

HONOLULU ETHICS COMMISSION*
Charles W. Totto, Executive Director and Legal Counsel

Mission

The purpose of the Ethics Commission (Commission) is to ensure that City officers and employees understand and follow the standards of conduct governing their work for the public. The Commission's main focus is on conflicts of interest and the misuse of government resources or positions. The Commission implements its objectives through a balance of training programs, advisory opinions, enforcement actions and legislation.

To find out more about the Commission and its activities, visit the Commission's web site at www.honolulu.gov/ethics. The web site has information about the Commission's meetings, procedures, the standards of conduct, and useful ethics guidelines of interest to the public, and City employees and officers.

Resources

The seven Commission members are appointed by the mayor and confirmed by the City Council. Commissioners serve staggered five-year terms. The members in FY 2010 were:

Term Expiration

Lex R. Smith, Esq., Chair	December 31, 2011
Susan H. Heitzman, Vice Chair.....	December 31, 2010
Matthew H. Kobayashi	December 31, 2009
Wayne T. Hikida	December 31, 2009
Patricia Y. Lee, Esq.	December 31, 2010
Geri Marullo	December 31, 2011

The Commission was staffed with an executive director/legal counsel and a legal clerk. The Commission's budget for FY 2010 was \$199,621.

Ethics Training

The Commission staff continued the mandatory ethics training program for all elected officials, managers, supervisors and board and Commission members. Honolulu's mandatory ethics training and retraining program is one of the most ambitious in the United States. In FY 2010, the Commission trained 450 City officials, bringing the total to over 4,900 public servants trained since the law was enacted. In addition, the Commission staff presented its "Ethics Checklist" orientation training to 309 new City officers and employees. As a result, all of the current City officials and more than half of the City's workforce have received some form of ethics training.

Last year the Commission introduced a mandatory ethics refresher course for all elected officials, supervisors, managers and board and Commission members. This year 206 attended, bringing the total receiving retraining to 1,218.

Some agencies take advantage of the training beyond those who are mandated to attend. For example, all Mayor's Office and Council staff, emergency medical services personnel, City attorneys and fire department recruits also attend ethics training.

Training programs continue to greatly reduce the number of unintentional ethics violations. In addition, these programs should increase public confidence in City employees and officers.

Advice and Enforcement

In the past fiscal year, the Commission received 237 requests for advice from City personnel. By the end of FY 2010, the Commission had responded to all but 4 of these requests. Also in FY 2010, the Commission began investigating 91 complaints of unethical conduct by City personnel, and 48 of these complaints were outstanding at fiscal year end. In FY 2010 The number of complaints warranting investigation increased by 49% over the number of complaints investigated in FY 2009. Increasing complaints reflect that the public and City workers will report misconduct and believe that the Commission offers a fair and effective forum to examine and resolve their concerns. In part because of the continued increase in complaints investigated, the Commission will be adding another full-time attorney position in FY 2011.

The Commission also received and reviewed 571 financial disclosure statements from high-level City officials.

The Commission rendered formal advisory opinions in the following cases:

- The Commission found that a City employee who testifies as part of her regular City employment duties may not retain a witness fee because of the prohibition against dual compensation in Section 11-102(d) Revised Charter of Honolulu (RCH). Advisory Opinion No.2009-5.
- The Commission opined that the City administration did not violate the ethics law prohibiting the use of city resources for political purposes when it circulated a taxpayer-funded brochure on rail transit in the city's newspapers just prior to the November 2008 election, which included a ballot measure on rail transit. The brochure did not violate the ethics laws because the mayor has the implied power to spend public funds to inform and educate the public about matters of public concern, including matters that are subject to a vote, and because the brochure did not constitute partisan advocacy by expressly or implicitly urging the voters to cast their ballots a particular way. Advisory Opinion No. 2009-6.

- The Commission clarified that the ethics laws do not automatically bar city attorneys from providing pro bono legal services to the community. City attorneys providing pro bono legal services, however, must comply with the city's standards of conduct. Advisory Opinion No. 2010-1.
- The Commission found that Councilmember Rod Tam misused City resources contrary to RCH Section 11-104 for his personal benefit by charging the City for meals in circumstances where (1) he paid less for the meal than the amount he charged the city; (2) his justification for the meal was false; (3) the meal was not directly related to his councilmember duties; (4) the meal was with his personal business associates; or (5) the meal was with his family members. In addition, during the investigation the Commission discovered that over a 9-year period the councilmember failed to disclose significant financial information, as required by ROH Sec. 3-8.4, regarding businesses and nonprofits in which he was an officer or director. Advisory Opinion No. 2010-2.
- The Commission determined that, for purposes of the city's gift prohibition laws, the value of a ticket to a political fundraiser event that is given to a city officer or employee by someone who has an interest that could be affected by the officer or employee is equal to the fair market value of the benefits the city officer or employee receives by attending the fund raiser (e.g., the dinner provided, the golf green fees, door prizes). Advisory Opinion No. 2010-3.

Legislation

The Commission created and endorsed a Charter amendment to prohibit councilmembers from participating in or voting on a bill or resolution where the councilmember has a conflict of interest. Also, the Commission supported a Charter amendment to create a law that would prohibit a city department head from acting where the head had a conflict of interest arising out his/her employment before coming to the City.

Along with the ethics boards of the other counties, the Commission supported the introduction of bills at the legislature to clarify that state law does not prohibit ethics agencies from imposing civil fines on City officials. These bills failed without discussion, but will be advanced again in the 2011 legislative session.