

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: January 21, 2021

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference, with the Commission's Chair present in the Hawaii 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. Grauly, 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 video 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)

Guests

Sandy Ma, Executive Director, Common Cause Hawaii

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 9:15 a.m. and confirmed that all Commissioners and staff were present. Sandy Ma, Executive Director of Common Cause Hawaii, was in attendance as well.

Agenda Item No. I: Consideration and Approval of the Minutes of the December 17, 2020 Meeting

Commissioner Graulty made and Commissioner Fong seconded a motion to approve the minutes of the December 17, 2020 Sunshine Meeting. The motion carried unanimously (Tschumy, Wood, Graulty, and Fong voting).

Agenda Item No. II: Election of Officers for 2021

Chair Tschumy said that the Commission elected its current Chair and Vice Chair in July 2020, and that her term on the Commission will end in June 2021. Chair Tschumy said that the Commissioners could therefore elect new officers at this meeting or defer the election until June 2021 and keep the current officers in place until that time.

Commissioner Fong made and Commissioner Graulty seconded a motion to defer the election of officers to June 2021. The motion carried unanimously (Tschumy, Wood, Graulty, and Fong voting).

Agenda Item No. III: Executive Director's Report

Education / Training Report

Executive Director Gluck said that staff has been very busy conducting Zoom trainings and will conduct nine trainings in January 2021 alone, including two sessions tailored for lobbyists. An estimated 450 to 500 people received training in December 2020. Executive Director Gluck said that staff have experienced a few technical issues with Zoom, but that overall the platform and the coordination of the online sessions is going well.

Guidance and Assignment Statistics – December 2020

Executive Director Gluck presented the statistics to the Commission. There was no further discussion.

Financial Report for FY 2020-2021 (Oct. 1, 2020 - Dec. 31, 2020)

Executive Director Gluck said that the office remains solidly under budget as no staff salary increases have been implemented since July 2018. Executive Director Gluck said he would go into further detail on the office's financial outlook in Agenda Item IV.

Ethics Survey of State Employees

Executive Director Gluck said that he and Secretary Lynn Santiago met with two of the researchers from the University of Hawai'i to review the ethics survey data. Executive Director Gluck said he hoped to provide the Commission a summary of the data at next month's meeting.

Executive Director Gluck said approximately 2,300 employees responded to the ethics survey. Only a small percentage of the responses suggest ethics issues for the Commission to investigate.

Executive Director Gluck also said that there appears to be a correlation between the awareness/understanding of the ethics law and the willingness to report violations. This correlation suggests that staff's continued outreach and education efforts lead to increased reporting. Further exploration is being done to understand what other obstacles or deterrents to reporting may exist.

Upgrades to E-filing System

Executive Director Gluck reported that staff had launched several enhancements to the Commission's e-filing system. Staff Attorney Chang stated that, in the lobbying e-filing system, new enhancements include the ability for lobbyists to terminate their registrations directly through the e-filing system; previously, a lobbyist would need to contact the Commission's office in order to do this. For the financial disclosures e-filing system, staff implemented enhancements to ease the filing of forms and automate the notification process. This, in turn, will decrease the amount of staff resources needed to notify filers of their respective filing requirements.

Executive Director Gluck said that staff are currently receiving financial disclosures from legislators, the deadline for which is February 1, 2021. Staff will then start the filing process for the majority of filers who need to report by May 31, 2021.

Sandy Ma from Common Cause Hawai'i asked if the upgraded e-filing system will include access to data filed in the previous e-filing system. Staff Attorney Chang said that any reports that were filed using PDFs and/or the old paper system would be posted on the Commission's public data website. Staff Attorney Chang also said that if there are specific data sets that Ms. Ma would like, staff should be able to gather the information for her. Executive Director Gluck added that lobbying reports and disclosures are destroyed after a certain number of years per the retention period outlined in the law.

There was a brief discussion regarding the updated lobbying administrative rules that went into effect in November 2020. Commissioner Fong asked if staff has received any feedback regarding the new rules pertaining to gifts from lobbyists to legislators. Executive Director Gluck said that legislators would like to regain the ability to receive gifts under \$25, and that there has been discussion by the legislature of (1) introducing a bill to overturn the rules or (2) someone petitioning the Commission to change the

rules. Executive Director Gluck said that he remains open to collaborating with the Legislature on this matter further.

Executive Director Gluck also clarified that the previous rules did not allow legislators to accept anything under \$25; acceptance largely depended upon the source of the gift, and the relationship between the giver and the receiver. In addition, while the current rules specifically prohibit gifts from lobbyists and their clients to legislators, gifts from constituents or other government officials may likely be allowed if those persons are not trying to influence the legislature to take a particular action. Gifts of lei to legislators or others are also generally acceptable when tied to a particular celebration or event.

Commissioner Grauly welcomed the idea of the administrative rules being petitioned and said that such a process should be encouraged to promote further dialogue and collaboration by the Legislature and members of the public.

Miscellaneous Office Projects / Updates

Executive Director Gluck said that he has not received any update from the Judicial Council regarding the appointment of the new Commissioner. Executive Director Gluck said he offered to provide staff assistance to the Judicial Council for its meetings and/or logistics.

Executive Director Gluck said that he instructed staff to work remotely on Tuesday, January 19, 2021 and Wednesday, January 20, 2021, out of an abundance of caution that there may be violence or disruption associated with the inauguration of the new President of the United States. Executive Director Gluck said that the physical office and phone lines are otherwise open and available during state business hours.

Agenda Item No. IV: Budget: 2021-2022

Executive Director Gluck said that he received the Legislature's draft version of the budget, House Bill 1, the evening prior. The current draft proposes a 20% reduction for the Legislature and all legislative agencies except the Office of the Auditor, for which the Legislature proposed a more than 50% cut. Executive Director Gluck said that a 20% reduction will be difficult for the office to absorb, but that the office is hoping to offset some of the cuts by prepaying rent for next year using some of the funds from this fiscal year. The office is currently under budget for the current fiscal year, due in part to staff's salary levels not increasing since 2018.

Executive Director Gluck said that reductions to staff salaries are a last resort. He said he would speak with the office's private landlord to see if a temporarily reduced rent could be negotiated given the circumstances and would update the Commission at the next month's meeting.

Commissioner Fong agreed that a priority of the office should be to retain as much staff as possible. He asked whether a potential decrease in salary would be implemented as a straight reduction across all staff, such as a 10% cut for all employees. Executive Director Gluck said that it is still unclear how cuts would be implemented, and that he needs additional time to work with the numbers as they were just received the day prior. Executive Director Gluck also said that he is still exploring other options to balance the budget, such as furloughing himself first.

Ms. Ma asked if the 20% reduction was suggested for the entire 2021-2022 legislative biennium, or if it was limited to the 2021-2022 fiscal year. Executive Director Gluck said that at this time, the Legislature is only budgeting for the 2021-2022 fiscal year.

Agenda Item No. V: 2021 Legislative Session

Executive Director Gluck said that staff will not be introducing any bills on behalf of the Commission this session. Executive Director Gluck said he anticipates that other ethics bills will be introduced, and that he will update the Commission accordingly.

Agenda Item No. VI: *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)*

Executive Director Gluck said he has no new updates for this matter at this time.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 9:35 a.m., Commissioner Gaulty made and Vice Chair Wood seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Tschumy, Wood, Gaulty, and Fong voting).

The meeting was adjourned at 9:35 a.m.

Minutes approved on: February 18, 2021