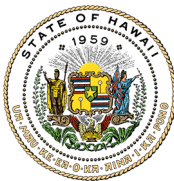


SUNSHINE LAW MEETING



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: September 17, 2020

Time: 9:00 a.m.

Location: Via Videoconference or Phone:

Videoconference: [Join Zoom Meeting](#)

Phone: +1 (346) 248-7799 or +1 (408) 638-0968

Meeting ID: 978 4056 2651

Password: 865290

Due to COVID-19, 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.

In person:

Hawai'i State Ethics Commission Conference Room
American Savings Bank Tower
1001 Bishop Street, Suite 960
Honolulu, Hawai'i 96813

***Note: Commission Chair Tschumy intends to be present in the Commission conference room; other Commissioners and staff will appear remotely, via videoconference, and members of the public are encouraged to attend via videoconference or telephone. Staff will make every effort to accommodate members of the public who wish to testify in person at the Commission's Conference Room, but staff will limit the number of people allowed in the Conference Room at any given time. If you wish to attend in person, you must wear a mask and must remain more than six feet away from every other person in attendance.*

A G E N D A

CALL TO ORDER

- I. Consideration and Approval of the Minutes of the August 20, 2020 Meeting
- II. Consideration and Approval of the Minutes of the August 20, 2020 Executive Session Meeting

The Hawai'i State Ethics Commission may convene an executive session pursuant to Hawai'i Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee, and/or pursuant to 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.

- III. 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 – August 2020

Attachment 4: 2020 Guidance and Assignment Statistics / Website Traffic

3. Ethics Survey of State Employees

4. Miscellaneous Office Projects / Updates

- IV. Update: 2020 Legislative Session

1. [H.B. 2124](#): Prohibits certain former State employees from representing certain interests in a legislative or administrative action before the State for twelve months after the termination of their employment. Effective 1/1/2021.
 2. [H.B. 2125](#): 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.

3. [H.B. 1673](#): Clarifies that the Hawaii State Ethics Commission and 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.
4. [H.B. 361](#): Beginning 11/1/2022, prohibits the governor and each county mayor, while holding those offices, to maintain any other employment, maintain a controlling interest in a business, or receive any emolument, beginning on the sixty-first calendar day after their election or appointment to office. Effective 7/1/2020.

V. Update: Proposed Administrative Rules

VI. Evaluation of Executive Director Daniel Gluck

The Hawai'i State Ethics Commission may convene an executive session pursuant to Hawai'i Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee, and/or pursuant to 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. *Akana v. Hawaii State Ethics Commission and Daniel Gluck*, Civil No. 18-1-1019-06 (JHA); *Akana v. Hawaii State Ethics Commission*, Civil No. 19-1-0379-03 (JHA); *State of Hawaii, Ethics Commission v. Rowena Akana*, Civil No. 20-1-0453 (BIA)

Discussion of case status.

The Commission may convene an executive session pursuant to Hawai'i 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. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, please contact the Hawai'i State Ethics Commission by telephone at (808) 587-0460, by facsimile at (808) 587-0470 (fax), or via email at 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
AUGUST 20, 2020 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the August 20, 2020
 Hawaii State Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: August 20, 2020

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference, with the Commission's Chair present in the State Ethics Commission's conference room, American Savings Bank Tower, 1001 Bishop Street, Suite 960, Honolulu, Hawaii 96813

Present: State Ethics Commission Members

Ruth D. Tschumy, Chair (present in conference room)
Melinda S. Wood, Vice Chair (via video conference)
Reynard D. Graulty, Commissioner (via video conference)
Wesley F. Fong, Commissioner (via video conference)

State Ethics Commission Staff

Daniel M. Gluck, Executive Director (via video conference)
Susan D. Yoza, Associate Director (via video conference)
Nancy C. Neuffer, Staff Attorney (via audio conference)
Virginia M. Chock, Staff Attorney (via video conference)
Bonita Y.M. Chang, Staff Attorney (via video conference)
Kee M. Campbell, Staff Attorney (via video conference)
Patrick Lui, Computer Specialist (via audio conference)

Note: There was a vacancy on the Commission at the time of this meeting.

CALL TO ORDER

Chair Tschumy called the meeting to order at 9:01 a.m. and confirmed that all Commissioners and staff were present.

1 **Agenda Item No. I: Consideration and Approval of the Minutes of the**
2 **July 16, 2020 Meeting**

3
4 Commissioner Fong made and Commissioner Gaulty seconded a motion to
5 approve the minutes of the July 16, 2020 Sunshine Meeting. The motion carried
6 unanimously (Tschumy, Wood, Gaulty, and Fong voting).
7

8
9 **Agenda Item No. II: Executive Director's Report**

10
11 *Education / Training Report*

12
13 There was no discussion on this item.
14

15 *Guidance and Assignment Statistics – July 2020*

16
17 Executive Director Gluck reported that staff is working through a number of
18 complaints, including an uptick of complaints related to elections.
19

20 *Ethics Survey*

21
22 Executive Director Gluck reported that staff is making great progress on the
23 ethics survey in partnership with the University of Hawai'i ("UH"). Executive Director
24 Gluck said that a draft of the survey was previously circulated to the Commission and
25 requested any feedback the Commissioners may have at this time.
26

27 Commissioner Gaulty said that he agreed the survey seems academic in nature.
28 Executive Director Gluck stated that while staff and UH jointly contributed to developing
29 the questions, it is understandable that some of the questions will be more suited for
30 academic purposes as the entire project relies on UH's software and survey expertise in
31 order to move forward.
32

33 Commissioner Gaulty asked for details regarding the recipients of the survey.
34 Executive Director Gluck stated that staff plans to send the survey to all employees in
35 smaller departments (such as the Department of Agriculture, the Department of
36 Hawaiian Home Lands, and the Department of Commerce and Consumer Affairs), and
37 a smaller percentage of employees in larger departments (such as the Department of
38 Education and UH). It is estimated that 10% of all state employees will receive the
39 survey.
40

41 Commissioner Fong asked for details on how the information gathered from the
42 survey will be used to benefit the work of the Ethics Commission. Executive Director
43 Gluck stated that a survey like this has never been done before, and that staff
44 anticipates gaining an awareness of the ethics areas that need to be further addressed
45 through enforcement or education, such as (1) the general level of ethics knowledge
46 amongst the state workforce, (2) certain ethics infractions that may be of concern, such

1 as the receiving of gifts or improper financial relationships between supervisors and
2 subordinates, and (3) any particular state divisions experiencing large or long-standing
3 ethics problems.

4 *Miscellaneous Office Projects / Updates*

6
7 Executive Director Gluck reported that the new website went live as of August
8 19, 2020, and thanked Computer Specialist Lui for his work. Executive Director Gluck
9 said that the primary goal of the new website is to make it easier for members of the
10 public to access the various services offered by the Commission.

11
12 Executive Director Gluck said that he has contacted the Disability and
13 Communications Access Board regarding the accessibility of the website to those with
14 visual impairments, and is awaiting a response. In the meantime, internal tests have
15 found no major problems with the website's text reader capability.

16
17 Executive Director Gluck also said that in order to ease language access issues,
18 new links are included on the homepage through which an individual may request an
19 interpreter.

20
21 Executive Director reported that due to COVID-19, various emergency leave
22 options are now available to staff, and staff have been using those opportunities as
23 appropriate.

24 25 **Agenda Item No. III: Evaluation of Executive Director Daniel Gluck**

26 27 **RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE 28 SESSION**

29
30 At 9:19 a.m., Commissioner Gaulty made and Commissioner Fong seconded a
31 motion to convene an Executive Session pursuant to Hawai'i Revised Statutes section
32 92-5(a)(2) to discuss matters relating to the evaluation of an employee. The motion
33 carried unanimously (Tschumy, Wood, Gaulty, and Fong voting).
34

35
36 The Commission excused all staff and met in Executive Session.

37 38 **ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW 39 MEETING**

40
41 At 9:38 a.m., Commissioner Gaulty made and Commissioner Fong seconded a
42 motion to adjourn the Executive Session and return to the Sunshine Law meeting. The
43 motion carried unanimously (Tschumy, Wood, Gaulty, and Fong voting).
44
45
46

1 The Commission adjourned the Executive Session at 9:38 a.m. and returned to
2 the Sunshine Law meeting. Staff also returned to the Sunshine Law meeting.
3
4

5 **Agenda Item No. IV: Akana v. Hawaii State Ethics Commission and Daniel Gluck,**
6 **Civil No. 18-1-1019-06 (JHA); Akana v. Hawaii State Ethics Commission, Civil No.**
7 **19-1-0379-03 (JHA)**
8

9 Executive Director Gluck reported that Rowena Akana appealed the
10 Commission's ruling to the Circuit Court, and the Circuit Court ruled fully in favor of the
11 Commission. Ms. Akana subsequently appealed to the Intermediate Court of Appeals
12 ("ICA"), and after the briefs were lodged, applied for a transfer of the case from the ICA
13 to the Supreme Court. The application for transfer was rejected; the case will remain
14 with the ICA.
15

16 Executive Director Gluck said that after the ICA issues its ruling, whichever
17 parties loses the appeal will have the opportunity to apply to the Supreme Court for a
18 writ of certiorari.
19

20 Commissioner Gaulty asked which attorneys are assisting the Commission in
21 the appeal. Executive Director Gluck said that the lead attorney is Kaliko Fernandes
22 from the Attorney General's Appellate Division, Solicitor General's Office, and Deputy
23 Attorney General Robyn Chun.
24

25 Executive Director Gluck said that he anticipates the case will remain with the
26 ICA for at least eight to twelve months. Then, if necessary, there will be a period of
27 thirty to forty days for an application for a writ of certiorari to be filed, an additional thirty
28 to forty days to file a response to the application, additional time for a reply brief, and
29 then thirty days for the Court to decide whether to accept the case.
30

31 Commissioner Gaulty asked whether Ms. Akana is current on her fine payments
32 to the Commission. Executive Director Gluck said that Ms. Akana is delinquent on her
33 fine payments and that the matter has been referred to the Attorney General's office for
34 collection. Executive Director Gluck said that filings for that case were submitted in
35 February 2020, and that he would provide a further status update at the next
36 Commission meeting (September 17, 2020).
37

1 **ADJOURNMENT OF SUNSHINE LAW MEETING**

2
3 At approximately 9:50 a.m., Commissioner Gaulty made and Commissioner
4 Fong seconded a motion to adjourn the Sunshine Law Meeting. The motion carried
5 unanimously (Tschumy, Wood, Gaulty, and Fong voting).
6

7 The meeting was adjourned at 9:50 a.m.
8

9
10 Minutes approved on: _____

SUNSHINE LAW MEETING
AGENDA ITEM II

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE
AUGUST 20, 2020 EXECUTIVE SESSION MEETING

Attachment 1: Executive Session Minutes of the August 20, 2020 Hawai'i State
Ethics Commission Meeting (for Commissioners only)

SUNSHINE LAW MEETING
AGENDA ITEM III

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

SUNSHINE MEETING
AGENDA ITEM III

EXECUTIVE DIRECTOR'S REPORT
September 17, 2020

1. Education / Training Report

All in-person trainings have been postponed indefinitely due to COVID-19.

Attachment 2: 2020 Training Attendance / Schedule

Attachment 3: Online Training Completions by Department

2. Guidance and Assignment Statistics – August 2020

Attachment 4: 2020 Guidance and Assignment Statistics / Website Traffic

3. Ethics Survey of State Employees

4. Miscellaneous Office Projects/Updates

- a. Website enhancements

HAWAII STATE ETHICS COMMISSION 2020 EDUCATION PROGRAM (Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NUMBER OF PARTICIPANTS
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	General Ethics Training, Hilo (CANCELLED)	
3/20/2020	General Ethics Training, DOT, Harbors (2 sessions) (CANCELLED)	
3/24/2020	General Ethics Training, Honolulu (CANCELLED)	
3/25/2020	General Ethics Training, Lihue (CANCELLED)	
4/6/2020	General Ethics Training, Kona (CANCELLED)	
4/21/2020	General Ethics Training, DLNR, DOFAW (CANCELLED)	
4/28/2020	General Ethics Training, DOH Executive Committee, Honolulu (CANCELLED)	
5/8/2020	General Ethics Training, Kahului (CANCELLED)	
5/12/2020	General Ethics Training, Pearl City (CANCELLED)	

9/15/2020	General Ethics Training, Youth Commission	17
9/xx/2020	General Ethics Training, Commission on the Status of Women	
10/20/2020	General Ethics Training, Honolulu (CANCELLED)	
xx/xx/2020	General Ethics Training, DOT, Harbors (supervisors)	
TOTAL	23 Presentations	566 participants

Department/Agency	# of Completions
Department of Human Services (DHS)	187
Department of Health (DOH)	184
Department of Education (DOE)	154
Department of Transportation (DOT)	153
Department of Land and Natural Resources (DLNR)	63
Department of Accounting and General Services (DAGS)	60
University of Hawaii-Manoa (UOHM)	55
Department of Business, Economic Development and Tourism (DBEDT)	51
Department of the Attorney General (ATG)	48
University of Hawaii-West Oahu (UOHW)	45
Department of Defense (DOD)	45
Department of Labor and Industrial Relations (DLIR)	40
Department of Public Safety (DPS)	39
Hawaii Health Systems Corporation (HHSC)	39
Department of Agriculture (DOA)	34
Judiciary (JUD)	34
Department of Commerce and Consumer Affairs (DCCA)	33
Other (Please fill-in "Other Department/Agency")	31
University of Hawaii-System (UOH)	20
University of Hawaii-Community Colleges (UOHC)	10
Office of the Governor (GOV)	7
Research Corporation of the University of Hawaii (RCUH)	5
Department of Human Resources Development (DHRD)	4
Office of the Lieutenant Governor (LTG)	4
Public Charter School (SPCSC)	4
Office of the Auditor (AUD)	3
Senate (SEN)	1
Department of Taxation (TAX)	1
Hawaii State Ethics Commission (HSEC)	1
Hawaii State Public Library System (HSPLS)	1
Department of Budget and Finance (B&F)	1

Total Certificate of Completions Issued

1357

As of September 9, 2020

2020

Jan Feb Mar Apr May June July Aug Sept Oct Nov Dec Year to date

Training statistics

# of In-Person Trainings	4	6	0	0	0	0	0	0						10
# of People Trained In Person	281	268	0	0	0	0	0	0						549
# of On-Line Training	403	182	190	76	49	33	153	208	63					1357

Attorney of the Day

148	96	79	61	72	51	86	57							650
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New assignments

Advisory Opinion	0	0	0	0	0	0	0	0						0
Complaint	7	7	8	8	8	5	17	12						72
Gifts/Invitations/Travel	16	12	3	1	0	0	0	0						32
Guidance	2	2	0	2	0	1	3	3						13
Judicial Selection Comm'n	1	5	3	2	2	1	2	3						19
Training Request	0	0	0	0	0	0	0	0						0
Record Request	1	1	2	0	0	3	0	0						7
Project/Other	3	3	3	1	1	1	2	3						17
Total	30	30	19	14	11	11	24	21	0	0	0	0		160

Closed Assignments

Advisory Opinion	0	1	1	0	0	0	0	0						2
Complaint	8	3	9	11	10	8	10	19						78
Gifts/Invitations/Travel	22	5	11	5	1	1	3	0						48
Guidance	4	1	5	2	1	3	21	2						39
Judicial Selection Comm'n	1	4	2	0	6	1	2	2						18
Training Request	1	0	0	0	0	0	0	0						1
Record Request	3	2	1	0	0	1	0	1						8
Project/Other	3	1	2	5	1	1	1	4						18
Total	42	17	31	23	19	15	37	28	0	0	0	0		212

Dataset Views

Disclosures	97	91	64	58	84	76	76	23						569
Lobbyist Registrations	364	276	221	113	127	119	131	166						1,517
Organization Expenditures	67	51	27	11	12	21	39	8						236
Lobbyist Expenditures	53	44	25	17	24	15	26	12						216
Ethics Advice	108	112	66	39	59	54	56	28						522
Total	689	574	403	238	306	285	328	237	0	0	0	0		3,060

SUNSHINE LAW MEETING
AGENDA ITEM IV

UPDATE: 2020 LEGISLATIVE SESSION

Please see agenda for links to proposed bills.

SUNSHINE LAW MEETING
AGENDA ITEM V

UPDATE: PROPOSED ADMINISTRATIVE RULES

No attachments.

SUNSHINE LAW MEETING
AGENDA ITEM VI

EVALUATION OF EXECUTIVE DIRECTOR DANIEL GLUCK

The Hawai'i State Ethics Commission may convene an executive session pursuant to Hawai'i Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee, and/or pursuant to 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

AKANA V. HAWAII STATE ETHICS COMMISSION AND DANIEL GLUCK,
CIVIL NO. 18-1-1019-06 (JHA);
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.