



HAWAII STATE ETHICS COMMISSION

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

NOTICE OF MEETING OF THE HAWAII STATE ETHICS COMMISSION

Date: May 18, 2017
Time: 10:00 a.m.
Place: Hawaii State Ethics Commission Conference Room
American Savings Bank Tower
1001 Bishop Street, Suite 960
Honolulu, Hawaii 96813

A G E N D A

CALL TO ORDER

- I. Consideration and Approval of the Minutes of the April 20, 2017, Meeting

- II. Request for Advisory Opinion

Request for Advisory Opinion as to whether the Fair Treatment law, Hawaii Revised Statutes section 84-13, permits a member of a state board or commission to submit an application to the same board/commission for a government benefit, where issuance of the benefit is not simply ministerial.

The Commission may convene an executive session pursuant to Hawaii Revised Statutes sections 92-5(a)(8) and 84-31(f) to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a state or federal law, or a court order.

If you require an accommodation because of a disability, please contact the Hawaii State Ethics Commission by telephone at (808) 587-0460, by facsimile at (808) 587-0470 (fax), or via email at ethics@hawaiiethics.org.

Any interested person may submit data, views, or arguments in writing to the Commission on any agenda item. An individual or representative wishing to testify may notify any staff member of the Commission prior to the meeting or, during the meeting itself, may inform a Commissioner or Commission staff of a desire to testify. Testimony must be related to an item that is on the agenda, and the testifier shall identify the agenda item to be addressed by the testimony.

III. Executive Director's Report

1. Education / Training Report
2. Guidance and Assignment Statistics
3. 2017 Financial Disclosures
4. Electronic Filing System Update
5. Personnel and Staffing Update (Personnel Evaluations)

The Hawaii State Ethics Commission may convene an executive session pursuant to Hawaii Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of employees or Hawaii Revised Statutes section 92-5(a)(4) to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

6. Miscellaneous Office Projects / Updates

IV. Legislative Update

Update on bills that passed the Legislature, including:

- a. Ethics Commission bills:
 - i. [HB508, HD1, SD1, CD1](#): Increases fines for violations of the ethics code, Hawaii Revised Statutes chapter 84. Clarifies the ethics code's language regarding the assessment of fines in the context of a settlement agreement.
 - ii. [HB511, HD1, SD1, CD1](#): Increases fines for violations of the lobbyists law, Hawaii Revised Statutes chapter 97. Amends the definitions of "expenditure," "lobbyist," and "lobbying." Allows a person who employs a lobbyist to file a notice of termination. Amends reporting requirements for reports covering special sessions of the legislature. Requires that lobbyist registration statements be posted on the state ethics commission's website within a reasonable time after filing and remain on the website for at least 4 years.
 - iii. [HB852, HD2, SD1, CD1](#): Increases fines for failures to timely file financial disclosure statements. Allows the state ethics commission

to use e-mail or first-class mail to notify those individuals who fail to timely file their financial disclosure statements. Allows the commission to publish the names of individuals who fail to file their financial disclosure statements by the statutory deadline.

b. Other bills:

- i. [HB425, HD1, SD3, CD1](#): Makes certain sections of the State Code of Ethics inapplicable to technology transfer activities sponsored by University of Hawaii if the activities comply with the regulatory framework and research compliance program approved by the Board of Regents. Requires the Board of Regents to submit written status reports. Ethics Commission opposes.
- ii. [HB847, HD1, SD1, CD1](#): Establishes the Innovation and Commercialization Initiative Program to expressly give the University of Hawaii the legal authority to create, promote, and participate in new economic enterprises and expand workforce opportunities based on inventions and discoveries generated by or at the University. Ethics Commission submitted comments.
- iii. [HB110, HD1, SD2, CD1](#): Makes appropriation for the public employment cost items of and cost adjustments for employees of the various legislative agencies. Appropriates funds.
- iv. [HB165, HD1, SD2, CD1](#): Relating to Public Meetings. Makes some changes to the Sunshine Law, including requiring board packets to be made available for public inspection prior to board meetings. The Ethics Commission has not testified on this measure, but would be affected if it is signed into law by the Governor. Most of the proposed changes – such as making board packets available in advance to the public – are things the Commission already does.

V. Administrative Rules

A public discussion of how the Commission can best fulfill its mission to promote integrity in state government through administrative rulemaking and/or legislation. The discussion will cover issues pertaining to the Commission's powers and duties under the Hawaii State Ethics Code, Hawaii Revised Statutes ("HRS") chapter 84, the Hawaii Lobbyists Law, HRS chapter 97, and/or other issues falling within the Commission's constitutional mandate.

The Commission may discuss whether to draft proposed administrative rules on one or more topics to interpret existing laws, and/or whether the Commission should instead seek legislative changes on particular topics.

Anticipated topics may include, but are not limited to, rulemaking relating to the following:

1. Fair treatment law (HRS section 84-13):
 - a. Whether frequent flyer miles accrued by state officials may be used by those officials for personal travel;
 - b. Whether using one's state position to retaliate against another individual (e.g., by denying government services) constitutes a violation of the fair treatment law;
 - c. The circumstances under which state officials may serve as officers, directors, and/or employees of non-profit organizations that are affiliated with (or exist to benefit) the official's state agency;
 - d. Whether the prohibited use of state resources for private business purposes includes campaigning for political office and fundraising, except for state-sponsored fundraising activities.
2. Gifts law (HRS section 84-11) and Gifts reporting law (HRS section 84-11.5):
 - a. Whether lobbyists should be prohibited from offering any gifts to lawmakers (and/or whether legislators should be prohibited from receiving such gifts);
 - b. Whether rules should categorically include (or exclude) certain kinds of gifts or gifts from certain classes of donors;
 - c. Whether there should be guidelines for calculating the value of gifts that are reported on gifts disclosure statements.
3. Conflicts of Interests law (HRS section 84-14):
 - a. Whether the definition of "financial interest" should exclude serving as an unpaid board member of an "affiliated" nonprofit organization in a state official's state capacity.

- b. Whether a state board/commission member who has a job in the private sector is prohibited from taking official action affecting a client.
 - c. Whether the prohibition against assisting or representing others for pay before one's agency precludes an employee from representing her/himself before the employee's agency.
4. Disclosure of Financial Interests (HRS section 84-17):
- a. Guidelines for determining who must file a financial disclosure statement, the filing process, and the enforcement procedures for delinquent or late filers.
 - b. Clarification of certain interests that must be reported on a financial disclosure statement; interests that need not be reported; and reporting periods.
5. Restrictions on Post Employment (HRS section 84-18):
- a. Clarification of the prohibition against representing someone for pay on a matter before "the state agency or subdivision thereof" that a former employee actually served.
 - b. Clarification of the term "represent" under the post employment law.
6. Enforcement proceedings:
- a. Whether the Commission should adopt different procedures for contested case hearings;
 - b. The factors used by the Commission in determining whether a resolution of a case is made public and whether a case should be settled for a particular administrative fine.

*Please note that any individual may submit written testimony in advance of the meeting and/or submit oral testimony at the Commission meeting. Please send written comments to ethics@hawaiiethics.org.

VI. Adjournment