

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Thursday, September 19, 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

Susan D. Yoza, Associate Director
Nancy C. Neuffer, Staff Attorney
Bonita Y.M. Chang, Staff Attorney
Kee M. Campbell, Staff Attorney
Caroline Choi, Office Manager
Patrick W.C. Lui, Computer Specialist

Excused: Daniel M. Gluck, Executive Director
Virginia M. Chock, Staff Attorney

CALL TO ORDER

Chair Graulty called the meeting to order at 10:07 a.m.

Agenda Item No. I: Consideration and Approval of the Minutes of the August 15, 2019 Meeting

Commissioner Fong made and Vice Chair Tschumy seconded a motion to approve the minutes of the August 15, 2019 Sunshine Law Meeting. The motion carried unanimously (Graulty, Tschumy, DeGuzman, Wood, and Fong voting).

Agenda Item No. II: Executive Director's Report

Education / Training Report

Associate Director Yoza updated the Commission on training sessions recently held, including trainings conducted by the Executive Director for the Office of Hawaiian Affairs and the Department of the Attorney General.

Chair Graulty asked about the status of the online training course. Associate Director Yoza explained that the course is near completion and staff is also developing a training guide. Associate Director Yoza said that staff hopes to have everything completed before the end of the year.

Guidance and Assignment Statistics – August 2019

Associate Director Yoza referred to the guidance and assignment statistics for the office and reported that work assignments have kept staff busy.

Agenda Item No. III: Proposed Administrative Rules

- a. Proposed hearing date: October 31, 2019, 10:30 a.m.

The Commission discussed the approval of the proposed administrative rules for public hearing on October 31, 2019. Commissioner DeGuzman asked why the Legislative Reference Bureau (“LRB”) recommended that comments and examples be removed from the proposed rules. Associate Director Yoza said that the LRB’s job is to ensure that formatting standards are followed and it may not be standard practice for administrative rules to include comments and examples. Commissioner DeGuzman said that the comments helped to clarify the rules. She said that even if the comments are put into the record as public testimony at the hearing, people will not know about them unless they research the legislative history of the rules. Commissioner DeGuzman said that she felt the comments and examples should be included with the rules unless the law prohibits this. Chair Graulty said that he agreed.

Associate Director Yoza explained that staff is still awaiting the Legislature’s comments regarding the proposed rules for changes made to the Ethics Code in the 2019 legislative session. Those rules must be reviewed by the Department of the Attorney General and the Governor’s Office before they can be scheduled for a public hearing. Associate Director Yoza explained that those rules are not included in the current package that is ready to be approved for public hearing on October 31, 2019.

Chair Graulty suggested that the Commission wait for the rules relating to the 2019 statutory changes before scheduling a public hearing. He said that those rules should be combined with the other proposed rules so that everything can be considered at one hearing. Vice Chair Tschumy and Commissioners Fong and Wood agreed that

all of the rules should be considered at the same time rather than at separate hearings. Commissioner DeGuzman disagreed and said the rules that are ready for a public hearing should not be held up by the rules relating to the 2019 statutory changes. Chair Grauly expressed concern about having to make additional arrangements and possibly incur additional expenses for a second hearing.

Commissioner Fong moved and Vice Chair Tschumy seconded a motion to hold just one public hearing for all of the proposed administrative rules. The motion carried (Grauly, Tschumy, Wood, and Fong voting aye; DeGuzman voting nay).

Chair Grauly asked that staff inform the LRB that the Commission wants to include comments and examples in the draft rules and if this is not possible, the Commission would like to know the reason. Associate Director said that staff will follow up as directed and will report back to the Commission at its next meeting.

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

Associate Director Yoza said that staff is consulting with the Department of the Attorney General about this case in light of Judge Ashford's recent ruling on Ms. Akana's appeal.

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

Associate Director Yoza updated the Commissioners about Judge Ashford's ruling in which he affirmed the Commission's decision against Ms. Akana. Associate Director Yoza explained that Ms. Akana has thirty days after the Circuit Court's Order is entered to file a Notice of Appeal with the Intermediate Court of Appeals.

ADJOURNMENT OF SUNSHINE LAW MEETING

At 10:35 a.m., Commissioner DeGuzman made and Vice Chair Tschumy seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood, and Fong voting).

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

Minutes approved on: October 17, 2019