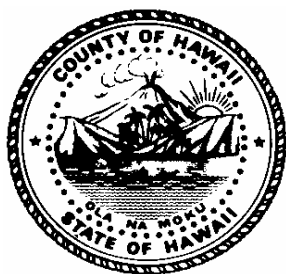


**County of Hawai'i  
Board of Ethics**

## TABLE OF CONTENTS

Introduction .....	3
Applicability .....	4
Gifts .....	5
Confidential Information .....	5
Fair Treatment .....	5
Conflicts of Interest .....	5
Prohibited Acquisition .....	6
Assistance Before County Agencies .....	6
Public Contracts .....	6
Restrictions on Post Employment .....	7
Financial Disclosures .....	8
When to File a Disclosure .....	9
Penalties for Failure to File a Disclosure .....	10
Advisory Opinions .....	10
Referral to Authority for Disciplinary Action .....	11
An Ethics Checklist .....	12



## INTRODUCTION

The Hawai'i County Charter's Article XIV established a Code of Ethics which is codified in Article 15 of the Hawai'i County Code. The Ethics Code provides standards of conduct for County officers and employees. This includes elected officials, appointed department heads and members of boards and commissions as well as regular civil service and non-civil service employees.

This guide is designed to give you a quick overview of the County's Ethics Code provisions. It is not intended as a comprehensive explanation of what is or what is not a permissible activity by County employees. Whenever in doubt, please seek an opinion from the Hawai'i County Board of Ethics.

You may contact the Board of Ethics through the Office of the Corporation Counsel at 961-8251 for samples of a request for an opinion, or for copies of Article 15, the Hawai'i County Ethics Code.

## **APPLICABILITY**

The Hawai'i County Ethics Code, Article 15, Sections 2-79 through 2-91.6, applies to you if you are a County officer or employee. Officers include the Mayor, members of the Council, and any person elected or appointed as administrative head, deputy or division chief of any agency of the County, or appointed as a member of any board or commission provided for in the Charter. An employee is anyone (other than an officer) who is employed by the County or any County agency, but does not include independent contractors. **Hawai'i County Charter Section 13-1.**

## **GIFTS**

You may not solicit or accept a gift under any circumstance in which it can reasonably be inferred that the gift is intended to influence you, as an officer or employee, in the performance of your duties or intended as a reward for any official action on your part. **Hawai'i County Code (HCC) Section 2-91.1.4.**

You must file a gifts disclosure statement with the Board of Ethics on June 30 of each year if:

- 1) You, a spouse or dependent child receives from one source any gift or gifts whose aggregate value exceeds \$100; and
- 2) The source of the gift(s) has interests that may be affected by official action that you take; and
- 3) The gift is not exempted by the Code from the reporting requirements. **HCC Section 2-91.5(a).**

## **CONFIDENTIAL INFORMATION**

You may not disclose or use confidential information acquired in the course of your employment for your personal gain or the benefit of others. **HCC Section 2-91.6.**

## **FAIR TREATMENT**

You may not use your County position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for yourself or others. **HCC Section 2-83.**

***NOTE:** Pursuant to the Hawai'i County Charter, Section 13-10, you may not appoint, employ, promote or advance an individual who is a relative of yours to any office or position under your supervision. A relative is defined as a father, mother, son, daughter,*

*brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, step-father, step-mother, step-son, step-brother, step-daughter, step-sister, half-brother, or half-sister.*

You may not seek other employment or contracts by use of your government position. **HCC Section 2-83(b)(1).**

You may not solicit or receive other compensation for performance of your government duties except as provided by law. **HCC Section 2-83(b)(2).**

You may not use County time, equipment, or other facilities for private business or campaign purposes. **HCC Section 2-83(b)(3).**

**Examples of Prohibited Campaign Activities:** Prohibited campaign activities include performing campaign activities on County time; producing campaign literature or materials with County equipment or County supplies; and distributing or selling fundraiser tickets or soliciting campaign assistance at County offices. You should not attend a campaign event in a County vehicle. However, County facilities that are available to the public for use may be used for political activities on the same basis as the facilities are available to the general public.

**Examples of Prohibited Private, Personal, or Business Activities:** Prohibited private, personal, or business uses include use of County computers, email, tools, supplies, personnel or other resources. This includes things like mailing out a letter requesting donations for a non-profit organization, as this would be included in the definition of “private business.” Similarly, using a County vehicle for a purely social or personal purpose would be prohibited. Use of County equipment to repair your vehicle or house is prohibited.

**Exceptions:** Occasional, incidental, reasonable personal use may be allowed. As an example, you may use your phone to check in with your spouse or children, and make medical, home and automobile repair and similar appointments. Whenever possible, do this before or after your work hours or during lunch or other authorized breaks. If calls are made during your normal work hours, keep the communications infrequent and short. You may not incur any long distance tolls or other usage fees chargeable to the County—you must use toll-free numbers or charge the communications or access fees to your personal credit card.

*REMEMBER: Reasonable personal use does not extend to personal communications to solicit business, advertise, or engage in other selling activities in support of private business enterprises, fundraising activities (other than those supported by the County), or any other use that is incompatible with public service.*

## **CONFLICTS OF INTEREST**

**Disqualification:** You must disqualify yourself from taking any official action directly affecting a business or undertaking in which you have a substantial financial interest. **HCC Section 2-84(a).**

Generally, a conflict of interest occurs when your personal or financial interests could interfere with carrying out your duty to the public. Specifically, you must disqualify yourself from taking any official action directly affecting a business or matter in which you, your brother or sister, a parent, a child or household member has a substantial financial interest.

**Exceptions:** These provisions do not apply to a department head who cannot disqualify himself and who had filed the required public disclosure requirement of HCC Section 2-91.1. It also has limited application to members of boards and commissions that are mandated by law to have particular qualifications.

The rule does not prohibit officers from introducing bills and resolutions, serving on committees or from making statements or taking action in the exercise of the officer's legislative functions. Officers are, however, required to file a full and public disclosure of the nature and extent of the interest or transaction that the officer believes may be affected by legislative action. **HCC Section 2-83(c).**

## **PROHIBITED ACQUISITION**

You may not acquire a financial interest in a business if you have reason to believe that the business may be directly involved in official action you would normally be expected to take in your County position. **HCC Section 2-84(b).**

## **ASSISTANCE BEFORE COUNTY AGENCIES**

You may not assist a business or person before a County agency for a contingent compensation. **HCC Section 2-84(c).**

You may not assist or represent a business or person for compensation on a matter in which you participated or will participate in your County capacity; you may not appear for compensation before your employing agency or an agency or council on which you sit. **HCC Section 2-84(d).**

You may not assist or represent a business for compensation before any County agency if you have official authority over the County agency unless you have complied with the disclosure requirements of Section 2-91.1. **HCC Section 2-84(e).**

## **PUBLIC CONTRACTS**

The County may not enter into a contract with you or a business in which you have a controlling interest if the amount exceeds \$10,000 unless the contract was awarded pursuant to competitive sealed bids or proposals or the County has posted a notice of intent to award the contract and has filed a copy of the notice with the Board of Ethics ten (10) days before the contract is awarded. **HCC Section 2-85(a).**

The County Code states that a County agency may not enter into a contract with a person or business represented by a person who has been an employee of the agency within the preceding two (2) years and who participated in the subject matter of the contract. **HCC Section 2-85(b).**

## **RESTRICTIONS ON POST EMPLOYMENT**

After you have terminated your service with the County, the provisions of Section 2-91.2 of the Hawai'i County Code will apply to you as follows:

- 1) You may not disclose or use confidential information gained during County employment for your personal gain or the benefit of others. **HCC Section 2-91.2(a).**
- 2) You may not within twelve (12) months of termination of employment or term of office assist and/or represent a person or business for compensation on matters in which you participated as an officer or employee or on matters involving official action by the agency or department you actually served while you were an officer or employee. **HCC Section 2-91.2(b).**

The term “represent” means to engage in direct communication on behalf of any person or business with a councilmember, a council employee, a particular County board, commission or agency, or their employees.

**Exception:** Any County agency may contract with you to act on a matter on behalf of the County; in the course of fulfilling such a contract, you may appear before any agency.

## **FINANCIAL DISCLOSURES**

There are two types of financial disclosures: public and confidential.

**Public Disclosures:** All candidates for elective office, all elected officers, the administrative heads of the County agencies and their first deputies, and the managing director and deputy managing director are required to file public disclosures with the County Clerk. These disclosures are public records and are available for inspection by the public during office hours at the Office of the County Clerk. **HCC 2-91.1(e).**

**Confidential Disclosures:** Members of boards and commissions created by the Charter are required to file a financial disclosure. Members of other boards and commissions which have decision-making authority are also required to file. Members of boards and commissions that only have advisory powers and are not created by the Charter do not have to file a disclosure. Regulatory employees of the County are required to file.

**Boards and Commissions Required to File Confidential Disclosures:** Board of Appeals, Board of Ethics, Cost of Government Commission, Environmental Management Commission, Fire Board of Appeals, Fire Commission, Liquor Adjudication Board, Liquor Commission, Merit Appeals Board, Pension Board, Planning Commission, Police Commission, Reapportionment Commission, Salary Commission, Tax Board of Review, Transportation Commission, Water Board, Workforce Investment Board.

**Regulatory Employees Required to File Confidential Disclosures:** *buyers and purchasing agents; supervisors of real property tax appraisers and real property tax appraisers* with the Finance Department; the Legislative Auditor; *supervisors of investigators and investigators* with the Liquor Control Department; *planners* with the Planning Department; *supervisors of inspectors and inspectors* with the Public Works Department; and *supervisors of inspectors and inspectors* with the Water Supply Department.



## WHEN TO FILE A DISCLOSURE

**Candidates for Office:** All candidates for elective office for the County shall file a financial disclosure within ten (10) days after the deadline for filing as a candidate for office.

**Officers:** All officers shall file a financial disclosure within twenty working days after taking the oath of office. All officers are also required to file an annual disclosure on or before January 31 of each year until the end of the term of office.

**Regulatory Employees:** All regulatory employees shall file a disclosure on or before January 31 of each even-numbered year (2008, 2010, and 2012, for example). All persons who become regulatory employees who have not previously filed a disclosure shall file the initial financial disclosure within thirty (30) working days of commencement of employment or term of office.

**Requirement to File a Disclosure Upon Leaving Office or Employment:** Any officer or regulatory employee of the County shall file a financial disclosure within ten working days before an officer is to leave his office or a regulatory employee is to terminate his employment with the County. This requirement applies even if transferring from the County to state or federal employment, or transferring from a regulatory to a non-regulatory position within the County.

**Forms and Where to File:** Forms can be located on the County's website (<http://co.hawaii.hi.us>), at the Office of the County Clerk, or at the Office of the Corporation Counsel. Public disclosures are filed with the County Clerk. Confidential disclosures are filed with the Board of Ethics, care of the Office of the Corporation Counsel.

## **PENALTIES FOR FAILURE TO FILE A DISCLOSURE**

An officer or regulatory employee may be subject to discipline, including reprimand, probation, demotion, suspension or discharge. **HCC Section 2-91.**

Candidates for office who fail to file a financial disclosure shall be guilty of a misdemeanor and subject to a fine of \$1,000 and imprisonment of one year. **HCC Section 2-91.1(f) (2).**

## **ADVISORY OPINIONS**

### **Who May Request an Advisory Opinion?**

**Informal Advisory Opinion:** Any County officer or employee may petition the Board of Ethics for an informal advisory opinion concerning their own conduct by writing to the Board. Any person or the Board itself may petition for an informal advisory opinion on an alleged violation of the Code of Ethics by an officer or employee. All proceedings shall, upon the request of the petitioner, be confidential, provided that the Board determines that personal matters affecting the privacy of the petitioner are to be considered.

**Formal Advisory Opinion:** If an officer or employee fails to comply with an informal advisory opinion, the Board may institute proceedings for a formal opinion.

## **REFERRAL TO AUTHORITY FOR DISCIPLINARY ACTION**

With respect to officers removable only by impeachment, if there is no compliance with a formal opinion issued against an officer, the Board shall issue a complaint and refer the matter to the Council.

With respect to employees and officers other than officers removable by impeachment, if there is no compliance with a formal opinion, the Board shall issue a complaint and refer the matter to the appointing authority for action.



## AN ETHICS CHECKLIST

This is intended as a brief checklist that you can refer to when you are considering a proposed action, activity, outside employment, or are given a gift. This checklist is substantially similar to one published by the State Ethics Commission.

1. **Gifts:** Do not accept or solicit gifts unless you are sure of the application of the gifts section of the Hawai'i County Ethics Code, Section 2-91.4

*No officer or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise or in any other form, under circumstances in which it be reasonably be inferred that the gift is intended to influence the officer or employee in the performance of the officer's or employee's official duties or is intended as a reward for any official action on the officer's or employee's part.*

2. **Gifts Disclosure:** If you receive more than \$100 of legally acceptable gifts from a single source between June 1 of one year and May 31 of the following year, check with your office as to whether you need to file a gifts disclosure form.
3. **Confidential Information:** Do not disclose or use confidential information for your, or anyone's, personal benefit.
4. **Favoritism; Fair Treatment:** Do not use, or attempt to use, your official position to give yourself or anyone any preferential treatment or any unwarranted advantage.
5. **Supplemental Compensation:** Do not accept extra pay or anything of value in conjunction with the performance of your official duties, unless provided for by law.
6. **County Resources:** Do not use County time, equipment (computers, email, etc.), facilities, personnel, the County seal, office supplies or other County resources for non-County related purposes or political campaigning.
7. **Financial Transactions with Subordinates:** Do not engage in substantial financial transactions with subordinates, or persons or businesses you inspect or supervise. Check with your office as to the meaning of "substantial," as the application of that term may be different depending on the circumstances.
8. **Conflicts of Interest:** Do not take official action if the action affects your financial interests, or a business or undertaking in which you have a financial interest, unless you are sure of the application of the Hawai'i County Ethics Code. The financial interests of a spouse or dependent child are treated the same as your financial interests. Also, do not take action affecting an undertaking in which you, in your private capacity, represent a person or business.

*NOTE: This section does not apply to Council members; instead, they are required to make a full public disclosure of the nature and extent of the interest or transaction that may be affected by legislative action.*

- 9. Acquiring New Employment or Financial Interests:** Do not accept new employment or new financial interests without checking with the Board of Ethics, if the business or undertaking you will work for, or have a financial interest in, may be subject to official action by you.

*NOTE: This section is stronger than state law, as council members are not excluded from this provision, unlike state legislators who are excluded from the State Ethics Code provision.*

- 10. Contingent Compensation:** Do not assist or represent a person or business before a County agency for contingent compensation.

- 11. Representing or Assisting Persons or Businesses:** Do not assist or represent a person or business for compensation:

- a) Before your own department or agency; or
- b) On matters you have been officially involved in; or
- c) On matters you will be officially involved in.

- 12. County Contracts:**

- a) If you contract with the County, or have a significant interest in a company that contracts with the County, make sure the contract is awarded in accordance with HCC Section 2-85.
- b) Check with the Board of Ethics before privately assisting or representing a person or business trying to obtain a County contract, if you have been involved officially with the contract or its subject matter.

- 13. Financial Interests Disclosure Statement:** File this statement at the appropriate times if required by the position you hold in County government.

- 14. Post Employment:** After leaving your County agency or department:

- a) Do not disclose confidential information or use such information for your, or anyone's, personal benefit;
- b) For one year, do not personally represent any person or business for compensation on matters before your former agency or department unless you are sure of the application of the Hawai'i County Ethics Code; and

- c) For one year, do not personally represent a person or business for compensation regarding matters you have participated in officially.