

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

State of Hawaii

Date: Thursday, October 20, 2016

Time: 10:00 a.m.

Place: Hawaii State Ethics Commission Conference Room
American Savings Bank Tower
1001 Bishop Street, Suite 960
Honolulu, Hawaii 96813

Present: State Ethics Commission Members

Susan N. DeGuzman, Chair
David O'Neal, Vice Chair
Ruth D. Tschumy, Commissioner
Melinda S. Wood, Commissioner
Reynaldo D. Gaulty, Commissioner

State Ethics Commission Staff

Daniel M. Gluck, Executive Director
Susan D. Yoza, Associate Director
Nancy C. Neuffer, Staff Attorney
Virginia M. Chock, Staff Attorney
Bonita Y.M. Chang, Staff Attorney
Kee Campbell, Staff Attorney
John Tsukayama, Investigator
Pat Mukai, Secretary

CALL TO ORDER

The meeting was called to order at approximately 10:00 a.m. by Chair DeGuzman.

Agenda started out of order.

Agenda Item No. IV: Executive Director's Report

5. Personnel and Staffing Update

The Commission recognized Susan D. Yoza, Associate Director of the Hawaii State Ethics Commission, who has been with the Commission for 30 years. The Commission presented her with a Certificate from the Hawaii State Legislature as well as a gift from the staff and Commissioners.

Executive Director Gluck introduced two new staff members: Kee Campbell, Staff Attorney, and John Tsukayama, Investigator.

Agenda Item No. I: Consideration and Approval of the Minutes of the September 15, 2016 Meeting

Commissioner Wood made and Commissioner Tschumy seconded a motion to approve the minutes of the September 15, 2016 Sunshine Law meeting. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Gaulty voting; O'Neal abstaining as he did not attend the September 15, 2016 Sunshine Law meeting).

Agenda Item No. II: Consideration and Approval of the Executive Session Minutes of the September 15, 2016 Meeting

Commissioner Gaulty made and Commissioner Tschumy seconded a motion to approve the minutes of the September 15, 2016 Executive Session meeting. The motion carried unanimously (DeGuzman, Tschumy, Wood, and Gaulty voting; O'Neal abstaining).

Agenda Item No. III: Updates on Pending Cases

1. Hawaii State Teachers Association vs. Hawaii State Ethics Commission, Civil No. 15-I-2453-12 (RAN)
2. Boyd vs. Hawaii State Ethics Commission, SCWC-14-0000352 (Haw. July 19, 2016)

Executive Director Gluck stated that he had no new updates on these cases since the Commission's last meeting.

Agenda Item No. IV: Executive Director's Report

1. Education / Training Report

Executive Director Gluck stated that most upcoming trainings were at or above capacity, demonstrating strong interest in ethics trainings by state officials.

Vice Chair O'Neal inquired as to the process for a waitlist; Executive Director Gluck and Associate Director Yoza explained that waitlisted individuals would be notified if space opened up for the trainings, and that they would also be notified when additional trainings were scheduled. Executive Director Gluck also explained that staff is looking into other ways to offer trainings, particularly to state officials in rural areas, including by video-conference/webinar and by videos uploaded to the internet.

Chair DeGuzman asked about interest in the Continuing Legal Education class for attorneys. Executive Director Gluck stated that enrollment was strong but did not have the exact figure.

2. Guidance and Assignment Statistics

Commissioners had no questions regarding the statistics provided in Executive Director Gluck's report.

3. Financial Disclosures – Update

Executive Director Gluck stated that, as of June 1, 2016, approximately 300 state officials who were required to file a financial disclosure had not done so (and were therefore late as of that date). Staff has been diligent in contacting these individuals to encourage them to file, such that this number was down to approximately 140 individuals as of the date of the meeting. Executive Director Gluck explained that staff would be sending out letters (as required by statute) within the next week or so to those who had not yet filed, indicating that their filings are late and that they are required to pay a \$50 fine.

4. Hawaii State Ethics Commission Financial Report for FY 2016-2017 (Quarter Ending September 30, 2016) (Attachment 1)

Executive Director Gluck explained that, because the office was short-staffed for a time, the Commission is under budget. He stated that the Commission staff intended to purchase some new computer equipment using the Commission's Capital Outlay budget.

5. Personnel and Staffing Update (first on the agenda)

6. Electronic Filing System Update

Executive Director Gluck stated that the project was progressing well. The contractor has begun creating some mock-up sheets for what the on-line forms will look like.

7. Outreach and Media

Executive Director Gluck stated that, to date, he has met with 62 out of 76 legislators, as well as numerous department heads and other members of the community, and has received very helpful feedback regarding the Commission and its mission.

Vice Chair O'Neal asked whether Executive Director Gluck was being well-received in these meetings, and what the overall tone of the meetings has been. Executive Director Gluck stated that people have been very welcoming in these meetings; that most people had good, constructive ideas for the Commission; and that legislators generally want to see strong ethical standards to promote integrity in government.

Commissioner Graulty added that he and Executive Director Gluck met with Senate President Kouchi and that the Senate President seemed very supportive of the Commission and its mission.

Agenda Item No. V: Strategic Planning

1. Introduction

Executive Director Gluck began by explaining that the Constitution requires the State to have an Ethics Commission and a Code of Ethics, and that the Legislature is required to include certain categories in any ethics code it establishes. The current Code of Ethics includes these categories. However, Executive Director Gluck stated that the question he has been asking is whether the existing statutes provide sufficient guidance and authority to fulfill the constitutional mission to promote the highest standards of ethical conduct. He has been asking stakeholders two general questions: (1) what does it mean to have integrity in government, and (2) how can the Ethics Commission best meet that goal? In general, state officials have told the Executive Director that the Commission should strive for more clarity, consistency, and predictability in its work. To the extent that state officials have criticized the Commission, they have stated that it is unclear whether a particular action (such as acceptance of a gift) is allowable and that the Commission's guidance is sometimes inconsistent.

Executive Director Gluck said that he has been thinking about three principles in administering the Ethics Code:

- (1) *Clarity and consistency.* The rules should be clear, consistent, and predictable. For example, with respect to the receipt of gifts by state officials, the clearest rule (though not necessarily the best rule) regarding the

acceptance of gifts would be that state officials can never accept any kind of gift.

- (2) *Flexibility.* The Ethics Code should promote a workable system to allow state officials to do their jobs and the ethics rules should not interfere with otherwise good policy. For example, legislators are “on duty” 24/7, and many believe that they need to go to community events to do their jobs effectively but cannot afford to do so. Legislators receive modest salaries and face restrictions in how they can spend their legislative allowances and campaign funds. The Ethics Code should be flexible enough to allow state officials to do their jobs as best as they can.
- (3) *Maintaining public trust.* The public should believe that public officials are acting as good public servants and are not simply trying to line their own pockets. Executive Director Gluck said that, in his experience, the overwhelming majority of state employees are trying to serve the public as best they can; although there will always be a few people who take advantage of the system (given that there are more than 50,000 state employees), most state officials want to demonstrate high ethical standards.

Executive Director Gluck then addressed the lobbyists law, and stated his impressions of the purpose of the law: to promote transparency in the legislative process and to track who is spending money to influence legislative action. Executive Director Gluck opined that the law, as currently written, is not as effective as it could be.

Executive Director Gluck stated that the Commission had received several pieces of written testimony and that the testimony would be included as part of the record of the Commission meeting.

Chair DeGuzman asked whether any members of the public wished to testify.

2. Public Testimony

- Corie Tanida, Executive Director of Common Cause

Ms. Tanida expressed appreciation that the Commission was soliciting outside feedback. She referenced her written testimony and stated she agreed with Executive Director Gluck regarding the need for clarity. She also expressed an appreciation that the Commission was working to modernize some of its systems. She also opined that the Commission should focus on the “fair treatment” law and on administrative lobbying (and not just on legislative lobbying).

Chair DeGuzman asked Ms. Tanida about the conflict of interest loophole referenced in her written testimony, and whether that provision was the subject of proposed legislation from this past legislative session. Staff and others confirmed that this is the same issue.

Written public testimony was received in advance of the meeting from the following individuals and is attached to these minutes:

Lloyd Lim

Art and Val Mori

Nancy Davlantis

Ed Wagner

Sharon Moriwaki, President, Kaka'ako United

Corie Tanida, Executive Director, Common Cause Hawaii

3. Discussion

Executive Director Gluck stated that he had provided an outline of topics/questions to the Commissioners in advance of the meeting, and suggested the Commission start by talking about the overall mission of the Ethics Commission.

Commissioner Tschumy said she thinks the Commission is on the right path: that the Commission had been prosecutorial and confrontational in the past, and that the Commission should instead take a more educational approach by trying to help people understand the Ethics Code and apply it to their own situations.

Commissioner Gaulty stated that decisions made by state employees have a very strong impact on people's lives, and that the Commission must ensure that everything done in state government is above-board. This isn't easy to do, and some of the laws are inadequate. The Commission needs to ensure that everyone in state government is covered by the ethics code. Commissioner Gaulty expressed particular concern about lobbyists, who have significant impact at the legislature. Commissioner Gaulty also referenced written public testimony reflecting the public perception that Ethics Commission appointments are political. Commissioner Gaulty and the other Commissioners explained that, as part of the interview process to become a Commissioner, applicants are interviewed by a large panel (approximately 15 members), including the Chief Justice, followed by a lengthy interview by the Governor. This is a rigorous process. Commissioner Gaulty agreed that the Commission is on the right path but has a lot of work to do.

Commissioner Wood expressed the need to gain the public's trust in government. Perception matters – a lot of people are cynical about government, and the Commission and its staff can do more to clarify its work. People must have trust in their elected officials.

4. Outreach to new employees

Vice Chair O'Neal opined that the Commission and its staff should do more to notify new state employees about the Ethics Code – that, in the past, the Commission has heard repeatedly from employees that they did not even know that there was an ethics code that applied to them. He stated that the Commission should work with the personnel office for the State to ensure that all new employees receive information right at the start of their employment regarding their ethical obligations.

Commissioner Wood agreed, adding that the Commission should make clear that the code applies to those new employees.

Executive Director Gluck stated that this was an excellent idea, and that there should be more outreach to new employees.

Chair DeGuzman stated that it had previously been suggested that the Commission develop a flyer to go into new hire packets about the ethics code, and agreed it was a great suggestion.

Staff Attorney Chang stated that in the past this was done for some departments. Associate Director Yoza stated that the Department of Human Resources Development used to do new employee orientation sessions and that Ethics Commission staff would participate in these sessions. These are no longer held but staff is now looking at doing some sort of short video presentation that could be made available to new hires.

Chair DeGuzman stated that the Judiciary continues to conduct new hire orientations, and that staff might inquire with the Judiciary as well. Associate Director Yoza stated that staff has been working with the Judiciary to provide training to Judiciary employees.

Chair DeGuzman stated that state employees may not be receiving information regarding the availability of ethics trainings. She also expressed that, for Judiciary employees, some employees may not be able to leave their posts to attend ethics trainings. Associate Director Yoza stated that staff has conducted trainings at courthouses. Vice Chair O'Neal encouraged staff to look at on-line trainings to enable individuals to receive training on their computers or smart phones. Associate Director Yoza also stated that the Judiciary has teleconference capabilities.

Executive Director Gluck summarized that (1) the Commission should be proactive in its training, and (2) the Commission should make the training more accessible (e.g., by having trainings available on line). He also asked for help in gathering feedback from those with expertise in adult learning to make the trainings more effective. Vice Chair O'Neal suggested that the trainings contain real-life examples for trainees to review.

5. Specific legislative / administrative rule proposals

a. Gifts

Executive Director Gluck asked about specific legislative proposals to pursue.

Commissioner Gaulty stated that the focus should be on the lobbyists law and also on the issue of what constitutes “legislative duties.” He added that the Governor’s office must be subject to the Ethics Code as well given certain procurement issues with the previous administration.

Vice Chair O’Neal opined that legislators are always working, even if they are just going out to dinner on their own time, and that constituents constantly approach them with requests. Vice Chair O’Neal further noted that state officials can help raise the profile of certain events (particularly for non-profits) by attending those events.

Commissioner Gaulty agreed that being a legislator is a full-time, year-round job, even though legislators are considered part-time employees.

Executive Director Gluck then focused on invitations to events, explaining the need to balance flexibility (allowing state officials to do their jobs) but also providing clarity and consistency in what types of events state officials should be able to attend. He explained that the staff currently looks at three factors:

- (1) Donor,
- (2) Value, and
- (3) State purpose.

He asked the Commission for feedback as to how to draw these lines, given his impression that the Commission seems to want to allow some acceptance of gifts (*i.e.*, not setting the line at zero).

Commissioner Gaulty opined that these determinations need to be made on a case-by-case basis, and that state officials should seek guidance in advance. Executive Director Gluck expressed that, while we have an Attorney of the Day and individuals can seek an attorney’s advice whenever necessary, he did not think state officials should need to consult an attorney every time they are deciding whether to attend a conference or a lunch.

Chair DeGuzman stated that each situation would be different, and it may be difficult to balance the three factors (donor, value, state purpose) with clarity in advance.

Executive Director Gluck agreed that any cap on the value of a gift that state officials could receive would inevitably be arbitrary, but stated that the Commission should try to set up rules that make sense. To that end, for each of the three factors (donor, value, state purpose), the Commission could create certain categories that are

clearly “okay.” For example, for donors, if the gift comes from another governmental entity, the gift is likely acceptable; if it comes from a lobbyist, the gift may be problematic; if it comes from a regulated person or organization, it is almost certainly prohibited. Likewise, for state purpose, if the event sounds like something a tourist from the mainland would like to attend, it may be problematic (but if it seems like “work” then it’s probably okay). Executive Director Gluck stated he wanted to try to tap into individuals’ internal barometer on ethics issues – which, most of the time, is accurate.

Vice Chair O’Neal also wanted to give some deference to legislators to attend events – even if those events are not within the legislator’s district – to build relationships. Interacting with the public is part of a legislator’s job.

Commissioner Wood suggested that the Commission look more closely at all sides of an argument, and try to better articulate the rationale for its positions so that the public better understands the Commission’s work.

Executive Director Gluck stated his belief that the staff attorneys, internally, do a very good job of analyzing all sides of an issue to come to the best result, but should strive to provide greater clarity and consistency.

a. Internal Procedures

Commissioner Grauly suggested the office produce additional “FAQ” documents. Chair DeGuzman noted that Justice Acoba would put appeal pointers for the general public on the Judiciary’s website. She suggested that the Commission’s website could include “ethics pointers” as a running list. Executive Director Gluck also suggested that each statutory section could include annotations.

Chair DeGuzman was pleased the High Road was recently issued. She stated that she thought it was a good tool but should be disseminated more widely. She added that certain portions of the Ethics Code should be updated, and that some portions need more teeth.

Executive Director Gluck suggested that the Commission ask the Legislature to increase the maximum penalty for violations, which was set at \$500 in 1992 (and would be around \$850 in 2016 dollars).

Chair DeGuzman also suggested extending the deadline for issuing an Advisory Opinion, which is currently set at 30 days, even though the Commission (made up of volunteers) meets only once a month. Executive Director Gluck agreed and suggested extending the deadline to 30 days or 15 days after the next regularly scheduled Commission meeting, whichever is later. He also recommended clarifying the structure and process for seeking informal guidance versus a formal Advisory Opinion, and clarifying the options available to those seeking advice from the Commission.

Chair DeGuzman also suggested clarifying the process for settling cases. Executive Director Gluck stated his belief that the authority to settle cases is implied by chapter 91 but that it would be helpful to clarify those procedures in statute or administrative rule. He stated that, if an individual is being investigated by the Commission, the individual should feel as though s/he is treated fairly and is well-informed throughout the process. He stated that he feels this does happen in practice, but that it would be better to formalize the Commission's procedures.

b. Penalties for Ethics Code Violations

Chair DeGuzman and Vice Chair O'Neal opined that a \$500 fine may be adequate now; Executive Director Gluck explained that a higher maximum fine would give the Commission flexibility in those cases where there are few identifiable violations but the violations caused significant harm. Vice Chair O'Neal commented that, for most state employees, \$500 is still a significant amount; Chair DeGuzman commented that there have been cases when the maximum does not seem high enough.

Commissioner Wood stated that there should be clear guidelines in how to determine the penalty, including the degree of harm and repetition of wrongful behavior, so that the public does not think the Commission simply pulls a number out of a hat. Executive Director Gluck agreed and suggested there should likewise be clear written guidelines for determining when a respondent's name ought to be made public; he stated his belief that the Commission should be as transparent as possible and clear about how it evaluates cases. He advised that this could be done via administrative rule or internal practice.

Executive Director Gluck said that, as a next step, he would continue to work with staff and key legislators on a legislative package for the Commission's review at its next meeting.

6. Additional public testimony

- Jan Yamane, Executive Director and Legal Counsel, City & County of Honolulu

Chair DeGuzman recognized Jan Yamane, Executive Director and Legal Counsel, City & County of Honolulu Ethics Commission. Executive Director Yamane stated that the Honolulu Ethics Commission was likewise looking at rulemaking and strategic planning. She introduced Laurie Wong-Nowinski, Associate Legal Counsel.

Executive Director Yamane noted that while the State no longer has a new employee orientation, the City does so monthly – and requires each new hire to take a test on ethics, the results of which are placed in the employee's personnel jacket. The City is also looking at webinars and other internet trainings to offer more training options for the City's 9,000 employees. She hoped that the City and State Ethics Commissions

could collaborate, given that the two Commissions are tackling many of the same issues.

Chair DeGuzman then asked whether any member of the public wanted to testify, having heard the Commission's discussion.

- Mr. Brian Yamane, Hawaii State Legislature

Mr. Yamane suggested that the Commission speak with the Chief Justice and the Administrators of each court regarding training of Judiciary staff. He further stated that he agreed with Vice Chair O'Neal that, in the past, the Commission has been looked upon as a headhunter "going after" legislators, and if that is changed, it would be a "plus." Mr. Yamane said that legislators have feared that the Commission is making law by interpretation, and have considered legislation in response if that continues.

7. Grant In Aid Applications and the Definition of "Lobbying"

Executive Director Gluck raised one more specific question regarding Grant In Aid ("GIA") applications and whether the preparation of those applications ought to be considered "lobbying." He explained that, as the statute reads now, the preparation of the GIA application itself is considered lobbying (to the consternation of many non-profit organizations). Executive Director Gluck further reported the concern from non-profit organizations that the Ethics Commission has a more expansive definition of "lobbying" than the IRS does, and that the non-profits are worried about being audited – and losing their non-profit status – if they report one number to the Ethics Commission for lobbying expenditures and a different (lower) number to the IRS.

Executive Director Gluck explained that the IRS views two main categories of activities as "lobbying:" direct communications with legislators and "grassroots" lobbying (reaching out to the public to ask the public to communicate with legislators regarding a particular piece of legislation). He also raised the issue of polling or research papers and the point at which those expenditures become "lobbying," stating that he needed to do more research on that issue.

Vice Chair O'Neal agreed that merely applying for a GIA should not be considered lobbying.

Commissioner Wood asked about a non-profit staff member's communications with a lawmaker about what to include in a GIA application, and whether that would constitute lobbying. She reasoned that the mere submission of the grant application, however, likely ought not to be considered lobbying.

Commissioner Gaulty opined that there is some benefit in having clear rules by simply adhering to the IRS's guidelines.

Mr. Yamane reported that the process for applying for a GIA begins in December, and that the paperwork and process to apply for a GIA is substantial.

Chair DeGuzman agreed that an individual's preparation of the document, absent direct involvement with the Legislature, should not trigger the lobbyist registration requirement. However, if the individual communicates directly with lawmakers regarding the application, the lobbying rules would apply. She also understood non-profit organizations' anxiety about reporting different amounts to the Commission and to the IRS.

Executive Director Gluck explained that the legislative history of the lobbyists law indicates that the legislature not only wants to track lobbyists (and money spent on lobbying), but also wanted to avoid the unnecessary registration of individuals who aren't truly lobbying; indeed, there was a time when the Commission was registering several thousand people as lobbyists, and the number is roughly 300 today.

Executive Director Gluck thanked the Commission, the staff, and the public for its input, and stated that he would continue to work on preparing policy proposals for the Commission's review.

Agenda Item No. VI: Planning for 50th Anniversary of the Hawaii State Ethics Commission (2018)

Executive Director Gluck stated that 2018 will be the 50th anniversary of the Ethics Commission and asked whether the Commissioners had ideas as to whether and how the Commission might mark the occasion (and whether the Commission ought to ask the Legislature for an appropriation).

Commissioner Wood said that this anniversary presents an opportunity for the Commission to do something educational for the public.

Associate Director Yoza said that, for the Commission's 25th anniversary, the Commission held a conference with an invited speaker from the mainland.

It was agreed that there would be continued discussion on this matter.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 11:45 a.m., Commissioner Gaulty made and Vice Chair O'Neal seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (DeGuzman, O'Neal, Tschumy, Wood, and Gaulty voting).

The meeting was adjourned at 11:45 a.m.

Minutes approved on November 17, 2016.

From: Lloyd Lim [REDACTED]
Sent: Sunday, October 16, 2016 5:35 AM
To: Hawaii State Ethics Commission
Subject: Public comment for 10/20/16

I wish to raise three issues regarding the Ethics law for consideration:

1. The post-employment restriction does deter businesses from bribing employees with promises of future employment, but it is so long a period that it traps some employees in their jobs, thereby making them more compliant with their political appointee bosses. That cuts the opposite way from our anti-corruption goals if the politicians are subject to influence by businesses. Who will then stand up against them?
2. Financial disclosure is problematic in the modern security environment so thought should be given to requiring only disclosure that is relevant to the position.
3. To hold staff to ethics rules, there should be a standard universal procedure for ensuring that they are made aware of those rules during the hiring process.

Thank you for the opportunity to comment.

Lloyd Lim, Esq.
[REDACTED]

Sent from my iPhone

From: Arthur Mori [REDACTED]
Sent: Sunday, October 16, 2016 2:46 PM
To: Hawaii State Ethics Commission
Subject: Ethics Commission

Aloha,

We feel that the Ethics Commission would be far more effective if its members were chosen differently. If a group like The League of Women Voters were in charge of selecting members, there would be less politics involved. So long as these are political appointments, we feel that it is bound to influence decisions.

Mahalo.

Art and Val Mori
[REDACTED]

Kaka'ako Ūnited

October 18, 2016

Hawaii Ethics Commission
American Savings Bank Tower
Submitted Via email: ethics@hawaiiethics.org

Subject: Testimony for the Meeting to hear the public on ideas to promote integrity in government Thursday, October 20 2016 at 10 a.m.

Dear Commissioners:

I am a resident of Kaka'ako and president of Kaka'ako United, a group of concerned citizens who want to ensure that Kaka'ako is developed as a quality integrated, mixed use and diverse community that we planned for in 2011 – from mauka to makai.

We applaud the new executive director and commissioners for providing this opportunity to the public on how best to promote integrity in government. It has been long in coming; and we hope that the commission will address some of the inequities in the law and operations that will reassure citizens that government is operating in the best interests of the public and with equal treatment to all rather than decision-making where there may be or appear to be conflicts of interest.

We speak on two instances that point to our perception of unfair treatment by the commission in interpreting the spirit of the ethics laws and in dismissal of a complaint filed against a legislator because the law did not apply to legislators.

- (1) Unequal treatment via the use of advisory opinions, in particular, Ethics Advisory 2013-05, "Grassroots Lobbying." The lobbying law and its requirements are to ensure integrity in government decision-making by disclosing outside paid influences; and, if one were to read the statute on its face, is to determine lobbyists who are paid \$750 or more in a 6-month period. It is highly unlikely that our legislature, when it passed this law, meant for it to quash citizen participation in their government. But Ethics Advisory 2013-05 did just that to our community organization which went to the legislature to voice our dismay at what was happening in our community and submitted testimony and collected funds from our residents to be heard. Yet this is how the Ethics Commission chose to address our effort when we established our organization and collected funds to buy t-shirts and a banner.

The staff attorney wrote to us to register as lobbyists and continued to write to us based on its Advisory 2013-05 even though we sent a letter providing information that we did not meet the lobbying threshold. We never heard back, not even a letter closing the case (this was first opened in 2014). Transparency and accountability in government should also be the mantra of the Commission; in fact, the work of the Commission should be more open as a model for all other government agencies especially since there is no appeal to their rulings (unlike other government agencies). Additionally due respect to citizen groups should also be considered in its operations. They should train on the laws but, as importantly, respect complainants or respondents by providing timely feedback. We still have not had a response; there should be a statute of limitations for their cases.

KŪ: Kaka'ako Ūnited
415 South Street • Honolulu, Hawaii 96813
www.kakaakounited.org • info@kakaakounited.org

Ensuring the quality of life for an integrated Kaka'ako community from mauka to makai.

Recommendation: The following will address Commission procedures and work so that they understand the the ethics code and its purpose, perhaps attending training so they can clarify, educate and improve the ethics code to ensure integrity in government. Cases should be examined to determine whether there should be changes to the law when it does not work to achieve the purposes of the ethics laws. More specifically, the following are suggestions on changes in procedures and the law:

- Clarify in writing how the law is to be interpreted and have public hearings on them, eg. how was the advisory opinion on grassroots lobbying developed and was there input before it became the guiding law on community participation?
 - Rescind Ethics Advisory 2013-15 “Grassroots Lobbying” (October 24, 2013). I was told this was because of the same sex marriage lobbying; but that should not be the reason for squelching grassroots efforts in communities across this state who want to speak out about what is adversely affecting them. The law is clear on the threshold amount and it should be used to address corporations and big bucks going against the public interest; not attacking the public who are then “turned off” to government.
 - Develop clearer procedures and disseminate how cases are handled; and a time specific on when cases are closed with feedback to the parties in writing.
 - Amend Chapter 84, HRS, to allow for appeals of Ethics Commission decisions in the name of transparency and accountability to promote integrity in government. No agency should be above the law.
- (2) The ethics laws should apply to all employees, including legislators, who make decisions affecting the public interest. The Ethics Commission should press for disclosure of real or apparent conflicts of interest by all decision-makers — most specifically including state legislators — to ensure there is in fact transparency and accountability in government. Recently publicized accounts of potential conflicts of interest by legislators point to the need for disclosure and declaring any and all possible conflicts on matters coming before the house or senate that directly affect their pocketbooks due to outside employment.

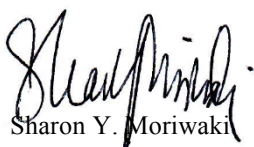
Hawai’i’s appalling voter turnout (the lowest in the country) may be a result of citizens seeing that the law does not apply equally to *everyone*.

Recommendation: Chapter 84-14, Conflicts of interests, should be amended to apply to all employees, including but not limited to legislators, department heads, and any other decision-maker working on behalf of the state. And legislators should be required to state a declaration of conflict of interest each time before voting on matters affecting their outside employment — even if they have to do so 50-100 times a session. The public deserves no less.

Again, we are pleased that the Commission is seeking public input. We rely on commissions such as yours who are charged with ensuring that government is accountable, transparent, and fair. As importantly, we want to know that you represent us with integrity and courage to ensure that elected and appointed decision-makers work and act in the best interests of the public.

Thank you for the opportunity to testify.

Sincerely,



Sharon Y. Moriwaki
President, Kaka‘ako United



Hawaii State Ethics Commission
Chair Susan N. DeGuzman, Vice Chair David O'Neal

Thursday, 10/20/16 at 10:00 AM at 1001 Bishop Street, Suite 960
State Ethics Commission—Strategic Plan

COMMENTS

Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair DeGuzman, Vice Chair O'Neal, and members of the Hawaii State Ethics Commission:

Common Cause Hawaii is a nonpartisan, grassroots organization dedicated to protecting and improving Hawaii's political process and holding government accountable to the public interest. As such, we would like to provide comments on three areas: reinstatement of the Fair Treatment Code, strengthening the regulation of lobbying activities at the executive and administrative levels, and clarifying regulations regarding lobbying activities.

Fair Treatment. In 2012, Act 208 inadvertently created a loophole that exempted legislators from the Hawaii Revised Statutes section 84-13, thus allowing legislators to essentially use their official capacity for personal gain. Simply put: Act 208 gave legislators a broad exemption from the Fair Treatment Code. Common Cause Hawaii respectfully requests that the Commission make the reinstatement of this important provision a legislative priority.

Administrative Lobbying. A major focus of Common Cause Hawaii is transparency in government. While the current lobbying statutes cover lobbying of the legislature, there are many other decisions by government that may be influenced by lobbying. In recent years, certain governmental decisions have generated public suspicions (whether warranted or not) and distrust of government. Without this type of transparency, we do not have an open democracy, and the general public is left in the dark about how key decisions are made. Requiring transparency would do much to allay suspicions and to enhance trust. Common Cause Hawaii urges the Commission to strengthen regulations regarding lobbying activities to the Executive Branch including any administrative agencies granting business or development-related permits or procurement of goods and services (SB653 2016).

Disclosure of Lobbying Activities. While lobbyists are required to file expenditure reports with the Commission, there appears to be confusion as to what is counted as an expenditure. In order to provide the public with accurate and timely information, Common Cause Hawaii encourages the Commission to reexamine and clarify disclosure regulations via administrative rules or legislative reform, and to update and enhance training for lobbyists accordingly.

Thank you for the opportunity to submit comments regarding how the Commission can best fulfill its mission to promote integrity in state government.

From:
Sent: Monday, October 24, 2016 10:22 AM
To:
Subject: FW: Input on promoting integrity in government

From: [REDACTED]
Sent: Wednesday, October 19, 2016 5:26 PM
To: Hawaii State Ethics Commission
Cc: [REDACTED]
Subject: Input on promoting integrity in government

Aloha --

As I will not be able to attend tomorrow's meeting, I'd like to commit a couple of comments.

I'm both a citizen who pays attention to what's going on in state government as well as a member of the legislative committee and the board of the League of Women Voters in Honolulu, I have become increasingly concerned about the cavalier way that the subject of ethics is relegated to the lower rungs of the ladder of what's important to state employees in positions of influence and/or power.

When comedian John Oliver can ridicule on his HBO show House Speaker Joe Souki for even asking whether his position as a representative for the chemical industry should be considered a conflict of interest in debating issues like pesticides and plastic bags. He was assured by the representative "in charge" that it wasn't a conflict of interest. Of course it was!

As Oliver said, only in Hawaii would something be considered both a conflict of interest and not a conflict of interest, much like aloha means hello and good-bye.

That kind of ridicule should be shaming for everyone involved, except that it wasn't.

Lawmakers seem to have no problem conducting fundraisers when the legislature is in session, can't understand why all the gifts they'd like to receive may be problematic, and overall can't seem to take the whole issue of conflict of interest as anything other than just the usual way of doing business.

I hope that these concerns are among those the State Ethics Commission will consider its kuleana as part of its mission.

Mahalo,

Nancy Davlantes
Kaneohe

From: Ed Wagner [REDACTED]
Sent: Thursday, October 20, 2016 12:06 PM
To: Hawaii State Ethics Commission; Dan Gluck; Susan Yoza; Susan DeGuzman; Reynaldo Grauly; Patrick Lui
Cc: John Carroll; sens@capitol.hawaii.gov; reps@capitol.hawaii.gov; David Ige; Governor David Y. Ige; Lieutenant Governor Shan Tsutsui; mike.mccartney@hawaii.gov; jodi.c.leong@hawaii.gov; Cindy.McMillan@Hawaii.gov; jyamane@honolulu.gov; bshanafelt@honolulu.gov; Parker, Lisa P; padler@honolulu.gov; vmarks@honolulu.gov; kbigornia@honolulu.gov; kchen@higoodwill.org; syuen@honolulu.gov; ssilva@honolulu.gov; asuemori@honolulu.gov; news@civilbeat.com; news@khon2.com; news@hawaiinewsnow.com; news@kitv.com; kmykleseth@staradvertiser.com; rdaysog@hawaiinewsnow.com; Gina Mangieri
Subject: Commission Welcomes Your Public Testimony on Ethics in State Government

Aloha State Ethics Commission,

I suspect all of you know precisely how I feel about the lack of ethical standards in both city and state, and even national government.

They are essentially non-existent, floating away in the sewer to the ocean, never to be seen or heard from again.

What little laws are on the books are back in the 19th century, just like the HECO monopoly, and the standards we need are in the 23 to the 25 century.

There is no honesty or integrity in our government. It's just a free-for-all approach to satisfy the needs of King MOOLAH. Do whatever you want as long as you don't get caught.

It is time to bring ethical standards back into the light of day and hold politicians accountable to the people. No more hanky panky. No more back room deals. No more greasing palms. Everything open and transparent. All political meetings in offices, restaurants, hotel lobbies, hallways, and Etc. recorded and put on line for public scrutiny.

If I were a politician serving the people, I would carry a pocket recorder around with me and record every conversation I had on political issues and upload them to my own FB page or website. That is what I call openness & transparency of government. Doing so would stop anyone from trying to offer a bribe to get a bill passed, changed, or rejected and would go a long way to ending blatant corruption and bring honesty and integrity to government.

Mahalo,

Ed Wagner
[REDACTED]