



# THE LEAGUE OF WOMEN VOTERS OF HAWAII

May 12, 2010

State of Hawaii Ethics Commission  
Chair Maria J. Sullivan  
1001 Bishop Street, Suite 970  
Honolulu, Hawaii 96813

Testimony – Meeting of May 12, 2010

Dear Chair Sullivan and Commissioners,

As we stated at today's Commission meeting, the League of Women Voters of Hawaii and Common Cause Hawaii had met and developed the questions raised in the letter from Jo Kamae Byrne that you entered into your records. The League is very concerned about the conduct of the investigation of the Executive Director's working relationship with the Commission staff and the Commission itself.

The issue is the integrity of the process to assure fairness and neutrality. We feel that because this is the Ethics Commission, it is especially important to strive for the highest standards to reinforce the public's trust in the Commission's role to protect its interests.

We have questions about the objectivity of the investigative process.

1. The Commission announced in December 2009 through its meeting agenda that it was considering the termination / resignation of its Executive Director, Dan Mollway. There was little explanation about why such an action was being considered. Given the personnel privacy protections, details would have been inappropriate, however, a general statement of the area of concern would not have been.
2. After the January 2010 meeting, a public clarification was made that no wrongdoing was involved.
3. The February 2010 agenda listed an item for discussion in Executive Session "To consider the evaluation, dismissal, or discipline of the Executive Director and General Counsel pursuant to HRS section 92-5(a) (2)."
4. Subsequently, the Commission, through its Chair, established an Investigation Committee comprised of two members of the Commission itself. Our question here is, why wasn't a neutral party or outside committee established to conduct the investigation?

As a good government organization aware of the agonizing scrutiny and decision-making in the State Legislature over our State's budget for the coming biennium, trimming expenses to match expected revenues, we wonder why so much time, effort and costs are being expended on this investigation. If no wrongdoing is involved, what is the justification?

If we focus on the concern over the Executive Director's relationship with the staff and Commission, then process questions about the conduct of the investigation arise here as well.

1. What is the established standard of conduct expected of the Executive Director that is being investigated?
2. What criteria were used to conduct the interviews? Who (described by role, not name) was interviewed and why?
3. What questions were posed and how? Since bias can be created even unconsciously by the type of questions posed, the manner in which they are asked, and by whom, what measures were taken to assure neutrality?
4. Were the same basic questions posed to all staff members? Was neutral language used? Was the interview voluntary? Was the purpose for the interview made clear to each person before participation?
5. What considerations were established to protect staff members for their participation from anyone involved, including supervisors and Commissioners as well as the Executive Director?
6. Were other people interviewed beside staff members? What criteria were used to select those who were interviewed? Were the same questions posed to each person interviewed?

The fact that the investigative committee was appointed after the Executive Director was advised to leave his position then put on paid leave, would suggest that the commission had already agreed to replace Mr. Mollway. Was the investigative committee appointed to really gather objective and pertinent information, or was it appointed to justify the earlier actions. The choice of people interviewed would be most instructive and as requested before, we ask for their positions and the approximate time of their employment in those positions.

Overall, we are still not clear what motivated this whole process. Questions about the fairness and objectivity of the process remain. We welcome further clarification.

Sincerely Yours,

JEAN Y. AOKI

JOANN MARUOKA

Legislative Committee, League of Women Voters of Hawaii