

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: January 18, 2018

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 December 14, 2017, Meeting
- II. Election of Officers for 2018
- III. Executive Director's Report
 1. Education / Training Report
 2. Guidance and Assignment Statistics – December / 2017 year-end
Attachment 1: 2017 guidance and assignment statistics
 3. Miscellaneous Office Projects / Updates
 - (a) Electronic filing system
- IV. Legislative update

V. Administrative Rules

Report from Permitted Interaction Group regarding staff's suggested amendments to Hawaii Administrative Rules, Title 21, Chapters 4-6

VI. Evaluation of Executive Director Daniel Gluck

The Hawaii State Ethics Commission may convene an executive session pursuant to Hawaii Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee.

VII. 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
DECEMBER 14, 2017 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the December 14, 2017 Hawaii
State Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, December 14, 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. Graulty, Chair
David O’Neal, Vice Chair
Susan N. DeGuzman, Commissioner
Ruth D. Tschumy, Commissioner

State Ethics Commission Staff

Daniel M. Gluck, Executive Director
Susan D. Yoza, Associate Director
Virginia M. Chock, Staff Attorney
Bonita Y.M. Chang, Staff Attorney
Kee M. Campbell, Staff Attorney
Pat K. Mukai, Secretary

Excused: Melinda S. Wood, Commissioner

CALL TO ORDER

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

Agenda Item No. I: Consideration and Approval of the Minutes of the November 16, 2017, Meeting

Commissioner DeGuzman recommended one grammatical change.

1 Vice Chair O'Neal made and Commissioner Tschumy seconded a motion to
2 approve the minutes of the November 16, 2017 Sunshine Law meeting as amended.
3 The motion carried unanimously (Graulty, O'Neal, DeGuzman, and Tschumy voting).
4
5

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

7

8 *Education / Training Report*

9

10 Executive Director Gluck reported that the Commission staff completed 46
11 trainings of nearly 2,500 people in 2017 – three times the number of trainings completed
12 in 2016 and a 60% increase in the number of people trained over 2016. He further
13 reported that there are several trainings scheduled for January 2018, including an
14 Ethics Refresher course and a Lobbyists Law training.
15

16 *Guidance and Assignment Statistics – November 2017*

17

18 Executive Director Gluck reported that staff are working to close out old
19 assignments, but continue to handle a steady flow of complaints and requests for
20 advice. Commissioner DeGuzman asked for clarification on the information provided in
21 response to Judicial Selection Commission requests; Executive Director Gluck
22 responded that the Ethics Commission provides information in its files regarding
23 applicants for judicial positions, such as whether complaints have been filed against the
24 applicants or whether the applicants have filed required disclosures on time.
25

26 *Report on Council on Governmental Ethics Laws (COGEL) Conference,* 27 *December 3-6, 2017, Toronto, Ontario*

28

29 Executive Director Gluck reported that he, Chair Graulty, Associate Director
30 Yoza, Staff Attorney Chock, and Staff Attorney Campbell attended the COGEL
31 Conference. Each shared ideas gleaned from the conference.
32

33 *Miscellaneous Office Projects / Updates*

34

35 *a. Office Lease – Update*

36

37 Executive Director Gluck reported that the office lease has been finalized.
38

39 *b. Electronic Filing System*

40

41 Executive Director Gluck reported that the electronic filing system for financial
42 disclosures should be online very shortly, such that legislators can file their financial
43 disclosures using the new system before the January 31, 2018 deadline. The gifts
44 disclosure system should be online shortly, followed by the lobbying registration and
45 expenditure report system.
46

1 **Agenda Item No. III: Legislative Update**

2
3 Executive Director Gluck reported meeting with the Chair of the Senate Judiciary
4 Committee regarding the Commission's proposed legislation. Executive Director Gluck
5 received feedback regarding the financial disclosure law's penalties, and was informed
6 that the Legislature may consider amending the law.
7

8 Executive Director Gluck also reported that he is communicating with the
9 Legislature regarding the Committee's budget, and continues to reach out to key
10 legislators regarding the Commission's work.
11

12
13 **Agenda Item No. IV: Evaluation of Executive Director**

14
15 Discussion of and action on Report from Permitted Interaction Group regarding
16 instruments and procedures for the evaluation of Executive Director Daniel Gluck.
17

18 On behalf of the Permitted Interaction Group ("PIG"), Commissioner Tschumy
19 requested feedback from the Commission regarding the proposed evaluation tools.
20 There were no questions or comments.
21

22 Commissioner Tschumy made and Vice Chair O'Neal seconded a motion to
23 approve the PIG Report regarding instruments and procedures for the evaluation of
24 Executive Director Daniel Gluck. The motion carried unanimously (Grauldy, O'Neal,
25 DeGuzman, and Tschumy voting).
26

27 The Commission then discussed that it would issue a survey to staff, and each
28 Commissioner would complete an evaluation instrument individually, with the results to
29 be submitted at the next Commission meeting.
30

31
32 **ADJOURNMENT OF SUNSHINE LAW MEETING**

33
34 Vice Chair O'Neal made and Commissioner Tschumy seconded a motion to
35 adjourn the Sunshine Law meeting. The motion carried unanimously (Grauldy, O'Neal,
36 DeGuzman, and Tschumy voting).
37

38 The meeting was adjourned at 10:22 a.m.
39

40
41 Minutes approved on: _____

SUNSHINE LAW MEETING
AGENDA ITEM II

ELECTION OF OFFICERS FOR 2018

Attachment 1: Election of officers for 2018

SUNSHINE LAW MEETING
AGENDA ITEM II

ELECTION OF OFFICERS FOR 2018

At this meeting, in accordance with Section 21-1-10 of the Commission's Administrative Rules, the Commission should elect a Chair and Vice Chair for 2018. Section 21-1-10 of the Commission's Rules provides as follows:

§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.

The following table is provided for your information.

Commissioner	Date Appointed	Term End	Date of Reappointment	Term End
Susan N. DeGuzman*	8/27/2012	6/30/2016	7/01/2016	6/30/2020
David O'Neal**	8/26/2013	6/30/2014	7/07/2014	6/30/2018
Ruth D. Tschumy	8/26/2013	6/30/2017	7/01/2017	6/30/2021
Melinda S. Wood	7/07/2014	6/30/2018		
Reynaldo D. Graulty***	7/01/2015	6/30/2019		

* Commissioner DeGuzman served as Chair from July 2015 to February 2017.

** Commissioner O'Neal has served as Vice Chair from July 2014 to the present.

*** Commissioner Graulty has served as Chair from February 2017 to the present.

(Note: Commissioners may be appointed to two consecutive four-year terms.)

SUNSHINE LAW MEETING
AGENDA ITEM III

EXECUTIVE DIRECTOR'S REPORT

Attachment 1: Executive Director's Report

Attachment 2: 2017 Guidance and Assignment Statistics

SUNSHINE MEETING
AGENDA ITEM III
EXECUTIVE DIRECTOR'S REPORT
January 18, 2018

1. Education / Training Report

a. Recently held trainings/presentations:

Lobbyists Law Training
Hawaii State Capitol, Room 329
January 5, 2018
10:00 a.m. – 11:30 a.m.
57 attendees

Ethics Refresher Course
Hawaii State Capitol, Room 329
January 8, 2018
9:30 a.m. – 11:00 a.m.
15 attendees

Mandatory Ethics Training
Hawaii State Ethics Commission
January 11, 2018
10:00 a.m. – 12:00 p.m.
4 attendees

b. Upcoming trainings/presentations:

General Ethics Training
Mission Memorial Auditorium
March 20, 2018
9:30 a.m. – 11:00 a.m.

Staff are also setting trainings for the rest of 2018, including trainings in Hilo, Kona, Lihue, and Kahului

2. Guidance and Assignment Statistics – December / 2017 year-end

Attachment 2: 2017 guidance and assignment statistics

3. Miscellaneous Office Projects / Updates

a. Electronic Filing System

2017	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
Training statistics													
# of Trainings	6	3	3	2	5	5	1	5	4	10	0	2	46
# of People Trained	534	58	190	86	270	128	66	128	166	685	0	30	2341
Attorney of the Day	91	59	101	68	100	56	65	58	96	79	58	61	892
New Assignments													
Advisory Opinion	1				1				2			1	5
Complaint	13	10	8	10	10	3	3	1	6	8	21	4	97
Gifts/Invitations/Travel	7	22	9	13	17	18	26	17	20	19	18	3	189
Guidance	6	5	7	8	8	5	4	5	5	3	5	4	65
Judicial Selection Comm'n	2	2	1	1	0	4	1	9	1		4	2	27
Training Request		4	10		1	2		2	2	1			22
Record Request	4	2	3	3	4	1	2			3			22
Project/Other	5	5	3	1	5	4	2	3	1	3	6	2	40
Total	38	50	41	36	46	37	38	37	37	37	54	16	467
Closed Assignments													
Advisory Opinion			1								2	1	4
Complaint	10	6	17	8	16	13	6	2	1	4	5	4	92
Gifts/Invitations/Travel	4	14	12	7	27	18	26	5	13	12	38	31	207
Guidance	2	2	7	7	12	8	5	4	1	3	6	57	114
Judicial Selection Comm'n		4			1	4	3	1	2		1	8	24
Training Request	1	3	2		2	4	1	2	1	1	1	12	30
Record Request	1	1	1	2	6	4			1	1	3		20
Project/Other	2	6	1	1	3	2		6		3	12	12	48
Total	20	36	41	25	67	53	41	20	19	24	68	125	539

SUNSHINE LAW MEETING
AGENDA ITEM IV

LEGISLATIVE UPDATE

- Attachment 1: Summary of HSEC work
- Attachment 2: Major Functions
- Attachment 3: Training
- Attachment 4: 2017 Summary of ROC's and ROI's



HAWAII STATE ETHICS COMMISSION

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Summary of Ethics Commission's Work, 2017

A. Advisory Opinions and Guidance:

1. Issued five formal Advisory Opinions (equal to the total number of Advisory Opinions issued from 2012-2016)
2. Responded to 1,146 requests for advice, including 136 requests for advice on travel (whether the Ethics Code permits acceptance of travel expenses paid for by another entity)

B. Ethics Education:

1. Tripled the number of trainings offered and increased the number of individuals trained by more than 50% compared with 2016:
 - 2016: trained 1,516 individuals at 15 trainings
 - 2017: trained 2,341 individuals at 46 trainings
2. Published five issues of *The High Road*

C. Enforcement: Charges and Investigations:

1. Assessed \$44,670.00 in administrative penalties (payable to the General Fund) and \$4,238.45 in restitution
 - a. Enforcement actions: \$40,750.00
 - b. Late filings of financial disclosures: \$6,420.00
2. Conducted investigations involving 97 complaints of alleged violations of the Ethics Code/Lobbyists Law; issued 16 charges and resolved 13 cases through agreements with respondents; received and resolved one charge filed by members of the public

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

1. Received 2,025 financial disclosure statements
2. Received and published 144 gifts disclosure statements
3. Received and published registrations from 406 lobbyists representing 366 organizations
4. Received and published 2,051 lobbyist expenditure reports

E. Judicial Candidates:

1. Responded to 27 Judicial Selection Commission requests for information on approximately 150 candidates for judicial office

Hawaii State Ethics Commission Major Functions

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

IX DISCLOSURE FILINGS	Disclosure Filing Date	Approximate Number of Disclosures
Annual Financial Interests Disclosures Statements	May 31	2,025
Candidates Financial Interests Disclosures Statements	20 days before primary*	--
Gifts Disclosure Statements	June 30	144
Lobbyist Registration Statements Registered Lobbyists	January**	921 406
Lobbying Organizations Expenditure Reports	January 31	301
Lobbying Organizations Expenditure Reports	March 31	333
Lobbying Organizations Expenditure Reports	May 31	323
Lobbyists Expenditure Reports	January 31	346
Lobbyists Expenditure Reports	March 31	379
Lobbyists Expenditure Reports	May 31	369

X ADMINISTRATION
Duties: • Management • Supervision • Fiscal • Personnel • Procurement • Technology • Planning

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

ETHICS COMMISSION STAFF: 11 Individuals (10 full-time, 1 part-time)

* Filed every even-numbered year only.

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

HAWAII STATE ETHICS COMMISSION 2017 EDUCATION PROGRAM (Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NO. OF PARTICIPANTS
01/05/17	Ethics Refresher Class for Legislators and Staff	21
01/06/17	Mandatory Ethics Training (new legislators and state officials)	23
01/10/17	Lobbyists Law Ethics Training	36
01/20/17	Ethics Training for Judiciary and Other State Employees	200
01/26/17	Ethics Training for U.H. Board of Regents	20
01/31/17	Ethics Training for Judiciary Employees (video conference to neighbor islands)	234
02/15/17	Ethics Training for Language Access Advisory Council	12
02/22/17	Ethics Training for Charter Schools/Commission	16
02/25/17	Ethics Training for Hawaii State Teachers Association (HSTA) Board of Directors	30
03/22/17	General Ethics Training – Oahu	155
03/28/17	Ethics Training for Employees' Union Trust Fund (EUTF) Board Meeting	20
03/31/17	Mandatory Ethics Training (new legislators and state officials)	15
04/05/17	General Ethics Training – Kona	44
04/07/17	Ethics Training for Windward Community College	42
05/10/17	Ethics Training for Department of Agriculture, Plant Quarantine Branch	33
05/17/17	Ethics Training for Department of Agriculture, Plant Quarantine Branch	15
05/24/17	General Ethics Training – Kapolei (morning session)	86
05/24/17	General Ethics Training – Kapolei (afternoon session)	80
05/25/17	General Ethics Training – Hilo	56
06/02/17	Ethics Training for Department of Agriculture, Plant Quarantine Branch	18

06/07/17	Mandatory Ethics Training (new legislators and state officials)	2
06/09/17	General Ethics Training – Maui (with video conference to Lanai and Molokai)	62
06/19/17	Ethics Training for Department of Land and Natural Resources, Division of Forestry and Wildlife	10
06/30/17	General Ethics Training – Kauai	36
07/07/17	Ethics Training for U.H. Campus Security	66
08/04/17	General Ethics Training – Kauai (morning session)	49
08/04/17	General Ethics Training – Kauai (afternoon session)	32
08/16/17	Ethics Training for U.H. Center for Hawaiian Studies	20
08/24/17	Mandatory Ethics Training (new legislators and state officials)	2
08/28/17	Presentation on Lobbyists Law to Hawaii Children's Policy Agenda Conference	25
09/08/17	General Ethics Training – U.H. West Oahu (Kapolei)	78
09/27/17	General Ethics Training – Hilo	50
09/28/17	Ethics Training for Stadium Authority Board Members	27
09/29/17	General Ethics Training – Kona	11
10/17/17	Ethics Training for OHA Executive Office and Research	25
10/20/17	General Ethics Training – Maui	41
10/24/17	General Ethics Training - Oahu	193
10/24/17	Ethics Training for OHA Community Engagement & Advocacy	22
10/26/17	Ethics Training for OHA Board of Trustees and Staff	24
10/27/17	Ethics Training for Department of Taxation	105
10/30/17	Ethics Training for Department of Taxation	120
10/30/17	Lobbyists Law Training for Head Start Association Board	15
10/31/17	Ethics Training for Department of Taxation	100

10/31/17	Ethics Training for OHA Resource Management - Finance & Land	40
12/01/17	Ethics Training for Department of Land and Natural Resources, Hawaii Historic Places Review Board	12
12/08/17	Ethics Refresher Class for Legislators and Staff	18
TOTAL	46 PRESENTATIONS	2,341 Participants

HAWAII STATE ETHICS COMMISSION: SUMMARY OF CHARGES AND INVESTIGATIONS RESOLVED IN 2017

In 2017, the Hawaii State Ethics Commission (“Commission”) conducted investigations involving 97 complaints of violations of the Ethics Code and Lobbyists Law, issued sixteen charges, and resolved a total of thirteen charges and major investigations, including those below.

Resolution of Investigation 2017-1: Harbor Agent’s acceptance of free parasailing rides.

The Commission resolved an investigation involving a Harbor Agent with the Department of Land and Natural Resources, Division of Boating and Ocean Recreation. The Harbor Agent oversaw operations at a state harbor, including the operations of a parasailing company; the Harbor Agent accepted free parasailing rides for himself, another adult, and three minors, after which he e-mailed the company from his state e-mail account that then sent emails from his state email account that “I will find some way of giving back to you guys for sure” and “I’ll be sure to kick down some specialities [sic] for you and your staff as compensation” If these allegations were proven at a contested case hearing, the Commission likely would have found that these actions violated the Hawaii Ethics Code’s prohibition on improper gifts, HRS § 84-11, and the fair treatment law, HRS § 84-13. The resolution of the investigation included the Commission’s publication of information about the investigation, the Harbor Agent’s payment of an administrative penalty of \$1,000 to the State, and restitution of \$238.45 to the parasailing company.

Resolution of Investigation 2017-02: Office of Hawaiian Affairs Trustee’s use of state resources for private business purposes, conflicts of interests. The Commission resolved an investigation involving an Office of Hawaiian Affairs (“OHA”) Trustee. The Trustee admitted to conducting private business using state resources, including his Trustee Aide and his OHA e-mail account; hiring his Trustee Aide to perform work for his private consulting business; and soliciting private consulting work from a party with business before OHA. If these allegations were proven at a contested case hearing, the Commission likely would have found that these actions violated the Hawaii Ethics Code’s fair treatment law, HRS § 84-13, and the conflicts of interests law, HRS § 84-14. The resolution of the investigation included the Commission’s publication of information about the investigation and Trustee’s agreement to pay an administrative penalty of \$25,000 to the State.

Resolutions of Charges 2017-03, 2017-04, 2017-05, and 2017-06: Hawaii Tourism Authority officials’ acceptance of premier-class flight upgrades. The Commission resolved charges against three current Hawaii Tourism Authority (“HTA”) personnel and one former HTA official. All four officials admitted that they accepted free business-

class upgrades from one or more airlines with which HTA has a contractual relationship; several of the HTA officials requested the upgrades from the airlines. All four officials failed to file gift disclosure statements after receiving those upgrades. If these allegations were proven at a contested case hearing, the Commission likely would have found that these actions violated the Hawaii Ethics Code's prohibition on improper gifts, HRS § 84-11, the gifts disclosure law, HRS § 84-11.5, and the fair treatment law, HRS § 84-13. The resolution of the charge included the Commission's publication of information about each of the charges and payments totaling \$12,250, with payments ranging from \$1,750 to \$6,000.

Resolution of Charge 2017-07: Department of Public Safety – Adult Corrections Officer's solicitation and acceptance of money from prisoner. The Commission resolved a charge against a former Adult Corrections Officer ("ACO") of the Department of Public Safety ("DPS"). The charge alleged that the ACO solicited a total of \$4,000 from a prisoner within DPS's custody, in violation of the Hawaii Ethics Code's gifts law, HRS § 84-11, and fair treatment law, HRS § 84-13. The charge further alleged that the ACO violated the gifts reporting law, HRS § 84-11.5, by failing to report the money received. The resolution of the charge included the Commission's publication of information about the charge, an administrative penalty of \$2,500, and restitution of the full \$4,000 to the prisoner.

SUNSHINE LAW MEETING
AGENDA ITEM V

ADMINISTRATIVE RULES

Report from Permitted Interaction Group regarding staff's suggested amendments to
Hawaii Administrative Rules, Title 21, Chapters 4-6

No attachments

SUNSHINE LAW MEETING
AGENDA ITEM VI

EVALUATION OF EXECUTIVE DIRECTOR DANIEL GLUCK

The Hawaii State Ethics Commission may convene an executive session pursuant to Hawaii Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee.

Attachment 1: Staff Overview

EVALUATION OF EXECUTIVE DIRECTOR DANIEL GLUCK

The Hawaii State Ethics Commission may convene an executive session pursuant to Hawaii Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee.

STAFF OVERVIEW

At the Commission's last meeting on December 14, 2017, the Commissioners approved the report from the Permitted Interaction Group recommending the instruments and procedures for the evaluation of the Executive Director. The Commissioners agreed to complete an evaluation instrument individually, with the results to be submitted and discussed at the next meeting on January 18, 2018. The Commissioners also discussed asking staff to complete a survey as part of the evaluation. Staff has not received the survey as of this date (January 12, 2018), but is informed that it will be sent to staff very soon. An update about this will be provided at the January 18, 2018, meeting.

SDY/lis