

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

STATE OF HAWAI'I

Date: October 16, 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 (via video conference)
Robert Hong, Commissioner (excused)
Cynthia Thielen, Commissioner (via video conference)
Roderick Becker, Commissioner (present in the conference room)

State Ethics Commission Staff

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

Members of the Public

Candice Park, Deputy Attorney General

CALL TO ORDER (0:11)

Chair Fong called the meeting to order at 9:00 a.m. Chair Fong, Vice Chair Tobias, Commissioner Thielen, Commissioner Becker, and Commission staff were present as indicated above. 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: Introduction of Commissioner Roderick (“Rod”) Becker (2:54)

Enforcement Director Kee Campbell introduced Mr. Roderick Becker as the commission's newest member. Director Campbell noted Commissioner Becker's extensive service, including serving with the Department of Budget and Finance and the Legislature. Director Campbell stated that the staff is excited to work with Commissioner Becker.

Chair Fong welcomed Commissioner Becker.

Commissioner Becker thanked Chair Fong for the welcome. He noted that he applied to serve on the commission because of his desire to help. He expressed his excitement about working with everyone.

Agenda Item No. II: Consideration and Approval of the Minutes of the September 18, 2024 Meeting (4:24)

Vice Chair Tobias made, and Commissioner Thielen seconded, a motion to approve the September 18, 2024 meeting minutes. The motion carried (Commissioners Fong, Tobias, and Thielen voted in the affirmative, with Hong and Becker excused).

Agenda Item No. III: Directors' Report (5:19)

Compliance Director Bonita Chang reported that over 57,000 employees representing 33 state departments are required to complete ethics training. Director Chang reported that the completion rate for “Tier 1” state officials and employees subject to the live training requirement is approximately 98.9%. The overall completion rate for all state employees is approximately 88%. Director Chang reported that the following agencies have a less than 75% completion percentage:

- Budget and Finance
- Department of Accounting and General Services
- Department of Education
- Department of Corrections and Rehabilitation

She noted that the DOE is transitioning to a new Learning Management System, and the DCR is newly created and has a large number of vacancies. She suspects this is the reason for the low performance of these agencies. Staff will continue to work with these agencies to increase training completion rates. She further noted that all agencies have access to a Learning Management System, making tracking training easier.

Director Chang reported that 852 board and commission members require completion of ethics training. She further noted that 95% of the public filing boards and 90% of the non-public filing boards have completed training for an overall completion rate of 93%. The following boards & commissions have a less than 70% completion rate:

- Defender Council
- Island Burial Council-Maui/Lanai
- Radiologic Technology Board
- Island Burial Council-Oahu
- Hawaii Health Systems Corp.-Kauai
- Hawaii Health Systems Corp.-Maui
- Island Burial Council-Kauai/Niihau
- Motor Vehicle Industry Licensing Board

She noted that some of these boards have staffing and administrative and turnover issues but staff will continue to work with the boards.

Chair Fong said he was pleased that the 85% goal was exceeded.

Commissioner Thielen was also pleased with the report and overall completion rates. She expressed her concerns that DAGS is one of the low-performing agencies and asked what the reasoning might be. Director Chang replied that it could be due to reporting discrepancies or the number of vacancies in divisions and offices but was unsure of the actual cause. She noted that staff will continue to work with DAGS and the other low-performing agencies to boost numbers.

Vice Chair Tobias commended staff for surpassing the 85% goal.

Director Chang also reported that the staff is working on a certificate to send to the boards, commissions, and agencies with 100% completion. Chair Fong asked if a note signed by him could also be included.

Enforcement Director Kee Campbell reported that 46 matters were closed and 43 new ones opened in September. He noted that staff continues to close issues at a higher rate than are being opened.

Director Campbell reported that the staff is working on transitioning to a new case management system and ensuring that no active matters slip through the cracks during this transition.

Director Campbell reported that the commission still remains under budget for the quarter.

Agenda Item No. IV: Discussion of Media Reports Concerning Ethics or the Ethics Commission Since the Last Meeting (14:28)

Enforcement Director Kee Campbell reported on items of note from recent media reports:

- Coverage of the appointment of Commissioner Becker
- Coverage of the Alcos matter. Director Campbell noted that most of the coverage seemed positive.
- An article in Civil Beat about the House disciplinary process. Director Campbell noted that this is related to the Alcos matter.

Chair Fong recommended reading the article related to the House disciplinary process and that this could be a future topic of discussion.

Agenda Item No. V: Discussion of Ethics Oversight over the Judicial Branch (16:03)

Enforcement Director Kee Campbell reported that the Judiciary is in the process of promulgating new ethics rules and there are no further updates.

Chair Fong noted that this issue came in response to ethics issues surrounding the US Supreme Court. He said that the ethics code does not apply to judges and justices. He further noted that in other jurisdictions, judges and justices are subject to both a judicial code and the jurisdictions' ethics code.

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 (17:13)

Enforcement Director Kee Campbell said that staff is still reviewing the Kentucky and North Carolina Laws as requested by Commissioner Thielen and does not yet have an update.

Agenda Item No. VII: Consideration of Commission Manual (17:50)

Staff Attorney Nancy Neuffer reported that staff have compiled a manual for the commissioners. The guide is meant to serve as a quick reference. She thanked Office Manager Caroline Choi for assistance with formatting.

Chair Fong asked about the three-part gifts test and what a gift serving a state purpose means. Attorney Neuffer used the examples of a gift of travel to an educational conference or the donation of computers to a school as a gift that serves a state purpose. Attorney Neuffer further noted that social or entertainment-type gifts generally do not serve a state purpose.

Vice Chair Tobias commended the staff for doing an excellent job in putting the manual together.

Chair Fong asked about the \$200 gift reporting requirement. Attorney Neuffer explained that any gift over \$200 or gifts from a single source totaling \$200 in a year need to be reported. Chair Fong asked if reporting was the responsibility of the employee. Attorney Neuffer replied that the gift disclosure law is a self-reporting law.

Agenda Item No. VIII: Administrative Rules (23:55)

Enforcement Director Kee Campbell summarized additional sections that staff are updating of the administrative rules. He noted that the commission requires no action at this time.

- Chapter 4: Updating confidentiality procedures for Attorney of the Day. Allowing for a written summary of advice upon request. Provides for the commission to initiate Advisory Opinions without request from an outside entity.
- Chapter 5: Broaden authority to refer the investigation to any agency. Formalizing use of motion for summary judgment. Setting penalty and settlement guidelines.

Agenda Item No. IX: 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) (28:34)

Enforcement Director Kee Campbell reported that there is no update.

Vice Chair Tobias asked if it would be possible to ask the judiciary about the matter when meeting about other things. Director Campbell replied that it would generally not be advisable.

Agenda Item No. X: Adjournment of Sunshine Law Meeting (30:18)

At approximately 9:30 a.m., Vice Chair Tobias motioned to adjourn the meeting, and Commissioner Thielen seconded. The motion carried (Commissioners Fong, Tobias, Thielen, and Becker voted in the affirmative, with Hong excused).

The meeting was adjourned at 9:33 a.m.

Minutes approved on November 20, 2024.