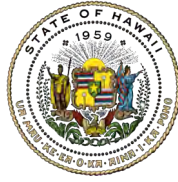


# SUNSHINE LAW MEETING



# 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: May 18, 2022

Time: 9:00 a.m.

Location: Zoom Videoconference or Phone:

Videoconference: [Join Zoom Meeting](#)

Phone: +1 (669) 900-6833 or + 1 (253) 215-8782

Meeting ID: 857 2378 4809

Passcode: 503639

Public Meeting Location:

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

Pursuant to Hawai'i Revised Statutes section 92-3.7, the State Ethics Commission will meet remotely using interactive conference technology. The public may also attend the meeting and testify by using the above Zoom meeting information. To avoid excessive noise/feedback, please mute your phone/device except to testify. If the Commission's videoconference connection is lost during the meeting, please go to the Commission's website ([www.ethics.hawaii.gov](http://www.ethics.hawaii.gov)) for more information, including reconnection information.

Members of the public may also attend the meeting in person at the public meeting location listed above, where an audiovisual connection will be provided for the public to view and participate in the meeting. It is recommended, but not required, that you wear a mask if attending the meeting in person.

Public meeting materials for this meeting are available on the Commission's website at: [www.ethics.hawaii.gov](http://www.ethics.hawaii.gov).

## A G E N D A

### CALL TO ORDER

- I. Consideration and Approval of the Minutes of the April 20, 2022 Meeting
- II. Consideration and Approval of the Minutes of the April 20, 2022 Executive Session Meeting

The Hawai'i State Ethics 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.

- III. Executive Director's Report

1. Education / Training Report

*Attachment 1: 2022 Training Attendance / Schedule*

*Attachment 2: Online Training Completions by Department*

2. Guidance and Assignment Statistics – April 2022

*Attachment 3: 2022 Guidance and Assignment Statistics / Website Traffic*

3. Miscellaneous Office Projects / Updates

- a. Proposal to move the next Commission meeting to June 16, 2022
    - b. Proposal to encourage Commission members to attend the August 17, 2022 meeting in person

- IV. 2022 Legislative Session

1. Status of Current Bills:

- a. Budget ([HB 2500 HD1 \(Act 001\)](#) & [SB 2794 SD1 HD1 CD1](#))
    - b. Mandatory ethics training ([HB 1475 HD1 SD1 CD1](#))

2. HR 9, Establishing a Commission to Improve Standards of Conduct

*Attachment 1: Draft Presentation Titled Commission on Improving Standards of Conduct – Ethics Discussion*

- V. *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 Hawai'i State Ethics Commission may convene an executive session pursuant to Hawai'i Revised Statutes section 92-5(a)(4) to consult with the Commission's attorneys and/or the Department of the Attorney General on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

- VI. Adjournment

### Public Testimony

Anyone wishing to testify may do so during the meeting or may submit written testimony in advance of the meeting by email ([ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org)), facsimile (fax) (808-587-0470), or U.S. postal mail (State Ethics Commission, 1001 Bishop Street, American Savngs Bank Tower, Suite 970, Honolulu, Hawai'i 96813). Public testimony must be related to an item that is on the agenda and the testifier must identify the agenda item to be addressed by the testimony. Pursuant to Hawai'i Revised Statutes section 92-3 and Hawai'i Administrative Rules section 21-1-6(c), the Commission may place reasonable time limits for oral testimony to ensure the reasonable and orderly administration of oral testimony during the meeting.

### Auxiliary Aid or Accomodation Due to a Disability

If you require an auxiliary aid or accommodation due to a disability, please contact the State Ethics Commission at (808) 587-0460 or email the Commission at [ethics@hawaiiethics.org](mailto:ethics@hawaiiethics.org) as soon as possible, preferably at least 48 hours prior to the meeting. 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.

SUNSHINE LAW MEETING  
AGENDA ITEM I

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE  
APRIL 20, 2022 MEETING

Attachment 1:       Sunshine Law Meeting Minutes of the April 20, 2022  
                          Hawai'i State Ethics Commission Meeting

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: April 20, 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 (in person)  
Reynard D. Grauly, Commissioner (via video conference)  
Harry J. McCarthy, 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)  
William Aana, Intern (via video conference)

Excused: Beverley Tobias, Commissioner

**CALL TO ORDER**

Chair Wood called the meeting to order at 9:01 a.m. Chair Wood asked each Commissioner, if they were not in a public meeting location, to state whom, if anyone, was present at their location with them. Vice Chair Fong was present at the public meeting location (Hawaii State Ethics Commission's conference room). Chair Wood and Commissioner McCarthy attended via videoconference and were alone.

Chair Wood announced that if the Commission's video conference 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. Chair Wood also announced that if the meeting was continued to a later date or terminated, information about this would be posted on the Commission's website.

1  
2 Sandy Ma of Common Cause Hawai'i introduced herself via videoconference.  
3 She confirmed she was alone at her location.  
4

5  
6 **Agenda Item No. I: Consideration and Approval of the Minutes of the March 16,**  
7 **2022 Meeting:**  
8

9 Commissioner McCarthy made a motion to approve the minutes of the March 16,  
10 2022 meeting. Vice Chair Fong noted he was not present at the past meeting and  
11 recused himself from the matter. Without another Commissioner to second the motion,  
12 the matter was deferred until later in the agenda.  
13

14  
15 **Agenda Item No. II: Consideration and Approval of the Minutes of the March 16,**  
16 **2022 Executive Meeting:**  
17

18 Deferred until later in the meeting.  
19

20  
21 **Agenda Item No. III: Executive Director's Report:**  
22

23 Executive Director Harris, as an administrative note, suggested considering  
24 holding an in-person meeting in July or shortly thereafter as 1 or 2 new Commissioners  
25 will be joining the Commission and it would provide a good opportunity to train those  
26 members and allow the full Commission to meet each other.  
27

28 At 9:08 a.m., Commissioner Graulty joined the meeting.  
29

30 Executive Director Harris referred to the materials for the Education and Training  
31 Report; Guidance and Assignment Statistics for March 2022. He noted live trainings had  
32 been held for the Department of Commerce and Consumer Affairs Professional  
33 Licensing Board and the University of Hawai'i Law School, and both of these trainings  
34 had a number of specific questions. The specificity of those questions highlighted the  
35 importance of live trainings versus pre-recorded or self-directed training sessions. In  
36 that vein, Executive Director Harris noted that the staff was looking to schedule and  
37 advertise trainings throughout the year to consolidate the number of trainings into larger  
38 training groups.  
39

40 Vice Chair Fong asked about the general types of questions that were asked at  
41 the training sessions for DCCA and UH Law School, and whether the Commission  
42 needs to consider providing more guidance. Executive Director Harris gave an example  
43 that University professors were required under their contract to engage in outside  
44 activities, and there were several questions about the use of state property and  
45 resources for outside employment or support of nonprofits. All participant questions  
46 were answered. However, Executive Director Harris observed there may be an  
47 opportunity to provide more clarity if the administrative rules are updated.

1  
2 Executive Director Harris also referenced the Financial Report for the Third  
3 Quarter of FY 2021-2022 and expected that normal expenditures into the fourth quarter  
4 should keep the Commission within budget.

5  
6 Sandy Ma of Common Cause Hawai'i noted the published statistics around  
7 department trainings, and asked whether all the required participants had undergone  
8 training. Executive Director Harris noted most state employees were not required to  
9 undergo ethics training, which was the rationale for the Commission's mandatory ethics  
10 training bill. Most required training participants were meeting their obligation.

11  
12  
13 **Agenda Item No. IV: 2022 Legislative Session:**

14  
15 Executive Director Harris noted the Commission's budget (HB 2500) was passed  
16 and signed into law in Act 1. Also budget related, HB 2355, which made payments into  
17 employee health benefit funds, was deferred. But Executive Director Harris anticipated  
18 that the proposed funding would be placed in the general budget.

19  
20 Executive Director Harris noted that the Commission's proposed mandatory  
21 training bill (HB 1475) was referred to conference committee to resolve differences  
22 between the House and Senate. Vice Chair Fong asked if there was any pushback to  
23 this bill. Executive Director Harris replied that there hadn't been any obstacles to date,  
24 but noted that Common Cause Hawai'i had asked for more aggressive language. Sandy  
25 Ma noted that Common Cause supported the bill, but they wanted the training to occur  
26 every year with greater consequences for failure to participate.

27  
28 Executive Director Harris noted that the protocol gifts reporting bill (HB 2069 HD1  
29 SD1) had been recommitted and would not pass this year. Similarly, the bill (SB2138  
30 SD1) defining interns as state employees had not been scheduled for hearing and was  
31 deferred for the year.

32  
33 Executive Director Harris said the Commission on Improving Standards of  
34 Conduct was about to release an interim report focused on bills improving good  
35 governance standards. This interim report was limited to looking at bills that had already  
36 been introduced before the Legislature. Another report will be filed in December 2022,  
37 which would likely have a broader scope and the ability to suggest a greater swath of  
38 ideas to consider. Executive Director Harris noted he and the other staff would likely  
39 bring ethics bill proposals at the next Commission meeting (May 18, 2022) for the  
40 Commission's input. The Standards Commission was meeting next on June 1, 2022,  
41 and input from the Ethics Commission was necessary.

42  
43 Commissioner McCarthy asked whether the individual members of the Standards  
44 Commission would help pass any recommended ideas proposed in December.  
45 Executive Director Harris noted there were some great members on the Standards  
46 Commission, and he was confident the final report would be valuable, and the additional  
47 attention and focus might help push ideas along.



1  
2 Vice Chair Fong asked why SB2138 SD1, defining interns as state employees,  
3 was deferred. Executive Director Harris was unable to address why the bill had not  
4 been scheduled for hearing, but indicated that the Ethics Commission had already  
5 determined interns where state employees under the state ethics code. Statutorily  
6 enshrining this interpretation would have been helpful, but this was not a critical bill.  
7

8  
9 **Agenda Item No. I: Consideration and Approval of the Minutes of the**  
10 **March 16, 2022 Meeting:**

11  
12 The Commission returned to this agenda item. Commissioner Graulty confirmed  
13 he was alone and participating remotely.  
14

15 Commissioner Graulty made and Commissioner McCarthy seconded a motion to  
16 approve the minutes of the March 16, 2022 meeting. The motion carried  
17 (Commissioners Wood, Graulty, and McCarthy voting, Commissioner Fong recused).  
18

19  
20 **Agenda Item No. II: Consideration and Approval of the Minutes of the March 16,**  
21 **2022 Executive Session Meeting**

22  
23 The Commission returned to this agenda item. Commissioner McCarthy made  
24 and Commissioner Graulty seconded a motion to approve the minutes of the March 16,  
25 2022 executive session meeting. Executive Director Harris observed that Chair Wood  
26 had observed on paragraph 7 that the word “beyond” should be “behind.” Commissioner  
27 McCarthy made a friendly amendment to amend the minutes accordingly.  
28 Commissioner Graulty seconded. The amended motion carried (Commissioners Wood,  
29 Graulty, and McCarthy voting, with Commissioner Fong recused).  
30

31  
32 **Agenda Item No. V: Akana v. Hawaii State Ethics Commission and Daniel Gluck,**  
33 **Civil No. 18-1-1019-06 (JHA); Akana v. Hawaii State Ethics Commission, Civil No.**  
34 **19-1-0379-03 (JHA); State of Hawaii, Ethics Commission v. Rowena Akana, Civil**  
35 **No. 20-1-0453 (BIA):**

36  
37  
38 **RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE**  
39 **SESSION**

40  
41 At approximately 9:34 a.m., Commissioner Graulty made and Commissioner  
42 Fong seconded a motion to recess the public meeting and convene an executive  
43 session pursuant to Hawai'i Revised Statutes section 92-5(a)(4) to consult with the  
44 Commission's attorneys and/or the Department of the Attorney General on  
45 questions and issues pertaining to the Commission's powers, duties, privileges,  
46 immunities, and liabilities. The motion carried unanimously (Wood, Fong, Graulty, and  
47 McCarthy voting).

1  
2 All members of the public were excused to the Zoom waiting room. The  
3 Commission and staff met in executive session.  
4

5  
6 **ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW**  
7 **MEETING**  
8

9 At approximately 9:43 a.m., Commissioner Grauly made and Commissioner  
10 Fong seconded a motion to adjourn the Executive Session and return to the Sunshine  
11 Law meeting. The motion carried unanimously (Wood, Fong, Grauly, and McCarthy  
12 voting).  
13

14 The Commission adjourned the Executive Session and returned to the Sunshine  
15 Law meeting at approximately 9:43 a.m. There were no members of the public in the  
16 Zoom waiting room.  
17

18 Commissioner Grauly asked about the status of the artwork at the Hawai'i State  
19 Ethics Commission office. A group of two staff members and Commissioner Fong were  
20 meeting with the State Foundation on Culture and the Arts to select new artwork.  
21 Commissioner Grauly suggested trying to select artwork from local artists.  
22

23  
24 **Agenda Item 6: Adjournment of Sunshine Law Meeting:**  
25

26 At approximately 9:49 a.m., Commissioner McCarthy made and Commissioner  
27 Fong seconded a motion to adjourn the Sunshine Law Meeting. The motion carried  
28 unanimously (Wood, Fong, and McCarthy voting). Commissioner Grauly was not  
29 present for the vote.  
30

31 The meeting was adjourned at 9:50 a.m.  
32

33  
34 Minutes approved on \_\_\_\_\_.

SUNSHINE LAW MEETING  
AGENDA ITEM II

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE  
APRIL 20, 2022 EXECUTIVE SESSION MEETING

The Hawai'i State Ethics 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.

Attachment 1: Sunshine Law Meeting Minutes of the April 20, 2022  
Hawai'i State Ethics Commission Executive Session Meeting

*\*\*\*Executive Session Meeting Minutes not provided to the public.\*\*\**

SUNSHINE MEETING  
AGENDA ITEM III

EXECUTIVE DIRECTOR'S REPORT  
May 18, 2022

**1. Education / Training Report**

*Attachment 1: 2022 Training Attendance / Schedule*

*Attachment 2: Online Training Completions by Department*

**2. Guidance and Assignment Statistics – April 2022**

*Attachment 3: 2022 Guidance and Assignment Statistics / Website Traffic*

**3. Miscellaneous Office Projects / Updates**

- a. Proposal to move the next Commission meeting to June 16, 2022
- b. Proposal to encourage Commission members to attend the August 17, 2022 meeting in person
- c. Recognition of personnel

<b>HAWAII STATE ETHICS COMMISSION</b>		
<b>2022 EDUCATION PROGRAM</b>		
<b>(Ethics Workshops and Presentations)</b>		
<b>DATE</b>	<b>PRESENTATIONS</b>	<b>NUMBER OF PARTICIPANTS</b>
1/5/2022	Lobbyists Law Training, Zoom	88
1/10/2022	General Ethics Training, ERS, Teams	24
1/11/2022	Lobbyists Law Training, Zoom	54
1/11/2022	General Ethics Training, Senate Staff, Zoom	54
1/13/2022	General Ethics Training, Senate Staff, Zoom	31
1/25/2022	General Ethics Training, Zoom	188
2/23/2022	General Ethics Training, Judiciary, Zoom	61
2/24/2022	General Ethics Training, Judiciary, Zoom	65
3/9/2022	General Ethics Training, House Members, Zoom	47
3/31/2022	General Ethics Training, DOD, Zoom	20
4/1/2022	General Ethics Training, UH School of Law, Zoom	45
4/4/2022	General Ethics Training, DCCA, Zoom	22
4/21/2022	General Ethics Training, State Public Charter School Commission, Zoom	30
5/19/2022	General Ethics Training, Zoom	
8/4/2022	Ethics for State Board and Commission members, Zoom	
8/18/2022	General Ethics Training, Zoom	
10/5/2022	Ethics for State Board and Commission members, Zoom	
10/20/2022	General Ethics Training, Zoom	
12/7/2022	Ethics for State Government Attorneys, Zoom	

**HAWAII STATE ETHICS COMMISSION**

**2022 EDUCATION PROGRAM**

**(Ethics Workshops and Presentations)**

<b>DATE</b>	<b>PRESENTATIONS</b>	<b>NUMBER OF PARTICIPANTS</b>
12/8/2022	Ethics for State Government Attorneys, Zoom	
12/16/2022	General Ethics Training, Zoom	
<b>TOTAL</b>	<b>21 Presentations</b>	<b>729 participants</b>

## Online Training Completions by Department

Department/Agency	2022 Total	Overall Total
Department of Accounting and General Services (DAGS)	16	83
Department of Agriculture (DOA)	3	57
Department of Budget and Finance (B&F)	1	2
Department of Business, Economic Development and Tourism (DBEDT)	4	70
Department of Commerce and Consumer Affairs (DCCA)	1	48
Department of Defense (DOD)	27	100
Department of Education (DOE)	20	247
Department of Health (DOH)	2	231
Department of Human Resources Development (DHRD)	3	7
Department of Human Services (DHS)	1	205
Department of Labor and Industrial Relations (DLIR)		41
Department of Land and Natural Resources (DLNR)		75
Department of Public Safety (DPS)	16	60
Department of Taxation (TAX)		1
Department of the Attorney General (ATG)	6	123
Department of Transportation (DOT)	2	283
Hawaii Health Systems Corporation (HHSC)		41
Hawaii State Public Library System (HSPLS)		1
Judiciary (JUD)	69	126
Office of Hawaiian Affairs (OHA)	36	98
Office of the Auditor (AUD)		3
Office of the Governor (GOV)	5	14
Office of the Lieutenant Governor (LTG)		4
Office of the Ombudsman (OMB)		2
Other (Please fill-in "Other Department/Agency")	3	60
Public Charter School (SPCSC)	1	20
Research Corporation of the University of Hawaii (RCUH)		9
Senate (SEN)		4
University of Hawaii-Community Colleges (UOHC)	5	82
University of Hawaii-Hilo (UOHH)	1	4
University of Hawaii-Manoa (UOHM)	36	152
University of Hawaii-System (UOH)	8	52
University of Hawaii-West Oahu (UOHW)	7	74
<b>Total Employee Certificates of Completion Issued</b>	<b>273</b>	<b>2379</b>
Board and Commission	2022 Total	Overall Total
Board of Agriculture		1
Board of Barbering and Cosmetology	1	1
Board of Dentistry	1	1
Board of Education		7
Board of Electricians and Plumbers		1
Board of Land and Natural Resources		2
Board of Professional Engineers, etal	1	1
Board of Taxation Review	1	2
Boxing Commission		1
Commission on Water Resource Management	1	2
Contractors License Board	1	1
Hawai'i Employer-Union Health Benefits Trust Fund		1
Hawai'i Health Systems Corporation-Corporation		1
Hawai'i Health Systems Corporation-East Hawai'i	2	2
Hawai'i Health Systems Corporation-Oahu	1	1
Hawai'i Housing Finance and Development Corporation		1
Hawai'i Public Housing Authority	1	1
Hawai'i State Ethics Commission		2
Hawai'i Teacher Standards Board	2	2
Island Burial Council - Kauai/Niihau		3
Island Burial Council - Molokai	1	1
Island Burial Council - Oahu		1
Land Use Commission	1	1
Legacy Land Conservation Commission		1
Medical Education Council		1
Motor Vehicle Repair Industry Board	1	1
Office of Hawaiian Affairs	1	1
Other (Please fill-in "Other Board/Commission")	5	22
Soil and Water Conservation District Boards		2
University of Hawai'i Board of Regents		2
<b>Total Board and Commission Certificates of Completion Issued</b>	<b>21</b>	<b>67</b>
<b>Total Certificates of Completion Issued</b>	<b>294</b>	<b>2446</b>
As of May 1, 2022		

<b>2022</b>	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
<b>Training statistics</b>													
# of In-Person Trainings	0	0	0	0									0
# of People Trained In Person	0	0	0	0									0
# of On-Line Trainings (Self-Directed)	35	44	142	73									294
# of Training Webinars	6	2	2	3									13
# of Participants in Training Webinars	439	126	67	97									729
<b>Attorney of the Day</b>	76	87	116	66									345
<b>New assignments</b>													
Advisory Opinion	0	0	0	0									0
Complaint	5	18	23	21									67
Gifts/Invitations/Travel	5	5	17	14									41
Guidance	6	3	3	0									12
Judicial Selection Comm'n	0	3	3	0									6
Training Request	0	0	0	0									0
Record Request	1	0	1	3									5
Project/Other	5	3	2	2									12
<b>Total</b>	<b>22</b>	<b>32</b>	<b>49</b>	<b>40</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>143</b>
<b>Closed Assignments</b>													
Advisory Opinion	0	0	1	1									2
Complaint	4	6	19	21									50
Gifts/Invitations/Travel	5	7	14	18									44
Guidance	3	5	1	4									13
Judicial Selection Comm'n	0	3	3	0									6
Training Request	0	0	0	0									0
Record Request	1	0	1	3									5
Project/Other	6	4	1	1									12
<b>Total</b>	<b>19</b>	<b>25</b>	<b>40</b>	<b>48</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>132</b>
<b>Anti-Fraud</b>	2	5	2	6									15



SUNSHINE LAW MEETING  
AGENDA ITEM IV

2022 LEGISLATIVE SESSION

**1. Status of Current Bills**

**2. HR 9, Establishing a Commission to Improve Standards of Conduct**

*Attachment 1: Draft Presentation Titled Commission on Improving Standards of Conduct – Ethics Discussion*

# Commission on Improving Standards of Conduct

## Ethics Discussion

*DRAFT*

Public Meeting, June 1st, 2022

*DRAFT*

# Topics of Discussion

- Ethics Commissions:
  - Independent Budget Commission
  - Streamlining
- Lobbyists:
  - Gift Regulation
  - Training
  - Disclosures
- Legislators:
  - Conflicts of Interest
  - Financial Disclosures
- Anti-Nepotism
- Transparency:
  - Legislative Allowance Expenditures
- Legislator Civility/Aloha Rule

# Ethics Commissions

*DRAFT*

# State & County Ethics Commissions

## Adequacy of Funding for Watchdog Agencies

- Hawai'i State Ethics Commission has 4-6 attorneys and 1 investigator position to oversee approximately 60,000 employees;
- Several county ethic boards/commissions are limited to an assigned deputy corporation counsel, with no funding for full-time/independent staff.
- Genuine question as to whether the various ethics agencies are adequately funded and able to fulfill constitutional mandate.

*DRAFT*

# Independent Commission on Budget

## Adequacy of Funding for Watchdog Agencies

- One possible outcome is to recommend an independent commission to analyze the workload and recommend specific budget allocations, similar to the Commission on Salaries. At the very least, the Selection Commission should recommend full-time and independent staff assigned to each ethics agency.
- Help elevate the importance of appropriately resourcing ethics training, advice, and enforcement at both the State and County level.

*DRAFT*

# Streamlining:

## Make It Easier for Lobbyists and Others to Follow the Law

- Attempt to avoid “gotcha” situations with multiple filings with different agencies.
- Increase flexibility for agencies to establish reciprocal processes to allow one-stop filing, and a consistent database between different agencies.
- Statutory flexibility allows for opportunities for improvement.

*DRAFT*

# Lobbyists

*DRAFT*



# Lobbyists Gift Regulation

## Legal Precedent

- United States v. Harris, 347 U.S. 612 (1954) (upholding the constitutionality of federal lobbyist disclosures);
- Schickel v. Dilger, 925 F.3d 858, 864 (6th Cir. 2019) (upholding a lobbyist gift ban); and
- Preston v. Leake, 660 F.3d 726, 729-30 (4th Cir. 2011) (holding that a lobbyist contribution ban, which defined contributions to include gifts, did not violate the First Amendment).

*DRAFT*

# Lobbyists Gift Regulation

## Potential Regulation Options

- Ban lobbyists from offering prohibited gifts, with some potential exceptions. See, e.g., San Francisco; Alabama; Colorado; Connecticut; Iowa; and Minnesota.
- Focus on mirroring existing exceptions for legislators and state employees.

*DRAFT*

# Lobbyist Training

## Mandatory Training Common Practice in Other Jurisdictions

- At least 21 jurisdictions require registered lobbyists to take training on a periodic basis:
  - 15 states (AL; AK; CA; IL; LA; MA; ME; MD; NV; NY; OR; TN; UT; WA; and WV); and
  - 6 cities (San Francisco; Los Angeles; Miami-Dade County; Cook County; Chicago; and Philadelphia).

*DRAFT*

# Lobbyists Training

## Proposed Requirements

**WHO:**

All registered lobbyists would be required to complete a mandatory training program.

**WHEN:**

- (1) Prior to filing initial lobbyist registration;
- (2) Repeat training before renew registration for next legislative cycle (every 2 years)

**TYPE OF TRAINING:**

- (1) Live, online webinars;
- (2) Self-directed, online training module.

*DRAFT*

*DRAFT*

# Lobbyist Disclosures

## Proposed Requirements

- Require lobbyists to report administrative rules or bill numbers lobbied on:
  - Replace Haw. Rev. Stat. § 97-3(c)(5) with “The identity, by bill, resolution number, or similar identifier, of legislative or administrative action that was commented on, supported, or opposed by the person filing the statement during the statement period.”
  - *Prior language:* “[The statement shall contain the following information: . . .(5) The subject area of the legislative and administrative action that was supported or opposed by the person filing the statement during the statement period.”

# Legislators

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# Legislators

## Conflicts of Interest (Amending House and Senate Rules)

- Legislators are not subject to the conflict of interest portion of Haw. Rev. Stat. Chapter 84.
- Propose amending House & Senate rules to:
  - Make recusal a default requirement, rather than simply disclosure of the potential conflict;
  - Define conflict as personal, familial, business, property, or financial interest; and
  - Specify that conflict of interest exemptions must be general and apply to a broad class.

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# Legislators Financial Disclosures

## Proposed Requirements

- Require Legislators to disclose business connections with lobbyists or lobbying organizations.
- Propose new subsection Haw. Rev. Stat. § 84-17(f)(8) requiring every member of the Legislature to disclose:
  - The name of any lobbyist or organization that is required to file lobbying contributions and expenditures reports that is:
    - A partner of the filer;
    - An employee of the filer;
    - An officer or director of the filer's employer; or
    - A client of the filer, the filer's partner, or the filer's employer where the client provided at least \$10,000 of income during the preceding calendar year.



# Nepotism

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# Prohibiting Nepotism

## Bright-Line Rule about Promotion/Hiring Decisions

- Discrete proposal limited to family members;
- Avoids complicated determinations under the Fair Treatment law;
- Ensures greater integrity in the procurement process; and
- 27 states have enacted nepotism laws in some form.

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# Proposed Legislative Concept

- Prohibit the employment, hiring, or promotion of a family member or member of a household;
- Prohibit the hiring or supervision of a business owned by a relative; and
- Allow the continuation of a job assignment already existing at the date of passage.

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# Transparency

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# Legislative Allowance

## Post Expenditures Online to Increase Transparency

- Legislators receive an annual legislative allowance to cover expenses reasonably related to their legislative duties
- Current legislative allowance for each member is \$13,804 (set to increase with salary adjustments in 2023).
- To promote transparency and public confidence that legislative allowance funds are spent appropriately, amend Haw. Rev. Stat. § 24-1 to require each house of the Legislature to post on its website for public inspection legislative allowance expenditures on a rolling basis for each member.

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# **Legislative Allowance**

## **Prohibit Duplicate Payments by Allowance and Campaign Funds**

- Campaign Spending Law permits legislators to use campaign funds for “ordinary and necessary expenses” connected to their duties as an office holder.
- Examples of “ordinary and necessary expenses” for which campaign funds may be used: legislative newsletters, conferences, and state travel.
- Legislators also may use legislative allowance funds for some of the same expenses.
- To prevent duplicate payments, amend HRS § 24-1 to prohibit legislators from claiming legislative allowance funds as payment or reimbursement for any expenses paid with campaign funds.

# Aloha/Civility Rule

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# Aloha/Civility Rule

## Examples of Existing Allegations

- Three types of complaints have come in:
  - Where a lobbyist or member of the public has been threatened by a Legislator, e.g., “we’ll cut the funding to your program unless you . . . .”
  - Where a state employee has been threatened by a Legislator, e.g., “take this official action or we’ll cut positions in your budget.”
  - Rudeness that goes beyond the pale, such as direct swearing, cursing, etc., directed to a constituent.

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# **Aloha/Civility Rule**

## **Existing Mechanisms May Not Work**

- Lobbyists and state employees may not want to come forward under existing House & Senate rules, recognizing the potential for retaliation and understandable concern about a lack of objective review.
- Haw. Rev. Stat. Chapter 84 may not adequately address these circumstances.

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# **Aloha/Civility Rule**

## **Preventing Abuse of Power**

- One route is to require an existing independent body (or establish a new entity) to accept and investigate allegations.
- If the allegations are found to be true, a report would be publicly submitted to the pertinent legislative body with recommendations on how to proceed. Where possible, anonymity of the complainant would be protected. If not possible, the report would be publicly filed only with the consent of the complainant.

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SUNSHINE LAW MEETING  
AGENDA ITEM V

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 Hawai'i State Ethics 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.

No attachments.