

ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU



ADVISORY OPINION NO. 188

This advisory opinion is in response to a request for the Ethics Commission [Commission] to render advice as to whether a City employee who is a candidate for elective office may properly solicit contributions from City personnel.

The Commission believes that the employee may do so.

The Commission understands the facts to be as follows:

The employee is a candidate for elected office and has solicited subordinate personnel for contributions in the form of time and money. Subordinate personnel who donate their time are assigned work to be performed outside of their regular City working hours. The employee/candidate has suggested amounts of monetary contributions. He has not terminated subordinates for contributions less than the suggested amount or for failing to make any contribution.

Given these facts, the ethical question is whether City personnel secure for themselves special advantage under Section 11-104, Revised Charter of the City & County of Honolulu 1973 (1984 Ed.) [RCH], by soliciting campaign contributions from subordinate personnel.¹

In general, the Commission recognizes that past and present elected officials in the City, State, and other jurisdictions routinely solicit campaign contributions from appointed government personnel. Elected officials do so because the appointed government personnel serve at the elected officials' pleasure and may lose their positions if the elected officials are not reelected. This situation gives incumbents an advantage beyond that which is available to candidates challenging incumbents. However, this situation is not a case of elected officers securing for themselves an advantage; the democratic system, in conjunction with a government staffed with both civil service and appointed personnel, has given them an advantage. For

¹Section 11-104, RCH, states:

Fair and Equal Treatment -- Elected or appointed officers or employees shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege or exemption to themselves or any person beyond that which is available to every other person.

example, the Mayor, the Prosecuting Attorney, and members of the City Council who are candidates for reelection have a similar advantage over candidates who do not hold elective office. These elected officers may solicit contributions from their appointed staff while candidates who do not hold office do not have such an advantage.

Similarly, in this case, the employee/candidate has solicited donations from his subordinates. Although he may not use City time, equipment, material, or premises to do so, he may request contributions from subordinates. Having subordinates is for him an inherent advantage and is not improperly securing an advantage under the City's standards of conduct. Therefore, the Commission does not believe that Section 11-104, RCH, or any other standard of conduct, applies to prohibit City personnel who are candidates for elected office from soliciting campaign contributions from the subordinate personnel.

In conclusion, you have asked whether City personnel may properly solicit contributions from subordinate personnel. The Commission believes they may do so, and that neither Section 11-104, RCH, nor any other standard of conduct applies to such contributions.

Dated: July 25, 1988

JANE B. FELLMETH
Chair, Ethics Commission