

# SUNSHINE LAW MEETING



# HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813  
50<sup>th</sup> ANNIVERSARY 1968-2018

## NOTICE OF MEETING OF THE HAWAII STATE ETHICS COMMISSION

Date: July 19, 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

### AGENDA

#### CALL TO ORDER

- I. Appointment of Wesley F. Fong and Reappointment of Melinda Wood to the Hawaii State Ethics Commission
- II. Consideration and Approval of the Minutes of the June 21, 2018 Meeting
- III. Akana v. Hawaii State Ethics Commission, Civil No. 18-1-1019-06 (JHA)

Discussion of case status.

The Commission may convene an executive session pursuant to Hawaii Revised Statutes section 92-5(a)(4) to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

IV. Executive Director's Report

1. Education / Training Report
2. Guidance and Assignment Statistics – June 2018

*Attachment 2: 2018 Guidance and Assignment Statistics*

3. 2018 Financial and Gifts Disclosure Statements
4. Financial Report for FY 2017-2018

*Attachment 3: Fourth Quarter and Year-End Report for FY 2017-2018*

5. Miscellaneous Office Projects / Updates
  - a. Hiring of Investigator

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](mailto: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

APPOINTMENT OF WESLEY F. FONG AND REAPPOINTMENT OF MELINDA WOOD  
TO THE HAWAII STATE ETHICS COMMISSION

No Attachments

SUNSHINE LAW MEETING  
AGENDA ITEM I

MINUTES: CONSIDERATION AND APPROVAL OF THE MINUTES OF THE  
JUNE 21, 2018 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the June 21, 2018 Hawaii State  
Ethics Commission Meeting

1 SUNSHINE LAW MEETING  
2 MINUTES OF THE HAWAII STATE ETHICS COMMISSION

3  
4 STATE OF HAWAII

5  
6  
7 Date: Thursday, June 21, 2018

8  
9 Time: 10:00 a.m.

10  
11 Place: Hawaii State Ethics Commission Conference Room  
12 American Savings Bank Tower  
13 1001 Bishop Street, Suite 960  
14 Honolulu, Hawaii 96813

15  
16 Present: State Ethics Commission Members

17  
18 Reynard D. Graulty, Chair  
19 Ruth D. Tschumy, Vice Chair  
20 Susan N. DeGuzman, Commissioner  
21 David O'Neal, Commissioner  
22 Melinda S. Wood, Commissioner

23  
24 State Ethics Commission Staff

25  
26 Daniel M. Gluck, Executive Director  
27 Susan D. Yoza, Associate Director  
28 Virginia M. Chock, Staff Attorney  
29 Bonita Y.M. Chang, Staff Attorney  
30 Kee M. Campbell, Staff Attorney

31  
32  
33 **CALL TO ORDER**

34  
35 Chair Graulty called the meeting to order at 10:00 a.m.

36  
37 The Commission took up Agenda Item No. IV at the start of the meeting.

38  
39 **Agenda Item No. IV: Recognition of Commissioner David O'Neal**

40  
41 Chair Graulty and Vice Chair Tschumy thanked Commissioner O'Neal for his  
42 service on the State Ethics Commission and said that he will be missed. Chair Graulty  
43 presented Commissioner O'Neal with a resolution from the Commission recognizing  
44 Commissioner O'Neal's contributions to ethics in government.  
45

1 **Agenda Item No. I: Consideration and Approval of the Minutes of the**  
2 **May 17, 2018 Meeting**

3  
4 Executive Director Gluck said that a formatting correction was made to the draft  
5 minutes.  
6

7 Commissioner O'Neal made and Vice Chair Tschumy seconded a motion to  
8 approve the minutes of the May 17, 2018 Sunshine Law meeting, as amended. The  
9 motion carried unanimously (Graulty, Tschumy, DeGuzman, O'Neal, and Wood voting).  
10

11  
12 **Agenda Item No. II: Executive Director's Report**

13  
14 1. *Education / Training Report*

15 Executive Director Gluck reported that training sessions have been going well.  
16  
17

18 2. *Guidance and Assignment Statistics – May 2018*

19  
20 *Attachment 2: 2018 Guidance and Assignment Statistics*  
21

22 Executive Director Gluck reported that staff has been very busy with work.  
23

24 3. *Miscellaneous Office Projects / Updates*

25 a. *Office Improvements*

26  
27 b. *COGEL attendance*  
28

29 Executive Director Gluck reported that staff is working on budget items for the  
30 end of the fiscal year. He estimated that approximately \$12,000, or about 1% of the  
31 Commission's budget, will be unspent and will lapse back to the State. He said that  
32 staff has used this fiscal year's funds to pre-pay certain office expenses and to pay for  
33 consulting services to help with the e-filing project, airline tickets for the COGEL  
34 conference, and inter-island airline tickets.  
35

36 Executive Director Gluck said that he and Chair Graulty, as well as Staff  
37 Attorneys Chang and Campbell, are planning to attend the COGEL conference. Vice  
38 Chair Tschumy and Commissioner Wood have also expressed interest in attending the  
39 conference. Executive Director Gluck said that he was asked to be a presenter at one  
40 of the COGEL sessions on sexual harassment.  
41

1 **Agenda Item No III: Administrative Rules**

- 2  
3 1. Discussion of Report from Permitted Interaction Group (“PIG”) regarding  
4 proposed amendments to Hawaii Administrative Rules, Title 21, Chapter 10

5  
6 *Attachment 1: PIG Report and Draft of Chapter 10*

7  
8 *Attachment 2: Public Testimony on Chapter 10*

9  
10 Chair Graulty acknowledged public testimony that was received from Tim  
11 Lyons regarding Chapter 10 (Lobbying) of the proposed administrative rules.  
12 Commissioner O’Neal asked the Executive Director to comment on some of the issues  
13 raised by Mr. Lyons.

14  
15 Executive Director Gluck said that one of the issues raised was whether an  
16 accrual versus cash basis of accounting should be used to report lobbying  
17 expenditures. He explained that the public’s interest is in knowing what is being spent  
18 to influence legislators in as close to “real time” as possible. He said the accrual basis  
19 for reporting is closer to real time because some lobbyists are not paid for their services  
20 until after the legislative session. Executive Director Gluck did not believe that requiring  
21 an accrual basis for reporting expenditures would be overly burdensome.  
22 Commissioner O’Neal agreed. Chair Graulty said that if the goal is to provide  
23 transparency for the public, the accrual system must be used. Commissioner  
24 DeGuzman said that the lobbying rules will provide more structure to the reporting  
25 requirements and although this may be difficult for some lobbyists to accept at first, they  
26 will adjust.

27  
28 Executive Director Gluck said that Mr. Lyons also suggested that “days” be  
29 defined as working days. The Lobbyists Law does not define this term. Chair Graulty  
30 said that the legislature works on Saturdays, and that “working days” for the legislature  
31 could include Saturdays. Commissioner DeGuzman said there might be a statute that  
32 generally defines “days” as calendar days. Executive Director Gluck said that staff will  
33 check into this.

34  
35 Mr. Lyons also raised a point about the requirement that lobbyists and their  
36 clients file joint lobbying reports. Executive Director Gluck said that many lobbyists are  
37 already preparing their clients’ reports and that requiring joint reports and making filers  
38 jointly responsible will help ensure that reports are filed on time.

39  
40 Vice Chair Tschumy made and Commissioner Wood seconded a motion to  
41 approve the proposed Hawaii Administrative Rules (“HAR”), Title 21, Chapter 10. The  
42 motion carried unanimously (Graulty, Tschumy, DeGuzman, O’Neal, and Wood voting).  
43



- 1 2. Discussion of proposed amendments to Hawaii Administrative Rules, Title 21,  
2 Chapters 1-10  
3

4 *Attachment 3: Draft of Chapters 1-10 (clean version)*  
5

6 *Attachment 4: Draft of Chapters 1-10 (redlined version)*  
7

8 Executive Director Gluck explained that additional changes, most of which were  
9 stylistic and grammatical, were made to Chapters 1-10 of the proposed rules. He said  
10 that more changes should be expected as the rules undergo further review by the  
11 Department of the Attorney General.  
12

13 Executive Director Gluck referred to some of the changes that were made to the  
14 latest draft. He highlighted the following changes: HAR § 21-2-4(d) (“alleged violator”  
15 changed to “respondent”); § 21-5-12 (“respondent” changed to “alleged violator”);  
16 § 21-5-12(c)(1) (provides that in settlement agreements, the Commission reserves the  
17 right to investigate and charge the alleged violator regarding matters not raised in the  
18 settlement agreement “unless the agreement expressly provides otherwise.”); § 21-8-2  
19 (title of section changed to, “Acquiring New Conflicts of Interests; Reason to Believe”).  
20

21 Commissioner O’Neal made and Commissioner DeGuzman seconded a motion  
22 to approve the proposed amendments to HAR Title 21, Chapters 1-10, as amended, for  
23 transmittal to the Department of the Attorney General for review. The motion carried  
24 unanimously (Grauly, Tschumy, DeGuzman, O’Neal, and Wood voting).  
25

26 Commissioner DeGuzman thanked Executive Director Gluck and staff for their  
27 work on the administrative rules.  
28

29  
30 **ADJOURNMENT OF SUNSHINE LAW MEETING**

31  
32 At 10:35 a.m., Commissioner DeGuzman made and Vice Chair Tschumy  
33 seconded a motion to adjourn the Sunshine Law meeting. The motion carried  
34 unanimously (Grauly, Tschumy, DeGuzman, O’Neal, and Wood voting).  
35

36 The meeting was adjourned at 10:35 a.m.  
37

38  
39 Minutes approved on: \_\_\_\_\_

SUNSHINE LAW MEETING  
AGENDA ITEM III

AKANA v. HAWAII STATE ETHICS COMMISSION, CIVIL NO. 18-1-1019-06 (JHA)

Discussion of case status.

The Commission may convene an executive session pursuant to Hawaii Revised Statutes section 92-5(a)(4) to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

No Attachments

SUNSHINE LAW MEETING  
AGENDA ITEM IV

EXECUTIVE DIRECTOR'S REPORT

- Attachment 1: Executive Director's Report
- Attachment 2: 2018 Guidance and Assignments Statistics
- Attachment 3: Fourth Quarter and Year-End Report for FY 2017-2018

SUNSHINE MEETING  
AGENDA ITEM II  
EXECUTIVE DIRECTOR'S REPORT  
July 19, 2018

**1. Education / Training Report**

a. Recently held trainings/presentations:

Department of Education – Office of Human Resources  
Friday, June 22, 2018  
10:00 a.m. – 11:30 a.m.  
Stevenson Middle School  
1202 Prospect Street  
Honolulu, Hawaii  
35 attendees

b. Upcoming trainings/presentations:

University of Hawaii at Manoa  
Tuesday, August 28, 2018  
10:00 a.m. – 11:30 a.m.  
Kuykendall Auditorium  
1733 University Avenue  
Honolulu, Hawaii

General Ethics Training – Kona  
Friday, September 7, 2018  
10:00 a.m. – 11:30 a.m.  
Natural Energy Laboratory of Hawaii Authority (NELHA)  
Hale Iako Training Classroom, Room #119  
74-4460 Queen Kaahumanu Highway, #101  
Kailua-Kona, Hawaii

General Ethics Training – Kapolei  
Thursday, September 27, 2018  
10:00 a.m. – 11:30 a.m.  
University of Hawaii at West Oahu  
91-1001 Farrington Highway  
Kapolei, Hawaii

General Ethics Training – Oahu  
Tuesday, October 23, 2018  
9:30 a.m. – 11:00 a.m.  
Mission Memorial Auditorium  
550 South King Street  
Honolulu, Hawaii

Ethics Training for State Government Attorneys  
Monday, December 3, 2018  
9:30 a.m. – 11:00 a.m.  
State Capitol Auditorium  
415 South Beretania Street  
Honolulu, Hawaii

General Ethics Training – Hilo  
Monday, December 17, 2018  
10:00 a.m. – 11:30 a.m.  
University of Hawaii – Hilo Campus  
UCB 100  
200 W. Kāwili Street  
Hilo, Hawaii

## **2. Guidance and Assignment Statistics – June 2018**

*Attachment 2: 2018 guidance and assignment statistics*

## **3. 2018 Financial and Gifts Disclosure Statements**

## **4. Financial Report for FY2017-2018**

Attachment 3: Fourth Quarter and Year-End Report for FY2017-2018

## **5. Miscellaneous Office Projects / Updates**

- a. Hiring of Investigator

2018	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
<b>Training statistics</b>													
# of Trainings	3	1	4	1	3	3							15
# of People Trained	75	6	197	100	267	126							771
<b>Attorney of the Day</b>	128	61	74	91	119	90							563
<b>New assignments</b>													
Advisory Opinion	1	0	0	0	1	2							4
Complaint	5	10	8	4	6	8							41
Gifts/Invitations/Travel	13	13	9	21	17	17							90
Guidance	11	7	2	3	4	4							31
Judicial Selection Comm'n	3	5	3	1	1	0							13
Training Request	0	4	1	2	1	0							8
Record Request	1	2	0	3	0	0							6
Project/Other	4	2	1	2	2	1							12
<b>Total</b>	<b>38</b>	<b>43</b>	<b>24</b>	<b>36</b>	<b>32</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>205</b>
<b>Closed Assignments</b>													
Advisory Opinion	0	1	0	1	0	0							2
Complaint	4	2	9	3	24	2							44
Gifts/Invitations/Travel	16	7	3	10	26	2							64
Guidance	5	5	3	1	8	1							23
Judicial Selection Comm'n	0	0	0	0	7	0							7
Training Request	0	0	1	1	1	1							4
Record Request	0	2	1	1	1	1							6
Project/Other	6	2	2	1	4	4							19
<b>Total</b>	<b>31</b>	<b>19</b>	<b>19</b>	<b>18</b>	<b>71</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>169</b>

HAWAII STATE ETHICS COMMISSION FINANCIAL REPORT  
 FY 2017-2018 (QUARTER ENDING: June 30, 2018)  
 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
<b>A. PERSONAL SERVICES</b>							
Staff Salaries	\$ 944,402.00	\$ 235,140.61	\$ 234,043.50	\$ 234,043.50	\$ 234,543.75	937,771.36	99.3%
Vacation Payout***	\$ 16,553.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	0.0%
<b>Total Personal Services</b>	<b>\$ 944,402.00</b>	<b>\$ 235,140.61</b>	<b>\$ 234,043.50</b>	<b>\$ 234,043.50</b>	<b>\$ 234,543.75</b>	<b>\$ 937,771.36</b>	<b>99.3%</b>
<b>B. OTHER CURRENT EXPENSES</b>							
Office Expenses	15,950.00	6,160.40	3,758.53	3,176.62	4,750.33	17,845.88	111.9%
Intrastate Transportation and Travel	8,500.00	2,591.48	1,270.31	1,415.80	1,871.73	7,149.32	84.1%
Out-of-State Travel	12,660.00	823.52	4,864.31	66.42	5,016.81	10,771.06	85.1%
Equipment Rental and Maintenance	10,985.00	5,163.67	2,294.73	1,812.16	5,637.95	14,908.51	135.7%
Dues, Subscriptions, Training	14,140.00	6,502.95	1,526.94	4,547.68	9,574.89	22,152.46	156.7%
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	923.81	965.70	2,948.37	5,063.29	53.9%
Consulting Services	10,258.00	773.63	0.00	0.00	13,023.28	13,796.91	134.5%
Office Rent	98,000.00	139.96	23,602.41	22,494.88	41,336.25	87,573.50	89.4%
<b>Total Other Current Expenses</b>	<b>\$ 181,493.00</b>	<b>\$ 22,381.02</b>	<b>\$ 38,241.04</b>	<b>\$ 34,479.26</b>	<b>\$ 84,159.61</b>	<b>\$ 179,260.93</b>	<b>98.8%</b>
<b>C. CAPITAL OUTLAY</b>							
Office Furniture and Equipment	11,000.00	3,221.00	31.85	0.00	2,942.53	6,195.38	56.3%
<b>Total Capital Outlay</b>	<b>\$ 11,000.00</b>	<b>\$ 3,221.00</b>	<b>\$ 31.85</b>	<b>\$ 0.00</b>	<b>\$ 2,942.53</b>	<b>\$ 6,195.38</b>	<b>56.3%</b>
<b>GRAND TOTAL (A+B+C)</b>	<b>\$ 1,136,895.00</b>	<b>\$ 260,742.63</b>	<b>\$ 272,316.39</b>	<b>\$ 268,522.76</b>	<b>\$ 321,645.89</b>	<b>\$ 1,123,227.67</b>	<b>98.8%</b>
<b>VACATION</b>	<b>\$ 16,553.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>0.0%</b>

General Fund Allocation . . . . .	<b>\$ 1,136,895.00</b>
Total Expenditures as of June 30, 2018 . . . . .	<b>\$ 1,123,227.67</b>
Balance as of June 30, 2018 . . . . .	<b>\$ 13,667.33</b>

\*\*includes Act 1 and Act 21  
 Act 1- Appropriation 393- \$1,112,093  
 Act 21- Appropriation 395- \$24,802  
 \*\*\* vacation payout not included in total for App 393  
 G:Share/Budget/Reports/2017-18/Q4 2017