

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

STATE OF HAWAI'I

Date: October 18, 2023

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference

Link: Recorded video available at
https://ethics.hawaii.gov/category/commissionmeetings/comm_videos/

Public Meeting Location

Hawai'i State Ethics Commission Conference Room
1001 Bishop Street
American Savings Bank Tower, Suite 900
Honolulu, Hawai'i 96813

Present: State Ethics Commission Members

Wesley F. Fong, Chair (present in conference room)
Harry J. McCarthy, Vice Chair (via video conference)
Robert Hong, Commissioner (via video conference)
Cynthia Thielen, Commissioner (present in conference room)

Excused: Beverley Tobias, Commissioner

State Ethics Commission Staff

Robert D. Harris, Executive Director (present in conference room)
Kee M. Campbell, Enforcement Director (via video conference)
Bonita Y.M. Chang, Compliance Director (via video conference)
Nancy C. Neuffer, Staff Attorney (excused)
Jennifer M. Yamanuha, Staff Attorney (via video conference)
Jodi L. K. Yi, Staff Attorney (via video conference)
Patrick W.C. Lui, Computer Specialist (via video conference)
Jared Elster, Investigator (via video conference)
Myles A. Yamamoto, Administrative Assistant (via video conference)

Members of the Public

Jereanne Raza

CALL TO ORDER (Part 1 0:00)

Chair Fong called the meeting to order at 9:02 a.m. Chair Fong, Vice Chair McCarthy, Commissioner Hong, Commissioner Thielen and Commission staff were present. All Commissioners and staff participating via video or audio conference confirmed no one was in the room with them at their respective remote locations.

Agenda Item No. I: Consideration and Approval of the Minutes of the September 20, 2023 Meeting (Part 1 3:11)

Commissioner Thielen moved, and Vice Chair McCarthy, seconded a motion to approve the minutes of the September 20, 2023 meeting. The motion carried (Fong, McCarthy, Hong, Thielen, and voting in the affirmative and Tobias excused).

Agenda Item No. II: Directors' Report (Part 1 4:05)

Executive Director Robert Harris introduced a new staff attorney, Jodi Yi. Staff Attorney Yi gave a brief background. She has over fifteen years of experience with the Department of the Attorney General, where she advised various departments including the Department of Taxation and Department of Agriculture.

Chair Fong welcomed Staff Attorney Yi to the Commission.

Compliance Director Bonita Chang provided a general overview regarding the Mandatory Ethics Training law and an update on the Commission's training activities. Pursuant to Act 165, approximately 60,000 state employees and board/commission members are subject to the new requirement; approximately 300 individuals are public filers who are required to complete a live session.

Director Chang reviewed general trends in training participation levels. Since the enactment of Act 165, there has been nearly a three-fold increase in the number of training completions within the past year, and an eighteen-fold increase since 2021. Much of this work has been accomplished without additional funding or staff, thanks to the dedicated work of the staff and agency partners. Director Chang, however, noted that there are a number of agencies and boards that have reported low participation levels and is proposing to do the following as part of the Commission's outreach efforts:

- Send monthly reminders to HR/board contacts.
- Post announcements via social media and the Commission's website.
- Contact high level public officials who have not completed a live training session.
- Contact the Office of the Governor to remind all department heads about the ethics training requirement.
- Reach out to targeted board/commissions and agencies with low participation.

Commissioner Thielen raised concerns regarding boards that reported low completion rates such as the Hawai'i Tourism Authority board, and ways to ensure compliance with the new training law. Commissioner Thielen suggested that a letter from the Commission be sent to the boards/commission with low participation rates.

Commissioner Thielen moved and Vice Chair McCarthy seconded a motion to send a letter from the Commission to boards/commissions and agencies with employee training completion rates of less than 20%. The letter would state the percentage of completion based on the Commission's records, state the ethics training law, and offer assistance to increasing overall compliance. Commissioner Hong asked how feasible this would be, and if it is do-able for staff to accomplish. Director Chang said this letter can be incorporated into the current outreach strategy.

The motion carried (Fong, McCarthy, Hong, and Thielen voting in the affirmative, and Tobias excused).

Director Harris reported that staff has completed the move to suite 900 and the renovation work on suite 970 has begun. He anticipated moving back to suite 970 by Thanksgiving.

Director Harris reported that he and Chair Fong spoke to a Rotary Club. Chair Fong noted that the information was well received. He also observed that based on the questions that were asked, people aren't aware of the work and responsibilities of the Commission. He emphasized the need for more public outreach to raise awareness.

Agenda Item No. III. Discussion of Ethics Oversight over the Judicial Branch (Part 1 52:24)

Executive Director Harris reported that initial discussions and emails between the Commission and Judiciary have begun.

Vice Chair McCarthy was glad that the Judiciary was receptive to a meeting. He suggested that the Commission of Judicial Conduct also be included in any future meetings and discussions.

Agenda Item No IV. Evaluation of Executive Director Robert Harris (Part 1 55:30)

Executive Director Harris noted that the form used previously was complex and proposed a simplified evaluation form. Director Harris also proposed the inclusion of staff input in the evaluation process.

Commissioner Thielen moved, and Commissioner Hong seconded a motion to go into executive session to discuss the evaluation of Executive Director Robert Harris. The motion carried (Fong, McCarthy, Hong, and Thielen voting in the affirmative, and Tobias excused).

At approximately 10:03 a.m., the Commission recessed the Sunshine meeting and convened an executive session pursuant to Hawai'i Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee, and/or pursuant to section 92-5(a)(4) to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

All staff and members of the public were excused to the waiting room. The Commission met with Compliance Director Bonita Chang to discuss the proposed evaluation form and evaluation process.

At approximately 10:45 a.m. the Commission adjourned its executive session and reconvened the Sunshine Meeting.

Director Chang summarized the five-step evaluation process. The proposed evaluation form was approved. Director Harris will do a self-evaluation. Staff will complete an anonymous survey, and the aggregate summary will be provided to the Commission. The Commission will then conduct its evaluation of the Executive Director.

Agenda Item No. 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) (Part 2 1:37)

No update.

ADJOURNMENT OF SUNSHINE LAW MEETING (Part 2 1:53)

At approximately 10:46 a.m., Commissioner Thielen made and Commissioner Hong seconded a motion to adjourn the meeting. The motion carried unanimously (Fong, McCarthy, Hong, and Thielen voting in the affirmative, with Tobias excused).

The meeting was adjourned at 10:46 a.m.

Minutes approved on November 15, 2023.