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# Daniel Gluck: Director of state Ethics Commission helps lawmakers and workers comply with the law

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Dan Gluck

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Almost immediately upon becoming director of the state Ethics Commission, Daniel Gluck landed in the midst of a hot ethics battle that had been at the boiling point for some time: the commission's dispute with the teachers' union over accepting free travel for school trips.

The state Circuit Court already had ruled in favor of the teachers. But ultimately the former legal director of the American Civil Liberties Union decided against appeal and in favor of a mediated settlement, which was reached recently.

"I was litigating for a long time with the ACLU," Gluck said. "And I really enjoy litigation. I enjoy writing briefs and thinking through the legal arguments.

"But I think in terms of actually trying to solve problems, you really should try to sit down with the other party and see if you can work something out."

Gluck, 40, worked for Hawaii's ACLU office for 8-1/2 years, most recently on the conflicts between the homeless and government efforts to clear encampments.

He was born in Buffalo and received his undergraduate from Cornell University in New York and his law degree from Harvard University School of Law in Massachusetts.

Married and the father of a son, 7, and daughter, 3, Gluck and his wife fell in love with Hawaii while he was on an internship with the U.S. Attorney's Office and settled here after graduation two years later.

Now his attention turns to the newly convened Legislature doing outreach, and submitting the commission's own omnibus bill that seeks to clarify who must register as a lobbyist and other issues, and make a range of housekeeping changes to the law.

The state ethics code is in black and white, but there are always questions raised about what doing the right thing means, he said.

"Sometimes it's a little bit like trying to figure out whether you should use an umbrella in a rainstorm," Gluck said. "Like, if it's pouring, you definitely should; if it's sunny, you definitely shouldn't.

"But here in Hawaii there are all kinds of times in the middle where it might not necessarily be crystal clear."

**QUESTION:** What do you bring from your years at the ACLU to this position?

**ANSWER:** Both jobs are a bit of a watchdog, right? With the ACLU, I was outside the government, looking at government agents.

We're still looking at other government officials and making sure people are in compliance with the law. So I think in that way it's similar ...

**Q:** How are you approaching the Legislature? They don't answer to the same ethics code as other state workers, right?

**A:** There are some very slight differences as to what applies to the Legislature versus what applies to every other state official.

There are a couple of conflict-of-interest provisions, for example, that don't apply to the legislators, but they do apply to everybody else.

But the legislators are still bound by most of the rest of the ethics code. And so we at the Ethics Commission do oversee the legislators to make sure they are compliant.

**Q:** Can we talk about that distinction a bit? That provision doesn't apply to them in that they can vote?

**A:** That's right. It's left up to internal House and Senate rules to determine specifically what certain conflicts are.

And in particular, there's a lot of leeway for legislators to be able to have outside employment, and to be on boards of nonprofit organizations, without impeding their ability to vote, whereas other full-time state employees, there are stricter conflict-of-interest rules. ...

**Q:** But is there anything they have to do in terms of disclosure?

**A:** Yeah. Other than the conflicts rules, basically everything else applies to them.

So, for gifts, if they receive a gift or gifts from a single source valued at \$200 or more, they have to disclose. They have to do public financial disclosures once a year.

As candidates they have to do financial disclosures and then once they are elected they have to do another financial disclosure. We monitor all of those things that they have to file.

**Q:** But when it comes to voting, they don't have to disclose, "I am on the board of this or that," or "I am affected by this or that"?

**A:** There are internal House and Senate rules that they are bound by, but those are set internally by each of the organizations and not by the Ethics Commission.

The House determines its own rules as to who can vote and when, and when you have to recuse yourself, and the Senate does the same. ...

And the ethics code that applies to everybody is always a floor, not a ceiling. So different agencies may implement stricter rules than we have that apply to everybody else in the state. ...

One of the big concerns is ... you do want to make sure people can exercise their legislative function and can still actually vote on these things that come up. ...

**Q:** Did you have an approach to legislators at the start of session to make sure they know the rules?

**A:** Sure. ... I started on Aug. 1, and shortly after I started I made it a point to try to meet with every single one of the legislators at the Capitol. So, out of 76 I think I've done about 70 or 71 meetings ...

In those meetings I was just trying to get a sense of what the legislators thought were the ethics concerns that we ought to be working on.

For example: What can the Ethics Commission do better? How can we better serve the public?

**Q:** And what sort of ideas came out?

**A:** I was very happy to hear from the overwhelming majority of legislators that they do take ethics very, very seriously, they do want Hawaii to have strong ethics laws, and they do want to support the Hawaii State Ethics Commission however they can.

**Q:** Well, that's good. Was there any concern they had that were noteworthy?

**A:** Yeah, a couple of them had mentioned a concern that the Ethics Commission did not appear to be consistent or clear in how it was implementing the ethics code.

I always stress to people that they can always call and get our opinion; they can always call and get advice ahead of time.

And we always have an attorney of the day assigned who can take people's questions when they come in.

But you shouldn't necessarily have to consult a lawyer every time you want to figure out if you can go to lunch. So I'm trying to figure out a way that we can make the law as clear and consistent as possible. ...

**Q:** Do you know how they came up with the \$200 threshold for gifts?

**A:** No. ... It's interesting, though, because the \$200 is what you have to report. It doesn't necessarily mean that anything under \$200 you can take. In fact, we usually say that the border line for what you can take is \$25 or under, without too much concern.

But the things we look at for gifts, we look at what's the value of the gift, what's the relationship between the person giving it and the person receiving it, and then what, if any, state purpose is there in accepting the gift.

If you're talking about a state health inspector, for example, if you're talking about someone who goes and investigates restaurants and gives them a grade as to whether

they pass their inspection, when you have a state official who's working in a regulatory capacity like that, the answer is that you can accept nothing.

You don't want anything that would taint the judgment that the inspector is going to be making.

And then you have legislators, who can't really make those individual determinations; they're really only acting collectively. And so the calculation is a little bit different. ...

And then, state purpose: Is there anything the state is gaining? For example, you have lots of people who have trips that they take that are paid for by non-state entities.

Lots of times we look at that and we say, "Oh, the person is going to go to a conference, they're going to get all this wonderful information, the state's really going to benefit. So it's \$2,000, but it's also really beneficial to the state."

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**Correction:** Daniel Gluck earned his law degree at Harvard University in Massachusetts. An earlier version of this profile and in Friday's print edition said Harvard was in New York.