

# IS THE HAWAII STATE ETHICS COMMISSION REWRITING THE ETHICS CODE?



Recently, Leslie "Les" Kondo, Executive Director of the Hawaii State Ethics Commission (Commission) has been heavily criticized by state employees, officials, and legislators for Commission policies implemented since he became Executive Director in 2011. One of Kondo's biggest critics is Hawaii State House of Representatives Speaker, Joseph Souki.

In a <u>letter</u> sent to Edward Broglio, then Commission Chair, dated April 27, 2015, Souki calls on the Commission to "examine its own past opinions from the 1970s through 2010 and disavow any directive subsequent to that time that alter past accepted practices." Souki criticizes the use of "liberal construction' to justify departures from past practices and opinions" specifically policies regarding the "selection of charitable fundraising here at the Legislature or other state venues, bargaining unit candidates communicating with their fellow union members through the use of the employees' workplace mailboxes, teachers being compensated for chaperoning students on educational trips to distant destinations, and receipt of gifts, meals, and charitable fundraiser tickets that total, in one year, \$200 or less from a single source, etc."

Souki goes on to encourage the Commission to propose legislation to address recently implemented policies because "if the Ethics Code needs to be changed or clarified, the only proper place to do so is here at the Legislature."<sup>4</sup>

Common Cause Hawaii (CCHI) conducted an analysis of Souki's claims and complaints and recent Commission policies, in order to determine if the current Commission administration is indeed "trying to rewrite the Ethics Code to conform to their own notions of what constitutes ethical conduct."<sup>5</sup>

# **Analysis**

<u>Liberal construction, receipt of gifts, meals, and charitable fundraiser tickets</u>

The first complaint Souki raises against current Commission policies is the use of "liberal construction" to interpret ethics laws, specifically in determining which gifts may or may not be accepted by state legislators and employees.

Souki cites the Commission's August 2011 <u>Guidelines for Gifts Under the State Ethics Code</u> as an example. He claims the document "impose[s] a slew of departures from past practices and opinions, including among other things, prohibiting the receipt of gifts more than 'nominal' value and only permitting receipt of tickets to 'food and drink' events if they are under \$25."

Souki then gives the example of a December 2014 memorandum sent to legislators from the Commission that prohibited the acceptance of a gift basket received at the Legislature due its value being "relatively substantial." Souki claims that these policies are "inexplicable" because the <u>Hawaii Revised Statutes</u> (HRS) Chapter 84 "does not even require <u>disclosure</u> of gifts from a single source that total \$200 or less in a year, much less prohibit their receipt based on value

<sup>&</sup>lt;sup>1</sup> Joseph Souki to Edward Broglio, April 27, 2015, Civil Beat, <a href="http://www.slideshare.net/civilbeat/s-48464309">http://www.slideshare.net/civilbeat/s-48464309</a>, 4.

<sup>&</sup>lt;sup>2</sup> Ibid., 2.

<sup>&</sup>lt;sup>3</sup> Ibid., 1.

<sup>&</sup>lt;sup>4</sup> Ibid., 4.

<sup>&</sup>lt;sup>5</sup> Ibid., 1.

<sup>&</sup>lt;sup>6</sup> Ibid., 2.

<sup>&</sup>lt;sup>7</sup> Ibid.



alone." He then goes on to question "...why the Ethics Code does not require disclosure of a gift valued at \$200 or less, if every gift valued at more than \$25 was a violation of the Ethics Code? It seems clear to anyone familiar with the structure of the Ethics Code that the requirement to disclose gifts totaling over \$200 means that gifts valued below that amount are deemed insufficient to warrant inference that the gift is intended to influence or reward official action."

Upon examination of the HRS Chapter 84, CCHI found that HRS 84-1 states that "this chapter shall be liberally construed to promote high standards of ethical conduct in state government." This means that the Commission is legally obligated to use "liberal construction," when interpreting the Ethics Code as mandated by law.

Additionally, CCHI found that the use of "liberal construction" to interpret the Ethics Code has been used prior to Kondo's tenure as Executive Director. The Commission's June 2007 GIFTS AND THE STATE ETHICS CODE guideline, explains:

"In interpreting these statutes, the State Ethics Commission interprets the statutes in accordance with section 84-1, HRS, which provides that the State Ethics Code shall be 'liberally construed to promote high standards of ethical conduct in state government.' Black's Law Dictionary (Sixth Edition) states that 'liberal construction' of a statute means that statutes can be interpreted to expand the meaning of a statute to meet cases that are clearly within the spirit or reason of the law, or within the 'evil' which the law was designed to remedy, provided that the interpretation is not inconsistent with the language of the law."<sup>11</sup>

Further examination of HRS 84 reveals that Souki is correct with his claim that disclosure of gifts from a single source less than \$200, does not have be disclosed, assuming it was permissible to accept the gift in the first place, and other requirements as found in HRS 84-11.5,<sup>12</sup> are met.

However, the Gifts provision of the Ethics Code explicitly bans the acceptance of certain gifts. HRS 84-11 states:

"No legislator or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the legislator or employee in the performance of the legislator's or employee's official duties or is

<sup>&</sup>lt;sup>8</sup> Ibid.

<sup>&</sup>lt;sup>9</sup> Ibid.

 <sup>10 &</sup>quot;HRS §84-1 Construction." Hawaii State Legislature. Accessed July 23, 2015.
 http://www.capitol.hawaii.gov/hrscurrent/Vol02\_Ch0046-0115/HRS0084/HRS\_0084-0001.htm
 11 "GIFTS AND THE STATE ETHICS CODE." Hawaii State Ethics Commission. June 18, 2007. Accessed July 23, 2015. <a href="http://ethics.hawaii.gov/wp-content/uploads/2013/09/GiftAndTheStateEthicsCode.pdf">http://ethics.hawaii.gov/wp-content/uploads/2013/09/GiftAndTheStateEthicsCode.pdf</a>., 1.
 12 "HRS §84-11.5 Reporting of gifts." Hawaii State Legislature. Accessed July 27, 2015.
 http://www.capitol.hawaii.gov/hrscurrent/Vol02\_Ch0046-0115/HRS0084/HRS\_0084-0011\_0005.htm



intended as a reward for any official action on the legislator's or employee's part."<sup>13</sup>

The law, as interpreted by the Commission in the 2007 GIFTS AND THE STATE ETHICS CODE guideline and the June 2009 Questions and Answers on the Gift Disclosure Law guideline, means that acceptance of any gift may be prohibited, regardless of value, if it is reasonable to infer that the intent of the gift is to influence official action. <sup>14</sup> Moreover, the 2007 GIFTS AND THE STATE ETHICS CODE guideline warns that "state officials and employees must always bear in mind that the mere fact that there is a gifts disclosure law does not mean that receiving certain gifts is necessarily acceptable." <sup>15</sup>

The August 2011 <u>Guidelines for Gifts Under the State Ethics Code</u>, which Souki refers to in his letter, does say that "Gifts of Aloha" which are traditionally given as part of our local culture and can include lei, cookies, etc., or other nominal gifts, and meals and "food and drink" events valued at less than \$25 "generally, may be accepted." However, the introductory paragraph of the guideline explains that its purpose is to "outline the types of gifts that generally may be accepted and the types of gifts that generally may not be accepted under the law." It is not a comprehensive list of all the types of gifts that may or may not be accepted. The 2011 guideline also reiterates the Commission's previous opinions that if it is reasonable to infer the gift is intended to influence a state legislator or employee, then acceptance of the gift is prohibited.

Contrary to Souki's claims, the Commission has concluded, prior to and continuing through Kondo's tenure, that since the acceptance of a gift depends on "reasonable inference" or perception<sup>18</sup> that the intent of the gift is intended to influence a state legislator or employee, there is no definitive list as to which gifts may or may not be accepted, regardless of the value of the gift.

# Selection of charitable organizations

In his letter, Souki claims that "the recent attempt by Commission staff to suggest restrictions on charitable fundraising choices here at the Legislature and throughout state government" are "hurting" fundraising efforts. Additionally, while Souki doesn't specify which "recent attempt" he is referring to, he claims that the restrictions go against previous Commission rulings, such as INFORMAL ADVISORY OPINION NO. 99-4 and ADVISORY OPINION (AO) No. 245.

<sup>&</sup>lt;sup>13</sup> "HRS §84-11 Gifts." Hawaii State Legislature. Accessed July 29, 2015.

http://www.capitol.hawaii.gov/hrscurrent/Vol02 Ch0046-0115/HRS0084/HRS 0084-0011.htm

<sup>&</sup>lt;sup>14</sup> "Questions and Answers on the Gifts Disclosure Law." Hawaii State Ethics Commission. June 10, 2009. Accessed July 23, 2015.

http://ethics.hawaii.gov/guidance/publications/guidelines/gandagiftsdisclosurelaw/.

<sup>&</sup>lt;sup>15</sup> "Gifts and the Ethics Code." Hawaii State Ethics Commission. June 18, 2007. Accessed July 23, 2015. http://ethics.hawaii.gov/wp-content/uploads/2013/09/GiftAndTheStateEthicsCode.pdf., 1.

<sup>&</sup>lt;sup>16</sup> "Guidelines for Gifts Under the State Ethics Code." Hawaii State Ethics Commission. August 31, 2011. Accessed July 23, 2015. <a href="http://ethics.hawaii.gov/wp-content/uploads/2013/09/GiftsGuidelines.pdf">http://ethics.hawaii.gov/wp-content/uploads/2013/09/GiftsGuidelines.pdf</a>., 2. <a href="http://ethics.hawaii.gov/wp-content/uploads/2013/09/GiftsGuidelines.pdf">http://ethics.hawaii.gov/wp-content/uploads/2013/09/GiftsGuidelines.pdf</a>.

<sup>18</sup> Ibid.

<sup>&</sup>lt;sup>19</sup> Joseph Souki to Edward Broglio, April 27, 2015, Civil Beat, <a href="http://www.slideshare.net/civilbeat/s-48464309">http://www.slideshare.net/civilbeat/s-48464309</a>, 3.



<u>INFORMAL ADVISORY OPINION NO. 99-4</u> issued in 1999, began as a complaint brought against a state legislator, whose information including his official title and state office phone number was included in advertisements that promoted a charity event and the event's corporate sponsors.<sup>20</sup> The Commission was charged with deciding if this was a violation of the Fair Treatment provision of the Ethics Code:

"\$84-13 Fair treatment. 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; including but not limited to the following:

- (1) Seeking other employment or contract for services for oneself by the use or attempted use of the legislator's or employee's office or position.
- (2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the legislator's or employee's official duties or responsibilities except as provided by law.
  - (3) Using state time, equipment or other facilities for private business purposes.
- (4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the legislator or employee inspects or supervises in the legislator's or employee's official capacity.

Nothing herein shall be construed to prohibit a legislator from introducing bills and resolutions, or to prevent a person from serving on a task force or from serving on a task force committee, or from making statements or taking official action as a legislator, or a task force member or a task force member's designee or representative. Every legislator, or task force member or designee or representative of a task force member shall file a full and complete public disclosure of the nature and extent of the interest or transaction which the legislator or task force member or task force member's designee or representative believes may be affected by the legislator's or task force member's official action."<sup>21</sup>

The Commission decided that because the charities were a part of the legislator's constituency, "there was no evidence of the legislator's endorsing the companies or soliciting business for the companies," and that "support of charities in this case was for a public, as opposed to a private, purpose," the legislator was not in violation of the Ethics Code.

As stated in Souki's letter, the Commission does say that it "...believes that HRS section 83-13 is not violated when a legislator uses his or her position for a legitimate state purpose, such as to assist charities that benefit one's constituency or the State as a whole."<sup>24</sup>

<sup>&</sup>lt;sup>20</sup> "INFORMAL ADVISORY OPINION NO. 99-4." Hawaii State Ethics Commission. August 27, 1999. Accessed July 24, 2015. <a href="http://files.hawaii.gov/ethics/advice/IAO99-04.pdf">http://files.hawaii.gov/ethics/advice/IAO99-04.pdf</a>.

<sup>&</sup>lt;sup>21</sup> "HRS §84-13 Fair treatment." Hawaii State Legislature. Accessed July 24, 2015. http://www.capitol.hawaii.gov/hrscurrent/Vol02\_Ch0046-0115/HRS0084/HRS\_0084-0013.htm

<sup>&</sup>lt;sup>22</sup> "INFORMAL ADVISORY OPINION NO. 99-4." Hawaii State Ethics Commission. August 27, 1999. Accessed July 24, 2015. http://files.hawaii.gov/ethics/advice/IAO99-04.pdf., 2.

<sup>23</sup> Ibid.24 Ibid.



However, the opinion does not give blanket approval allowing legislators to use their title to assist all charities, as later in the opinion the Commission warns that:

"Although the State Ethics Commission saw no violation of the State Ethics Code in this case because there was no evidence of the legislator's endorsing the companies or soliciting business for the companies, the Commission believed that legislators and other state officials and employees must be vigilant with regard to the use by others of their state titles or state telephone numbers. The use of a state telephone number and similar information in private business solicitations can give rise to ethics complaints and the appearance of unethical activity. State officials and employees must take reasonable steps to ensure that their state offices, state equipment, and state facilities are not inadvertently misused to accord any unwarranted advantages or preferential treatment." 25

ADVISORY OPINION NO. 245, issued in 1976, opined that state employees could use state time for the solicitation of funds for that particular charitable program. It was not a violation of the Fair Treatment provision of the Ethics Code, prohibiting "the use of 'state time, equipment or other facilities for private business purposes." It was determined that the charitable program in question, enjoyed broad-based support "and had been made 'public business' by the State," as noted by Souki in his letter.

What Souki fails to note is that in 2007, the Commission opined in <u>ETHICS GUIDELINES FOR AUW FUND RAISER ACTIVITIES CONDUCTED BY STATE AGENCIES</u>, that AO No. 245 only applies to the charitable organization, The Aloha United Way (AUW). The guideline states that:

"Although fund raising in state offices for 'private business' purposes is generally prohibited by the State Ethics Code, the AUW Campaign has been adopted as a state function by the State and is therefore not considered 'private business.' The State has authorized the use of state agency resources to support the AUW, which funds a broad range of community services in Hawaii. State agencies, therefore, may participate in fund raising for the AUW under the State Ethics Code. (See Advisory Opinion No. 245, issued by the Hawaii State Ethics Commission in 1976, in which the Commission determined that the AUW Campaign is a legitimate state function.)" 28

Furthermore, the <u>memorandum</u> from then Commission Executive Director Daniel Mollway, issued on November 13, 2000, reminds all state department heads, officials, and employees "that private fundraising is prohibited under the State Ethics Code, chapter 84, Hawaii Revised Statutes (HRS)."<sup>29</sup> The memorandum goes on to explain that:

<sup>&</sup>lt;sup>25</sup> Ibid.

<sup>&</sup>lt;sup>26</sup> "OPINION NO. 245." Hawaii State Ethics Commission. March 19, 1976. Accessed July 24, 2015. http://files.hawaii.gov/ethics/advice/AO245.pdf., 1.

<sup>&</sup>lt;sup>28</sup> "ETHICS GUIDELINES FOR AUW FUND RAISER ACTIVITIES CONDUCTED BY STATE AGENCIES." Hawaii State Ethics Commission. August 8, 2007. Accessed July 24, 2015. http://ethics.hawaii.gov/wp-content/uploads/2013/09/AUWFund.pdf.

<sup>&</sup>lt;sup>29</sup> "Fundraising in State Offices." Hawaii State Ethics Commission. November 13, 2000. Accessed July 24, 2015. http://ethics.hawaii.gov/wp-content/uploads/2013/09/fundStateOffice.pdf



"The State Ethics Commission has long maintained that the initial paragraph of HRS section 84-13 and HRS section 84-13(3) prohibit state officials and employees from using state time, equipment, facilities, and personnel for fundraising purposes for a private entity or business. The State Ethics Commission has long held that a state official or employee violates HRS section 84-13 by conducting fundraising activities for a private enterprise or business within his or her state department." 30

The Ethics Commission has determined and consistently held for many years, that solicitation for "private business" purposes, including charitable organizations with the exception of Aloha United Way, by state legislators, officials, and employees, using state time and resources, is generally prohibited.

# "Mailbox" and educational travel rules

Souki also criticizes the Commission's recent policies affecting teachers. Specifically, the "mailbox" and educational travel rules, implemented in early 2015.

The "mailbox rule", as coined by Souki, prohibits teachers' use of school mailboxes to distribute materials soliciting support for a candidate in a Hawaii State Teachers Association (HSTA) election.<sup>31</sup> As explained by Kondo at the Commission's March 2015 meeting, allowing teachers' to use school mailboxes to distribute campaign materials would violate the Fair Treatment provision of the Ethics Code, which prohibits state employees from using their position to give someone, including themselves, an unfair advantage, and prohibits the use of state time and resources for private business activities.<sup>32</sup>

The reasoning for the new policy, Kondo explained at the Commission's March 2015 meeting, was that the Commission had previously determined that under the Fair Treatment provision, state employees, which includes Department of Education (DOE) staff and teachers, may not use state time and resources for private business purposes, such as political campaign activities. Kondo acknowledged that Commission staff "recognizes that the HSTA election is distinguishable from election to state or county office; however... [Commission] staff considers the teacher-candidate's distribution of his campaign material to be similar."<sup>33</sup>

The new educational travel policy, that Souki refers to in his letter, prohibits DOE teachers from accepting free trips and other benefits from educational tour companies when coordinating and participating in student educational tours.<sup>34</sup> Current procedures have teachers coordinating all logistical aspects of the trip from selecting a tour company, soliciting students to join the trip, recruiting chaperones, etc. It was found that often, teachers receive benefits from tour

<sup>30</sup> Ibid.

<sup>&</sup>lt;sup>31</sup> Hawaii State Ethics Commission, Minutes of the Meeting of the Hawaii State Ethics Commission, Meeting of March 18, 2015. Accessed July 27, 2015. <a href="http://ethics.hawaii.gov/wp-content/uploads/2015/04/2015-03-18-Sunshine-Law-Minutes.pdf">http://ethics.hawaii.gov/wp-content/uploads/2015/04/2015-03-18-Sunshine-Law-Minutes.pdf</a>.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>&</sup>lt;sup>34</sup> Hawaii State Ethics Commission, Minutes of the Meeting of the Hawaii State Ethics Commission, Meeting of February 18, 2015. Accessed July 27, 2015. <a href="http://ethics.hawaii.gov/wp-content/uploads/2015/03/2015-02-18-Sunshine-Law-Minutes.pdf">http://ethics.hawaii.gov/wp-content/uploads/2015/03/2015-02-18-Sunshine-Law-Minutes.pdf</a>, 7.



companies such as free airfare, free accommodations, a stipend, and points to be used on future trips. The Commission determined that receipt of these benefits is a violation of the Gifts provision of the Ethics Code HRS 84-11 "which states that no employee can accept a gift if it can reasonably be inferred that the gift is intended to influence or reward any official action." In this case, trip benefits are seen as an attempt to influence a teacher's (a state employee of the DOE) decision on which tour company to utilize.

Souki is correct in his claim that both of these new policies have ended longstanding common practices.<sup>36</sup> He is also correct in his assertion that educators are unhappy with the new policies. The HSTA began legal action to stop the implementation of the "mailbox" rule, shortly after the Commission issued the policy.<sup>37</sup> Meanwhile, the DOE is working with the Commission to create new administrative rules so that educational trips may continue without violating the Ethics Code.<sup>38</sup> As of July 2015, the outcome for both of the new policies remains in limbo.

Although DOE teachers may be unhappy with the new policies, they are state employees, and thereby subject to state Ethics law. The Commission has the authority to create and enforce them. Hawaii Revised Statutes 84-31, grants the Commission the power to "...adopt, amend, and repeal any rules, not inconsistent with this chapter [84], that in the judgment of the commission seem appropriate for the carrying out of this chapter... The rules, when adopted...shall have the force and effect of law."<sup>39</sup>

## <u>Legislative Package</u>

In his closing, Souki "encourage[s] the Commission to propose a legislative package which addresses all the specific practices or limits that it or its staff has sought to impose over the last several years."

The Commission's legislative package<sup>41</sup> includes all the bills proposed by the Commission and introduced at the Legislature. Upon review of the Commission's legislative packages, from 2011-2015, since Kondo has been Executive Director of the Commission, CCHI found that none of the 46 bills introduced (including companions) in the last 4 years have passed. Of the 46 bills introduced, 20 were re-introduced in subsequent legislative sessions, meaning that 43.6% of the bills proposed by the Commission failed to become law multiple times. See Table 1.

36 Lind, Ian. "Hawaii Monitor: Ethics Commission Ruling Draws Teachers' Union Lawsuit." Civil Beat. March 25, 2015. Accessed July 28, 2015. http://www.civilbeat.com/2015/03/hawaii-monitor-ethics-commission-ruling-draws-teachers-union-lawsuit/
37 Ibid.

<sup>35</sup> Ibid., 8.

<sup>&</sup>lt;sup>38</sup> Hawaii State Ethics Commission, Minutes of the Meeting of the Hawaii State Ethics Commission, Meeting of May 27, 2015. Accessed July 28, 2015. http://ethics.hawaii.gov/wp-content/uploads/2015/07/2015-05-27-Sunshine-Law-Minutes.pdf

<sup>&</sup>lt;sup>39</sup> "HRS §84-31 Duties of commission; complaint, hearing, determination." Hawaii State Legislature. Accessed July 28, 2015. http://www.capitol.hawaii.gov/hrscurrent/Vol02\_Ch0046-0115/HRS0084/HRS 0084-0031.htm

<sup>&</sup>lt;sup>40</sup> Joseph Souki to Edward Broglio, April 27, 2015, Civil Beat, <a href="http://www.slideshare.net/civilbeat/s-48464309">http://www.slideshare.net/civilbeat/s-48464309</a>, 4.

<sup>&</sup>lt;sup>41</sup> "Package Report." Hawaii State Legislature. Accessed June 2015. http://www.capitol.hawaii.gov/advreports/advreport.aspx?report=package&pkey=37&year=2015&name=S tate Ethics Commission



Table 1

Legislative Biennium	# of Bills introduced	# of bills passed	# of bills that were previously introduced between 2011-2015
2011-2012	10	0	
2013-2014	18	0	6
2015	18	0	14
Total	46	0	20

It was also found that none of the bills included in the Commission's legislative package relates to any of the policies referred to by Souki in his <u>letter</u> to then Commission Chair Edward Broglio, dated April 27, 2015. None attempted to revise the Gifts provision of the Ethics Code. Eight of the 46 bills introduced attempted to revise the Fair Treatment provision, as related to task force members. The bills sought to clarify that task force members must file financial disclosures, make the disclosures public, and/or repeal task force member exemptions relating to conflicts of interest and disclosure prohibitions. The remaining 38 bills introduced by the Ethics Commission mainly attempted to strengthen ethics laws regarding lobbyist expenditures, filing of false statements, mandatory ethics trainings, and nepotism.

It is important to note that majority all of bills introduced at the Legislature do not pass and become law. In 2015, for example, only 8.4% of the 2,894 bills introduced became law. <sup>42</sup> Common Cause Hawaii is not speculating as to why none of the bills from the Commission's legislative package did not pass.

As to Souki's suggestion that the Commission go to the Legislature to address "...specific practices or limits...,"<sup>43</sup> the Commission is not required to do so. Hawaii Revised Statutes 84-31, grants the Commission the power to "...adopt, amend, and repeal any rules"<sup>44</sup> to enforce Hawaii's Ethics Code. Only when amending the law (HRS), do proposed changes need to go through the legislative process. The policies that Souki cited in his letter, are based on the Commission's interpretations of the law, some of which date back prior to Kondo's tenure as Executive Director of the Commission.

### Conclusion

In 1978, the people of Hawaii voted to create the Ethics Code<sup>45</sup> to hold state legislators, officials, and employees to the highest ethical standards. The State of Hawaii Ethics Commission was created to administer and enforce the Ethics Code. This includes the ability to

<sup>&</sup>lt;sup>42</sup> "Hawaii State Legislature Regular Session of 2015 Legislative Statistics as of July 13, 2015." Legislative Reference Bureau. July 13, 2015. Accessed July 28, 2015. http://lrbhawaii.info/reports/legrpts/lrb/2015/legstats15.pdf

<sup>&</sup>lt;sup>43</sup> Joseph Souki to Edward Broglio, April 27, 2015, Civil Beat, <a href="http://www.slideshare.net/civilbeat/s-48464309">http://www.slideshare.net/civilbeat/s-48464309</a>, 4.

<sup>44 &</sup>quot;HRS §84-31 Duties of commission; complaint, hearing, determination." Hawaii State Legislature. Accessed July 28, 2015. http://www.capitol.hawaii.gov/hrscurrent/Vol02\_Ch0046-0115/HRS0084/HRS 0084-0031.htm

<sup>&</sup>lt;sup>45</sup> "The Constitution of the State of Hawaii." Hawaii Legislative Reference Bureau. Accessed July 31, 2015. http://lrbhawaii.org/con/



"adopt, amend, and repeal any rules..." In addition, the law mandates the Commission to use "liberal construction" to "promote high standards of ethical conduct in state government." Therefore, the Commission is within its rights to uphold or amend past practices and policies, and/or create new ones.

However, in order to fully hold state legislators, officials, and employees to the highest ethical standards, the modification or creation of rules, must be done in conjunction with strengthening ethics laws via legislation. In 2013, 2014, and 2015 the Commission proposed various bills that would have created stronger reporting requirements and closed loopholes in the Fair Treatment provision of the Ethic Code. Legislators should support and pass such laws.

Rather than bickering about the Commission's policies, old and new, all state legislators, officials, and employees must make every effort to live up to the high ethical standards, as mandated and set forth by the people of Hawaii, to ensure that the public's trust in the government has not been misplaced.

<sup>46</sup> Ibid.

<sup>&</sup>lt;sup>47</sup> "HRS §84-1 Construction." Hawaii State Legislature. Accessed July 23, 2015. http://www.capitol.hawaii.gov/hrscurrent/Vol02\_Ch0046-0115/HRS0084/HRS\_0084-0001.htm



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Hawaii State Ethics Commission, Minutes of the Meeting of the Hawaii State Ethics Commission, Meeting of May 27, 2015. Accessed July 28, 2015. <a href="http://ethics.hawaii.gov/wp-content/uploads/2015/07/2015-05-27-Sunshine-Law-Minutes.pdf">http://ethics.hawaii.gov/wp-content/uploads/2015/07/2015-05-27-Sunshine-Law-Minutes.pdf</a>

"Hawaii State Legislature Regular Session of 2015 Legislative Statistics as of July 13, 2015." Legislative Reference Bureau. July 13, 2015. Accessed July 28, 2015. <a href="http://lrbhawaii.info/reports/legrpts/lrb/2015/legstats15.pdf">http://lrbhawaii.info/reports/legrpts/lrb/2015/legstats15.pdf</a>

"HRS §84-1 Construction." Hawaii State Legislature. Accessed July 23, 2015. http://www.capitol.hawaii.gov/hrscurrent/Vol02 Ch0046-0115/HRS0084/HRS 0084-0001.htm

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