



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

Hawaii State Ethics Commission 2016 Annual Report

The Hawaii State Ethics Commission (“Commission”) is responsible for the administration and enforcement of the State Ethics Code and the State Lobbyists Law, chapters 84 and 97, Hawaii Revised Statutes (“HRS”), respectively. The State Ethics Code includes laws relating to the acceptance and reporting of gifts, confidential information, “fair treatment” (or the prohibited misuse of official position), conflicts of interests, state contracts, and post-employment restrictions. The State Ethics Code also includes a provision requiring the reporting of financial interests by state legislators, state employees, and candidates for state elective office. The State Lobbyists Law, which applies to lobbying activities at the state level, requires lobbyists to register with the Commission and requires lobbyists and organizations that lobby to report lobbying expenditures and contributions on forms filed with the Commission.

Much of the Commission’s work is focused on education and advice. The Commission strongly encourages state officials, lobbyists, and the public to contact its office for confidential advice; indeed, the Commission responded to more than 1,400 requests for advice in 2016. Similarly, the Commission encourages state agencies to request ethics training from the Commission, and in 2016, the Commission’s staff trained more than 1,500 individuals on the Ethics Code and Lobbyists Law.

The Commission has five members who are nominated by the State Judicial Council and appointed by the Governor for four-year terms. The current members of the Commission are Susan DeGuzman (Chairperson), David O’Neal (Vice Chairperson), Ruth Tschumy, Melinda Wood, and Reynaldo Graulty.

The Commission currently employs a staff of eleven: an executive director and an associate director; four staff attorneys; a computer specialist; a part-time investigator; and three secretarial staff. Despite the small size of the agency and other limited resources, the Commission’s responsibilities are extensive.

For purposes of the State Ethics Code, the Commission has jurisdiction over more than 50,000 state officials and employees. This includes state legislators and other elected state officials, employees of the legislative, executive, and judicial branches of government (with the exception of judges and justices), and members of all state boards and commissions. The State Ethics Code’s financial disclosure law also applies to all candidates for state elective office. The Commission also administers the State Lobbyists Law, chapter 97; in that capacity, the Commission has jurisdiction over approximately 450 lobbyists and nearly 400 organizations that lobby the state legislature or executive branch.

I. Summary of Ethics Commission's Work, 2016

As more fully set forth below and in Attachments 1-3, the Ethics Commission performed the following services in 2016:

A. Advisory Opinions and Guidance:

1. Responded to 1,297 requests for advice
2. Responded to an additional 152 requests for advice on travel (whether state official could accept travel paid for by another entity)

B. Ethics Education (see Attachment 2):

1. Trained 1,516 individuals at fifteen separate trainings, including web-cast trainings and in-person trainings throughout Hawaii
2. Published four issues of *The High Road*

C. Enforcement: Charges and Investigations (see Attachment 3):

1. Assessed \$47,424 in administrative penalties (payable to the General Fund) and \$3,000 in restitution
 - a. Enforcement actions: \$46,039.00
 - b. Late filings of financial disclosures: \$1,385.00
 - i. Employees and Board/Commission members: \$960.00
 - ii. Candidates: \$425.00
2. Initiated 96 investigations of alleged violations of the Ethics Code/Lobbyists Law; issued 10 charges and resolved 16 cases through agreements with respondents
3. Resolved teacher chaperone case with Hawaii State Teachers Association

D. Financial Interests Disclosures, Gifts Disclosures, and Lobbying Registrations and Expenditure Reports:

1. Received 1,930 financial disclosures
2. Received and published 172 candidate financial disclosures
3. Received and published 153 gift disclosures
4. Received and published registrations from 452 lobbyists representing 392 clients
5. Received and published 1,894 lobbyist expenditure reports

E. Judicial Candidates:

1. Responded to Judicial Selection Commission requests for information on approximately 162 candidates for judicial office

II. Duties of the Hawaii State Ethics Commission

A. Advisory Opinions and Guidance

The Commission issues advisory opinions and other types of guidance about the application of the State Ethics Code and the State Lobbyists Law.¹ Every year, the Commission's attorneys respond to more than one thousand requests for advice about these laws. In 2016, the Commission's attorneys received and responded to nearly 1,300 requests for advice from state legislators, state employees, lobbyists, and members of the public, and an additional 152 requests for advice on whether state officials could accept a particular gift of travel (where travel is paid for by a non-state entity). The Commission's attorneys also issued 261 staff opinion letters advising state employees and others about the application of the State Ethics Code and the State Lobbyists Law. The Commission considers its ability to provide timely and meaningful guidance and advice to be one of its most important functions.

B. Ethics Education

The Commission is mandated by law to educate state officials and employees about ethics in government.² To fulfill this mandate, the Commission conducts ethics training sessions throughout the year. In 2016, the Commission conducted ethics training for over 1,200 state officials and employees, including workshops for the Judiciary, the Department of Agriculture, the Department of Transportation, the Research Corporation of the University of Hawaii, multiple sessions for University of Hawaii employees (including sessions on Maui, Kauai, Hawaii Island, and Oahu), lobbyists, Board/Commission orientation for DCCA/Professional and Vocational Licensing Division appointees, and a refresher course for legislators and legislative staff. The Commission also held three general ethics training sessions for state employees and for state board members at the Mission Memorial Auditorium and the State Capitol Auditorium, and held an accredited Continuing Legal Education session for more than 100 government attorneys.

The Commission believes that it is critical to provide ethics training for state employees to improve their general awareness of ethics and to prevent unknowing violations of the State ethics laws. In fact, for many employees, the ethics training is their first exposure to the State Ethics Code.

In 2015, the Commission partnered with the Department of Human Resources Development to create an online pre-retirement presentation about the State Ethics Code's post-employment provisions. In 2017, the Commission also intends to explore developing online training modules to enhance its ethics education program.

¹ HRS §§ 84-31(a)(2) and 97-6(a)(3).

² HRS § 84-31(a)(7).

C. Enforcement: Charges and Investigations

The Commission is also mandated to enforce the State Ethics Code and the State Lobbyists Law.³ The Commission receives and reviews complaints and conducts investigations on a confidential basis concerning alleged violations of the law. When appropriate, the Commission initiates formal charges against individuals who appear to have violated the law.⁴ If there is probable cause to believe that a violation of the law has occurred, the Commission may hold a contested case hearing in accordance with HRS Chapter 91, Hawaii's Administrative Procedure Act.

In 2016, the Commission initiated 96 investigations, issued 10 charges, and resolved 16 charges and major investigations. The increased number of complaints and charges has required more staff resources to be dedicated to the Commission's enforcement activities. Many of the cases have involved extensive investigations and have resulted in employees paying relatively substantial administrative fines for actions that the Commission believed were inconsistent with the minimum standards of conduct established in the State Ethics Code or the requirements of the State Lobbyists Law. Indeed, in 2016, the Commission levied \$47,424 in fines (and an additional \$3,000 in restitution), including one case with a \$15,000 administrative penalty and another with a \$13,000 penalty.

D. Financial Interests Disclosures, Gifts Disclosures, Lobbying Registrations and Reports, and Judicial Candidate Reviews

The Commission also administers the filing requirements of the financial disclosure law, the gifts disclosure law, and the lobbying registration and reporting laws. These filing requirements help provide accountability and transparency in government. In 2016, the Commission received 1,930 financial disclosure statements from state officials and employees, and 153 gifts disclosure statements. The Commission also received 452 lobbyist registrations and 1,894 lobbying expenditures and contributions reports in 2016.

The Commission is in the process of working with the Office of Enterprise Technology Services, as well as a private contractor, to create a system that will allow filers to complete and file their documents electronically. When it is completed, this will include all financial disclosures, all gift disclosures, lobbyist registration statements, and lobbying expenditure statements.

³ HRS §§ 84-31(a) and 97-6(a).

⁴ A "charge" is a formal complaint alleging a violation of one or more provisions of the State Ethics Code or the Lobbyists Law. Charges may be filed by the Commission or by an individual or organization. Charges must be in writing and must be signed by the person making the charge under oath or, if initiated by the Commission, must be signed by three or more members of the Commission. HRS §§ 84-31(b) and 97-6(b).

The Commission is also in the process of streamlining the reporting process for lobbying expenditures. Currently, if a business hires a lobbying firm to lobby on its behalf, three separate expenditure reports are required for each reporting period: one from the business, one from the lobbying firm, and one from the individual lobbyist her- or himself. The new process will require only one form, to be submitted on behalf of the entity expending money for the purposes of lobbying, which will list any lobbying firms and any lobbyists all in one place. The new process will be more user-friendly, both for those completing the disclosure forms and for those reviewing the filings.

E. Judicial Candidate Reviews

The Commission provides information to the Judicial Selection Commission on applicants for judicial office. In 2016, the Hawaii State Ethics Commission provided information on approximately 162 applicants.

Additional information about the Commission's educational, advisory, and enforcement activities in 2016 is attached.

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The Commission strongly encourages state officials, lobbyists, and anyone with questions about Hawaii's ethics laws to contact the Commission office on a confidential basis. Indeed, each day, the Commission has a designated "attorney of the day" to respond to requests for advice, and Commission staff will usually be able to provide advice the same day.

Similarly, the Commission strongly encourages state agencies to invite Commission staff to give presentations on Hawaii's ethics laws. The Commission wants to help state officials avoid ethics problems before they arise: the majority of ethics violations arise from ignorance of the law, rather than a deliberate attempt to engage in wrongdoing, and the Commission seeks to partner with state agencies to help educate all state officials of their ethics obligations.

As article XIV of the Hawaii Constitution says, "The people of Hawaii believe that public officers and employees must exhibit the highest standards of ethical conduct and that these standards come from the personal integrity of each individual in government." The Ethics Commission looks forward to advancing this mission in 2017 and beyond.

Attachments:

1. Major functions of the Hawaii State Ethics Commission
2. Training summary, 2016
3. Summary of Resolutions of Charges and Resolutions of Investigations, 2016

Hawaii State Ethics Commission Major Functions

I ETHICS LAW	II LOBBYISTS LAW	III FINANCIAL DISCLOSURE LAW	IV GIFTS DISCLOSURE LAW	V CANDIDATE FINANCIAL DISCLOSURE LAW	VI EDUCATION	VII LEGISLATION	VIII WEBSITE
Duties: • Administration • Legal Opinions • Enforcement • Rules	Duties: • Administration • Legal Opinions • Enforcement • Auditing • Rules	Duties: • Administration • Legal Opinions • Enforcement • Auditing • Rules	Duties: • Administration • Legal Opinions • Enforcement • Auditing • Rules	Duties: • Administration • Legal Opinions • Enforcement • Auditing • Rules	Duties: • Mandatory Training • Sessions Developed by Office • Publications	Duties: • State Ethics Code • State Lobbying Law • Financial Disclosure Law • Gifts Disclosure Law • Candidates Financial Disclosure Law	Duties: • Publishing filings, news, Commission meeting materials • Portal for e-filing

IX DISCLOSURE FILINGS	Disclosure Filing Date	Approximate Number of Disclosures	X ADMINISTRATION
Annual Financial Interests Disclosures Statements	May 31	1930	Duties: • Management • Supervision • Fiscal • Personnel • Procurement • Technology • Planning
Candidates Financial Interests Disclosures Statements	20 days before primary*	172	
Gifts Disclosure Statements	June 30	153	
Lobbyist Registration Statements	January**	452	
Lobbying Organizations Expenditure Reports	March 31	323	
Lobbying Organizations Expenditure Reports	May 31	307	
Lobbying Organizations Expenditure Reports	January 31	284	
Lobbyists Expenditure Reports	March 31	307	
Lobbyists Expenditure Reports	May 31	348	
Lobbyists Expenditure Reports	January 31	325	

Note: State's Ethics Laws: Chapter 84, Hawaii Revised Statutes
 State's Lobbyists Law: Chapter 97, Hawaii Revised Statutes

ETHICS COMMISSION STAFF: 11 Individuals (9 full-time, 2 part-time)

* Filed every even-numbered year only.

** Renewed every odd-numbered year for registered lobbyists.

HAWAII STATE ETHICS COMMISSION 2016 EDUCATION PROGRAM (Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NO. OF PARTICIPANTS
03/15/16	General Ethics Training for State Employee	189
03/15/16	Lobbyists Law Training	49
04/14/16	Judiciary – Fiscal Officers’ Annual Meeting	40
07/08/16	Research Corporation of the University of Hawaii	218
07/26/16	University of Hawaii	100
08/16/16	University of Hawaii (including video conference to all sites)	205
08/30/16	Boards and Commissions Orientation	30
09/14/16	General Ethics Training for State Employees	231
10/18/16	DOH Sanitation Branch	45
10/18/16	Kona State Employees	52
10/21/16	Maui – DOT Employees/State Employees	54
10/26/16	Hilo – State Employees	83
10/28/16	Kauai – DOT Employees/State Employees	88
12/02/16	Ethics Training for State Government Attorneys	111
12/06/16	Ethics Refresher Class for Legislators and Staff	21
TOTAL	15 PRESENTATIONS	1,516 Participants

HAWAII STATE ETHICS COMMISSION: SUMMARY OF CHARGES AND INVESTIGATIONS RESOLVED IN 2016

The Hawaii State Ethics Commission (“Commission”) initiated 96 investigations in 2016, and resolved a total of 16 charges and major investigations, including those below. The Commission also worked with the Hawaii State Teachers Association to resolve the issue of teachers serving as chaperones on school trips; the settlement agreement in that case is available on the Commission’s website at <http://tinyurl.com/HSEC-HSTA>.

I. Resolutions of Charges in 2016

Resolution of Charge 2016-2: Charter School Governing Board Member’s Conflicts of Interests. The Commission issued a charge against a member of a charter school governing board for allegedly (1) taking action as a board member directly affecting his private employer and his spouse’s employment with the school; and (2) representing his private employer in lease negotiations and other transactions with the school. The charge alleged that these actions violated the Hawaii Ethics Code’s prohibitions on conflicts of interest, Hawaii Revised Statutes (HRS) § 84-14. The resolution of the charge included the Commission’s publication of information about the charge and the board member’s payment of an administrative penalty of \$2,500 to the State.

Resolution of Charge 2016-3: Former Deputy Director’s Conflicts of Interests. The Commission issued a charge against a former deputy director for allegedly (1) taking action directly affecting her spouse’s private employer on numerous projects involving the deputy director’s state agency; and (2) taking action directly affecting a business in which she and her spouse owned stock. The charge alleged that these actions violated the conflicts of interests law, HRS § 84-14. The resolution of the charge included the Commission’s publication of information about the charge, including the former deputy director’s name and her payment of an administrative penalty of \$13,000 to the State.

Resolution of Charge 2016-4: Supervisor’s Use of State Vehicles and Subordinate State Employees for Personal Purposes. The Commission issued a charge against a state supervisor for allegedly using state vehicles (including a semi-trailer used to haul heavy equipment), subordinate state employees, and state work time to transport his personal pickup truck from Kona to Hilo for repairs. The charge alleged that the supervisor misused his official position to obtain unwarranted personal privileges and advantages for himself, in violation of the fair treatment law, HRS § 84-13. The resolution of the charge included the Commission’s publication of information about the charge, including the supervisor’s name and state position, and the supervisor’s payment of an administrative penalty of \$3,000 to the State.

Resolution of Charge 2016-5: Legislator's Acceptance of Improper Gifts. The Commission issued a charge against a legislator for allegedly accepting improper gifts from a law firm that lobbies the legislature. The charge alleged that these actions violated the gifts law, HRS § 84-11. The resolution of the charge included the Commission's publication of information about the charge and the payment of \$739, equivalent to the value of the gift received, to the State.

Resolution of Charge 2016-6: Community College Professor's Misuse of Student Lab Fees. The Commission issued a charge against a state community college professor for allegedly misusing lab fees and other monies he collected from his students for his own personal benefit and other unauthorized purposes. The charge alleged that these actions violated the fair treatment law, HRS § 84-13, and the conflicts of interests law, HRS § 84-14. The resolution of the charge included the Commission's publication of information about the charge, including the professor's name, and his agreement to pay an administrative penalty of \$15,000 to the State.

Resolution of Charge 2016-7: Chief Financial Officer's Conflict of Interest. The Commission issued a charge against a state chief financial officer for allegedly (1) taking action with respect to his spouse's prospective employment with a business under contract with his state agency, and (2) taking action affecting that business at the time his spouse was being hired by, or had become an employee of, that business. The charge alleged that these actions violated the conflicts of interests law, HRS § 84-14. The resolution of the charge included the Commission's publication of information about the charge, including the chief financial officer's name, and his payment of an administrative penalty of \$1,000 to the State.

Resolution of Charge 2016-8: Adult Correction Officer's Acceptance of \$3,000 from Inmate. The Commission issued a charge against an Adult Corrections Officer ("ACO") for allegedly violating the fair treatment law (HRS § 84-13), the gifts law (HRS § 84-11), and the gifts disclosure law (HRS § 84-11.5) in connection with the ACO's receipt of \$3,000 from an inmate in his custody. The charge alleged that the ACO violated the fair treatment law by: (1) planning with two other ACOs to obtain a power of attorney from an inmate in their custody where the power of attorney was for the purpose of withdrawing money from the inmate's credit union account for the purpose of giving the money to the three ACOs; and (2) soliciting, accepting, or receiving a monetary gift from the inmate for his personal benefit. The charge further alleged that the ACO violated the gifts law by soliciting, accepting, or receiving \$3,000 from the inmate. Finally, the charge alleged that the ACO violated the gifts disclosure law by failing to disclose the receipt of the \$3,000 from the inmate. The resolution of the charge included publication of information about the charge, the payment of a \$1,500 administrative penalty to the State, and restitution of \$3,000 to the inmate.

Resolution of Charge 2016-9: State Engineer's Personal Assistance to Tenant on Pending Application Before State Agency. The Commission issued a charge against a state engineer for allegedly violating the fair treatment law, HRS § 84-13, by improperly assisting a state tenant on a pending application. The resolution of the charge included the Commission's publication of the employee's name and information about the charge and the employee's payment of an administrative penalty of \$1,000 to the State.

II. Resolutions of Investigations in 2016

Resolution of Investigation 2016-1: Lobbying Activities by Association's Director. The Commission resolved investigations regarding alleged violations of the registration and reporting requirements of the Lobbyists Law, HRS § 97-2 and 97-3, including (1) the failure by the Director of an association to register as a lobbyist and to file lobbying expenditures reports; and (2) the failure by a nonprofit organization that contracted and paid for the Director's lobbying services to file lobbying expenditures reports. The resolution of the investigations included the payment of administrative penalties of \$2,000 each by the Director and the nonprofit organization; the filing of the delinquent lobbyist registrations and lobbying reports; and the Commission's publication of information about the investigations.

Resolution of Investigation 2016-2: Legislator's Alleged Failure to Report Interest in Real Property on Annual Disclosure of Financial Interests. The Commission resolved an investigation regarding a legislator's alleged failure to report his interest in a condominium unit on his annual disclosure of financial interests, in violation of the financial disclosure law, HRS § 84-17. The legislator later amended his financial disclosure statements to report all required information about his interest in the property. The resolution of the investigation included the Commission's publication of information about the investigation and the legislator's payment of an administrative penalty of \$300 to the State.

Resolution of Investigation 2016-3: Employee's Improper Use of State Resources for Campaign Purposes. The Commission resolved an investigation regarding a Dean within the University of Hawaii, who allegedly used University letterhead and his University e-mail address to endorse a candidate for political office (in violation of the fair treatment law, HRS § 84-13). The resolution of the investigation included payment of a \$500 administrative penalty to the State and publication of information about the investigation; the Dean also instructed the candidate to cease using his endorsement letter.