

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

Commissioners:

Wesley Fong, Chair

Beverley Tobias, Vice-Chair • Robert Hong • Cynthia Thielen

Date: September 18, 2024

Time: 9:00 a.m.

Location: Zoom Videoconference or Phone:

Videoconference: [Join Zoom Meeting](https://us06web.zoom.us/j/88535898307?pwd=mSRpJSybZvZEe8XrQUF8E3ELYxuaS3.1)
<https://us06web.zoom.us/j/88535898307?pwd=mSRpJSybZvZEe8XrQUF8E3ELYxuaS3.1>

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

Phone passcode: 450933

Meeting ID: 885 3589 8307

Passcode: 2X0E2k

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 visit 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.

AGENDA

CALL TO ORDER

I. Status of New Commissioner Appointment

*Attachment 1: September 10, 2024 Letter from the Judicial Council
Submitting Nominees to Governor Josh Green*

II. Consideration and Approval of the Minutes of the August 21, 2024 Meeting

*Attachment 1: Sunshine Law Meeting Minutes of the August 21, 2024, Hawai'i
State Ethics Commission Meeting*

III. Directors' Report

1. Education / Training Report

Attachment 1: 2024 Training Schedule

2. Guidance and Assignment Statistics – August 2024

Attachment 2: 2024 Guidance and Assignment Statistics / Website Traffic

3. Miscellaneous Office Projects / Updates

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

V. Discussion of Ethics Oversight of the Judicial Branch

No update. Proposed rule amendments, when available, will be posted at:

https://www.courts.state.hi.us/legal_references/rules/proposed_rule_changes/proposedRuleChanges

VI. Request for Information from the National Conference of State Legislatures Regarding State-Level Restrictions on High-Level Government Employees Participating in Political Fundraising

Attachment 1: Staff Overview

Attachment 2: State Prohibitions on Government Employees Fundraising

VII. Administrative Rules

Review of proposed edits

Attachment 1: Staff Overview

Attachment 2: Proposed edits to Hawai'i Administrative Rules, Title 21, Chapters 1-3

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)

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.

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 (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

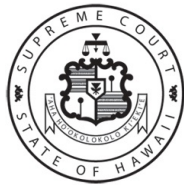
If you require an auxiliary aid or accommodation due to a disability, please contact the State Ethics Commission at (808) 587-0460 or email the Commission at info.ethics@hawaii.gov as soon as possible, preferably at least 48 hours prior to the meeting. Last-minute requests will be accepted but may be impossible to fill.

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

SUNSHINE LAW MEETING
AGENDA ITEM I

STATUS OF NEW COMMISSIONER APPOINTMENT

Attachment 1: September 10, 2024 Letter from the Judicial Council
Submitting Nominees to Governor Josh Green



Supreme Court – THE JUDICIARY • STATE OF HAWAII

417 South King Street • Ali‘iōlani Hale • Honolulu, Hawai‘i • 96813-2943 • Ph: (808) 539-4700 • Fax (808) 539-4703

Mark E. Recktenwald
CHIEF JUSTICE

September 10, 2024

VIA U.S. mail and email: josh.green@hawaii.gov

Honorable Josh Green, M.D.
Governor, State of Hawai‘i
Executive Chambers
Hawai‘i State Capitol
415 S. Beretania Street
Honolulu, HI 96813

Re: Nominees to the State Ethics Commission

Dear Governor Green:

Pursuant to Hawai‘i Revised Statutes (HRS) § 84-21 (Supp. 1995), the Judicial Council hereby transmits the following two names and accompanying applications of nominees to fill the current vacancy on the State Ethics Commission due to the untimely passing of Commissioner Harry J. McCarthy, the term of which expired on June 30, 2024.

The nominees in alphabetical order are:

(1) **RODERICK K. BECKER**

(2) **PAUL YUEN**

As you know, HRS § 84-21 provides that the appointment to fill any vacancy be made by the governor "within sixty days after receipt of the list of nominees from the judicial council." The individual you select will serve a term through June 30, 2028.

If you have any questions, please do not hesitate to contact me at 539-4701. Thank you.

Sincerely,

MARK E. RECKTENWALD
Chief Justice

MER;jma

Enclosures: Application of Roderick K. Becker for the State Ethics Commission
Application of Paul Yuen for the State Ethics Commission

cc w/enclosures: Wendy Kondo, Boards & Commissions Manager
Robert Harris, Executive Director, State Ethics Commission

SUNSHINE LAW MEETING
AGENDA ITEM II

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE
AUGUST 21, 2024 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the August 21, 2024
Hawai'i State Ethics Commission Meeting

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

STATE OF HAWAI'I

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

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

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

2
3 Chair Fong called the meeting to order at 9:01 a.m. Chair Fong, Vice Chair
4 Tobias, Commissioner Thielen, Commissioner Hong, and commission staff were
5 present. All commissioners and staff participating via video or audio conference
6 confirmed no one was in the room with them at their respective remote locations.
7

8
9 **Agenda Item No. I: Status of New Commissioner Appointment (Part I) (3:29)**

10
11 Executive Director Robert Harris reported that there have been no updates
12 regarding the appointment of a new commissioner from the Judicial Council. He noted
13 that the request was submitted back in January.
14

15
16 **Agenda Item No. II: Consideration and Approval of the Minutes of the July 17,**
17 **2024 Meeting (Part I) (4:54)**

18
19 Commissioner Thielen made, and Vice Chair Tobias seconded, a motion to
20 approve the minutes of the July 17, 2024 meeting. The motion carried (Commissioners
21 Fong, Tobias, Hong, and Thielen voted in the affirmative).
22

23
24 **Agenda Item No. III: Directors' Report (Part I) (5:33)**

25
26 Compliance Director Bonita Chang reported that staff is in the process of
27 updating training data for the boards and commissions. Staff is also receiving
28 information from agencies regarding their training compliance. The data is being
29 compiled and updated reports of the training data will be presented next month. She
30 expressed her thanks to the Dept. of Human Resources Development for their
31 assistance in gathering training data.
32

33 Director Chang also reported that lobbyist training sessions have been scheduled
34 for December. She noted that all lobbyists are required to take training and re-register
35 due to the new legislative biennium. Director Chang reported that staff is also planning
36 ethics training sessions with the Legislature for the newly elected officials and additional
37 lobbyist trainings for January before start of the new legislative biennium.
38

39 Executive Director Robert Harris noted that the new lobbyist law requires that
40 lobbyists complete the mandatory lobbyist training requirement prior to registration.
41

42 Enforcement Director Kee Campbell reported that 34 complaints were opened
43 and 41 were closed in the past month. He noted that staff continues to close matters at
44 a higher rate than matters coming in.
45

1 Executive Director Harris noted that sound masking equipment has been
2 installed in the conference room and a second office. This should help with ensuring the
3 confidentiality of the Commission's meetings and discussions.
4

5 Director Harris reported that the staff is working on updates to the Administrative
6 Rules. The updates are driven by issues that have arisen throughout day-to-day
7 operations and recent changes to the ethics code and lobbying laws. He expects to start
8 bringing forward the proposed revisions before the Commission next month.
9

10 Director Harris reported that staff and Chair Fong attended a ceremonial bill
11 signing with the Governor.
12

13 Director Harris reported that he will be on vacation during the October Meeting.
14 He noted that directors Campbell and Chang will be available and can fill his role.
15

16 Chair Fong thanked the staff for attending the bill signing with the Governor and
17 expressed his happiness with the passage and signing of legislation increasing the
18 Commission's fines.
19
20

21 **Agenda Item No. IV: Discussion of Media Reports Concerning Ethics or the Ethics**
22 **Commission Since the Last Meeting (Part I) (13:38)**
23

24 Executive Director Harris noted, in response to the commissioners' requests, that
25 a Goggle alert has been set up to alert the commissioners of articles of note. In addition,
26 links to articles will be set up on the Commission's Website.
27

28 Director Harris noted recent articles regarding the Maui Board of Ethics
29 investigations into the awarding of grants and a second article related to political
30 signage on what was thought to be a government building. He noted that the building in
31 question was, in fact, privately owned.
32

33 Chair Fong noted that the Maui Board of Ethics appears to have received funding
34 to hire more staff.
35
36

37 **Agenda Item No. V: Discussion of Ethics Oversight over the Judicial Branch (Part**
38 **I) (17:30)**
39

40 Executive Director Robert Harris reported that the Judiciary is proposing to
41 amend its rules. The drafts will be available for public input and comment.
42

1 **Agenda Item No. VI: Request for Information from the National Conference of**
2 **State Legislatures Regarding State-Level Restrictions on High-Level Government**
3 **Employees Participating in Political Fundraising (Part I) (18:39)**
4

5 Executive Director Harris reported that staff contacted the National Conference of
6 State Legislatures (“NCSL”) regarding state-level restrictions on high-level government
7 employees participating in political fundraising. The response from NCSL came after the
8 Sunshine Agenda and materials were published. Therefore, the NCSL response will be
9 discussed next month. He noted that Hawai’i law was written broadly to give the
10 Commission the flexibility for enforcement. He further noted that other states have
11 narrower, more specific laws. He recommended that the Commission consider revisions
12 to the Administrative Rules instead of statutory revisions.
13

14 Commissioner Thielen asked if this item would be moved to the September
15 agenda. She also asked about expanding the Fair Treatment rules to prohibit this kind
16 of activity. Director Harris replied that this item would be included in the September
17 agenda. He noted that NCSL’s response did not have examples of laws directly
18 regulating employees’ conduct. He said that most prohibitions centered on restrictions
19 on the use of government property for such events. He emphasized prior
20 recommendations to regulate contractors.
21

22 Commissioner Thielen reiterated her desire to regulate the behavior of high-level
23 employees.
24

25 Vice Chair Tobias asked how the Campaign Spending Commission has been
26 involved. Director Harris replied that there have been numerous conversations. He
27 noted that Campaign Spending is supportive of regulating contractors but resistant to
28 regulating employees.
29
30

31 **Agenda Item No. VII: University of Hawai’i Professional Assembly v. Board of**
32 **Regents of the University of Hawai’i, S.P. No.: 1CSP-23-000959 (Part I) (27:55)**
33

34 Executive Director Harris recommended that the Commission enter into
35 executive session to discuss this matter.
36

37 At approximately 9:29 a.m., Vice Chair Tobias moved, and Commissioner Hong
38 seconded, a motion to convene an executive session to discuss involvement in the
39 University of Hawai’i Professional Assembly v. Board of Regents of the University of
40 Hawai’i. The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voting in
41 the affirmative).
42

43 At 9:30 a.m. the commission went into an executive session.
44

45 At 9:44 a.m., the commission adjourned the executive session and reconvened
46 the sunshine meeting.
47

1 Vice Chair Tobias made, and Commissioner Thielen seconded, a motion to
2 intervene in the matter of the University of Hawai'i Professional Assembly v. Board of
3 Regent of the University of Hawai'i as appropriate.
4

5 Commissioner Hong noted a potential conflict of interest as a former University of
6 Hawai'i Professional Assembly member. Director Harris responded that Commissioner
7 Hong's membership is not a conflict of interest under the State Ethics Code.
8

9 Chair Fong noted a potential conflict of interest as a University of Hawai'i
10 Professional Assembly member. Director Harris responded that Chair Fong's
11 membership is not a conflict of interest under the State Ethics Code.
12

13 Commissioner Thielen noted a potential conflict of interest from the University of
14 Hawai'i Professional Assembly's prior endorsements of previous campaigns for office.
15 Director Harris responded that the prior endorsements did not constitute a conflict of
16 interest.
17

18 The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voted in
19 the affirmative).
20
21

22 **Agenda Item No. VIII: Akana v. Hawai'i State Ethics Commission and Daniel**
23 **Gluck, Civil No. 18-1-1019-06 (JHA); Akana v. Hawai'i State Ethics Commission,**
24 **Civil No. 19-1-0379-03 (JHA); State of Hawai'i, Ethics Commission v. Rowena**
25 **Akana, Civil No. 20-1-0453 (BIA) (Part II) (3:10)**
26

27 Executive Director Harris reported that there is no update.
28
29

30 **Agenda Item No. IX: Adjournment of Sunshine Law Meeting (Part II) (3:41)**
31

32 At approximately 9:49 a.m., Commissioner Thielen motioned to adjourn the
33 meeting, and Vice Chair Tobias seconded. The motion carried (Commissioners Fong,
34 Tobias, Hong, and Thielen voted in the affirmative).
35

36 The meeting was adjourned at 9:50 a.m.
37

38 Minutes approved on _____.

SUNSHINE MEETING
AGENDA ITEM III

EXECUTIVE DIRECTOR'S REPORT
September 18, 2024

1. Education / Training Report

Attachment 1: 2024 Training Schedule

2. Guidance and Assignment Statistics – August 2024

Attachment 2: 2024 Guidance and Assignment Statistics / Website Traffic

3. Miscellaneous Office Projects / Updates

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	0	50
1/10/2024	WEBINAR: Lobbyists Law Training	0	48
1/18/2024	WEBINAR: General Ethics Training	0	8
1/19/2024	IN PERSON: Training Refresher, Capitol, House Members	51	0
2/6/2024	WEBINAR: Training Refresher, DOH, Kauai	0	13
2/8/2024	WEBINAR: Ethics for Board and Commission Members (CANCELLED)	0	0
3/6/2024	WEBINAR: General Ethics Training	0	7
4/16/2024	WEBINAR: General Ethics Training, Charter Schools	0	64
5/2/2024	WEBINAR: General Ethics Training	0	8
5/13/2024	WEBINAR: Training Refresher, FESTPAC	0	12
6/20/2024	WEBINAR: Training Refresher, Agribusiness Development Corporation (CANCELLED)	0	0
6/24/2024	IN PERSON: Ethics for Board and Commission Members, Hawai'i Workforce Development Council	80	0
7/10/2024	IN PERSON: Ethics for Board and Commission Members, Land Use Commission	10	2
7/24/2024	WEBINAR: General Ethics Training	0	13
8/8/2024	WEBINAR: Ethics for Board and Commission Members	0	15
9/26/2024	WEBINAR: General Ethics Training		
10/23/2024	WEBINAR: Ethics for Board and Commission Members		
11/7/2024	WEBINAR: General Ethics Training		
12/5/2024	WEBINAR: Lobbyists Law Training		

HAWAII STATE ETHICS COMMISSION

2024 EDUCATION PROGRAM

(Ethics Workshops and Presentations)

DATE	PRESENTATIONS	IN PERSON PARTICIPANTS	WEBINAR PARTICIPANTS
12/6/2024	WEBINAR: Lobbying E-Filing		
TOTAL	20 Presentations	141 participants	240 participants

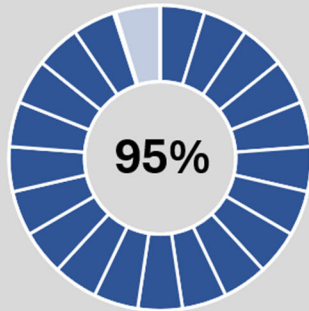
Ethics Training Dashboard

Hawai'i State Ethics Commission: As of August 31, 2024

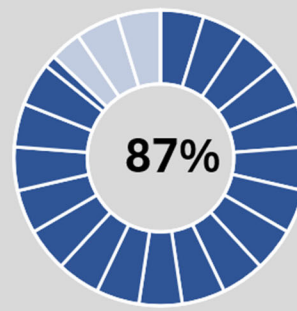
Board Members

851

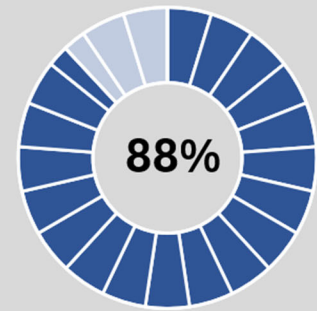
Public



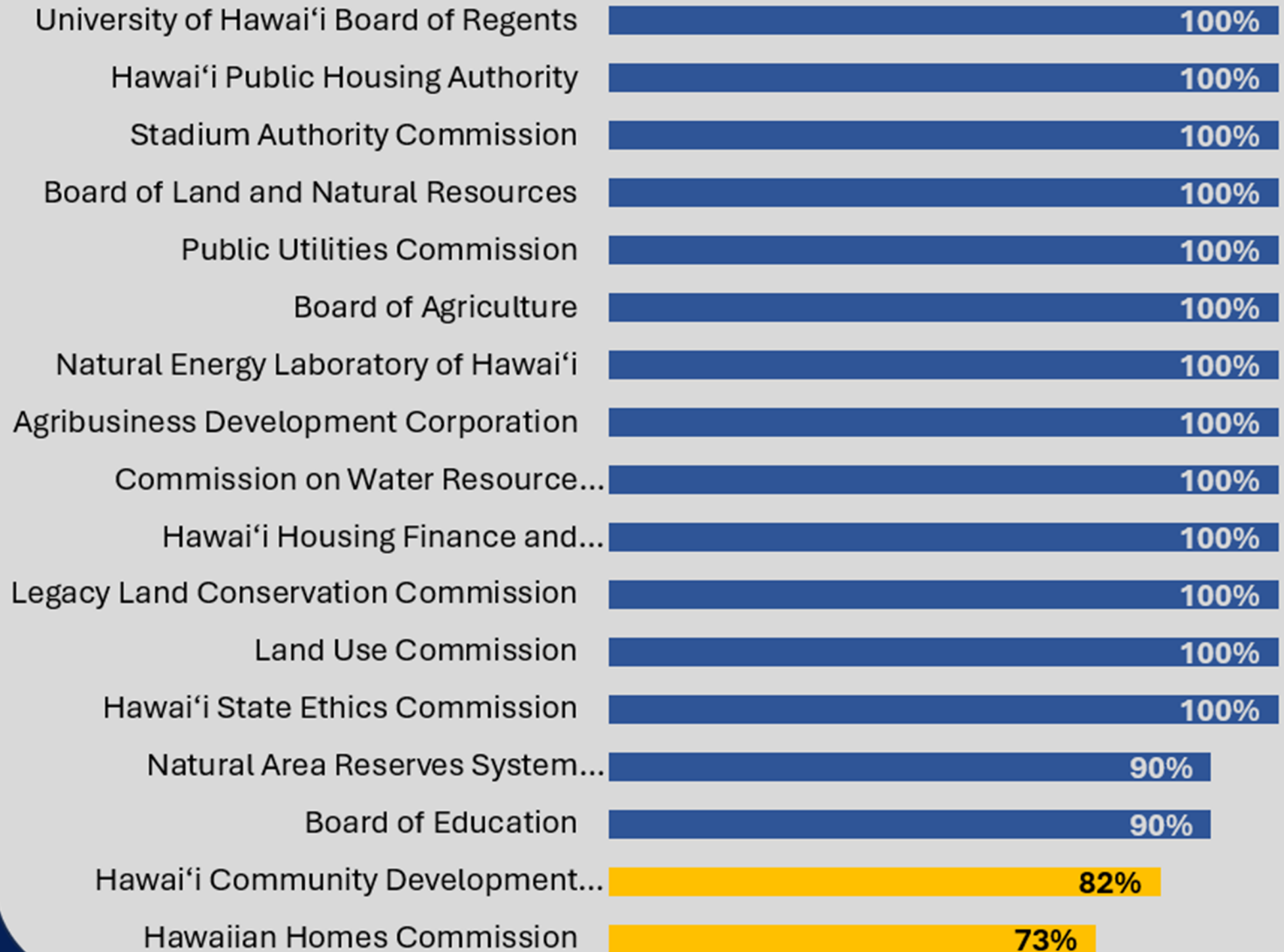
Confidential



Total



Public Boards

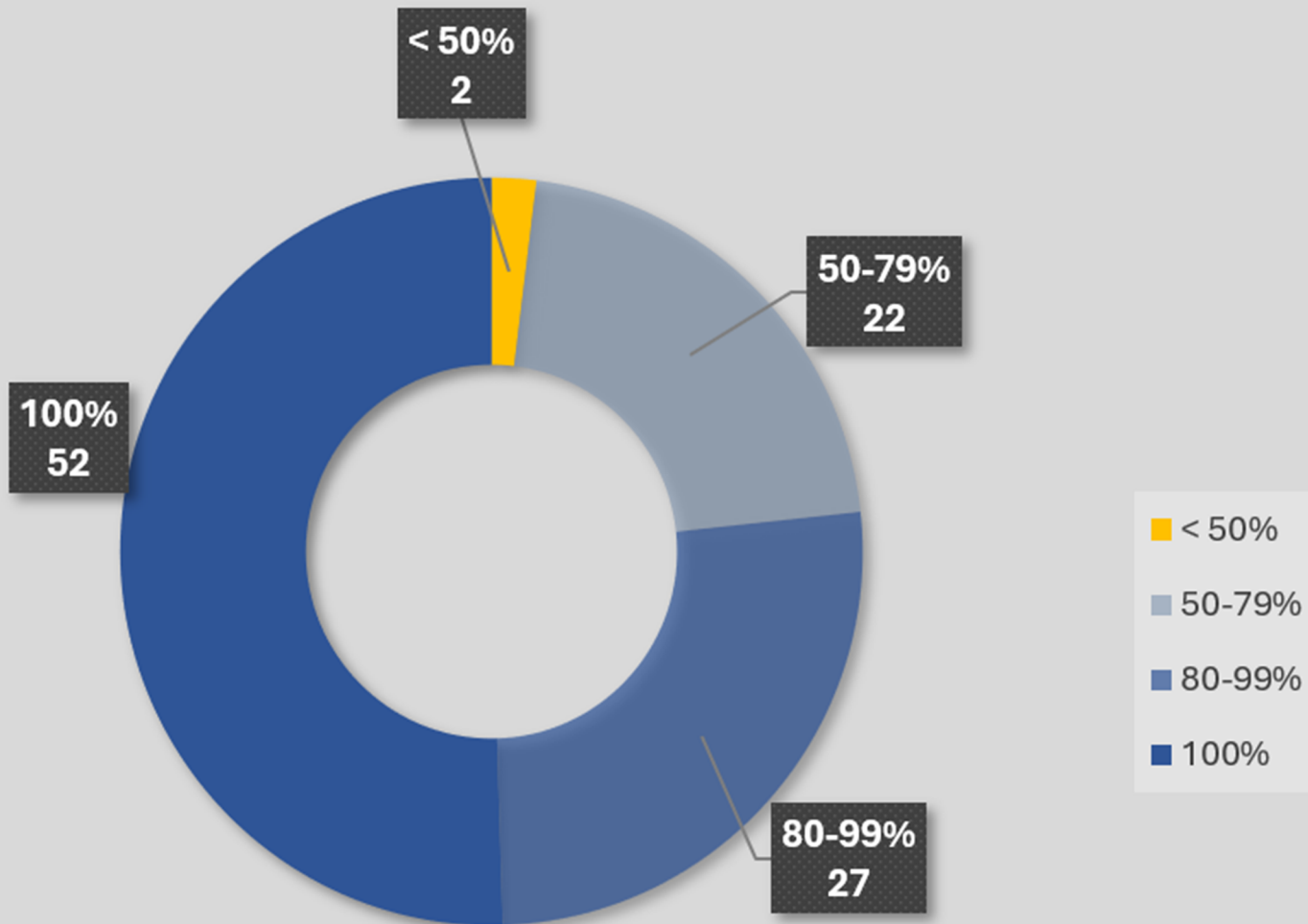


Confidential Boards

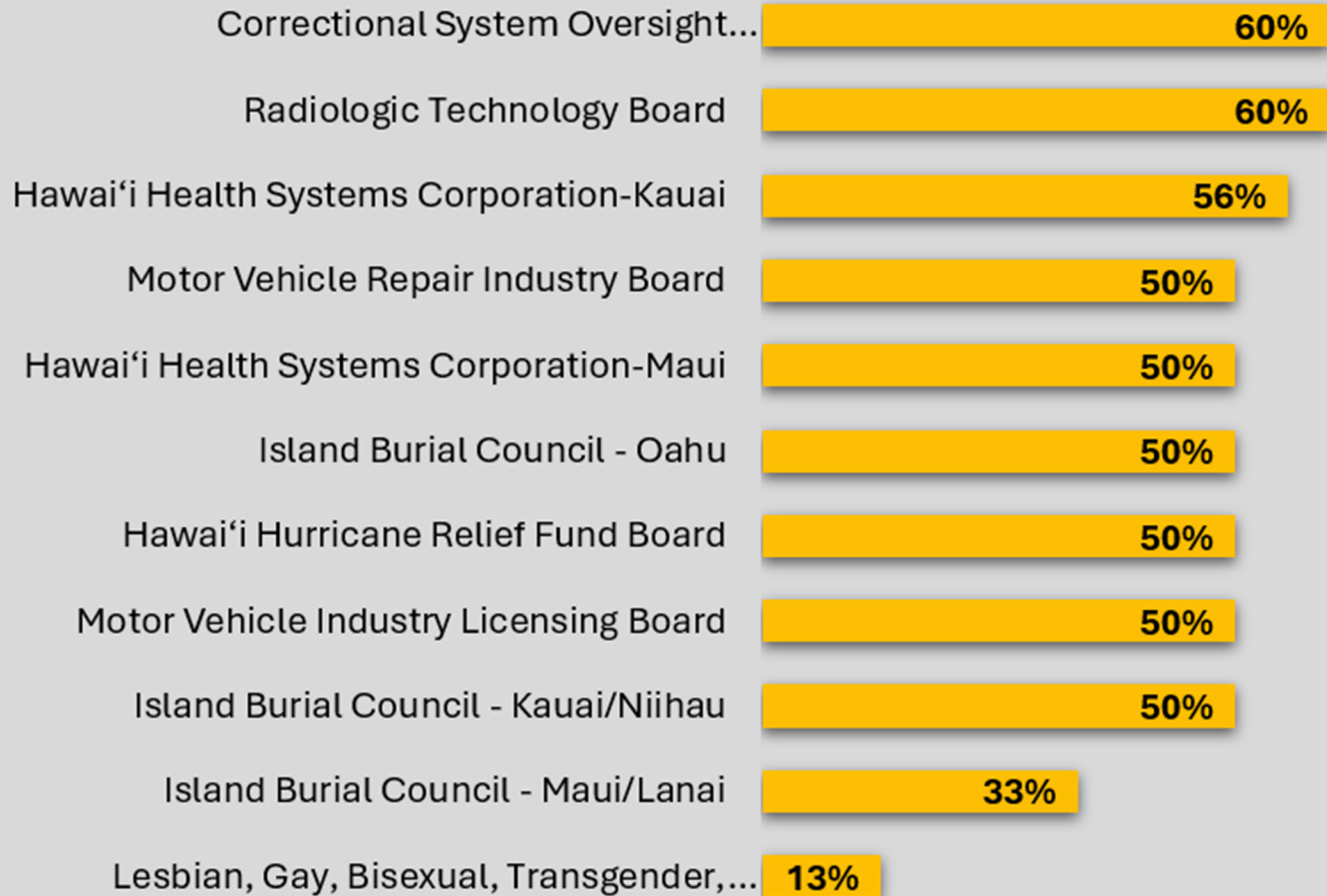
Acupuncture	Civil Rights Comm'n	HHSC-East Hawai'i
Barbering & Cosmetology	Status of Women	Historic Places Rev.
Dentistry	Contractors License	HHFDC
Massage Therapy	Council on Revenues	Paroling Authority
Naturopathic Medicine	Crime Victim Comp.	Retirement Savings
Nursing	Deferred Comp. Plan	HTDC
Pharmacy	DCAB	Island Burial - Molokai
Physical Therapy	Elevator Mechanics	KIRC
Psychology	FestPAC	Merit Appeals
Public Accountancy	Optometry	PISCES
Speech Pathology/Audiology	Veterinary Medicine	Pest Control
Geographic Names	EUTF	Real Estate
Campaign Spending	Green Infrastr. Auth.	SFCA

**All of these boards
are 100%**

Comparison: Board Training %



Boards < 60%



2024	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
Training statistics													
# of In-Person Trainings	1	0	0	0	0	1	1	1					4
# of People Trained In Person	51	0	0	0	0	80	10	16					157
# of On-Line Trainings (Self-Directed)	958	707	487	450	423	938	2,393	6,225					12,581
# of Lobbyists Law Trainings	186	52	29	17	17	5	7	8					321
# of Training Webinars	3	1	1	1	2	0	1	1					10
# of Participants in Training Webinars	106	13	7	64	20	0	15	15					240
Attorney of the Day	118	89	94	97	97	97	108	79					779
New assignments													
Advisory Opinion	0	0	0	0	0	0	0	0					0
Complaint	67	25	39	25	26	27	34	27					270
Gifts/Invitations/Travel	21	24	30	24	27	39	33	28					226
Guidance	2	0	2	1	3	1	0	3					12
Judicial Selection Comm'n	6	0	5	4	1	2	3	4					25
Training Request	0	0	0	0	0	0	0	0					0
Record Request	1	1	0	0	1	0	0	1					4
Project/Other	6	1	1	4	1	2	3	1					19
Total	103	51	77	58	59	71	73	64	0	0	0	0	556
Closed Assignments													
Advisory Opinion	0	0	0	1	0	0	0	0					1
Complaint	67	26	26	33	22	38	41	17					270
Gifts/Invitations/Travel	21	22	35	24	25	37	35	23					222
Guidance	1	3	0	0	3	1	2	1					11
Judicial Selection Comm'n	7	0	4	5	1	2	2	3					24
Training Request	0	0	0	0	0	0	0	0					0
Record Request	1	1	0	0	1	0	0	1					4
Project/Other	2	2	2	2	4	2	1	2					17
Total	99	54	67	65	56	80	81	47	0	0	0	0	549
Anti-Fraud	2	5	5	3	4	4	6	6					35

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

DISCUSSION OF ETHICS OVERSIGHT OVER THE JUDICIAL BRANCH

No attachments.

SUNSHINE LAW MEETING
AGENDA ITEM VI

REQUEST FOR INFORMATION FROM THE NATIONAL CONFERENCE OF STATE
LEGISLATURES REGARDING STATE-LEVEL RESTRICTIONS ON HIGH-LEVEL GOVERNMENT
EMPLOYEES PARTICIPATING IN POLITICAL FUNDRAISING

Attachment 1: Staff Overview

Attachment 2: State Prohibitions on Government Employees Fundraising

REQUEST FOR INFORMATION FROM THE NATIONAL CONFERENCE OF STATE
LEGISLATURES REGARDING STATE-LEVEL RESTRICTIONS ON HIGH-LEVEL GOVERNMENT
EMPLOYEES PARTICIPATING IN POLITICAL FUNDRAISING

STAFF OVERVIEW

The Commission asked staff to contact the National Conference of State Legislators (“NCSL”) about other states that may regulate state employees from participation in campaign fundraising. Staff asked “whether NCSL has any examples of a state restricting high-level government employees from engaging in political fundraising.”

NCSL staff helpfully provided a spreadsheet ([Attachment 2](#)).

In summary, no laws flagged by NCSL are precisely on point. Many duplicate existing restrictions already prohibited under our fair treatment law, Haw. Rev. Stat. § 84-13.¹ Nonetheless, Hawaii’s fair treatment statute is general. Staff recommends including this more express language in our ongoing rule update to provide greater clarity and prevent potential misunderstandings.

- State employees and legislators shall not use official authority to compel or induce political contributions.
- No prospective state employee may be asked about political activities, party affiliation, etc.
- No state employee or legislator may award or decline to award any state grant or contract, or recommend, promise, or threaten to do so, because of a current or prospective grantee’s political involvement or lack thereof.

¹ The primary restrictions of the fair treatment law are specified in subsection (a). This states:

- (a) No legislator or employee shall use or attempt to use the legislator’s or employee’s official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others; including but not limited to the following:
- (1) Seeking other employment or contract for services for oneself by the use or attempted use of the legislator’s or employee’s office or position;
 - (2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the legislator’s or employee’s official duties or responsibilities except as provided by law;
 - (3) Using state time, equipment or other facilities for private business purposes; or
 - (4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the legislator or employee inspects or supervises in the legislator’s or employee’s official capacity.

Haw. Rev. Stat. § 84-13(a).

To reiterate, staff believe these actions are already prohibited under the existing fair treatment statute. But expressly stating these prohibitions potentially avoids misunderstandings and disputes later.



7700 EAST FIRST PLACE | DENVER, COLORADO | 80230
 OFFICE: 303-364-7700 | FAX: 303-364-7800

Prohibitions on Government Employees Fundraising

Elections-info@ncsl.org

Aug. 19, 2024

State	Statute Summary	Type Of Prohibition
<p>Arkansas Ark. Code Ann. §§ 7-1-103, 21-1-207</p>	<p>It shall be unlawful for any public servant to devote any time or labor during usual office hours toward the campaign of any other candidate for office or for the nomination to any office, or to circulate an initiative or referendum petition or to solicit signatures, or to use any office or room furnished at public expense to distribute any campaign materials. It shall be unlawful to coerce any public employee into making a subscription or contribution for any political purpose. It shall be unlawful for any person employed in any capacity in any department of the State to have membership in any political party or organization that advocates the overthrow of our constitutional form of government. It shall be unlawful for any campaign banners, campaign signs, or other campaign literature to be placed on any vehicles belonging to the State or any municipality, county, or school district in the state. No election official acting in his or her official capacity shall do any electioneering on any election day or any day on which early voting is allowed.</p> <p>No employee of the state, a county, a municipality, a school district, or any other political subdivision of this state shall be deprived of his or her right to run as a</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>

	candidate for an elective office or to express his or her opinion as a citizen on political subjects, unless as necessary to meet the requirements of federal law as pertains to employees.	
Connecticut Conn. Gen. Stat. Ann. § 5-266a	No person employed in the classified state service may (1) use official authority or influence to interfere with or affect the result of an election or a nomination for office; or (2) coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes. Employees retain the right to vote as he or she chooses and express opinions on political subjects and candidates and shall be free to participate actively in political management and campaigns. May be candidates for state or municipal office in any partisan election. Any employee who leaves service to accept a full-time elective municipal office shall be granted a personal leave of absence without pay from his state employment for not more than 2 consecutive terms or 4 years, whichever is shorter. Any person employed in the classified state service or in the Judicial Department who accepts an elective state office shall resign from such employment upon taking such office.	Coercing Or Soliciting Contributions From Other Government Employees
Delaware Del. Code Ann. tit. 29, §§ 5953, 5954.	No person shall use or promise to use any official authority or influence to secure for any person an appointment or advantage in appointment to a position in the classified service for the purpose of influencing the vote or political action of any person, or for any consideration. No employee shall engage in any political activity or solicit any political contribution, assessment or subscription during hours of employment or while engaged in the business of the State. No person shall induce any employee to make a contribution, assessment or subscription to a political party under the representation that it will have any effect on the employee's employment with the State. Discrimination or favoritism based on political opinions or affiliations is prohibited.	Soliciting Contributions With Public Funds, On Government Time Or On Government Property

<p>District of Columbia D.C. Code Ann. §§ 1-1171.02, 1171.03</p>	<p>An employee may take an active part in political management or in political campaigns. Employee shall not use official authority or influence to interfere with or affect the result of an election, knowingly solicit, accept, or receive political contributions unless filed for as a candidate for public office, file as a candidate for election to a partisan political office, or knowingly direct a subordinate employee to participate in an election campaign or request a political contribution.</p> <p>An employee shall not engage in political activity while on duty, in any room or building occupied in the discharge of official duties, while wearing a uniform or official insignia identifying the office or position of the employee, or using any vehicle owned or leased by D.C.</p>	<p>Prohibition On Soliciting Contributions</p>
<p>Florida Fla. Stat. Ann. § 110.233.</p>	<p>No person shall be in any way favored or discriminated against with respect to employment in the career service, because political opinion or affiliation. No person shall use or promise to use any official authority or influence to attempt to secure for any person an appointment or advantage in the career service to influence the vote or political action of any person. Exception: letters of inquiry, recommendations, and references. As an individual, each employee retains all rights and obligations of citizenship. However, no employee in the career service shall: (a) Hold, or be a candidate for, public office or take any active part in a political campaign while on duty. Exception: if authorized by his or her agency head and approved by the department as involving no interest which conflicts or activity which interferes with his or her state employment. (b) Use the authority of position to secure support for, or oppose, any candidate, party, or issue in a partisan election or affect the results thereof. No state employee shall use any promise of reward or threat of loss to encourage or coerce any employee to support or contribute to any political issue, candidate, or party.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>
<p>Georgia Ga. Code Ann. §§ 21-5-30.2, 45-11-10.</p>	<p>It shall be unlawful for any employee of this state attempt to coerce or command any other state officer or employee to pay, lend, or contribute anything of value to any party, committee, organization, agency, or person for political purposes.</p>	<p>Coercing Or Soliciting Contributions From</p>

	<p>The State Personnel Board has the power to regulate certain political activities of public employees in the classified service. No agency and no person acting on behalf of an agency shall make, directly or indirectly, any contribution to any campaign committee, political action committee, or political organization or to any candidate.</p>	<p>Other Government Employees</p>
<p>Guam 4 G.C.A. §§ 5102, 5103, 5106</p>	<p>An employee may engage in political activity, unless otherwise prohibited, so long as it does not materially compromise his or her efficiency or integrity as an employee, or the neutrality, efficiency or integrity of his department or agency.</p> <p>An employee shall not use official authority or influence to interfere with or affecting the result of an election. Prohibited activities include: soliciting, collecting, handling, disbursing or accounting for assessments, contributions or other funds for a political party, partisan political organization or candidate; organizing, selling tickets to, seeking support for or actively participating in a fund-raising activity of a political party, partisan political organization or candidate; taking an active part in managing the political campaign of a candidate; being a candidate; discharging, promoting, demoting or changing the compensation of any other employee or promising or threatening to do so, because said other employee advocates or fails to advocate through contribution, voting or otherwise, a candidate; and using government travel allowances, government transportation, government supplies or government facilities for the benefit of any political party, partisan political organization or candidate.</p> <p>No person, whether or not an employee, shall solicit or receive a contribution or distribute literature for any political purpose in any room or building occupied in the discharge of official duties by any person employed by the Executive, Legislative or Judicial Branches of the government of Guam. Soliciting a contribution includes solicitation by letter or circular addressed to and delivered to an employee in said room or building.</p>	<p>Prohibition On Soliciting Contributions</p>

<p>Idaho Idaho Code Ann. § 67-5311</p>	<p>No employee of a state department shall: Use official authority or influence to interfere with an election to or a nomination for office, or affecting the result thereof; Attempt to coerce, command, or direct any officer or employee to pay, lend, or contribute anything of value to any party, committee, organization, agency, or person for political purposes; or Be a candidate and hold elective office in any partisan election.</p> <p>All such employees shall retain the right to: Register and vote in any election; Express an opinion as an individual privately and publicly on political subjects and candidates; Display a political picture, sticker, badge, or button; Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization; Be a member of a political party or other political organization and participate in its activities; Attend a political convention, rally, fund-raising function, or other political gathering; Sign a political petition as an individual; Make a financial contribution to a political party or organization; Take an active part, in support of a candidate, in an election; Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character; Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by state or local law; Be a candidate and hold elective office in any nonpartisan election; Take an active part in political organization management; and Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the neutrality, efficiency, or integrity of the employee's administration of state functions.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>
<p>Illinois 5 Ill. Comp. Stat. Ann. 430/5-15</p>	<p>State employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). State employees shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization. A State</p>	<p>Soliciting Contributions With Public Funds, On Government Time Or On Government Property</p>

	employee shall not be required at any time to participate in any prohibited political activity in consideration for that State employee being awarded any additional compensation or employee benefit.	
Kentucky Ky. Rev. Stat. Ann. § 18A.140.	The following limitations may apply to executive branch employees only: No person shall be in any way favored or discriminated against with respect to employment because of his political opinions or affiliations. No person shall use any official authority or influence to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service for the purpose of influencing the vote or political action of any person. No employee shall pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service. No employee shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid partisan public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Employees of the classified service may be candidates for and occupy an elected office if the election is on a nonpartisan basis, the officers or employees have complied with the requirements of KRS 61.080, and the duties of the elective office do not interfere with, or create any conflicts of interest with, the state duties of the officers or employees in the classified service. An employee shall give notice to his or her appointing authority of his or her intent to run for elective office upon filing to run for the office.	Prohibition On Soliciting Contributions
Louisiana La. Const. Ann. art. X, § 9	No employee in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office except to seek election as the classified state employee serving on the State Civil Service Commission; or be a member of any national, state, or local committee of a political party or faction; make or solicit contributions for any political party,	Prohibition On Soliciting Contributions

	<p>faction, or candidate; or take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he desires. No person shall solicit contributions for political purposes from any classified employee or official or use or attempt to use his position in the state or city service to punish or coerce the political action of a classified employee.</p>	
<p>Massachusetts Mass. Gen. Laws Ann. ch. 55, §§ 13, 14, 16A</p>	<p>No person employed for compensation, other than an elected officer, shall solicit or receive any thing of value for any political purpose whatever. This section shall not prevent such persons from being members of political organizations or committees. A person so employed may not serve as the treasurer of a political committee.</p> <p>No person shall in any building or part thereof occupied for state, county or municipal purposes, demand, solicit or receive any payment or gift of money or other thing of value for the aforementioned purposes.</p> <p>No obligation or prejudice based on political contributions or service.</p>	<p>Prohibition On Soliciting Contributions</p>
<p>Michigan Mich. Comp. Laws Ann. §§ 15.402, 15.405</p>	<p>An employee of the state classified civil service may: Become a member of a political party committee. Be a delegate to a state convention, or a district or county convention held by a political party in this state. Become a candidate for nomination and election to any district, county, city, village, township, school district, or other local elective office without first obtaining a leave of absence from his or her employment. If the person becomes a candidate for elective office in the executive or legislative branches of the state or for the supreme court or court of appeals, the person shall request and shall be granted a leave of absence without pay when he complies with the candidacy filing requirements, or 60 days before any election relating to that position, whichever date is closer to the election. Engage in other political activities on behalf of a candidate or issue in connection with partisan or nonpartisan elections.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>

	<p>A public employer, employee or an elected or appointed official may not coerce, attempt to coerce, or command another public employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for the benefit of a person seeking or holding elected office, or for the purpose of furthering or defeating a proposed law, ballot question, or other measure that may be submitted to a vote of the electors.</p>	
<p>Minnesota Minn. Stat. Ann. § 43A.32</p>	<p>No employee shall, during hours of employment, solicit or receive funds for political purposes or use official authority or influence to compel an employee to apply for membership in or become a member of any political organization, to pay or promise to pay any assessment, subscription, or contribution or to take part in any political activity. Except as herein provided any officer or employee in the classified service shall: take leave of absence upon assuming an elected federal or state office other than state legislative office or, if elected to state legislative office, during times that the legislature is in session; take leave of absence upon assuming any elected public office, if, in the opinion of the commissioner, the holding of the office conflicts with regular state employment; and upon request, be granted leave of absence upon becoming a candidate, or during the course of candidacy, for any elected public office.</p>	<p>Soliciting Contributions With Public Funds, On Government Time Or On Government Property</p>
<p>Missouri Mo. Ann. Stat. §§ 36.155, 36.157</p>	<p>An employee may take part in the activities of political parties and political campaigns. An employee may not: Use official authority or influence to interfere with the results of an election; Knowingly solicit, accept or receive a political contribution from a subordinate; Run for a partisan political office; or Knowingly solicit or discourage the participation in any political activity of any person who has an application for any compensation, grant, contract, ruling, license, permit or certificate pending before the employing department of such employee or is the subject of, or a participant in, an ongoing audit, investigation or enforcement action being carried out by the employing department of such employee. An employee retains the right to vote as the employee chooses and to express the</p>	<p>Soliciting Contributions With Public Funds, On Government Time Or On Government Property</p>

	<p>employee's opinion on political subjects and candidates.</p> <p>An employee may not engage in political activity: While on duty; In any room or building occupied in the discharge of official duties; By utilizing any state resources or facilities; While wearing a uniform or official insignia identifying the office or position of the employee; or When using any vehicle owned or leased by the state or any agency or instrumentality of the state.</p>	
<p>New Hampshire N.H. Rev. Stat. Ann. §§ 21-1:52, 664:4-a.</p>	<p>No person shall be in any way favored or discriminated against with respect to employment in the classified service because of the person's political opinions. Nothing in this section shall require the appointment or prevent the dismissal of any person who advocates the overthrow of the government by unconstitutional and violent means. No person shall use any official authority or influence to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service for the purpose of influencing the vote or political action of any person, or for any consideration. No employee in the state classified service shall hold any remunerative elective public office if it creates an actual, direct and substantial conflict of interest with the employee's employment. No action affecting said employee shall be taken by the appointing authority because of such public office until after a full hearing before and approval of such action by the personnel appeals board. If this occurs, the employee shall be given a reasonable amount of time to leave the employee's public office or other employment or otherwise end the conflict before the appointing authority initiates that action.</p> <p>No person shall knowingly coerce, or attempt to coerce, any classified state employee to give or withhold a contribution to any political campaign or political committee, or to any candidate, party or cause, for the purpose of promoting the success or defeat of any candidate or political party.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>

<p>New Mexico N.M. Stat. Ann. § 10-16-3.1</p>	<p>An employee is prohibited from attempting to coerce a public officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for a political purpose; threatening to deny a promotion or pay increase to an employee who does or does not vote for certain candidates, requiring an employee to contribute a percentage of the employee's pay to a political fund, influencing a subordinate employee to purchase a ticket to a political fundraising dinner or similar event, advising an employee to take part in political activity or similar activities; or violating the employee's duty not to use property belonging to a state agency or local government agency, or allow its use, for other than authorized purposes.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>
<p>New York N.Y. Elec. Law § 17-156, N.Y. Pub. Off. Law § 73.</p>	<p>Any employee of the state who uses authority or official influence to compel or induce any other officer or employee to pay or promise to pay any political assessment shall be guilty of a class A misdemeanor. Nothing herein shall be deemed to prohibit an officer or employee of the state or political subdivision thereof from making a voluntary contribution to a candidate or political committee.</p> <p>No prospective employees may be asked about political activities, party affiliation, etc. Employees shall not use official authority to compel or induce any other state official or employee to make any political contribution. No statewide elected official or state officer or employee may award or decline to award any state grant or contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective grantee's or contractor's refusal to answer any inquiry prohibited by paragraph (a) of this subdivision, or giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>
<p>North Carolina N.C. Gen. Stat. Ann. § 126-13, 126-14</p>	<p>No State employee subject to the North Carolina Human Resources Act or temporary State employee shall: Take any active part in managing a campaign, or campaign for political office or otherwise engage in political activity while on duty</p>	<p>Coercing Or Soliciting Contributions From</p>

	<p>or within any period of time when expected to perform services for the State; Use the authority of his position, State funds, supplies or vehicles to secure support for or oppose any candidate, party, or issue in an election involving candidates for office or party nominations, or affect the results thereof. No State employee exercising supervisory authority shall make, issue, or enforce any rule or policy the effect of which is to interfere with the right of any State employee as an individual to engage in political activity while not on duty or at times during which he is not performing services for which he receives compensation from the State. A State employee who is or may be expected to perform his duties on a twenty-four hour per day basis shall not be prevented from engaging in political activity except during regularly scheduled working hours or at other times when he is actually performing the duties of his office.</p> <p>It is unlawful for a State employee to coerce a state employee or applicant to support or contribute to a political candidate, committee, or party or to change party designation by threat of employment status change or discipline or preferential treatment.</p>	Other Government Employees
<p>Ohio Ohio Rev. Code Ann. §§ 124.57, 3517.092</p>	<p>No employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state shall solicit or receive any contribution for any political party or for any candidate for public office; nor shall any person solicit any such contribution from any officer or employee; nor shall an employee be an officer in any political organization or take part in politics other than to vote as the officer or employee pleases and to express freely political opinions.</p> <p>No employee of a state elected officer's office shall knowingly solicit a contribution to a state elected officer or to such an officer's campaign committee. No state elected officer and no campaign committee of such an officer shall accept a contribution from: A state employee whose appointing authority is the state elected officer; A state employee whose appointing authority is authorized or required by law to be appointed by the state elected officer; A state employee</p>	Prohibition On Soliciting Contributions

	who functions in or is employed in or by the same public agency, department, division, or office as the state elected officer. No employee of a candidate shall knowingly solicit a contribution to a candidate for a state elective office or to such a candidate's campaign committee. No such candidate or campaign committee shall accept a contribution from the same.	
Oregon Or. Rev. Stat. Ann. § 260.432	No person shall attempt to coerce, command or require a public employee to influence or give any thing of value to promote or oppose any political committee or the nomination or election of a candidate, the gathering of signatures on an initiative, referendum or recall petition, the adoption of a measure or the recall of a public office holder. A public employee shall not solicit any thing of value or promote or oppose any political committee, candidate, etc. while on the job during working hours. Each public employer shall have posted in a conspicuous place likely to be seen by its employees notice, in a form specified in this statute, that explains the limits of this statute.	Soliciting Contributions With Public Funds, On Government Time Or On Government Property
Puerto Rico 29 L.P.R.A. § 563	Public employees may not: use official authority to influence or interfere with an election or nomination for any office, or affecting the result thereof; or coerce or advise any such other employee to pay, lend, or contribute anything of value to any party, committee, organization, agency, or person for political purposes.	Prohibition On Soliciting Contributions
South Carolina S.C. Code Ann. §§ 8-13-765, 8-13-1336	No person may use government personnel, equipment, materials, or an office building in an election campaign. A government may rent or provide public facilities for political meetings and other campaign-related purposes if available on similar terms to all candidates and committees. This section does not prohibit government personnel, where not otherwise prohibited, from participating in election campaigns on their own time and on nongovernment premises. No public employee may accept or solicit campaign contributions on the State Capitol grounds, including the office complexes located on them, or in any building which houses the principal office of a statewide officer, or on the grounds or in any building which houses the official residence of a statewide officer. Exception for contributions delivered by mail.	Soliciting Contributions With Public Funds, On Government Time Or On Government Property

<p>South Dakota S.D. Codified Laws § 3-6D-5</p>	<p>Discrimination on the basis of political affiliation in regard to the hiring, promotion, termination, or any other tangible employment action relating to a civil service employee is prohibited. An employee may not be required to participate in partisan political activities. An employee may not be obliged, by reason of that employment, to contribute to any political funds or collections or render political service. Any employee refusing to contribute such funds or to render that political service may not be removed or otherwise disciplined or prejudiced for such refusal.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>
<p>Utah Utah Code Ann. § 63A-17-904</p>	<p>Career service employees may voluntarily participate in political activity subject to the following provisions: if elected to any partisan or full-time nonpartisan political office, shall be granted a leave of absence without pay for times when monetary compensation is received for service in political office; may not engage in any political activity during the hours of employment, nor may solicit political contributions from employees of the executive branch during hours of employment for political purposes. Partisan political activity may not be a basis for employment, promotion, demotion, or dismissal, except that the executive director shall adopt rules providing for the discipline or punishment of a state officer or employee who violates any provision of this section.</p>	<p>Soliciting Contributions With Public Funds, On Government Time Or On Government Property</p>
<p>Virgin Islands 24 V.I.C. § 160</p>	<p>No employee engaged in the administration of this chapter shall coerce, attempt to coerce, command or advise any officer or employee to pay, lend, or contribute anything of value to any party, committee, organization, agency, or person for political purposes. No employee shall use official authority or influence to interfere with an election or nomination for office, or affecting the result thereof, or take any active part in political management or in political campaigns.</p>	<p>Coercing Or Soliciting Contributions From Other Government Employees</p>
<p>West Virginia W. Va. Code Ann. § 3-8-12</p>	<p>A person may not, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision, solicit any contribution for any political purpose, from any officer or employee of the State, or a political subdivision. An employee of this state or any political subdivision who may have charge or control of any building, office or room, occupied for any official purpose, may not knowingly permit any person to enter for any official purpose.</p>	<p>Soliciting Contributions With Public Funds, On Government Time Or On Government Property</p>

<p>Wisconsin Wis. Stat. Ann. § 230.40</p>	<p>No person in the classified civil service may solicit or receive subscriptions or contributions for any political purpose while on state time or engaged in official duties as an employee. No person may solicit any assistance, subscription, or support for any partisan political purpose from any employee while on state time or engaged in official duties as an employee. May also not, during when on duty, engage in political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office, nor engage in any political activity when not on duty to such an extent that the person's efficiency during working hours will be impaired or that he or she will be tardy or absent from work. If a person in the classified service declares an intention to run for partisan political office the person shall be placed on a leave of absence for the duration of the election campaign and if elected shall separate from the classified service on assuming the duties and responsibilities of such office.</p>	<p>Soliciting Contributions With Public Funds, On Government Time Or On Government Property</p>
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SUNSHINE LAW MEETING
AGENDA ITEM VII

ADMINISTRATIVE RULES

Review of proposed edits

Attachment 1: Staff Overview

Attachment 2: Proposed edits to Hawai'i Administrative Rules, Title 21, Chapters 1-3

ADMINISTRATIVE RULES

STAFF OVERVIEW

Due to recent legislative changes to the ethics code, staff have begun drafting revisions to the commission's existing administrative rules. Amending administrative rules is a lengthy process that, among other things, requires a public hearing to allow all interested persons the opportunity to provide testimony.

The attached proposed draft revisions to chapters 1-3 intend to get the commission's input on the current direction. No approval is necessary at this stage. The commission will have several other opportunities to review the proposed revisions before they become final. Other chapter revisions will be given to the commission in future meetings.

1. Proposed Revisions to Chapter 1.

This revision primarily removes language about the associate director position. Recent staffing changes have broken the responsibility of the associate director into two positions. Removing the language in the rules gives the commission greater flexibility to make staffing changes in the future.

2. Proposed Revisions to Chapter 2.

Recent statutory changes removed a directive requiring that all financial disclosures be destroyed after a set time. Rule revisions have been made to indicate that record destruction is now a discretionary act, and not mandatory.

Other revisions were made to clarify the service and subpoena process.

3. Proposed Revisions to Chapter 3.

Staff have included proposed definitions of "blind trust" and "publicly traded mutual fund" based on their experience with financial disclosures. The intent is to provide greater clarity about what is required to establish a blind trust and when a mutual fund needs to be disclosed or not.

Recent legislative changes have established a new process for imposing administrative fines for failing to file a financial disclosure statement. Staff propose rule revisions to incorporate and operationalize these changes.

Similar to the proposed rule changes to Chapter 2, proposed rule revisions have been made to indicate that record destruction is now a discretionary act rather than mandatory.

HAWAII ADMINISTRATIVE RULES

TITLE 21

LEGISLATIVE AGENCIES

CHAPTER 1

STATE ETHICS COMMISSION

GENERAL PROVISIONS

[Proposed revisions are indicated below. Unamended rules are not included.]

§21-1-11 Staff. (a) The executive director shall have charge of the commission's official records and shall be responsible for the maintenance and custody of the files and records of the commission, including the papers, transcripts of testimony and exhibits filed in proceedings, the minutes of all actions taken by the commission, and all its rulings, advisory opinions, decisions, rules, and approved forms. The executive director shall receive all documents required to be filed with the commission and shall promptly stamp the time and date upon documents filed with the commission, provided that the time and date may be recorded electronically for documents submitted via any electronic filing system. The executive director is responsible for the administration of the office.

(b) ~~[The associate director assists the executive director in administrative matters. The associate director shall conduct investigations and prosecute cases as delegated by the executive director. In cases where the executive director serves as counsel to the commission or is recused, then the associate director or the associate director's designee shall conduct or prosecute the case without supervision by the executive director.]~~

~~(c)~~ The commission may delegate to the executive director any duties as appropriate to conduct its operations. The executive director may delegate to commission staff any duties.

HAWAII ADMINISTRATIVE RULES

TITLE 21

LEGISLATIVE AGENCIES

CHAPTER 2

STATE ETHICS COMMISSION

FILING OF DOCUMENTS, SERVICE, WITNESSES, AND SUBPOENAS

[Proposed revisions are indicated below. Unamended rules are not included.]

§ 21-2-1 Filing of documents. (a) All disclosures, charges, requests for opinions, pleadings, submittals, reports, petitions, briefs, memoranda, and other documents submitted for the commission's consideration shall be filed with the executive director. Documents may be delivered via electronic mail or in hard copy to the commission offices in Honolulu within the time limit, if any, for such filing unless the commission requires that documents be submitted electronically. The date on which the documents are actually received by the commission shall be deemed to be the date of filing, except as otherwise provided by law.

(b) All documents filed or lodged with the commission shall be plainly legible.

(c) All documents shall be signed by the person submitting the same or the person's duly authorized agent or attorney. The commission may establish an electronic filing system that allows for digital signature of documents. The signature of the person signing the document constitutes a certification that the person has read the document, and that, to the best of the person's knowledge, information, and belief, every statement contained in the document is true, not misleading, and not interposed for delay.

(d) The commission may require that hard copies of pleadings and memoranda submitted for hearing purposes be filed with the commission.

(e) The initial document filed by any person in any proceeding shall state on the first page thereof the name, mailing address, electronic mail address, and telephone number of the person or persons who may be served with any documents filed in the proceeding.

§ 21-2-3 Continuances or extensions of time. Whenever a person or agency has a right or is required to take action within the period prescribed or allowed by these rules, or by order of the commission, the person or agency may submit a request [~~apply~~] to the executive director or the commission for an extension not to exceed fifteen days. Additional extensions or extensions exceeding fifteen days will be allowed only upon written request and may be granted by the commission chair or designee for good cause shown.

§ 21-2-4 Service of process. (a) The commission shall cause to be served all orders, notices, and other papers issued by it, together with any other papers which it is required by law to serve. Pleadings and memoranda relating to charges or hearings shall be served by the party filing them.

(b) All documents served by either the commission or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceedings shall notify all parties of that fact in writing.

(c) The final opinion, decision, or any other document required to be served by the commission upon a party shall be served upon the party's counsel of record, if any, or the party or an agent designated by the party or by law to receive service of such papers.

(d) Service of a charge, further statement of alleged violation, and notice of a contested hearing shall be made:

- (1) Personally upon the respondent;
- (2) By delivering a copy to an agent designated by the respondent or by law to receive service of such papers;
- (3) By registered or certified mail, return receipt requested; or
- (4) By any method agreed to by the parties.

If service by one of the above means is not made because of the refusal to accept service or the commission and its agents have been unable to ascertain the address of the respondent after reasonable and diligent inquiry, service may be effected as ordered by the circuit court pursuant to section 84-31(b) or 97-6(b), HRS, or as otherwise provided by statute.

(e) Service of a notice of the failure to file a disclosure of financial interests as required by section 84-17, HRS, shall be made in accordance with section 21-3-9.

(f) Service of all other papers required to be served shall be made by delivering a copy to counsel of record, if any, or to the person or an agent designated by the person or by law to receive service of such papers, by mailing a copy to the person's last known address, or by other means agreed to by the parties. Delivery of a copy within this subsection means handing it to the person's attorney or to the person directly or leaving it at the person's office, with the person's secretary, clerk, or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing being deposited into a mailbox or picked up by a postal service worker. Service by personal delivery or mailing ~~shall~~ may be indicated by a certification of ~~time~~ date and place of delivery or mailing, filed with the commission.

§ 21-2-5 Subpoenas. (a) Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place within the State at any designated place of hearing, or at any designated place of an investigatory interview ~~[by the executive director]~~, may be issued by any member of the commission.

(b) Requests for subpoenas shall be made in writing to the commission. Requests for subpoenas for the production of documentary evidence shall be reasonable in scope and specify as clearly as possible documents or data desired, and show their general relevancy.

(c) Requests for subpoenas for the production of documentary evidence[~~5~~] or for the appearance of witnesses at a hearing or at an investigatory interview[~~5~~] shall be made at least fourteen days prior to the hearing or interview. If an application for a subpoena for a hearing is made at a later time, the commission may, in its discretion, continue the hearing or any part thereof.

(d) If a person is represented by an agent, counsel, or representative, then the service of a subpoena may be effectuated by first-class mail to the agent, counsel, or representative.

(e) Proof of service or certification of service is not required until after a further statement of alleged violation is filed in the matter.

(f) Enforcement of obedience to subpoenas issued by the commission and served pursuant to this chapter will be effected by written application [~~of any commissioner~~] to any circuit judge.

§ 21-2-6 Witness fees. Witnesses summoned for contested cases shall be paid the same fees and mileage as are paid to witnesses in courts of the State [~~of Hawaii~~] and shall be paid by the party at whose instance the witnesses appear.

HAWAII ADMINISTRATIVE RULES
TITLE 21
LEGISLATIVE AGENCIES
CHAPTER 3
STATE ETHICS COMMISSION
FINANCIAL DISCLOSURE STATEMENTS

Proposed revisions are indicated below. Unamended rules are not included.

§ 21-3-1.5 Definitions. As used in this chapter, unless the context clearly requires otherwise:

“Blind Trust” means a trust established by the settlor, giving a third party full control of the trust and a mutual obligation to keep investment decisions from the settlor. A blind trust must: (1) include a clear statement that its purpose is to remove from the settlor control and knowledge of investment of trust assets so that conflicts between the settlor’s responsibilities and duties as a state employee or legislator and the settlor’s personal or financial interests will be reduced or eliminated; and (2) provide the third party trustee with full discretion over the management of trust assets and income and deprive the beneficiary of all knowledge of the investments after the creation of the blind trust except as required by law.

“Deputy director” means any individual who is subordinate only to the head of an agency and who exercises supervisory authority over subordinate employees.

“Disclosure” means, for purposes of this chapter, a disclosure of financial interests that is required to be filed pursuant to section 84-17, HRS.

“Division chief” means, for those agencies that have divisions, the head of a division who exercises supervisory authority over subordinates.

“Executive director” and “executive secretary” means the highest-ranking staff member of an agency, and includes wardens of correctional centers.

“Filer” or “filers” means all persons who are required to file a disclosure pursuant to section 84-17(c), HRS.

“Financial interests” means information that is required to be reported pursuant to section 84-17(f), HRS, and these rules.

“Publicly traded mutual fund” means a managed portfolio that pools money from many investors and invests the money in securities such as stocks, bonds, and short-term debt.

“State position” means one of the positions enumerated in section 84-17(c), HRS, for which a disclosure is required to be filed with the commission.

§ 21-3-3 Financial interests. (a) As provided by section 84-17(f), HRS, financial interests to be disclosed include, but are not limited to:

- (1) Rental income;
- (2) Stocks, exchange traded funds, and other similar financial instruments, which shall be individually disclosed as ownership interests in a business, provided that filers need not disclose the contents of publicly traded mutual funds if the fund itself has been disclosed; and
- (3) Trust assets that would be reportable by the filer if held outside a trust, provided that specific trust assets need not be reported if they are held within a blind trust or similarly outside the filer's control ~~[or]~~ and knowledge.
- (b) Filers need not disclose ownership of or income from the following:
 - (1) Money market funds, savings and checking accounts, and certificates of deposit;
 - (2) Tax deferred retirement accounts such as the State's deferred compensation plan, Individual Retirement Accounts, and 401k plans;
 - (3) Tax deferred qualified tuition plans such as 529 college savings plans;
 - (4) Tax deferred health savings accounts; and
 - (5) Social Security or other government benefits.
- (c) Filers need not disclose consumer credit card debt or automobile lease agreements.

§ 21-3-9 Administrative fine for failure to file. (a) The commission ~~[shall]~~ may notify filers of the failure to timely file a disclosure and the applicable notice and order of an administrative fine. The commission may notify such individuals by electronic mail to the person's state electronic mail address, electronic mail to the campaign electronic mail address reported to the State Office of Elections, first-class mail, or personal service.

(b) If the notice and order is sent via electronic mail, the ~~[ten-day period described in section 84-17(i), HRS;]~~ twenty-day period before the order becomes final shall run from the date the electronic mail is sent. If the notice and order is sent via first-class mail, the ~~[ten-day]~~ twenty-day period shall begin two business days after mailing, unless the notice is mailed to an address outside the State, in which case the ~~[ten-day]~~ twenty-day period shall begin four business days after mailing.

§ 21-3-10 Payment of fine or request for waiver; good cause. (a) An individual ~~[who receives]~~ served with a notice and order of administrative fine shall, within twenty days, either (1) pay the assessed administrative fine, (2) file the required disclosure and request a good cause waiver from the commission, or (3) submit a written request for a hearing. ~~[and subsequently files a disclosure shall, within ten days of filing the disclosure, pay the assessed administrative fine or request a waiver from the commission.]~~

(b) Any individual requesting a waiver of administrative fine shall submit a written request to the commission. The request shall contain the filer's name, address, electronic mail address, telephone number, and state position; a clear and concise statement regarding the factual basis for the filer's request for a waiver, including the reasons or circumstances why the filer was unable to meet the applicable due date; and any documents or evidence in support of the filer's request for a waiver.

(c) If the required disclosure has been filed, ~~[F]~~ the commission may waive any administrative fine for good cause shown. The filer has the burden to establish good cause. Good

cause may be found if the filer faced an unexpected crisis such as a serious medical issue, a death in the family, or a theft or destruction of financial documents that prevented the filer from meeting the relevant deadline. Good cause generally may not be found by inadvertence or oversight.

(d) A written request for a hearing shall contain the filer's name, address, electronic mail address, and telephone number. Service of the notice of hearing may be sent by electronic mail to the electronic address provided.

(e) Payment of the administrative fine is deemed made when received by the State[commission].

~~[(e) The commission may issue a charge against any filer who fails to file a disclosure by the relevant deadline.]~~

§ 21-3-11 Disposal of financial disclosures. (a) Disclosures ~~[shall]~~ may be destroyed six years after filing, unless otherwise provided by statute.

~~(b) [A disclosure filed by a candidate for state elective office shall be destroyed upon the expiration of six years after an election for which the candidate filed the disclosure, unless otherwise provided by law.]~~

~~(c)~~ In destroying disclosures, reasonable efforts shall be made to shred all paper copies ~~[shall be shredded]~~, delete all electronic copies ~~[shall be deleted]~~ from the commission's record-keeping system, and remove all public disclosures ~~[shall be removed]~~ from the commission's website.

SUNSHINE LAW MEETING
AGENDA ITEM VIII

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.