

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAI'I STATE ETHICS COMMISSION

STATE OF HAWAI'I

Date: February 16, 2022  
Time: 9:00 a.m.  
Location: Held via Zoom video and audio conference  
Present: State Ethics Commission Members

Melinda S. Wood, Chair (via video conference)  
Wesley F. Fong, Vice Chair (via video conference)  
Reynard D. Gaulty, Commissioner (via video conference)  
Harry J. McCarthy, Commissioner (via video conference)  
Beverley Tobias, Commissioner (via video conference)

State Ethics Commission Staff

Robert D. Harris, Executive Director (via video conference)  
Susan D. Yoza, Associate Director (via video conference)  
Nancy C. Neuffer, Staff Attorney (via video conference)  
Bonita Y.M. Chang, Staff Attorney (via video conference)  
Kee M. Campbell, Staff Attorney (via video conference)  
Jennifer M. Yamanuha, Staff Attorney (via video conference)  
Patrick W.C. Lui, Computer Specialist (via audio conference)  
Caroline Choi, Office Manager (via audio conference)

Sandy Ma, Common Cause Hawai'i (via video conference)

**CALL TO ORDER**

Chair Wood called the meeting to order at 9:03 a.m. and confirmed that all Commissioners and staff were present. Chair Wood announced that if the Commission's videoconference connection was lost during the meeting, the meeting would be recessed and reconvened after the connection was restored; members of the public were asked to check the Commission's website ([www.ethics.hawaii.gov](http://www.ethics.hawaii.gov)) for information about reconnecting to the meeting.

**Agenda Item No. I: Consideration and Approval of the Minutes of the January 19, 2022 Meeting**

Commissioner Tobias made and Vice Chair Fong seconded a motion to approve the minutes of the January 19, 2022 meeting. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

**Agenda Item No. II: Consideration and Approval of the Minutes of the January 19, 2022 Executive Session Meeting**

Commissioner McCarthy made and Commissioner Gaulty seconded a motion to approve the minutes of the January 19, 2022 executive session meeting. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

**Agenda Item No. III: Consideration and Approval of the Minutes of the February 3, 2022 Meeting**

Commissioner Tobias made and Vice Chair Fong seconded a motion to approve the minutes of the February 3, 2022 meeting. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

**Agenda Item No. IV: Executive Director's Report**

Executive Director Harris reviewed the training, guidance, and assignment statistics. He also announced that the Commission's part-time investigator has accepted a full-time position with another state agency. Executive Director Harris said staff will wait to see what happens with the Commission's budget proposal for a full-time investigator before filling the position. He anticipates that the position will remain vacant for a few months.

Executive Director Harris also announced that Jennifer Yamanuha has joined the staff and he introduced Ms. Yamanuha to the Commission. Ms. Yamanuha briefly spoke about herself and said that she was looking forward to working for the Commission. The Commissioners welcomed Ms. Yamanuha.

Executive Director Harris informed the Commission that in response to recent events (concerning criminal charges brought against two former legislators) the House of Representatives would be announcing the formation of a committee to recommend legislative solutions or proposals for this session and next session. Common Cause Hawai'i, the State Ethics Commission, and the Campaign Spending Commission have been asked to participate in this endeavor. Executive Director Harris said that staff was preparing recommendations to discuss at the next Commission meeting.

## **Agenda Item No. V: 2022 Legislative Session**

Executive Director Harris updated the Commission about the status of bills that staff has been tracking. Staff testified on some of the bills that had problematic language and those bills have since been amended.

Executive Director Harris discussed a bill which requires amounts to be redacted from the public financial disclosure statements of 18 volunteer boards and commissions. The House of Representatives deferred the bill. The Senate is moving the bill forward, but has engaged staff in discussions about adopting measures to address conflicts of interests issues, such as by having agencies conduct conflicts checks for every agenda. Staff testified that the Commission's position is that it supports transparency and therefore opposes the bill. The proponents of the bill stated that there are over 300 board and commission vacancies, but staff observed that only one of those vacancies is on a board that files public disclosure statements. Staff also explained that if the bill passes, the Commission will require time and money to reprogram its software for online filing.

Executive Director Harris then briefly discussed issues relating to the gifts law, including whether the Commission should change or clarify existing rules regarding gifts. He reviewed the current gifts law and the three-part test to determine whether a gift may be accepted. He said that some legislators believe that nothing is allowed under the gifts law. He also said that some legislators do not like having to call the Commission for advice because they see this as a power play by the Commission, which is not the Commission's intent.

Executive Director Harris then reviewed the Quick Guide on gifts to legislators, which staff prepared to provide more clarity about the gifts law. The Quick Guide discusses gifts that legislators can generally accept, such as a modest gift of homemade bread or cookies from a constituent.

Vice Chair Fong said that Chinese organizations sometimes invite legislators to their banquets, which are typically seven-course meals at a restaurant. He asked whether legislators may accept these invitations where the value of the meal is about \$45. Executive Director Harris explained that under the gifts law, legislators may accept if the dinner is not provided by a lobbyist or someone involved in the Legislature's official action. He said there might be an issue if the meal is very expensive. Associate Director Yoza also explained that the administrative rules allow legislators to accept invitations from nonprofit organizations to fundraising events or events to raise awareness of the organizations. She said there are limitations on the value of the non-tax deductible value of the meal, which must be less than \$75. There are also annual limitations on what can be accepted.

Executive Director Harris suggested that the \$75 limit be incorporated into the Quick Guide and asked whether the Commission would entertain a motion to issue the Quick Guide to help resolve gifts questions for legislators.

Commissioner Grauly made and Vice Chair Fong seconded a motion to issue the Quick Guide.

Sandy Ma from Common Cause Hawai'i commented that legislators can also pay for their own meals to attend these events.

Commissioner Tobias said that she would like the motion to issue the Quick Guide amended to include an explanation that legislators can also pay for their own meals.

Commissioner McCarthy made and Commissioner Tobias seconded a motion to amend the original motion by including an explanation in the Quick Guide that legislators may, in their discretion, elect to pay for their own meals. The motion passed unanimously (Wood, Fong, Grauly, McCarthy, and Tobias voting).

Commissioner Grauly re-stated his motion, seconded by Vice Chair Fong, to adopt the Quick Guide, as amended. The motion passed unanimously (Wood, Fong, Grauly, McCarthy, and Tobias voting).

Executive Director Harris informed the Commission that all members of the House of Representatives will be asked to participate in a mandatory ethics training session on March 9. He said that staff will have a chance to go through some of the questions that have been raised about gifts.

**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)***

## **RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION**

At approximately 9:53 a.m., Vice Chair Fong made and Commissioner McCarthy seconded a motion to 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. The motion carried unanimously (Wood, Fong, Grauly, McCarthy, and Tobias voting).

The Commission and staff met in executive session with Deputy Attorneys General Steve Bumanglag and Kaliko Fernandes. All members of the public were excused to the Zoom waiting room.

## **ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING**

At approximately 10:20 a.m., Commissioner Tobias made and Commissioner Gaulty seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

The Commission adjourned the Executive Session and returned to the Sunshine Law meeting at approximately 10:20 a.m. There were no members of the public in the Zoom waiting room.

## **ADJOURNMENT OF SUNSHINE LAW MEETING**

At approximately 10:21 a.m., Commissioner McCarthy made and Vice Chair Fong seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Wood, Fong, Gaulty, McCarthy, and Tobias voting).

The meeting was adjourned at 10:21 a.m.

Minutes approved on March 16, 2022.