

BOARD OF ETHICS

COUNTY OF HAWAI'I

In the Matter of the Petition by

Ivory Quintal,

Petitioner.

PETITION NO. 2025-18

INFORMAL ADVISORY OPINION

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The County of Hawai'i Board of Ethics (Board), having reviewed the petition for an informal advisory opinion dated August 8, 2025 (Petition) from Ivory Quintal (Petitioner) and having obtained all the information deemed necessary by the Board to make a proper determination regarding the subject petition, the Board renders this informal advisory opinion pursuant to the Charter of the County of Hawai'i (CCH) § 14-5(b), Hawai'i County Code (HCC) § 2-86, and Rule 4 of the Rules of Practice and Procedure of the Board of Ethics (BOE Rules).

I. FACTS

Petitioner is employed by the County of Hawai'i (County) as a council aide to Council member Ashley Kierkiewicz. Her job duties include overseeing the Council member's office, filing documents, answering telephone calls, and responding to constituents. Petitioner is also the Vice President of the Hilo Downtown Improvement Foundation Board, which includes the Hilo Downtown Improvement Association (collectively, the HDIA). Petitioner asserted that, in her capacity as Vice President of the HDIA, she does not sign off on any of the organization's actions or appear before the County Council on its behalf; however, she does assist the HDIA in obtaining information and reviewing documents. Petitioner further stated that she contacted

council members regarding contingency relief funds¹ for the HDIA's Fourth of July block party held on July 4, 2025, in downtown Hilo. She clarified, however, that the contingency relief funds did originate from Council member Kierkiewicz' district. Additionally, Petitioner stated that the Legislative Reference Branch of the Office of the County Clerk and a member of the County Council Chair's office primarily oversee contingency relief funds.

Petitioner filed the Petition requesting an informal advisory opinion to ensure that the conduct Petitioner presented above does not violate the Code of Ethics, particularly HCC § 2-83(c).² Petitioner elected to have the Petition heard in open session pursuant to Hawai'i Revised Statutes (HRS) § 92-5(a)(2), HCC § 2-86(a), and BOE Rule 4.13(b). The Board, therefore, decided on the Petition in open session at its October 15, 2025, meeting, where Petitioner was in attendance and provided the Board with additional information.

II. OPINION

The Petitioner is an "employee"³ subject to CCH Article XIV and HCC Chapter 2,

¹ As used herein, "contingency relief funds" refers to council district contingency relief funds awarded pursuant to HCC § 2-139(a)(2).

² HCC § 2-83(c) provides:

- (c) An officer or employee of the County, or a business in which an officer or employee or the officer or employee's immediate family member has a controlling interest, may contract for goods or services with any County agency provided that:
- (1) The nature of the relationship between the officer or employee and the County is provided in full disclosure to the agency seeking goods or services as part of the bid for a contract or response to a request for proposals; and
 - (2) The officer or employee has obtained an opinion from the board that there is no conflict of interest resulting from the officer or employee's position with the County. A board opinion shall continue to satisfy this requirement until a change occurs in the financial interest or role of the County officer, employee, or the officer or employee's affected immediate family member in the business or undertaking with which the contract is concerned. In the event an opinion by the board was not obtained in advance of submitting a bid, the officer or employee shall instead submit a copy of a letter or petition requesting review by the board.

A contract shall be void if an officer or employee fails to comply with these disclosure requirements or if the board finds there is a conflict of interest or any preferential treatment involved.

³ "Employee" means any person, except an officer, employed by the County or any agency thereof but the term shall not include an independent contractor." HCC § 2-82.

Article 15 (collectively, the County Code of Ethics).⁴ The Petition is a petition for an informal advisory opinion concerning Petitioner's own conduct pursuant to HCC § 2-86(a) and BOE Rule 4.1(a) and substantially complies with the filing requirements of HCC § 2-86(c) and BOE Rule 4.1(c).

Although Petitioner identified HCC § 2-83(c) as the provision applicable to the Petition, the Board finds that HCC § 2-83(c) does not apply in this instance. HCC § 2-83(c) governs the contracting for goods or services with a County agency by a County officer or employee, or by a business in which they or an immediate family have a controlling interest. The awards for contingency relief funds are grants, not contracts for goods or services.⁵ Therefore, the Board instead reviews the Petition under HCC §§ 2-83(b),⁶ 2-84(a)(1), 2-84(a)(2), and 2-84(c),⁷.

⁴ See CCH §§ 14-2 to 14-4; HCC §§ 2-81, 2-82.

⁵ See HCC § 2-136 (defining a "grant" as an appropriation of County funds pursuant to Chapter 2, Article 25, HCC); see generally, 2-139(a)(2) (describing district contingency relief funds as grants); cf. HRS § 103D-104 ("Grant" means the furnishing of assistance, whether financial or otherwise, to any person to support a program authorized by law. The term does not include an award whose primary purpose is to procure an end product, whether in the form of goods, services, or construction; a contract resulting from such an award is not a grant but a procurement contract.").

⁶ HCC § 2-83(b) provides, in relevant part, "[n]o 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[.]"

⁷ HCC § 2-84 provides, in relevant part:

(a) No officer or employee shall take any official action directly affecting a business or other private undertaking in which the officer or employee:

- (1) Has a substantial financial interest;
- (2) Is engaged as a legal counsel, advisor, consultant, or representative, or other agency capacity; or

[. . .]

(c) No officer or employee shall represent private interests in any legal action or proceeding against the County or appear on behalf of private interests before any agency, except as otherwise provided by law; provided:

- (1) This prohibition shall not apply to a County employee or officer who is an architect, landscape architect, surveyor, or engineer registered as such under the provisions of chapter 464, Hawai'i Revised Statutes, with respect to the affixing by such registered professional of such person's registered stamp to any plans, specifications, drawings, etc., to be submitted to the County for permits for such person's principal residence or that of such person's immediate family member; provided, that the stamp is accompanied by a signed statement that the work was prepared by the person stamping the document or under such person's supervision; and provided further, that the registered professional may not, in the capacity of a County employee or officer, review, approve or otherwise act upon the plans, specifications, drawings, etc., such person has stamped; and

Based on its review of the record before it, including the Petition, the Petitioner's statements, the relevant provisions of the HCC, and the County Code of Ethics, the Board finds that the conduct presented does not constitute probable violations of HCC §§ 2-83(b), 2-84(a)(1), 2-84(a)(2), and 2-84(c), for the reasons set forth herein.

The Board finds that, with respect to HCC § 2-83(b), to the extent that Petitioner stated that she merely inquired of council members as to the availability of contingency relief funds for the HDIA event, it does not appear that she used or attempted to use her official position as a council aide to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment for herself or others, including the HDIA.

With respect to HCC §§ 2-84(a)(1) and 2-84(a)(2), although Petitioner has a substantial financial interest in the HDIA and serves as a representative of the HDIA in her capacity as Vice President, it does not appear that she took any official action or used her discretionary authority to directly affect the HDIA.⁸

With respect to HCC § 2-84(c), although the County Council is an "agency" under HCC § 2-82⁹ and none of the exemptions in HCC § 2-84(c) apply, Petitioner has not appeared before the County Council on behalf of private interests, namely the HDIA.

Notwithstanding the foregoing findings, the Board expresses concern that Petitioner's position as Vice President of the HDIA presents a reasonable risk of a future violation of HCC § 2-83(b), particularly with respect to contingency relief funds and other grants administered by

(2) No officer or employee shall be denied the right to appear before any agency to petition for redress of grievances caused by any official act or action affecting such person's personal rights, privileges, or property, including real property.

⁸ See HCC § 2-82 (defining "financial interest" as including a directorship or officership in a business; defining "business" as including foundations or other organizations carrying on a business whether or not for profit; and defining "official action" as meaning "a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.").

⁹ "'Agency' means the County of Hawai'i and any other governmental unit of the County." HCC § 2-82.

the County Council.¹⁰ The Board acknowledges Petitioner's points that the contingency relief funds sought by the HDIA did not originate from Councilmember Kierkiewicz's district and that the opportunity to contact council members regarding such funds is available to any member of the public. However, the Board observes that pursuant to HCC § 2-139(a)(2)(C), the granting of contingency relief funds is appropriated by resolution, on which all council members, including Council member Kierkiewicz, are entitled to vote.¹¹ Moreover, Petitioner's position as a council aide provides unique access to council members and information not generally available to members of the public. Accordingly, to avoid potential violations in the future, the Board advises that Petitioner should not participate in the contingency relief fund grant process in either capacity when HDIA is an applicant or represent or otherwise assist the HDIA in applying for such funds, including by contacting council members or appearing before the County Council on HDIA's behalf.¹²

Adopted by the Board on Dec. 10th, 2025.

BOARD OF ETHICS, COUNTY OF HAWAII

By Rachel Short
RACHEL SHORT, Chairperson

¹⁰ See HCC § 2-83(b); see also CCH § 14-2(c) ("It shall constitute a conflict of interest for employees or officers of the county to: [. . .] (c) Engage in any business, transaction or activity or have a financial interest, direct or indirect, which might reasonably tend to be incompatible with the proper discharge of their official duties or to impair their independence of judgment in the performance of their official duties[.]").

¹¹ See HCC § 2-139(a)(2)(C) (providing, in relevant part, that "[a]ppropriations from the district contingency relief account shall be approved by resolution").

¹² See HCC §§ 2-83(b), 2-84(a)(1), (a)(2), 2-84(c); see also CCH § 14-2.