



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: June 22, 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

*The Commissioners will attend a bill signing ceremony at 9:30 a.m. at the State Capitol. The Meeting will begin in the Commission Conference Room at 10:00 a.m. or promptly thereafter upon the Commissioners' return to the Commission's office.

AGENDA

CALL TO ORDER

- I. Consideration and Approval of the Minutes of the May 18, 2017, Meeting

- II. Consideration and Approval of the Executive Session Minutes of the May 18, 2017, Meeting

The Commission may convene an executive session pursuant to Hawaii Revised Statutes sections 92-5(a)(2), 92-5(a)(4), 92-5(a)(8), and/or 84-31(f) to discuss matters relating to the evaluation of employees, to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities, and/or to deliberate or make a decision upon a matter that requires the

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.

consideration of information that must be kept confidential pursuant to a state or federal law, or a court order.

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), including discussion of Executive Director's job description and/or performance

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. Request for Advisory Opinion – Consideration of Draft Deleted (Redacted) Version of Opinion Issued May 18, 2017

Consideration of the draft deleted (redacted) Advisory Opinion, issued May 18, 2017, 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 endorsement, where issuance of the endorsement 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.

V. Legislative Update

VI. Adjournment

SUNSHINE LAW MEETING
AGENDA ITEM I

MINUTES: CONSIDERATION AND APPROVAL OF THE MINUTES OF THE MAY 18,
2017 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the May 18, 2017 Hawaii State
Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, May 18, 2017
Time: 10:01 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

Reynaldo D. Gaulty, Chair
David O'Neal, Vice Chair
Susan N. DeGuzman, Commissioner
Ruth D. Tschumy, Commissioner
Melinda S. Wood, 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 M. Campbell, Staff Attorney
Pat Mukai, Secretary

CALL TO ORDER

The meeting was called to order at 10:01 a.m. by Chair Gaulty.

Agenda Item No. I: Consideration and Approval of the Minutes of the April 20, 2017, Meeting

Vice Chair O'Neal made and Commissioner Wood seconded a motion to approve the minutes of the April 20, 2017 Sunshine Law meeting. The motion carried unanimously (Gaulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

Agenda Item No. II: Request for Advisory Opinion

Request for Advisory Opinion as to whether the Fair Treatment law, Hawaii Revised Statutes (“HRS”) § 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.

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At 10:04 a.m., Commissioner Wood made and Commissioner Tschumy seconded a motion to convene an Executive Session pursuant to HRS §§ 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. The motion carried unanimously (Graulity, O’Neal, DeGuzman, Tschumy, and Wood voting).

The Commission met in Executive Session.

Commissioner Tschumy made and Vice Chair O’Neal seconded a motion to approve the revised Advisory Opinion. The motion carried unanimously (Graulity, O’Neal, DeGuzman, Tschumy, and Wood voting).

RECESS OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At 10:39 a.m., Vice Chair O’Neal made and Commissioner Tschumy seconded a motion to recess the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Graulity, O’Neal, DeGuzman, Tschumy, and Wood voting).

An individual member of the public in attendance was provided an opportunity to testify on the matter from Executive Session, but declined to do so.

Agenda Item No. III: Executive Director’s Report

Executive Director Gluck provided some updated statistics on education/training and on 2017 financial disclosures (still 511 financial disclosures outstanding with a due date of May 31). Executive Director Gluck also provided a brief update on the electronic filing system, explaining that the process is moving ahead.

Regarding the personnel and staffing update, Executive Director Gluck stated that he and Associate Director Yoza have been conducting personnel evaluations of the Commission staff and that they are very pleased with the staff’s performance.

Executive Director Gluck then noted that the Executive Director job description states that the Executive Director is supposed to provide salary recommendations to the

Commission, and he asked the Commission whether it wanted to delegate this authority to the Executive Director or whether it wished to continue to review the Executive Director's recommendations.

The Commission discussed the matter. While the Commissioners generally agreed that the Executive Director has the knowledge of day-to-day activities necessary to make these kinds of personnel decisions, the Commission should first revise the Executive Director's job description. As such, the Commission asked Executive Director Gluck to submit a revised job description for consideration at the June 2017 Commission meeting and, in the interim, to present the Commission with his salary recommendations for staff.

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 10:55 a.m., Commissioner Tschumy made and Commissioner DeGuzman seconded a motion to convene an Executive Session pursuant to HRS § 92-5(a)(2) to discuss matters relating to the evaluation of employees or HRS § 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. The motion carried unanimously (Graulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

The Commission met in Executive Session. The Commission unanimously approved a motion to approve the proposed salary schedule for staff (Graulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 10:58 a.m. Commissioner DeGuzman made and Vice Chair O'Neal seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Graulty, O'Neal, DeGuzman, Tschumy, and Wood voting).

Executive Director Gluck provided an update regarding other office projects, including renovation of the office for the Commission's investigator, education initiatives, and the Commission's records retention policy.

Agenda Item No. IV: Legislative Update

Executive Director Gluck reported that three ethics bills passed the legislature and are pending Governor Ige's review, and that he has requested a signing ceremony for this legislation. Commissioner DeGuzman asked about the effective date of HB 852,

regarding the Commission's communications with individuals who miss the deadline to file their financial disclosures. Executive Director Gluck stated he believed the bill to be effective upon approval, but that staff would likely still need to follow the existing (and cumbersome) procedures for notifying individuals of delinquent filings this year.

Executive Director Gluck also reported on the technology transfer bills. Executive Director Gluck stated that he had not asked Governor Ige to veto the bills and that he was not inclined to do so. The Commission discussed this issue but did not take any further action.

Executive Director Gluck also discussed HB165 regarding the treatment of board packets, and that even though this bill was not yet signed into law, the Commission would begin following its procedures forthwith.

Agenda Item No. V: Administrative Rules

The Commission discussed the outline prepared by the Commission staff on possible topics to include in the Commission's proposed administrative rules. The Commission raised several questions regarding individual topics, but rather than discussing each item in detail, the Commission advised the staff to proceed with drafting rules in accordance with this general list of topics.

An individual member of the public in attendance (Corie Tanida from Common Cause Hawaii) was provided an opportunity to testify on any matters before the Commission; she offered her congratulations to the Commission on passing its legislation this year but otherwise did not have testimony for the Commission.

ADJOURNMENT OF SUNSHINE LAW MEETING

At 11:21 a.m., Commissioner DeGuzman made and Commission Wood seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Grauly, O'Neal, DeGuzman, Tschumy, and Wood voting).

The meeting was adjourned at 11:21 a.m.

Minutes approved on: _____

SUNSHINE LAW MEETING
AGENDA ITEM III

EXECUTIVE DIRECTOR'S REPORT

Attachment 1: Executive Director's Report

Attachment 2: Executive Director's Position Description

SUNSHINE MEETING
AGENDA ITEM III
EXECUTIVE DIRECTOR'S REPORT
June 22, 2017

I. Education / Training Report

a. Recently held trainings:

i. General Ethics Training

Hale Pono (DHHL), Kapolei
May 24, 2017
10:00 – 11:30 a.m.

Second session:
1:00 – 2:30 p.m.

166 attendees (total)

ii. General Ethics Training

University of Hawaii at Hilo, UCB 100
May 25, 2017
10:00 – 11:30 a.m.
56 attendees

iii. General Ethics Training

Department of Agriculture
June 2, 2017
1:30 – 3:00 p.m.
18 attendees

iv. Mandatory Ethics Training

Ethics Commission Conference Room
1001 Bishop St., Suite 970
June 7, 2017
12:00 – 2:00 p.m.
2 attendees

v. General Ethics Training

University of Hawaii Maui College

June 9, 2017

10:00 – 11:30 a.m.

62 attendees

- Includes 9 employees via video-conference (4 employees on Lanai and 5 employees on Molokai)
- 1 trainee completed an additional 30 minutes of training (from 11:30 a.m.–12:00 p.m.) to complete mandatory training topics)

vi. General Ethics Training

Kalanimoku Building

June 19, 2017

1:00 – 2:30 p.m.

10 attendees (anticipated)

b. Upcoming trainings:

i. General Ethics Training

Kauai – Pu‘uhonua Kaulike Bldg (Fifth Circuit Courthouse)

June 30, 2017

10:00 – 11:30 a.m.

ii. General Ethics Training

Univ. of Hawaii Dept. of Public Safety

Kuykendall Hall, Room 101

July 7, 2017

9:30 a.m. – 11:00 a.m.

66 attendees (anticipated)

II. Guidance and Assignment Statistics – May 2017

a. Attorney-of-the-Day Type Inquiries: 100

b. New Assignment Statistics

Advisory Opinions	1
Complaint	10
Gifts/Invitations/Travel	17
Guidance	8
Judicial Selection Comm'n	2
Project	3
Record Request	4
Training Request	1
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Total New Assignments	46

c. Closed Assignment Statistics

Complaint	16
Gifts/Invitations/Travel	27
Guidance	12
Judicial Selection Comm'n	1
Record Request	6
Training Request	2
Other	3
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Total Closed Assignments	67

III. 2017 Financial Disclosures

Deadline to file: May 31. Numbers current as of June 14.

- a. Board/Commission members: 117 outstanding (out of 838 total)
- b. Public state officials (excluding legislators): 1 outstanding (out of 84 total)
- c. Confidential state officials: 24 outstanding (out of 795 total)

IV. Electronic Filing System Update

Staff Attorney Chang, Computer Specialist Lui, and Executive Director Gluck continue to work with our contractor (IWMentor) and the Office of Enterprise Technology Services (“ETS”) to complete this project expeditiously. IWMentor has been moving forward with producing the Ethics Commission’s forms and has provided beta versions of several forms for testing.

V. Personnel and Staffing Update

Attachment: Revised position description for Executive Director

Executive Director Gluck and Associate Director Yoza completed oral and written evaluations of all staff members. Per the Commission’s instructions at the May 2017 Commission meeting, a proposed revised version of the Executive Director position description is attached.

VI. Miscellaneous office projects/updates

- a. Our investigator finally has his own office; we continue to review the Commission’s hard-copy files and other items that have been stored in the office to de-clutter the space.
- b. Executive Director Gluck has requested final approval for the Commission’s records retention policy from the Speaker of the House and Senate President.
- c. The staff has planned several items to commemorate the Commission’s 50th anniversary in 2018, including:
 - i. Purchasing branded pens (with the Commission’s contact information) to encourage state officials to contact the Commission; and
 - ii. Including a message on all employees’ payroll statements in February 2018 regarding the Commission’s 50th anniversary and the services provided by the Commission.



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May ~~2016~~2017

POSITION DESCRIPTION FOR EXECUTIVE DIRECTOR

I. INTRODUCTION

The Hawaii State Ethics Commission (“Commission”) administers a code of ethics for public officers and employees of the State as mandated by Article XIV of the Hawaii State Constitution. The Commission administers and enforces Chapters 84 and 97, Hawaii Revised Statutes (“HRS”). HRS chapter 84, the State Ethics Code, prescribes ethics laws for state government officials and employees. HRS chapter 97, the Lobbyists Law, prescribes registration and reporting requirements for lobbyists and organizations that engage in lobbying activities at the state level.

The Commission is established within the Office of the Auditor for administrative purposes only. The Commission employs an Executive Director and other staff, including an Associate Director, staff attorneys, an investigator, a computer specialist, an office manager, and clerical personnel. All employees of the Commission, including the Executive Director, serve at the pleasure of the Commission.

II. MAJOR DUTIES AND RESPONSIBILITIES

The Executive Director functions as the administrator and chief legal counsel for the Commission. The Executive Director is responsible for carrying out the Commission’s mandate to administer and enforce the State Ethics Code and the Lobbyists Law; to coordinate monthly Commission meetings; to direct the administration and management of the Commission’s office and staff; and to implement the Commission’s goals and objectives. The Executive Director provides overall leadership in guiding all aspects of the Commission’s programs and activities.

Legal counsel to Commission. Serves as chief legal counsel to the Commission. Provides legal advice to the Commission with regard to the interpretation of statutory provisions in Chapters 84 and 97, HRS, and other relevant laws. Advises the Commission with regard to the issuance of advisory opinions and enforcement proceedings. Also advises the Commission with regard to legal issues concerning Commission meetings, administrative actions, and other matters. Researches and prepares legal documents for the Commission. Represents the Commission in legal proceedings involving the Commission.

Administration and Enforcement of Chapters 84 and 97, HRS. Administers and enforces Chapters 84 and 97, HRS. Responds to inquiries and issues legal advice to state government officials and employees, lobbyists, and organizations represented by lobbyists. Drafts and reviews staff opinion letters, advisory opinions, legal memoranda, and other related documents.

Oversees the administration of laws under Chapter 84, HRS, that require filings of financial disclosure statements, gifts disclosure statements, and contract notices. Also oversees the administration of laws under Chapter 97, HRS, that require the registration of lobbyists and filings of statements of lobbying expenditures and contributions. Updates and revises forms and instructions; facilitates compliance by filers with filing requirements; implements audit or review procedures to ensure that filings comply with the law; and oversees enforcement proceedings against individuals who do not comply with filing requirements.

Conducts and oversees enforcement proceedings relating to possible violations of Chapters 84 and 97, HRS. Receives or initiates charges; conducts and directs investigations; participates in witness interviews; prosecutes or serves as legal counsel to the Commission in contested case hearings; drafts and reviews legal documents relating to enforcement proceedings.

Education program. Oversees development of the Commission's program to educate the public and state government officials and employees about ethics. Develops and conducts education workshops and presentations, including mandatory ethics training courses for state government officials as required by Chapter 84, HRS. Participates in speaking engagements and makes other public appearances to discuss the Commission's work and the laws administered by the Commission. Develops educational materials, including the Commission's newsletter and other publications. Oversees the development, design, and maintenance of the Commission's website.

Media. Responds to inquiries from the media. Issues news releases and statements on behalf of the Commission.

Legislation. Proposes and drafts legislation; tracks legislation; prepares written testimony; attends legislative hearings and presents testimony on behalf of the Commission. Meets with legislators and others to advocate on behalf of the Commission with regard to legislation.

Rules. Oversees the adoption, amendment, and repeal of the Commission's administrative rules as needed and as provided in Chapter 91, HRS.

Commission meetings and training. Coordinates Commission meetings. Assists the Commission Chair in preparing ~~Prepares~~ meeting agendas and oversees preparation of all written materials and minutes for Commission meetings.

Responsible for assuring that Commission members receive an orientation upon appointment, and training on applicable laws, procedures, and other matters relating to their duties and responsibilities.

Relations with other state and federal agencies and organizations. Maintains professional relations with other state, local, and federal agencies. Maintains professional relations with local and national organizations such as Common Cause Hawaii, the League of Women Voters of Hawaii, and the Council on Governmental Ethics Laws to promote ethics and other “good government” initiatives. Provides outreach work by participating in conferences and other events to speak about ethics, lobbying, and other related topics.

Budget and fiscal operations. Oversees planning, preparation, and management of the Commission’s budget. Prepares budget documents and testifies at budget hearings before the legislature. Oversees the Commission’s annual financial audit by an independent auditor and prepares Management’s Discussion and Analysis (MD&A) for the audit. Oversees all fiscal operations of the office, including payroll and procurement of all goods and services in accordance with applicable laws. Negotiates and executes office lease agreements and other agreements and contracts on behalf of the Commission.

Administration and Management. Responsible for the maintenance and custody of the files and records of the Commission. Responsible for administration and management of the Commission’s office and staff, including the day-to-day operations of the office. ~~Recommends~~ Responsible for staff hiring and disciplinary action ~~to the Commission~~. Provides leadership and direction to the staff in the performance of their duties: Oversees staff orientation and training; makes assignments and delegates work responsibilities to staff; supervises staff work performance; oversees office staffing levels and work schedules; approves leave requests (for vacation leave, sick leave, family leave, etc.); conducts annual job performance evaluations; and ~~makes salary recommendations to the Commission~~ sets staff salaries. Works closely with the Associate Director and staff attorneys to oversee and direct their legal work; routinely meets with attorneys to discuss cases and case management; reviews written work of attorneys; oversees attorneys’ work in all other areas. Drafts, implements, and oversees personnel policies and other office policies. Oversees all projects and planning for the office.

III. CONTROLS OVER THE POSITION

Supervisor. Reports to the Commission. Pursuant to HRS §84-35, serves at the pleasure of the Commission. Subject to periodic performance evaluations by the Commission. Subject to any additional review procedures (including but not limited to

decisions regarding hiring, disciplinary action, and salaries for staff) implemented by the Commission.

Full-time employment. Shall dedicate the necessary time and effort to perform all duties described herein on a full-time basis. Shall not engage in any part-time or other employment that conflicts, detracts, or prevents the Executive Director from performing the required duties in a prompt and efficient manner.

Standards of Conduct. Shall comply with the standards of conduct for state employees pursuant to HRS Chapter 84, the State Ethics Code.

Prohibition from political activity. Pursuant to HRS §84-35.5, shall not take an active part in political management or in political campaigns during the term of office or employment.

Related duties. Performs any and all other duties as required.

IV. MINIMUM QUALIFICATION REQUIREMENTS

In accordance with HRS §78-1(c), must be a citizen, national, or permanent resident alien of the United States, or eligible under federal law for unrestricted employment in the United States; and shall become a resident of the State within thirty days after beginning employment as a condition of eligibility for continued employment.

Graduate with a Juris Doctor degree from an American Bar Association accredited law school. Licensed attorney and member in good standing of the Hawaii State Bar.

V. RECOMMENDED QUALIFICATIONS

Demonstrated commitment to public service and advocacy, and to maintaining high ethical standards.

Knowledge of state government organization and interagency relationships. Knowledge of the legislative process and ability to advocate persuasively to accomplish legislative goals.

Knowledge of administrative law and administrative procedure, including rule-making and contested case procedures. Knowledge of open meetings and public records laws.

Knowledge of court procedures and litigation generally.

Knowledge of personnel policies and practices; budgeting requirements; procurement and fiscal management; information management.

Ability to manage and protect confidential information.

Ability to communicate effectively orally and in writing.

Ability to supervise and manage employees.

Strong interpersonal and leadership skills.

Computer skills, e.g., ability to use software such as MS Office, SharePoint and Dropbox.