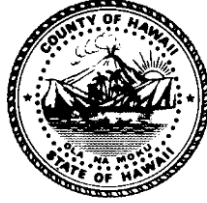


Harry Kim
Mayor



Joseph K. Kamelamela
Corporation Counsel

Renee N. C. Schoen
Assistant Corporation Counsel

COUNTY OF HAWAII
OFFICE OF THE CORPORATION COUNSEL

101 Aupuni Street, Suite 325 • Hilo, Hawaii'i 96720 • (808) 961-8251 • Fax (808) 961-8622

October 5, 2020

Sent via email; no hard copy to follow

**Second Amended Corporation Counsel Numbered
Memorandum 2020-01**

Memorandum

TO: OFFICE OF THE MAYOR
HAWAII COUNTY COUNCIL
ALL COUNTY DEPARTMENTS AND AGENCIES
ALL COUNTY BOARDS AND COMMISSIONS

FROM: JOSEPH K. KAMELAMELA
Corporation Counsel

RE: **Reminder on Political Campaign Restrictions for all County
Officers and Employees**

With the general election one month away, our office reminds all County officers and employees of the restriction on utilizing County funds, time and resources for political campaign activity. Department and agency heads are asked to ensure copies of this memorandum are circulated to all officers and employees under their charge, as well as all board and commission members.

Please see the attached "Guide on Campaign Activities for State Officials and Employees" ("guide") issued by the State of Hawaii Ethics Commission which provides an easy to read summary of restricted campaign activities by State officials and employees. Almost all of the restrictions articulated in the guide mirror our County Ethics Code, therefore, all County officials and employees are urged to read this document very carefully.

The following is a brief summary of the prohibitions against political campaign activity and related matters in this County:

The Hawai'i County Code (HCC) § 2-83(b)(4) provides:

No officer or employee shall use or attempt to use the officer's or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment for oneself or others, including but not limited to the following:

* * * *

Using County property, facilities, equipment, time or personnel for private business, campaign purposes, or for any other purpose other than for public purpose.

The following is prohibited:

- **County facilities and property:**

- **Candidate walk-throughs** on County premises are strictly prohibited. Department heads are charged with ensuring such walk-throughs do not occur on County premises. "Walk-throughs" include physically walking through a County facility and the distribution of material supporting a candidate or a campaign message. In other words, even though a candidate does not physically walk through a County facility, the distribution of the above items on County premises is strictly prohibited.
- The **County Seal** is County property and may not be used on any campaign materials, as it gives the impression that the County is endorsing a particular political candidate. Use of the County Seal in any advertisement or in any manner likely to give the impression of official County approval is a misdemeanor. See Hawai'i County Code (HCC) § 2-155(a).

- **County equipment:**

- **County email accounts** must not be used for political campaign purposes. This includes the generation and receipt of email messages that are for political campaign purposes, and not an official County purpose.

- **County internet services** must not be used for political campaign purposes. This means County computers must not be used for accessing political campaign websites or for any purpose not consistent with an official County purpose.
- **Campaign activity:**
 - Any type of **political campaign fundraising** activity on **County premises**, or using **County time or resources** for a political fundraising activity, is strictly prohibited.¹ This means the sale and/or distribution of political campaign fundraiser tickets on County premises, and the use of County resources (using a County telephone to call in a headcount order to a caterer for an upcoming political fundraiser, etc.). “Fundraising” also includes the distribution of “complimentary” or free political campaign fundraiser tickets.
 - County officials and employees may be asked to **endorse** political candidates. The person must not create the impression that the County or any County agency is **endorsing** a particular candidate. Said County employee must make clear that they are speaking in their individual capacity.
 - The display or distribution of campaign posters, signs, or other campaign material, is prohibited within a designated area of a two hundred feet radius from the perimeter of any voter service center, place of deposit, or its appurtenances. See Hawai'i Revised Statutes, as amended, (HRS) § 11-132. Any voter who displays campaign material within the designated area shall remove or cover the material before entering the area. See HRS § 11-132(d).
 - Campaign activities, including wearing of clothing and holding signs that promote, support, or advocate a person's candidacy for public office is prohibited on County property while being used by an entity, such as, a non-profit organization, for other than a political campaign event, such as providing free medical testing. See ft nt. 1; HRS § 2-83(b)(4).

¹ This does not include activity transpiring at County premises that are available for rent to the general public during the date and time when the premises are being utilized for a political campaign-related event. See §11-354(b), Hawai'i Revised Statutes, as amended, which provides that “[g]overnment facilities that permit use for political activities shall be available to a candidate, candidate committee or non-candidate committee for fundraising activities pursuant to the same terms and conditions that would otherwise apply to use by non-governmental organizations.”

Memorandum to Office of the Mayor, Hawai'i County
Council, All County Departments and Agencies and All County
Boards and Commissions

October 5, 2020

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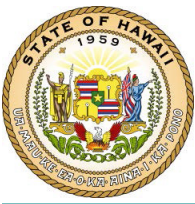
- County officials who are campaigning for elected offices are not allowed to influence the outcome of their elections; for example, they are not allowed to deliver to individuals, groups and organizations goods purchased with county, state or federal funds.

Campaign activities such as holding signs and wearing shirts, however, are permitted on the shoulder, sidewalk or other roadside facility of County and state roadways that are not used exclusively by vehicular traffic, but such activities should be done safely without physically impeding the movement of pedestrian and vehicular traffic.

If you witness any violation of the above, please report it to your supervisor immediately. All department and agency heads are charged with the responsibility of taking appropriate action upon conducting a proper investigation. Any person may also file a petition with the Hawai'i County Board of Ethics. Please contact our office if you would like a copy of a petition and filing instructions.

If you have any questions, you are invited to contact our office at (808) 961-8251, or via email at Corpcounsel@hawaiiicounty.gov.

JKK:clf
Attachment











HAWAII STATE ETHICS COMMISSION

1001 Bishop Street, Suite 970 | Honolulu, Hawaii 96813 | ethics@hawaiiethics.org | (808) 587-0460 | Twitter: @HawaiiEthics

THE STATE ETHICS CODE – A QUICK GUIDE ON CAMPAIGN ACTIVITIES FOR STATE OFFICIALS AND EMPLOYEES

1. Restrictions on Using State Resources for Political Campaigns

The Fair Treatment law of the State Ethics Code, Hawaii Revised Statutes (“HRS”) § 84-13, prohibits state legislators, state employees, and state board and commission members from using state resources for private business purposes, including political campaign purposes. This includes the following:

-  **State Time:** State officials and employees may not conduct campaign related business during state work hours, or use state personnel to perform campaign tasks or activities during state work hours.
-  **State Position:** State officials and employees may not use their official position to pressure others into making campaign contributions, providing campaign assistance, or otherwise supporting a candidate.
State Facilities: State officials and employees may not solicit campaign donations or conduct campaign business on state premises, including state offices and meeting rooms. State employees may not post campaign signs in their state workplace. Additionally, state officials and employees may not allow candidates to conduct “walk-throughs” of state agencies. State premises or facilities that are available for public use may generally be used for campaign activities on the same terms that apply to the general public (for example, renting a school cafeteria for a public meeting), though some facilities - like Washington Place - prohibit campaign activities altogether.
-  **State Equipment and Supplies:** State officials and employees may not use state equipment (such as telephones, copy machines, fax machines, computers, vehicles), or state supplies (such as copy paper, stamps, and other office supplies) for campaign-related tasks or activities.
-  **State Email Server:** State officials and employees may not use their state email accounts to send campaign related emails, or respond to campaign emails received at a state account (other than to request that the sender stop sending such emails). Political candidates should avoid sending campaign emails to any state email address.
-  **State Websites or Social Media Pages:** State websites or official state social media pages cannot contain campaign related materials, such as campaign logos or photos of people in campaign t-shirts. State websites may not contain links to campaign websites.
-  **State Newsletters:** State newsletters cannot contain campaign materials, such as requests for donations or the campaign’s address/contact information.
-  **State Seal:** The State Seal generally may not be used on any campaign materials, as it gives the impression that the State of Hawaii is endorsing a particular political candidate. Use of the State Seal in any advertisement or in any manner likely to give the impression of official state approval is a misdemeanor. See HRS § 5-6.
-  **State Funds:** State funds may not be used to pay for campaign-related expenditures or activities, such tickets to political fundraisers, campaign literature or signs, postage for campaign materials, food for campaign events, or travel made principally for a political campaign.

2. Endorsements

State officials and employees may be asked to endorse political candidates. In such cases, state officials and employees may cite their state position for biographical reasons, but must not create the impression that the State of Hawaii or any state agency is endorsing a particular candidate.

Similarly, the State Ethics Code does not prohibit state officials and employees from supporting candidates on social media in their individual capacity if it is clear that the employee is not speaking in their official capacity. To avoid confusion, state employees may wish to clarify that they are speaking in their individual capacity or omit discussing their state position in any social media posts supporting a candidate.

3. Use of Media

Some state officials may be required to respond to media inquiries as part of their official state duties. Interviews conducted in an employee's official capacity must not promote a political campaign. For instance, during an official interview, state officials and employees should refrain from asking anyone to vote for a specific candidate or donate money to a political campaign. State officials may answer isolated campaign questions during state interviews, but if the questions continue to be related to the campaign, those questions should be referred to the campaign office.

4. Candidate Financial Disclosure Statements

All candidates for state political office in the State of Hawaii must file a financial disclosure statement no later than twenty days before the state primary election. Filing can be completed online at http://ethics.hawaii.gov/candidatedisclosure_efiling/. Candidate financial disclosure statements are public documents and are posted on the State Ethics Commission's website: <http://ethics.hawaii.gov/>.

5. Other Laws

The Campaign Spending Law restricts campaign fundraising on state and county property (HRS § 11-354) and campaign contributions by state and county contractors (HRS § 11-355). It also establishes campaign contribution limits and reporting requirements. See HRS §§ 11-357, 11-340. These laws play an important part in ensuring fair and transparent elections. For further information, please contact the State Campaign Spending Commission.

Questions?

If you have further questions, please contact the Commission at (808) 587-0460 or via email at ethics@hawaiiethics.org. For questions about campaign finance issues, please contact the Hawaii Campaign Spending Commission at (808) 586-0285, via Twitter [@hicsc](https://twitter.com/hicsc), or on the web at <http://ags.hawaii.gov/campaign/>.