

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: December 20, 2023

Time: 9:00 a.m.

Location: Zoom Videoconference or Phone:

Videoconference: [Join Zoom Meeting](https://us06web.zoom.us/j/89815188198?pwd=a4xMhPlgiPJzJgpt5algPmDV29IRew.1)
<https://us06web.zoom.us/j/89815188198?pwd=a4xMhPlgiPJzJgpt5algPmDV29IRew.1>

Phone: +1 (719) 359-4580 or +1 (253) 205-0468

Meeting ID: 898 1518 8198

Passcode: 2e3sWG

Public Meeting Location:

Hawai'i State Ethics Commission Conference Room
1001 Bishop Street
American Savings Bank Tower, Suite 970
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.

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 November 15, 2023 Meeting

Attachment 1: Sunshine Law Meeting Minutes of the November 15, 2023 Hawai'i State Ethics Commission Meeting

II. Directors' Report

1. Education / Training Report

Attachment 1: 2023 Training Schedule

Attachment 2: 2024 Training Schedule

Attachment 3: Online Training Completions by Department and Board

2. Guidance and Assignment Statistics – November 2023

Attachment 4: 2023 Guidance and Assignment Statistics / Website Traffic

3. Miscellaneous Office Projects / Updates

III. Summary and Discussion of the 2023 Council on Governmental Ethics Laws Conference

IV. Discussion of Media Reports Concerning Ethics or the Ethics Commission Since the Last Meeting

V. Proposed Legislation

Attachment 1: Updating Lobbying Definition to Include Certain Administrative Actions

VI. Proposed Budget: FY 2024-2025

Attachment 1: Proposed Ethics Commission Budget FY 2024-2025

VII. Discussion of Ethics Oversight over the Judicial Branch

VIII. Discussion of Nepotism Good Cause Exception Procedures

Attachment 1: Staff Overview

IX. 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.

X. Evaluation of Executive Director Robert Harris

The Hawai'i State Ethics Commission may convene an executive session pursuant to Hawai'i Revised Statutes section 92-5(a)(2) to discuss matters relating to the evaluation of an employee where consideration of matters affecting privacy will be involved, and/or under 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.

XI. 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 (info.ethics@hawaii.gov), 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 info.ethics@hawaii.gov as soon as possible, preferably at least 48 hours prior to the meeting. Last-minute requests will be accepted but may be impossible to fill.

Upon request, this notice is available in alternate/accessable formats.

SUNSHINE LAW MEETING
AGENDA ITEM I

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE
NOVEMBER 15, 2023 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the November 15, 2023
Hawai'i State Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: November 15, 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

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

Present: State Ethics Commission Members

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

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 (via video conference)
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

Vanessa Ott (via video conference)
Blaze Lovell (via video conference)
Chad Blair (via video conference)

1 **CALL TO ORDER (0:00)**

2
3 Chair Fong called the meeting to order at 9:05 a.m. Chair Fong, Vice Chair
4 McCarthy, Commissioner Tobias, Commissioner Hong, Commissioner Thielen and
5 Commission staff were present. All Commissioners and staff participating via video or
6 audio conference confirmed no one was in the room with them at their respective
7 remote locations.
8
9

10 **Agenda Item No. I: Consideration and Approval of the Minutes of the October 18**
11 **20, 2023 Meeting (3:08)**

12
13 Commissioner Thielen moved, and Commissioner Hong seconded, a motion to
14 approve the minutes of the October 18, 2023 meeting. The motion carried (Fong, Hong,
15 and Thielen voting in the affirmative, with McCarthy and Tobias excused).
16
17

18 **Agenda Item No. II: Consideration and Approval of the Minutes of the October 18,**
19 **2023 Executive Session Meeting (4:00)**

20
21 Commissioner Thielen moved, and Commissioner Hong seconded, a motion to
22 approve the minutes of the October 18, 2023 Executive Session meeting. The motion
23 carried (Fong, Hong, and Thielen voting in the affirmative, with McCarthy and Tobias
24 excused).
25
26

27 **Agenda Item No. III: Directors' Report (4:55)**

28
29 Compliance Director Bonita Chang reported approximately 19 letters signed by
30 Chair Fong were sent out on November 1 to the agencies and boards with low
31 completion rates of the required ethics training. In addition, the remaining 60+
32 individuals required to take a live ethics training course were also directly contacted.
33 She noted that a majority of those individuals have signed up for one of the two
34 remaining live webinars that will be offered in November and December. Director Chang
35 reported that a monthly reminder was sent to agency and board contacts. In addition,
36 Governor Josh Green committed to making a reminder at his next cabinet meeting
37 regarding the training requirements.
38

39 As a result of these outreach efforts, there has been a significant increase in the
40 number of completed ethics trainings. Over 1,000 certificates of completion were issued
41 in the past month, with the Department of Education, Research Corporation of the
42 University Hawai'i, University of Hawai'i System, Department of Transportation, and
43 Department of Accounting and General Services reporting a large number of
44 participants. Director Chang acknowledged the important role of media coverage of
45 training efforts by the Commission. The focus for the remainder of the year will be on
46 increased compliance with training requirements by December 31 and developing the
47 new lobbyist training module.

1
2 Chair Fong congratulated the staff for their efforts.
3

4 Commissioner Thielen expressed her happiness with the result of the outreach
5 efforts and increased participation.
6

7 Enforcement Director Kee Campbell reported that staff continues to open and
8 close matters at a good rate. He noted no changes from previous months related to
9 volume.
10

11 Executive Director Robert Harris reported that renovations for the Commission
12 offices in suite 970 are nearly complete. Staff will begin moving back into suite 970 on
13 Friday, November 17, continuing on Monday, November 20. He noted that the
14 December Commission meeting will be back in suite 970. Director Harris reported that
15 he met with executive and managerial employees of the HGEA. Discussions centered
16 on ethics and answered questions. Director Harris also reported that a reminder was
17 sent out regarding the Gifts Law and Gift Disclosure requirements.
18

19 Chair Fong asked if there is a way of tracking if our training is making an impact,
20 such as lowering the total number of ethics complaints. Director Harris replied that
21 tracking could be done on an annual basis.
22
23

24 **Agenda Item No. IV: Discussion of Media Reports Concerning Ethics or the Ethics**
25 **Commission since the Last Meeting (11:29)**
26

27 Executive Director Harris reported that there has been increased coverage of the
28 Commission's activities. Director Harris noted the stories by Civil Beat about the
29 nepotism law and the Commission's training efforts.
30

31 Additionally, Director Harris stated that media coverage of the Maui wildfire
32 recovery efforts has prompted staff to issue an alert regarding potential conflict of
33 interest issues that may arise for state officials reviewing the wildfires if they also have
34 relationships with parties involved in the wildfires. The alert reminded officials to be
35 aware of and recuse themselves from matters involving their financial interests related
36 to the Maui wildfires.
37

38 Chair Fong thanked the media for their coverage and for raising awareness of
39 the Commission and its activities.
40

41 A member of the public, Ms. Vanessa Ott, submitted written and oral testimony
42 regarding recent Nepotism Good Cause Exception Decisions. Ms. Ott requested that
43 the Commission reconsider two decisions related to spouses potentially supervising
44 each other in the Department of Education. Ms. Ott feels that these decisions set a bad
45 precedent for future cases. She commended Executive Director Harris for other
46 decisions made and hoped to ensure strong enforcement of the nepotism law by the
47 Commission.

Chair Fong thanked Ms. Ott for her testimony and stated that the Commission would take her comments under advisement.

Agenda Item No. V: Proposed Legislation (17:30)

Executive Director Harris covered five proposed bills that staff would introduce on behalf of the Commission in the upcoming 2024 Legislative Session. Director Harris wanted to recognize staff for their work on the proposals.

- Raising Maximum Fine Amounts

Director Harris noted that the Commission's current maximum fine amount is \$1,000 per violation. He noted that this is on the lower end of the spectrum, nationally. The proposal would raise the maximum fine to \$5,000 per violation.

- Modernizing Investigative and Advisory Procedures

Director Harris noted that this proposal clarifies issues around providing advice to state employees. In particular, the proposal would allow for the Commission to self-initiate Advisory Opinions on recurring topics, where a formal opinion may provide greater clarity and thus improve compliance with the state ethics code.

- Expanded Definition of Lobbying

This proposal expands the definition of lobbying to cover certain interactions with high-level officials and agencies. Director Harris noted that this proposal requires close coordination with other agencies to ensure that the legislation prohibits outside influences in agency decisions without negatively affecting their ability to conduct regular day-to-day operations.

- Changing Gift Disclosure Deadline to match Fiscal Year

Compliance Director Bonita Chang explained that this proposal seeks to realign the Gift Disclosure filing period with the Fiscal Year (i.e., July-June). Director Chang explained that this will make filings easier as individuals can file their gift disclosures as part of their fiscal year-end activities.

- Disclosure of Legislator & Lobbyist Relationships

Director Harris explained that Act 123 was recently signed into law. The law requires legislators to disclose any financial relationships with a lobbyist. Director Harris noted that the Act was amended late in the session to remove the requirement that legislators also disclose financial relationships with a lobbying organization. Director Harris explained that the new proposal would add lobbying

1 organizations to the existing law with an exception for situations where a
2 legislator did not know of the financial relationship.
3

4 Director Harris noted that additional measures may be proposed for
5 consideration by the Commission at the December meeting. In addition, the above
6 proposals will be finalized at that time.
7

8 Chair Fong commended staff for their work and for being proactive in getting
9 legislation to address potential issues.
10

11 Commissioner Tobias, and Commissioner Hong seconded a motion to support
12 the proposed legislation. The motion carried (Fong, Hong, Thielen, and Tobias voting in
13 the affirmative, with McCarthy excused).
14

15
16 **Agenda Item No. VI: Discussion of Ethics Oversight over the Judicial Branch**
17 **(29:45)**
18

19 Executive Director Harris reported that staff have initiated conversations with the
20 Judiciary to see where there may be areas that need review. He noted that staff had
21 asked for assistance from the national non-profit, Legal Center, to look at ethics rules
22 and codes of conduct in other states and jurisdictions and to provide options for
23 recommendations.
24

25 Chair Fong noted that this topic was brought up based on his concerns about
26 issues raised by the US Supreme Court's recent actions. He noted that the US Supreme
27 Court recently created a code of conduct. He expressed concerns about the self-
28 enforcement of the code by the US Supreme Court. He expressed his happiness that
29 the Hawai'i Judiciary is receptive to further conversations.
30

31
32 **Agenda Item No. VII: Meeting Calendar (32:40)**
33

34 Executive Director Harris provided a proposed 2024 Commission meeting
35 calendar. He noted that the Commission has been meeting on the 3rd Wednesday of the
36 month at 9:00 AM in the Commission's conference room. The proposed calendar
37 reflects that same schedule.
38

39 Chair Fong asked if there were any objections to adopting the proposed meeting
40 calendar. Hearing none, the calendar was adopted.
41

1 **Agenda Item No. VIII: Akana v. Hawaii State Ethics Commission and Daniel Gluck,**
2 **Civil No. 18-1-1019-06 (JHA); Akana v. Hawaii State Ethics Commission, Civil No.**
3 **19-1-0379-03 (JHA); State of Hawaii, Ethics Commission v. Rowena Akana,**
4 **Civil No. 20-1-0453 (BIA) (35:28)**
5

6 No update.
7

8 Chair Fong asked why the appeal is taking so long. Executive Director Harris
9 replied that it is not known what is causing the delay. Vice Chair McCarthy noted that
10 we had previously inquired with the court and received the response that there is no
11 update. He suggested that another inquiry may get additional information.
12

13
14 **ADJOURNMENT OF SUNSHINE LAW MEETING (37:33)**
15

16 At approximately 9:44 a.m., Commissioner Hong made, and Vice-Chair
17 McCarthy seconded, a motion to adjourn the meeting. The motion carried (Fong,
18 McCarthy, Tobias, Hong, and Thielen voting in the affirmative).
19

20 The meeting was adjourned at 9:44 a.m.
21

22 Minutes approved on _____.

SUNSHINE MEETING
AGENDA ITEM II

DIRECTORS' REPORT
December 20, 2023

1. Education / Training Report

Attachment 1: 2023 Training Attendance / Schedule

Attachment 2: 2024 Training Schedule

Attachment 3: Online Training Completions by Department and Board

2. Guidance and Assignment Statistics – November 2023

Attachment 4: 2023 Guidance and Assignment Statistics / Website Traffic

3. 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'i inuiakea 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

HAWAII STATE ETHICS COMMISSION		
2023 EDUCATION PROGRAM		
(Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NUMBER OF PARTICIPANTS
5/18/2023	Ethics for State Board and Commission members, Zoom	8
6/7/2023	General Ethics Training, Zoom	8
6/22/2023	General Ethics Training, Zoom (CANCELLED)	0
7/6/2023	General Ethics Training, Zoom (CANCELLED)	0
7/20/2023	Ethics for State Board and Commission members, Zoom (CANCELLED)	0
8/2/2023	General Ethics Training, Zoom (CANCELLED)	0
8/11/2023	General Ethics Training, Zoom	15
8/28/2023	General Ethics Training, DOE, Roosevelt High School	195
8/28/2023	General Ethics Training, DOE, Kawananaoka Middle School (CANCELLED)	0
9/7/2023	General Ethics Training, Zoom	3
9/12/2023	General Ethics Training, DOE, Pearl City (CANCELLED)	0
9/21/2023	Ethics for State Board and Commission members, Zoom	10
10/13/2023	General Ethics Training, Zoom	25
10/25/2023	General Ethics Training, Zoom (CANCELLED)	0
11/16/2023	General Ethics Training, Zoom	30
11/29/2023	Ethics for State Board and Commission members, Zoom	40
12/7/2023	Ethics for State Government Attorneys, Zoom (CANCELLED)	0
12/8/2023	Ethics for State Government Attorneys, Zoom (CANCELLED)	0

HAWAII STATE ETHICS COMMISSION		
2023 EDUCATION PROGRAM		
(Ethics Workshops and Presentations)		
DATE	PRESENTATIONS	NUMBER OF PARTICIPANTS
12/21/2023	General Ethics Training, Zoom	
TOTAL	37 Presentations	1169 participants

HAWAII STATE ETHICS COMMISSION 2024 EDUCATION PROGRAM (Ethics Workshops and Presentations)			
DATE	PRESENTATIONS	IN PERSON PARTICIPANTS	WEBINAR PARTICIPANTS
1/4/2024	WEBINAR: Lobbyists Law Training		
1/10/2024	WEBINAR: Lobbyists Law Training		
1/18/2024	WEBINAR: General Ethics Training		
1/19/2024	IN PERSON: General Ethics Training, Capitol, House Members		
2/8/2024	WEBINAR: Ethics for Board and Commission Members		
3/6/2024	WEBINAR: General Ethics Training		
5/2/2024	WEBINAR: General Ethics Training		
7/24/2024	WEBINAR: General Ethics Training		
8/8/2024	WEBINAR: Ethics for Board and Commission Members		
9/26/2024	WEBINAR: General Ethics Training		
10/23/2024	WEBINAR: Ethics for Board and Commission Members		
11/7/2024	WEBINAR: General Ethics Training		
TOTAL	12 Presentations	0 participants	0 participants

State Employees

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	3	225	18	345	363	644	56%
Department of Agriculture (DOA)	2	36	14	18	5	179	5	91	26	324	350	299	117%
Department of Budget and Finance (B&F)	26	1	25	1	127	103	10	213	188	318	506	385	131%
Department of Business, Economic Development and Tourism (DBEDT)	5	62	70	10	79	50	41	215	195	337	532	305	174%
Department of Commerce and Consumer Affairs (DCCA)	346	47	40		73	50	5	418	464	515	979	541	181%
Department of Corrections and Rehabilitation (DCR)						85	2	46	2	131	133		**Reorg eff. 1/1/24
Department of Defense (DOD)	1	82		1	20	44	4	377	25	504	529	497	106%
Department of Education (DOE)	35	167	73	76	25	164	274	15,820	407	16,227	16,634	22,159	75%
Department of Hawaiian Home Lands (DHHL)	1		1		2	16	3	142	7	158	165	111	149%
Department of Health (DOH)	7	193	3	38	143	314	20	2,375	173	2,920	3,093	2,447	126%
Department of Human Resources Development (DHRD)		4	6		4	7	1	74	11	85	96	65	148%
Department of Human Services (DHS)	35	201	270	6	4	6	5	1,246	314	1,459	1,773	1,686	105%
Department of Labor and Industrial Relations (DLIR)	2	41			137	186	18	291	157	518	675	847	80%
Department of Land and Natural Resources (DLNR)	1	63	29	10	15	59	4	702	49	834	883	792	111%
Department of Law Enforcement (DLE)					1	62	5	51	6	113	119	332	100% based on 16 current employees
Department of Public Safety (DPS)	3	39	5	5	245	525	19	300	272	869	1,141	3,002	38%
Department of Taxation (TAX)	4	1			33	299	4	243	41	543	584	309	189%
Department of the Attorney General (ATG)	73	97	190	22	297	149	21	591	581	859	1,440	646	223%
Department of Transportation (DOT)	12	209	71	72	112	107	8	899	203	1,287	1,490	2,255	66%
Hawai'i Health Systems Corporation (HHSC)	32	38	9	2	11	11	1	1,446	53	1,778	1,831	3,071	60%
Hawai'i State Ethics Commission (HSEC)	4		6		10	3	55	7	75	10	85	10	850%
Hawai'i State Public Library System (HSPLS)		1			1	2	1	634	2	637	639	429	149%
House of Representatives (REP)	28		52	1	54	2	55	118	189	121	310	166	187%
Judiciary (JUD)	1	38	7	18	209	85	50	1,310	267	1,451	1,718	1,727	99%
Legislative Reference Bureau (LRB)			1		1		3	27	5	27	32	44	73%
Office of Hawaiian Affairs (OHA)	11	5	12	57	25	46	4	17	52	125	177	145	122%
Office of the Auditor (AUD)	11	3	3		15		7	3	36	6	42	23	183%
Office of the Governor (GOV)	2	8		1	6	10	19	41	27	60	87	48	181%
Office of the Lieutenant Governor (LTG)		4			6	1	4	1	10	6	16	10	160%
Office of the Ombudsman (OMB)		2	2		3	3	1	10	6	15	21	12	175%
Public Charter School (SPCSC)	25	9	80	14	31	32	23	107	159	162	321	20	1605%
Research Corporation of the University of Hawai'i (RCUH)		6		3	35	684	3	756	38	1,449	1,487	2,631	57%
Senate (SEN)	20	3	77	1	132	3	95	28	324	35	359	109	329%
University of Hawai'i-Community Colleges (UOHC)	137		14		208	559	56	606	415	1,165	1,580	2,568	62%
University of Hawai'i-Hilo (UOHH)		1	1		42	90	11	179	54	270	324	864	38%
University of Hawai'i-Manoa (UOHM)			65		407	1,429	139	1,463	611	2,892	3,503	8,511	41%
University of Hawai'i-System (UOH)	117	245	43	67	103	296	20	260	283	868	1,151	502	229%
University of Hawai'i-West Oahu (UOHW)	2				45	113	14	153	61	266	327	399	82%
Total Employees Training Completed	947	1,666	1,172	427	2,674	5,830	1,013	31,485	5,806	39,689	45,495	58,611	78%

*Based on annual financial disclosure updates from departments collected in March/April 2023
As of December 5, 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	5		9	3	12	8	150%
Board of Acupuncture	1				1	1		1	2	2	4	5	80%
Board of Agriculture	1			1	4		2	1	7	2	9	10	90%
Board of Barbering and Cosmetology	1	1			1	2		1	2	4	6	7	86%
Board of Certification of Operating Personnel in Wastewater Treatment Plants					3	2		4	3	6	9	9	100%
Board of Chiropractic Examiners						1		3		4	4	5	80%
Board of Dentistry					1	8		3	1	11	12	12	100%
Board of Education	1	1	1	3	11	1	1		14	5	19	11	173%
Board of Electricians and Plumbers	3			1	2	2		1	5	4	9	7	129%
Board of Land and Natural Resources		2		2	1	2	5		6	6	12	7	171%
Board of Massage Therapy	1				2			1	3	1	4	5	80%
Board of Nursing					4	1	1	3	5	4	9	9	100%
Board of Physical Therapy						3		4		7	7	7	100%
Board of Private Detectives and Guards					2	1		1	2	2	4	7	57%
Board of Professional Engineers, etal	1					2		4	1	6	7	14	50%
Board of Public Accountancy					4	1		6	4	7	11	9	122%
Board of Registration	1				2	2			3	2	5	12	42%
Board of Speech Pathology and Audiology	2				1	1			3	1	4	7	57%
Board on Geographic Names					6	2			6	2	8	7	114%
Civil Rights Commission					3	1		1	3	2	5	5	100%
Commission on Status of Women	6				2			1	8	1	9	5	180%
Commission on Water Resource Management				1		2	3	1	3	4	7	7	100%
Contractors License Board	5				1	3		3	6	6	12	13	92%
Correctional System Oversight Commission					3				3		3	5	60%
Council on Revenues					3			3	3	3	6	7	86%
Crime Victim Compensation Commission							2	1	2	1	3	3	100%
Defender Council					2				2		2	5	40%
Deferred Compensation Plan Board of Trustees	1				6				7		7	7	100%
Disability and Communication Access Board						1	1	16	1	17	18	17	106%
Early Learning Board						1	1	3	1	4	5	13	38%
Elections Commission					4	2		1	4	3	7	9	78%
Elevator Mechanics Licensing Board					3	1		1	3	2	5	7	71%
Employees' Retirement System Board of Trustees			6		7	1			13	1	14	8	175%
Enhanced 911 Board	1							9	1	9	10	13	77%
Environmental Advisory Council					8	2		2	8	4	12	15	80%
Festival of the Pacific Arts & Culture					1	6			1	6	7	9	78%

82% (based on 9 out of 11 current members)

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	
Hawai'i Board of Optometry					2	3		1	2	4	6	7	86%	
Hawai'i Board of Veterinary Medicine					2			1	2	1	3	7	43%	
Hawai'i Climate Change Mitigation and Adaptation Commission					4	1		6	4	7	11	20	55%	
Hawai'i Employer-Union Health Benefits Trust Fund				1	1		1	7	2	8	10	10	100%	
Hawai'i Green Infrastructure Authority					2				2		2	5	40%	
Hawai'i Health Systems Corporation-Corporation				1				2		3	3	18	17%	47% (based on 7 out of 15 current members)
Hawai'i Health Systems Corporation-East Hawai'i						2		3		5	5	12	42%	55% (based on 6 out of 11 current members)
Hawai'i Health Systems Corporation-Kauai								4		4	4	10	40%	50% (based on 4 out of 8 current members)
Hawai'i Health Systems Corporation-Maui											0	4	0%	50% (based on 1 out of 2 current members)
Hawai'i Health Systems Corporation-Oahu			8			1			8	1	9	8	113%	
Hawai'i Health Systems Corporation-West Hawai'i						4		1		5	5	9	56%	
Hawai'i Housing Finance and Development Corporation				1	6				6	1	7	9	78%	
Hawai'i Hurricane Relief Fund Board	1								1		1	7	14%	No current board members at this time per our records
Hawai'i Law Enforcement Standards Board	1				2	1		5	3	6	9	14	64%	
Hawai'i Medical Board					12	2		5	12	7	19	11	173%	
Hawai'i Paroling Authority	1					3		1	1	4	5	5	100%	
Hawai'i Public Housing Authority	1				4	6	5	1	10	7	17	10	170%	
Hawai'i State Ethics Commission				1	2		3		5	1	6	5	120%	
Hawai'i State Fire Council					2		2	2	2	2	4	4	100%	
Hawai'i Teacher Standards Board					3	7		1	3	8	11	17	65%	
Hawaiian Homes Commission					2	2	6	1	8	3	11	9	122%	
Island Burial Council - Hawai'i					1		1		2		2	7	29%	60% (based on 3 out of 5 current members)
Island Burial Council - Kauai/Niihau				3						3	3	6	50%	
Island Burial Council - Maui/Lanai							1		1		1	6	17%	
Island Burial Council - Molokai						1				1	1	3	33%	100% (based on 1 out of 1 current member)
Island Burial Council - Oahu				1	3	1			3	2	5	8	63%	

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	
King Kamehameha Celebration Commission	1				6	3	2	1	9	4	13	15	87%	
Land Use Commission	1				6	2	5	2	12	4	16	9	178%	
Medical Education Council					1	2	1		2	3	5	13	38%	83% (based on 10 out of 12 current members)
Merit Appeals Board								3		3	3	3	100%	
Motor Vehicle Industry Licensing Board						3		3		6	6	7	86%	
Motor Vehicle Repair Industry Board						1		2		3	3	7	43%	50% (based on 1 out of 2 current members)
National and Community Service, Hawai'i Commission for	1				5			4	6	4	10	15	67%	
Oahu Metropolitan Planning Organization						3		4		7	7	14	50%	
Other Board/Commission				3	25	49	2	50	27	102	129		0%	
Pacific International Space Center for Exploration Systems	1							1	1	1	2	9	22%	100% (based on 4 out of 4 current members)
Pest Control Board					3	3			3	3	6	9	67%	
Radiologic Technology Board	3								3		3	5	60%	
Real Estate Commission	1				9	3			10	3	13	9	144%	
Soil and Water Conservation District Boards				2	34	10	1	5	35	17	52	84	62%	
Stadium Authority Commission					4	3	2		6	3	9	8	113%	
State Council on Developmental Disabilities	4				5	2		6	9	8	17	28	61%	
State Foundation on Culture and the Arts					7	2	1	2	8	4	12	7	171%	
State Public Charter School Commission					8	3	1	3	9	6	15	9	167%	
Statewide Health Coordinating Council	2					2		7	2	9	11	9	122%	
University of Hawai'i Board of Regents				2	4	4	11		15	6	21	11	191%	
Total Board/Commission Members Training Completed	45	4	15	24	256	183	63	210	379	421	800	808		

*Membership number is based on full membership and may include vacant positions
As of December 5, 2023

See next page for additional boards.

Outreach to Targeted State Agencies:

- Department of Accounting & General Services
- Department of Public Safety
- Department of Transportation
- Hawai'i Health Systems Corporation (letter regarding HHSC employees & board members)
- Research Center of the University of Hawai'i (letter regarding RCUH employees & board members)

Outreach to Targeted State Boards:

	# active members serving on board (excl. vacancies)	# who completed training	% Completed (as of 12/5/23)
Board of Naturopathic Medicine	4	2	50%
Board of Pharmacy	7	6	86%
Board of Psychology	5	5	100%
Boxing Commission	4	2	50%
Campaign Spending Commission	5	3	60%
Hawai'i Community Development Authority	13	11	85%
Hawai'i Historic Places Review Board	5	3	60%
Hawai'i Retirement Savings Board	8	8	100%
Hawai'i State Emergency Response Commission	11	8	73%
Hawai'i Technology Development Corporation	8	7	88%
Hawai'i Tourism Authority	12	10	83%
Hoisting Machine Operators Advisory Board	5	3	60%
Kaho'olawe Island Reserve Commission	4	4	100%
Legacy Land Conservation Commission	8	7	88%
Mauna Kea Stewardship & Oversight Authority	12	7	58%
Natural Area Reserves System Commission	9	9	100%
Natural Energy Laboratory of Hawai'i	11	8	73%
Public Water System Operators **	3	3	100%
RCUH Board	6	5	83%
School Facilities Authority Board	3	3	100%
TOTAL	143	114	78%

** The Public Water Systems Operators board did not receive a letter from the Commission since all members are up to date.

Non-active Boards:

(Based on our records to date, the following boards do not have any appointed members at this time, or are no longer active by law)

- Transit Oriented Development Infrastructure Improvement District Board
- Women's Corrections Implementation Commission
- Lesbian, Gay, Bisexual, Transgender, Queer, Plus Commission
- Tax Review Commission – Currently not active; board convenes every 5 years to review Hawai'i tax laws, with the last one occurring in 2020-2022

2023	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
Training statistics													
# of In-Person Trainings	2	1	0	2	1	0	0	1	0	0	0		7
# of People Trained In Person	113	24	47	52	21	0	0	195	0	0	0		452
# of On-Line Trainings (Self-Directed)	1,051	522	4,042	1,454	1,793	1,438	1,849	13,166	2,036	2,136	1,794		31,281
# of Training Webinars	4	2	3	1	2	1	0	1	2	1	2		19
# of Participants in Training Webinars	376	124	71	30	32	8	0	15	13	25	70		764
Attorney of the Day	125	103	125	97	122	84	103	95	91	75	84		1104
New assignments													
Advisory Opinion	0	0	0	0	0	0	0	0	0	2	1		3
Complaint	18	19	24	21	20	20	19	20	110	24	16		311
Gifts/Invitations/Travel	12	25	26	17	18	33	35	30	20	27	13		256
Guidance	4	2	1	0	3	2	2	0	0	4	1		19
Judicial Selection Comm'n	0	4	2	1	5	4	1	1	4	3	2		27
Training Request	0	0	0	0	0	0	0	0	0	0	0		0
Record Request	1	1	0	0	3	1	2	1	0	0	1		10
Project/Other	6	2	1	4	2	2	4	6	2	2	3		34
Total	41	53	54	43	51	62	63	58	136	62	37	0	660
Closed Assignments													
Advisory Opinion	0	0	1	1	1	0	0	0	0	0	1		4
Complaint	8	4	30	46	18	30	36	24	117	23	23		359
Gifts/Invitations/Travel	0	21	34	20	22	33	32	30	20	22	18		252
Guidance	0	0	2	4	1	1	6	0	1	0	4		19
Judicial Selection Comm'n	0	4	2	1	3	5	2	1	4	2	2		26
Training Request	0	0	0	0	0	0	0	0	0	0	0		0
Record Request	0	1	0	1	1	2	3	0	0	0	1		9
Project/Other	1	7	4	5	3	0	6	7	0	6	2		41
Total	9	37	73	78	49	71	85	62	142	53	51	0	710
Anti-Fraud	3	2	2	2	3	1	8	8	5	8	4		46

SUNSHINE LAW MEETING
AGENDA ITEM III

SUMMARY AND DISCUSSION OF THE 2023 COUNCIL ON GOVERNMENTAL
ETHICS LAWS CONFERENCE

No attachments.

SUNSHINE LAW MEETING
AGENDA ITEM IV

DISCUSSION OF MEDIA REPORTS CONCERNING ETHICS OR THE ETHICS
COMMISSION SINCE THE LAST MEETING

No attachments.

SUNSHINE LAW MEETING
AGENDA ITEM V

PROPOSED LEGISLATION

Attachment 1: Updating Lobbying Definition to Include Certain Administrative
 Actions

HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO LOBBYING.

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

1 SECTION 1. The Legislature finds that it is in the public
2 interest to have transparent disclosure of lobbying activities.
3 Under the Lobbyist law, chapter 97, Hawaii Revised Statutes,
4 "lobbying" an administrative agency only includes formal
5 rulemaking or other actions governed by section 91-3. Because
6 the vast majority of an administrative agency's operations are
7 conducted outside of formal rulemaking, the purpose of this Act
8 is to expand the definition of "administrative action" in
9 section 97-1, Hawaii Revised Statutes, to include certain
10 communications regarding procurement decisions, staffing or
11 appointment decisions, the development of an administrative
12 agency's written report or statement of policy, and ex parte
13 communications regarding contested case hearings. Including
14 these matters in the definition of lobbying promotes government
15 transparency by providing the public with additional information
16 regarding lobbying at the administrative agency level.

H.B. NO.

SECTION 2. Section 97-1, Hawaii Revised Statutes, is amended to read as follows:

§ 97-1 **Definitions.** When used in this chapter:

~~["Administrative action" means the proposal, drafting, consideration, amendment, enactment, or defeat by any administrative agency of any rule or other action governed by section 91-3.]~~

"Administrative agency" means a commission, board, agency, or other body, or official in the state government that is not a part of the legislative or judicial branch.

"Contribution" includes a gift, subscription, forgiveness of a loan, advance, or deposit of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make a contribution.

"Expenditure" includes a payment, distribution, forgiveness of a loan, advance, deposit, or gift of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make an expenditure. "Expenditure" also includes compensation or other consideration paid to a lobbyist for the performance of lobbying services. "Expenditure" excludes any amounts expended:

H.B. NO.

1 (1) For intrastate travel costs, including incidental
2 meals and lodging; provided that this exception does not
3 apply to any amounts expended for travel costs of state
4 legislators, board and commission members, or any other
5 employees of the State; or

6 (2) By a nonprofit organization to prepare and submit an
7 application for a grant pursuant to chapter 42F, and for
8 each of the nonprofit organization's employees to lobby a
9 maximum of ten hours in a month for that application.

10 "Legislative action" means the sponsorship, drafting,
11 introduction, consideration, modification, enactment, or defeat
12 of any bill, resolution, amendment, report, nomination,
13 appointment, or any other matter pending or proposed in the
14 legislature.

15 "Lobbying" means communicating directly or through an
16 agent, or soliciting others to communicate[7]:

17 (1) with any official in the legislative or executive
18 branch, for the purpose of attempting to influence:

19 (A) legislative action [~~or administrative action or a~~
20 ~~ballot issue.~~];

H.B. NO.

1 (B) rules or other action governed by section 91-3;

2 or

3 (C) a ballot issue;

4 (2) with the governor, the lieutenant governor,

5 legislators, or the director, deputy director, or

6 member of the governing board of an administrative

7 agency, outside of any public hearing, for the purpose

8 of attempting to influence:

9 (A) the solicitation or award of a contract or

10 proposal before an administrative agency, if any of

11 the communications are not authorized by sections 103D

12 or 103F;

13 (B) staffing or appointment decisions regarding

14 specific positions at an administrative agency;

15 (C) the development or modification of an

16 administrative agency's written report or statement of

17 policy; or

18 (D) a specific contested case hearing, rate

19 proceeding, or other quasi-judicial proceeding before

20 an administrative agency, provided the communication

21 is not governed by sections 91 or 269.

H.B. NO.

1 "Lobbying" shall not include the preparation and submission
2 of a grant application pursuant to chapter 42F by a
3 representative of a nonprofit organization.

4 "Lobbyist" means any individual who:

5 (1) Receives or expects to receive, including by
6 employment compensation, \$1,000 or more in monetary or in-
7 kind compensation in any calendar year for engaging in
8 lobbying, either personally or through the lobbyist's
9 agents; or

10 (2) For pay or other consideration, on behalf of another
11 person:

12 (A) Engages in lobbying in excess of five hours in
13 any month of any reporting period described in section
14 97-3;

15 (B) Engages in lobbying in excess of ten hours during
16 any calendar year; or

17 (C) Submits ten pieces or more of testimony during
18 any calendar year; or

19 (D) Makes expenditures of \$1,000 or more of the
20 person's or any other person's money lobbying during
21 any reporting period described in section 97-3;

H.B. NO.

provided that an employee of a nonprofit organization who spends fewer than ten hours in any month lobbying on a grant application submitted pursuant to chapter 42F is not a lobbyist if the employee does not engage in lobbying on matters that are unrelated to the grant application.

"Person" means a corporation, individual, union, association, firm, sole proprietorship, partnership, committee, club, or any other organization or a representative of a group of persons acting in concert.

SECTION 3. Chapter 97, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§ 97- Presumption of lobbying on behalf of private clients.
Unless the testimony pertains to a subject not relevant to the paying person, an individualsubmitting testimony or engaging in lobbying activities is presumed to act on behalf of a paying person rather than in an individual capacity.

SECTION 4. Chapter 97, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

H.B. NO.

1 In addition to any other penalty provided by law, any contract
2 or other action entered into by the State in violation of this
3 chapter is voidable on behalf of the State; provided that in
4 any action to avoid a contract pursuant to this section the
5 interests of third parties who may be damaged thereby shall be
6 taken into account, and the action to void the transaction is
7 initiated within sixty days after the determination of a
8 violation under this chapter. The attorney general shall have
9 the authority to enforce this provision.

10 SECTION 5. Section 84-36, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **§84-36 Cooperation.** The ethics commission may request from any
13 state agency, and the state agency must provide, cooperation and
14 assistance in the performance of its duties. Legislators and
15 state employees must report potential ethics violations to the
16 ethics commission that they know of or reasonably should know
17 of, including any instance of actual or attempted contact or
18 solicitation by an unregistered lobbyist in violation of Chapter
19 97, Hawaii Revised Statutes.

H.B. NO.

1 SECTION 6. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 7. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 8. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on January 1, 2027.

12
INTRODUCED BY: _____

SUNSHINE LAW MEETING
AGENDA ITEM VI

PROPOSED BUDGET

Attachment 1: Proposed Ethics Commission Budget FY 2024-2025

Hawai'i State Ethics Commission - Budget Projections for FY 2024-2025

	2023-2024 Base Budget	2024-2025 Estimated Budget	Increases/ Decreases From FY24	% Increase/ Decrease From FY24
TOTAL BUDGET (excluding vacation payouts) \$	1,541,514	\$ 1,625,443	\$ 83,929	5.4%

PERSONNEL

Staff Salaries ¹	1,229,623	1,334,003	104,380	8.5%
Cost Adjustments for staff salaries	-			
Vacation Payouts/Transfer	16,553	16,553		
TOTAL PERSONNEL (excluding vacation payouts)	1,229,623	1,334,003	104,380	8.5%

MATERIALS AND SUPPLIES**Office Expenses:**

Office Supplies	3,500	3,500	-	0.0%
Postage	1,500	1,500	-	0.0%
Telephone & Internet	11,640	11,640	-	0.0%
Subtotal:	16,640	16,640	-	0.0%

Intrastate Transportation and Travel

Commissioners / Staff	8,500	8,500	-	0.0%
Car Mileage and Parking	750	750	-	0.0%
Subtotal:	9,250	9,250		0.0%

Out-of-State Travel

Airfare (6 @ \$1,000 ea.)	6,000	6,000	-	0.0%
Lodging and per diem for 5.5 days (6 @ \$145/day x 5.5 days)	4,800	4,800	-	0.0%
Excess Hotel and Increases in per diem/airfare	1,700	1,700	-	0.0%
Taxi/bus fare	160	160	-	0.0%
Subtotal:	12,660	12,660	-	0.0%

Equipment Rental and Maintenance

Copier	3,600	3,600	-	0.0%
Computer Equipment Maintenance	3,500	3,500	-	0.0%
Misc. (time clock, projector, etc.)	700	700	-	0.0%
Investigation Software	3,100	3,100	-	0.0%
Software License Renewals	22,000	22,000	-	0.0%
Videoconferencing software for training	1,200	1,200	-	0.0%
Subtotal:	34,100	34,100	-	0.0%

	2023-2024 Base Budget	2024-2025 Estimated Budget	Increases/ Decreases From FY24	% Increase/ Decrease From FY24
Dues, Subscriptions, Training				
COGEL Membership	470	470	-	0.0%
COGEL Registration (6 x \$600)	3,600	3,600	-	0.0%
Attorney Registration Fees	3,400	3,400	-	0.0%
Training Expenses	7,500	7,500	-	0.0%
Legal Reference Publications	4,900	4,900	-	0.0%
Newspapers Subscriptions, etc.	240	240	-	0.0%
Disruptive Behavior Training	800	800	-	0.0%
Subtotal:	20,910	20,910	-	0.0%
Newspaper Advertisements	1,100	1,100	-	0.0%
	1,100	1,100	-	0.0%
Commission Meetings, Investigations and Hearings				
Subpoena Fees	900	900	-	0.0%
Court Reporter	7,500	7,500	-	0.0%
Witness Fees, Travel, Mileage	1,500	1,500	-	0.0%
Hearings Officer	1,500	1,500	-	0.0%
Commission Meeting Expenses	1,000	1,000	-	0.0%
Subtotal:	12,400	12,400	-	0.0%
Consulting Services				
Computer Consulting	42,000	42,000	-	0.0%
Other Services (Interpreting, shredding)	500	500	-	0.0%
Subtotal:	42,500	42,500	-	0.0%
Office Rent²	158,331	131,880	(26,451)	-16.7%
TOTAL MATERIALS AND SUPPLIES:	307,891	281,440	(26,451)	-8.6%
CAPITAL OUTLAY				
Office Furniture & Equipment³	4,000	10,000	6,000	150.0%
TOTAL CAPITAL OUTLAY:	4,000	10,000	6,000	150.0%
GRAND TOTAL:	\$ 1,541,514	\$ 1,625,443	\$ 83,929	5.4%

¹ This includes a required increase for the Executive Director position under the 2019 report from the Commission on Salaries. The Ethics Commission proposes to hire an additional staff attorney to assist with compliance and enforcement at a pay range up to \$100,000.

² FY24-28 Lease rent renegotiated in 7th amendment to office lease representing a decrease in cost. Rent generally increases 2.5% each fiscal year, CAM typically increases 2.68% each calendar year.

³ New office furniture and equipment to utilize renovated office space.

SUNSHINE LAW MEETING
AGENDA ITEM VII

DISCUSSION OF ETHICS OVERSIGHT OVER THE JUDICIAL BRANCH

No attachments.

SUNSHINE LAW MEETING
AGENDA ITEM VIII

DISCUSSION OF NEPOTISM GOOD CAUSE EXCEPTION PROCEDURES

Attachment 1: Staff Overview

Attachment 2: Order Regarding Applications for Good Cause Exceptions to the
Nepotism Law

DISCUSSION OF NEPOTISM GOOD CAUSE EXCEPTION PROCEDURES

Recommendation to take no further action regarding nepotism good cause exception application procedures

STAFF OVERVIEW

On May 17, 2023, the Commission issued an order creating a temporary nepotism exception application process pending the promulgation of new administrative rules. (Attachment 2). The Order delegates the initial decision on any good cause exception application to the Commission's staff, and the matter may be elevated to the Commission if the applicant disagrees with the staff's decision or if the matter presents novel legal issues.

Recently, the Commission received testimony regarding the nepotism exception application process, and comments have also been submitted regarding specific exceptions the Commission granted. This raises the potential issue of the staff granting an exception (for instance, by allowing an agency to hire a person supervised by a relative), and the Commission later disagreeing or reversing that decision.

Staff has considered options to potentially address this concern, but believes the process outlined in the May 17 Order should remain unchanged. Staff considered granting a ten-day window to allow objections by members of the public to any staff decision on a nepotism exception application, and then if an objection were received, the matter would be elevated to the Commission. However, many exception applications potentially involve hiring new personnel, which is a time-sensitive process. If a window for objections were granted, a hiring decision may be delayed up to forty days after the staff's decision (10 days for the objections, and then up to 30 days for the next Commission meeting). A lengthy delay in the hiring process would likely cause issues for agencies seeking emergency hires. In light of this concern, staff recommends that the process remain unchanged with the understanding a disagreement on an exception application would likely be rare and that the Commission would adhere to an exception application it disagreed with if the agency hired personnel based on staff's guidance. Staff would also elevate uncertain legal matters to the Commission.

Recommended Motion:

Motion to take no further action on nepotism exception application procedures.

KC/lis

BEFORE THE HAWAI'I STATE ETHICS COMMISSION

STATE OF HAWAI'I

In the Matter of

HAWAI'I STATE ETHICS COMMISSION

Applications for Good Cause Exceptions to
the Nepotism LawORDER REGARDING APPLICATIONS FOR GOOD CAUSE EXCEPTIONS TO THE
NEPOTISM LAW

The Hawai'i Legislature recently passed House Bill 717 HD1 SD2 CD1 (2023) ("nepotism law"), which prohibits nepotism in the executive branch and is awaiting the Governor's signature. Should the Governor sign the nepotism law, it is hereby ordered that the following procedures will govern requests for "good cause" exceptions under § (e) of the nepotism law pending the enactment of new administrative rules.

The Commission will provide a good cause exception application, which will be available on the Commission's website, and require that the agency or employee explain and furnish proof of why they need to be exempted from the nepotism law, the nature of the relationship between the employee and their relative, what efforts were taken to comply with the law absent an exception, how the relevant state position was advertised and for how long (if the decision relates to a new hire), and when the agency or employee must have an answer from the Commission. The Commission's staff may request additional information from the applicant and conduct interviews if necessary. During the pendency of any application, the applicant shall preserve the status quo relating to the employee's employment responsibilities.

ORDER REGARDING APPLICATIONS FOR GOOD CAUSE EXCEPTIONS TO THE
NEPOTISM LAW

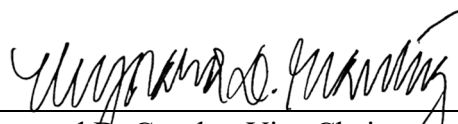
Page 2

Pursuant to Haw. Admin. R. § 21-1-11(c), the Commission delegates the initial decision on any good cause exception application to the Executive Director. The Executive Director's decisions on good cause applications will be publicly available on the Commission's website. Should the good cause application raise novel issues or should the applicant disagree with the Executive Director's decision, the matter shall be referred to the Commission for a decision, which will be publicly posted on the Commission's website.

DATED: Honolulu, Hawai'i, May 17, 2023.

HAWAI'I STATE ETHICS COMMISSION



Wesley F. Fong, Chair

Reynard D. Gaulty, Vice Chair

Harry McCarthy, Commissioner

Beverley Tobias, Commissioner

Robert Hong, Commissioner

SUNSHINE LAW MEETING
AGENDA ITEM IX

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 X

EVALUATION OF EXECUTIVE DIRECTOR ROBERT HARRIS

The Hawai'i State Ethics Commission may convene 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.

No attachments.