact the Ethics Commission for advice.

Can I get help from the Ethics Commission before I leave my job with the State? What about after I leave?

Yes and yes! If you are thinking of leaving your state job, contact us for confidential guidance about what restrictions might apply to you in a new job. If you're already in your new job, you can still call us – it's free, it's fast, and it's confidential.

Is there anything else required by the Ethics Code before I leave State employment?

If you file a financial disclosure form each year, you may need to file an "exit" form. Similarly, you may need to file a final gifts disclosure statement if you received any reportable gifts in the last year. Contact the Ethics Commission for more information.