

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: August 21, 2024

Time: 9:00 a.m.

Location: Hybrid meeting held via Zoom video and audio conference

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 970
Honolulu, Hawaii 96813

Present: State Ethics Commission Members

Wesley F. Fong, Chair (present in the conference room)
Beverley Tobias, Vice Chair (present in the conference room)
Robert Hong, Commissioner (present in the conference room)
Cynthia Thielen, Commissioner (present in the conference room)

State Ethics Commission Staff

Robert D. Harris, Executive Director (present in the 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)
Barbara A. Gash, Investigatory Analyst (via video conference)
Myles A. Yamamoto, Administrative Assistant (present in the conference room)

Members of the Public

Blaze Lovell, Civil Beat (via video conference)

CALL TO ORDER (Part I) (0:28)

Chair Fong called the meeting to order at 9:01 a.m. Chair Fong, Vice Chair Tobias, Commissioner Thielen, Commissioner Hong, 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: Status of New Commissioner Appointment (Part I) (3:29)

Executive Director Robert Harris reported that there have been no updates regarding the appointment of a new commissioner from the Judicial Council. He noted that the request was submitted back in January.

Agenda Item No. II: Consideration and Approval of the Minutes of the July 17, 2024 Meeting (Part I) (4:54)

Commissioner Thielen made, and Vice Chair Tobias seconded, a motion to approve the minutes of the July 17, 2024 meeting. The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voted in the affirmative).

Agenda Item No. III: Directors' Report (Part I) (5:33)

Compliance Director Bonita Chang reported that staff is in the process of updating training data for the boards and commissions. Staff is also receiving information from agencies regarding their training compliance. The data is being compiled and updated reports of the training data will be presented next month. She expressed her thanks to the Dept. of Human Resources Development for their assistance in gathering training data.

Director Chang also reported that lobbyist training sessions have been scheduled for December. She noted that all lobbyists are required to take training and re-register due to the new legislative biennium. Director Chang reported that staff is also planning ethics training sessions with the Legislature for the newly elected officials and additional lobbyist trainings for January before start of the new legislative biennium.

Executive Director Robert Harris noted that the new lobbyist law requires that lobbyists complete the mandatory lobbyist training requirement prior to registration.

Enforcement Director Kee Campbell reported that 34 complaints were opened and 41 were closed in the past month. He noted that staff continues to close matters at a higher rate than matters coming in.

Executive Director Harris noted that sound masking equipment has been installed in the conference room and a second office. This should help with ensuring the confidentiality of the Commission's meetings and discussions.

Director Harris reported that the staff is working on updates to the Administrative Rules. The updates are driven by issues that have arisen throughout day-to-day operations and recent changes to the ethics code and lobbying laws. He expects to start bringing forward the proposed revisions before the Commission next month.

Director Harris reported that staff and Chair Fong attended a ceremonial bill signing with the Governor.

Director Harris reported that he will be on vacation during the October Meeting. He noted that directors Campbell and Chang will be available and can fill his role.

Chair Fong thanked the staff for attending the bill signing with the Governor and expressed his happiness with the passage and signing of legislation increasing the Commission's fines.

Agenda Item No. IV: Discussion of Media Reports Concerning Ethics or the Ethics Commission Since the Last Meeting (Part I) (13:38)

Executive Director Harris noted, in response to the commissioners' requests, that a Google alert has been set up to alert the commissioners of articles of note. In addition, links to articles will be set up on the Commission's Website.

Director Harris noted recent articles regarding the Maui Board of Ethics investigations into the awarding of grants and a second article related to political signage on what was thought to be a government building. He noted that the building in question was, in fact, privately owned.

Chair Fong noted that the Maui Board of Ethics appears to have received funding to hire more staff.

Agenda Item No. V: Discussion of Ethics Oversight over the Judicial Branch (Part I) (17:30)

Executive Director Robert Harris reported that the Judiciary is proposing to amend its rules. The drafts will be available for public input and comment.

Agenda Item No. VI: Request for Information from the National Conference of State Legislatures Regarding State-Level Restrictions on High-Level Government Employees Participating in Political Fundraising (Part I) (18:39)

Executive Director Harris reported that staff contacted the National Conference of State Legislatures (“NCSL”) regarding state-level restrictions on high-level government employees participating in political fundraising. The response from NCSL came after the Sunshine Agenda and materials were published. Therefore, the NCSL response will be discussed next month. He noted that Hawa’i law was written broadly to give the Commission the flexibility for enforcement. He further noted that other states have narrower, more specific laws. He recommended that the Commission consider revisions to the Administrative Rules instead of statutory revisions.

Commissioner Thielen asked if this item would be moved to the September agenda. She also asked about expanding the Fair Treatment rules to prohibit this kind of activity. Director Harris replied that this item would be included in the September agenda. He noted that NCSL’s response did not have examples of laws directly regulating employees’ conduct. He said that most prohibitions centered on restrictions on the use of government property for such events. He emphasized prior recommendations to regulate contractors.

Commissioner Thielen reiterated her desire to regulate the behavior of high-level employees.

Vice Chair Tobias asked how the Campaign Spending Commission has been involved. Director Harris replied that there have been numerous conversations. He noted that Campaign Spending is supportive of regulating contractors but resistant to regulating employees.

Agenda Item No. VII: University of Hawai’i Professional Assembly v. Board of Regents of the University of Hawai’i, S.P. No.: 1CSP-23-000959 (Part I) (27:55)

Executive Director Harris recommended that the Commission enter into executive session to discuss this matter.

At approximately 9:29 a.m., Vice Chair Tobias moved, and Commissioner Hong seconded, a motion to convene an executive session to discuss involvement in the University of Hawai’i Professional Assembly v. Board of Regents of the University of Hawai’i. The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voting in the affirmative).

At 9:30 a.m. the commission went into an executive session.

At 9:44 a.m., the commission adjourned the executive session and reconvened the sunshine meeting.

Vice Chair Tobias made, and Commissioner Thielen seconded, a motion to intervene in the matter of the University of Hawai'i Professional Assembly v. Board of Regent of the University of Hawai'i as appropriate.

Commissioner Hong noted a potential conflict of interest as a former University of Hawai'i Professional Assembly member. Director Harris responded that Commissioner Hong's membership is not a conflict of interest under the State Ethics Code.

Chair Fong noted a potential conflict of interest as a University of Hawai'i Professional Assembly member. Director Harris responded that Chair Fong's membership is not a conflict of interest under the State Ethics Code.

Commissioner Thielen noted a potential conflict of interest from the University of Hawai'i Professional Assembly's prior endorsements of previous campaigns for office. Director Harris responded that the prior endorsements did not constitute a conflict of interest.

The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voted in the affirmative).

Agenda Item No. VIII: Akana v. Hawai'i State Ethics Commission and Daniel Gluck, Civil No. 18-1-1019-06 (JHA); Akana v. Hawai'i State Ethics Commission, Civil No. 19-1-0379-03 (JHA); State of Hawai'i, Ethics Commission v. Rowena Akana, Civil No. 20-1-0453 (BIA) (Part II) (3:10)

Executive Director Harris reported that there is no update.

Agenda Item No. IX: Adjournment of Sunshine Law Meeting (Part II) (3:41)

At approximately 9:49 a.m., Commissioner Thielen motioned to adjourn the meeting, and Vice Chair Tobias seconded. The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voted in the affirmative).

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

Minutes approved on September 18, 2024.