

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 235

This is an advisory opinion in response to a letter requesting an opinion from the Ethics Commission in regard to permissible subject matter for pre-employment interviews of prospective deputies of the Corporation Counsel or Prosecuting Attorney. Specifically, the issue is whether asking interviewees if they object to being asked to participate in City political campaigns for a particular office-holder is permissible.

The Commission understands the facts relative to this inquiry to be as follows:

On a radio "talk show" on September 3, 1993, a caller said he had applied for a position as a Deputy Corporation Counsel. He alleged that at his interview, he was asked whether he would be willing to campaign for Mayor Frank Fasi if asked to do so. He complained that he believed that question was improper. In response, First Deputy Corporation Counsel, Pamela Tamashiro indicated on that same "talk show" that it is standard practice for potential deputies of the Corporation Counsel to be asked if they would object to being asked to campaign for the Mayor. She explained that this matter is raised during the pre-employment interview so that potential deputies will have a full understanding of what may be asked of them should they accept the position.

In a meeting with the Ethics Commission, Ms. Tamashiro confirmed what she had stated on the radio and indicated that pre-employment interviews occur on City premises during customary City working hours. She also explained that according to the Charter, the Corporation Counsel must represent the Mayor in disputes between the Mayor and the Council, which means that the orientation of the office cannot help but be somewhat tilted towards the Mayor.

The ethical question presented is whether asking a potential deputy of the Corporation Counsel or Prosecuting Attorney during a pre-employment interview if he or she would object to being asked to campaign for a particular officeholder violates the City's Standards of Conduct.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.), Section 11-104, which states the following:

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.

Based on the evidence presented, the Commission finds that asking a potential deputy of the Corporation Counsel or Prosecuting Attorney during a pre-employment interview whether he or she would object to being asked to campaign for a particular office-holder violates the City's Standards of Conduct by giving some candidates for election special advantage over other candidates who cannot ask City employees to campaign for them. The Corporation Counsel has been advised to immediately cease asking prospective deputies whether they would object to being asked to campaign for the Mayor.

Furthermore, on December 22, 1993, Ordinance No. 93-113 became law. It provides additional standards of conduct concerning campaign contributions and campaign assistance, particularly in regard to exempt officers and employees of the City and County of Honolulu. This ordinance specifically prohibits the denial of employment because a person will not agree to make a campaign contribution or provide campaign assistance. Therefore, in addition to the Charter provisions in effect at the time this request for an opinion was filed, an ordinance also addresses this issue for the future. A copy of the new ordinance is attached for your information.

Dated: March 8, 1994

SAMUEL L. DOMINGO
Chair, Ethics Commission

