

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 281

This is an advisory opinion in response to your letter requesting advice from the Ethics Commission as to whether a conflict of interest with your City employment will be created if you accept an appointment to the state Campaign Spending Commission [CSC].

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

You have been a Deputy Prosecuting Attorney [DPA] with the City and County of Honolulu for approximately one year. At this time you do not review cases for charging, negotiate plea agreements, prepare cases for trial or participate in trying cases.

The Governor has appointed you to serve on the CSC for a term beginning July 1, 1997, and ending June 30, 2000, for which you will not be compensated. Hawaii law provides that if the CSC makes an administrative determination of probable cause that a person violated the state's campaign spending statutes, the matter is then referred either to the Attorney General or the Prosecuting Attorney of the appropriate county.

The CSC has provisions for a member to recuse himself or herself from proceedings in the event that a conflict of interest arises in regard to a specific matter. Furthermore, the Prosecuting Attorney has procedures for dealing with cases which create conflicts of interests with the office. In such situations, either the case can be sent to another county or the Attorney General or private independent council can be hired to prosecute the matter for the City.

The ethical question presented is whether your service as a member of the CSC would conflict with your duties as a DPA, providing the opportunity for you to violate the requirement for fair and equal treatment of all persons by City officers and employees.

The general rule in relation to your question is found in the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.), Section 11-104, which states in pertinent part:

[A]ppointed officers...shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege or exemption to...any person beyond that which is available to every other person.

Based on the evidence presented, the Commission finds that no conflict of interest *per se* is created by your service on the CSC while continuing to work as a DPA. However, the Commission expects that you will either recuse yourself from CSC proceedings or contact the Ethics Commission for an opinion should your circumstances significantly change.

Dated: July 24, 1997

GOLDIE D. BRANGMAN-DUMPSON
Chair, Ethics Commission