

# 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: August 15, 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 July 18, 2019 Meeting
  
- II. Executive Director's Report
  1. Education / Training Report
  2. Guidance and Assignment Statistics – July 2019  
*Attachment 2: 2019 Guidance and Assignment Statistics / Website Traffic*
  3. Miscellaneous Office Projects / Updates
    - a. Filing statistics for Financial Disclosure statements and lobbying expenditure reports; late filing notices
    - b. Ethics Conference – September 5, 2019  
*Attachment 3: Conference agenda (draft)*
    - c. COGEL Conference – December 15-18, 2019

III. Proposed Administrative Rules

- a. Proposed hearing date: September 19, 2019, 10:30 a.m.

*Attachment 1: Proposed notice for newspaper advertisement*

*Attachment 2: Proposed notice for website*

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. 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  
JULY 18, 2019 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the July 18, 2019 Hawaii State Ethics Commission Meeting; Proposed Amendments to Title 21, Administrative Rules

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

3  
4 STATE OF HAWAII

5  
6  
7 Date: Thursday, July 18, 2019

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 Melinda S. Wood, Commissioner  
22 Wesley F. Fong, Commissioner

23  
24 State Ethics Commission Staff

25  
26 Susan D. Yoza, Associate Director  
27 Nancy C. Neuffer, Staff Attorney  
28 Virginia M. Chock, Staff Attorney  
29 Bonita Y.M. Chang, Staff Attorney  
30 Kee M. Campbell, Staff Attorney  
31 Caroline K. Choi, Office Manager

32  
33  
34 **CALL TO ORDER**

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

37  
38 **Agenda Item No. I: Consideration and Approval of the Minutes of the**  
39 **June 20, 2019 Meeting**

40  
41 Associate Director Yoza explained that the minutes were amended to clarify that  
42 the Commission agreed it need not review the list of delinquent financial disclosure filers  
43 before the list was published.  
44

1 Vice Chair Tschumy made and Commissioner Wood seconded a motion to  
2 approve the minutes of the June 20, 2019 Sunshine Meeting, as amended. The motion  
3 carried unanimously (Grauldy, Tschumy, DeGuzman, Wood, and Fong voting).  
4  
5

6 **Agenda Item No. II: Executive Director's Report**  
7

8 *Education / Training Report*  
9

10 Associate Director Yoza reported that several departments requested ethics  
11 training for their employees, including the Department of Transportation, the University  
12 of Hawaii, the Department of the Attorney General, and the Department of Land and  
13 Natural Resources. Staff also will give an ethics presentation at the Department of  
14 Commerce and Consumer Affairs Orientation Program for new board and commission  
15 members. Associate Director Yoza also updated the Commission on the online training  
16 program.  
17

18 *Guidance and Assignment Statistics – June 2019*  
19

20 Associate Director Yoza summarized the guidance and assignment statistics for  
21 June.  
22

23 *Financial Report for FY2018-2019 (Quarter Ending June 30, 2019)*  
24

25 Associate Director Yoza reported that the Commission used 99.9% of its  
26 appropriation for FY 2018-2019, and \$597.17 in unspent funds lapsed back to the State.  
27 Before the fiscal year ended, funds were used to make prepayments for two months of  
28 office rent (for which the Commission received a 50% rent discount), consulting services  
29 to enhance the e-filing system, and computer license renewals.  
30

31 *Miscellaneous Office Projects / Updates*  
32

- 33 a. Filing statistics for Financial Disclosure statements and lobbying  
34 expenditure reports  
35

36 Associate Director Yoza reported that the list of delinquent financial disclosure  
37 filers was posted at the end of June. There were 149 delinquent filers on the list, but  
38 116 of those individuals have since filed. There are 33 remaining delinquent filers.  
39

40 Associate Director Yoza also reported that 359 lobbying expenditure reports  
41 were filed for the March 1 to April 30 reporting period. In addition, the filing deadline for  
42 gifts disclosures was June 30, 2019, and 205 gifts disclosures were filed and posted on  
43 the Commission's website. Staff will review the gifts disclosures and follow up as  
44 needed.  
45  
46

1           b.       Ethics Conference – September 5, 2019

2  
3           Associate Director Yoza reported that Executive Director Gluck has been working  
4 with Jan Yamane, Executive Director of the Honolulu Ethics Commission, on the  
5 program for the September 5 ethics conference at Kapalama Hale. Staff is moving  
6 forward with other arrangements for the conference.  
7

8           c.       COGEL Conference – December 15-18, 2019

9  
10          Associate Director Yoza reported that Chair Graulty, Commissioner Fong, and  
11 Staff Attorneys Bonita Chang and Kee Campbell will attend the COGEL conference in  
12 Chicago. Commissioner Wood said that she will inform staff whether she also can  
13 attend the conference.  
14

15  
16          **Agenda Item No. III: Proposed Administrative Rules**

17  
18          a.       Update regarding current Administrative Rules package

19  
20          b.       Proposed rules regarding disclosures by legislators and task force  
21 members, and contested hearing transcripts  
22

23          Staff Attorney Campbell said that due to the new laws passed this year (Acts  
24 109, 119, and 120), staff drafted additional amendments to the Commission's  
25 administrative rules. Staff Attorney Campbell summarized the proposed amendments.  
26 He said the first amendment clarifies the requirement that legislators and task force  
27 members publicly disclose interests that are affected by their official action. The  
28 proposed amendment requires a legislator or task force member to disclose the interest  
29 at the first available public session or meeting, and in a written format such as a task  
30 force report. Staff Attorney Campbell said that the proposed amendment will be sent to  
31 the leadership at the Legislature to preview before it is sent to the Attorney General and  
32 Governor for review.  
33

34          Chair Graulty said he liked the requirement that there be public disclosure at the  
35 first available opportunity. He noted that if someone fails to comply with this  
36 requirement, the matter could become an enforcement issue for the Commission.  
37

38          Staff Attorney Campbell explained that additional changes were made to the  
39 proposed amendment given to the Commissioners and these changes were  
40 incorporated into a revised draft (Attachment 1). Staff Attorney Campbell summarized  
41 the changes to the proposed amendment, which included changes to Hawaii  
42 Administrative Rules ("HAR") § 21-7-10 and a new proposed HAR § 21-8-4.  
43

44          Vice Chair Tschumy made and Commissioner Fong seconded a motion to  
45 approve the proposed HAR §§ 21-7-10 and 21-8-4, as amended. The motion carried  
46 unanimously (Graulty, Tschumy, DeGuzman, Wood, and Fong voting).

1 Staff Attorney Campbell summarized the proposed amendment to  
2 HAR § 21-5-10, which addresses requests for hearing transcripts. The proposed  
3 amendment provides that any party may request a transcript of a contested case  
4 hearing. If the request is made prior to a request for judicial review, the requesting party  
5 must pay for the transcript; if the request is made after a request for judicial review, the  
6 Commission must pay for the transcript as part of the Commission's obligation to  
7 provide a record to the circuit court.  
8

9 In response to a comment by Chair Grauly, Staff Attorney Campbell agreed that  
10 under the proposed amendment, a party who requests reconsideration or a rehearing  
11 by the Commission must pay for the transcript.  
12

13 Staff Attorney Campbell explained that there were a few non-substantive  
14 changes to the proposed amendment for HAR § 21-5-10 (Attachment 1).  
15

16 Commissioner DeGuzman made and Vice Chair Tschumy seconded a motion to  
17 approve the proposed HAR § 21-5-10, as amended. The motion carried unanimously  
18 (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).  
19  
20

21 **Agenda Item No. IV: Akana v. Hawaii State Ethics Commission and Daniel Gluck,**  
22 **Civil No. 18-1-1019-06 (JHA)**  
23

24 Associate Director Yoza said that there were no updates to report for this case.  
25  
26

27 **Agenda Item No. V: Akana v. Hawaii State Ethics Commission and Daniel Gluck,**  
28 **Civil No. 19-1-0379-03 (JHA)**  
29

30 With respect to Rowena Akana's appeal to circuit court, Associate Director Yoza  
31 reported that the Department of the Attorney General filed an Answering Brief on behalf  
32 of the Commission on July 15, 2019. Ms. Akana's attorneys have fourteen days in  
33 which to file a Reply Brief. No hearing date for this matter has been scheduled yet.  
34  
35

36 **Agenda Item No. VI: Civil Beat Law Center for the Public Interest v. City & County**  
37 **of Honolulu, SCAP-17-0000899**  
38

39 Staff Attorney Neuffer summarized the recent Hawaii Supreme Court opinion  
40 interpreting the personnel-privacy exception to the Sunshine Law's open meeting  
41 requirement. The Court held that the Sunshine Law allows, but does not require, a  
42 board to hold a closed meeting if an exception to the open meeting requirement applies.  
43 If a board holds a closed meeting to discuss personnel matters, two criteria must be  
44 met: (1) the discussion must relate to "the hire, evaluation, dismissal, or discipline" of an  
45 employee or charges brought against an employee as specified in the Sunshine Law,  
46 and (2) consideration of matters affecting a privacy interest must be involved. Staff



1 Attorney Neuffer explained that this is something to keep in mind when the Commission  
2 goes into executive session to discuss personnel matters. Associate Director Yoza  
3 added that staff regularly consults with the Office of Information Practices to ensure the  
4 Commission's compliance with the requirements of the Sunshine Law.  
5

6 Commissioner Fong asked what language Commissioners should use when  
7 making a motion to go into executive session. Associate Director Yoza explained that  
8 the meeting agenda generally includes the statutory language for convening an  
9 executive session and this language can be used for the purpose of making a motion.  
10 Chair Graulty said that in the future, he expects there will be discussion after a motion is  
11 made and before a vote is taken to ensure there is a proper basis for holding an  
12 executive session.  
13

14 Staff Attorney Neuffer said the Hawaii Supreme Court also discussed the  
15 attorney-client exception to the open meeting requirement. Chair Graulty explained the  
16 Court's holding that a board may go into executive session to consult with its attorneys,  
17 but only if the discussion relates to the board's powers, duties, privileges, immunities,  
18 and liabilities.  
19

20 Commissioner DeGuzman said it was her understanding that if the Commission  
21 requests an executive session, but staff does not believe an executive session is  
22 appropriate, staff will so advise the Commission. Associate Director Yoza confirmed that  
23 staff will do this.  
24  
25

### 26 **Agenda Item No. III: Proposed Administrative Rules**

27

28 Staff Attorney Campbell said that during the discussion of HAR § 21-8-4, he  
29 meant to point out that the rule's reference to HAR § 21-7-10 should be changed to  
30 HAR § 21-7-10(b). He asked that the Commission approve this change to the proposed  
31 rule.  
32

33 Commissioner DeGuzman made and Commissioner Wood seconded a motion to  
34 approve the proposed HAR § 21-8-4, as amended. The motion carried unanimously  
35 (Graulty, Tschumy, DeGuzman, Wood, and Fong voting).  
36

37 Associate Director Yoza also informed the Commission that the Commission's  
38 administrative rules package was still being reviewed by the Governor's office.  
39  
40

### 41 **ADJOURNMENT OF SUNSHINE LAW MEETING**

42

43 At 10:30 a.m., Commissioner DeGuzman made and Vice Chair Tschumy  
44 seconded a motion to adjourn the Sunshine Law Meeting. The motion carried  
45 unanimously (Graulty, Tschumy, DeGuzman, Wood, and Fong voting).  
46

1           The meeting was adjourned at 10:30 a.m.

2

3

4   Minutes approved on: \_\_\_\_\_

DRAFT

Sunshine Minutes  
July 18, 2019  
Attachment 1

**§21-7-10 Public Disclosure of Interests or Transactions Affected by Legislators' or Task Force Members' Official Action. ~~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))

**§21-8-4 Public Disclosure of Interests or Transactions Affected by Task Force Members' Official Action.** Section 84-14, HRS, does 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 makes the disclosure required by Section 21-7-10(b) of these rules.

**§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.
- (b) Any party, prior to any request for judicial review, may request a transcript of audio, video, or stenographically recorded testimony, but the provided that 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)

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: Conference agenda (draft)

SUNSHINE MEETING  
AGENDA ITEM II  
EXECUTIVE DIRECTOR'S REPORT  
August 15, 2019

**1. Education / Training Report**

a. Recently held trainings/presentations:

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

Ethics Training – Department of Transportation, Airports Division  
Tuesday, August 6, 2019  
8:30 a.m. – 10:00 a.m.  
10:00 a.m. – 11:30 a.m.  
100 attendees (total for two sessions)

Ethics Training – University of Hawaii  
Tuesday, August 13, 2019  
10:30 a.m. – 12:00 p.m.  
35 attendees anticipated

b. Upcoming trainings/presentations:

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

Ethics Training for Legislative Staff  
September 4, 2019  
10:00 a.m. – 11:30 a.m.

Ethics Training for Government Attorneys (Dep't of the Attorney General)  
September 18, 2019  
12:00 p.m. – 1:00 p.m.

Ethics Training – Hawaii Tourism Authority  
September 26, 2019  
9:30 a.m. – 10:30 a.m.

General Ethics Training  
Kapiolani Community College  
Ohia Auditorium 118  
September 27, 2019  
10:00 a.m. – 11:30 a.m.

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

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

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

a. Filing statistics for Financial Disclosure statements and lobbying expenditure reports

b. Ethics Conference – September 5, 2019

*Attachment 3: Conference agenda (draft)*

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	1						32
# of People Trained	348	7	213	70	170	374	24						1206
<b>Attorney of the Day</b>	119	84	127	138	129	86	79						762
<b>New assignments</b>													
Advisory Opinion	1	1	0	0	1	0	3						6
Complaint	5	8	7	7	6	3	2						38
Gifts/Invitations/Travel	14	16	22	18	21	16	25						132
Guidance	2	5	0	5	1	1	3						17
Judicial Selection Comm'n	2	1	2	3	1	3	3						15
Training Request	0	0	0	3	2	1	1						7
Record Request	2	3	0	0	1	1	2						9
Project/Other	1	7	1	4	5	2	2						22
<b>Total</b>	<b>27</b>	<b>41</b>	<b>32</b>	<b>40</b>	<b>38</b>	<b>27</b>	<b>41</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>246</b>
<b>Closed Assignments</b>													
Advisory Opinion	0	0	1	1	0	0	0						0
Complaint	3	5	3	39	7	7	2						66
Gifts/Invitations/Travel	9	28	20	20	24	16	27						144
Guidance	0	10	1	9	4	4	0						28
Judicial Selection Comm'n	0	10	5	4	0	4	2						25
Training Request	0	2	0	3	1	0	1						7
Record Request	2	3	0	0	1	0	3						9
Project/Other	0	6	2	4	4	3	1						20
<b>Total</b>	<b>14</b>	<b>64</b>	<b>32</b>	<b>80</b>	<b>41</b>	<b>34</b>	<b>36</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>301</b>



**Dataset Views**

Disclosures	113	105	87	86	182	102	97											772
Lobbyist Registrations	531	436	421	246	179	104	110											2,027
Organization Expenditures	203	119	225	150	82	53	46											878
Lobbyist Expenditures	159	79	145	98	46	28	22											577
Ethics Advice	94	92	106	89	93	83	93											650
Total	1100	831	984	669	582	370	368	0	0	0	0	0	0	0	0	0	0	4,904

*September 5, 2019: Ethics Conference – ROUGH DRAFT Agenda*

**8:00 a.m. – 9:00 a.m.:** meet and greet (coffee/pastries).

**9:00 a.m. – 10:00 a.m.:** Plenary discussion: *Maintaining the Public Trust*. Are we meeting our mission? Ethics in government, challenges, meeting the public's expectations. Panel discussion (w/ moderator), audience participation welcome.

**10:10 – 11:25 a.m.:** Group Discussions

*Group A: Training – effective, efficient, memorable*  
Presentation on HNL on-line training tools; discussion on best practices for training, technologies available; using websites for training

*Group B: Commissioners' roundtable*

**11:30 a.m. – 12:30 p.m.:** Small group discussions/lunch (facilitator for each table). Possible topics include: lobbying laws; media relations; operations & technology (how to do more with less; logistics of board/commission meetings; agendas, minutes, board packets); sexual harassment; conducting contested case hearings – legal and logistical issues; working with the legislative branch to pass strong ethics laws.

**12:40 p.m. – 1:55 p.m.:** Group Discussions (panels and/or facilitators)

*Group A: Advice*  
Giving good ethics advice; confidentiality; prospective advice/complaints; getting all the facts; logging/tracking requests

*Group B: Making effective use of disclosure statements*  
Financial disclosures; gifts disclosures; public vs. confidential; how to use them effectively to promote ethics

**2:05 p.m. – 3:05 p.m.:** Plenary discussion: *Enforcement* (panel discussion).

Possible topics include referrals to other government agencies; effectiveness of different tools for investigation and enforcement; how to structure settlement agreements.

**3:15 p.m. – 3:45 p.m.:** *Closing session*. One representative from each lunch table and bigger groups to share; other lessons learned; questions; wrap-up

SUNSHINE LAW MEETING  
AGENDA ITEM III

PROPOSED ADMINISTRATIVE RULES

Attachment 1: Proposed notice for newspaper advertisement

Attachment 2: Proposed notice for website

**NOTICE OF PUBLIC HEARING ON PROPOSED ADMINISTRATIVE RULES**

Pursuant to Hawai‘i Revised Statutes (“HRS”) chapter 91, notice is hereby given that the Hawai‘i State Ethics Commission (“Commission”) will hold a public hearing on proposed amendments to Title 21, Hawai‘i Administrative Rules. The proposals address the Commission’s operations & procedures, including its administration and enforcement of the Ethics Code, HRS chapter 84, and the Lobbyists law, HRS chapter 97. The public hearing is scheduled for September 19, 2019, 10:30 a.m., 1001 Bishop St., Suite 960, Honolulu, HI 96813.

All interested persons shall be afforded the opportunity to submit data, views, or arguments, orally or in writing, on the proposed rules at the public hearing. Persons wishing to submit written testimony may do so by emailing testimony to [ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org), mailing/delivering to 1001 Bishop St. #970, Honolulu, HI 96813, or faxing to 808-587-0470. Written testimony must be received by 12:00 p.m. 9/18/19; alternatively, testimony may be submitted at the public hearing (please bring six copies). Decision-making on the proposed rules will take place at the conclusion of the public hearing or at a properly noticed Commission meeting.

The proposed rules may be viewed free of charge at [ethics.hawaii.gov](http://ethics.hawaii.gov), or at 1001 Bishop St., #970, Honolulu, HI 96813 (7:45 a.m. to 4:30 p.m., M-F, excluding holidays). A copy of the proposed rules will be mailed upon request to any interested person (fees for copying/postage apply). Requests may be made by e-mail, mail, or fax as listed above, or by phone (808-587-0460).

Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy. If you need an auxiliary aid/service or other accommodation due to a disability, please contact the Commission’s staff by phone, fax, email, or mail as listed above.



## HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813

### **NOTICE OF PUBLIC HEARING ON PROPOSED ADMINISTRATIVE RULES**

Pursuant to Hawai‘i Revised Statutes (“HRS”) Chapter 91, notice is hereby given that the Hawai‘i State Ethics Commission (“Commission”) will hold a public hearing to hear all persons interested in the proposals to amend Title 21, Hawai‘i Administrative Rules (“HAR”).

### **SCHEDULE OF PUBLIC HEARING**

The public hearing is scheduled as follows:

Date: Thursday, September 19, 2019  
 Time: 10:30 a.m.  
 Location: Hawai‘i State Ethics Commission Conference Room  
 1001 Bishop Street, Suite 960  
 Honolulu, HI 96813

### **AGENDA OF PUBLIC HEARING**

- I. Call to Order
- II. Purpose of the Public Hearing
- III. Outline of Proceedings
- IV. Public Testimony
- V. Discussion by Commission
- VI. Announcement of Decision by Commission (or Deferral to Subsequent Meeting)
- VII. Adjournment

### **TOPICS OF PROPOSED RULES**

The proposals include amendments to existing provisions of HAR, Title 21, chapters 1-6; adoption of new rules within HAR, Title 21, chapters 1-6, and adoption of four new chapters (HAR, Title 21, chapters 7-10). Overall, the proposals would address the Commission’s operations and procedures (including issuance of advisory opinions, procedures for investigating and settling cases, and contested case hearing procedures); provide greater clarity to various provisions of the State Ethics Code, HRS chapter 84 (including but not limited to the gifts law, gifts reporting law, fair treatment law, and conflicts of interests law); and various provisions of the Lobbyists law, HRS chapter 97 (including but not limited to reporting and registration requirements for lobbyists).

The proposed amendments include provisions relating to the following:

1. HAR, Title 21, chapter 1: the Commission's operations, including provisions on general principles guiding the Commission's actions; definitions of terms used throughout the commission's rules; confidentiality; staffing; disqualification of commissioners; adjudicatory functions; and the commission's role in educating state officials and the public about ethics and lobbying matters.
2. HAR, Title 21, chapter 2: filing of documents, issuance of subpoenas, computation of time and continuances, and service of process.
3. HAR, Title 21, chapter 3: financial disclosure statements, including definitions; public access to certain financial disclosure records; amended disclosures; exit disclosures; administrative penalties for failure to file forms; and destruction of records.
4. HAR, Title 21, chapter 4: the Commission's procedures for giving advice on ethics and lobbying matters, including advisory opinions.
5. HAR, Title 21, chapter 5: the Commission's procedures for investigating cases, issuing charges, issuing further statements of alleged violations, conducting contested case hearings, and settling cases.
6. HAR, Title 21, chapter 6: procedures for petitions for rulemaking and declaratory orders.
7. HAR, Title 21, chapter 7: gifts and fair treatment, including definitions; prohibitions on certain kinds of gifts and allowances for other types of gifts; valuation of gifts; and gifts disclosure statements. This proposed new chapter also contains examples and comments on how these rules would apply; these examples and comments are not part of the rules themselves and are included solely to provide context.
8. HAR, Title 21, chapter 8: conflicts of interests. This proposed new chapter contains examples of how one of the rules would apply; these examples are not part of the rules themselves and are included solely to provide context.
9. HAR, Title 21, chapter 9: post-employment restrictions. This proposed new chapter contains comments on how one of the rules would apply; these comments are not part of the rules themselves and are included solely to provide context.
10. HAR, Title 21, chapter 10: lobbying, including provisions on registration requirements for lobbyists; termination of lobbying registration; exclusions from registration requirements; clarifications as to what activities constitute "lobbying"; the circumstances under which contributions are deemed made for the purpose of lobbying; and a requirement that expenditures be reported on an accrual basis (rather than a cash basis). This proposed new chapter contains examples and comments on how these rules would apply; these examples and comments are not part of the rules themselves and are included solely to provide context.

### **PUBLIC TESTIMONY**

All interested persons shall be afforded the opportunity to submit data, views, or arguments, orally or in writing, on the proposed administrative rules at the time of the public hearing. Persons wishing to submit written testimony may do so by emailing their testimony to [ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org) (preferred), by mailing or hand delivering their testimony to the Hawaii State Ethics Commission, 1001 Bishop Street, Suite 970, Honolulu, HI 96813, or by sending their testimony via facsimile to (808) 587-0470.

All written testimony shall be submitted and must be received no later than 12:00 noon on September 18, 2019 (the day before the public hearing); alternatively, any person may submit written testimony to the Commission at the public hearing, but shall furnish six copies of such testimony to the Commission. Interested persons are encouraged to submit their testimony in advance of the public hearing, as this will give the Commission more time to read and consider the testimony.

The Commission may impose a time limit for each person presenting testimony at the hearing.

Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy. If you need an auxiliary aid/service or other accommodation due to a disability, please contact the Commission's staff 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.

### **AVAILABILITY OF COPIES OF THE PROPOSED RULES AND OTHER RELATED INFORMATION**

The proposed rules may be viewed and downloaded free of charge from the Commission's website at [[LINK HERE](#)]. The proposed rules may also be viewed in person free of charge between 7:45 a.m. to 4:30 p.m., Monday through Friday, excluding State and federal holidays, at the Commission's office (1001 Bishop Street Suite 970, Honolulu, HI 96813). A copy of the proposed rules may be picked up at the Commission's address during the days and hours of operation listed. A copying fee of 1.5 cents per printed page (\$1.30 total) will be assessed upon pick up.

A copy of the proposed rules may also be mailed to any person who requests a copy from the Commission via e-mail ([ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org)), phone (808-587-0460), facsimile (808-587-0470), or mail (1001 Bishop Street, Suite 970, Honolulu, HI 96813). Copying costs of \$1.30, along with actual costs for postage, will apply.

Decision-making on the proposed administrative rules will either take place at the conclusion of the public hearing or at a properly noticed meeting of the Hawai'i State Ethics Commission. A tentative date and time of the decision-making meeting may be announced at the public hearing.

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.