

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

STATE OF HAWAI'I

Date: December 18, 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/](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 (present in the conference room)  
Cynthia Thielen, Commissioner (via video conference)  
Roderick Becker, Commissioner (present in the conference room)

State Ethics Commission Staff

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

Members of the Public

Candace Park, Deputy Attorney General  
Dan Nakaso  
Patti Epler

**CALL TO ORDER (0:05)**

Chair Fong called the meeting to order at 9:00 a.m. Chair Fong, Vice Chair Tobias, Commissioner Thielen, Commissioner Becker, Commissioner Hong, and Commission staff were present. All Commissioners and staff participating via video or audio conference confirmed that no one was in the room with them at their respective remote locations.

**Agenda Item No. I: Consideration and Approval of the Minutes of the November 20, 2024 Meeting (4:15)**

Commissioner Hong made, and Commissioner Thielen seconded, a motion to approve the November 20, 2024 meeting minutes. The motion carried (Commissioners Fong, Tobias, Thielen, Hong, and Becker voted in the affirmative).

**Agenda Item No. II: Directors' Report (1:52)**

Compliance Director Bonita Chang reported two lobbying law trainings were conducted in December. The first training covered the lobbyist law, and the second covered the lobbying e-filing system. Both were well attended. She also reported that several live training sessions have been scheduled for 2025. These include a mix of both general ethics trainings and lobbyist law trainings. She also noted that staff may see increased call volume related to lobbyists' registration for the 2025-2026 Legislative Biennium. She further stated that there are over 600 lobbyists who will need to re-register for the 2025-2026 biennium. Director Chang reported that the quick guides have been updated. She also noted that legislators' financial disclosures are due in January.

Chair Fong noted that attendees at the recent COGEL conference were impressed with Hawai'i's 85% training compliance percentage.

Enforcement Director Kee Campbell reported that 37 new matters were opened in November and 32 closed. To date in 2024, 395 matters have been opened and 391 closed.

Chair Fong asked what the reasons were for closing most of the cases. Director Campbell replied that a large number of cases are closed for lack of jurisdiction or no clear evidence of a violation. Executive Director Robert Harris also noted that the commission has a much more open system to making complaints than other agencies. He further stated that other jurisdictions require statements and affidavits to file a complaint. He noted that staff does a good job of responding to and appropriately re-referring complainants as necessary. He reported that enhancements may be made to the complaints system to automate some of the referral process.

Executive Director Robert Harris reported that in a prior meeting, the Commission had adopted staff goals for 2024. He further reported that he will have a draft report on the progress of meeting the goals and 2025 goals. Director Harris noted that the hope is that future reports will include more data regarding statistics for public view. Director Harris reported that staff had purchased new audio and visual equipment for future meetings and contested case hearings.

### **Agenda Item No. III: Discussion of Media Reports Concerning Ethics or the Ethics Commission Since the Last Meeting (10:52)**

Executive Director Robert Harris reported on a couple of media reports of note. The first mentioned the commission's current litigation involving the Office of Hawaiian Affairs. The second was regarding a former DLNR Archeologist. Director Harris could not go into specifics regarding this case as it involves a possible investigation.

### **Agenda Item No. IV: Summary and Discussion of the 2024 Council on Governmental Ethics Laws Conference (12:14)**

Executive Director Robert Harris reported that commissioners and staff recently attended the 2024 Council on Government Ethics Law ("COGEL") Conference in Los Angeles. Chair Fong asked attendees to discuss their takeaways from the conference.

Vice Chair Tobias noted that she learned a lot and enjoyed interacting with the other agencies and speakers. She was surprised that many of the agencies could point out ethical issues but lacked "real teeth." She noted that what is happening with the commission is great.

Commissioner Hong noted that COGEL was formed in the wake of the Watergate Scandal. He highlighted a session with John Dean, who spoke on the importance of

vigilance in ethics. Additionally, he highlighted Los Angeles Mayor Karen Bass, who spoke on using the community to enforce ethics.

Compliance Director Bonita Chang found the roundtable discussion interesting. She noted how smaller agencies leveraged their limited staff and resources. She wants to explore using public-facing dashboards and information sharing to better educate the public about the Commission's activities. She also expressed her desire to do more with COGEL Connects Workshops.

Staff Attorney Jodi Yi noted that this was her first COGEL Conference. She stated that she learned a lot about other agencies and operations. She expressed her surprise that many agencies have a staff of less than 10. She agreed with others that Hawai'i is better staffed and funded than many agencies. She also noted that some jurisdictions have penalties that are so low that entities consider the fine a "cost of doing business".

Executive Director Robert Harris brought back ideas about posting guidance anonymously and possible pre-employment restrictions, specifically restrictions on employees working on projects they were involved in before joining the state.

Chair Fong expressed his thanks and appreciation for the quality of the commission staff, noting that the staff is "above the curve." He also told COGEL attendees that staff took cases as far as litigation up to the Supreme Court. Chair Fong noted that the 2025 COGEL Conference will be held in Atlanta.

Vice Chair Tobias noted a discussion about ethics and artificial intelligence. She suggested that the commission consider this issue in the future. Director Harris noted that the legislature and Campaign Spending Commission were investigating the effect of artificial intelligence on voter misinformation.

Chair Fong advised that commissioners inform Director Harris if they have a specific issue they would like staff to examine.

#### **Agenda Item No. V: Discussion of Ethics Oversight over the Judicial Branch (26:05)**

Executive Director Harris reported that the Judiciary is proposing an independent administrator who would be attached to the Commission on Judicial Conduct. The position would serve as a counterpart to the Commission, and would investigate complaints. A second proposal is for rules related to the disclosure of gifts. He noted that the goal is to have final comments to forward to the Judiciary by January. He said that there may be a new Chief Justice appointed soon.

Chair Fong thanked the commissioners for their feedback on the Judiciary's proposals.

**Agenda Item No. VI: Proposed Legislation (28:04)**

Executive Director Robert Harris reported that staff proposes legislation to streamline the process for fines under \$1,000. The Commission would issue a notice of fine. The respondent would then have 20 days to request a hearing or pay the fine.

Commissioner Hong asked how many violations result in fines under \$1,000. Director Harris replied that it was difficult to answer that question, as the fines were recently increased to \$5,000. He noted that creating a fine schedule for certain violations would be part of the administrative rules update.

Commissioner Becker suggested that the word "ethics" be included in the bill's title.

Vice Chair Tobias moved, and Commissioner Hong seconded, a motion to approve the proposed legislation. The motion carried (Commissioners Fong, Tobias, Thielen, Hong, and Becker voting in the affirmative.)

Director Harris reported that staff has proposed legislation clarifying who has jurisdiction over lobbyists who give illegal contributions. Director Harris noted that previous legislation gave the Commission jurisdiction over lobbyists who make prohibited contributions. Further, the Campaign Spending Commission has jurisdiction over contributors who make prohibited donations. Director Harris reported that the proposal addresses potential issues related to double-fining a lobbyist for a violation. He noted that the proposal would clarify that the Campaign Spending Commission would have jurisdiction over candidates and that the Commission would have jurisdiction over lobbyists. He further stated that if a lobbyist was only a county lobbyist, only the county ethics board would have jurisdiction over the lobbyist.

Commissioner Hong asked what the rationale was for having the Commission take on enforcement of lobbyist contributions rather than Campaign Spending. In other words, why is the commission responsible for lobbyists, and Campaign Spending is responsible for the candidates? Director Harris replied that constitutionally, the Commission has jurisdiction over lobbyists and their training. In addition, Director Harris noted that the Commission is better equipped to conduct more thorough investigations.

Vice Chair Tobias asked what would happen if a county lobbyist made an illegal contribution. Director Harris replied that most lobbyists lobby at both the state and county levels, so the Commission would likely have jurisdiction over the organization. However, if it is solely a county lobbying entity, the counties currently do not have any prohibitions on contributions. He further noted that this issue will have to be addressed in the future.

Commissioner Hong moved, and Commissioner Becker seconded, a motion to approve the proposed legislation. The motion carried (Commissioners Fong, Tobias, Thielen, Hong, and Becker voting in the affirmative.)

**Agenda Item No. VII: 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) (41:03)**

Executive Director Robert Harris reported that there is no update.

**Agenda Item No. VIII: University of Hawai'i Professional Assembly v. Board of Regents of the University of Hawai'i, S.P. No.: 1CSP-23-0000959 (41:26)**

Executive Director Robert Harris summarized this case as arising from a matter that came before the Commission against a University of Hawai'i faculty member. A subsequent arbitration occurred, addressing whether the University should have provided her legal counsel and submitted any fine issued to the Legislature for payment. The arbitrator ruled that the Commission was a court under the collective bargaining agreement and that the University of Hawai'i should have provided counsel. The University of Hawai'i appealed the ruling to the Supreme Court. Director Harris noted that the Commissioners were provided the amicus brief filed by the Commission and other parties' filings. He further recommended that if the Commission wished to discuss the matter in further detail, the Commission go into executive session.

Commissioner Hong asked if any action was required. Director Harris replied that no action was needed at this time.

**Agenda Item No. IX: Adjournment of Sunshine Law Meeting (46:20)**

At approximately 9:45 a.m., Commissioner Hong moved to adjourn the meeting, and Commissioner Thielen seconded. The motion carried (Commissioners Fong, Tobias, Thielen, Hong, and Becker voted in the affirmative).

The meeting was adjourned at 9:47 a.m.

Minutes approved on January 15, 2025.