

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: June 21, 2023

Time: 9:00 a.m.

Location: Zoom Videoconference or Phone:

Videoconference: [Join Zoom Meeting](https://us06web.zoom.us/j/86835610760?pwd=aTlEVXlSWitGdnc3ZGdsaXNVcXc3UT09)
<https://us06web.zoom.us/j/86835610760?pwd=aTlEVXlSWitGdnc3ZGdsaXNVcXc3UT09>

Phone: +1 (669) 444-9171 or +1 (669) 900-6833

Meeting ID: 868 3561 0760

Passcode: 555155

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 either attend the meeting in person, at the public meeting location above, or participate remotely by using the above Zoom meeting information. If participating remotely, please mute your phone/device except while testifying. If the Commission's videoconference connection is lost during the meeting, please go to the Commission's website (www.ethics.hawaii.gov) for more information, including reconnection information.

Masks are encouraged for everyone attending the meeting in person.

Public meeting materials for this meeting are available on the Commission's website at: www.ethics.hawaii.gov.

A G E N D A

CALL TO ORDER

I. Consideration and Approval of the Minutes of the May 17, 2023 Meeting

Attachment 1: Sunshine Law Meeting Minutes of the May 17, 2023 Hawai'i State Ethics Commission Meeting

II. Executive Director's Report

1. Education / Training Report

Attachment 1: 2023 Training Schedule

Attachment 2: Online Training Completions by Department

2. Guidance and Assignment Statistics – May 2023

Attachment 3: 2023 Guidance and Assignment Statistics / Website Traffic

3. Update on 2023 Financial Disclosure Filings and Lobbying Expenditure Reports for March 1 – April 30, 2023

4. Miscellaneous Office Projects / Updates

5. Moldova Professional Fellow Exchange

Consideration of a diplomatic relationship and cooperation agreement with the Republic of Moldova's [National Integrity Authority](#)

III. 2023 Legislative Session

Bills of interest introduced in 2023 are described briefly below. The blue house or senate bill number is a clickable hyperlink that goes directly to the bill language online. If the hyperlink does not work, bills can be looked up at "capitol.hawaii.gov" by entering the bill number in the search box in the website's upper right corner.

i. **Bills Signed into Law:**

- i. **Budget [HB 1514 HD1 SD1](#)**. Appropriates funds to provide for the expenses of the Legislature, Auditor, Legislative Reference Bureau, Ombudsman, and Ethics Commission. **Status:** Enrolled into law as Act 003, 3/28/2023.
- ii. **Lobbyist Gift Restriction [HB 142](#)** (Ethics Commission package). Prohibits lobbyists from making gifts that are prohibited under state ethics law. **Status:** Signed into law as Act 010, 3/31/23.
- iii. **Lobbying Subject Matter Identification [HB 137 HD1](#)** (Ethics Commission package). Requires the statement of expenditures filed with the State Ethics Commission to include information on the identity, by bill number, resolution number, budget cost or program identification number, or other identifier, of the legislative or administrative action that was commented on, supported by, or opposed by the person filing the statement during the statement period. **Status:** Signed into law as Act 008, 3/31/23.
- iv. **Lobbyist Training Course [HB 138](#)** (Ethics Commission package). Requires the State Ethics Commission to establish and administer a lobbyists training course and make the lobbyist training course mandatory for all lobbyists. **Status:** Signed into law as Act 20, 4/19/2023.
- v. **Record Disposition [HB 140](#)** (Ethics Commission package). Provides the State Ethics Commission with the discretion to maintain or destroy records of financial disclosure statements beyond the current 6-year statutory requirement. Applies retroactively to applicable disclosures that are in the Commission's possession and control. **Status:** Signed into law as Act 009, 3/31/23.

ii. **Bills Pending the Governor:**

- i. **Enforcement of Financial Disclosure Statement Filings [SB 182 SD1 HD1 CD1](#)** (Ethics Commission package). Amends the fines imposed and the procedures relating to enforcement of a late or missing financial disclosure statement. **Status:** Enrolled to Governor, 5/3/2023.

- ii. **Legislator Disclosure** [HB 141 HD1 SD1](#) (Ethics Commission package). Requires each state legislator to include within the legislator's disclosures of financial interest the names of lobbyists or lobbying organizations with whom the legislator has a financial relationship. **Status:** Transmitted to Governor, 4/29/2023.
- iii. **Lobbyist Political Donations** [SB 1493 SD1 HD1 CD1](#). Prohibits, during legislative sessions and shortly before and after, lobbyist contributions and expenditures, and promises of contributions or expenditures, to any elected official, candidate, candidate committee, or individual who is required to file an organizational report with the Campaign Spending Commission. **Status:** Enrolled to Governor, 5/4/2023.
- iv. **Nepotism** [HB 717 HD1 SD2 CD1](#) (Standards Commission package). Prohibits under certain state employees from appointing, hiring, promoting, or retaining relatives and household members and from making or participating in certain other employment-related decisions and from awarding a contract to or otherwise taking official action on a contract with a business if the employee's relative or household member is an executive officer of or holds a substantial ownership interest in that business. Imposes administrative fines for violations. **Status:** Transmitted to the Governor, 5/3/2023.

IV. Consideration of Draft Legislation Increasing Commission's Administrative Fine Authority (Haw. Rev. Stat. §§ 84-39 and 97-7)

Recommendation to support draft legislation increasing the Commission's administrative fine authority

Attachment 1: Staff overview

Attachment 2: Staff summary of state and county maximum administrative fine thresholds

Attachment 3: Draft legislation increasing the Commission's administrative fine authority.

V. Consideration of Draft Ethics Commission Guidance on Social Media Use

Recommendation to adopt Ethics Commission Guidance on Social Media Use

Attachment 1: Staff overview

Attachment 2: Draft Ethics Commission Guidance on Social Media Use

VI. Consideration of Draft Ethics Commission Guidance on Nepotism Law

Recommendation to adopt revised draft Ethics Commission Guidance on Nepotism Law if [HB 717 HD1 SD2 CD1](#) goes into effect.

Attachment 1: Staff overview

Attachment 2: Revised Draft Ethics Commission Guidance on Nepotism Law

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 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.

VIII. Recognition of Vice Chair Reynard Gaulty

IX. 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), 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), oral testimony is limited to three minutes per testifier per agenda item, subject to the reasonable discretion of the Chair.

Auxiliary Aid or Accommodation 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 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
MAY 17, 2023 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the May 17, 2023
 Hawai'i State Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: May 17, 2023

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference

Public Meeting Location

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

Present: State Ethics Commission Members

Wesley F. Fong, Chair (present in conference room)
Reynard D. Gaulty, Vice Chair (via video conference)
Harry J. McCarthy, Commissioner (via video conference)
Beverly Tobias, Commissioner (present in conference room)
Robert Hong, Commissioner (via video conference)

State Ethics Commission Staff

Robert D. Harris, Executive Director (present in conference room)
Susan D. Yoza, Associate Director (excused)
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 video conference)
Jared Elster, Staff Attorney (via video conference)
Myles A. Yamamoto, Administrative Assistant (present in conference room)

CALL TO ORDER (0:00)

Chair Fong called the meeting to order at 9:00 a.m. Chair Fong, Vice Chair Gaulty, Commissioner McCarthy, Commissioner Tobias, Commissioner Hong and Commission staff were present. All Commissioners and staff participating via video or

1 audio conference confirmed no one was in the room with them at their respective
2 remote locations.
3
4

5 **Agenda Item No. I: Consideration and Approval of the Minutes of the April 19,**
6 **2023 Meeting (1:50)**
7

8 Commissioner Hong made and Commissioner Gaulty seconded a motion to
9 approve the minutes of the April 19, 2023, meeting. The motion carried (Fong, Gaulty,
10 Hong, voting in the affirmative. McCarthy and Tobias excused).
11
12

13 **Agenda Item No. II: Consideration and Approval of the Minutes of the April 19,**
14 **2023 Executive Session Meeting (3:05)**
15

16 Commissioner Gaulty made and Commissioner Hong seconded a motion to
17 approve the executive session minutes of the April 19, 2023, meeting. The motion
18 carried (Fong, Gaulty, Hong voting in the affirmative. McCarthy and Tobias excused).
19
20

21 **Agenda Item No. III: Executive Director's Report (4:08)**
22

23 Executive Director Harris reviewed the training statistics for April 2023 and the
24 training schedule for 2023. He noted the overall attendance for the live training sessions
25 is dropping and that changes to the remaining schedule may be considered in order to
26 maximize usefulness of staff attorney time. Director Harris noted a significant increase
27 in online training completions. A total of 7,143 individuals have completed the online
28 training this year to date. Cumulatively, that is the highest number of trainings ever
29 conducted by the Ethics Commission in one year.
30

31 Executive Director Harris also reported that he recently met with the Department
32 of Education ("DOE"). He expressed cautious optimism that DOE would unveil a push to
33 have teachers complete their online ethics training this summer.
34

35 Executive Director Harris noted that 78 assignments, including 46 complaints and
36 26 gifts and travel requests were closed in April.
37

38 Executive Director Harris provided an update on the Commission's office lease.
39 He noted that the lease extension was signed, but we are still awaiting the final
40 executed agreement. As noted last month, the new lease terms include a provision for
41 rehabbing existing office space to include new carpet and paint. Also, a new public
42 entryway into the conference room will be constructed. Director Harris noted that the
43 construction may result in a temporary move of the Commission's office space for
44 approximately six weeks.
45

46 Executive Director Harris provided an update on the Commission's email server
47 upgrade. In 2022, a budget request was made to upgrade the Commission's email

1 server. Director Harris reported that a transition to using the state's email system
2 "hawaii.gov" has begun. The existing, onsite email server will continue accept email and
3 forward to the new email address. At some point the email addresses ending with
4 "hawaiiethics.org" will be retired.

5
6 Executive Director Harris reported that a contract was signed to update the
7 Commission's current file sharing system. Currently, the commission uses an older
8 (2010) version of Microsoft SharePoint that only works on Microsoft Internet Explorer.
9 He noted that Internet Explorer is no longer supported by Microsoft. The plan is to
10 transition to a more modern version of SharePoint in the next 6 months.

11
12 Executive Director Harris reported he was selected for a United States
13 Professional Fellows Exchange. He will travel to Moldova from June 5 to June 14, 2023.
14 As part of the Exchange, Director Harris will meet with Moldova government officials
15 and various nonprofit entities about ethics and open government. Chair Fong
16 congratulated Director Harris on his selection. He expressed concerns about certain
17 areas being under Russian influence. Director Harris acknowledged the concern and
18 noted that the locations he will visit have been vetted by the U.S. Government.

19
20 Commissioner Hong asked why it appears that only four of the five
21 Commissioners completed online training. Director Harris explained that Commissioners
22 must take a live training. If the Commissioners took the online training, it was in addition
23 to the live training requirement.

24
25 Chair Fong asked how many active cases the Commission staff has. He noted a
26 concerned citizen at a previous meeting had stated that the Commission closed only
27 four cases. Director Harris stated he did not have that data readily available, but would
28 report at next meeting. He noted that in the preceding four months the Commission
29 received 85 complaints and 80 requests regarding gifts or travel, for a total of 191
30 matters. Director Harris noted that one of the features he is looking for with the
31 SharePoint upgrade is the ability to report the average time it takes to resolve cases.
32 Chair Fong expressed his concern that there is a perception of the Commission being
33 overstaffed. He expressed gratitude for the push in informing the public of the
34 Commission's activities, and noted a recent news article that cited nearly all the
35 information shared by the Commission on a recent case. Director Harris, in response,
36 noted that currently, staff have 93 open complaints and 117 additional travel inquiries,
37 assignments, or other projects open.

38
39 Chair Fong asked if the staff attorneys do their own investigations or if there was
40 a need to additional investigators. Director Harris replied that past practice had been to
41 hire attorneys who would do their own investigations. Only recently has there been a
42 move towards hiring an investigator. Commissioner Gaulty felt that having attorneys
43 who can do their own investigations sped up the process. Commissioner Tobias and
44 McCarthy concurred. In response, Director Harris noted that in addition to
45 investigations, the Commission staff is responsible to provide advice and education. He
46 noted that typically only the attorneys can offer those services.

1 **Agenda Item No. IV: 2023 Legislative Session (23:59)**

2
3 Executive Director Harris updated the Commission about the status of legislation
4 that staff have been tracking and reviewed each category of bills. He noted the unusual
5 legislative atmosphere created because of the highly publicized arrests of two former
6 legislators, and the House's leadership in establishing the Commission on Improving
7 Standards of Conduct. Every bill introduced by either the Ethics Commission or the
8 Standards Commission was heard by the House of Representatives.
9

10 Executive Director Harris noted that many of the bills in the Ethics Commission's
11 package were on track to be approved and signed into law. Director Harris called out
12 three measures for specific focus.
13

- 14 • HB 141, requiring each state legislator to disclose any financial
15 relationship they have with lobbyists or lobbying organizations, was
16 transmitted to the Governor on 4/29/23. Director Harris noted that a late
17 amendment was added. The measure now exempts lobbying
18 organizations from the reporting requirements. Director Harris expressed
19 concern that this changed the intent of the bill. He committed to working
20 on closing this loophole next legislative session.
21
- 22 • HB 717, the anti-nepotism bill, was transmitted to the Governor on May 3,
23 2023. Director Harris noted that the law would only apply to executive
24 branch agencies. The legislature, legislative agencies, and judiciary would
25 be exempt.
26
- 27 • SB 1493, which prohibits lobbyists' contributions during the legislative
28 session, was enrolled to the Governor on May 4, 2023. Director Harris
29 noted that the Commission has jurisdiction over lobbyist violations.
30 Commission staff plans to work with the Campaign Spending Commission
31 to alert each other to potential violations.
32

33 Chair Fong asked for clarification on the term "enrolled into law." Director Harris
34 replied that the term means that the bill had passed and has become law as an Act.
35

36 Chair Fong asked about any disappointments this legislative session. Director
37 Harris replied there were two issues. First was that the Legislature did not provide funds
38 for county ethics boards. Second was a proposed Public Bill of Rights. Director Harris
39 explained that the Public Bill of Rights was proposal concerning interaction between
40 legislators and the public. He stated that the proposal was opposed by the Attorney
41 General's office.
42

43 Chair Fong asked about House Resolution 8, urging the counties to provide more
44 funding to their respective ethics boards. Director Harris replied that this was a
45 compromise proposal designed to encourage the Counties to put more focus on ethics
46 issues. Commissioner Gaulty said that the resolution is a step forward and at least it's
47 on the record that ethics needs more help.

1
2
3 **Agenda Item No. V: Establishing Interim Process to Implement the Mandatory Lobbyist**
4 **Training Law (34:07)**
5

6 Executive Director Harris noted HB 138 was signed into law as Act 20. He
7 noted that the bill was amended to take effect upon enactment. Staff Attorney Bonita
8 Chang stated that, as part of the implementation process, lobbying training webinars will
9 be offered in January prior to the start of session via Zoom, and a self-guided, online
10 training course will be made available later this year.
11

12 Staff Attorney Chang noted that the majority of registered lobbyists will not be
13 immediately affected, as the training requirement will only apply when someone is
14 required to file a new lobbyist registration. Staff Attorney Chang anticipates that there
15 may be a limited number of new, first-time lobbyists for the second half of the 2023-
16 2024 legislative biennium. Under the proposed Order to Establish Interim Process to
17 Implement the Mandatory Lobbyist Training Law, these individuals would be allowed (on
18 an interim basis) to register as long as they have signed up for a training session. Once
19 the new training program is made available, all lobbyists will be required to complete the
20 training prior to submitting their registration.
21

22 Commissioner Tobias moved, and Commissioner Gaulty seconded a motion to
23 issue an Order Establishing Interim Process to Implement the Mandatory Lobbyist
24 Training Law. The motion carried (Fong, Gaulty, Hong, McCarthy, and Tobias voting in
25 the affirmative).
26
27

28 **Agenda Item No. VI. Establishing Procedures to Consider Good Cause**
29 **Exceptions to the Proposed Nepotism Law (37:22)**
30

31 Staff Attorney Kee Campbell noted HB 717 passed the Legislature, but had not
32 yet been signed into law. In anticipation of the law's enactment, the Commission should
33 establish procedures and a process to consider good cause exceptions to the upcoming
34 anti-nepotism law. Under the proposed draft Order, Staff Attorney Campbell stated that
35 the exceptions would initially be processed by the Commission staff and a determination
36 made. The Commission would get involved if the matter was complex and novel, or if
37 there was a dispute with the initial determination.
38

39 Commissioner Hong moved, and Commissioner Tobias seconded a motion to
40 issue an Order Establishing Procedures to Consider Good Cause Exceptions to the
41 Proposed Nepotism Law. The motion carried (Fong, Gaulty, Hong, McCarthy, and
42 Tobias voting in the affirmative).
43

44 Executive Director Harris distributed a draft quick guide of the proposed
45 Nepotism Law. He explained that the law may affect current employees. He expressed
46 his desire to have a quick guide ready for any questions. Director Harris noted the
47 distributed draft is not final, and that the proposed final draft should be ready for the

1 June Commission Meeting. Staff Attorney Campbell added that the highlights of the law
2 are complete, but that scenarios and FAQ's may be added to the final document. It was
3 requested that the Commission adopt the proposed draft Quick Guide with a final guide
4 forthcoming.

5
6 Commissioner Hong moved, and Commissioner Tobias seconded a motion to
7 adopt the proposed draft quick guide with a final guide forthcoming. The motion carried
8 (Fong, Grauly, Hong, McCarthy, and Tobias voting in the affirmative).

9
10
11 **Agenda Item No. VII: Proposed Increase to the Commission's Administrative Fine**
12 **Authority (Haw. Rev. Stat. § 84-39 and Haw. Rev. Stat. § 97-7) (45:05)**
13

14 No update. Chair Fong inquired about the effectiveness of the Commission's
15 enforcement powers. The Commission has authority to issue up to a \$1,000 fine per
16 violation. Chair Fong noted that it appears the Campaign Spending Commission may
17 have stronger financial penalties. Director Harris replied that staff is committed to
18 continuing research on this matter by looking at comparable states and making
19 recommendations.

20
21 Commissioner Grauly noted that fines are not the Commission's strongest
22 enforcement tool. He noted that often publishing the names of violators and publicizing
23 the violation is effective.

24
25
26 **Agenda Items No. VIII: Akana v. Hawaii State Ethics Commission and Daniel**
27 **Gluck, Civil No. 18-1-1019-06 (JHA); Akana v. Hawaii State Ethics Commission,**
28 **Civil No. 19-1-0379-03 (JHA); State of Hawaii, Ethics Commission v. Rowena**
29 **Akana, Civil No. 20-1-0453 (BIA) (48:59)**
30

31 There was no update on the Akana case.

32
33
34 **ADJOURNMENT OF SUNSHINE LAW MEETING (54:50)**
35

36 At approximately 9:55 a.m., Commissioner Grauly made and Commissioner
37 Hong seconded a motion to adjourn the meeting. The motion carried unanimously
38 (Fong, Grauly, McCarthy, Tobias, and Hong voting).

39
40 The meeting was adjourned at 9:55 a.m.

41
42 Minutes approved on _____.

SUNSHINE MEETING
AGENDA ITEM II

EXECUTIVE DIRECTOR'S REPORT
June 21, 2023

1. Education / Training Report

Attachment 1: 2023 Training Attendance / Schedule

Attachment 2: Online Training Completions by Department

2. Guidance and Assignment Statistics – May 2023

Attachment 3: 2023 Guidance and Assignment Statistics / Website Traffic

3. Update on 2023 Financial Disclosure Filings and Lobbying Expenditure Reports for March 1 – April 30, 2023

4. Miscellaneous Office Projects / Updates

HAWAII STATE ETHICS COMMISSION 2023 EDUCATION PROGRAM (Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NUMBER OF PARTICIPANTS
1/4/2023	Lobbyists Law Training, Zoom	50
1/5/2023	General Ethics Training, DOE, Kawananaoka Middle School	66
1/10/2023	Lobbyists Law Training, Zoom	19
1/13/2023	General Ethics Training, Senate, Zoom	80
1/20/2023	General Ethics Training, House, Capitol, Conference Room 325	47
1/24/2023	General Ethics Training, Zoom	227
2/10/2023	General Ethics Training, Zoom	68
2/21/2023	General Ethics Training, GOV, Capitol, 5th Floor	24
2/23/2023	General Ethics Training, Zoom	56
3/10/2023	General Ethics Training, Zoom	20
3/13/2023	General Ethics Training, UH - Hawai'iuniaka School of Hawaiian Knowledge, Zoom	47
3/22/2023	Ethics for State Board and Commission members, Zoom	4
4/5/2023	General Ethics Training, DOE, PBS Hawaii Studio	29
4/5/2023	General Ethics Training, Zoom	30
4/20/2023	General Ethics Training, Zoom (CANCELLED)	0
4/26/2023	General Ethics Training, SPCSC	23
5/3/2023	General Ethics Training, Zoom	24
5/9/2023	General Ethics Training, DOE, Campbell-Kapolei Complex Area	21
5/18/2023	Ethics for State Board and Commission members, Zoom	8

HAWAII STATE ETHICS COMMISSION 2023 EDUCATION PROGRAM (Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NUMBER OF PARTICIPANTS
6/7/2023	General Ethics Training, Zoom	
6/22/2023	General Ethics Training, Zoom	
7/6/2023	General Ethics Training, Zoom (CANCELLED)	0
7/20/2023	Ethics for State Board and Commission members, Zoom	
8/2/2023	General Ethics Training, Zoom (CANCELLED)	0
8/11/2023	General Ethics Training, Zoom	
8/28/2023	General Ethics Training, DOE, Roosevelt High School	
8/28/2023	General Ethics Training, DOE, Kawananaoka Middle School	
9/7/2023	General Ethics Training, Zoom	
9/21/2023	Ethics for State Board and Commission members, Zoom	
10/13/2023	General Ethics Training, Zoom	
10/25/2023	General Ethics Training, Zoom (CANCELLED)	0
11/16/2023	General Ethics Training, Zoom	
11/29/2023	Ethics for State Board and Commission members, Zoom	
12/7/2023	Ethics for State Government Attorneys, Zoom	
12/8/2023	Ethics for State Government Attorneys, Zoom	
12/21/2023	General Ethics Training, Zoom	
TOTAL	36 Presentations	843 participants

State Employees

Attachment 2

Department/Agency	2020		2021		2022		2023		Total		Total	No. of	%
	Live	Self	Live	Self	Live	Self	Live	Self	Live	Self	Completions	Employees*	Completed
Department of Accounting and General Services (DAGS)	4	60	3	4	8	56	2	141	17	261	278	644	43%
Department of Agriculture (DOA)	2	36	14	18	5	178	4	61	25	293	318	299	106%
Department of Budget and Finance (B&F)	26	1	25	1	127	103	10	164	188	269	457	385	119%
Department of Business, Economic Development and Tourism (DBEDT)	5	62	70	10	79	50	36	52	190	174	364	305	119%
Department of Commerce and Consumer Affairs (DCCA)	346	47	40		73	50	5	362	464	459	923	541	171%
Department of Corrections and Rehabilitation (DCR)						85	2	29	2	114	116		
Department of Defense (DOD)	1	82		1	20	44	3	286	24	413	437	497	88%
Department of Education (DOE)	35	167	73	76	25	164	121	250	254	657	911	22,159	4%
Department of Hawaiian Home Lands (DHHL)	1				2	16	2	70	5	86	91	111	82%
Department of Health (DOH)	7	193	3	38	143	314	16	1657	169	2202	2,371	2,447	97%
Department of Human Resources Development (DHRD)		4	6		4	7	1	46	11	57	68	65	105%
Department of Human Services (DHS)	35	201	270	6	4	6	5	940	314	1153	1,467	1,686	87%
Department of Labor and Industrial Relations (DLIR)	2	41			137	186	18	258	157	485	642	847	76%
Department of Land and Natural Resources (DLNR)	1	63	29	10	15	59	4	553	49	685	734	792	93%
Department of Law Enforcement (DLE)					1	62	5	28	6	90	96	332	29%
Department of Public Safety (DPS)	3	39	5	5	241	525	18	180	267	749	1,016	3,002	34%
Department of Taxation (TAX)	4	1			33	299	3	125	40	425	465	309	150%
Department of the Attorney General (ATG)	73	97	190	22	297	149	21	338	581	606	1,187	646	184%
Department of Transportation (DOT)	12	209	71	72	112	107	7	192	202	580	782	2,255	35%
Hawai'i Health Systems Corporation (HHSC)	32	38	9	2	11	8		677	52	725	777	3,071	25%
Hawai'i State Ethics Commission (HSEC)	4		6		12	3	34	4	56	7	63	10	630%
Hawai'i State Public Library System (HSPLS)		1			1	2	1	549	2	552	554	429	129%
House of Representatives (REP)	28		52	1	54	2	55	94	189	97	286	166	172%
Judiciary (JUD)	1	38	7	18	208	85	50	778	266	919	1,185	1,727	69%
Legislative Reference Bureau (LRB)			1		1		1	17	3	17	20	44	45%
Office of Hawaiian Affairs (OHA)	11	5	13	57	37	47	3	8	64	117	181	145	125%
Office of the Auditor (AUD)	11	3	3		15		2	1	31	4	35	23	152%
Office of the Governor (GOV)	2	8		1	6	10	19	33	27	52	79	48	165%
Office of the Lieutenant Governor (LTG)		4			6	1	4		10	5	15	10	150%
Office of the Ombudsman (OMB)		2	2		3	3	1	3	6	8	14	12	117%
Public Charter School (SPCSC)	25	9	80	14	31	32	23	3	159	58	217	20	1085%
Research Corporation of the University of Hawai'i (RCUH)		6		3	35	684	3	270	38	963	1,001	2,631	38%
Senate (SEN)	20	3	77	1	132	3	84	8	313	15	328	109	301%
University of Hawai'i-Community Colleges (UOHC)	137		14		206	559	53	126	410	685	1,095	2,568	43%
University of Hawai'i-Hilo (UOHH)		1	1		41	90	9	41	51	132	183	864	21%
University of Hawai'i-Manoa (UOHM)			65		405	1429	131	451	601	1880	2,481	8,511	29%
University of Hawai'i-System (UOH)	117	245	43	67	102	296	16	94	278	702	980	502	195%
University of Hawai'i-West Oahu (UOHW)	2				45	113	13	54	60	167	227	399	57%
Total Employees Training Completed	947	1,666	1,172	427	2,677	5,827	785	8,943	5,581	16,863	22,444	58,611	38%

*Based on annual financial disclosure updates from departments collected in March/April 2023
As of June 4, 2023

State Boards and Commissions

Board/Commission	2020		2021		2022		2023		Total		Total	No. of	%
	Live	Self	Live	Self	Live	Self	Live	Self	Live	Self	Completions	Members*	Completed
Agribusiness Development Corporation	2				2	3	3		7	3	20	8	250%
Board of Acupuncture	1				1	1			2	1	6	5	120%
Board of Agriculture	1			1	4				5	1	12	10	120%
Board of Barbering and Cosmetology	1	1			1	2			2	3	10	7	143%
Board of Certification of Operating Personnel in Wastewater Treatment Plants					3	2			3	2	10	9	111%
Board of Chiropractic Examiners						1				1	2	5	40%
Board of Dentistry					1	8			1	8	18	12	150%
Board of Education	1	1	1	3	11	1			13	5	36	11	327%
Board of Electricians and Plumbers	3			1	2	2			5	3	16	7	229%
Board of Land and Natural Resources		2		2	1	2			1	6	14	7	200%
Board of Massage Therapy	1				2				3		6	5	120%
Board of Naturopathic Medicine	1								1		2	5	40%
Board of Nursing					4	1	1		5	1	12	9	133%
Board of Pharmacy					1	1		1	1	2	6	7	86%
Board of Physical Therapy						3		2		5	10	7	143%
Board of Private Detectives and Guards					2	1			2	1	6	7	86%
Board of Professional Engineers, etal	1					2			1	2	6	14	43%
Board of Psychology					2				2		4	7	57%
Board of Public Accountancy					4	1		1	4	2	12	9	133%
Board of Registration	1				2	2			3	2	10	12	83%
Board of Speech Pathology and Audiology	2				1	1			3	1	8	7	114%
Board on Geographic Names					6	2			6	2	16	7	229%
Boxing Commission	1			1					1	1	4	5	80%
Campaign Spending Commission						2				2	4	5	80%
Civil Rights Commission					3	1		1	3	2	10	5	200%
Commission on Status of Women											0	5	0%
Commission on Water Resource Management				1		2				3	6	7	86%
Contractors License Board	5				1	3			6	3	18	13	138%
Correctional System Oversight Commission					3				3		6	5	120%
Council on Revenues					3			1	3	1	8	7	114%
Crime Victim Compensation Commission							1		1		2	3	67%
Defender Council					2				2		4	5	80%
Deferred Compensation Plan Board of Trustees	1				6				7		14	7	200%
Disability and Communication Access Board						1	1	5	1	6	14	17	82%
Early Learning Board						1		2		3	6	13	46%
Elections Commission					4	2			4	2	12	9	133%
Elevator Mechanics Licensing Board					3	1			3	1	8	7	114%

State Boards and Commissions

Board/Commission	2020		2021		2022		2023		Total		Total	No. of	%
	Live	Self	Live	Self	Live	Self	Live	Self	Live	Self	Completions	Members*	Completed
Employees' Retirement System Board of Trustees											0	8	0%
Enhanced 911 Board	1							1	1	1	4	13	31%
Environmental Advisory Council					8	2			8	2	20	15	133%
Festival of the Pacific Arts & Culture					1	6			1	6	14	9	156%
Hawai'i Board of Optometry					2	3		1	2	4	12	7	171%
Hawai'i Board of Veterinary Medicine					2				2		4	7	57%
Hawai'i Climate Change Mitigation and Adaptation Commission					4	1		5	4	6	20	20	100%
Hawai'i Community Development Authority					1				1		2	17	12%
Hawai'i Employer-Union Health Benefits Trust Fund				1	1			5	1	6	14	10	140%
Hawai'i Green Infrastructure Authority					2				2		4	5	80%
Hawai'i Health Systems Corporation-Corporation				1				1		2	4	18	22%
Hawai'i Health Systems Corporation-East Hawai'i						2		2		4	8	12	67%
Hawai'i Health Systems Corporation-Kauai											0	10	0%
Hawai'i Health Systems Corporation-Maui											0	4	0%
Hawai'i Health Systems Corporation-Oahu			8			1			8	1	18	8	225%
Hawai'i Health Systems Corporation-West Hawai'i						4				4	8	9	89%
Hawai'i Historic Places Review Board					2				2		4	10	40%
Hawai'i Housing Finance and Development Corporation				1	6				6	1	14	9	156%
Hawai'i Hurricane Relief Fund Board	1								1		2	7	29%
Hawai'i Law Enforcement Standards Board	1				2	1		2	3	3	12	14	86%
Hawai'i Medical Board					12	2		1	12	3	30	11	273%
Hawai'i Paroling Authority	1					3		1	1	4	10	5	200%
Hawai'i Public Housing Authority	1				4	6	2		7	6	26	10	260%
Hawai'i Retirement Savings Board								1		1	2	9	22%
Hawai'i State Emergency Response Commission					1	1			1	1	4	9	44%
Hawai'i State Ethics Commission				1			2		2	1	6	5	120%
Hawai'i State Fire Council					2				2		4	4	100%
Hawai'i Teacher Standards Board					3	7			3	7	20	17	118%
Hawai'i Technology Development Corporation						3				3	6	9	67%
Hawai'i Tourism Authority						1				1	2	12	17%
Hawaiian Homes Commission					2	2			2	2	8	9	89%
Hoisting Machine Operators Advisory Board						1				1	2	5	40%
Island Burial Council - Hawai'i					1				1		2	7	29%
Island Burial Council - Kauai/Niihau				3						3	6	6	100%
Island Burial Council - Maui/Lanai											0	6	0%
Island Burial Council - Molokai						1				1	2	3	67%
Island Burial Council - Oahu				1	3	1			3	2	10	8	125%

State Boards and Commissions

Board/Commission	2020		2021		2022		2023		Total		Total	No. of	%
	Live	Self	Live	Self	Live	Self	Live	Self	Live	Self	Completions	Members*	Completed
Kaho'olawe Island Reserve Commission											0	7	0%
King Kamehameha Celebration Commission	1				6	3	2	1	9	4	26	15	173%
Land Use Commission	1				6	2		1	7	3	20	9	222%
Legacy Land Conservation Commission				1	2		1		3	1	8	9	89%
Lesbian, Gay, Bisexual, Transgender, Queer, Plus Commission											0	14	0%
Mauna Kea Stewardship and Oversight Authority								2		2	4	11	36%
Medical Education Council				1	2	1			2	2	8	13	62%
Merit Appeals Board											0	3	0%
Motor Vehicle Industry Licensing Board						3		2		5	10	7	143%
Motor Vehicle Repair Industry Board						1		1		2	4	7	57%
National and Community Service, Hawai'i Commission for	1				5				6		12	15	80%
Natural Area Reserves System Commission	1				1				2		4	12	33%
Natural Energy Laboratory of Hawai'i						1	1		1	1	4	10	40%
Oahu Metropolitan Planning Organization						3		1		4	8	14	57%
Other Board/Commission				3	25	50	2	18	27	71	196		0%
Pacific International Space Center for Exploration Systems	1								1		2	9	22%
Pest Control Board					3	3			3	3	12	9	133%
Public Water System Operators, Board of Certification of					2				2		4	5	80%
Radiologic Technology Board	3								3		6	5	120%
RCUH-Board of Directors	1				1	1			2	1	6	8	75%
Real Estate Commission	1				9	3			10	3	26	9	289%
School Facilities Authority Board											0	5	0%
Soil and Water Conservation District Boards				2	34	10	1	1	35	13	96	84	114%
Stadium Authority Commission					4	3			4	3	14	8	175%
State Council on Developmental Disabilities	4				5	2		1	9	3	24	28	86%
State Foundation on Culture and the Arts					7	2	1		8	2	20	7	286%
State Public Charter School Commission					8	3	1	1	9	4	26	9	289%
Statewide Health Coordinating Council	2					2			2	2	8	9	89%
Tax Review Commission	2								2		4	7	57%
Transit Oriented Development Infrastructure Improvement District Board											0	5	0%
University of Hawai'i Board of Regents				2	4	4	2		6	6	24	11	218%
Women's Corrections Implementation Commission											0	5	0%
Total Board/Commission Members Training Completed	45	4	9	26	258	194	21	62	333	286	1238	1006	123%

*Membership number is based on full membership and may include vacant positions
As of June 4, 2023

2023	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
Training statistics													
# of In-Person Trainings	2	1	1	2	1								7
# of People Trained In Person	113	24	47	59	21								264
# of On-Line Trainings (Self-Directed)	1051	522	4042	1454	1793								8862
# of Training Webinars	4	2	2	1	2								11
# of Participants in Training Webinars	376	124	24	30	32								586
Attorney of the Day	125	103	125	97	122								572
New assignments													
Advisory Opinion	0	0	0	0	0								0
Complaint	18	19	24	21	20								102
Gifts/Invitations/Travel	12	25	26	17	18								98
Guidance	4	2	1	0	3								10
Judicial Selection Comm'n	0	4	2	1	5								12
Training Request	0	0	0	0	0								0
Record Request	1	1	0	0	3								5
Project/Other	6	2	1	4	2								15
Total	41	53	54	43	51	0	0	0	0	0	0	0	242
Closed Assignments													
Advisory Opinion	0	0	1	1	1								3
Complaint	8	4	30	46	18								106
Gifts/Invitations/Travel	0	21	34	20	22								97
Guidance	0	0	2	4	1								7
Judicial Selection Comm'n	0	4	2	1	3								10
Training Request	0	0	0	0	0								0
Record Request	0	1	0	1	1								3
Project/Other	1	7	4	5	3								20
Total	9	37	73	78	49	0	0	0	0	0	0	0	246
Anti-Fraud	3	2	2	2	3								12

HAWAII STATE ETHICS COMMISSION 2023 EDUCATION PROGRAM (Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NUMBER OF PARTICIPANTS
6/7/2023	General Ethics Training, Zoom	
6/22/2023	General Ethics Training, Zoom	
7/6/2023	General Ethics Training, Zoom (CANCELLED)	0
7/20/2023	Ethics for State Board and Commission members, Zoom	
8/2/2023	General Ethics Training, Zoom (CANCELLED)	0
8/11/2023	General Ethics Training, Zoom	
8/28/2023	General Ethics Training, DOE, Roosevelt High School	
8/28/2023	General Ethics Training, DOE, Kawananaoka Middle School	
9/7/2023	General Ethics Training, Zoom	
9/21/2023	Ethics for State Board and Commission members, Zoom	
10/13/2023	General Ethics Training, Zoom	
10/25/2023	General Ethics Training, Zoom (CANCELLED)	0
11/16/2023	General Ethics Training, Zoom	
11/29/2023	Ethics for State Board and Commission members, Zoom	
12/7/2023	Ethics for State Government Attorneys, Zoom	
12/8/2023	Ethics for State Government Attorneys, Zoom	
12/21/2023	General Ethics Training, Zoom	
TOTAL	36 Presentations	843 participants

SUNSHINE LAW MEETING
AGENDA ITEM III
2023 LEGISLATIVE SESSION

No attachments.

SUNSHINE LAW MEETING
AGENDA ITEM IV

CONSIDERATION OF DRAFT LEGISLATION INCREASING COMMISSION'S
ADMINISTRATIVE FINE AUTHORITY (HAW. REV. STAT. §§ 84-39 AND 97-7)

Recommendation to support draft legislation increasing the Commission's
administrative fine authority

- Attachment 1: Staff overview
- Attachment 2: Staff summary of state and county maximum administrative fine thresholds
- Attachment 3: Draft legislation increasing the Commission's administrative fine authority

CONSIDERATION OF DRAFT LEGISLATION INCREASING COMMISSION'S
ADMINISTRATIVE FINE AUTHORITY (HAW. REV. STAT. §§ 84-39 AND 97-7)

Recommendation to support draft legislation increasing the Commission's
administrative fine authority

STAFF OVERVIEW

I. Summary

The Commission's general authority to issue an administrative fine is set by Haw. Rev. Stat. §§ 84-39 and 97-7.¹ Under these statutes, the administrative fine maximum threshold is \$1,000 per violation. This fine amount was last increased in 2017, going from a maximum fee of \$500 to \$1,000. See Act 50 (2017).

Attachment 2 reflects a cursory snapshot of administrative fines for ethics violations in other states and counties. Note the amounts stated may have unique conditions that would distinguish the jurisdiction from Hawai'i. Nonetheless, it appears that a number of jurisdictions have a maximum fine of \$10,000, with a general average of \$5,000.

II. Recommended Motions:

Motion to approve proposed revisions to Haw. Rev. Stat. §§ 84-39 and 97-7, increasing the administrative fine maximum to \$5,000 per violation.

RDH/ls

¹ Some administrative fines are set for specific violations, such as the failure to timely file a financial disclosure statement. See Haw. Rev. Stat. § 84-17. The proposed legislation would not alter these specific fines.

State	Maximum Fine Amount	Source	Notes
Alabama	\$6,000	Ala. Code § 36-25-27	
Arkansas	\$2,000.00	Ark. Code Ann. § 7-6-218.	Requires finding of negligent or intentional violation.
California	\$5,000.00	Cal. Gov't Code § 83116(b)	
Chicago	\$20,000.00	Municipal Code of Chicago, § 2-156-465, see https://www.cityofchicago.org/content/dam/city/depts/dol/rulesandregs/RulesoftheChicagoBoardofEthics.pdf	Note -- many fines are proscribed for specific types of violations. \$20,000 is highest and is a general catch-all category.
District of Columbia	\$5,000.00	D.C. Code Ann. § 1-1162.21	
Florida	\$10,000.00	Fl. Stat. § 112.317, available at http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0112/Sections/0112.317.html	
Hawaii	\$1,000.00	Haw. Rev. Stat. § 84-39	
Honolulu	\$5,000 or three times the financial benefit sought or resulting from each violation	Rev. Ord. of Hon. § 1-19.5, available at https://hnlidoc.ehawaii.gov/hnlidoc/document-download?id=13797	
Idaho	\$500.00	Idaho Code Ann. § 74-406	May be specific to failure to disclose a conflict of interest
Iowa	\$2,000.00	Iowa Code Ann. § 68B.32D	
Kansas	\$5,000 for first offense, \$10,000 for second offense, and \$15,000 for the third and all subsequent offenses.	K.S.A. 46-215 et seq	
Kentucky	\$250 and up to \$500 for a corporation	KRS 532.020, 532.030, 532.060, 534.040, and 534.050	
Louisiana	\$10,000.00	R.S. 42:1153A, available at http://ethics.la.gov/pub/laws/ethsum.pdf	

State	Maximum Fine Amount	Source	Notes
Maryland	\$1,000.00	https://ethics.maryland.gov/wp-content/uploads/filebase/general/Public-Ethics-Law.pdf	Noted lobbyists may be fined up to \$5,000 per violation (Md. Gen. Provis § 5-405)
Mass.	\$10,000.00	G.L. c. 268A or G.L. c. 268B	
Mississippi	\$10,000.00	Miss. Code Ann. § 25-4-109	Conflicts of Interest provision
Montana	\$10,000.00	Mont. Code Ann. § 2-2-136	
Nevada	\$5000 first willful violation, \$10,000 for second, and \$25,000 for a third.	Nev. Rev. Stat. Ann. § 281A.480	
Ohio	\$1000 to \$5,000 depending on violation	see https://ethics.ohio.gov/investigation/index.html	Note this also seems associated with criminal violations.
New Jersey	\$10,000.00	https://www.state.nj.us/ethics/faqs/	Specific to conflicts of interest and post-employment violations
New Mexico	\$5,000.00	N.M. Stat. Ann. §§ 10-16A-8; 10-16-18.	
New York	\$10,000.00	N.Y. Pub. Off. Law §74	
Oregon	\$5,000 for a violation related to required filings; \$25,000 for violating revolving door prohibitions; or \$10,000 for other violations	Or. Rev. Stat. Ann. § 244.040	
South Carolina	\$2,000.00	https://ethics.sc.gov/complaints	
Texas	\$5,000.00	Chapter 571.173, available at https://www.ethics.state.tx.us/statutes/ch571.php#571.173	

THE SENATE
THIRTY-SECOND LEGISLATURE, 2024
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE FINES

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act modernizes the maximum administrative
2 fines allowed under Chapters 84 and 97.

3 SECTION 2. Section 84-39, Hawaii Revised Statutes, is
4 amended to read as follows:

5 “(a) Where an administrative fine has not been established
6 for a violation of this chapter, any person, including a
7 legislator or employee, who violates this chapter shall be
8 subject to an administrative fine imposed by the state ethics
9 commission that shall not exceed [~~\$1000~~ \$5000] for each
10 violation. All fines collected under this section shall be
11 deposited in the general fund.

12 (b) No fine shall be assessed under this section unless:

13 (1) The state ethics commission convenes a hearing in
14 accordance with section 84-31(c) and chapter 91 and a
15 decision has been rendered by the commission; or

16 (2) The state ethics commission and respondent agree to
17 resolve any charge of an alleged violation prior to

S.B. NO.

1 completion of the contested case process and the resolution
2 includes payment of an administrative fine or restitution,
3 or both.

4 SECTION 3. Section 97-7, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(a) Any person who:

7 (1) Negligently fails to file any statement or report
8 required by this chapter;

9 (2) Negligently files a statement or report containing
10 false information or material omission of any fact;

11 (3) Engages in activities prohibited by section 97-5; or

12 (4) Fails to provide information required by section 97-2
13 or 97-3;

14 shall be subject to an administrative fine imposed by the state
15 ethics commission that shall not exceed [~~\$1,000~~]\$5,000 for each
16 violation of this chapter. All fines collected under this
17 section shall be deposited into the general fund.

18 (b) No fine shall be assessed unless the state ethics
19 commission:

20 (1) Convenes a hearing in accordance with section 97-6(c)
21 and chapter 91 and renders a decision; or

S.B. NO.

1 (2) Together with the alleged violator, agrees to resolve
2 any alleged violation before
3 the completion of the contested case process; provided that the
4 resolution includes payment of an administrative fine or
5 restitution, or both.

6 SECTION 4. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceeding that were
8 begun before its effective date.

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY: _____

SUNSHINE LAW MEETING
AGENDA ITEM V

CONSIDERATION OF DRAFT ETHICS COMMISSION GUIDANCE ON SOCIAL
MEDIA USE

Recommendation to adopt Ethics Commission Guidance on Social Media Use

Attachment 1: Staff Overview

Attachment 2: Draft Ethics Commission Guidance on Social Media Use

CONSIDERATION OF DRAFT ETHICS COMMISSION GUIDANCE ON SOCIAL
MEDIA USE

Recommendation to adopt Ethics Commission Guidance on Social Media Use

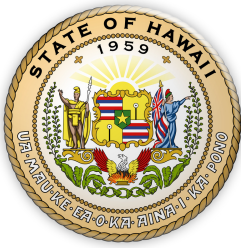
STAFF OVERVIEW

Staff receive many questions from legislators about the use of social media. Legislators use official state social media accounts such as Instagram and Facebook accounts. There is confusion as to what may be posted on these accounts. Staff proposes the attached document on Social Media Use to provide guidance to the legislature. Staff seeks the Commission's review and approval of this document.

Recommendation: Review and approve the draft Ethics Commission Guidance on Social Media Use.

Recommended Motion: Motion to approve draft Ethics Commission Guidance on Social Media Use.

NCN/ls



HAWAI'I STATE ETHICS COMMISSION

1001 Bishop Street, Suite 970 | Honolulu, HI 96813 | ethics@hawaii.gov | (808) 587-0460 | Twitter: @HawaiiEthics

THE STATE ETHICS CODE - A QUICK GUIDE ON SOCIAL MEDIA

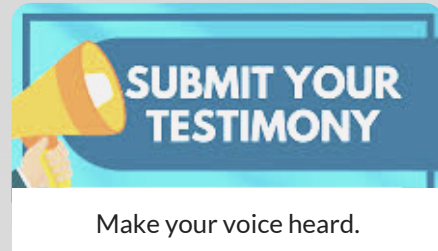
Social media provides a convenient and useful way of communicating with constituents and other members of the public. The rise of social media may also create unique questions under the Ethics Code. This brief overview is meant to give guidance on common social media posts that may give rise to ethics concerns.

The Ethics Code prohibits the use of one's state office to bestow an unwarranted benefit or advantage upon oneself or anyone else. Accordingly, legislators may not use legislative resources for private activities such as business work or political campaigning. Official state social media accounts should be used for official business.

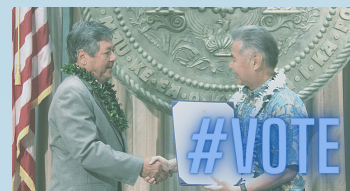
DO NOT post campaign or candidate information on an official account. Similarly, do not link to candidate sites or private sites that include campaign material.



YOU MAY post material advocating or otherwise concerning policies, bills or resolutions, or events such as marches or rallies.



State officials and employees cannot use state facilities for a campaign purpose. For example, don't take a photo in a state office that is not otherwise freely accessible by the public and then post that photo on a private campaign account.



The occasional reposting to a private social media account of content that was originally posted to a state account is generally permissible. However, posting an item to a state account should be done for a legitimate state purpose and not with the purpose of later reposting the item in order to benefit a campaign or some other private endeavor.



Problematic examples might include a campaign account consistently and automatically reposting from an official account or a campaign mailer using state social media posts that appear to have been timed so that they may be used in the mailer.



THE STATE ETHICS CODE - A QUICK GUIDE ON SOCIAL MEDIA

TAKE CARE when posting about non-profit organizations or projects or events sponsored by non-profits. Non-profits compete for dollars just as for-profit businesses do. If you post about a non-profit, the post should relate to your official duties or serve a public purpose. Otherwise, other non-profits may question why they do not get a similar promotion.

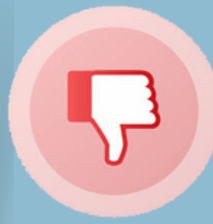


YOU MAY post about an event that is sponsored by a non-profit and that provides a community benefit.

YOU MAY praise a particular non-profit but it is advisable to focus your post on the public benefit provided by the non-profit and not on the non-profit itself.



I support children's literacy and appreciate the support and contributions of partners like Literacy Connects



DO NOT promote a fundraiser for a particular non-profit. Again, non-profits compete for funds. Other non-profits may rightly object to the use of state resources to promote one organization over others.

**Note, fundraising is permissible for specific State-authorized campaigns such as Aloha United Way, Hawaii Foodbank, and Blood Bank of Hawaii.*

rephealthyeating



@tastefornourish is hosting its 5th annual event this Friday. They are holding a huli huli chicken fundraiser to raise funds for a new van. Please support this organization and enjoy some tasty tofu and farm fresh veggies!

THE STATE ETHICS CODE - A QUICK GUIDE ON SOCIAL MEDIA

Do not use state resources to advertise, promote, or endorse private businesses (including nonprofits).



DO NOT advertise or promote private businesses.

senfoodie



This morning on the way in, I stopped at Starbucks for a latte. Starbucks has the best coffee!



YOU MAY support a cause without specifying a business.

repsmokie



Attended the Hawai'i Cannabis Expo
#BuyLocal #HawaiiExpo
#SupportSmallBusinesses



DO NOT endorse any product, service, company, or non-profit organization.

@kimosfoodtruck has the best food trays for office gatherings. Mention you saw my post and get 10% off.

Vote for bill 999 to allow food trucks to operate outside the Capitol!
#food #foodtruck #kimosfoodtruck #supportlocal



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SUNSHINE LAW MEETING
AGENDA ITEM VI

CONSIDERATION OF DRAFT ETHICS COMMISSION GUIDANCE ON NEPOTISM
LAW

Recommendation to adopt revised draft Ethics Commission Guidance on Nepotism Law
if [HB 717 HD1 SD2 CD1](#) goes into effect.

Attachment 1: Staff Overview

Attachment 2: Draft Ethics Commission Guidance on Nepotism Law

CONSIDERATION OF DRAFT ETHICS GUIDANCE ON NEPOTISM LAW

Recommendation to adopt revised draft Ethics Commission Guidance on Nepotism Law if [HB 717 HD1 SD2 CD1](#) goes into effect.

STAFF OVERVIEW

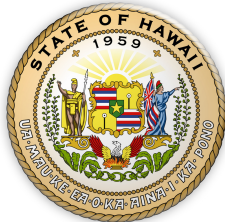
I. Summary

The Legislature recently passed [HB 717 HD1 SD2 CD1](#), which prohibits nepotism for executive branch employees and is awaiting the Governor's signature. At its May 17, 2023 meeting, the Commission approved the substance of a draft quick guide to the nepotism law. Staff has revised the quick guide and requests that the Commission approve the revised quick guide. (Attachment 2).

II. Recommended Motions:

Motion to approve the revised quick guide to the nepotism law.

KC/lis



HAWAI'I STATE ETHICS COMMISSION

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THE STATE ETHICS CODE - A QUICK GUIDE ON THE NEPOTISM LAW

DOES THE NEPOTISM LAW APPLY TO ME?

The nepotism law applies to almost all state employees (including board members). Exceptions include employees in the legislative or judicial branches.

The Commission encourages all state employees to comply with this law.

What does the nepotism law prohibit?

If the nepotism law applies to you, there are two restrictions:

1. You cannot take employment action affecting relatives or household members.

- This means you cannot appoint, hire, promote, retain, demote, discharge, terminate, or supervise a relative or household member from a paid position in your agency.
- This also means you cannot participate in an interview or discussion regarding a relative or household member's potential hiring, promotion, or retention to a paid position in your agency.
- There is an exception for supervising a relative where you have a physical impairment requiring the hiring of a particular relative or household member and the employment is disclosed to the Commission before the hire is made.

2. You cannot be involved in contracts awarded to businesses owned by relatives or household members.

- You may not award or be involved in administering/supervising a contract to a business where a relative or household member:
 - is an executive officer of that business or
 - owns a substantial interest in the business.
- For example, an employee could not sit on the selection panel of a request for proposals if one of the applicants was owned by a relative.
- **Narrow exception:** if you are legally required to take action affecting a relative or family member's business, you may do so when you file a notice with the Commission at least five days in advance.

What is a Relative?

A "Relative" includes parents, grandparents, children, grandchildren, siblings, uncles/aunts, cousins, in-laws, and step-relationships.

A "household member" is anyone who resides in the same dwelling.

THE STATE ETHICS CODE - A QUICK GUIDE ON THE NEPOTISM LAW

What should I do if I supervise a relative at work?

Employees generally cannot supervise their relatives, and agencies and employees should work together to comply with the nepotism law. For instance, a supervisor could delegate all employment decisions affecting a relative to another person in the agency. To avoid the appearance of impropriety, it will be important to document that employment decisions are being made by someone else and be public about that delegation.

If that is not possible, you may apply to the Commission for an exception to the nepotism law where there is good cause. You must prove good cause, which might include a lack of qualified applicants, in a public and transparent manner. An exception form can be found at ethics.hawaii.gov.

How do I establish good cause?

When applying for a good cause exception, it is important that the employee or agency produce evidence that they are unable to comply with the nepotism law. For hiring decisions, this could include ensuring that the job description was reviewed for general applicability; meaningfully advertising in relevant locations; advertising for a reasonable period; acting quickly to review and consider potential candidates; and generally going above and beyond to recruit applicants into the state system.

For existing state employees taking action affecting relatives, a good cause exception application should include proof of why the agency and employee are unable to delegate those duties to another employee and the efforts that were made to comply with the nepotism law absent an exception.

What should I do if I am asked to interview a relative for a job opportunity?

Employees may not interview or promote their relatives. An employee that is asked to do so should disclose their relationship to their agency and refrain from participating in the hiring process.

What are the penalties for a violation?

Employees violating the nepotism law face fines of up to \$1,000 per violation, any favorable treatment received by a relative or household member is potentially voidable.

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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); 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.

SUNSHINE LAW MEETING
AGENDA ITEM VIII

RECOGNITION OF VICE CHAIR REYNARD GRAULTY

No attachments.