

# 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: July 18, 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

### A G E N D A

#### CALL TO ORDER

- I. Consideration and Approval of the Minutes of the June 20, 2019 Meeting
- II. Executive Director's Report
  1. Education / Training Report
  2. Guidance and Assignment Statistics – June 2019  
*Attachment 2: 2019 Guidance and Assignment Statistics / Website Traffic*
  3. Financial Report for FY 2018-2019 (Quarter Ending June 30, 2019)  
*Attachment 3: Fourth Quarter Financial Report FY2018-2019*
  4. Miscellaneous Office Projects / Updates
    - a. Filing statistics for Financial Disclosure statements and lobbying expenditure reports
    - b. Ethics Conference – September 5, 2019
    - c. COGEL Conference – December 15-18, 2019

III. Proposed Administrative Rules

- a. Update regarding current Administrative Rules package
- b. Proposed rules regarding disclosures by legislators and task force members, and contested hearing transcripts

*Attachment 1: Staff Overview*

*Attachment 2: Additional proposed amendments to Hawaii Administrative Rules, Title 21, Chapter 7 and Title 21, Chapter 5*

*Attachment 3: Act 119, Session Laws 2019*

*Attachment 4: Act 120, Session Laws 2019*

*Attachment 5: Act 109, Session Laws 2019*

IV. *Akana v. Hawaii State Ethics Commission and Daniel Gluck, 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.

V. *Akana v. Hawaii State Ethics Commission and Daniel Gluck, Civil No. 19-1-0379-03 (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.

VI. *Civil Beat Law Center for the Public Interest v. City & County of Honolulu*,  
SCAP-17-0000899

Discussion of recent Hawai'i Supreme Court decision on Sunshine Law

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.

VII. Adjournment

If you need an auxiliary aid/service or other accommodation due to 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). Requests made as early as possible will allow adequate time to fulfill your request.

Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

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

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE  
JUNE 20, 2019 MEETING

Attachment 1:       Sunshine Law Meeting Minutes of the June 20, 2019 Hawaii State  
Ethics Commission Meeting

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, June 20, 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. Gaulty, 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  
Bonita Y.M. Chang, Staff Attorney  
Kee M. Campbell, Staff Attorney

**CALL TO ORDER**

Chair Gaulty called the meeting to order at approximately 10:04 a.m.

**Agenda Item No. I: Consideration and Approval of the Minutes of the  
May 16, 2019 Meeting**

Commissioner Wood made and Commissioner Fong seconded a motion to approve the minutes of the May 16, 2019 Sunshine Meeting. The motion carried (Gaulty, Tschumy, Wood, and Fong voting; DeGuzman abstaining).

1 **Agenda Item No. II: Consideration and Approval of the Executive Session**  
2 **Minutes of the May 16, 2019 Meeting (Regarding Evaluation of Executive Director**  
3 **Daniel Gluck)**  
4

5 Vice Chair Tschumy made and Commissioner Fong seconded a motion to  
6 approve the executive session minutes of the May 16, 2019 meeting. The motion  
7 carried (Graulity, Tschumy, Wood, and Fong voting; DeGuzman abstaining).  
8  
9

10 **Agenda Item No. III: Election of Officers for 2019**  
11

12 After a brief discussion about the election of officers, Chair Graulty and Vice  
13 Chair Tschumy were nominated to be Chairperson of the Commission for 2019.  
14 Commissioner Fong made, and Vice Chair Tschumy seconded, a motion to close the  
15 nominations for Chairperson. The motion carried unanimously (Graulity, Tschumy,  
16 DeGuzman, Wood, and Fong voting). The Commission members voted on paper  
17 ballots, and Chair Graulty was elected to continue as Chairperson of the Commission  
18 for 2019.  
19

20 Commissioner Fong nominated Vice Chair Tschumy to continue as Vice  
21 Chairperson of the Commission for 2019. Commissioner Fong moved, and  
22 Commissioner Wood seconded, a motion to close the nominations for Vice  
23 Chairperson. The motion carried unanimously (Graulity, Tschumy, DeGuzman, Wood,  
24 and Fong voting). The Commission members voted on paper ballots, and Vice Chair  
25 Tschumy was elected to continue as Vice Chairperson of the Commission for 2019.  
26  
27

28 **Agenda Item No. IV: Executive Director's Report**  
29

30 *Education / Training Report*  
31

32 Executive Director Gluck stated that the Commission's staff was on track to train  
33 the most employees it has ever trained in a year.  
34

35 *Guidance and Assignment Statistics – May 2019*  
36

37 Executive Director Gluck stated that staff had been busy with the high volume of  
38 assignments.  
39

40 *Miscellaneous Office Projects / Updates*  
41

- 42 a. On-line training system for state employees  
43

44 Executive Director Gluck stated that significant progress had been made in the  
45 online training program. An independent designer helped with the graphics, and staff  
46 hopes to get the online training running within the next few months.

1           b. Hawaii ethics conference

2  
3           Executive Director Gluck stated that the ethics conference has been tentatively  
4 scheduled on September 5, 2019 and that approximately 35 people were expected to  
5 attend from the Commission, the Honolulu Ethics Commission, and the neighbor island  
6 ethics commissions. Executive Director Gluck informed the Commission of staff's offer  
7 to pay the airfare for a Hawaii County ethics official to attend the conference, and the  
8 Commission had no objections to this.

9  
10          Executive Director Gluck next discussed the Council on Governmental Ethics  
11 Laws ("COGEL") conference to be held in Chicago. Chair Grauly indicated that he will  
12 attend the COGEL conference and Vice Chair Tschumy and Commissioner Fong also  
13 expressed interest in attending the conference. Commissioner Wood is considering  
14 attending.

15  
16          A discussion of office furniture followed. The Commission agreed with Executive  
17 Director Gluck's plan to purchase additional furniture for the conference room.

18  
19          Executive Director Gluck reported that 93% of required financial disclosure  
20 statements had been filed for the 2019 disclosure period. Staff Attorney Chang  
21 summarized the status of the financial disclosure filings and stated approximately 165  
22 people were delinquent in filing their disclosure statements, which is better than in past  
23 years at this time. Executive Director Gluck explained that a list of delinquent filers will  
24 be published on the Commission's website as provided by law. The Commission by  
25 consensus agreed that it would not review the list of delinquent filers before it is  
26 published.

27  
28  
29 **Agenda Item No. V: Akana v. Hawaii State Ethics Commission and Daniel Gluck,**  
30 **Civil No. 18-1-1019-06 (JHA)**

31  
32          Executive Director Gluck summarized the status of the lawsuit and stated that  
33 there had been no changes since the last meeting.

34  
35  
36 **Agenda Item No. VI: Akana v. Hawaii State Ethics Commission and Daniel Gluck,**  
37 **Civil No. 19-1-0379-03 (JHA)**

38  
39          Executive Director Gluck summarized the status of Rowena Akana's appeal of  
40 the Commission's decision. Ms. Akana filed her opening brief, and the Commission's  
41 answering brief is due on July 15, 2019. Ms. Akana also filed a motion to supplement  
42 the record on appeal with additional evidence, which was denied by Judge Ashford.  
43 Executive Director Gluck summarized the arguments Ms. Akana made on appeal.



1 **ADJOURNMENT OF SUNSHINE LAW MEETING**

2  
3 At 10:47 a.m., Commissioner Wood made and Vice Chair Tschumy seconded a  
4 motion to adjourn the Sunshine Meeting. The motion carried unanimously (Graulty,  
5 Tschumy, DeGuzman, Wood, and Fong voting).  
6

7 The meeting was adjourned at 10:47 a.m.  
8  
9

10 Minutes approved on: \_\_\_\_\_

DRAFT

SUNSHINE LAW MEETING  
AGENDA ITEM II

EXECUTIVE DIRECTOR'S REPORT

- Attachment 1: Executive Director's Report
- Attachment 2: 2019 Guidance and Assignments Statistics / Website Traffic
- Attachment 3: Fourth Quarter Financial Report FY2018-2019

SUNSHINE MEETING  
AGENDA ITEM II  
EXECUTIVE DIRECTOR'S REPORT  
July 18, 2019

**1. Education / Training Report**

a. Recently held trainings/presentations:

Ethics Training for Legislative Staff  
Tuesday, June 18, 2019  
10:00 – 11:00 a.m.  
Hawaii State Capitol  
Honolulu, Hawai'i  
38 attendees

Ethics Training – Public Utilities Commission  
Tuesday, June 25, 2019  
10:00 – 12:00 p.m.  
201 Merchant Street, Suite 1400  
Honolulu, Hawai'i  
60 attendees

Ethics Training – Department of Health  
Department Executive Committee  
Tuesday, June 25, 2019  
2:00 p.m. – 2:30 p.m.  
Kinau Hale, Boardroom  
1250 Punchbowl Street  
Honolulu, Hawai'i  
36 attendees

b. Upcoming trainings/presentations:

Ethics Training – Hawaii Health Systems Corporation Board  
Thursday, July 25, 2019  
11:00 a.m. – 12:00 p.m.  
Honolulu, Hawai'i  
25 attendees anticipated

Ethics Training – Office of Hawaiian Affairs  
August 26, 27, 28 (3 trainings)  
10:00 a.m. – 11:30 a.m.  
140 attendees anticipated

## **2. Guidance and Assignment Statistics – June 2019**

*Attachment 2: 2019 Guidance and Assignment Statistics / Website Traffic*

## **3. Financial Report for FY 2018-2019 (Quarter Ending June 30, 2019)**

*Attachment 3: Fourth Quarter Financial Report FY2018-2019*

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

- a. Filing statistics for Financial Disclosure statements and lobbying expenditure reports
- b. Ethics Conference – September 5, 2019
- c. COGEL Conference – December 15-18, 2019

2019	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
<b>Training statistics</b>													
# of Trainings	7	1	6	4	5	8							31
# of People Trained	348	7	213	70	170	374							1182
<b>Attorney of the Day</b>													
	119	84	127	138	129	86							683
<b>New assignments</b>													
Advisory Opinion	1	1	0	0	1	0							3
Complaint	5	8	7	7	6	3							36
Gifts/Invitations/Travel	14	16	22	18	21	16							107
Guidance	2	5	0	5	1	1							14
Judicial Selection Comm'n	2	1	2	3	1	3							12
Training Request	0	0	0	3	2	1							6
Record Request	2	3	0	0	1	1							7
Project/Other	1	7	1	4	5	2							20
Total	27	41	32	40	38	27	0	0	0	0	0	0	205
<b>Closed Assignments</b>													
													0
Advisory Opinion	0	0	1	1	0	0							2
Complaint	3	5	3	39	7	7							64
Gifts/Invitations/Travel	9	28	20	20	24	16							117
Guidance	0	10	1	9	4	4							28
Judicial Selection Comm'n	0	10	5	4	0	4							23
Training Request	0	2	0	3	1	0							6
Record Request	2	3	0	0	1	0							6
Project/Other	0	6	2	4	4	3							19
Total	14	64	32	80	41	34	0	0	0	0	0	0	265

**Dataset Views**

Disclosures	113	105	87	86	182	102									675
Lobbyist Registrations	531	436	421	246	179	104									1,917
Organization Expenditures	203	119	225	150	82	53									832
Lobbyist Expenditures	159	79	145	98	46	28									555
Ethics Advice	94	92	106	89	93	83									557
Total	1100	831	984	669	582	370	0	0	0	0	0	0	0		4,536

HAWAII STATE ETHICS COMMISSION FINANCIAL REPORT  
 FY 2019 (QUARTER ENDING: June 30, 2019)  
 Appropriation Symbol: G-19-393-Y6

	Amount Appropriated FY 2018-2019	Expenditures for Qtr. End 9/30/2018	Expenditures for Qtr. End 12/31/2018	Expenditures for Qtr. End 3/31/2019	Expenditures for Qtr. End 6/30/2019	Expenditures Year-To-Date Expenditures Totals	% of Budget Expended
<b>A. PERSONNEL SERVICES</b>							
Staff Salaries	\$ 977,445.00	\$ 241,892.83	\$ 231,575.53	\$ 240,394.98	\$ 233,877.85	947,741.19	97.0%
Vacation Payout		\$ 0.00	\$ 1,291.96	\$ 12,783.95	\$ 0.00	\$ 14,075.91	
<b>Total Personnel Services</b>	<b>\$ 977,445.00</b>	<b>\$ 241,892.83</b>	<b>\$ 232,867.49</b>	<b>\$ 253,178.93</b>	<b>\$ 233,877.85</b>	<b>\$ 961,817.10</b>	<b>98.4%</b>
<b>B. OTHER CURRENT EXPENSES</b>							
Office Expenses	14,650.00	3,344.66	5,903.51	-1,642.27 <sup>1</sup>	2,984.81	10,590.71	72.3%
Intrastate Transportation and Travel	9,250.00	670.50	1,418.18	2,165.54	38.27	4,292.49	46.4%
Out-of-State Travel	12,660.00	2,713.58	6,072.87	0.00	0.00	8,786.45	69.4%
Equipment Rental and Maintenance	13,850.00	4,049.35	1,389.38	1,565.63	11,305.97	18,310.33	132.2%
Dues, Subscriptions, Training	15,500.00	2,503.91	1,631.42	5,039.29	3,887.95	13,062.57	84.3%
Newspaper Advertisements	1,200.00	70.00	70.00	35.00	0.00	175.00	14.6%
Comm'n Mtgs, Investigations, Hrgs	9,100.00	1,020.15	7,162.30	163.98	245.27	8,591.70	94.4%
Consulting Services	22,400.00	0.00	24,037.39	2,343.66	20,082.86	46,463.91	207.4%
Office Rent	102,500.00	15,389.01	24,813.86	27,366.36	36,324.56	103,893.79	101.4%
<b>Total Other Current Expenses</b>	<b>\$ 201,110.00</b>	<b>\$ 29,761.16</b>	<b>\$ 72,498.91</b>	<b>\$ 37,037.19</b>	<b>\$ 74,869.69</b>	<b>\$ 214,166.95</b>	<b>106.5%</b>
<b>C. CAPITAL OUTLAY</b>							
Office Furniture and Equipment	4,000.00	0.00	0.00	0.00	5,973.78	5,973.78	149.3%
<b>Total Capital Outlay</b>	<b>\$ 4,000.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 5,973.78</b>	<b>\$ 5,973.78</b>	<b>149.3%</b>
<b>GRAND TOTAL (A+B+C)</b>	<b>\$ 1,182,555.00 <sup>2</sup></b>	<b>\$ 271,653.99</b>	<b>\$ 305,366.40</b>	<b>\$ 290,216.12</b>	<b>\$ 314,721.32</b>	<b>\$ 1,181,957.83</b>	<b>99.9%</b>

General Fund Allocation . . . . .	<b>\$ 1,182,555.00</b>
Total Expenditures as of June 30, 2019 (not including vacation payouts). . . . .	\$ 1,167,881.92
Total Vacation Payouts as of June 30, 2019 . . . . .	\$14,075.91
Balance as of June 30, 2019 . . . . .	\$597.17

<sup>1</sup> Includes \$5,991.79 credit from Pitney Bowes for postage funds in meter returned in February 2019.

<sup>2</sup> \$1,182,555 funding comprised of Act 1 and Act 21.

Act 1, SLH 2018 - Appropriation 393 \$1,130,158.

Act 21, SLH 2017 - Appropriation 395 \$52,397.

HAWAII STATE ETHICS COMMISSION FINANCIAL REPORT  
FY 2019 (QUARTER ENDING: June 30, 2019)  
Appropriation Symbol: G-19-396-Y6

	Amount Appropriated FY 2018-2019	Expenditures for Qtr. End 9/30/2018	Expenditures for Qtr. End 12/31/2018	Expenditures for Qtr. End 3/31/2019	Expenditures for Qtr. End 6/30/2019	Year-To-Date Expenditures Totals	% of Budget Expended
A. ACCRUED VAC/VAC TRANSFERS							
Vacation Payout	\$ 16,553.00 <sup>1</sup>	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	0.0%
Total Accrued Vacation/Vacation Transfers	<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>
<b>GRAND TOTAL</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>

Appropriation for Accrued Vacation/Vacation Transfer Payments . . . . .	<b>\$ 16,553.00</b>
Total Expenditures as of June 30, 2019. . . . .	\$ 0.00
Balance as of June 30, 2019 . . . . .	\$ 16,553.00

<sup>1</sup> Funds for accrued vacation payments and vacation transfer payments appropriated by Act 1, SLH 2018.

Note: See HSEC Financial Report for Appropriation G-19-393-Y6 for FY 2019 vacation payouts (\$14,075.91).



SUNSHINE LAW MEETING  
AGENDA ITEM III

PROPOSED ADMINISTRATIVE RULES

- Attachment 1: Staff Overview
- Attachment 2: Additional proposed amendments to Hawaii Administrative Rules, Title 21, Chapter 7 and Title 21, Chapter 5
- Attachment 3: Act 119, Session Laws 2019
- Attachment 4: Act 120, Session Laws 2019
- Attachment 5: Act 109, Session Laws 2019

SUNSHINE MEETING  
AGENDA ITEM III

PROPOSED ADMINISTRATIVE RULES

**STAFF OVERVIEW**

Governor Ige recently signed into law three bills that were introduced at the Commission's request: (1) SB 144 (Act 109) updates the Lobbyists Law to provide that anyone who negligently fails to register as a lobbyist (or file an expenditure report) may be fined by the Commission; (2) HB 170 (Act 119) clarifies the Ethics Code's fair treatment and conflicts of interests laws with respect to legislators and task force members; and (3) HB 169 (Act 120) clarifies provisions of the Ethics Code relating to gifts disclosure statements, financial disclosure statements, and ethics training.

In light of changes to the Ethics Code that were made by Acts 109, 119, and 120, staff would like the Commission to consider additional amendments to the Commission's administrative rules. The attached draft administrative rules incorporate staff's proposed amendments.

1. Disclosure of Conflicts of Interests for Legislators and Task Force Members

The first draft rule, Hawaii Administrative Rule ("HAR") § 21-7-10, creates procedures for legislators and task force members to disclose conflicts of interests. Attachment 2 (proposed administrative rules). Before this legislative session, the Fair Treatment law, HRS § 84-13, did not prevent legislators or task force members from taking certain official actions affecting their financial interests if they filed a "full and complete public disclosure of the nature and extent of the interest or transaction . . . ." Additionally, task force members were exempted from portions of the Conflicts of Interests law, HRS § 84-14, if they filed a financial disclosure statement. However, the Commission has not required task force members to file financial disclosure statements, which led to confusion as to how task force members were expected to "publicly disclose" conflicts of interests.

Act 119 clarified that both the Fair Treatment law and Conflicts of Interests law allow legislators and task force members to take certain official actions affecting their financial interests if they "publicly disclose the nature and extent of the interest" that may be affected by their official action. Attachment 3. Act 119 requires the Commission to adopt rules to effectuate its purpose.

Draft Rule § 21-7-10 clarifies the disclosure procedures for legislators by requiring disclosure at the first available public session on the matter and memorialization in any relevant committee report or written minutes if applicable. Task force members are required to verbally disclose at the first available task force meeting and memorialize their disclosure in any task force report.

If the Commission approves this proposed rule, staff will send it to the Senate President and House Speaker to allow them an opportunity to comment before transmitting it to the Attorney General and Governor for review and approval.

2. Cost of Preparing Transcripts

Staff also suggests that the Commission revise HAR § 21-5-10, "Record of hearing[s]," to set specific policies regarding the cost of preparing transcripts and how the Commission distributes transcripts to parties or the public. Act 120 removed HRS § 84-31's provision that transcripts are only available at the parties' expense after payment to the State's general fund, and Act 109 removed a similar provision from HRS § 97-6(c). Attachment 4, p.6; Attachment 5, p.3.

The attached draft rule states that any party may request a transcript of the hearing, but that party is responsible for the cost of preparing the transcript prior to any request for judicial review. After judicial review is requested, the Commission must prepare a transcript for the reviewing court, which then may be requested by any person or party through the Uniform Information Practices Act, HRS chapter 92F.

Staff believes that this properly balances the cost of preparing transcripts with the need for a record for judicial review and public disclosure.

Recommended Motion: Motion to Approve draft Hawaii Administrative Rules §§ 21-7-10 and 21-5-10 (Attachment 2).

KC/ny

**§21-7-10 Public Disclosure of Potential Conflicts of Interests for Legislators and Task Force Members**

- (a) Section 84-13, HRS, does not prohibit legislators from introducing bills and resolutions, from serving on a committee, or from making statements or taking official action as a legislator, provided that the legislator publicly discloses the nature and extent of the interest or transaction that the legislator believes may be affected by the legislator's official action. Disclosure shall be made at the first available public session on the matter and shall be memorialized in any relevant committee report or written minutes if applicable. If no public session will be held prior to the legislator taking official action, disclosure shall be made in writing to the presiding officer of the appropriate legislative body, and then subsequently in the first available public session on the bill and in any committee report or minutes memorializing that session.
- (b) Sections 84-13 and 84-14, HRS, do not prohibit a person from serving on a task force, or making statements or taking official action as a task force member or a task force member's designee or representative, provided that the task force member, designee, or representative shall publicly disclose the nature and extent of any interest or transaction that they believe may be affected by their official action. This disclosure shall be made verbally at the first available meeting of the task force and shall be memorialized in any task force report. If no meeting is to occur before the task force member, designee, or representative takes official action affecting their interests, the disclosure shall be made in writing to all other task force members, and then subsequently in any task force report.

(Auth: HRS §§84-31(a)(5), 84-13(d), 84-14(f)) (Imp: HRS §§84-31, 84-13(b)-(d), 84-14(f))

## **§21-5-10 Record of hearing[s].**

- (a) The record of the hearing shall be compiled in conformance with section [§] 91-9[(e)], HRS. The commission shall ~~[will]~~ make provisions for an audio, video, and/or stenographic [record] recording of the testimony, but it ~~[shall]~~ need not be transcribed unless requested for purposes of rehearing or court review. ~~The parties to the hearing [The complainant and the alleged violator] shall be entitled to a copy of the recording [record] of the hearing or any part thereof upon application to the commission and upon payment of the costs thereof.~~
- (b) Any party may request a transcript of audio, video, or stenographically recorded testimony, but the requesting party shall arrange for and be responsible for the cost of preparing the transcript prior to any request for judicial review.
- (c) If judicial review is requested, the commission shall cause a transcript of the hearing to be prepared as part of the record on appeal. Any person seeking a copy of that transcript may request one pursuant to chapter 92F, HRS.

[Eff. July 13, 1981; am and comp] (Auth: HRS §§84-31(a)(5), 97-6(a)(5)) (Imp: HRS §§84-31, 91-9, 97-6)



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

June 21, 2019

**GOV. MSG. NO. 1221**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 21, 2019, the following bill was signed into law:

HB170 HD1 SD1 CD1

RELATING TO ETHICS  
**ACT 119 (19)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

on JUN 21 2019

HOUSE OF REPRESENTATIVES  
THIRTIETH LEGISLATURE, 2019  
STATE OF HAWAII

**ACT 119**  
**H.B. NO.**

170  
H.D. 1  
S.D. 1  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO ETHICS.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1       SECTION 1. The purpose of this Act is to increase clarity  
2 and consistency in the administration and enforcement of the  
3 State's ethics laws and to promote integrity in state government  
4 by:

5       (1) Clarifying the fair treatment laws and conflict of  
6 interest laws with respect to legislators and task  
7 force members; and

8       (2) Requiring the state ethics commission to adopt rules  
9 regarding the fair treatment laws and the public  
10 disclosures required of task force members.

11       SECTION 2. Section 84-13, Hawaii Revised Statutes, is  
12 amended to read as follows:

13       "**§84-13 Fair treatment.** (a) No legislator or employee  
14 shall use or attempt to use the legislator's or employee's  
15 official position to secure or grant unwarranted privileges,  
16 exemptions, advantages, contracts, or treatment, for oneself or  
17 others; including but not limited to the following:



(1) Seeking other employment or contract for services for oneself by the use or attempted use of the legislator's or employee's office or position[-];

(2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the legislator's or employee's official duties or responsibilities except as provided by law[-];

(3) Using state time, equipment or other facilities for private business purposes[-]; or

(4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the legislator or employee inspects or supervises in the legislator's or employee's official capacity.

(b) Nothing ~~[herein]~~ in this section shall be construed to prohibit a legislator from introducing bills and resolutions, ~~[or to prevent a person from serving on a task force or]~~ from serving on a ~~[task force]~~ committee, or from making statements or taking official action as a legislator~~[-, or a task force member or a task force member's designee or representative]~~.  
Every legislator~~[-, or task force member or designee or~~





~~representative of a task force member shall file a full and~~  
~~complete public disclosure of]~~ shall publicly disclose the  
nature and extent of the interest or transaction ~~[which]~~ that  
the legislator ~~[or task force member or task force member's~~  
~~designee or representative]~~ believes may be affected by the  
legislator's ~~[or task force member's]~~ official action.

(c) Nothing in this section shall be construed to prevent  
a person from:

(1) Serving on a task force; or

(2) Making statements or taking official action as a task  
force member or a task force member's designee or  
representative;

provided that every task force member or designee or  
representative of a task force member shall publicly disclose  
the nature and extent of any interest or transaction that the  
task force member or task force member's designee or  
representative believes may be affected by the task force  
member's official action.

(d) The state ethics commission shall adopt rules pursuant  
to chapter 91 to effectuate the purposes of this section."



SECTION 3. Section 84-14, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) ~~[Subsections (a), (b), and (d) shall not apply to a task force member or the designee or representative of that task force member whose service as a task force member would not otherwise cause that member, designee, or representative to be considered an employee, if the task force member or the designee or representative of that task force member complies with the disclosure requirements under section 84-17.]~~ Nothing in this section shall be construed to prevent a person from:

(1) Serving on a task force; or

(2) Making statements or taking official action as a task force member or a task force member's designee or representative;

provided that every task force member or designee or representative of a task force member shall publicly disclose the nature and extent of any interest or transaction that the task force member or task force member's designee or representative believes may be affected by the task force member's official action. The state ethics commission shall



1 adopt rules pursuant to chapter 91 to effectuate the purposes of  
2 this subsection."

3 SECTION 4. The state ethics commission, in its discretion,  
4 may make any changes that it deems necessary to its internal  
5 procedures or forms to aid in the implementation of this Act.

6 SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 21 day of JUN , 2019

*David Y. Ige*

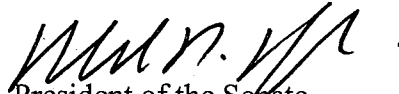
GOVERNOR OF THE STATE OF HAWAII




**THE SENATE OF THE STATE OF HAWAI'I**

Date: April 25, 2019  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019.



President of the Senate



Clerk of the Senate

HB No. 170, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 25, 2019  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

June 21, 2019

**GOV. MSG. NO. 1222**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 21, 2019, the following bill was signed into law:

HB169 HD1 SD2

RELATING TO THE STATE ETHICS CODE  
**ACT 120 (19)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

---

# A BILL FOR AN ACT

---

RELATING TO THE STATE ETHICS CODE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The purpose of this Act is to improve the administration of the state ethics code by clarifying provisions regarding:

- (1) Gift disclosure statements;
- (2) Retention of financial disclosure statements;
- (3) Transcripts from contested case hearings; and
- (4) Ethics training.

SECTION 2. Section 84-11.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]~~§84-11.5~~[§]~~ **Reporting of gifts.** (a) Every legislator and employee shall file a gifts disclosure statement with the state ethics commission ~~[on]~~ no later than June 30 of each year if all the following conditions are met:

- (1) The legislator or employee, or spouse or dependent child of a legislator or employee, received directly or indirectly from one source any gift or gifts valued singly or in the aggregate in excess of \$200, whether



1 the gift is in the form of money, service, goods, or  
2 in any other form;

3 (2) The source of the gift or gifts have interests that  
4 may be affected by official action or lack of action  
5 by the legislator or employee; and

6 (3) The gift is not exempted by subsection (d) from  
7 reporting requirements under this subsection.

8 (b) The report shall cover the period from June 1 of the  
9 preceding calendar year through ~~[June 1]~~ May 31 of the year of  
10 the report.

11 (c) The gifts disclosure statement shall contain the  
12 following information:

13 (1) A description of the gift;

14 (2) A good faith estimate of the value of the gift;

15 (3) The date the gift was received; and

16 (4) The name of the person, business entity, or  
17 organization from whom, or on behalf of whom, the gift  
18 was received.

19 (d) Excluded from the reporting requirements of this  
20 section are the following:

21 (1) Gifts received by will or intestate succession;





- 1 (2) Gifts received by way of distribution of any inter  
2 vivos or testamentary trust established by a spouse or  
3 ancestor;
- 4 (3) Gifts from a spouse, fiance, fiancée, any relative  
5 within four degrees of consanguinity or the spouse,  
6 fiance, or fiancée of such a relative. A gift from  
7 any such person is a reportable gift if the person is  
8 acting as an agent or intermediary for any person not  
9 covered by this paragraph;
- 10 (4) Political campaign contributions that comply with  
11 state law;
- 12 (5) Anything available to or distributed to the public  
13 generally without regard to the official status of the  
14 recipient;
- 15 (6) Gifts that, within thirty days after receipt, are  
16 returned to the giver or delivered to a public body or  
17 to a bona fide educational or charitable organization  
18 without the donation being claimed as a charitable  
19 contribution for tax purposes; and
- 20 (7) Exchanges of approximately equal value on holidays,  
21 birthday, or special occasions.



1 (e) Failure of a legislator or employee to file a gifts  
2 disclosure statement as required by this section shall be a  
3 violation of this chapter.

4 (f) This section shall not affect the applicability of  
5 section 84-11.

6 (g) For purposes of this section, "legislator or employee"  
7 includes any individual who was a legislator or employee for any  
8 portion of the period from June 1 of the preceding calendar year  
9 through May 31 of the year of the report."

10 SECTION 3. Section 84-17.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) All financial disclosure statements filed by a  
13 legislator, employee, or delegate to a constitutional convention  
14 shall be maintained by the state ethics commission [~~during the~~  
15 ~~term of office of the legislator, employee, or delegate and~~] for  
16 a period of six years [~~thereafter.~~] from the date of the  
17 financial disclosure statement's filing. Upon the expiration of  
18 the six-year period, the financial disclosure statement and all  
19 copies thereof shall be destroyed."

20 SECTION 4. Section 84-31, Hawaii Revised Statutes, is  
21 amended by amending subsection (c) to read as follows:



1       "(c) If after twenty days following service of the charge  
2 and further statement of alleged violation in accordance with  
3 this section, a majority of the members of the commission  
4 conclude that there is probable cause to believe that a  
5 violation of this chapter or of the code of ethics adopted by  
6 the constitutional convention has been committed, then the  
7 commission shall set a time and place for a hearing, giving  
8 notice to the complainant and the alleged violator. Upon the  
9 commission's issuance of a notice of hearing, the charge and  
10 further statement of alleged violation and the alleged  
11 violator's written response thereto shall become public records.  
12 The hearing shall be held within ninety days of the commission's  
13 issuance of a notice of hearing. If the hearing is not held  
14 within that ninety-day period, the charge and further statement  
15 of alleged violation shall be dismissed; provided that any delay  
16 that is at the request of, or caused by, the alleged violator  
17 shall not be counted against the ninety-day period. All parties  
18 shall have an opportunity to:

19       (1) ~~[to be]~~ Be heard[7];



(2) ~~[to subpoena]~~ Subpoena witnesses and require the production of any books or papers relative to the proceedings ~~[7]~~ i

(3) ~~[to be]~~ Be represented by counsel i and

(4) ~~[to have]~~ Have the right of cross-examination.

All hearings shall be in accordance with chapter 91. All witnesses shall testify under oath and the hearings shall be open to the public. The commission shall not be bound by the strict rules of evidence but the commission's findings must be based upon competent and substantial evidence. All testimony and other evidence taken at the hearing shall be recorded.

~~[Copies of transcripts of such record shall be available only to the complainant and the alleged violator at their own expense, and the fees therefor shall be deposited in the State's general fund.] "~~

SECTION 5. Section 84-43, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§84-43[+]~~ Ethics training course. (a) The state ethics commission shall establish, design, supervise, and conduct ethics training ~~[designed specifically]~~ for the officers and employees to whom this part applies.



(b) The ethics training course shall include:

- (1) Explanations and discussions of the ethics laws, administrative rules, and relevant internal policies;
- (2) Specific technical and legal requirements;
- (3) The underlying purposes and principles of ethics laws;
- (4) Examples of practical application of the laws and principles; and
- (5) A question-and-answer participatory segment regarding common problems and situations.

The state ethics commission shall develop the methods and prepare any materials necessary to implement the course.

(c) The state ethics commission shall:

- (1) Administer the ethics training course;
- (2) Designate those of its legal staff who are to conduct the ethics training course; and
- (3) Notify each officer or employee enumerated in section 84-41 that their attendance in this course is mandatory.

~~[(d) The ethics training course shall be held in January of each year for those who have not attended the course previously. The course shall last at least two hours in length.~~



1       ~~(e)]~~ (d) The state ethics commission may repeat the course  
2 as necessary to accommodate all persons who are required to  
3 attend.

4       ~~[(f)]~~ (e) Each state agency shall provide to the state  
5 ethics commission the names of those required to take the course  
6 in a timely manner and assist the commission by providing  
7 adequate meeting facilities for the ethics training course."

8       SECTION 6. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11       SECTION 7. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13       SECTION 8. This Act shall take effect on July 1, 2019.

APPROVED this 21 day of JUN , 2019



GOVERNOR OF THE STATE OF HAWAII



HB No. 169, HD 1, SD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 24, 2019  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki  
Speaker  
House of Representatives

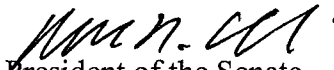



Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: April 9, 2019  
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the  
Senate of the Thirtieth Legislature of the State of Hawai'i, Regular Session of 2019.

  
President of the Senate

  
Clerk of the Senate





EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

June 21, 2019

**GOV. MSG. NO. 1211**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Thirtieth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirtieth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 21, 2019, the following bill was signed into law:

SB144 SD2 HD1

RELATING TO LOBBYISTS  
**ACT 109 (19)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

---

# A BILL FOR AN ACT

RELATING TO LOBBYISTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that the existing mens  
2       rea requirement established under section 97-7, Hawaii Revised  
3       Statutes, to prove a violation of the lobbyist law is no longer  
4       appropriate, since the failure to file a statement or report  
5       with the state ethics commission is no longer a criminal  
6       offense. Accordingly, the purpose of this Act is to:

7       (1) Repeal the restriction on access to transcripts from  
8       public contested hearings;

9       (2) Repeal the requirement of proof that a violation of  
10       the lobbyist law was committed wilfully and replace it  
11       with a requirement of proof that the violation was  
12       committed negligently; and

13       (3) Authorize the state ethics commission to assess an  
14       administrative fine pursuant to a settlement  
15       agreement.

16       SECTION 2. Section 97-6, Hawaii Revised Statutes, is  
17       amended by amending subsection (c) to read as follows:



1       "(c) If after twenty days following service of the charge  
2   and further statement of alleged violation in accordance with  
3   this section, a majority of the members of the commission  
4   conclude that there is probable cause to believe that a  
5   violation of this chapter has been committed, then the  
6   commission shall set a time and place for a hearing, giving  
7   notice to the complainant and the alleged violator in the same  
8   manner as provided in subsection (b). Upon the commission's  
9   issuance of a notice of hearing, the charge and further  
10   statement of alleged violation and the alleged violator's  
11   written response thereto shall become public records. The  
12   hearing shall be held within ninety days of the commission's  
13   issuance of a notice of hearing. If the hearing is not held  
14   within that ninety-day period, the charge and further statement  
15   of alleged violation shall be dismissed; provided that any delay  
16   that is at the request of, or caused by, the alleged violator  
17   shall not be counted against the ninety-day period.

18       All parties shall have an opportunity to:

- 19       (1) Be heard;
- 20       (2) Subpoena witnesses and require the production of any
- 21       books or papers relative to the proceedings;



(3) Be represented by counsel; and

(4) Have the right of cross-examination.

All hearings shall be in accordance with chapter 91. All witnesses shall testify under oath and the hearings shall be open to the public. The commission shall not be bound by the strict rules of evidence but the commission's findings shall be based on competent and substantial evidence.

All testimony and other evidence taken at the hearing shall be recorded. ~~[Copies of transcripts of the record shall be available only to the complainant and the alleged violator at their own expense.]~~ All fees collected under this chapter shall be deposited into the general fund."

SECTION 3. Section 97-7, Hawaii Revised Statutes, is amended to read as follows:

"§97-7 Penalties; administrative fines. (a) Any person who:

(1) ~~[Wilfully]~~ Negligently fails to file any statement or report required by this chapter;

(2) ~~[Wilfully]~~ Negligently files a statement or report containing false information or material omission of any fact;



(3) Engages in activities prohibited by section 97-5; or

(4) Fails to provide information required by section 97-2

or 97-3;

shall be subject to an administrative fine imposed by the state

ethics commission that shall not exceed \$1,000 for each

violation of this chapter. All fines collected under this

section shall be deposited into the general fund.

(b) No fine shall be assessed unless[+] the state ethics  
commission:

(1) [~~The commission convenes~~] Convenes a hearing in

accordance with section 97-6(c) and chapter 91[+] and

renders a decision; or

(2) [~~A decision has been rendered by the commission.~~]

Together with the alleged violator, agrees to resolve

any alleged violation before the completion of the

contested case process; provided that the resolution

includes payment of an administrative fine or

restitution, or both."

SECTION 4. This Act does not affect rights and duties that  
matured, penalties that were incurred, and proceedings that were  
begun before its effective date.



- 1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 21 day of JUN, 2019



GOVERNOR OF THE STATE OF HAWAII

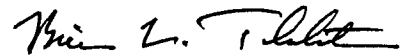
THE HOUSE OF REPRESENTATIVES OF THE  
STATE OF HAWAII

Date: April 5, 2019  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019.



Scott K. Saiki  
Speaker  
House of Representatives




Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI‘I**

Date: April 18, 2019  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Thirtieth Legislature of the State of Hawai‘i, Regular Session of 2019.

  
President of the Senate

  
Clerk of the Senate



SUNSHINE LAW MEETING  
AGENDA ITEM IV

AKANA V. HAWAII STATE ETHICS COMMISSION AND DANIEL GLUCK,  
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 V

AKANA V. HAWAII STATE ETHICS COMMISSION AND DANIEL GLUCK,  
CIVIL NO. 19-1-0379-03 (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 VI

CIVIL BEAT LAW CENTER FOR THE PUBLIC INTEREST V.  
CITY & COUNTY OF HONOLULU, SCAP-17-0000899

Discussion of recent Hawai'i Supreme Court decision on Sunshine Law.

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.

Attachment 1:       Staff Overview

Note: The Supreme Court case discussed in this agenda item is quite long. For those who wish to read it in its entirety, it is available at:

<https://www.courts.state.hi.us/wp-content/uploads/2019/06/SCAP-17-0000899am.pdf>