

# SUNSHINE LAW MEETING



## HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

### NOTICE OF MEETING OF THE HAWAI'I STATE ETHICS COMMISSION

Date: April 16, 2020

Time: 9:00 a.m.

Via Videoconference or Phone:

Videoconference: [Join Microsoft Teams Meeting](#)

Phone: 808-829-4853, Conference ID: 155 364 389#

*This meeting will be held via videoconference and phone conference. All members of the public are invited to join this meeting using the above information; anyone wishing to testify may do so during the conference call, or may submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your telephone except to testify.*

### A G E N D A

#### CALL TO ORDER

I. Consideration and Approval of the Minutes of the March 27, 2020 Meeting

II. Executive Director's Report

1. Education / Training Report

*Attachment 2: 2020 Training Attendance / Schedule*

*Attachment 3: Online Training Completions by Department*

2. Guidance and Assignment Statistics – February-March 2020

*Attachment 4: 2020 Guidance and Assignment Statistics / Website Traffic*

3. Financial Report for FY 2019-2020 (Quarter Ending March 31, 2020)

*Attachment 5: Third Quarter Financial Report FY2019-2020*

4. Miscellaneous Office Projects / Updates

III. Proposed Administrative Rules

Discussion of status of May 7, 2020 rulemaking hearing.

*Attachment 1: Notice of Public Hearing on Proposed Administrative Rules*

IV. 2020 Legislative Session – measures still alive

1. [HB2124](#): Prohibits certain state officials and employees from representing certain interests before the State for 12 months after termination from their respective positions. (Ethics Commission bill)
2. [HB2125](#): Makes various amendments to the State Ethics Code. Repeals exemption from certain financial disclosure requirements granted to members of the Hawaii Correctional System Oversight Commission. (Ethics Commission bill)
3. [HB1673](#): Restores statutory protection for legislators when carrying out a legislative function. Clarifies that each house of the legislature shall adopt rules regarding disclosure of the nature and extent of any interest or transaction that the legislator believes may be affected by the legislator's official action. (Ethics Commission bill)
4. [HB2120](#): Amends the certain parts of the conflicts of interests provision of the State Ethics Code to include members of the legislature, delegates to the constitutional convention, and justices and judges of all state courts.
5. [HB361](#): Prohibits the governor and each county mayor, while holding those offices, to maintain any other employment or receive any emolument, beginning on the sixty-first calendar day after their election or appointment to office. Specifies that the county boards and commissions have enforcement authority over each respective county mayor. Specifies that the Hawaii state ethics commission has enforcement authority over the governor.

6. [HB2256](#) / [SB3058](#): Repeals the sunset provision in Act 38, Session Laws of Hawaii 2017 (Technology Transfer at the University of Hawaii)
7. [HB1998](#) / [HB2678](#): Authorizing forfeiture of pension benefits (and/or other benefits) under certain conditions.
8. Ethics Commission Budget measures: [HB2661](#), [SB3079](#).
9. Various provisions purporting to exempt task forces and/or new commissions/employees from Ethics Code requirements (e.g., [SB3103](#), [HB2047](#), [SB2350](#)).
10. [SB1056](#): Requires lobbyists and specified individuals to file two additional reports in general election years to the Hawaii State Ethics Commission, including one report on the second Friday in August and one report on the first Monday in November.

V. *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.

VI. *Akana v. Hawaii State Ethics Commission*, 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.

VII. *State of Hawaii, Ethics Commission, by and through its Attorney General, v. Rowena Akana, Civil No. 1DRC-20-0000134*

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.

VIII. Office of Information Practices: Opinion Upholding Commission's Denial of Request to Access Government Records

Briefing by Executive Director Gluck regarding the Office of Information Practices' Memorandum Opinion No. 20-07 (U Appeal 20-37), upholding the Commission's 2019 denial of a request to access government records.

*Attachment 1: OIP Memorandum Opinion No. 20-07*

IX. 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  
MARCH 27, 2020 MEETING

Attachment 1:       Sunshine Law Meeting Minutes of the March 27, 2020  
                              Hawaii State Ethics Commission Meeting

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: Friday, March 27, 2020

Time: 9:30 a.m.

Call-in: 808-829-4853, access code 624 551 106#

Present: State Ethics Commission Members

Reynard D. Grauly, 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  
Patrick Lui, Computer Specialist

**CALL TO ORDER**

Chair Grauly called the meeting to order at 9:30 a.m.

**Agenda Item No. I: Consideration and Approval of the Minutes of the February 20, 2020 Meeting**

Commissioner Fong made and Commissioner DeGuzman seconded a motion to approve the minutes of the February 20, 2020 Sunshine Law Meeting. The motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood and Fong voting).

1 **Agenda Item No. II: Extension of Deadline for Jan-Feb 2020 Lobbyist Expenditure**  
2 **Reports**  
3

4 Commissioner DeGuzman suggested that Paragraph 2 of the Order Regarding  
5 Lobbying Expenditure Reporting be amended to read as follows: "The Commission  
6 authorizes the Executive Director to extend this deadline until May 31, 2020, if  
7 appropriate, without further Order of the Commission." Commissioner DeGuzman  
8 explained that this amendment helps clarify the Order.  
9

10 Chair Grauly asked whether anyone wished to provide public testimony on this  
11 agenda item. Sandy Ma, Executive Director of Common Cause Hawai'i, asked whether  
12 the extension of the March 31 deadline will affect any of the other filing deadlines for  
13 lobbying reports. Executive Director Gluck explained that the Commission's Order  
14 pertains only to lobbying reports for the January 1 through February 29 period. If the  
15 deadline for these reports is extended to May 31, two lobbying reports will be due on  
16 that date: One report for the period covering January 1 through February 29, and one  
17 report for the period covering March 1 through April 30.  
18

19 Commissioner DeGuzman made and Vice Chair Tschumy seconded a motion to  
20 approve the Order Regarding Lobbying Expenditure Reporting, as amended. The  
21 motion carried unanimously (Grauly, Tschumy, DeGuzman, Wood and Fong voting).  
22

23 The Commissioners authorized the use of their electronic signatures on the  
24 Order.  
25  
26

27 **Agenda Item No. III: Proposed Administrative Rules**  
28

29 Executive Director Gluck said that there have been reports of people accessing  
30 and attempting to disrupt online videoconferences by posting inappropriate content.  
31 These appear to be isolated incidents and Executive Director Gluck said he did not  
32 believe the likelihood of this happening to the Commission was high enough to warrant  
33 changing the format for the public hearing on the proposed administrative rules.  
34

35 Computer Specialist Lui explained that he can disconnect someone who tries to  
36 disrupt the hearing via videoconference. However, he cannot stop the person from  
37 accessing the hearing again or from posting any inappropriate content.  
38

39 After further discussion by the Commission, Executive Director Gluck  
40 recommended that the Commission go ahead with plans to videoconference the  
41 hearing. This format will allow greater participation by the public because anyone from  
42 any location can access the hearing via videoconference. He said that Computer  
43 Specialist Lui can take action if someone tries to disrupt the hearing.  
44

45 Commissioner Fong agreed with the Executive Director's recommendation. He  
46 said that if something happens during the hearing, it would be up to the Chair to handle



1 it with staff's assistance. Chair Gaulty discussed calling a recess if someone were to  
2 become completely disruptive.

3  
4 Commissioner DeGuzman clarified that participation in the hearing via video-  
5 conference means that someone can use a home or office computer to access the  
6 hearing via videoconference link.

7  
8 Commissioner Wood said that the Notice of Public Hearing (page 3) states that  
9 written testimony must be submitted by 12 noon on May 8, 2020. The correct date  
10 should be May 6, 2020. Staff Attorney Chock also noted that the Commission's fax  
11 number (page 3) is missing a hyphen.

12  
13 Chair Gaulty asked whether anyone wished to provide public testimony on this  
14 agenda item. Ms. Ma of Common Cause Hawai'i asked whether the May 7 hearing will  
15 be held regardless of whether the statewide stay-at-home / work-from-home order is  
16 lifted by then. Executive Director Gluck explained that if the stay-at-home order is lifted  
17 and everyone can return to the office, the Commission can meet in person on May 7  
18 and still allow the public to participate via videoconference.

19  
20 Vice Chair Tschumy made and Commissioner DeGuzman seconded a motion to  
21 reschedule the public hearing for the Commission's administrative rules to Thursday,  
22 May 7, 2020, via videoconference and telephone conference. The motion passed  
23 unanimously (Gaulty, Tschumy, DeGuzman, Wood and Fong voting).

24  
25 Commissioner DeGuzman made and Vice Chair Tschumy seconded a motion to  
26 approve the Notice of Public Hearing, as amended, for the May 7, 2020 hearing. The  
27 motion carried unanimously (Gaulty, Tschumy, DeGuzman, Wood and Fong voting).

## 28 29 30 **ADJOURNMENT OF SUNSHINE LAW MEETING**

31  
32 At 10:02 a.m., Commissioner DeGuzman made and Vice Chair Tschumy  
33 seconded a motion to adjourn the Sunshine Law Meeting. The motion carried  
34 unanimously (Gaulty, Tschumy, DeGuzman, Wood and Fong voting).

35  
36  
37  
38  
39  
40 Minutes approved on: \_\_\_\_\_

SUNSHINE LAW MEETING  
AGENDA ITEM II

EXECUTIVE DIRECTOR'S REPORT

- Attachment 1: Executive Director's Report
- Attachment 2: 2020 Training Attendance / Schedule
- Attachment 3: Online Training Completions by Department
- Attachment 4: 2020 Guidance and Assignments Statistics / Website Traffic
- Attachment 5: Third Quarter Financial Report FY2019-2020

SUNSHINE MEETING  
AGENDA ITEM II

EXECUTIVE DIRECTOR'S REPORT  
April 16, 2020

**1. Education / Training Report**

*Attachment 2: 2020 Training Attendance / Schedule*

a. Recently held trainings/presentations:

General Ethics Training/Ethics Training for Supervisors  
Department of Commerce and Consumer Affairs  
Honolulu, Hawai'i  
February 24, 25, 27 (six trainings total)  
268 attendees total

b. Trainings/presentations through May 12, 2020 canceled due to health concerns regarding COVID-19 virus:

General Ethics Training  
University of Hawai'i – Hilo  
200 W. Kawili Street, UCB 100  
Hilo, Hawai'i  
March 17, 2020  
10:00 a.m. – 11:30 a.m.

Ethics Training – Dept. of Transportation, Harbors Division  
Pier 19  
Honolulu, Hawai'i  
March 20, 2020  
10:00 a.m. – 11:30 a.m. (white collar employees)  
12:30 p.m. – 2:00 p.m. (blue collar employees)

General Ethics Training  
Mission Memorial Auditorium  
550 South King Street  
Honolulu, Hawai'i  
March 24, 2020  
10:00 a.m. – 11:30 a.m.

General Ethics Training  
Kaua'i – Courthouse Multipurpose Room  
Pu'uhonua Kaulike Building  
3970 Ka'ana Street  
Lihue, Hawai'i  
March 25, 2020  
10:00 a.m. – 11:30 a.m.

General Ethics Training  
Natural Energy Laboratory of Hawaii Authority (NELHA)  
Hale Iako Training Classroom, Room #119  
73-970 Makako Bay Drive  
Kailua-Kona, Hawaii  
April 6, 2020  
10:00 a.m. – 11:30 a.m.

Ethics Training – Dept. of Land and Natural Resources,  
Division of Forestry and Wildlife  
2135 Makiki Heights Dr.  
Honolulu, Hawai'i  
April 21, 2020  
10:00 a.m. – 11:30 a.m.

Ethics Training - Department of Health, Administrators  
Kinau Hale  
Boardroom, 1<sup>st</sup> Floor  
1250 Punchbowl Street  
Honolulu, Hawaii  
April 28, 2020  
2:00 p.m. – 2:30 p.m.

General Ethics Training  
University of Hawai'i – Maui  
Ka'a'ike Building, Room 105BCD  
310 W. Kaahumanu Avenue  
Kahului, Hawaii  
May 8, 2020  
10:00 a.m. – 11:30 a.m.

General Ethics Training  
University of Hawai'i – West O'ahu  
Leeward Community College  
96-045 Ala Ike, ED 201 A/B  
Pearl City, Hawaii  
May 12, 2020  
10:00 a.m. – 11:30 a.m.

*Attachment 3: Online Training Completions by Department*

**2. Guidance and Assignment Statistics – February-March 2020**

*Attachment 4: 2020 Guidance and Assignment Statistics / Website Traffic*

**3. Financial Report for FY 2019-2020 (Quarter Ending March 31, 2020)**

*Attachment 5: Third Quarter Financial Report FY2019-2020*

**4. Miscellaneous Office Projects/Updates**

| <b>HAWAII STATE ETHICS COMMISSION</b><br><b>2020 EDUCATION PROGRAM</b><br><b>(Ethics Workshops and Presentations)</b> |   |                               |
|---|---|-------------------------------|
| <b>DATE</b>   | <b>PRESENTATIONS</b>  | <b>NUMBER OF PARTICIPANTS</b> |
| 1/2/2020  | General Ethics Training, House of Representatives Staff Training                  | 99                            |
| 1/7/2020  | General Ethics Training, Windward Community College                               | 122                           |
| 1/13/2020   | Ethics Refresher Course, State Capitol, Honolulu                                  | 30                            |
| 1/14/2020   | Lobbyists Law Training, State Capitol, Honolulu                                   | 30                            |
| 2/24/2020   | General Ethics Training, DCCA, Supervisors  | 32                            |
| 2/24/2020   | General Ethics Training, DCCA, Non-Supervisors                                    | 58                            |
| 2/25/2020   | General Ethics Training, DCCA, Supervisors  | 24                            |
| 2/25/2020   | General Ethics Training, DCCA, Non-Supervisors                                    | 61                            |
| 2/27/2020   | General Ethics Training, DCCA, Supervisors  | 24                            |
| 2/27/2020   | General Ethics Training, DCCA, Non-Supervisors                                    | 69                            |
| 3/17/2020   | <del>General Ethics Training, Hilo (CANCELLED)</del>                              |                               |
| 3/20/2020   | <del>General Ethics Training, DOT, Harbors (2 sessions) (CANCELLED)</del>         |                               |
| 3/24/2020   | <del>General Ethics Training, Honolulu (CANCELLED)</del>                          |                               |
| 3/25/2020   | <del>General Ethics Training, Lihue (CANCELLED)</del>                             |                               |
| 4/6/2020  | <del>General Ethics Training, Kona (CANCELLED)</del>                              |                               |
| 4/21/2020   | <del>General Ethics Training, DLNR, DOFAW (CANCELLED)</del>                       |                               |
| 4/28/2020   | <del>General Ethics Training, DOH Executive Committee, Honolulu (CANCELLED)</del> |                               |
| 5/8/2020  | <del>General Ethics Training, Kahului (CANCELLED)</del>                           |                               |
| 5/12/2020   | <del>General Ethics Training, Pearl City (CANCELLED)</del>                        |                               |

|              |   |                         |
|--------------|---|-------------------------|
| 10/20/2020   | General Ethics Training, Honolulu                   |                         |
| xx/xx/2020   | General Ethics Training, DOT, Harbors (supervisors) |                         |
|              |   |                         |
| <b>TOTAL</b> | <b>22 Presentations</b>                             | <b>549 participants</b> |

| Department/Agency  | # of Completions |
|--|------------------|
| Department of Health (DOH)                                       | 164              |
| Department of Transportation (DOT)                               | 136              |
| Department of Education (DOE)                                    | 126              |
| Department of Accounting and General Services (DAGS)             | 59               |
| Department of the Attorney General (ATG)                         | 46               |
| Department of Land and Natural Resources (DLNR)                  | 43               |
| Department of Public Safety (DPS)                                | 38               |
| Hawaii Health Systems Corporation (HHSC)                         | 35               |
| University of Hawaii-West Oahu (UOHW)                            | 34               |
| Department of Agriculture (DOA)                                  | 26               |
| Department of Commerce and Consumer Affairs (DCCA)               | 22               |
| University of Hawaii-Manoa (UOHM)                                | 22               |
| Department of Business, Economic Development and Tourism (DBEDT) | 14               |
| Office of the Governor (GOV)                                     | 7                |
| University of Hawaii-System (UOH)                                | 6                |
| Other (Please fill-in "Other Department/Agency")                 | 5                |
| Public Charter School (SPCSC)                                    | 4                |
| University of Hawaii-Community Colleges (UOHC)                   | 3                |
| Judiciary (JUD)  | 3                |
| Office of the Auditor (AUD)                                      | 3                |
| Research Corporation of the University of Hawaii (RCUH)          | 2                |
| Department of Labor and Industrial Relations (DLIR)              | 2                |
| Department of Human Services (DHS)                               | 1                |
| Department of Human Resources Development (DHRD)                 | 1                |
| Senate (SEN)   | 1                |
| Office of the Lieutenant Governor (LTG)                          | 1                |

**Total Certificate of Completions Issued**

**804**

As of April 7, 2020, 9:30 PM



| 2020                          | Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec | Year to date |
|-------------------------------|-----|-----|-----|-----|-----|------|------|-----|------|-----|-----|-----|--------------|
| <b>Training statistics</b>    |     |     |     |     |     |      |      |     |      |     |     |     |              |
| # of In-Person Trainings      | 4   | 6   | 0   |     |     |      |      |     |      |     |     |     | 10           |
| # of People Trained In Person | 281 | 268 | 0   |     |     |      |      |     |      |     |     |     | 549          |
| # of On-Line Training         | 403 | 182 | 190 |     |     |      |      |     |      |     |     |     | 775          |
| <b>Attorney of the Day</b>    |     |     |     |     |     |      |      |     |      |     |     |     |              |
|                               | 148 | 96  | 79  |     |     |      |      |     |      |     |     |     | 323          |
| <b>New assignments</b>        |     |     |     |     |     |      |      |     |      |     |     |     |              |
| Advisory Opinion              | 0   | 0   | 0   |     |     |      |      |     |      |     |     |     | 0            |
| Complaint                     | 7   | 7   | 8   |     |     |      |      |     |      |     |     |     | 22           |
| Gifts/Invitations/Travel      | 16  | 12  | 3   |     |     |      |      |     |      |     |     |     | 31           |
| Guidance                      | 2   | 2   | 0   |     |     |      |      |     |      |     |     |     | 4            |
| Judicial Selection Comm'n     | 1   | 5   | 3   |     |     |      |      |     |      |     |     |     | 9            |
| Training Request              | 0   | 0   | 0   |     |     |      |      |     |      |     |     |     | 0            |
| Record Request                | 1   | 1   | 2   |     |     |      |      |     |      |     |     |     | 4            |
| Project/Other                 | 3   | 3   | 3   |     |     |      |      |     |      |     |     |     | 9            |
| Total                         | 30  | 30  | 19  | 0   | 0   | 0    | 0    | 0   | 0    | 0   | 0   | 0   | 79           |
| <b>Closed Assignments</b>     |     |     |     |     |     |      |      |     |      |     |     |     |              |
| Advisory Opinion              | 0   | 1   | 1   |     |     |      |      |     |      |     |     |     | 2            |
| Complaint                     | 8   | 3   | 9   |     |     |      |      |     |      |     |     |     | 20           |
| Gifts/Invitations/Travel      | 22  | 5   | 11  |     |     |      |      |     |      |     |     |     | 38           |
| Guidance                      | 4   | 1   | 5   |     |     |      |      |     |      |     |     |     | 10           |
| Judicial Selection Comm'n     | 1   | 4   | 2   |     |     |      |      |     |      |     |     |     | 7            |
| Training Request              | 1   | 0   | 0   |     |     |      |      |     |      |     |     |     | 1            |
| Record Request                | 3   | 2   | 1   |     |     |      |      |     |      |     |     |     | 6            |
| Project/Other                 | 3   | 1   | 2   |     |     |      |      |     |      |     |     |     | 6            |
| Total                         | 42  | 17  | 31  | 0   | 0   | 0    | 0    | 0   | 0    | 0   | 0   | 0   | 90           |

**Dataset Views**

|                           |     |     |     |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |       |
|---------------------------|-----|-----|-----|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|-------|
| Disclosures               | 97  | 91  | 64  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   | 252   |
| Lobbyist Registrations    | 364 | 276 | 221 |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   | 861   |
| Organization Expenditures | 67  | 51  | 27  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   | 145   |
| Lobbyist Expenditures     | 53  | 44  | 25  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   | 122   |
| Ethics Advice             | 108 | 112 | 66  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   | 286   |
| Total                     | 689 | 574 | 403 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,666 |

HAWAII STATE ETHICS COMMISSION FINANCIAL REPORT  
 FY 2020 (QUARTER ENDING: March 31, 2020)  
 Appropriation Symbol: G-20-393-Y6

|                                      | Amount<br>Appropriated<br>FY 2019-2020 | Expenditures<br>for Qtr. End<br>9/30/2019 | Expenditures<br>for Qtr. End<br>12/31/2019 | Expenditures<br>for Qtr. End<br>3/31/2020 | Expenditures<br>for Qtr. End<br>6/30/2020 | Year-To-Date<br>Expenditures<br>Totals | % of<br>Budget<br>Expended |
|--------------------------------------|--|---|--|---|---|--|----------------------------|
| <b>A. PERSONNEL SERVICES</b>         |  |   |  |   |   |  |                            |
| Staff Salaries                       | \$ 977,445.00                          | \$ 244,354.50                             | \$ 235,116.50                              | \$ 243,622.50                             | \$ 0.00                                   | 723,093.50                             | 74.0%                      |
| Vacation Payout                      |  | \$ 0.00                                   | \$ 0.00                                    | \$ 0.00                                   | \$ 0.00                                   | \$ 0.00                                |                            |
| Total Personnel Services             | <b>\$ 977,445.00</b>                   | <b>\$ 244,354.50</b>                      | <b>\$ 235,116.50</b>                       | <b>\$ 243,622.50</b>                      | <b>\$ 0.00</b>                            | <b>\$ 723,093.50</b>                   | <b>74.0%</b>               |
| <b>B. OTHER CURRENT EXPENSES</b>     |  |   |  |   |   |  |                            |
| Office Expenses                      | 14,650.00                              | 2,983.76                                  | 5,266.19                                   | 1,234.77                                  | 0.00                                      | 9,484.72                               | 64.7%                      |
| Intrastate Transportation and Travel | 9,250.00                               | 459.02                                    | 238.36                                     | 622.79                                    | 0.00                                      | 1,320.17                               | 14.3%                      |
| Out-of-State Travel                  | 12,660.00                              | 4,557.00                                  | 1,847.33                                   | 2,928.22                                  | 0.00                                      | 9,332.55                               | 73.7%                      |
| Equipment Rental and Maintenance     | 25,550.00                              | 3,365.10                                  | 704.45                                     | 812.64                                    | 0.00                                      | 4,882.19                               | 19.1%                      |
| Dues, Subscriptions, Training        | 16,410.00                              | 2,515.95                                  | 6,091.72                                   | 1,786.58                                  | 0.00                                      | 10,394.25                              | 63.3%                      |
| Newspaper Advertisements             | 1,100.00                               | 35.00                                     | 0.00                                       | 376.20                                    | 0.00                                      | 411.20                                 | 37.4%                      |
| Comm'n Mtgs, Investigations, Hrgs    | 11,600.00                              | 549.74                                    | 5.23                                       | 285.79                                    | 0.00                                      | 840.76                                 | 7.2%                       |
| Consulting Services                  | 23,900.00                              | 139.99                                    | 632.46                                     | 142.00                                    | 0.00                                      | 914.45                                 | 3.8%                       |
| Office Rent                          | 105,500.00                             | 12,244.29                                 | 23,006.10                                  | 35,213.36                                 | 0.00                                      | 70,463.75                              | 66.8%                      |
| Total Other Current Expenses         | <b>\$ 220,620.00</b>                   | <b>\$ 26,849.85</b>                       | <b>\$ 37,791.84</b>                        | <b>\$ 43,402.35</b>                       | <b>\$ 0.00</b>                            | <b>\$ 108,044.04</b>                   | <b>49.0%</b>               |
| <b>C. CAPITAL OUTLAY</b>             |  |   |  |   |   |  |                            |
| Office Furniture and Equipment       | 4,000.00                               | 0.00                                      | 6,888.34                                   | -6,888.34                                 | 0.00                                      | 0.00                                   | 0.0%                       |
| Total Capital Outlay                 | <b>\$ 4,000.00</b>                     | <b>\$ 0.00</b>                            | <b>\$ 6,888.34</b>                         | <b>-\$ 6,888.34</b>                       | <b>\$ 0.00</b>                            | <b>\$ 0.00</b>                         | <b>0.0%</b>                |
| <b>GRAND TOTAL (A+B+C)</b>           | <b>\$ 1,202,065.00 <sup>1</sup></b>    | <b>\$ 271,204.35</b>                      | <b>\$ 279,796.68</b>                       | <b>\$ 280,136.51</b>                      | <b>\$ 0.00</b>                            | <b>\$ 831,137.54</b>                   | <b>69.1%</b>               |
| <b>VACATION</b>                      |  | <b>\$ 0.00</b>                            | <b>\$ 0.00</b>                             | <b>\$ 0.00</b>                            | <b>\$ 0.00</b>                            | <b>\$ 0.00</b>                         |                            |

General Fund Allocation . . . . . **\$ 1,202,065.00**  
 Total Expenditures as of March 31, 2020 . . . . . \$ 831,137.54  
 Balance as of March 31, 2020 . . . . . \$370,927.46

<sup>1</sup> \$1,202,065 awarded by Act 1, SLH 2019 - Appropriation 393.

HAWAII STATE ETHICS COMMISSION FINANCIAL REPORT  
FY 2020 (QUARTER ENDING: March 31, 2020)  
Appropriation Symbol: G-19-396-Y6

|   | Amount<br>Appropriated<br>FY 2018-2020 | Expenditures<br>for Qtr. End<br>9/30/2019 | Expenditures<br>for Qtr. End<br>12/31/2019 | Expenditures<br>for Qtr. End<br>3/31/2020 | Expenditures<br>for Qtr. End<br>6/30/2020 | Year-To-Date<br>Expenditures<br>Totals | % of<br>Budget<br>Expended |
|---|--|---|--|---|---|--|----------------------------|
| <b>A. ACCRUED VACATION/VACATION TRANSFERS</b> |  |   |  |   |   |  |                            |
| Vacation Payout                               | \$ 16,553.00 <sup>1</sup>              | \$ 0.00                                   | \$ 4,450.31                                | \$ 0.00                                   | \$ 0.00                                   | \$ 4,450.31                            | 26.9%                      |
| Total Accrued Vacation/Vacation Transfers     | <b>\$ 16,553.00</b>                    | <b>\$ 0.00</b>                            | <b>\$ 4,450.31</b>                         | <b>\$ 0.00</b>                            | <b>\$ 0.00</b>                            | <b>\$ 4,450.31</b>                     | <b>26.9%</b>               |
| <b>GRAND TOTAL</b>                            | <b>\$ 16,553.00</b>                    | <b>\$ 0.00</b>                            | <b>\$ 4,450.31</b>                         | <b>\$ 0.00</b>                            | <b>\$ 0.00</b>                            | <b>\$ 4,450.31</b>                     | <b>26.9%</b>               |

|   |                     |
|---|---------------------|
| Appropriation for Accrued Vacation/Vacation Transfer Payments ..... | <b>\$ 16,553.00</b> |
| Total Expenditures as of March 31, 2020 .....                       | \$ 4,450.31         |
| Balance as of March 31, 2020 .....                                  | \$ 12,102.69        |

<sup>1</sup> Funds for accrued vacation and vacation transfer payments appropriated by Act 1, SLH 2018. Per DAGS, fund G-19-396-Y6 not closed by 9/30/2019 and was to be used to pay out vacation to retiring secretary.

SUNSHINE LAW MEETING  
AGENDA ITEM III

PROPOSED ADMINISTRATIVE RULES

Discussion of status of May 7, 2020 rulemaking hearing.

Attachment 1: Notice of Public Hearing on Proposed Administrative Rules,  
May 7, 2020 (approved on March 27, 2020)



## HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

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

Pursuant to Hawai'i Revised Statutes ("HRS") Chapter 91, and the Governor's March 16, 2020 Supplemental Emergency Proclamation regarding COVID-19, 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, May 7, 2020

Time: 9:00 a.m.

Location: Via videoconference: <https://bit.ly/HSECMay72020> (Note: If you have any technical difficulties, please call the Commission office at (808) 587-0460 and we will be happy to assist you.)

Members of the public may join via videoconference, or may also join via telephone only:

Phone number: (808) 829-4853

Conference ID: 198 567 175#

If conditions allow, one or more Commissioners may convene in person at the Commission's Conference Room, 1001 Bishop Street #960, Honolulu, HI 96813. That decision will not be made until the date of the hearing. Regardless, the entire hearing will be accessible to the public via videoconference and telephone conference.

### **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.
8. HAR, Title 21, chapter 8: conflicts of interests.
9. HAR, Title 21, chapter 9: post-employment restrictions.

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).

### **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), 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 May 6, 2020 (the day before the public hearing). 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 [https://ethics.hawaii.gov/wp-content/uploads/2020/02/AdminRules\\_Hearing.pdf](https://ethics.hawaii.gov/wp-content/uploads/2020/02/AdminRules_Hearing.pdf). An Impact Statement, giving comments and examples on some of the proposed rules, is available on the Commission’s website at [https://ethics.hawaii.gov/wp-content/uploads/2020/02/ImpactStatement\\_Hearing.pdf](https://ethics.hawaii.gov/wp-content/uploads/2020/02/ImpactStatement_Hearing.pdf). A copy of the proposed rules may also be mailed (by U.S. mail) or e-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), or facsimile (808-587-0470).

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  
2020 LEGISLATIVE SESSION

No attachments. *Please see agenda for links to measures still alive.*

SUNSHINE LAW MEETING  
AGENDA ITEM V

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 VI

AKANA V. HAWAII STATE ETHICS COMMISSION,  
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 VII

STATE OF HAWAII, ETHICS COMMISSION, BY AND THROUGH ITS  
ATTORNEY GENERAL, V. ROWENA AKANA  
CIVIL NO. 1DRC-20-0000134

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 VIII

OFFICE OF INFORMATION PRACTICES: OPINION UPHOLDING COMMISSION'S  
DENIAL OF REQUEST TO ACCESS GOVERNMENT RECORDS

Briefing by Executive Director Gluck regarding the Office of Information Practices' Memorandum Opinion No. 20-07 (U Appeal 20-37), upholding the Commission's 2019 denial of a request to access government records.

Attachment 1: OIP Memorandum Opinion No. 20-07



DAVID Y. IGE  
GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF INFORMATION PRACTICES**

NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
HONOLULU, HAWAII 96813  
Telephone: (808) 586-1400 FAX: (808) 586-1412  
E-MAIL: [oiip@hawaii.gov](mailto:oiip@hawaii.gov)  
[www.oiip.hawaii.gov](http://www.oiip.hawaii.gov)

CHERYL KAKAZU PARK  
DIRECTOR

The Office of Information Practices (OIP) is authorized to issue decisions under the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes (HRS) (the UIPA) pursuant to sections 92F-42, HRS, and chapter 2-73, Hawaii Administrative Rules (HAR). This is a memorandum decision and will not be relied upon as precedent by OIP in the issuance of its opinions or decisions but is binding upon the parties involved.

**MEMORANDUM DECISION**

**Requester:** Allison Yap  
**Agency:** Hawaii State Ethics Commission  
**Date:** March 3, 2020  
**Subject:** Complaint Records (U APPEAL 20-37)

Requester seeks a decision as to whether the Hawaii State Ethics Commission (SEC) properly denied her request, made under the UIPA, for a copy of records that pertain to a complaint (Complaint Records).

Unless otherwise indicated, this decision is based solely upon the facts presented in emails from Requester to OIP dated December 13, 2019, December 16, 2019 including email string, December 23, 2019, and January 7, 2020; an email from OIP to Requester dated December 23, 2019; a letter with enclosures from OIP to the SEC dated December 23, 2019; an email from the SEC to OIP dated December 23, 2019; an email from OIP to the SEC dated December 23, 2019; a letter from the SEC to OIP dated February 6, 2020; and records provided by the SEC for *in camera* review.

**Decision**

In accordance with its decision in OIP Opinion Letter Number F20-02, OIP finds that the SEC properly denied Requester's request for a copy of records that pertain to a complaint submitted by Requester. The State Ethics Code, chapter 84, HRS, includes a confidentiality provision that protects from disclosure records that pertain to a complaint submitted to the SEC, and the UIPA allows agencies to withhold records

that are subject to a confidentiality statute, whether they are government records subject to Part II of the UIPA or personal records subject to Part III of the UIPA. HRS § 84-31(b) (2012); HRS §§ 92F-13(4), -22(5) (2012).

### **Statement of Reasons for Opinion**

In an email dated December 10, 2019, Requester made a request for “a copy of public records that pertain to the State Ethics complaint”<sup>1</sup> she had submitted. The SEC’s Executive Director and General Counsel denied the request in an email to Requester dated December 16, 2019, citing sections 84-31(b) and 92F-13(4), HRS,<sup>2</sup> as justification for doing so. Subsequently, Requester appealed the denial to OIP. The records provided by SEC for OIP’s *in camera* review consist of records that pertain to Requester’s complaint.

In its response to the appeal, SEC asserted that “Requester’s appeal raises the identical issues presented in [OIP’s] Opinion Letter Number F20-02 [Opinion F20-02]” and asked that “OIP again conclude that the [SEC] properly denied Requester’s request.” On February 4, 2020, OIP issued Opinion F20-02, a formal opinion in which the issue was whether the SEC properly denied a requester’s request for a redacted copy of the investigation file that pertained to that requester’s complaint to the SEC. In Opinion F20-02, OIP determined that the Ethics Code includes a confidentiality provision<sup>3</sup> that protects SEC investigation files from disclosure prior to the commencement of contested case proceedings or as otherwise agreed to by the SEC and a party. OIP Op. Ltr. No. F20-02 at 3. OIP further opined that the UIPA allows an agency to withhold records that are subject to a confidentiality statute, whether they are government records subject to Part II<sup>4</sup> of the

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<sup>1</sup> In response to a request for clarification from OIP, Requester clarified that she also wanted a copy of any “personal records” maintained by SEC. The UIPA defines a “personal record,” in part, as “any item, collection or grouping of information about an individual that is maintained by an agency.” HRS § 92F-3 (2012).

<sup>2</sup> In its appeal response the SEC also cited other exceptions to disclosure under Part II of the UIPA as further justification for its denial of access. Because sections 92F-13(4) and 92F-22(5), HRS, allow the SEC to withhold access, OIP need not decide whether the additional exceptions to disclosure also apply.

<sup>3</sup> Section 84-31(b), HRS, of the Ethics Code provides that “[t]he commission shall investigate all charges on a confidential basis, having available all the powers herein provided, and proceedings at this stage shall not be public.” HRS § 84-31(b).

<sup>4</sup> Part II of the UIPA, which governs access to general government records, states, in relevant part, that an agency is not required to disclose “[g]overnment records which, pursuant to a state . . . law . . . are protected from disclosure.” HRS § 92F-13(4).

UIPA or personal records subject to Part III<sup>5</sup> of the UIPA.<sup>6</sup> Id. Based on the foregoing, OIP concluded in Opinion F20-02 that the SEC properly denied access to a redacted copy of the investigation file. Id. at 2.

Here, as in Opinion F20-02, a requester has made a request for records relating to a complaint submitted by requester to the SEC. Further, in the instant appeal, as in Opinion F20-02, the SEC has asserted that it has not issued a notice for a contested case hearing in any complaint initiated by Requester, nor has the SEC issued a public document resolving any investigation stemming from any complaint initiated by Requester. Consequently, in accordance with the reasoning and conclusions set forth in Opinion F20-02, OIP finds that the SEC properly denied Requester's request for records that pertain to a complaint initiated by Requester, under Parts II and III of the UIPA.

### **Right to Bring Suit**

Requester is entitled to file a lawsuit for access under Part II of the UIPA within two years of a denial of access to government records. HRS §§ 92F-15, 92F-42(1) (2012). An action for access to records is heard on an expedited basis, and, if Requester is the prevailing party, Requester is entitled to recover reasonable attorney's fees and costs. HRS § 92F-15(d), (f) (2012).

Requester is entitled to seek assistance directly from the courts under Part III of the UIPA after Requester has exhausted the administrative remedies set forth in section 92F-23, HRS. HRS §§ 92F-27(a), 92F-42(1) (2012). An action against the agency denying access must be brought within two years of the denial of access (or where applicable, receipt of a final OIP ruling). HRS 92F-27(f).

If the court finds that the agency knowingly or intentionally violated a provision under Part III of the UIPA, the agency will be liable for: (1) actual damages (but in no case less than \$1,000); and (2) costs in bringing the action and reasonable attorney's fees. HRS § 92F-27(d). The court may also assess attorney's fees and costs against the agency when a requester substantially prevails, or it may assess fees and costs against the requester when it finds the charges brought against the agency were frivolous. HRS § 92F-27(e). If Requester decides to file a lawsuit,

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<sup>5</sup> Part III of the UIPA, which governs access to personal records, states that an agency is not required to grant an individual access to personal records when they are "[r]equired to be withheld from the individual to whom it pertains by statute[.]" HRS § 92F-22(5).

<sup>6</sup> In Opinion F20-02, OIP found that it need not determine which specific portions of the investigation file are subject to Part II and which are subject to Part III, because the confidentiality statute at section 84-31(b), HRS, "controls either way" and requires the SEC to withhold access to the entire investigation file. OIP Op. Ltr. No. F20-02 at 4.



Requester must notify OIP in writing at the time the action is filed. HRS § 92F-15.3 (2012).

For any lawsuit for access filed under the UIPA, Requester must notify OIP in writing at the time the action is filed. HRS § 92F-15.3 (2012).

This decision constitutes an appealable decision under section 92F-43, HRS. An agency may appeal an OIP decision by filing a complaint within thirty days of the date of an OIP decision in accordance with section 92F-43, HRS. The agency shall give notice of the complaint to OIP and the person who requested the decision. HRS § 92F-43(b) (2012). OIP and the person who requested the decision are not required to participate, but may intervene in the proceeding. Id. The court's review is limited to the record that was before OIP unless the court finds that extraordinary circumstances justify discovery and admission of additional evidence. HRS § 92F-43(c). The court shall uphold an OIP decision unless it concludes the decision was palpably erroneous. Id.

A party to this appeal may request reconsideration of this decision within ten business days in accordance with section 2-73-19, HAR. This rule does not allow for extensions of time to file a reconsideration with OIP.

This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

## OFFICE OF INFORMATION PRACTICES



Mimi Horiuchi  
Staff Attorney

APPROVED:



Cheryl Kakazu Park  
Director