

ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 211, HONOLULU, HAWAII 96813-3091
Phone: (808)768-7786 · Fax: (808) 768-7768 · EMAIL: ethics@honolulu.gov
Internet: www.honolulu.gov/ethics

PETER B. CARLISLE
MAYOR



CHARLES W. TOTTO
EXECUTIVE DIRECTOR & LEGAL COUNSEL

September 12, 2012

TO: ALL CITY AGENCIES

FROM: CHARLES W. GALL, CHAIR, HONOLULU ETHICS COMMISSION

SUBJECT: REVISED GUIDELINES ON CAMPAIGN ACTIVITIES

The following guidelines on campaign activities are based on Section 11-102(c), Revised Charter of Honolulu (RCH),¹ relating to compatibility with official duties, and Section 11-104, RCH,² relating to fair and equal treatment. The general law is that City personnel are prohibited from using City paid time, equipment, facilities and other resources for political campaign activities or purposes. The reason that City resources may not be used to support campaign tasks is to protect against the exploitation of taxpayer resources for the benefit of a political candidate. Performing campaign work on City time or with other city resources deprives the public of the services of City officers and employees. Moreover, when city resources are turned to political use, one candidate receives an unfair advantage paid for by the public.

The examples of prohibited campaign activities are for illustration only and are not meant to be all-inclusive. For information and advice regarding specific questions, contact the Ethics Commission. The identity of those making inquiries are kept confidential.

¹ **Section 11-102. Conflicts of Interest --**

No elected or appointed officer or employee shall:

(c) Engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

² **Section 11-104. 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.

No City officer or employee is permitted to:

1. Use City time, equipment, material, or premises for campaign activities or purposes.
 - a. *City time* means the actual time during which a City officer or employee is supposed to be performing City duties. City time does not include lunch time or vacation time.
 - b. *City equipment* includes, but is not limited to: copying machines, telephones, facsimile machines, typewriters, computers, email accounts and motor vehicles.
 - c. *City material* includes, but is not limited to: stationery, paper, envelopes, and stamps.
 - d. *City premises* include City offices, conference rooms, and working areas. City premises or facilities that are available for public use may be used for political campaign activities on the same basis as the facilities are available to the public.

Candidate “walk throughs” are no longer permissible.
 - e. *Campaign activities or purposes* include, but are not limited to: (1) selling, purchasing or distributing campaign fundraiser tickets; (2) conducting political meetings; (3) organizing or participating in political rallies or sign waving; (4) producing or distributing campaign literature or materials; (5) soliciting campaign assistance, support, or contributions; or (6) soliciting votes on behalf of candidates or ballot measures.
2. Use City personnel during City working hours for the purpose of performing campaign tasks or activities.
3. Use the City mail or messenger service for political campaign purposes.
4. Use his or her official title or position to give a special advantage to a political candidate or campaign.
 - a. City personnel may not make a political endorsement that gives a special advantage to a political candidate or campaign or that may reasonably be interpreted as an official endorsement of the candidate or campaign by the City or one of its agencies. In most cases, the mere identification of a City officer’s or employee’s official title or position, without more, will not be prohibited. However, endorsements that go beyond the mere identification of one’s title or position, such as the use of an official uniform in connection with campaign

activities, are likely to imply the official endorsement by the City or agency and would be prohibited.

- b. City personnel may not use their official positions to require anyone to contribute time or money to a campaign,³ such as by soliciting contributions from businesses

³ **Section 6-1112. Prohibitions --**

2. Political Activities.

(a) No person in the civil service shall (1) use official authority or influence for the purpose of interfering with an election or affecting the result thereof; (2) use official authority or influence to coerce the political action of any person or party; (3) be obliged to contribute to any political fund or to render any political service, nor shall such person be removed or otherwise prejudiced for refusing to do so; (4) solicit or receive any political contribution from any officer or employee or from any person in any city building or from any person receiving any benefit under any law of the State appropriating funds for relief or public assistance; or (5) discriminate in favor of or against any officer or employee on account of any political contribution.

(b) The foregoing prohibited activities shall not be deemed to preclude the right of any person in the civil service to vote and to express opinions as such person chooses on all political subjects and candidates or to be a member of any political party, organization or club. Any person in the civil service may make voluntary contributions to a political organization for its general expenditures. "Contribution" includes a gift, subscription, loan, advance or deposit of money or anything of value and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution.

Section 6-1112. Prohibitions --

3. Other Prohibited Activities.

(b) It shall be unlawful for any candidate for election to any public office or for any public officer or employee, any portion of whose compensation is paid by the city directly or indirectly, to solicit or assess any contribution or assessment for any political purpose whatever from any member in the civil service.

(c) No person shall, in any room or building occupied in the discharge of official duties by any officer or employee, solicit in any manner whatever or receive any contribution of money or other things of value from any officer or employee for any political purpose whatever.

(d) No officer or employee shall discharge, promote or demote or, in any manner, change the status or compensation of any other officer or employee or promise or threaten so to do for giving or withholding or neglecting to make any contribution of money or other things of value for any political purpose whatever.

(e) No officer or employee shall directly or indirectly hand over to any other officer or employee any money or other things of value on account of or to be applied to the promotion of any political object whatever.

(f) No officer or employee shall discharge, promote or demote or, in any manner, change the status or compensation of any other officer or employee or promise or threaten so to do because of the political or religious actions or beliefs of such other officer or employee or for the failure of such other officer or employee to take any political action for any political purpose whatever or to advocate or fail to advocate the candidacy of any person seeking an elective office.

Sec. 3-8.6 Additional standards of conduct concerning campaign contributions and campaign assistance.

(a) This section applies to the conduct of an exempt officer or employee. This section is additional to the prohibitions of Section 6-1112(2) and (3) of the revised charter, both of which are directed at an officer or employee in the civil service.

(b) For the purpose of this section:

"Campaign assistance" means any service, including donating time or anything of value, to assist:

(1) The campaign of a person seeking nomination or election to a public office;

(2) The effort to:

(A) Place a question on an election ballot; or

(B) Approve or reject a question which is on an election ballot;

- (3) The effort to recall an officer; or
- (4) The activities of a political party or campaign committee by:
 - (A) Serving as a member;
 - (B) Soliciting members;
 - (C) Performing administrative or other duties;
 - (D) Raising funds;
 - (E) Campaigning for the political party's or campaign committee's candidate or position on an issue; or
 - (F) Volunteering on a campaign or campaign committee.

"Campaign committee" means a "committee" as defined under HRS Section 11-191.

"Campaign contribution" means a "contribution" as defined under HRS Section 11-191.

"Exempt officer or employee" means an officer or employee exempt from the civil service pursuant to Section 6-1103, Section 6-1104, or any other provision of the revised charter.

"Officer or employee" means:

- (1) An officer or employee within the definition of "officers and employees" under Section 3-8.1; and
- (2) For the purpose of this section, an independent contractor with the city, whether or not contracted pursuant to competitive bidding procedures, and including, without limitation, a municipal bond dealer.

"Political party" means the same as defined under HRS Section 11-61.

(c) An exempt officer or employee shall not:

- (1) Coerce, demand, or otherwise require a campaign contribution or campaign assistance from another officer or employee;
- (2) Deny employment to a person who will not agree, as a condition of the employment, to:
 - (A) Make a campaign contribution or request a campaign contribution from another person; or
 - (B) Render campaign assistance or request another person to render campaign assistance;
- (3) Discharge, demote, decrease the compensation of, harass, or otherwise punish another officer or employee because that officer or employee:
 - (A) Refused to make a campaign contribution or render campaign assistance when requested or demanded by the exempt officer or employee or a third person;
 - (B) Sought or received an advisory opinion from the ethics commission on a possible violation of this subsection; or
 - (C) Filed with a public agency or officer a complaint alleging a violation of this subsection;
- (4) Promise or threaten to discharge, demote, decrease the compensation of, harass, or otherwise punish another officer or employee unless that officer or employee:
 - (A) Makes a campaign contribution or renders campaign assistance as requested or demanded by the exempt officer or employee or a third person;
 - (B) Refrains from seeking an advisory opinion from the ethics commission on a possible violation of this subsection; or
 - (C) Refrains from filing with a public agency or officer a complaint alleging a violation of this subsection;
- (5) Promote or increase the compensation of another officer or employee because that officer or employee made a campaign contribution or rendered campaign assistance when requested or demanded by the exempt officer or employee or a third person;
- (6) Solicit or request a specified or minimum campaign contribution amount from another officer or employee;
- (7) Request another officer or employee to provide a specified or minimum amount of campaign assistance; or

inspected by City personnel or promising or threatening employment changes for a City officer or employee. City personnel must also avoid combining official business with soliciting campaign contributions or assistance.

- c. City resources may be used in support of a legitimate government purpose that is within scope of duties expressly or implicitly associated with the position of the city officer or employee whose conduct is in question. At times, an issue of legitimate government concern also is or may be relevant to an election or ballot measure. Absent a showing that city resources were used primarily for political campaign activities or purposes as defined above, the government purpose was misrepresented or similar questions, the fact that there is both a governance and a political aspect to an issue does not alone create a violation of RCH Sec. 11-104.
5. Use the City seal on political campaign stationery or on campaign literature, materials, or advertisements. City personnel should avoid referring to opponents in campaigns in materials bearing the City seal.

A violation of the City's ethics laws may result in disciplinary action such as reprimand, probation, demotion, suspension or discharge. Elected City officers may be impeached for a violation. An exempt or elected officer or employee may be fined for misconduct. In addition, the violator may be required to reimburse the City for any benefit, fee, compensation or profit received by any one as a result of the violation.

(8) Solicit or receive any campaign contribution from a person, including another officer or employee, in a building or facility during its use for official city functions.

An exempt officer or employee also shall not request or direct another exempt officer or employee to engage in an activity prohibited under this subsection.

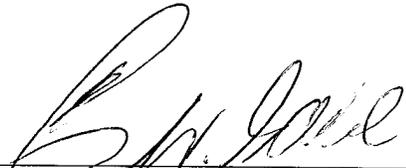
(d) The activities prohibited under subsection (c) shall not preclude an exempt officer or employee from:

- (1) Voting as the exempt officer or employee chooses;
- (2) Voluntarily expressing an opinion on any political candidate, question, or issue;
- (3) Voluntarily serving as a member of a political party, campaign committee, or other political organization;
- (4) Voluntarily making a campaign contribution or rendering campaign assistance; or
- (5) Voluntarily soliciting or requesting a campaign contribution or campaign assistance from another person, so long as the solicitation or request does not violate subsection (c).

(e) An exempt officer or employee who violates any provision of subsection (c) shall be guilty of a petty misdemeanor. The prosecution of a violation pursuant to this subsection shall be commenced within two years after commitment of the violation. No violation shall be prosecuted after the expiration of the two-year period. The prosecuting attorney shall be responsible for prosecution of a violation. If the prosecuting attorney becomes disqualified, the state attorney general shall have the responsibility for prosecution. The penalty of this subsection shall be in addition to the penalty provided under Section 3-8.5(a). Both penalties may be imposed for the same violation.

(Added by Ord. 93-113; Am. Ord. 94-54)

If you would like advice from the Ethics Commission concerning campaign activities or other issues, you may write a letter to or email the Commission at ethics@honolulu.gov or call 768-7786.



CHARLES W. GALL, Chair
Honolulu Ethics Commission

APPROVED FOR DISTRIBUTION:



DOUGLAS S. CHIN
Managing Director