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October 20, 2023

Hawai'i State Ethics Commission
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COMPLAINT: Strong Objection to Hawai'i State Ethics Commission Grant of Exception to
Nepotism Prohibition for Principal of Kalaniana'ole Elementary

Aloha State of Hawai'i Ethics Commission,

I object to the granting of an exception to David Dinkle, Principal of Kalaniana'ole Elementary School (ATTACHMENT), because this action completely subverts the intent of our new Anti-Nepotism law which is to prevent favoritism towards one's relatives in government operations. Nepotism is unfair hiring, promotion, support, and allocation of resources in a manner that is relationship-based, not merit or needs based. Nepotism creates corruption.

The allegedly "good cause" reason given for granting Principal Dinkle's request for exception is that the Principal's spouse (a teacher at the school) will report to the Vice Principal, not her husband. This is not acceptable.

First, such an exception sets up a condition that changes the job description of School Principals, which is to oversee all operations at a school.

Second, Vice Principals reports to their Principals, and as such, are beholden to their Principals for their own employee reviews. There are no Vice Principals who want to keep their jobs who will give their boss's spouse a poor review no matter how awful that employee's performance will be.

Third, a Principal makes many supervisory decisions, and Vice Principals will not be able to give fair and objective feedback on resource allocation when these decisions involve a Principal's relative. Principals will assign their relatives to the better classrooms, give them more training opportunities that lead to advancement, keep the problem students out of their relative's classrooms, etc.

Fourth, this exception erodes the labor process and creates an ethical conflict of interest. The Hawai'i State Teachers Association has elected school level leaders (SLLs) who are supposed to represent the teachers' interests. A Principal's relative could be elected as a SLL in

which case, the SLL will most likely choose to keep the family relationship intact instead of supporting teachers' interests should a conflict or concern arise.

The reasons for the Ethic's Commission's July 20, 2023 nepotism exception decision to deny Brickwood Galuteria's exception request are just as valid in any School Principal's request (<https://ethics.hawaii.gov/wp-content/uploads/2023-07-20Nepotism-GaluteriaB.pdf>):

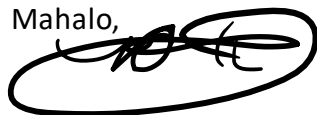
Finally, public policy further supports drawing a narrow line around possible good cause exceptions. The nepotism prohibition:

- *Eliminates favoritism, and establishes an equal playing field for other qualified individuals seeking an employment opportunity;*
- *Avoids conflicts of interest by ensuring state employees can make unbiased decisions in the best interest of the public;*
- *Helps maintain public confidence in the public integrity and impartiality of elected officials and government as a whole; and*
- *Prevents abuses of power, that is, the risk of elected officials misusing their authority to benefit family members and expend public resources improperly.*

Therefore, I request that the Hawai'i State Ethics Commission fulfill the intent of our Anti-Nepotism law by doing the following:

1. Rescind the exception granted to David Dinkle, Principal of Kalanianiana'ole Elementary School, effective the end of School Year 2023-2024. Immediate enforcement of the State's Nepotism law is not in the best interests of the students, but should not be extended past the end of this school year.
2. Disallow any and all exceptions that are based on shifting a supervisor's supervisory duties of the supervisor's relative to another administrator who reports to the supervisor. The Commission either supports the new law in all but a few narrow exceptions or renders the law ineffective.
3. If the Commission is unwilling to not grant my requests 1 and 2 above, a thorough explanation for its reasons is requested.

Mahalo,



Vanessa Ott

ATTACHMENT

<https://files.hawaii.gov/ethics/advice/NEP2023-03.pdf>



HAWAII STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

August 11, 2023

Via-E-mail: david.dinkel@k12.hi.us

David Dinkel
Principal
Kalanianianaʻole Elementary School

Re: *Request for a Good Cause Exception to Nepotism Prohibition*

Dear Mr. Dinkel:

Thank you for contacting our office to request a good cause exception to the Nepotism Law. You are the principal of Kalanianianaʻole Elementary School ("Kalanianianaʻole Elementary"). You requested a good cause exception so that your spouse may be hired as a full time teacher at Kalanianianaʻole Elementary. In your good cause exception application form and in a subsequent call, you informed the Hawai'i State Ethics Commission ("Commission") that your spouse has worked as a part-time teacher at Kalanianianaʻole Elementary for the past several years. Last year, she served as a substitute teacher for Kalanianianaʻole Elementary, and will do so again this year. Unbeknownst to you, she applied for a full-time teaching position at Kalanianianaʻole Elementary. The position was advertised on July 21, 2023, and you had no idea she applied nor did you assist with her application in any way. If she is hired, you have indicated that your spouse will report to the Vice Principal, and that you will not supervise her.

Based on the information provided, it is our opinion that the Nepotism Law does not prohibit Kalanianianaʻole Elementary from hiring your spouse because you have shown that you intend to comply with the law without the necessity of a good cause exception. The Nepotism Law prohibits state employees from taking employment action affecting relatives or household members. Employment action includes such things as hiring, evaluating, demoting, or supervising a relative or household member. The law further provides that the Ethics Commission may grant an exception to this law upon good cause shown. Good cause may include a demonstrated lack of qualified employees or candidates.¹

In this case, a good cause exception is not required because you have indicated that you will not supervise or take action affecting your spouse, nor did you participate in her hiring process.

Finally, you should be aware of an additional section of the Ethics Code. Haw. Rev. Stat. §84-13(a) prohibits state employees from using their state positions to grant themselves or anyone

¹ The Nepotism Law is available at:
https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=717&year=2023

Mr. David Dinkel
August 11, 2023
Page 2

else any unwarranted benefit or advantage. State employees who work alongside relatives must be extremely careful not to accord their relatives any special treatment.

Thank you for your request for an exemption. This letter is based on the information provided by you and other employees of the DOE. If any of this information is inaccurate, please inform us as soon as possible as this may affect our decision.

If you have questions or would like to discuss this matter further, please contact me at (808) 587-0460.

Sincerely,



Kee M. Campbell
Enforcement Director

Attachment: Nepotism Quick Guide

KMC/lis