

SUNSHINE LAW MEETING



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: October 2, 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 August 17, 2017, Meeting

II. Executive Director's Report

1. Education / Training Report
2. Guidance and Assignment Statistics
3. 2017 Financial Disclosures
4. Financial Audit Report for FY 2015-2016
5. Financial Report for FY 2017-2018 (First Quarter Ending 9/30/2017)

Attachment 1: Financial Report as of 9/25/17*

*A final First Quarter Report (as of 9/30/17) will be provided at the Commission meeting.

6. Electronic Filing System Update: Demonstration of forms
7. Discussion of possible November 2017 agenda items
8. Miscellaneous Office Projects / Updates

III. Administrative Rules

1. Discussion of proposed timetable to review proposed amendments prior to submission to the Department of the Attorney General
2. Review of staff's suggested amendments to Hawaii Administrative Rules, Title 21, Chapters 1-3

Attachment 1: Proposed administrative rules, chapters 1-3

IV. Evaluation of Executive Director

Discussion of timetable and procedure for annual performance review of Executive Director.

Attachment 1: Evaluation tool used in 2015

Attachment 2: Report from Permitted Interaction Group (PIG) from 2015

V. Adjournment

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.

SUNSHINE LAW MEETING
AGENDA ITEM I

MINUTES: CONSIDERATION AND APPROVAL OF THE MINUTES OF THE
AUGUST 17, 2017 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the August 17, 2017 Hawaii
State Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, August 17, 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

Present: State Ethics Commission Members

Reynaldo D. Gaulty, Chair
Susan N. DeGuzman, Commissioner
Ruth D. Tschumy, Commissioner
Melinda S. Wood, Commissioner¹

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
Pat Mukai, Secretary

Excused: David O'Neal, Vice Chair

CALL TO ORDER

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

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

Commissioner DeGuzman made and Commissioner Tschumy seconded a motion to approve the minutes of the July 20, 2017 Sunshine Law meeting. The motion carried unanimously (Gaulty, DeGuzman, and Tschumy voting).

¹ Commissioner Wood arrived at approximately 10:02 a.m. and did not participate in the approval of the July 20, 2017 minutes.

1 **Agenda Item No. II: Executive Director's Report**

2
3 *Education / Training Report*
4 *Guidance and Assignment Statistics*
5 *2017 Financial Disclosures*
6 *Electronic Filing System Update*
7

8 Executive Director Gluck provided comments on the Executive Director's Report
9 and the Commissioners had no further questions.
10

11 *Renewal of Office Lease*
12

13 Executive Director Gluck provided the Commission with information about
14 ongoing negotiations regarding the renewal of the Commission's office lease. Executive
15 Director Gluck reported that he consulted with the Department of Accounting and
16 General Services, which confirmed that there is no available state office space in the
17 Capitol District. He also reported that he had requested approval of the proposed lease
18 terms from the Speaker of the House and the Senate President, but that approval was
19 contingent upon approval from the Commission as well.
20

21 The Commission and Executive Director Gluck also discussed whether the
22 Commission's real estate agent, Leolani Abdul (former Commission Chair), would
23 receive a realtor's commission on this transaction. Ms. Abdul did not take a commission
24 when she served on the Commission. Given that a realtor's commission is generally
25 standardized throughout the industry (such that any realtor would receive roughly the
26 same commission for performing the work), and given Ms. Abdul's familiarity with lease
27 negotiations between the Commission and the landlord, Executive Director Gluck did
28 not believe there would be any concerns with her receiving a commission in this case
29 should she opt not to waive it.
30

31 Commissioner Wood made and Commissioner Tschumy seconded a motion to
32 approve the proposed revised lease agreement for the Hawaii State Ethics
33 Commission. The motion carried unanimously (Grauly, DeGuzman, Tschumy, and
34 Wood voting).
35

36 *Miscellaneous Office Projects / Updates*
37

38 Executive Director Gluck provided a brief update on drafting of administrative
39 rules, internet-based training initiatives, and the certification of an in-house notary for
40 the Commission.
41
42

1 **Agenda Item No. III: Request for Delegation of Authority to Administer Oaths to**
2 **Witnesses Appearing for Investigative Interviews**
3

4 Executive Director Gluck requested that the Commission provide express
5 authority for Commission staff to administer oaths to witnesses in investigatory
6 interviews. Executive Director Gluck stated his belief that this authority already existed,
7 but he believed it would be prudent for the Commission to make this grant of authority
8 clear.
9

10 Commissioner Wood made and Commissioner DeGuzman seconded a motion to
11 approve the delegation to staff of authority to administer oaths for witnesses appearing
12 for investigative interviews. The motion carried unanimously (Graulty, DeGuzman,
13 Tschumy, and Wood voting).
14

15
16 **ADJOURNMENT**
17

18 At 10:12 a.m., Commissioner DeGuzman made and Commissioner Tschumy
19 seconded a motion to adjourn the Sunshine Law meeting. The motion carried
20 unanimously (Graulty, DeGuzman, Tschumy, and Wood voting).
21

22 The meeting was adjourned at 10:12 a.m.
23

24
25 Minutes approved on: _____

SUNSHINE LAW MEETING
AGENDA ITEM II

EXECUTIVE DIRECTOR'S REPORT

Attachment 1: Executive Director's Report

SUNSHINE MEETING
AGENDA ITEM II
EXECUTIVE DIRECTOR'S REPORT
October 2, 2017

1. Education / Training Report

a. Recently held trainings/presentations:

General Ethics Training
U.H. Manoa Center for Hawaiian Studies
August 16, 2017
10:00 a.m. – 11:30 a.m.
20 attendees

Mandatory Ethics Training
Hawaii State Ethics Commission Office
August 24, 2017
10:00 a.m.
2 attendees

Presentation on Lobbyists Law to
Hawaii Children's Policy Agenda Conference
Hawaii USA Federal Credit Union Community Room
August 28, 2017
Approximately 25 attendees

General Ethics Training
UH – West Oahu, Kapolei
September 8, 2017
10:00 a.m. – 11:30 a.m.
78 attendees

General Ethics Training
University of Hawaii at Hilo, UCB 100
September 27, 2017
10:00 a.m. – 11:30 a.m.
50 attendees anticipated

General Ethics Training
Stadium Authority (location TBD)
September 28, 2017
10:00 a.m.

General Ethics Training
Hale Iako Training Classroom, Kona
September 29, 2017
10:00 – 11:30 a.m.
16 attendees anticipated

b. Upcoming trainings/presentations:

General Ethics Training
Office of Hawaiian Affairs
October 3, 2017
10:30 a.m. – 12:00 p.m.
OHA – Maui Ola
27 attendees anticipated

Brief overview of the Ethics Code
Office of Hawaiian Affairs – semi-annual all OHA staff meeting
October 12, 2017
9:00 – 9:15 a.m.
Keehi Lagoon DAV – Weinberg Hall
150-160 attendees anticipated

General Ethics Training
Office of Hawaiian Affairs
October 17, 2017
2:00 p.m. – 3:30 p.m.
OHA – Maui Ola
60 attendees anticipated

General Ethics Training
University of Hawaii Maui College
October 20, 2017
10:00 a.m. – 11:30 a.m.
23 attendees anticipated

General Ethics Training
Mission Memorial Auditorium
October 24, 2017
10:00 a.m. – 11:30 a.m.
120 attendees anticipated

General Ethics Training
Office of Hawaiian Affairs
October 24, 2017
1:00 p.m. – 2:30 p.m.
OHA – Maui Ola
56 attendees anticipated

General Ethics Training
Department of Taxation
Keelikolani Building
October 27, 2017
9:30 a.m. – 11:00 a.m.
100 attendees anticipated

General Ethics Training
Department of Taxation
Keelikolani Building
October 30, 2017
9:30 a.m. – 11:00 a.m.
115 attendees anticipated

General Ethics Training
Department of Taxation
Keelikolani Building
October 31, 2017
9:30 a.m. – 11:00 a.m.
100 attendees anticipated

General Ethics Training
Office of Hawaiian Affairs
October 31, 2017
1:00 p.m. – 2:30 p.m.
OHA – Maui Ola
40 attendees anticipated

2. Guidance and Assignment Statistics – August 2017

a. Attorney-of-the-Day Type Inquiries: 58

b. New Assignment Statistics

Complaint	1
Gifts/Invitations/Travel	17
Guidance	5
Judicial Selection Comm'n	8
Training Request	3
Projects/Other	3
<hr/>	
Total New Assignments	37

c. Closed Assignment Statistics

Complaint	2
Gifts/Invitations/Travel	5
Guidance	4
Judicial Selection Comm'n	1
Training Request	2
Projects/Other	6
<hr/>	
Total Closed Assignments	20

3. 2017 Financial Disclosures

- a. Board/Commission members:
 - 48 outstanding (out of 838 total)
 - Initial filers: 7 outstanding
- b. Outstanding Confidential State Officials:
 - 0 outstanding (out of 795 total):
 - Initial filers: 1 outstanding

4. Financial Audit Report for FY 2015-2016

Attachment 1a: Financial Audit Report for FY 2015-2016

5. Financial Report for FY 2017-2018 (First Quarter Ending 9/30/2017)

Attachment 1b: Financial Report as of 9/25/17*

*A final First Quarter Report (as of 9/30/17) will be provided at the Commission meeting.

6. Electronic Filing System Update: Demonstration of forms

Computer Specialist Lui and Staff Attorney Chang will give a brief demonstration of the financial disclosure and gift disclosure forms.

7. Discussion of possible November 2017 agenda items

- a. Proposed legislation for 2018 legislative session
- b. Proposed budget for FY 2018-2019

8. Miscellaneous Office Projects/Updates

- a. Administrative rule drafting
- b. Web-based training initiatives
- c. Records retention – disposition of records
- d. Office furniture and upkeep



State Ethics Commission State of Hawaii

Financial Statements
(With Independent Auditors' Report Thereon)

June 30, 2016

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Financial Statements

June 30, 2016

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PART I

INTRODUCTION SECTION

July 27, 2017

The Auditor
State of Hawaii:

We have completed our audit of the financial statements of the State Ethics Commission, State of Hawaii (the Agency), as of and for the year ended June 30, 2016. We transmit herewith our independent auditors' report containing our opinions on those financial statements and our independent auditors' report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with *Government Auditing Standards*.

Audit Objectives

The objectives of the audit were as follows:

1. To provide opinions on the fair presentation of the Agency's financial statements in accordance with accounting principles generally accepted in the United States of America.
2. To consider the Agency's internal control over financial reporting in order to determine our audit procedures for the purpose of expressing our opinions on the financial statements.
3. To perform tests of the Agency's compliance with certain provisions of laws, regulations, contracts, and grant agreements that may have a direct and material effect on the determination of financial statement amounts.

Scope of Audit

We performed an audit of the Agency's financial statements as of and for the year ended June 30, 2016, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

As part of the audit of the Agency's financial statements, we performed tests of the Agency's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. We also considered the Agency's system of internal control over financial reporting in order to determine our audit procedures for the purpose of expressing our opinions on the financial statements.

Organization of Report

This report has been organized into three parts as follows:

1. The Introduction Section describes briefly the objectives and scope of our audit and the organization and contents of this report.
2. The Financial Section includes management's discussion and analysis, the Agency's financial statements as of and for the year ended June 30, 2016, related notes, and our independent auditors' report thereon.
3. The Internal Control and Compliance Section contains our independent auditors' report on the Agency's internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with *Government Auditing Standards*.

* * * * *

We would like to take this opportunity to express our appreciation for the courtesy and assistance extended to us by the personnel of the State Ethics Commission during the course of our engagement. Should you wish to discuss any of the matters contained herein, we will be pleased to meet with you at your convenience.

Very truly yours,

KKDL Y LLC

PART II
FINANCIAL SECTION

Independent Auditors' Report

The Auditor
State of Hawaii:

Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities and the general fund of the State Ethics Commission, State of Hawaii (the Agency), as of and for the year ended June 30, 2016, and the related notes to financial statements, which collectively comprise the Agency's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the general fund of the Agency as of June 30, 2016, and the respective changes in financial position thereof and the budgetary comparison for the general fund for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

Relationship to the State of Hawaii

As discussed in Note 1, the financial statements of the Agency are intended to present the financial position, changes in financial position, and budgetary comparison of only that portion of the governmental activities and the general fund of the State of Hawaii that is attributable to the transactions of the Agency. They do not purport to, and do not, present fairly the financial position of the State of Hawaii as of June 30, 2016, and the changes in its financial position and budgetary comparison for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinions are not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated July 27, 2017, on our consideration of the Agency's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Agency's internal control over financial reporting and compliance.

KKDL & CO

Honolulu, Hawaii
July 27, 2017

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Management's Discussion and Analysis – Unaudited

June 30, 2016

This Management's Discussion and Analysis provides an overview of the financial activities of the State Ethics Commission, State of Hawaii (the Agency), for the fiscal year ended June 30, 2016. This discussion has been prepared by management and should be read in conjunction with the financial statements and notes thereto, which follow this section.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the Agency's financial statements. The Agency's basic financial statements are comprised of three components: (1) government-wide financial statements, (2) fund financial statements, and (3) notes to basic financial statements. These components are described as follows:

Government-Wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the Agency's finances in a manner similar to private-sector companies.

The Statement of Net Position presents information on all of the Agency's assets and liabilities, with the difference between the two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Agency is improving or deteriorating.

The Statement of Activities presents information showing how the Agency's net position changed during the fiscal year. This statement shows the extent to which the Agency's activities depend on state appropriations for support.

The Statement of Net Position can be found in the Statement of Net Position and Governmental Fund Balance Sheet on page 11 of this report, and the Statement of Activities can be found in the Statement of Activities and Governmental Fund Revenues, Expenditures, and Changes in Fund Balance on page 12 of this report.

Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The Agency maintains a single governmental fund, its general fund.

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on the balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating the Agency's near-term financing requirements.

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Management's Discussion and Analysis – Unaudited

June 30, 2016

Because the focus of governmental funds is narrower than that of government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities of the government-wide financial statements. By doing so, readers may better understand the long-term impact of the Agency's near-term financing decisions.

The governmental fund financial statements can be found in the Statement of Net Position and Governmental Fund Balance Sheet on page 11 of this report, and in the Statement of Activities and Governmental Fund Revenues, Expenditures, and Changes in Fund Balance on page 12 of this report.

Both the Statement of Net Position and Governmental Fund Balance Sheet, and the Statement of Activities and Governmental Fund Revenues, Expenditures, and Changes in Fund Balance provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The governmental fund financial statements are followed by the Statement of Revenues and Expenditures – Budget and Actual (Budgetary Basis) – General Fund, which compares the general fund's original and final budget and actual amounts prepared on a budgetary basis. The Statement of Revenues and Expenditures – Budget and Actual (Budgetary Basis) – General Fund can be found on page 13 of this report. A reconciliation between the general fund revenues and expenditures prepared on a GAAP basis compared to the general fund revenues and expenditures prepared for budgetary purposes can be found on page 14 of this report.

Notes to Basic Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and governmental fund financial statements. The notes to basic financial statements can be found on pages 15 through 37 of this report.

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Management's Discussion and Analysis – Unaudited

June 30, 2016

Condensed Financial Information

The following are summaries from the Agency's government-wide financial statements as of and for the years ended June 30, 2016 and 2015.

**Table 1
Condensed Statements of Net Position**

	<u>2016</u>	<u>2015</u>
Assets:		
Current assets	\$ 153,372	\$ 43,664
Capital assets, net	<u>2,823</u>	<u>5,782</u>
Total assets	<u>156,195</u>	<u>49,446</u>
Liabilities:		
Current liabilities	37,427	56,079
Long-term liability - compensated absences	<u>187,303</u>	<u>256,414</u>
Total liabilities	<u>224,730</u>	<u>312,493</u>
Net position:		
Invested in capital assets	2,823	5,782
Unrestricted	<u>(71,358)</u>	<u>(268,829)</u>
Total net position	<u><u>\$ (68,535)</u></u>	<u><u>\$ (263,047)</u></u>

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Management's Discussion and Analysis – Unaudited

June 30, 2016

**Table 2
Condensed Statements of Activities**

	Governmental Activities	
	2016	2015
Revenues:		
State allotted appropriations, net	\$ 1,181,185	\$ 1,006,895
State-provided payroll fringe benefits	375,862	346,203
Total revenues	1,557,047	1,353,098
Expenses:		
Current:		
Personal services	1,207,392	1,164,890
Office rent	88,684	91,888
Other	65,308	98,522
Capital outlays:		
Equipment and furniture	1,151	3,602
Total expenses	1,362,535	1,358,902
Change in net position	194,512	(5,804)
Beginning net position	(263,047)	(257,243)
Ending net position	<u>\$ (68,535)</u>	<u>\$ (263,047)</u>

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Management's Discussion and Analysis – Unaudited

June 30, 2016

Government-Wide Financial Analysis

Overall Financial Position

The liabilities of the Agency exceeded its assets by \$68,535 as of June 30, 2016. This deficit in net position is primarily due to the liability for compensated absences. Compensated absences are not allotted by the State of Hawaii until employees use their earned leave, or are paid upon termination of employment.

The total government-wide net position increased by \$194,512, or 73.9% over the prior fiscal year. Substantially all of the Agency's net position at June 30, 2016 and 2015 was unrestricted and may be used to meet the Agency's ongoing operations.

Results of Operations

State allotted appropriations, net totaled \$1,181,185, an increase of \$174,290 or 17.3% over the prior fiscal year. The increase was due to the Agency receiving appropriations for cost adjustments, authorized by Hawaii Revised Statutes, the design and development of an electronic filing system, and accrued vacation payments.

State-provided payroll fringe benefits, totaled \$375,862, an increase of \$29,659 or 8.6% over the prior fiscal year. The increase was due to increased personal service expense over the prior fiscal year.

Total expenses amounted to \$1,362,535 and remained consistent with the prior fiscal year.

Governmental Fund – General Fund Financial Analysis

The focus of the Agency's governmental fund, which is its general fund, is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in evaluating the Agency's financing requirements. In particular, unreserved fund balances may serve as a useful measure of the Agency's net resources available for spending next year.

At the end of the fiscal year, the Agency's general fund reported an ending fund balance of \$115,945, an increase of \$128,360 or 1,033.9% from the prior fiscal year. \$122,572 of the fund balance was assigned, \$29,700 of the fund balance was nonspendable, and the deficit in the unassigned fund balance was \$36,327.

General Fund Budgetary Highlights

The Agency's general fund budget for the year ended June 30, 2016 remained the same from the original to the final budget.

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Management's Discussion and Analysis – Unaudited

June 30, 2016

Actual personal services on a budgetary basis was greater than the budgeted amount by \$57,468 or 6.7%. The difference was primarily attributable to the payout of accrued vacation to terminated personnel during the year ended June 30, 2016.

Commission meetings and hearings on a budgetary basis were less than the budgeted amount by \$21,524 or 84.4%. The difference was primarily attributable to fewer contested case hearings on neighbor islands than was anticipated.

Office rent on a budgetary basis was less than the budgeted amount by \$22,180 or 22.6%. The difference was primarily attributable to the prepayment of office rent in fiscal year 2015.

Capital Assets and Long-Term Liability

At June 30, 2016, the Agency had capital assets, net of accumulated depreciation, of \$2,823. There was a decrease in capital assets of \$2,959 or 51.2% from the prior fiscal year, which was attributable to depreciation expense for the year ended June 30, 2016. Further details can be found in Note 7 to the basic financial statements.

At June 30, 2016, the Agency's only long-term liability was for employees' compensated absences, which amounted to \$187,303, a decrease of \$69,111 or 27.0% from the prior fiscal year. The decrease is attributable to the payout of accrued vacation to terminated personnel during the year ended June 30, 2016. Further details can be found in Note 8 to the basic financial statements.

Currently Known Facts and Conditions

The Agency is currently in the process of designing and developing an electronic filing system.

Request for Information

Questions concerning any of the information provided in this report or requests for additional information should be addressed to the Executive Director, State Ethics Commission, State of Hawaii, 1001 Bishop Street, Suite 970, Honolulu, Hawaii, 96813.

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Statement of Net Position and Governmental Fund Balance Sheet

June 30, 2016

	General Fund	Adjustments (Note 3)	Statement of Net Position
Assets:			
Cash and cash equivalents	\$ 123,672	\$ -	\$ 123,672
Prepaid expenses	29,700	-	29,700
Capital assets, net	-	2,823	2,823
Total assets	<u>\$ 153,372</u>	<u>2,823</u>	<u>156,195</u>
Liabilities:			
Vouchers and contracts payable	\$ 3,174	-	3,174
Accrued wages and employee benefits payable	33,153	-	33,153
Due to State of Hawaii	1,100	-	1,100
Long-term liability - compensated absences:			
Due within one year	-	55,428	55,428
Due after one year	-	131,875	131,875
Total liabilities	<u>37,427</u>	<u>187,303</u>	<u>224,730</u>
Fund Balance/Net Position:			
Fund balance:			
Assigned	122,572	(122,572)	-
Nonspendable	29,700	(29,700)	-
Unassigned	(36,327)	36,327	-
Total fund balance	<u>115,945</u>	<u>(115,945)</u>	<u>-</u>
Total liabilities and fund balance	<u>\$ 153,372</u>		
Net position:			
Invested in capital assets		2,823	2,823
Unrestricted		(71,358)	(71,358)
Total net position		<u>\$ (68,535)</u>	<u>\$ (68,535)</u>

See accompanying notes to basic financial statements.

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Statement of Activities and Governmental Fund Revenues, Expenditures, and
Changes in Fund Balance

Year Ended June 30, 2016

	General Fund	Adjustments (Note 4)	Statement of Activities
Revenues:			
State allotted appropriations, net	\$ 1,181,185	\$ -	\$ 1,181,185
State-provided payroll fringe benefits	375,862	-	375,862
Total revenues	<u>1,557,047</u>	<u>-</u>	<u>1,557,047</u>
Expenditures/Expenses:			
Current:			
Personal services	1,276,503	(69,111)	1,207,392
Office rent	88,684	-	88,684
Equipment rental and maintenance	15,172	-	15,172
Office expenses	14,106	-	14,106
Dues and subscriptions	11,880	-	11,880
Contractual services	9,252	-	9,252
Printing and advertising	4,074	-	4,074
Meetings and hearings	3,899	-	3,899
Depreciation	-	2,959	2,959
Travel and subsistence, out-of-state	2,306	-	2,306
Travel and subsistence, in-state	1,660	-	1,660
Capital outlays			
Equipment and furniture	<u>1,151</u>	<u>-</u>	<u>1,151</u>
Total expenditures/expenses	<u>1,428,687</u>	<u>(66,152)</u>	<u>1,362,535</u>
	<u>128,360</u>	<u>66,152</u>	<u>194,512</u>
Net change in fund balance	128,360	(128,360)	-
Change in net position	-	194,512	194,512
Fund Balance/Net Position:			
Beginning of the year	(12,415)	(250,632)	(263,047)
End of the year	<u>\$ 115,945</u>	<u>\$ (184,480)</u>	<u>\$ (68,535)</u>

See accompanying notes to basic financial statements.

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Statement of Revenues and Expenditures - Budget and Actual (Budgetary Basis) - General Fund

Year Ended June 30, 2016

	Original and Final Budget	Actual on Budgetary Basis	Variance Positive (Negative)
Revenues:			
State appropriations	\$ 1,185,301	\$ 1,181,185	\$ (4,116)
Expenditures:			
Current:			
Personal services	862,974	920,442	(57,468)
Electronic filing system	130,000	129,979	21
Office rent	98,000	75,820	22,180
Equipment rental and maintenance	10,985	12,039	(1,054)
Office expenses	15,524	14,076	1,448
Dues and subscriptions	13,670	11,761	1,909
Contractual services	9,558	3,441	6,117
Printing and advertising	1,600	4,074	(2,474)
Meetings and hearings	25,500	3,976	21,524
Travel and subsistence, out-of-state	6,490	2,766	3,724
Travel and subsistence, in-state	8,000	1,660	6,340
Capital outlays:			
Equipment, furniture and books	3,000	1,151	1,849
	<u>1,185,301</u>	<u>1,181,185</u>	<u>4,116</u>
Excess of Revenues over Expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

See accompanying notes to basic financial statements.

**STATE ETHICS COMMISSION
STATE OF HAWAII**

Budgetary Reconciliation - General Fund

Year Ended June 30, 2016

Revenues:

Actual revenues on a budgetary basis	\$ 1,181,185
Differences between budgetary basis and GAAP basis:	
On-behalf fringe benefits	<u>375,862</u>
Total revenues reported in the Statement of Governmental Fund Revenues, Expenditures, and Changes in Fund Balance	<u><u>\$ 1,557,047</u></u>

Expenditures:

Actual expenditures on a budgetary basis	\$ 1,181,185
Differences between budgetary basis and GAAP basis:	
Reserved for encumbrances at June 30, 2016	(122,572)
Expenditures paid with prior year appropriations	42,564
Future expenditures paid with current appropriations	(29,700)
Payment of prior year expenditures	(54,979)
Expenditures paid with future appropriations	36,327
On-behalf fringe benefits	<u>375,862</u>
Total expenditures reported in the Statement of Governmental Fund Revenues, Expenditures, and Changes in Fund Balance	<u><u>\$ 1,428,687</u></u>

See accompanying notes to basic financial statements.

**STATE ETHICS COMMISSION
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Notes to Basic Financial Statements

June 30, 2016

1. Financial Reporting Entity

The State Ethics Commission, State of Hawaii (the Agency) is a governmental unit of the State of Hawaii (the State) Legislative Branch and was created to render advisory opinions and handle matters dealing with standards of conduct as stated by the Hawaii Revised Statutes or the code of ethics adopted by the constitutional convention as they apply to State employees, legislators and registered lobbyists.

The accompanying basic financial statements present only the activities of the Agency and are not intended to present fairly the financial position of the governmental activities and the general fund of the State, and the respective changes in financial position and budgetary comparison for the year then ended in conformity with accounting principles generally accepted in the United States of America (GAAP).

2. Summary of Significant Accounting Policies

Basis of Presentation

The financial statements of the Agency have been prepared in conformity with GAAP. The Governmental Accounting Standards Board (the GASB) is the accepted standard-setting body for establishing governmental accounting and financial accounting principles.

The government-wide financial statements report all assets, liabilities, net position, and activities of the Agency as a whole. They include all funds of the reporting entity except for fiduciary funds.

Net position is restricted when constraints placed on it are either externally imposed or imposed by constitutional provisions or enabling legislation. Internally imposed designations of resources are not presented as restricted net position. When both restricted and unrestricted resources are available for use, it is generally the Agency's policy to use restricted resources first, then unrestricted resources as they are needed.

Fund financial statements are organized on the basis of funds, each of which is considered to be a separate accounting entity. The operations of each accounting fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund balances, revenues and expenditures. The Agency uses fund accounting to report on its financial position and results of operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

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Notes to Basic Financial Statements

June 30, 2016

Governmental Funds Types

The Agency has only one governmental fund, which is the general fund, and no proprietary fund operations.

The general fund is used to account for all of the Agency's financial resources. The annual operating budget as authorized by the State Legislature provides the basic framework within which the resources and obligations of the general fund are accounted for.

Measurement Focus and Basis of Accounting

Government-wide financial statements - Government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Under the accrual basis of accounting, revenues are recognized when they are earned and expenses are recorded at the time liabilities are incurred or economic assets used. Revenues, expenses, gains, losses, assets, and liabilities resulting from exchange and exchange-like transactions are recognized when the exchange takes place.

In addition, amounts paid to acquire capital assets are capitalized as assets in the government-wide financial statements rather than reported as an expenditure. Amounts paid to reduce long-term indebtedness of the reporting government are reported as a reduction of the related liability, rather than as an expenditure.

Governmental fund financial statements - Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recorded when susceptible to accrual, i.e., both measurable and available, usually when the appropriations are allotted. Expenditures are generally recognized when the related liability is incurred, except for accumulated unpaid vacation, which is recognized as expenditures when payable from expendable available resources.

Amounts expended to acquire capital assets are recorded as expenditures in the fiscal year that resources were expended, rather than as fund assets. Expenditures related to compensated absences are recorded only when payment is due.

Encumbrances are recorded obligations in the form of purchase orders or contracts. The Agency records encumbrances at the time purchase orders or contracts are awarded and executed. Encumbrances outstanding at fiscal year-end do not constitute expenditures or liabilities.

**STATE ETHICS COMMISSION
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Notes to Basic Financial Statements

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Governmental entities with a single governmental program are allowed to present combined government-wide and fund financial statements. Thus, the basic financial statements of the Agency are composed of the following:

- Statement of Net Position and Governmental Fund Balance Sheet
- Statement of Activities and Governmental Fund Revenues, Expenditures, and Changes in Fund Balance
- Statement of Revenues and Expenditures – Budget and Actual (Budgetary Basis) – General Fund
- Budgetary Reconciliation – General Fund
- Notes to Basic Financial Statements

Appropriations

Appropriations represent the authorizations granted by the State Legislature that permit a state agency, within established fiscal and budgetary controls, to incur obligations and to make expenditures. The allotted appropriations lapse if not expended by or encumbered at the end of the fiscal year.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash in bank and amounts held in State Treasury as discussed in Note 6.

Amounts Held in State Treasury

The State's investments held in the State Treasury are reported at fair value within the fair value hierarchy established by GAAP. Investments in U.S. government obligations are reported at fair value based on quoted prices or other observable inputs, including pricing matrices. Investments in certificates of deposit and repurchase agreements are reported at fair value using cost-based measures due to the nonparticipating nature of these securities.

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Notes to Basic Financial Statements

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Fair Value Measurements

The Agency measures the fair value of assets and liabilities as the price that would be received to sell an asset or paid to transfer a liability in the principal or most advantageous market in an orderly transaction between market participants at the measurement date. The fair value hierarchy distinguishes between independent observable inputs and unobservable inputs used to measure fair value, as follows:

- Level 1* - Quoted prices (unadjusted) in active markets for identical assets or liabilities.
- Level 2* - Inputs other than quoted market prices included in Level 1 that are observable for an asset or liability, either directly or indirectly.
- Level 3* - Unobservable inputs for an asset or liability reflecting the reporting entity's own assumptions. Level 3 inputs are used to measure fair value to the extent that observable Level 1 or 2 inputs are not available.

Capital Assets

The accounting treatment over capital assets depends on whether the assets are used in the governmental fund and whether they are reported in the government-wide or fund financial statements.

Government-wide Financial Statements

The Agency records the acquisition of capital assets, costing \$5,000 or more, which only includes furniture and equipment. Depreciation of furniture and equipment is computed using the straight-line method over 7 years.

Maintenance and repairs are charged to operations when incurred. Betterments and major improvements which significantly increase values, change capacities, or extend useful lives are capitalized. Upon sale or retirement of capital assets, the cost and the related accumulated depreciation, as applicable, are removed from the respective accounts, and any resulting gain or loss is recognized in the Statement of Activities.

Fund Financial Statements

Capital assets used in governmental fund operations are accounted for as capital expenditures of the governmental fund upon acquisition.

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Notes to Basic Financial Statements

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Compensated Absences

Employees are permitted to accumulate earned but unused vacation and sick leave benefits. There is no liability for unpaid accumulated sick leave since sick leave is not convertible to pay upon termination of employment.

In the government-wide financial statements, vacation pay is accrued when the obligation is incurred. The fund financial statements report an accrued vacation liability only when vacation pay is due and payable in the current period.

Fund Balances

In the governmental fund financial statements, fund balances are classified using a hierarchy based on the extent to which the Agency is bound to follow constraints on the specific purposes for which amounts in the funds may be spent.

Fund balances are classified as follows:

Nonspendable - Nonspendable fund balance includes amounts that cannot be spent because they are either not in spendable form or they are legally or contractually required to be maintained intact.

Restricted - Restricted fund balances are restricted to specific purposes which are usually imposed by external parties such as grantors, contributors, or laws or regulations of other governments.

Committed - Committed fund balances are amounts that can only be used for specific purposes pursuant to formal action of the State Legislature.

Assigned - Assigned fund balance includes amounts that are constrained by the State's intent to be used for specific purposes, but are neither restricted nor committed. The State Legislature authorizes the amounts to specific purposes through the budgetary process. Assigned amounts within the general fund include non-liquidated encumbrances at year end that are carried forward to the next fiscal year.

Unassigned - Unassigned fund balance is the residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds, and that has not been restricted or assigned to specific purposes within the general fund.

The Agency has only nonspendable, assigned, and unassigned fund balances.

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Notes to Basic Financial Statements

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Risk Management

The Agency is exposed to various risks for losses related to torts; theft of, damage to, or destruction of assets; errors or omissions; workers' compensation; and acts of terrorism. A liability for insurance-related losses is established if information indicates that it is probable that a liability has been incurred and the amount of the loss is reasonably estimable.

Deferred Compensation Plan

The State offers its employees a deferred compensation plan created in accordance with Internal Revenue Code Section 457. The plan, available to all state employees, permits employees to defer a portion of their salary until future years. The deferred compensation is not available to employees until termination, retirement, death, or unforeseeable emergency.

All plan assets are held in a trust fund to protect them from claims of general creditors. The State has no responsibility for loss due to the investment or failure of investment of funds and assets in the plan, but does have the duty of due care that would be required of an ordinary prudent investor. Accordingly, the assets and liabilities of the State's deferred compensation plan are not reported in the State's or Agency's basic financial statements.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the basic financial statements and accompanying notes. Actual results could differ from those estimates.

Recently Issued Accounting Pronouncements

GASB Statement No. 72

The Agency adopted GASB Statement No. 72, *Fair Value Measurement and Application*, effective July 1, 2015. The statement requires governments to measure certain assets and liabilities at fair value using a consistent and more detailed definition of fair value and accepted valuation techniques. The statement also enhances fair value application guidance and disclosure. This statement did not have a material effect on the Agency's financial statements.

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GASB Statement No. 75

The GASB issued Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, which will become effective for financial statements for the fiscal years beginning after June 15, 2017. This statement addresses accounting and financial reporting for OPEB plans that are provided to the employees of state and local governmental employers. This statement establishes standards for recognizing and measuring liabilities, deferred outflows of resources, deferred inflows of resources, and expense/expenditures.

This statement replaces the requirements of GASB Statement No. 45 (Statement No. 45), *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*, as amended, and GASB Statement No. 57, *OPEB Measurements by Agent Employers and Agent Multiple-Employer Plans*, for OPEB. The Agency is currently evaluating the impact that this statement will have on its financial statements.

GASB Statement No. 76

The Agency adopted GASB Statement No. 76, *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments*, effective July 1, 2015. The statement supersedes GASB Statement No. 55, *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments*. The statement reduces GAAP to two categories of authoritative GAAP and addresses the use of authoritative and nonauthoritative literature in the event that the accounting treatment for a transaction or other event is not specified within a source of authoritative GAAP. This statement did not have a material effect on the Agency's financial statements.

GASB Statement No. 82

The GASB issued Statement No. 82, *Pension Issues - An Amendment of GASB Statements No. 67, No. 68, and No. 73*. This statement addresses certain issues that have been raised with respect to Statements No. 67, *Financial Reporting for Pension Plans*, No. 68, *Accounting and Financial Reporting for Pensions* (Statement No. 68), and No. 73, *Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68, and Amendments to Certain Provisions of GASB Statements 67 and 68*. The requirements of this statement are effective for reporting periods beginning after June 15, 2016. The Agency is currently evaluating the impact that this statement will have on its financial statements.

3. Explanation of Differences Between the Governmental Fund Balance Sheet and Statement of Net Position

The "total fund balance" reported in the Agency's Governmental Fund Balance Sheet of \$115,945 differs from the "net position" of governmental activities deficit of (\$68,535) reported in the

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Notes to Basic Financial Statements

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Statement of Net Position. This difference primarily results from the long-term economic focus of the Statement of Net Position and the current financial resources focus of the Governmental Fund Balance Sheet.

Capital Assets

When furniture and equipment that are to be used in governmental activities are purchased, the costs of those activities are reported as expenditures in governmental funds. However, the Statement of Net Position includes those capital assets among the assets of the Agency as a whole. Capital assets, net of accumulated depreciation, amounted to \$2,823 at June 30, 2016.

Long-Term Liability

The long-term liability applicable to the Agency's governmental activities is not due and payable in the current period and accordingly is not reported as fund liability. The liability for compensated absences (both current and long-term) is reported in the Statement of Net Position. The balance of compensated absences payable at June 30, 2016, was \$187,303.

4. Explanation of Differences Between the Governmental Fund Operating Statement and the Statement of Activities

The "net change in fund balance" reported in the Agency's Statement of Governmental Fund Revenues, Expenditures, and Changes in Fund Balance of \$128,360 differs from the "change in net position" for governmental activities of \$194,512 reported in the Statement of Activities. The difference primarily results from the long-term economic focus of the Statement of Activities and the current financial resources focus of the Statement of Governmental Fund Revenues, Expenditures, and Changes in Fund Balance.

Capital Assets

When capital assets that are to be used in governmental activities are purchased, the resources expended for those assets are reported as expenditures in the governmental fund. However, in the Statement of Activities, the costs of those assets are allocated over their estimated useful lives and reported as depreciation expense. As a result, fund balance decreases by the amount of financial resources expended, whereas, net position decreased by the amount of depreciation expense charged for the fiscal year. There was a net decrease in capital assets of \$2,959 during the year ended June 30, 2016 due to depreciation expense of \$2,959.

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Notes to Basic Financial Statements

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Long-Term Liability

Some expenses reported in the Statement of Activities do not require the use of current financial resources and therefore are not reported as expenditures in the governmental fund. For the Agency, this difference is due to a net adjustment resulting from a net decrease in compensated absences of \$69,111.

5. Budgeting and Budgetary Control

Revenue estimates are provided to the State Legislature at the time of budget consideration and are revised and updated periodically during the fiscal year. Amounts reflected as budgeted revenues and budgeted expenditures in the Statement of Revenues and Expenditures – Budget and Actual (Budgetary Basis) – General Fund are derived primarily from acts of the State Legislature and from other authorizations contained in other specific appropriation acts in various Session Laws of Hawaii.

To the extent not expended or encumbered, general fund appropriations generally lapse at the end of the fiscal year for which the appropriations were made. The State Legislature specifies the lapse date and any other particular conditions relating to terminating the authorization for other appropriations.

For purposes of budgeting, the Agency's budgetary fund structure and accounting principles differ from those utilized to present the general fund financial statements in conformity with GAAP. The Agency's annual budget is prepared on the modified accrual basis of accounting with several differences, principally related to the encumbrance of purchase orders and contract obligations. These differences represent departures from GAAP. The differences between the budgetary amounts and the amounts presented in accordance with GAAP for the fiscal year ended June 30, 2016, are further explained in the Budgetary Reconciliation - General Fund.

6. Cash and Cash Equivalents

Cash and cash equivalents at June 30, 2016, consisted of petty cash and other and amounts held in State Treasury at June 30, 2016:

Petty cash and other	\$ 1,100
Amounts held in State Treasury	<u>122,572</u>
Total cash and cash equivalents	<u><u>\$ 123,672</u></u>

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Notes to Basic Financial Statements

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Amounts Held in State Treasury

The State pools all excess funds into an investment pool that is administered by the State Department of Budget and Finance and is used by various state departments and agencies, including the Agency. The Director of Finance is responsible for the safekeeping of all monies paid into the State Treasury. The Director of Finance pools and invests any monies of the State, which in the Director of Finance's judgment, are in excess of the amounts necessary for meeting the specific requirements of the State. Investment earnings are allocated to the pool participants based upon their equity interest in the pooled monies. Legally authorized investments are listed in the Hawaii Revised Statutes.

At June 30, 2016, amounts held in State Treasury by the Agency totaled \$122,572. The amounts held in State Treasury reported in the accompanying Statement of Net Position and Governmental Fund Balance Sheet reflects the Agency's relative position in the State's investment pool based upon the average monthly investment balance of each participant in the investment pool.

Information relating to the cash and investments in State Treasury is determined on a statewide basis and not for individual departments or agencies. Information regarding the carrying amount and corresponding bank balances of the investment pool and collateralization of the investment pool balances is included in the comprehensive annual financial report (CAFR) of the State.

The Employer-Union Benefits Trust Fund of the State of Hawaii maintains an investment pool that is held separately from the State investment pool. Accordingly, those investments are not presented in the accompanying State investment pool disclosures.

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Notes to Basic Financial Statements

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The following table presents the fair value of the investments included in the State's investment pool at June 30, 2016 (amounts expressed in thousands):

		Fair Value Measurements Using		
		Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
	Reported Value			
Primary government:				
Investments measured by fair value level:				
U.S. government securities	\$ 2,079,266	\$ 948,149	\$ 1,131,117	\$ -
Investments measured at amortized cost:				
Certificates of deposit	861,410			
Repurchase agreements	29,704			
Total investments	<u>\$ 2,970,380</u>			
Fiduciary funds:				
Investments measured by fair value level:				
U.S. government securities	\$ 157,539	\$ 71,838	\$ 85,701	\$ -
Investments measured at amortized cost:				
Certificates of deposit	65,266			
Repurchase agreements	2,250			
Total investments	<u>\$ 225,055</u>			

Investments in U.S. government securities consist of U.S. treasury bills and U.S. treasury notes and bonds, and are valued based on quoted prices in active markets or other observable inputs, including pricing matrices. Investments in certificates of deposit and repurchase agreements are valued at amortized cost.

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Notes to Basic Financial Statements

June 30, 2016

The following table presents the investments included in the State's investment pool by maturity period at June 30, 2016 (amounts in thousands):

	Fair value	Maturity (in years)		
		Less than 1	1-5	>5
Investments - primary government:				
U.S. government securities	\$ 2,079,266	\$ 997,545	\$ 1,073,773	\$ 7,948
Certificates of deposit	861,410	829,635	31,775	-
Repurchase agreements	29,704	29,704	-	-
Total investments	<u>\$ 2,970,380</u>	<u>\$ 1,856,884</u>	<u>\$ 1,105,548</u>	<u>\$ 7,948</u>
Investments - fiduciary funds:				
U.S. government securities	\$ 157,539	\$ 75,581	\$ 81,356	\$ 602
Certificates of deposit	65,266	62,859	2,407	-
Repurchase agreements	2,250	2,250	-	-
Total investments	<u>\$ 225,055</u>	<u>\$ 140,690</u>	<u>\$ 83,763</u>	<u>\$ 602</u>

Interest Rate Risk

As a means of limiting its exposure to fair value losses arising from rising interest rates, the State's investment policy generally limits maturities on investments to not more than five years from the date of investment.

Credit Risk

The State's investment policy limits its investments to investments in state and U.S. treasury securities, time certificates of deposit, U.S. government or agency obligations, repurchase agreements, commercial paper, banker's acceptances, and money market funds maintaining a Triple-A rating.

Custodial Risk

For an investment, custodial risk is the risk that, in the event of the failure of the counterparty, the State will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. The State's investments are held at broker/dealer firms, which are protected by the Securities Investor Protection Corporation (SIPC) up to a maximum amount.

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Excess-SIPC coverage is provided by the firms' insurance policies. In addition, the State requires the institutions to set aside in safekeeping certain types of securities to collateralize repurchase agreements. The State monitors the market value of these securities and obtains additional collateral when appropriate.

Concentration of Credit Risk

The State's policy provides guidelines for portfolio diversification by placing limits on the amount the State may invest in any one issuer, types of investment instruments, and position limits per issue of an investment instrument.

7. Capital Assets

The changes in capital assets during the year ended June 30, 2016 was as follows:

	Balance July 1, 2015	Additions	Deductions	Balance June 30, 2016
Governmental activities:				
Equipment and furniture, at cost	\$ 32,372	\$ -	\$ -	\$ 32,372
Less accumulated depreciation	(26,590)	(2,959)	-	(29,549)
Capital assets, net	<u>\$ 5,782</u>	<u>\$ (2,959)</u>	<u>\$ -</u>	<u>\$ 2,823</u>

8. Long-Term Liability

The only long-term liability for governmental activities is for compensated absences. Long-term liability activity during the year ended June 30, 2016 was as follows:

Balance at June 30, 2015	\$ 256,414
Additions	104,973
Reductions	(174,084)
Balance at June 30, 2016	<u>\$ 187,303</u>
Due within one year	<u>\$ 55,428</u>

The compensated absences liability has been paid primarily by the general fund in the past.

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9. Deficit in Fund Balance and Net Position

The Agency's general fund had a deficit in its unassigned fund balance at June 30, 2016, of \$36,327. The balance resulted primarily from expenditures being recorded on the accrual basis when incurred.

The deficit in the unrestricted net position of \$71,358 is mainly due to the timing of when the Agency receives funds for the payment of compensated absences.

10. Non-Imposed Employee Fringe Benefits

Payroll fringe benefit costs of the Agency's employees funded by state appropriations (general fund) are assumed by the State and are not charged to the Agency's operating funds. These costs, totaling \$375,862 for the year ended June 30, 2016, have been reported as revenues and expenditures of the Agency's general fund.

11. Retirement Benefits

Pension Plan

Plan Description

Generally, all full-time employees of the State and counties, which includes the Agency, are required to be members of the Employees' Retirement System of the State of Hawaii (the ERS), a cost-sharing multiple-employer defined benefit pension plan that administers the State's pension benefits program. Benefits, eligibility, and contribution requirements are governed by HRS Chapter 88 and can be amended through legislation.

Benefits Provided

The ERS Pension Trust is comprised of three pension classes for membership purposes and considered to be a single plan for accounting purposes since all assets of the ERS may legally be used to pay the benefits of any of the ERS members or beneficiaries. The ERS provides retirement, disability, and death benefits with three membership classes known as the noncontributory, contributory, and hybrid retirement classes. The three classes provide a monthly retirement allowance equal to the benefit multiplier (generally 1.25% or 2%) multiplied by the average final compensation multiplied by years of credited service. Average final compensation for members hired prior to July 1, 2012 is an average of the highest salaries during any three years of credited service, excluding any salary paid in lieu of vacation for members hired January 1, 1971 or later and the average of the highest salaries during any five years of credited service including any salary paid in lieu of vacation for members hired prior to January 1, 1971. For

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members hired after June 30, 2012, average final compensation is an average of the highest salaries during any five years of credited service excluding any salary paid in lieu of vacation.

Each retiree's original retirement allowance is increased on each July 1 beginning the calendar year after retirement. Retirees first hired as members prior to July 1, 2012 receive a 2.5% increase each year of their original retirement allowance without a ceiling. Retirees first hired as members after June 30, 2012 receive a 1.5% increase each year of their original retirement allowance without a ceiling. The annual increase is not compounded.

The following summarizes the provisions relevant to the largest employee groups of the respective membership class. Retirement benefits for certain groups, such as police officers, firefighters, some investigators, sewer workers, judges, and elected officials, vary from general employees.

Noncontributory Class

Retirement Benefits

General employees' retirement benefits are determined as 1.25% of average final compensation multiplied by the years of credited service. Employees with ten years of credited service are eligible to retire at age 62. Employees with 30 years of credited service are eligible to retire at age 55.

Disability Benefits

Members are eligible for service-related disability benefits regardless of length of service and receive a lifetime pension of 35% of their average final compensation. Ten years of credited service is required for ordinary disability. Ordinary disability benefits are determined in the same manner as retirement benefits but are payable immediately, without an actuarial reduction, and at a minimum of 12.5% of average final compensation.

Death Benefits

For service-connected deaths, the surviving spouse/reciprocal beneficiary receives a monthly benefit of 30% of the average final compensation until remarriage or re-entry into a new reciprocal beneficiary relationship. Additional benefits are payable to surviving dependent children up to age 18. If there is no spouse/reciprocal beneficiary or dependent children, no benefit is payable.

Ordinary death benefits are available to employees who were active at the time of death with at least ten years of credited service. The surviving spouse/reciprocal beneficiary (until remarriage/reentry into a new reciprocal beneficiary relationship) and dependent children (up to age 18) receive a benefit equal to a percentage of member's accrued maximum allowance

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unreduced for age or, if the member was eligible for retirement at the time of death, the surviving spouse/reciprocal beneficiary receives 100% joint and survivor lifetime pension and the dependent children receive a percentage of the member's accrued maximum allowance unreduced for age.

Contributory Class for Members Hired Prior to July 1, 2012

Retirement Benefits

General employees' retirement benefits are determined as 2% of average final compensation multiplied by the years of credited service. General employees with five years of credited service are eligible to retire at age 55.

Police officers and firefighters' retirement benefits are determined using the benefit multiplier of 2.5% for qualified service, up to a maximum of 80% of average final compensation. Police officers and firefighters with five years of credited service are eligible to retire at age 55. Police officers and firefighters with 25 years of credited service are eligible to retire at any age, provided the last five years is service credited in these occupations.

Disability Benefits

Members are eligible for service-related disability benefits regardless of length of service and receive a one-time payment of the member's contributions and accrued interest plus a lifetime pension of 50% of their average final compensation. Ten years of credited service is required for ordinary disability. Ordinary disability benefits are determined as 1.75% of average final compensation multiplied by the years of credited service but are payable immediately, without an actuarial reduction, and at a minimum of 30% of average final compensation.

Death Benefits

For service-connected deaths, the surviving spouse/reciprocal beneficiary receives a lump sum payment of the member's contributions and accrued interest plus a monthly benefit of 50% of the average final compensation until remarriage or re-entry into a new reciprocal beneficiary relationship. If there is no surviving spouse/reciprocal beneficiary, surviving children (up to age 18) or dependent parents are eligible for the monthly benefit. If there is no spouse/reciprocal beneficiary or dependent children/parents, the ordinary death benefit is payable to the designated beneficiary.

Ordinary death benefits are available to employees who were active at time of death with at least one year of service. Ordinary death benefits consist of a lump sum payment of the member's contributions and accrued interest plus a percentage of the salary earned in the 12 months preceding death, or 50% Joint and Survivor lifetime pension if the member was not eligible for retirement at the time of death but was credited with at least ten years of service and designated

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Notes to Basic Financial Statements

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one beneficiary, or 100% Joint and Survivor lifetime pension if the member was eligible for retirement at the time of death and designated one beneficiary.

Contributory Class for Members Hired After June 30, 2012

Retirement Benefits

General employees' retirement benefits are determined as 1.75% of average final compensation multiplied by the years of credited service. General employees with ten years of credited service are eligible to retire at age 60.

Police officers and firefighters' retirement benefits are determined using the benefit multiplier of 2.25% for qualified service, up to a maximum of 80% of average final compensation. Police officers and firefighters with ten years of credited service are eligible to retire at age 60. Police officers and firefighters with 25 years of credited service are eligible to retire at any age, provided the last five years is service credited in these occupations.

Disability and Death Benefits

Members are eligible for service-related disability benefits regardless of length of service and receive a lifetime pension of 50% of their average final compensation plus refund of contributions and accrued interest. Ten years of credited service is required for ordinary disability. Ordinary disability benefits are 3.0% of average final compensation for each year of service for judges and elected officers and 1.75% of average final compensation for each year of service for police officers and firefighters and are payable immediately, without an actuarial reduction, at a minimum of 30% of average final compensation.

Death benefits for contributory members hired after June 30, 2012 are generally the same as those for contributory members hired June 30, 2012 and prior.

Hybrid Class for Members Hired Prior to July 1, 2012

Retirement Benefits

General employees' retirement benefits are determined as 2% of average final compensation multiplied by the years of credited service. General employees with five years of credited service are eligible to retire at age 62. General employees with 30 years of credited service are eligible to retire at age 55.

Disability Benefits

Members are eligible for service-related disability benefits regardless of length of service and receive a lifetime pension of 35% of their average final compensation plus refund of their

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contributions and accrued interest. Ten years of credited service is required for ordinary disability. Ordinary disability benefits are determined in the same manner as retirement benefits but are payable immediately, without an actuarial reduction, and at a minimum of 25% of average final compensation.

Death Benefits

For service-connected deaths, the designated surviving spouse/reciprocal beneficiary receives a lump sum payment of the member's contributions and accrued interest plus a monthly benefit of 50% of the average final compensation until remarriage or re-entry into a new reciprocal beneficiary relationship. If there is no surviving spouse/reciprocal beneficiary, surviving dependent children (up to age 18) or dependent parents are eligible for the monthly benefit. If there is no spouse/reciprocal beneficiary or dependent children/parents, the ordinary death benefit is payable to the designated beneficiary.

Ordinary death benefits are available to employees who were active at time of death with at least five years of service. Ordinary death benefits consist of a lump sum payment of the member's contributions and accrued interest plus a percentage multiplied by 150%, or 50% Joint and Survivor lifetime pension if the member was not eligible for retirement at the time of death but was credited with at least ten years of service and designated one beneficiary, or 100% Joint and Survivor lifetime pension if the member was eligible for retirement at the time of death and designated one beneficiary.

Hybrid Class for Members Hired After June 30, 2012

Retirement Benefits

General employees' retirement benefits are determined as 1.75% of average final compensation multiplied by the years of credited service. General employees with ten years of credited service are eligible to retire at age 65. Employees with 30 years of credited service are eligible to retire at age 60. Sewer workers, water safety officers, and emergency medical technicians may retire with 25 years of credited service at age 55.

Disability and Death Benefits

Provisions for disability and death benefits generally remain the same except for ordinary death benefits. Ordinary death benefits are available to employees who were active at time of death with at least ten years of service. Ordinary death benefits consist of a lump sum payment of the member's contributions and accrued interest, or 50% Joint and Survivor lifetime pension if the member was not eligible for retirement at the time of death but was credited with at least ten years of service and designated one beneficiary, or 100% Joint and Survivor lifetime pension if the member was eligible for retirement at the time of death and designated one beneficiary.

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Contributions

Contributions are established by HRS Chapter 88 and may be amended through legislation. The employer rate is set by statute based on the recommendations of the ERS actuary resulting from an experience study conducted every five years. Since July 1, 2005, the employer contribution rate is a fixed percentage of compensation, including the normal cost plus amounts required to pay for the unfunded actuarial accrued liabilities. The contribution rates for fiscal year 2016 were 25.0% for police officers and firefighters and 17.0% for all other employees.

The employer is required to make all contributions for noncontributory members. Contributory members hired prior to July 1, 2012 are required to contribute 7.8% of their salary, except for police officers and firefighters who are required to contribute 12.2% of their salary. Contributory members hired after June 30, 2012 are required to contribute 9.8% of their salary, except for police officers and firefighters who are required to contribute 14.2% of their salary. Hybrid members hired prior to July 1, 2012 are required to contribute 6.0% of their salary. Hybrid members hired after June 30, 2012 are required to contribute 8.0% of their salary.

Pension benefit contributions paid by the State on behalf of the Agency for the years ended June 30, 2016, 2015, and 2014 were approximately \$156,000, \$132,000, and \$125,000, respectively.

Pension Liability, Pension Expense, and Deferred Outflows of Resources and Deferred Inflows of Resources Related to Pension

Measurement of the actuarial valuation of the pension liability, pension expense, and deferred outflows of resources and deferred inflows of resources related to pension is made for the State as a whole and is not separately computed for the individual state departments and agencies such as the Agency. The State's policy on the accounting and reporting for its pension plan allocates the pension liability, pension expense, and deferred outflows of resources and deferred inflows of resources related to pension to only component units and proprietary funds that are reported separately in stand-alone departmental financial statements or in the State's CAFR based upon a systematic methodology. Accordingly, the Agency's proportionate share of the State's pension liability, pension expense, and deferred outflows of resources and deferred inflows of resources related to pension is not reported in the accompanying financial statements.

Additional disclosures and required supplementary information stipulated by Statement Nos. 68 and 71 pertaining to the State's net pension liability, pension expense, and deferred outflows of resources and deferred inflows of resources related to pension can be found in the State's CAFR. The State's CAFR can be obtained at the Department of Accounting and General Services' website: <http://hawaii.gov/dags/rpts>.

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Post-Retirement Health Care and Life Insurance Benefits

The State, pursuant to Act 88, SLH of 2001, is a participating employer in an agent, multiple-employer defined benefit plan providing certain health care and life insurance benefits to all qualified employees. The Employer-Union Health Benefits Trust Fund (the EUTF) was established on July 1, 2003 to provide a single delivery system of health benefits for state and county workers, retirees, and their dependents.

For employees hired before July 1, 1996, the State pays the entire base monthly contribution for employees retiring with ten or more years of credited service, and 50% of the base monthly contribution for employees retiring with fewer than ten years of credited service. A retiree can elect a family plan to cover dependents.

For employees hired after June 30, 1996, but before July 1, 2001, and who retire with fewer than ten years of service, the State makes no contributions. For those retiring with at least ten years but fewer than 15 years of service, the State pays 50% of the base monthly contribution. For those retiring with at least 15 years but fewer than 25 years of service, the State pays 75% of the base monthly contribution. For those employees retiring with at least 25 years of service, the State pays 100% of the base monthly contribution. Retirees in this category can elect a family plan to cover dependents.

For employees hired on or after July 1, 2001, and who retire with fewer than ten years of service, the State makes no contributions. For those retiring with at least ten years but fewer than 15 years of service, the State pays 50% of the base monthly contribution. For those retiring with at least 15 years but fewer than 25 years of service, the State pays 75% of the base monthly contribution. For those employees retiring with at least 25 years of service, the State pays 100% of the base monthly contribution. Only single plan coverage is provided for retirees in this category. Retirees can elect family coverage, but must pay the difference.

For active employees, the employer's contributions are based upon negotiated collective bargaining agreements. Employer contributions for employees not covered by collective bargaining agreements and for retirees are prescribed by the HRS.

The State is required to contribute the annual required contribution of the employer (ARC), an amount actuarially determined. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal costs each year and to amortize any unfunded actuarial liabilities over a period not to exceed 30 years.

The State's CAFR includes the required footnote disclosures and required supplementary information in accordance with the provisions of GASB Statement No. 45, including the actuarial methods and assumptions used.

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Contributions

Post-retirement health care and insurance benefits paid by the State on behalf of the Agency for the years ended June 30, 2016, 2015, and 2014 were approximately \$86,000, \$81,000, and \$81,000, respectively.

OPEB Liability

The actuarial valuation of the EUTF does not provide other postemployment benefits (OPEB) information by department or agency. The State's policy on the accounting and reporting for OPEB is to allocate a portion of the State's ARC, interest, and any adjustment to the ARC, to component units and proprietary funds that are reported separately in stand-alone departmental financial statements or in the State's CAFR. Accordingly, the Agency's proportionate share of the State's OPEB liability is not reported in the accompanying financial statements.

12. Risk Management

The Agency is exposed to various risks of loss related to torts; theft of, damage to, or destruction of assets; errors or omissions; workers' compensation; and acts of terrorism. The Agency records a liability for risk financing and insurance-related losses if it is determined that a loss has been incurred and the amount can be reasonably estimated. The State retains various risks and insures certain excess layers with commercial insurance companies. The excess layers insured with commercial insurance companies are consistent with the prior fiscal year. Settled claims have not exceeded the coverage provided by commercial insurance companies in any of the past ten fiscal years. A summary of the State's underwriting risks is as follows:

Property Insurance

The State has an insurance policy with a variety of insurers in a variety of layers for property coverage. The deductible for coverage is 3% of loss subject to a \$1 million per occurrence minimum. This policy includes windstorm, earthquake, flood damage, terrorism and boiler and machinery coverage. The limit of loss per occurrence is \$200 million, except for terrorism, which is \$50 million per occurrence and a \$10,000 deductible.

Crime Insurance

The State also has a crime insurance policy for various types of coverages with a limit of loss of \$10 million per occurrence with a \$500,000 deductible per occurrence, except for claims expense coverage, which has a \$100,000 per occurrence and a \$1,000 deductible. Losses under the deductible amount are paid by the Risk Management Office of the Department of Accounting and General Services and losses not covered by insurance are paid from legislative appropriations of the State's general fund.

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General Liability (Including Torts)

Liability claims under \$10,000 and automobile claims under \$15,000 are handled by the Risk Management Office. All other claims are handled by the Department of the Attorney General. The State has personal injury and property damage liability, including automobile and public errors and omissions, insurance policy in force with a \$4 million self-insured retention per occurrence. The annual aggregate per occurrence is \$5 million, and for crime loss, \$10 million with no aggregate limit.

Losses under the deductible amount or over the aggregate limit are paid from legislative appropriations of the State's general fund.

Self-Insured Risks

The State generally self-insures its automobile no-fault and workers' compensation losses. Automobile losses below \$15,000 are administered by the Risk Management Office. The State administers its workers' compensation losses.

Reserve for Losses

At June 30, 2016, the State recorded an estimated loss for workers' compensation and general liability claims as long-term debt as the losses will not be liquidated with currently expendable available financial resources. The estimated losses will be paid from legislative appropriations of the State's general fund. The Agency's portion of the State's workers' compensation expense for the year ended June 30, 2016 was approximately \$11,000.

13. Commitments and Contingencies

Contracts

The Agency is committed under contracts awarded for services amounting to \$122,572 as of June 30, 2016.

Accumulated Sick Leave

Employees earn sick leave credits at the rate of one and three-quarters working days for each month of service without limit. Sick leave can be taken only in the event of illness and is not convertible to pay upon termination of employment. However, an employee who retires or leaves government service in good standing with 60 days or more of unused sick leave is entitled to additional service credit in the ERS. Accumulated sick leave as of June 30, 2016 amounted to approximately \$515,000.

**STATE ETHICS COMMISSION
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Notes to Basic Financial Statements

June 30, 2016

Litigation

From time to time, the Agency is named as a defendant in various legal proceedings. It has been the State's historical practice that certain types of judgments and settlements against an agency of the State are paid from the State's general fund through an appropriation bill which is submitted annually by the Department of the Attorney General to the State Legislature.

Lease Commitments

The Agency leases office space and equipment under noncancelable operating leases expiring through July 2018. The office space lease requires additional payments for building maintenance expense and general excise tax. Rent expense for the fiscal ended June 30, 2016 was as follows:

Minimum rentals under noncancelable operating leases	\$ 42,146
Other	<u>46,538</u>
	<u><u>\$ 88,684</u></u>

Future minimum rental payments, not including building maintenance expense and general excise tax at June 30, 2016 are approximated as follows:

Fiscal Year Ending June 30,	
2017	\$ 40,000
2018	40,800
2019	<u>3,400</u>
	<u><u>\$ 84,200</u></u>

14. Subsequent Events

The Agency has evaluated subsequent events through July 27, 2017, the date the financial statements were available to be issued, and determined that there are no other matters to disclose.

PART III

INTERNAL CONTROL AND COMPLIANCE SECTION

**Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance
and Other Matters Based on an Audit of Financial Statements Performed in Accordance with
*Government Auditing Standards***

The Auditor
State of Hawaii:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of the governmental activities and the general fund of the State Ethics Commission, State of Hawaii (the Agency), as of and for the year ended June 30, 2016, and the related notes to financial statements, which collectively comprise the Agency's basic financial statements, and have issued our report thereon dated July 27, 2017.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Agency's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control. Accordingly, we do not express an opinion on the effectiveness of the Agency's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Agency's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

KKDL LLC

Honolulu, Hawaii
July 27, 2017

HAWAII STATE ETHICS COMMISSION FINANCIAL REPORT
 FY 2017-2018 (QUARTER ENDING: September 30, 2017)
 Appropriation Symbol: G-18-393-Y6**

	Amount Appropriated FY 2017-2018	Expenditures for Qtr. End 9/30/2017	Expenditures for Qtr. End 12/31/2017	Expenditures for Qtr. End 3/31/2018	Expenditures for Qtr. End 6/30/2018	Year-To-Date Expenditures Totals	% of Budget Expended
A. PERSONAL SERVICES							
Staff Salaries	\$ 919,600.00	\$ 235,140.61	\$ 0.00	\$ 0.00	\$ 0.00	235,140.61	25.6%
Vacation Payout***	\$ 16,553.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	0.0%
Total Personal Services	\$ 919,600.00	\$ 210,338.61	\$ 0.00	\$ 0.00	\$ 0.00	\$ 235,140.61	25.6%
B. OTHER CURRENT EXPENSES							
Office Expenses	15,950.00	4,996.12	0.00	0.00	0.00	4,996.12	31.3%
Intrastate Transportation and Travel	8,500.00	2,591.48	0.00	0.00	0.00	2,591.48	30.5%
Out-of-State Travel	12,660.00	823.52	0.00	0.00	0.00	823.52	6.5%
Equipment Rental and Maintenance	10,985.00	5,163.67	0.00	0.00	0.00	5,163.67	47.0%
Dues, Subscriptions, Training	14,140.00	6,502.95	0.00	0.00	0.00	6,502.95	46.0%
Newspaper Advertisements	1,600.00	0.00	0.00	0.00	0.00	0.00	0.0%
Comm'n Mtgs, Investigations, Hrgs	9,400.00	225.41	0.00	0.00	0.00	225.41	2.4%
Consulting Services	10,258.00	773.63	0.00	0.00	0.00	773.63	7.5%
Office Rent	98,000.00	139.96	0.00	0.00	0.00	139.96	0.1%
Total Other Current Expenses	\$ 181,493.00	\$ 21,216.74	\$ 0.00	\$ 0.00	\$ 0.00	\$ 21,216.74	11.7%
C. CAPITAL OUTLAY							
Office Furniture and Equipment	11,000.00	4,385.28	0.00	0.00	0.00	4,385.28	39.9%
Total Capital Outlay	\$ 11,000.00	\$ 4,385.28	\$ 0.00	\$ 0.00	\$ 0.00	\$ 4,385.28	39.9%
GRAND TOTAL (A+B+C)	\$ 1,112,093.00	\$ 235,940.63	\$ 0.00	\$ 0.00	\$ 0.00	\$ 235,940.63	21.2%

General Fund Allocation	\$ 1,112,093.00
Total Expenditures as of September 30, 2017.	\$ 235,940.63
Balance as of September 30, 2017	\$ 876,152.37

The total staff salaries for Q1 includes the deduction of Appropriation 395 (\$24,802)

**includes Act 1 and Act 21

Act 1- Appropriation 393- \$1,112,093

Act 21- Appropriation 395- \$24,802 (removed from Staff Salaries in Q1)

*** vacation payout separate from Act 1 and 21- (Appropriation 396)

G:Share/Budget/Reports/2017-18

SUNSHINE LAW MEETING AGENDA ITEM III

ADMINISTRATIVE RULES

Attached are staff's proposed recommendations for additions and edits to chapters 1 through 3 of the Commission's administrative rules. The Department of the Attorney General has not yet reviewed this draft, and they are presented to the Commission for its review and discussion. Staff is not asking the Commission to approve or adopt these proposed changes to the Commission's administrative rules at this meeting. Before the Commission can adopt or amend its rules, it must comply with the public hearing requirements of the Hawaii Administrative Procedure Act, Hawaii Revised Statutes chapter 91. Staff is providing the Commission with staff's proposed changes to the rules at this time so that the Commission can see how the drafting of proposed rules is progressing and can inform staff of any questions, concerns, or comments Commissioners may have regarding the proposed changes (including any substantive and stylistic edits the Commission may want to suggest at this time).

Generally, chapters 1 and 2 are aimed at memorializing current Commission practices; they do not break new ground regarding policy matters. Chapter 3 also memorializes existing Commission practices, but also includes several more substantive provisions (such as a definition of "good cause" for granting a waiver of a fine for failure to file a financial disclosure on time).

Attachment 1: Proposed administrative rules, chapters 1-3

HAWAII ADMINISTRATIVE RULES

TITLE 21

HAWAII STATE ETHICS COMMISSION

AMENDMENT AND COMPILATION OF CHAPTER 21-1
HAWAII ADMINISTRATIVE RULES

MONTH, DAY, 2018

SUMMARY

1. §§21-1-1 to 6, Hawaii Administrative Rules, are amended
2. §21-1-7, Hawaii Administrative Rules, is repealed.
3. §§21-1-8 to 21-1-12, Hawaii Administrative Rules, are amended.
4. New §§21-1-13 to 21-1-14 are added.
5. Chapter 1 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 21

HAWAII STATE ETHICS COMMISSION

CHAPTER 1

GENERAL PROVISIONS

Chapter 21-1, Hawaii Administrative Rules, entitled “General Provisions”, is amended and compiled to read as follows:

21-1-1	Purpose
21-1-2	Definitions
21-1-3	Authentication of commission action
21-1-4	Disqualification of commissioners; bias or prejudice
21-1-5	Consolidations
21-1-6	Right to appear
21-1-7	Repealed
21-1-8	Confidential records
21-1-9	Adjudicatory functions
21-1-10	Chairperson and vice-chairperson
21-1-11	Staff
21-1-12	Operations
21-1-13	Stricter rules allowed
21-1-14	Removal of persons from proceedings

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

§21-1-1 Purpose. ~~[This chapter is]~~ (a) Chapters 1 through 20 are intended to carry out the provisions of chapter 84, HRS, relating to standards of conduct for state legislators and employees, and chapter 97, HRS, relating to lobbyists, and to provide for the efficient administration thereof.

(b) General principles. The following general principles apply to every legislator and employee and may form the basis for the standards contained in this part. The prohibitions set forth in these chapters are not intended to create a comprehensive list of unlawful conduct. Where a situation is not covered by the standards set forth in this part, legislators and employees shall apply the principles set forth in this section in determining whether their conduct is proper.

- (1) Public service is a public trust, requiring legislators and employees to place loyalty to the Constitution, laws, and ethical principles above private gain.
- (2) To preserve the public's confidence in the integrity of state government, legislators and employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part.
- (3) Legislators and employees shall not advance their financial interests at the expense of the conscientious performance of duty, and shall not use public office for private gain.

[Eff. July 13, 1981; am and comp] (Auth: Haw. Const. art. XIV; HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31(a)(5), 97-6(a)(5))

§21-1-2 Definitions. As used in title 21, chapters 1 through 20[6], unless the context clearly requires otherwise:

“Advisory opinion” means an opinion rendered by the commission pursuant to a request by any individual ~~[by a legislator, employee, or former legislator or employee]~~ as to whether the facts and circumstances of [a] that individual's particular case violate or will violate any provision of chapter 84, chapter 97, §11-8, or §11-192.5, HRS ~~[the standards of conduct];~~

“Agency” includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices, the University of Hawaii, the Office of Hawaiian Affairs, and all independent commissions and other establishments of the state government

“Answer” means the written response to a charge filed with or issued by the commission by a respondent ~~[person disputing the charge];~~

“Charge” means a document signed under oath before a notary, [notarized letter] or a document signed by three or more commissioners, alleging basic facts constituting a violation of one or more provisions of chapters 84 or 97, HRS;

“Commission” means the state ethics commission of the State of Hawaii;

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

~~[“Complaint” means the statement of facts of a violation issued to the legislature or to the governor by the commission after due hearing and determination;]~~

“Contested case” or “contested hearing” means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for a hearing consistent with chapter 91, HRS;

~~[“Decision” means the written conclusions of the commission, rendered after a contested hearing on the charge;]~~

“Declaratory order” means an order issued after a petition by any interested person as to the applicability of any statutory provision over which the commission has jurisdiction or of any rule or order of the commission;

~~[“Deleted opinion or decision” means a summary of a decision, advisory opinion, or informal advisory opinion from which facts disclosing the identity of persons have been omitted;]~~

~~[“Disclosure period” means the period from January 1 of the preceding calendar year to the time of filing the disclosure by the person required to file;]~~

“Dependent child” means any person who is or could be claimed as a dependent for federal or state income tax purposes, or any child under 19 years old related to the filer for whom the filer is or could be legally obligated to provide financial support;

“Employee” means any nominated, appointed, or elected officer of the State, including members of boards, commissions, and committees; any employee of the State; and employees under contract to the State or of the constitutional convention. “Employee” excludes legislators, delegates to the constitutional convention, justices, and judges;

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

“Participate” means, for the purpose of §§84-14, 84-15, and 84-18, HRS, to take any action other than a purely ministerial action in one’s official capacity as an employee or legislator;

~~[“Formal advisory opinion” means the same as advisory opinion;]~~

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

“Redacted” or “redaction” means the omission or deletion of facts disclosing the identity of persons; and

“Respondent” means the person who is a subject of a charge, [allegedly violating chapter 84, HRS;]

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

[“Solely advisory” means a board or commission that can take no significant action to influence the administration of state programs or the exercise of state powers. The description of a board or commission as being advisory does not mean that the board or commission will be considered to be solely advisory.]

[Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-3, 84-14, 84-15, 84-17, 84-18, 84-31, 84-32, 84-35, 97-6)

§21-1-3 Authentication of commission action. All decisions[;] rendered after a contested case hearing, declaratory orders, informal advisory opinions, and [formal] advisory opinions of the commission shall be signed by three or more members of the commission. Commissioners may affix their signatures by authorizing commission staff to affix their electronic signatures.

[Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 92-15, 97-6)

§21-1-4 Disqualification of commissioners; bias or prejudice. Any party to a hearing may make and file an affidavit that one or more of the commissioners before whom the hearing is being held has a personal bias or prejudice. The commissioner against whom the affidavit is filed may answer the affidavit or may file a disqualifying certificate with the commission. If the commissioner chooses to answer the affidavit, the remaining commissioners shall decide whether or not that commissioner should be disqualified from proceeding therein. Every affidavit shall state the facts and reasons for the belief that bias or prejudice exists and shall be filed at least ten days before the hearing, or good cause shall be shown for the failure to do so. Commissioners may disqualify themselves by filing with the executive director a certificate, or by informing the other commissioners, that they deem themselves unable for any reason to participate with absolute impartiality in the pending hearing. [Eff. July 13, 1981;

am and comp
HRS §§84-31, 97-6)

] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp:

§21-1-5 Consolidations. The commission, upon its own initiation or upon motion, may consolidate for hearing or for other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties, or issues which are the same or closely related, if it finds that such consolidation or contemporaneous hearing will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings. [Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 97-6)

§21-1-6 Right to appear. (a) Any person, or the person's authorized representative, having business with the commission may appear before it.

(b) Any person who acts in a manner that prevents the orderly and peaceful conduct of business may be removed upon [unless the commission determines by] a vote of three or more members of the commission [that the person or the person's representative is acting in a manner which prevents the orderly and peaceful conduct of business]. The right to appear before the commission may be reinstated upon the commission's acceptance of a written statement that the person will abide by the commission's rules and will not disrupt the orderly and peaceful conduct of its proceedings.

(b) To ensure the reasonable and orderly administration of oral testimony during a commission meeting, the commission may place reasonable time limits for members of the public to present oral testimony. ~~[Charges initiated by the commission shall be prosecuted by the executive director or delegate. When serving as the prosecutor, the associate director shall prosecute without the supervision of the executive director. When the complainant is not the commission, the complainant may request that the executive director or delegate represent the complainant in the matter if the commission joins as co-complainant. This request shall be made in writing within twenty days following personal service of the charge and further statement of alleged violation to the respondent.]~~

[Eff. July 13, 1981; am and comp

] (Auth: HRS §§84-

31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 97-6)

§21-1-7 Repealed. [Rules of evidence. ~~The commission shall not be bound by the strict rules of evidence. Any oral or documentary evidence which is relevant and material to the charge may be admitted. Effect shall be given to the rules of privilege recognized by law.]~~ [Eff. July 13, 1981; R] (Auth: HRS §§84-31, 91-10) (Imp: HRS §§84-31, 91-10)

§21-1-8 Confidential records. ~~[Disclosures of financial interests which are made confidential by §84-17, HRS, and other matters]~~ Records deemed confidential by law [statute] shall not be ~~[released or inspected]~~ made public except with the written authorization of the person involved or otherwise pursuant to law. ~~[Disclosures of financial interests made available for public inspection by §84-17, HRS, are available pursuant to §21-3-2.]~~ [Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31, 97-6(a)(5)) (Imp: HRS §§84-17, 84-31, 97-6)

§21-1-9 Adjudicatory functions. Pursuant to §92-6, HRS, the exercise by the commission of its adjudicatory functions is not a meeting within the meaning of §92-2, HRS, and these rules. ~~[Availability of commission documents.~~

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

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

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

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

~~(e) Copies of public records will be furnished to any person upon request and upon payment of a fee set in accordance with chapter 92, HRS. [Eff. July 13,~~

1981; am and comp
(Imp: HRS §§92-2, 92-6)

] (Auth: HRS §§84-31(a)(5), 92-6)

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

(b) A vice-chairperson, who shall call and chair meetings in the incapacity or absence of the chairperson, shall be elected by secret ballot vote by a majority of all the members to which the commission is entitled, and shall serve for a term of one year or until a successor is elected, with such term to commence on January 1 of each year. [Eff. July 13, 1981; am and comp]
(Auth: HRS §84-31(a)(5)) (Imp: HRS §84-21)

§21-1-11 Staff. (a) The executive director shall have charge of the commission's official records and shall be responsible for the maintenance and custody of the files and records of the commission, including the papers, transcripts of testimony and exhibits filed in proceedings, the minutes of all actions taken by the commission, and all its rulings, advisory opinions, decisions, rules, and approved forms. The executive director ~~[or delegate]~~ shall receive all documents required to be filed with the commission and shall promptly stamp the time and date upon papers filed with the commission, provided that the time and date may be recorded electronically for documents submitted via any electronic filing system. The executive director is responsible for the administration of the office.

(b) The associate director assists the executive director in administrative matters. The associate director shall conduct investigations and prosecute cases as delegated by the executive director. In cases where the executive director serves as counsel to the commission or is recused, then the associate director or the associate director's delegate shall conduct or prosecute the case without supervision by the executive director.

(c) The commission may delegate to the executive director any duties as appropriate to conduct its operations. The executive director may delegate to commission staff any duties set forth herein. [Eff. July 13, 1981; am and comp]
(Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 97-6)

§21-1-12 Operations. (a) The offices of the commission are at 1001 Bishop Street, Suite 970,~~[in the Kamamalu Building, 250 South King Street]~~, Honolulu, Hawaii, or such other address where the commission may be located from time to time. All communications shall be addressed to the state ethics commission at its offices, via electronic mail or other electronic means designated by the commission or its staff, or otherwise as directed ~~[unless otherwise specifically directed]~~.

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

(c) The commission meets and exercises its powers in any part of the State of Hawaii. Meetings may be called by the chairperson or by two or more commissioners upon notice to the staff and other commissioners, consistent with chapter 92, HRS. Except when considering matters made confidential by chapter 84, HRS, matters otherwise made confidential by law, or matters considered in executive session, meetings are open to the public. [Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 97-6)

§21-1-13 Stricter rules allowed. Any agency may adopt or implement stricter ethical standards of conduct than those set forth in chapters 84 or 97, HRS, or these rules. [Eff.] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: Haw. Const. art. XIV; HRS §§84-1, 84-31, 84-37, 97-6)

END OF CHAPTER 1

HAWAII ADMINISTRATIVE RULES

TITLE 21

HAWAII STATE ETHICS COMMISSION

AMENDMENT AND COMPILATION OF CHAPTER 21-2
HAWAII ADMINISTRATIVE RULES

MONTH, DAY, 2018

SUMMARY

1. §21-2-1, Hawaii Administrative Rules, is amended.
2. §§21-2-3 to 21-2-6, Hawaii Administrative Rules, are amended.
3. Chapter 2 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 21

HAWAII STATE ETHICS COMMISSION

CHAPTER 2

STATE ETHICS COMMISSION FILING OF DOCUMENTS, SERVICE, WITNESS AND SUBPOENAS

Chapter 21-2, Hawaii Administrative Rules, entitled “General Provisions”, is amended and compiled to read as follows:

21-2-1	Filing of documents
21-2-2	Computation of time
21-2-3	Continuances or extensions of time
21-2-4	Service of process
21-2-5	Subpoenas
21-2-6	Witnesses and fees
21-2-7	Retention of documents by the commission

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

§21-2-1 Filing of Documents. (a) All disclosures, charges, requests for opinions, pleadings, submittals, reports, petitions, briefs, memoranda, and other ~~[papers required to be]~~ documents filed with the commission ~~[in any proceeding]~~ shall be filed with the executive director. ~~[Such papers]~~ Documents may be ~~[sent by mail to the post office box of the commission or mailed or]~~ delivered via electronic mail or in hard copy ~~[or hand-carried]~~ to the commission offices in

Honolulu within the time limit, if any, for such filing unless the commission requires that documents be submitted electronically. The date on which the papers are actually received by the commission shall be deemed to be the date of filing, except as otherwise provided by law.

(b) All papers filed with the commission shall be plainly legible.

(c) All papers shall be signed ~~[in ink]~~ by the person signing the same or the person's duly authorized agent or attorney. The commission may establish an electronic filing system that allows for digital signature of documents. The signature of the person signing the document constitutes a certification that the person has read the document; that to the best of the person's knowledge, information, and belief, every statement contained in the instrument is true and no such statements are misleading; and that it is not interposed for delay.

(d) ~~[Only an original of all papers shall be filed with the commission, except that an original and six copies of all]~~ The commission may require that paper copies of pleadings and memoranda submitted for hearing purposes ~~[shall]~~ be filed with the commission.

(e) The initial document filed by any person in any proceeding shall state on the first page thereof the name, mailing address, electronic mail address, and telephone number of the person or persons who may be served with any documents filed in the proceeding. [Eff. July 13, 1981; am and comp

] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 97-6)

§21-2-2 Computation of time. In computing any period of time prescribed or allowed either by these rules or by order of the commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time is to run, is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday in the State of Hawaii, in which event the period runs until the next day which is neither a Saturday, Sunday nor a holiday. [Eff. July 13, 1981; comp

] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 97-6(a))

§21-2-3 Continuances or extensions of time. ~~[With the exception of the requirements of §84-17, HRS, and Chapter 3, whenever]~~ Whenever a person or agency has a right or is required to take action within the period prescribed or allowed by these rules, or by order of the commission, the person or agency may apply to the executive director or [a member of] the commission for an extension

~~[not to exceed fifteen days. Additional extensions or extensions exceeding fifteen days will be ordered only upon motion and notice for good cause shown. The commission will not accept late documents, nor will it recognize action not performed within the prescribed time without good cause shown].~~ [Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§1-29, 84-31, 97-6)

§21-2-4 Service of process. (a) The commission shall cause to be served all orders, notices, and other papers issued by it, together with any other papers which it is required by law to serve. Pleadings and memoranda relating to charges or hearings shall be served by the party filing them.

(b) All papers served by either the commission or any party shall be served upon all counsels of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceedings shall notify all parties of that fact.

(c) The final opinion, decision, or any other paper required to be served by the commission upon a party shall be served upon the party's counsel of record, if any, or the party or an agent designated by the party or by law to receive service of such papers.

(d) The service of charge, ~~and~~ further statement of charge of alleged violation, and notice of contested hearing shall be made:

- (1) personally upon the respondent;
~~[or, in case the respondent cannot be found, by leaving copies thereof at the respondent's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or]~~
- (2) by delivering a copy to an agent designated by that person or by law to receive service of such papers[-];
- (3) by registered or certified mail, return receipt requested; or
- (4) by any method agreed to by the parties.

If service by one of the above means is not made because of the refusal to accept service or the commission and its agents have been unable to ascertain the address of the party after reasonable and diligent inquiry, service may be effected as ordered by the circuit court pursuant to section 84-31(b), HRS, or otherwise provided by statute.

(e) Service of notice of the failure to file a disclosure of financial interests as required by section 84-17, HRS, shall be made by in-person service, electronic mail to the person's state electronic mail address, or first class mail.

(f) Service of all other papers required to be served shall be made by delivering a copy to counsel of record, if any, or to the person or an agent designated by the person or by law to receive service of such papers, ~~[or]~~ by mailing a copy to the person's last known address, or by other means agreed to by the parties. Delivery of a copy within this subsection means handing it to the person's attorney or to the person directly or leaving it at the person's office, with the person's secretary, clerk, or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. Service by personal delivery or mailing shall be indicated by a certification of time and place of delivery or mailing, filed with the commission. [Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-17, 84-31, 97-6)

§21-2-5 Subpoenas. (a) Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place within the State of Hawaii at any designated place of hearing, or at any designated place of an investigatory interview by the executive director, may be issued by any member of the commission.

(b) ~~Application~~ Requests for subpoenas shall be made in writing to the commission. ~~[The application]~~ Requests for subpoenas shall be reasonable in scope and specify as clearly as possible documents or data desired, and show their general relevancy.

(c) For production of documentary evidence or appearance of witnesses at a hearing or at an investigatory interview, ~~[application]~~ requests for subpoenas shall be made at least three days prior to the hearing or interview. If application for a subpoena for a hearing is made at a later time, the commission may, in its discretion, continue the hearing or any part thereof.

(d) Enforcement of obedience to subpoenas issued by the commission and served pursuant to this chapter will be effected by written application of any commissioner to any circuit judge. [Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 92-16, 97-6(a)(5)) (Imp: HRS §§84-31, 92-16, 97-6)

§21-2-6 Witness fees. Witnesses summoned for contested case hearings shall be paid the same fees and mileage as are paid to witnesses in courts of the State of Hawaii and shall be paid by the party at whose instance witnesses appear. [Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 97-6)

§21-2-7 Retention of documents by the commission. All documents filed with or presented to the commission may be retained by the commission. However, the commission may permit the withdrawal of original documents upon submission of properly authenticated copies to replace such documents. [Eff. July 13, 1981; comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-17, 84-31, 97-6)

END OF CHAPTER 2

HAWAII ADMINISTRATIVE RULES

TITLE 21

HAWAII STATE ETHICS COMMISSION

AMENDMENT AND COMPILATION OF CHAPTER 21-3
HAWAII ADMINISTRATIVE RULES

MONTH, DAY, 2018

SUMMARY

1. §21-3-1, Hawaii Administrative Rules, is re-numbered to §21-3-2 and is amended. A new §21-3-1 is added.
2. §21-3-2, Hawaii Administrative Rules, is re-numbered to §21-3-4 and is amended.
3. A new §21-3-3 is added.
4. New §§ 21-1-5 through 21-3-11, Hawaii Administrative Rules, are added.
5. Chapter 3 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 21

HAWAII STATE ETHICS COMMISSION

CHAPTER 3

FINANCIAL DISCLOSURE REQUIREMENTS

Chapter 21-3, Hawaii Administrative Rules, renamed “Financial Disclosure Requirements”, is amended and compiled to read as follows:

21-3-1	Definitions
21-3-2	Financial disclosure filing procedures
21-3-3	Financial interests
21-3-4	Public access to disclosure statements
21-3-5	Disclosure period
21-3-6	Amended Disclosures
21-3-7	Newly elected or appointed officials; interim or acting officials.
21-3-8	Changes in position; exit disclosure
21-3-9	Administrative fine for failure to file
21-3-10	Payment of fine or request for waiver; good cause
21-3-11	Disposition of financial disclosures

Historical Note: This chapter is based substantially upon rule 3 of the State of Hawaii Ethics Commission Rules and Regulations. [Eff. 1/7/74 and 11/11/78; R July 13, 1981; am and comp]

§21-3-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

“Deputy director” means any individual who is subordinate only to the head of an agency and who exercises supervisory authority over subordinate employees;

“Disclosure” means, for purposes of this chapter, a disclosure of financial interests that is required to be filed pursuant to §84-17, HRS;

“Division chief” means, for those agencies that have divisions, the head of a division who exercises supervisory authority over subordinates;

“Executive director” and “executive secretary” means the highest-ranking staff member of an agency, and includes wardens of correctional centers;

“Filer” or “filers” means all persons who are required to file a disclosure pursuant to §84-17(c), HRS;

“Financial interests” means information that is required to be reported pursuant to §84-17(f), HRS, and these rules;

“Fiscal officer” and “purchasing agent” means any person with delegated authority to enter into and administer contracts and make written determination with respect thereto;

“Solely advisory” means a board or commission that can take no significant action to influence the administration of state programs or the exercise of state powers. In determining whether a board or commission is solely advisory, the commission may consider whether the board or commission exercises adjudicatory powers; adopts and implements state programs; develops and monitors program standards; and has authority to hire and fire employees, enter into contracts, issue permits or licenses, promulgate rules, receive gifts, or spend state funds. The agency’s description of a board or commission as being advisory is not dispositive as to whether the board or commission will be considered to be solely advisory;

“State position” means one of the positions enumerated in §84-17(c), HRS, for which a disclosure is required to be filed with the commission.

In determining whether an individual is a deputy director, division chief, executive director, or executive secretary, the commission may consider the individual’s responsibility to hire, fire, and supervise personnel; the individual’s responsibility for fiscal and budgetary matters; and the individual’s responsibility for programmatic matters. The agency’s title for an individual is not dispositive as to whether the individual will be required to submit a disclosure.

[Eff. _____] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-17.5, 84-31)

[§21-3-1] §21-3-2 Financial disclosure filing [Filing] procedures.

(a) [The] All persons holding those positions enumerated in §84-17(c), HRS, shall

file annually with the commission a disclosure ~~[of financial interests]~~ within the applicable time periods set forth in §84-17(b), HRS, and this chapter, using a form or filing system so designated by the commission.

(b) Disclosures shall be filed:

- (1) electronically using the commission's electronic filing system;
- (2) in person at the commission's office during regular business hours;
- (3) by e-mail, mail, or fax; or
- (4) by any other process established by the commission.

(c) Disclosures that are filed electronically through the commission's electronic filing system or by email shall be deemed filed as of the time and date when the documents are electronically received by the commission. Disclosures that are submitted in person, or via mail, fax, or other process shall be deemed filed as of the date when the documents are received by the commission.

(d) In addition to those financial interests required to be reported by §84-17(f), HRS, the disclosure ~~[statement filed with the commission]~~ shall contain ~~[the full name of the person filing the disclosure, the state agency which the person serves and the person's position with the agency, the names of the person's spouse and dependent children, and the date of the person's disclosure]:~~

- (1) the filer's full name and personal contact information, including the filer's residential address, work address, personal telephone number, work telephone number, personal e-mail address, and work e-mail address;
- (2) the filer's state position and the name of the agency, board, or commission the filer serves; and
- (3) the names of the filer's spouse or civil union partner, and dependent children.

(e) The disclosure shall be signed, digitally or otherwise, by the person required to file the disclosure. This signature constitutes a certification that the person has read the document and that to the best of the person's knowledge, information, and belief every statement contained in the instrument is true and no such statements are misleading. ~~[For commission records only, the commission requires that the person filing the disclosure provide the person's business and residence addresses and business and home telephone numbers.~~

~~The commission shall provide a form for full financial disclosure and a short form of disclosure for subsequent annual filing in those instances where the financial interests of the person disclosing are substantially the same as those reported for the preceding disclosure period.~~

~~(e) The disclosure of financial interests required by §84-17, HRS, shall be filed between January 1 and April 30 of each year or within thirty days of the election or appointment of a person to a position enumerated in §84-17(c), HRS.~~

~~(d) A person who is required by §84-17, HRS, to file a financial disclosure shall file such disclosure with the commission pursuant to §21-2-1.~~

~~(e) A person who is required to file a disclosure of financial interests may be granted an extension of fifteen days by the commission for good cause shown. The request for an extension shall be directed to a commissioner and shall be received at the commission's offices before the filing deadline for the person's disclosure.]~~

(f) Upon receipt of a disclosure, the executive director shall indicate thereon the date and time of receipt. ~~[The disclosure will be reviewed by the commission for conflicts of interest. If no conflict exists, the commission will acknowledge receipt of the disclosure and file it without further action. If a conflict is found, the commission will acknowledge the receipt of this disclosure and] advise the person of the conflict and the person's obligations and responsibilities to avoid violation of the state ethics law. Where the situation has precedential value, the commission will proceed as though the disclosure were a request for an advisory opinion.]~~

(g) Filers shall promptly notify the commission regarding any changes in their contact information.

[Eff. July 13, 1981; §21-3-1; am, ren §21-3-2, and comp]

(Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-31)

§ 21-3-3 Financial interests. (a) As provided by §84-17(f), HRS,
financial interests to be disclosed include, but are not limited to:

- (1) rental income;
- (2) stocks, exchange traded funds, and other similar financial instruments, which shall be individually disclosed as ownership interests in a business, provided that filers need not disclose the contents of mutual funds;
- (3) trust assets, including a description of the specific assets contained within the trust, unless the filer's control over the trust or ability to benefit from the trust is such that there is an insignificant risk that those assets may give rise to a conflict of interest pursuant to §84-14, HRS.

(b) Filers need not disclose ownership of or income from the following:

- (1) money market funds, savings and checking accounts, and certificates of deposit;

- (2) tax deferred retirement accounts such as the State deferred compensation plan, Individual Retirement Accounts, and 401k plans;
- (3) tax deferred qualified tuition plans such as 529 college savings plans;
- (4) tax deferred health savings accounts;
- (5) Social Security or other government benefits.
- (c) Filers need not disclose consumer credit card debt or automobile lease agreements.

[Eff. _____] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-14, 84-17, 84-31)

§21-3-2 **§21-3-4 Public access to disclosure statements.** Information regarding the filer's residential address and telephone number, business address and phone number, email address, as well as the names of the filer's spouse or civil union partner and dependent children, shall not be publicly disclosed. Disclosures that are designated as confidential pursuant to §84-17(e), HRS, shall not be made available for public inspection or duplication, except with written authorization of the filer.—(a) An exact copy of the financial disclosure statements of the persons holding those positions designated in §84-17(b), HRS, shall be available for public inspection at the commission offices during regular business hours within two working days following the receipt and review of the disclosure by the commission. For purposes of public inspection, a financial disclosure statement shall not include the business and home addresses and telephone numbers of the person disclosing, although they will appear on the original form. The disclosures of those persons who are required by §84-17, HRS, to file but who do not hold positions designated in §84-17(d), HRS, are confidential, and the commission shall not release the contents of the disclosures except as permitted by chapter 84, HRS, and §21-1-8.

(b) Any person wishing to inspect a disclosure statement which is available for public inspection pursuant to §84-17, HRS, shall complete and file a form listing:

- (1) The name of the person requesting the inspection and the person's business or residence address;
- (2) The name and address of any person or organization for whom the person requesting the inspection is acting;
- (3) The name of the person whose statement is to be inspected;
- (4) The date of the inspection.

~~A copy of the form shall be kept in the file of the person who disclosure was inspected. The form shall be available for inspection by the person whose disclosure statement was inspected, the commission, and the commission staff. A statement indicating this procedure shall appear plainly on all request forms provided by the commission.]~~

[Eff. July 13, 1981; §21-3-2; am, ren §21-3-4, and comp
(Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-31)]

§21-3-5 Disclosure period. Filers shall disclose all financial interests held during the applicable disclosure period. For initial disclosures and candidates, the disclosure period includes January 1 of the preceding calendar year to the date of filing. All disclosures filed thereafter include the date of the previous filing to the date of filing, excluding amended filings, except that income reported shall be for the previous calendar year. [Eff. July 13, 1981; am and comp
(Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-31)]

§21-3-6 Amended Disclosures. If a filer files a disclosure that contains inaccurate information or omits information regarding the filer's financial interests, the filer shall promptly file an amended disclosure with the commission. [Eff.
(Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-31)]

§21-3-7 Newly elected or appointed officials; interim or acting officials. Newly elected or appointed officials required to submit a disclosure pursuant to §84-17(b), and persons serving in an interim or acting capacity in positions that require filing a disclosure, shall file a disclosure within thirty days of the first day in office or the first day in which the person takes any official action, whichever comes first, unless otherwise ordered by the commission. [Eff.
(Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-17.5, 84-31, 84-31.5)]

§21-3-8 Changes in position; exit disclosure. (a) Filers transferring to a position requiring the filing of a confidential disclosure are not required to file a new confidential disclosure if a timely annual filing has been submitted for the previously held position.

(b) Filers transferring to a position requiring the filing of a public disclosure are not required to file a new public disclosure if a timely annual filing has been submitted for the previously held position.

(c) Filers transferring from a position requiring the filing of a confidential disclosure to a position requiring the filing of a public disclosure shall file a public disclosure within thirty days of the first day in office or the first day in which the person takes any official action, whichever comes first;

(d) Filers shall file a disclosure within thirty days of any filer's final date in state office or employment, unless the filer filed a disclosure within 180 days of the final date of state office or employment.

[Eff. _____] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-17.5, 84-31, 84-31.5)

§21-3-9 Administrative fine for failure to file. (a) The commission shall notify filers of the failure to timely file a disclosure and the applicable administrative fine. The commission may notify such individuals by electronic mail to the person's state electronic mail address, first-class mail, or personal service.

(b) If notice is sent via electronic mail, the ten-day period described in §84-17(i), HRS, shall run from the date the e-mail is sent. If notice is sent via first-class mail, the ten-day period shall begin two business days after the notice is mailed, unless the notice is mailed to an address outside the State, in which case the ten-day period shall begin four business days after the notice is mailed.

[Eff. _____] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-17.5, 84-31, 84-31.5)

§21-3-10 Payment of fine or request for waiver; good cause. (a) An individual who receives a notice of administrative fine and subsequently files a disclosure shall, within ten days of filing the disclosure, pay the assessed administrative fine or request a waiver from the commission.

(b) Payment of the administrative fine is deemed made when received by the commission.

(c) Any individual requesting a waiver of administrative fine shall submit a written request to the commission. The request shall contain the filer's name, address, e-mail address, telephone number, and state position; a clear and concise statement regarding the factual basis for the filer's request for a waiver, including the reasons or circumstances why the filer was unable to file by the applicable due date; and any documents or evidence in support of the filer's request for a waiver.

(d) The commission may waive any administrative fines for good cause shown. The filer has the burden to establish good cause. Good cause may be found if the requester faced an unexpected crisis such as a serious medical issue, a death in the family, or a theft or destruction of financial documents that prevented the individual from filing the disclosure by the relevant deadline. Good cause generally may not be found by inadvertence or oversight.

(e) The commission may issue a charge against any individual who fails to file a disclosure by the relevant deadline.

[Eff. _____] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-17.5, 84-31, 84-31.5)

§21-3-11 Disposition of financial disclosures. (a) Disclosures shall be destroyed six years after the filer leaves state office or employment, regardless of whether the filer later returns to state office or employment, unless otherwise provided by statute.

(b) A disclosure filed by a candidate for state elective office shall be destroyed upon the expiration of six years after an election for which the candidate filed the disclosure.

(c) In destroying disclosures, all paper copies shall be shredded, all electronic copies shall be deleted from the commission's record-keeping system, and all public disclosures shall be removed from the commission's website. [Eff.

] (Auth: HRS §84-31(a)(5)) (Imp: HRS §§84-17, 84-17.5, 84-31, 84-31.5)

END OF CHAPTER 3

SUNSHINE LAW MEETING
AGENDA ITEM IV

EVALUATION OF EXECUTIVE DIRECTOR

Attachment 1: Evaluation tool used in 2015

Attachment 2: Report from Permitted Interaction Group (PIG) from 2015

HAWAII STATE ETHICS COMMISSION
Executive Director's Evaluation

A. Legal Counsel to Commission						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
1.	Advises Commissioners on the legal issues and precedents to facilitate informed decision-making Circle one: 5 4 3 2 1 0					
2.	Ensures Commissioners are aware of both sides of the issue being decided (the pros and cons), including the ramifications/unintended consequences of Commission action Circle one: 5 4 3 2 1 0					
3.	Informs Commission members regarding any feedback related to the Commission's actions and/or decisions Circle one: 5 4 3 2 1 0					
4.	Demonstrates expertise with relevant laws, rules, procedures, and legal principles Circle one: 5 4 3 2 1 0					
5.	Applies ethics and lobbying laws to factual situations in a fair and consistent manner Circle one: 5 4 3 2 1 0					
B. Commission meetings and training						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
6.	Develops positive, cooperative, and collaborative relationships with Commission members Circle one: 5 4 3 2 1 0					
7.	Responds to Commission members' inquiries in a timely manner Circle one: 5 4 3 2 1 0					
8.	Assists Chairperson in conducting meetings effectively Circle one: 5 4 3 2 1 0					
9.	Responds appropriately to input from Commission members Circle one: 5 4 3 2 1 0					

HAWAII STATE ETHICS COMMISSION
Executive Director's Evaluation

C. Administration and Enforcement of Chapters 84 and 97, HRS						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
10.	Oversees, plans, and implements effective complaint investigations regarding possible violations of Chapters 84 and 97, HRS Circle one: 5 4 3 2 1 0					
11.	Oversees the administration of disclosure requirements under Chapter 84, HRS (financial & gift disclosures, as well as contract notices), including facilitating compliance by filers Circle one: 5 4 3 2 1 0					
12.	Oversees the administration of registration and filing requirements under Chapter 97, HRS (lobbyists' registration and expenditure & contribution reports), including facilitating compliance by filers Circle one: 5 4 3 2 1 0					
13.	Conducts and oversees enforcement proceedings against individuals who do not comply with the filing requirements of Chapters 84 and 97, HRS, including prosecuting or serving as legal counsel to the Commission in contested case hearings Circle one: 5 4 3 2 1 0					
14.	Resolves cases in an efficient manner, including negotiations based on the facts, the law, and the Commission's guidance & objectives Circle one: 5 4 3 2 1 0					
15.	Drafts and reviews staff opinion letters, advisory opinions, legal memoranda and other documents related to complaints, investigations, enforcement proceedings, etc. Circle one: 5 4 3 2 1 0					
D. Education Program						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
16.	Develops, conducts, and manages education workshops and presentation, including mandatory ethics training for state government officials as required by law Circle one: 5 4 3 2 1 0					
17.	Oversees the development, design, and maintenance of the Commission's website Circle one: 5 4 3 2 1 0					
18.	Develops educational materials, including the Commission's newsletter and other publications Circle one: 5 4 3 2 1 0					

HAWAII STATE ETHICS COMMISSION
Executive Director's Evaluation

E. Media						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
19.	Responds to inquiries from the media in a clear, concise and professional manner, including correcting misstatements about Commission business without violating confidentiality Circle one: 5 4 3 2 1 0					
20.	Monitors the media for commentary related to the work of the Commission and keeps Commission members informed regarding any response/correction/clarification provided to the media Circle one: 5 4 3 2 1 0					
21.	Ensures that any comments to the media are confined to factual and legal matters (as opposed to the Commission's deliberation process) Circle one: 5 4 3 2 1 0					
22.	Issues appropriate news releases, commentaries, and letters to the editor as necessary Circle one: 5 4 3 2 1 0					
F. Relations with other state and federal agencies and organizations						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
23.	Maintains professional relations with other state, local, and federal agencies Circle one: 5 4 3 2 1 0					
24.	Maintains professional relations with local and national organizations, such as Common Cause Hawaii, the League of Women Voters, and the Council on Governmental Ethics Laws to promote ethics and "good government" initiatives Circle one: 5 4 3 2 1 0					

HAWAII STATE ETHICS COMMISSION
Executive Director's Evaluation

G. Legislation						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
25.	Drafts, edits, and/or reviews legislative testimony; ensures testimony is clear, concise, and professional; also ensures content reflects appropriate depth of discussion Circle one: 5 4 3 2 1 0					
26.	Understands and actively engages in the legislative process, including initiating and/or supporting desirable changes in the ethics and/or lobbying laws Circle one: 5 4 3 2 1 0					
27.	Attends legislative hearings, presents testimony, and fields questions from legislators in a clear, concise and professional manner Circle one: 5 4 3 2 1 0					
28.	Reaches out to key government decision-makers to support or oppose legislation, as appropriate Circle one: 5 4 3 2 1 0					
29.	Works collaboratively with community groups and members of the public on legislative matters of common interest Circle one: 5 4 3 2 1 0					
H. Budget and fiscal operations						
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion						
30.	Plans, prepares, and manages Commission's budget, including making appropriate adjustments when needed Circle one: 5 4 3 2 1 0					
31.	Ensures all fiscal operations of the office, including payroll and procurement of all goods and services, are in accordance with applicable laws Circle one: 5 4 3 2 1 0					
32.	Negotiates and executes office lease agreements and other agreements and contracts on behalf of the Commission Circle one: 5 4 3 2 1 0					

HAWAII STATE ETHICS COMMISSION
Executive Director's Evaluation

I. Administration and Management							
5=Excellent 4=Good 3=Adequate 2=Less than adequate 1=Poor 0=No opinion							
33.	Communications, in writing, are concise, well-organized, and well-reasoned manner Circle one:	5	4	3	2	1	0
34.	Communicates, orally, in an articulate, effective, and professional manner Circle one:	5	4	3	2	1	0
35.	Handles conflicts and disagreements with sensitivity and tact Circle one:	5	4	3	2	1	0
36.	Demonstrates high standards of integrity and fairness Circle one:	5	4	3	2	1	0
37.	Treats everyone with dignity and respect Circle one:	5	4	3	2	1	0
38.	Listens effectively, with an open mind, and works to develop positive morale and relationships with clerical staff Circle one:	5	4	3	2	1	0
39.	Listens effectively, with an open mind, and works to develop positive morale and relationships with staff attorneys Circle one:	5	4	3	2	1	0
40.	Listens effectively, with an open mind, and works to develop and foster positive relationships with Commission members Circle one:	5	4	3	2	1	0
41.	Willing to compromise or change course of action where appropriate Circle one:	5	4	3	2	1	0
42.	Fosters teamwork and possesses effective team building skills Circle one:	5	4	3	2	1	0

NOTE TO EVALUATOR: Please feel free to provide any additional feedback or comments. You may append your comments to this evaluation instrument (either typed or handwritten).

PERMITTED INTERACTION GROUP (PIG) REPORT

Submitted by: Edward Broglio, Chair
February 18, 2015

At its September 24, 2014 meeting, the Hawaii State Ethics Commission unanimously established a Permitted Interaction Group (PIG) -- comprised of Chair Edward Broglio and Commissioner Susan DeGuzman -- "for the purpose of investigating and recommending appropriate goals and other performance review criteria for the Executive Director." PIG members met with the Executive Director (ED) on December 2, 2014, January 27, 2015, and February 5, 2015.

Generally, it was agreed that we would present the Commission with a proposal regarding "performance goals" and an "ED evaluation tool" that incorporated elements from the ED's Position Description and the prior evaluation instrument utilized in the ED's 2011 evaluation. *See Proposed Executive Director's Performance Goals, Attachment 2, and Proposed Factors Executive Director's Evaluation, Attachment 3.*

Performance Goals: Generally, the Commission has four basic functions: Education, Guidance, Enforcement, and Disclosures. Thus, we identified performance goals in each category. Note that most of the goals are objectively measurable, while others will require "status-type" progress reports.

In order for the more objectively measurable goals to be meaningful, the group believed that we must first establish a "base-line." Thus, in addition to the proposed specified goals, we also recommend that the Commission allow a "data gathering period" of 3 to 6 months to be able to establish the requisite base-line.

ED Evaluation Factors: As indicated above, the proposed evaluation factors were derived from the ED's Position Description, *see Attachment 4*, and the previous ED Evaluation Tool, *see Attachment 5*. We welcome the Commission's input with regard to any changes, modifications, deletions, additions, etc. to the language of the proposed factors or the factors themselves.

We also seek input from the Commission with regard to the "rating system." For example:

1. Should the system utilized in the 2011 process be adopted?

1 = Unacceptable (U)
2 = Below Expectations (B)
3 = Meets Expectations (M)
4 = Exceeds Expectations (E)
5 = Outstanding (O)
0 = Not observed first hand (NA)

2. Should the system be limited to three categories: “meets,” “exceeds,” and falls “below” expectations?
3. Should the system be more descriptive (like the scale used for judges in the Judiciary’s Judicial Performance Evaluation form)?

5 = Excellent
4 = Good
3 = Adequate
2 = Less than adequate
1 = Poor

Note: The judicial evaluation form simply asks attorneys to rate, for example, a judge’s “knowledge of relevant substantive law”; “skills in effecting a compromise”; “absence of bias or prejudice,” etc. Results are reported as “mean values” for each specific factor, e.g., 4.3, 3.1, 2.8, etc.

Measures for Performance Goals: Also, once the base-line for the specific performance goals are established, would a similar “rating system” be desired or would the reported raw data (or percentage) be sufficient? For example: If, during the evaluation period, the staff receives 100 calls for guidance (i.e., AOD-guidance) and 80 of those calls were resolved within the prescribed time, the “performance level” could be reported as “80%” of calls met the performance goal and “20%” did not. Would the result of 80% be adequate or would the Commission prefer to assign some sort of “rating descriptor” to such numbers:

For example (for illustrative purposes only):

Exceed expectations	80-100%
Meets expectations	61-79%
Below expectations	< 60%

For the Commission’s information, we also attach a copy of the evaluation tool used by the Campaign Spending Commission (CSC). See *Attachment 6*. Note the procedure described in the first paragraph is quite different from the procedure utilized by the SEC in 2011, i.e., CSC Chair meets one-on-one with CSC-ED and then reports to the entire Commission, whereas the SEC members each completed their own evaluation form.

Again, we welcome the Commission’s thoughtful input and suggestions.