

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, February 21, 2019
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

Reynard D. Graulty, Chair
Ruth D. Tschumy, Vice Chair
Susan N. DeGuzman, Commissioner
Melinda S. Wood, Commissioner
Wesley F. Fong, Commissioner

State Ethics Commission Staff

Daniel M. Gluck, Executive Director
Susan D. Yoza, Associate Director
Nancy C. Neuffer, Staff Attorney
Virginia M. Chock, Staff Attorney
Kee M. Campbell, Staff Attorney

CALL TO ORDER

The meeting was called to order at approximately 10:04 a.m.

Agenda Item No. I: Consideration and Approval of the Minutes of the January 24, 2019 Meeting

Commissioner Wood made and Vice Chair Tschumy seconded a motion to approve the minutes of the January 24, 2019 Sunshine Meeting. The motion carried unanimously (Graulty, Tschumy, DeGuzman, Wood, and Fong voting).

Agenda Item No. II: Executive Director's Report

Education / Training Report

Executive Director Gluck said that staff have been busy with training and that there are many scheduled trainings for the next few months. He also reported that staff would be performing training for all personnel of the Department of Land and Natural Resources Division of Boating and Ocean Recreation on Oahu and the neighbor islands.

Guidance and Assignment Statistics – January 2019

Attachment 2: 2019 Guidance and Assignment Statistics

Executive Director Gluck referred to the year-to-date statistics for guidance and assignments.

Miscellaneous Office Projects / Updates

Executive Director Gluck reported that the staff is finalizing a new educational resource – a “Quick Guide” on second jobs – that will be published soon. He also reported that he is in the process of hiring a secretary/paralegal to fill the current vacant position.

Agenda Item No. III: 2019 Legislative Session

Executive Director Gluck reported that the Commission's three bills are still moving ahead (**H.B. 169**, **H.B. 170**, and **S.B. 144**) and gave an update as to the status of each of those measures.

Executive Director Gluck stated that he requested amendments to two of the bills to address questions regarding access to transcripts of contested case hearings. He explained that current provisions in Hawaii Revised Statutes (“HRS”) chapters 84 and 97 seem to be at odds with provisions in HRS chapter 92F (the Uniform Information Practices Act (“UIPA”)); he further reported that he consulted with both the Department of the Attorney General and the Office of Information Practices regarding a recent request to access transcripts from a contested case hearing. The Commission discussed how best to address this issue, and Executive Director Gluck provided the Commission with information regarding UIPA requests the Commission has received in the past. Executive Director Gluck explained that, for now, he was requesting that the Legislature remove certain language in chapters 84 and 97, and then the Commission could address the matter through administrative rule if those statutory amendments are enacted. Chair Gaulty stated that he wanted to ensure that the Commission has a clear policy on this matter before questions arise, rather than having to make ad hoc decisions in response to requests for transcripts.

In addition to the House budget bill (**H.B. 1**), there is another bill that will fund cost adjustments for staff salaries for legislative branch agencies. The Legislature will use the percentage increases from collective bargaining to calculate salary adjustment amounts for the legislative agencies, including the Commission. The Salary Commission also will meet this spring to set salaries for department heads (which will affect the Executive Director's salary).

Executive Director Gluck discussed and responded to the Commission's questions regarding some of the other bills that relate to ethics, including **H.B. 1** (legislative branch budget; transmitted to the Governor for his signature), **H.B. 348** (cost adjustments for staff salaries), **H.B. 199** (exempts charter school employees from post-employment laws; dead), **S.B. 55** (short form bill on ethics); **H.B. 361** (prohibits the governor and county mayors from having other employment; still alive); **H.B. 391** (creates a state-law version of the federal Hatch Act; still alive); **H.B. 615 / S.B. 340** (putting a non-voting teacher on the Board of Education; still alive); **H.B. 1381** (creates additional post-employment restrictions for some government officials; still alive); and a group of bills creating various task forces that include language exempting those new task force members from the requirements of HRS chapter 84.

Agenda Item No. IV: *Akana v. Hawaii State Ethics Commission and Daniel Gluck*, Civil No. 18-1-1019 (JHA)

Executive Director Gluck had no new information to report on this litigation.

Agenda Item No. V: Administrative Rules

Executive Director Gluck intended to provide the Commission with a red-lined draft, showing the changes made since the last draft reviewed by the Commission. However, the Commissioners did not receive the most recent red-lined version of the draft rules in their meeting folder materials.

Commissioner Fong made and Vice Chair Tschumy seconded a motion to defer this matter until the next meeting. The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

Agenda Item No. VI: Evaluation of Executive Director Daniel Gluck

Commissioner Wood agreed to send to the other Commissioners the SurveyMonkey survey used last year to evaluate Executive Director Gluck; this avoids the need for a Permitted Interaction Group ("PIG") and the delays incurred in using a PIG.

Vice Chair Tschumy made and Commissioner DeGuzman seconded a motion to use the SurveyMonkey survey, to be sent out by Commissioner Wood and completed by the Commissioners, to evaluate Executive Director Gluck. The motion carried unanimously (Graulity, Tschumy, DeGuzman, Wood, and Fong voting).

ADJOURNMENT OF SUNSHINE LAW MEETING

At 10:48 a.m., Commissioner Fong made and Commissioner Wood seconded a motion to adjourn the Sunshine Law meeting. The motion carried unanimously (Graulity, Tschumy, DeGuzman, Wood and Fong voting).

The meeting was adjourned at 10:48 a.m.

Minutes approved on: March 21, 2019