

TITLE 21 LEGISLATIVE AGENCIES

CHAPTER 1

STATE ETHICS COMMISSION

GENERAL PROVISIONS

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Historical Note: This chapter is based substantially upon rules 1, 2, 6, and 9 of the State of Hawaii Ethics Commission Rules and Regulations. [Eff. 1/7/74 and 11/11/78; R July 13, 1981

§21-1-1 Purpose. This chapter is intended to carry out the provisions of chapter 84, HRS, relating to standards of conduct for state legislators and employees, and to provide for the efficient administration thereof. [Eff. July 13, 1981] (Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31(a)(5))

§21-1-2 Definitions. As used in title 21, chapters 1 through 6, unless the context clearly requires otherwise:

"Advisory opinion" means an opinion rendered by the commission pursuant to a request by a legislator, employee, or former legislator or employee as to whether the facts and circumstances of a particular case violate or will violate the standards of conduct;

"Answer" means the written response to a charge filed with the commission by a person disputing the charge;

"Charge" means a notarized letter or a document signed by three or more commissioners, alleging basic facts constituting a violation of one or more provisions of chapter 84, HRS;

"Commission" means the state ethics commission of the State of Hawaii;

"Complainant" means a person who has filed a charge alleging that an employee or legislator has violated chapter 84, HRS. The complainant is a party of record;

"Complaint" means the statement of facts of a violation issued to the legislature or to the governor by the commission after due hearing and determination;

"Decision" means the written conclusions of the commission, rendered after a contested hearing on the charge;

"Deleted opinion or decision" means a summary of a decision, advisory opinion, or informal advisory opinion from which facts disclosing the identity of persons have been omitted;

"Disclosure period" means the period from January 1 of the preceding calendar year to the time of filing the disclosure by the person required to file;

"Executive director" means the chief staff member or delegate of the commission;

"Formal advisory opinion" means the same as advisory opinion;

"Purchasing agent" and "fiscal officer" means for the purposes of §84-17(c)(2), HRS, an employee who exercises significant authority over purchasing or fiscal matters or both. An employee who takes ministerial action will not be considered a purchasing agent or fiscal officer and will not be required to file a disclosure of financial interests pursuant to §84-17, HRS;

"Respondent" means the person allegedly violating chapter 84, HRS;

"Ruling" means a summary advisory opinion which may be followed by a full advisory opinion within the original thirty-day period, rendered due to the requestor's need for an immediate advisory opinion; and

"Solely advisory" means a board or commission that can take no significant action to influence the administration of state programs or the exercise of state powers. The description of a board or commission

as being advisory does not mean that the board or commission will be considered to be solely advisory. [Eff. ] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-31, 84-32, 84-35)

§21-1-3 Authentication of commission action. All decisions, informal advisory opinions, and formal advisory opinions of the commission shall be signed by three or more members of the commission. [Eff. ] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-31, 92-15)

§21-1-4 Disqualification of commissioners; bias or prejudice. Any party to a hearing may make and file an affidavit that one or more of the commissioners before whom the hearing is being held has a personal bias or prejudice. The commissioner against whom the affidavit is filed may answer the affidavit or may file a disqualifying certificate with the commission. If the commissioner chooses to answer the affidavit, the remaining commissioners shall decide whether or not that commissioner should be disqualified from proceeding therein. Every affidavit shall state the facts and reasons for the belief that bias or prejudice exists and shall be filed at least ten days before the hearing, or good cause shall be shown for the failure to do so. Commissioners may disqualify themselves by filing with the executive director a certificate that they deem themselves unable for any reason to participate with absolute impartiality in the pending hearing. [Eff. ] (Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31)

§21-1-5 Consolidations. The commission, upon its own initiation or upon motion, may consolidate for hearing or for other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties, or issues which are the same or closely related, if it finds that such consolidation or contemporaneous hearing will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings. [Eff. ] (Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31)

§21-1-6 Right to appear. (a) Any person, or the person's authorized representative, having business with the commission may appear before it unless the commission determines by a vote of three or more members that the person or the person's representative is acting in a manner which prevents the orderly and peaceful conduct of business. The right to appear before the commission may be reinstated upon the commission's acceptance of a written statement that the person will abide by the commission's rules and will not disrupt the orderly and peaceful conduct of its proceedings.

(b) Charges initiated by the commission shall be prosecuted by the executive director or delegate. When serving as the prosecutor, the associate director shall prosecute without the supervision of the executive director. When the complainant is not the commission, the complainant may request that the executive director or delegate represent the complainant in the matter if the commission joins as co-complainant. This request shall be made in writing within twenty days following personal service of the charge and further statement of alleged violation to the respondent. [Eff. ]  
(Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31)

§21-1-7 Rules of evidence. The commission shall not be bound by the strict rules of evidence. Any oral or documentary evidence which is relevant and material to the charge may be admitted. Effect shall be given to the rules of privilege recognized by law. [Eff. ]  
(Auth: HRS §§84-31, 91-10) (Imp: HRS §§84-31, 91-10)

§21-1-8 Confidential records. Disclosures of financial interests which are made confidential by §84-17, HRS, and other matters deemed confidential by statute shall not be released or inspected except with the written authorization of the person involved. Disclosures of financial interests made available for public inspection by §84-17, HRS, are available pursuant to §21-3-2. [Eff. ] (Auth: HRS §84-31) (Imp: HRS §§84-17, 84-31)

§21-1-9 Availability of commission documents.  
(a) The public may obtain information on matters

relating to chapter 84, HRS, by inquiring during regular business hours at the offices of the commission or by submitting a written request to the commission. A member of the public wishing to obtain information about the contents of a disclosure of financial interests filed with the commission shall follow the procedure outlined in §21-3-2.

(b) The rules of the commission are available for public inspection during regular business hours at the commission offices or the office of the lieutenant governor, state capitol, Honolulu, Hawaii.

(c) The minutes of commission meetings shall be deleted to prevent disclosure of the identity of persons involved in confidential matters under chapter 84, HRS, and shall be available for public inspection at the commission offices during regular business hours.

(d) Deleted advisory opinions and decisions of the commission shall be available for public inspection at the commission offices during regular business hours.

(e) Copies of public records will be furnished to any person upon request and upon payment of a fee set in accordance with chapter 92, HRS. [Eff. ]  
(Auth: HRS §84-31(a)(5)) (Imp: HRS §§92-21, 92-51)

§21-1-10 Chairperson and vice-chairperson. (a) A chairperson shall be elected by secret ballot vote by a majority of all the members to which the commission is entitled, who shall serve for a term of one year or until a successor is elected, with such term to commence on January 1 of each year.

(b) A vice-chairperson, who shall call and chair meetings in the incapacity or absence of the chairperson, shall be elected by secret ballot vote by a majority of all the members to which the commission is entitled, and shall serve for a term of one year or until a successor is elected, with such term to commence on January 1 of each year. [Eff. ]  
(Auth: HRS §84-31(a)(5)) (Imp: HRS §84-21)

§21-1-11 Staff. (a) The executive director shall have charge of the commission's official records and shall be responsible for the maintenance and custody of the files and records of the commission, including the papers, transcripts of testimony and

exhibits filed in proceedings, the minutes of all actions taken by the commission, and all its rulings, advisory opinions, decisions, rules, and approved forms. The executive director or delegate shall receive all documents required to be filed with the commission and shall promptly stamp the time and date upon papers filed with the commission. The executive director is responsible for the administration of the office.

(b) The associate director assists the executive director in administrative matters. The associate director shall conduct investigations and prosecute cases as delegated by the executive director. In cases where the executive director serves as counsel to the commission, then the associate director shall conduct or prosecute the case without supervision by the executive director. [Eff.                   ] (Auth: HRS §84-31(a)(5)) (Imp: HRS §84-31)

§21-1-12 Operations. (a) The offices of the commission are in the Kamamalu Building, 250 South King Street, Honolulu, Hawaii, or such other address where the commission may be located from time to time. All communications shall be addressed to the state ethics commission at its offices, unless otherwise specifically directed.

(b) The offices of the commission shall be open from 7:45 a.m. to 4:30 p.m. Monday through Friday, except for state holidays.

(c) The commission meets and exercises its powers in any part of the State of Hawaii. Meetings may be called by the chairperson or by two or more commissioners upon notice to the staff and other commissioners. Except when considering matters made confidential by chapter 84, HRS, no matters considered in executive session, meetings are open to the public. [Eff.                   ] (Auth: HRS §84-31(a)(5)) (Imp: HRS §83-31)