

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: July 17, 2024

Time: 9:00 a.m.

Location: Hybrid meeting held via Zoom video and audio conference

Recorded video available at

https://ethics.hawaii.gov/category/commissionmeetings/comm_videos/

Public Meeting Location

Hawaii State Ethics Commission Conference Room
1001 Bishop Street
American Savings Bank Tower, Suite 970
Honolulu, Hawaii 96813

Present: State Ethics Commission Members

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

State Ethics Commission Staff

Robert D. Harris, Executive Director (present in conference room)
Kee M. Campbell, Enforcement Director (via video conference)
Bonita Y.M. Chang, Compliance Director (via video conference)
Nancy C. Neuffer, Staff Attorney (via video conference)
Jennifer M. Yamanuha, Staff Attorney (via video conference)
Jodi L. K. Yi, Staff Attorney (via video conference)
Patrick W.C. Lui, Computer Specialist (via video conference)
Jared Elster, Investigator (excused)
Barbara A. Gash, Investigatory Analyst (via video conference)
Myles A. Yamamoto, Administrative Assistant (present in the conference room)

Members of the Public

Blaze Lovell
Candace Park – Deputy Attorney General
KB Chun

CALL TO ORDER (Part I) (0:00)

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

Agenda Item No. I: Consideration and Approval of the Minutes of the June 19, 2024 Meeting (Part I) (2:50)

Commissioner Hong made, and Commissioner Thielen seconded, a motion to approve the minutes of the June 19, 2024 meeting. The motion carried (Commissioners Fong, Hong, and Thielen voted in the affirmative, with Tobias excused).

Agenda Item No. II: Directors' Report (Part I) (4:16)

Compliance Director Bonita Chang reported that training reminder emails were sent to 33 agencies and over 100 boards. The primary targets of the emails were low-performing and larger agencies. Director Chang stated that the emails urged administrators to incorporate training as part of the onboarding process for new employees and board members. Director Chang reported that agencies with a Learning Management System (LMS) were urged to incorporate the training into the system to facilitate tracking training completions. She further noted that emails to the Dept. of Education and the University of Hawaii urged those agencies to have employees complete training as part of their tasks for beginning the school year.

Commissioner Thielen noted that the Board of Certification of Public Water System Operators has only one of its four members who has completed training. She asked if staff could contact them. Director Chang replied that the staff would. She noted that the numbers on the report may not reflect the actual headcount due to a large number of vacancies.

Commissioner Hong commended the staff for their outreach efforts.

Enforcement Director Kee Campbell reported that 27 new complaints were opened for the month and 38 complaints were closed.

Chair Fong asked if increased training participation has led to an increase in complaints. Director Campbell replied that while he does not have hard data, he believes that is the case.

Executive Director Harris provided a fourth-quarter financial update. He reported that \$72,329 was returned to the state. He noted that there were spending increases for office expenses and consulting expenses. The increases in office spending were due to costs related to the renovation and relocation of the commission's offices. The increases in consulting were due to updating computer systems. Director Harris also noted expenses related to the Akana matter. He stated that the commission's expenses were still well under budget.

Concerning the vacant Commissioner position, Director Harris reported that there is no update.

Commissioner Thielen asked Director Harris what the statutory requirements are for filling the vacancy. Director Harris was unsure and said he would get back to her.

Agenda Item No. III: Discussion of Media Reports Concerning Ethics or the Ethics Commission Since the Last Meeting (Part I) (12:32)

Executive Director Harris noted media reports about the following; a Civil Beat article related to financial disclosures, Hawaii Public Radio coverage about gifts to the Governor and what happens when officials leave office, coverage of candidate financial disclosure enforcement, coverage of the Honolulu gifts law and a decrease in complaints to the Honolulu Ethics Commission, and a Civil Beat opinion article on campaign finance reform.

Commissioner Hong asked if the actual articles could be easily accessed by the commissioners. Director Harris noted that the articles could be included in Sunshine Law meeting materials. He noted that due to the law's requirement that material be published seven days in advance, articles may be missed.

Commissioner Hong said he would like to see a library of related ethics articles. Director Harris replied that he would consult with staff on how to get articles to the commissioners.

Vice Chair Tobias noted that this would be helpful for off-island commissioners. Director Harris noted that Civil Beat is online only and does not have a hard copy. He noted that staff could forward the news alerts they receive. He further noted that Civil Beat provides statewide coverage.

Commissioner Thielen noted that Civil Beat covers news statewide and holds pop-up events across the state.

Agenda Item No. IV: 2024 Legislative Matters (Part I) (20:55)

Executive Director Harris noted that the bills pending before the Governor have now become law. He reported that the staff is in the process of updating the quick guides and administrative rules to reflect changes in the laws.

Chair Fong thanked the staff for all their work.

Agenda Item No. V: Discussion of Ethics Oversight over the Judicial Branch (Part I) (22:29)

No updates. Executive Director Harris reported that he has asked Judiciary for an update.

Agenda Item No. VI: Discussion of Proposed Ethics Updates Based on Civil Beat/New York Times

Article (available at <https://www.civilbeat.org/2024/04/inside-the-late-nightparties-where-hawaii-politicians-raked-in-money/>) (Part I) (23:08)

Executive Director Harris reported that after discussion with staff and the Campaign Spending Commission, the recommendation is to focus efforts on expanding restrictions on campaign contributions by contractors to include principal employees, officers, and directors. He noted this legislation had been previously introduced and supported by the Campaign Spending Commission. He noted that the proposal has legislative support and would also be easier to enforce.

Commissioner Thielen asked who would re-introduce this legislation. Director Harris replied that the Campaign Spending Commission would re-introduce it as part of their proposals to the Governor. The commission could also try to introduce it as part of its package. He noted that the commission's legislative package is typically discussed in November-December.

Commissioner Thielen noted that the proposed bills would achieve most of the goals sought but would not eliminate all the issues raised. She suggested that if the proposal passes, additional legislation be proposed that would prohibit high-ranking officials from participating in fundraising activities.

Director Harris noted that Hawai'i has adopted portions of the federal Hatch Act which bars certain individuals from participating in political activities. He further noted enforcing prohibitions on procurement officials would be difficult, but prohibitions on contractors giving contributions would be easier to enforce.

Commissioner Thielen asked what other states are doing regarding this issue. She suggested reaching out to the National Conference of State Legislatures ("NCSL")

for examples of laws and policies in other jurisdictions. Director Harris replied that staff would contact NCSL.

Chair Fong asked about overlapping responsibility between the commission and the Campaign Spending Commission. Director Harris replied that there would be overlap. He stated that the Campaign Spending Commission would enforce prohibitions on contributions from contractors, and the commission would enforce any restriction on employee behavior.

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) (Part I) (39:35)

Executive Director Harris reported that oral arguments before the Hawai'i Supreme Court were held. He recommended the commission go into Executive Session to discuss the oral arguments.

At approximately 9:41 a.m., Commissioner Thielen moved, and Commissioner Hong seconded a motion to convene an executive session to discuss the substance of the oral arguments made before the Hawai'i Supreme Court. The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voting in the affirmative).

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

At 9:48 a.m., the commission adjourned the executive session and reconvened the sunshine meeting.

Director Harris summarized the executive session in which the commission discussed the oral arguments and attorneys' opinions of them. No decisions were made at this time.

Agenda Item No. VIII: Adjournment of Sunshine Law Meeting (Part II 1:02)

At approximately 9:50 a.m., Commissioner Hong motioned to adjourn the meeting, and Commissioner Thielen seconded. The motion carried (Commissioners Fong, Tobias, Hong, and Thielen voted in the affirmative).

The meeting was adjourned at 9:51 a.m.

Minutes approved on August 21, 2024.