

**AMENDED 2013 LISTING OF OPINIONS
ISSUED BY THE ATTORNEY GENERAL
STATE OF HAWAII**

| OPINION NO. (Date Issued) | DIGEST |
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| 13-01 (October 14, 2013) | <p>Constitutional authority of the Legislature to recognize same-sex marriages. An opinion was requested on three questions related to the marriage equality bill circulated by the Governor's Office on September 9, 2013 (the Proposed Bill): (1) whether the Legislature may enact legislation that would recognize marriages between two individuals of the same sex without the electorate or the Legislature amending Article I, section 23, of the Hawaii Constitution; (2) whether the Legislature has the authority, under the Hawaii Constitution, to pass the Proposed Bill; and (3) whether the Proposed Bill is consistent with the federal and state constitutions, given the Legislature's authority as described in Article I, section 23, and Article III, section 1, of the Hawaii Constitution. The answer to all three questions is an unqualified yes. The authority to enact legislation recognizing marriages between two individuals of the same sex is vested in the Hawaii State Legislature. The plain language of Article I, section 23, does <i>not</i> compel the Legislature to limit marriages to one man and one woman; it gives the Legislature the <i>option</i> to do so. No amendment to the Hawaii Constitution is necessary to give the Legislature the authority to enact the Proposed Bill, should the Legislature choose to pass it. And the subject matter of the Proposed Bill is consistent with the Legislature's authority "over all rightful subjects of legislation" as described in Article III, section 1, of the Hawaii Constitution. (Emphasis added.)</p> |
| 13-02 (December 20, 2013) | <p>Inclusion of a party or group name on the general election presidential ballot. To the question of whether Hawaii's election laws allow for the inclusion of the name of a presidential candidate's affiliated group or party with the candidate's name on the general election ballot, if that group or party is not qualified as a political party under sections 11-61 and 11-62, HRS, the Attorney General answered in the affirmative. Regardless of whether the affiliated group or party is qualified as a political party under sections 11-61 and 11-62, the presidential general election ballot must include both the candidate's name and the candidate's affiliated group or party, if the other legal requirements for inclusion on the ballot are met. Section 11-113, HRS, governs presidential ballots. Section 11-113(c)(2) provides a mechanism for candidates from non-qualified parties or groups to appear on the presidential ballot. While section 11-113 does not address the contents of the presidential ballot, section 11-112, HRS, does, stating in paragraph (a), in part: "The ballot shall contain the names of the candidates, <i>their party affiliation</i> or nonpartisanship in partisan election contests, the offices for which they are running, and the district in which the election is being held." (Emphasis added.)</p> |

Compiled by:
LEGISLATIVE REFERENCE BUREAU
As amended
January 13, 2015