

**WELCOME TO THE
ETHICS COMMISSION MEETING**

*As a courtesy and to avoid excessive
noise/feedback, please mute your microphone
except to testify.*



Date: June 24, 2020
Time: 11:30 a.m.
Webex: Meeting No. 1461069061
Meeting Password: RzuptxNZ283
(79878969 from phones, video
systems or join by phone
1-408-418-9388)

ORDER OF BUSINESS

I. Call to Order, Public Notice, Quorum



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II.A. CHAIR'S REPORT

2. For Action: Approval of Open Session Minutes of April 15, 2020
3. For Action: Approval of Open Session Minutes of May 1, 2020



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II.B. EXECUTIVE DIRECTOR AND LEGAL COUNSEL'S (EDLC) REPORT

1. Staff Work Reports Summary
 - Senior Clerks (2)
 - Legal Clerk III
 - Investigator
 - Associate Legal Counsel
 - COR priv. secty still assisting EC



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS SENIOR CLERKS

- Lobbyists – final processing of registrations, annual reports, obtaining post-COVID notaries
- Financial disclosures – filing forms, setting up process with Clerk’s Office
- Ordering supplies, disposing equipment
- Drafting SOPs for all processes
- Developing tracking system, paper-based forms



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS SENIOR CLERKS

- Updating, uploading website, social media
- Assisting meeting admin, drafting minutes, transcribing training videos
- Assisting with office supplies
- Completing advisory opinion compendium
- Assisting investigations (interviews, drafting memos, reports, exhibits), UIPA requests



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS LEGAL CLERK III

- Meeting administration, processing; managing EC schedule, UIPA requests, log, pCard admin
- Updating website, posting newsletters, opinions, other
- Assisting investigation filings, drafting correspondence, memos, emails, other outreach
- Managing front-office, phones, case/contact intake
- Compiling board/commission member, liaison list
- Training – Outlook, Excel, Lexis, sunshine law



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS INVESTIGATOR

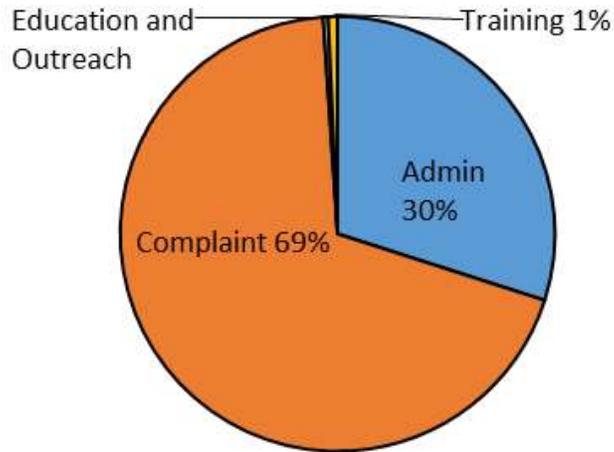
- Managing case load, attending case management meetings
- Assisting with case processing, procedures



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II.B.1. STAFF WORK REPORTS SUMMARY INVESTIGATOR



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II.B.1. STAFF WORK REPORTS - HIGHLIGHTS ASSOCIATE LEGAL COUNSEL

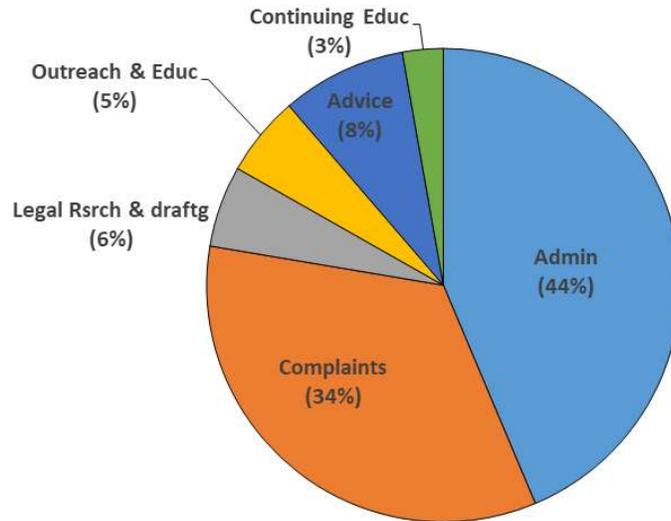
- Training – working w/ IT on new emp’ees, bd/comm members online training; updating specialized training
- Leading case management meetings; drafting SOPs, templates, advisory opinion compendium
- Investigating, prosecuting cases, training INV, other staff
- Financial disclosures – drafting legislation, working w/ HR, IT on enforcement
- Conducting research for EC law, other revisions
- Handling requests for legal advice, tweeting



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II.B.1. STAFF WORK REPORTS SUMMARY ASSOCIATE LEGAL COUNSEL



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II.B.2. STATISTICS

a. Website Sessions

- February 2020 - 497
- March 2020 - 460
- April 2020 - 400
- May 2020 - 466



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II.B.2.b DISCLOSURES

CLERK'S OFFICE/ETC Public & Other Disclosures		ETHICS COMMISSION Confidential Disclosures	
Candidate Statements	15	E-Form – Employees & Officers	387
Conflict of Interest	40	PDF - Board & Commission Members	139
Disclosure of Interest – Councilmembers	30	Disclosure of Interest By Officers & Employees (CC8)	5
Financial Interests – Certain Employees & Councilmembers	73		
Nominations	21		
Post-Employment Affidavits	1		
Totals	180	531	13

II.B.2.c. LOBBYIST FILINGS

2020 REGISTRATION	2019 ANNUAL REPORT
Hardcopy Filings (by Organization)	Hardcopy Filings (by Organization)
~ 90	~ 105
(by Lobbyist)	(by Lobbyist)
~ 133	~ 149



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II.B.3. BUDGET

- a. FY2021 Operating Budget – Bill 20 (2020), CD1, FD1, Council passed June 3, 2020
- CD1 adds 3 FTE (administrative specialist, training specialist, investigator)
 - FD1 adds 2 FTE (private secretary, associate legal counsel)
 - ✓ Per Budget, unallot Council adds but may request release



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II.B.3.a. FY21 BUDGET, NEW POSITIONS

- Reconfigure office space
 - ✓ Fall 2020 – anticipate COVID resurgence, rail
 - ✓ Continue tele-commuting as privilege, not right
 - ✓ Continue social distancing, erect barriers
 - ✓ Share offices, add’l space request pending
 - ✓ < 50% capacity in office, any given day
 - ✓ Require some weekly presence, policy pending



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II.B.4. EDUCATION AND OUTREACH

a. Ethics Training Program (FY19–FY20)

- Deadline extended to Dec. 31, 2020
- Online departments progressing
- In-person departments pending
- Board/Commission member pending
 - ✓ DIT non-domain user interface pending
 - ✓ Use video, board liaisons administer training
 - ✓ EC staff compiling board member, liaison list



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II.B.4. EDUCATION AND OUTREACH (cont'd)

b. E-Newsletter (*the Compass*), Twitter, Website

- Ethics Reminders During the COVID-19 Pandemic (May 2020)
- Campaign Activities Checklist – Dos and Don'ts for City Officers and Employees (June 2020)
- Working for a Private Employer After Working at the City (July 2020)



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II.B.4. EDUCATION AND OUTREACH (cont'd)

b. E-Newsletter (*the Compass*), Twitter, Website

- E-newsletter distributed to all city depts., all officers, employees
- Posted to website, linked to Twitter feed
- Distributed to persons signed up for Ethics Commission updates via Webmaster



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II.B.4.b. NEWSLETTER SENT VIA WEBMASTER

Having trouble viewing this email? [Click here to view as a webpage.](#)



Honolulu.gov
City and County of Honolulu

[Ethics Reminders During the Covid-19 Pandemic - The Compass May 2020](#)

You are receiving this message because you requested this feature as part of your email subscription registration on [Honolulu.gov](#).

[Update your subscription](#) | [Unsubscribe from this email subscription](#)

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II.B.4. EDUCATION AND OUTREACH (cont'd)

c. Brochure

- Ethics Guidance for City Board Members
 - ✓ Mayor's office distributes to new appointees
- About the Honolulu Ethics Commission
 - ✓ Hand out at training, meetings, interviews
- Ethics Guidance for City Lobbyists
 - ✓ Strategically place in city reception areas



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II.B.4.c. BROCHURES (NEW)



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II.B.4.c. LOBBYIST BROCHURE IN CITY COUNCIL RECEPTION AREA

FIG. 1 VIEW FROM DOOR



FIG. 2 CLOSE-UP VIEW



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II.B.4.d. UH LAW SUMMER INTERN POSTING

- ALC outreach to UH law school
- Summer intern posting on job board
- Hope to carry forward postings to Fall 2020, Spring 2021 semesters



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II.B.5. LEGISLATION

- a. **Reso 19-331 – EC budget flexibility**
 - Passed 2nd reading and 2nd EMLA referral
 - 3rd reading July 8, 2020
- b. **Reso 20-83, FD1 – exempt EC staff from classification plan**
 - Passed 2nd reading and 2nd EMLA referral
 - 3rd reading July 8, 2020



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II.B.6. EDUCATION OPPORTUNITIES

- a. **COGEL 42nd Annual Conference**
 - City of Atlanta hosting
 - **Free!** virtual meeting
 - All commissioners, staff may attend
 - December 13 – 16, 2020



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III. EXECUTIVE SESSION DETERMINATION

A. For Discussion and Action:

Whether the Ethics Commission Should Exercise Its Discretion to Consider Whether There Is Probable Cause to Believe That a City Employee Violated Revised Charter of Honolulu Section 11-104



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IV. EXECUTIVE SESSION

A. For Decision:

Whether There Is Probable Cause to Believe That a City Employee Violated Revised Charter of Honolulu Section 11-104

[pursuant to HRS §§ 92-5(a)(2), 92-5(a)(4)]



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V. STRATEGIC PLANNING

A. *Ethics Commission – 2027 (Amended)*

1. Permitted Interaction Group (PIG) – Review Strategic Plan Top Priorities

- Members – Chair Marks, Vice-Chair Monk, Cmmr. Suemori
- Webex meeting No. 1 to be scheduled July 2020 (March 2020 meeting cancelled due to COVID-19)



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VI. ADJOURNMENT

Next Meeting: August 19, 2020

Website: www.honolulu.gov/ethics Email: ethics@honolulu.gov

 Twitter: @HonEthicsComm



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Agenda Item II.A.2.,

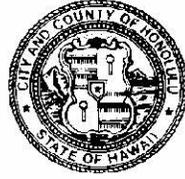
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**[Open Session Minutes of
April 15, 2020 Commission
Meeting]**

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL
MAYOR



JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

Date and Place: April 15, 2020
Webex Meeting Number (Access Code): 263 358 543
Meeting Password: 7TiM4QxSpN7 (78464797 from phones and video systems) or Join by phone 1-408-418-9388

Present: Hon. Victoria Marks (ret.), Chair
David B. Monk, Vice Chair

Peter S. Adler, Commissioner
Hon. Riki Amano (ret.), Commissioner
Lynette Lo Kanda, Commissioner
Michael A. Lilly, Esq., Commissioner
Hon. Allene R. Suemori (ret.), Commissioner

Jan K. Yamane, Executive Director and Legal Counsel (EDLC)
Laurie Wong-Nowinski, Associate Legal Counsel (ALC)
Janice K. Yonamine, Investigator (INV)
Alyson N. Wong, Legal Clerk III (LCIII)
Joanne O.N. Lim, Sr. Clerk (Sr. CLK)
Kristie E.L. Kato, Sr. Clerk (Sr. CLK)

Moana Yost, Deputy Corporation Counsel,
Department of the Corporation Counsel (COR)

Sandy Ma, Executive Director, Common Cause

MINUTES OF THE ETHICS COMMISSION MEETING

I. Call to Order, Public Notice, Quorum

Chair Marks called the meeting to order at approximately 11:33 a.m., declaring quorum with all Commissioners present via Webex.

II. New Business

A. Chair's Report

1. For Action: Approval of Open Session Minutes of February 19, 2020
Commissioner Adler made and Commissioner Kanda seconded a motion to approve the open session minutes of February 19, 2020. The motion carried unanimously.

B. Legislation

1. For Discussion and Action: Resolution 20-083 Initiating Amendments to the Revised Charter of the City and County of Honolulu 1973 (2017 Edition), As Amended, Relating to Ethics Commission Staff

EDLC Yamane stated that the City Council is having its full Council meeting at the same time as this Commission meeting and this matter is on the Council's agenda. She further stated that she submitted testimony explaining that the Commission is meeting today to discuss whether to take a position on this matter.

Chair Marks discussed the pros and cons of the resolution. The pro is that it will be easier to hire staff. The con is that staff is not entitled to automatic pay raises that civil service employees receive under collective bargaining agreements.

Commissioner Kanda asked if other agencies have done this before as she was concerned if the Council would view this negatively.

Chair Marks referred to Resolution 19-331, regarding a proposed Charter amendment to allow the Commission's budget independence. She explained that the goal with both of these resolutions is to gain independence and flexibility to create and hire staff positions the Commission needs and to provide raises to staff. She and Executive Director Yamane have worked on trying to create the Assistant Executive Director position, which received funding last year; they are also unable to create other needed staff positions because of classification plan restrictions.

Chair Marks asked for testimony. Ms. Sandy Ma identified herself as the Executive Director of Common Cause and stated that Common Cause takes no position on this issue. She further stated that there are others in the community who are concerned that taking the ethics staff out of the classification plan will leave them exposed to political persuasion and without collective bargaining protections.

EDLC Yamane responded that all staff positions are already exempt from civil service and that this resolution takes them out of the classification plan, similar to what was done for the staff attorney position several years ago to allow more flexibility.

Vice Chair Monk moved and Commissioner Amano seconded a motion to support and testify at Council on Resolution 20-083. The motion carried unanimously.

III. Adjournment

At approximately 12:13 p.m., Commissioner Suemori made and Vice Chair Monk seconded a motion to adjourn the meeting. The motion carried unanimously.

DRAFT

Agenda Item II.A.3.,

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**[Open Session Minutes of
May 1, 2020 Commission
Meeting]**

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

925 DILLINGHAM BOULEVARD, SUITE 190 • HONOLULU, HAWAII 96817
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KIRK CALDWELL
MAYOR



JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

Date and Place: May 1, 2020
Meeting Number (Access Code): 968 982 705
Meeting Password: yyZ4BQFYc82 (99942739 from phones and video systems) or Join by phone 1-408-418-9388

Present:

Hon. Victoria Marks (ret.), Chair
David B. Monk, Vice Chair

Peter S. Adler, Commissioner
Hon. Riki Amano (ret.), Commissioner
Lynette Lo Kanda, Commissioner
Michael A. Lilly, Esq., Commissioner
Hon. Allene R. Suemori (ret.), Commissioner

Jan K. Yamane, Executive Director and Legal Counsel (EDLC)
Laurie A. Wong-Nowinski, Associate Legal Counsel (ALC)
Janice K. Yonamine, Investigator (INV)
Alyson N. Wong, Legal Clerk III (LCIII)
Joanne O.N. Lim, Sr. Clerk (Sr. CLK)
Kristie E.L. Kato, Sr. Clerk (Sr. CLK)

Moana Yost, Deputy Corporation Counsel,
Department of the Corporation Counsel (COR)

Chief Susan Ballard, Deputy Chief John McCarthy, Deputy Chief Clyde Ho, Lynne Goto-Uyema, Esq., Honolulu Police Department (HPD)
Carolee Kubo, Director, Department of Human Resources (DHR)
Christina Jedra, Civil Beat
Dan Gluck, Executive Director, State Ethics Commission
Gordan Pang, Star Advertiser
Natalie Iwasa, member of the public
Melissa Vomvoris, member of the public
Mia S., member of the public
Cherry Pascual, member of the public

MINUTES OF THE ETHICS COMMISSION MEETING

I. Call to Order, Public Notice, Quorum

Chair Marks called the meeting to order at approximately 1:05 p.m., declaring quorum with all Commissioners present via Webex.

II. New Business

A. For Discussion and Action: Whether City Officers and Employees Who Enforce the Law Should Be Allowed to Accept Tokens of Aloha and Acts of Kindness During a Global Pandemic (COVID-19)

Chair Marks referenced news stories that show members of the public providing meals to first responders such as police officers, emergency medical services, and fire department personnel. She further explained that the city council meeting agenda has many resolutions accepting certain gifts to HPD.

Vice Chair Monk stated that he has no problem with businesses or individuals giving gifts to the city for the benefit of the department. But, he recommended that if individuals receive personal gifts, the individual could thank the giver for their generosity but state that they can't accept any gifts unless it's in the form of a gift to the city.

Chair Marks asked for any public testimony.

The LCIII stated that she recently received an email from the Hawaii Firefighters Association (HFFA) that hadn't been distributed to the commissioners. Chair Marks asked the LCIII to read the letter. The LCIII stated that HFFA supports tokens of aloha and acts of kindness for first responders by Honolulu communities during this time. HFFA believes that the Commission's concern that accepting the smallest acts of kindness can be an ethical slippery slope for corruption for city officers and employees is misdirected. These tokens of aloha and acts of kindness are of small monetary value for city officers and employees that continue to protect the City and County of Honolulu from the spread of COVID-19.

Honolulu Police Chief Ballard stated that HPD is very sensitive regarding gifts. Since Officers Kaulike Kalama and Tiffany Enriquez were killed in the line of duty, there has been an outpouring of community support with gifts to HPD as a whole. HPD does its best to consider ethical issues and ensure that they are doing the right thing. Gifts are not accepted if it's to an individual or district. She stated that giving gifts is a way for the community to reach out to the department and for them to maintain their relationship with the community. She further stated that the department has its own standards of conduct where officers are not allowed to accept gifts. If the officers do accept gifts, inquiries are made and appropriate actions are taken. Moreover, all the gifts the department receives are reported to city council. Additionally, she stated that this is the first time she has ever seen the media film gifts being given to HPD and other first responders. She

requested that the Ethics Commission use a common sense approach to gifts during this time.

Natalie Iwasa stated people give gifts of aloha to show appreciation and they are not trying to influence recipients. She asked that the Ethics Commission to allow these types of gifts.

Dan Gluck commented that he already had a conversation with the EDLC and that the EDLC understands the State Ethics Commission's perspective on the issue.

Vice Chair Monk reminded the Commissioners that at the February 19, 2020, Ethics Commission meeting they just passed a zero-tolerance policy on gifts, prohibiting all tokens of aloha. He had abstained from the vote and referenced Ms. Iwasa's and Chief Ballard's point that the community needs a forum to express aloha for those who perform great service.

The EDLC referred to Chief Ballard's point on how it's the first time she has seen news crews filming deliveries of free food to first responders. She stated that current gift guidance, excepting the decision from the February 2020 meeting, allows city employees to accept tokens of aloha except for any employee that enforces the law. The discussion that we are having is limited to first responders who enforce the law, which would include HPD and its personnel.

Commissioner Kanda moved and Commissioner Adler seconded a motion to suspend gifts provisions during the pandemic.

Chair Marks ask for clarification of the term "pandemic". **Vice Chair Monk proposed an amendment to the motion: replace "during the pandemic" with "until such time the governor declares the state of emergency is over."**

The EDLC explained that both the governor and mayor make different proclamations.

Vice Chair Monk amended his amendment to also reference the mayor. He also suggested that the Commission not use the word "pandemic" in any resolution because one can envision other disasters where similar situations could arise and would result in having to create a new resolution.

The EDLC stated that the language included in the proclamation was a declaration of a state of emergency or disaster.

The ALC asked for clarification of the term "gift policy" in the motion.

Commissioner Amano stated that suspending the entire gift policy is a bad idea. She further stated that the Commission must do this on a case-by-case basis. How is the Commission going to fashion a process so people don't take advantage of the situation? The intention is to allow acts of kindness, such as giving food, to keep first responders' spirits up. She further stated that the motion is too broad

and the issue is how narrow should they carve it out.

Commissioner Adler stated that he would appreciate hearing from Chief Ballard and Mr. Gluck. Chief Ballard stated that any gifts that come to the department are sent to her for approval. She would like the motion to be more streamlined. For example, instead of suspending all gift policies, the Commission could allow tokens of aloha. Additionally, she clarified that departmental gifts are reported to the City Council and that they are able to accept or deny the gift as well.

Dan Gluck stated that the State Ethics Commission hasn't had an opportunity to address these issues. However, he and his colleagues believe that they're not inclined to change any gift policy right now. Instead, they are looking at reprioritizing the enforcement cases during these times. He stated that changing policies back and forth can be difficult when dealing with agencies and trying to figure out how to explain it to their employees and ensure consistency. Usually, he would advise agencies of best practices. The State Ethics Commission would not put their resources into enforcing acceptance of tokens of aloha.

The EDLC stated that from an enforcement standpoint, we wouldn't even know if individuals were accepting personal gifts. She further stated that if we didn't know, there would be no way to enforce it.

Commissioner Adler reminded everyone that the Ethics Commission is not a surveillance system. We are a complaint-based commission and rely on people reporting issues. He stated that he is inclined to be permissive during this emergency rather than being too narrow.

The EDLC suggested that the commission could set an end date, based on the governor's and/or mayor's proclamation of the termination of the state of emergency.

Commissioner Adler suggested having an explicit time to suspend gift policies. He stated that he has a lot of faith in the fire and police departments and we can always revisit the resolution if the situation continues.

Vice Chair Monk stated that crafting a motion that is clear and understandable is a real challenge in this situation. He says that Chief Ballard's explanation on HPD's enforcement policy gave him a lot of faith that HPD is already on top of these issues. He also referenced Mr. Gluck's point on adopting a relaxed posture on enforcement for the duration of this emergency instead of adopting a formal motion to change policy.

Commissioner Amano asked who falls in the category of first responders for purposes of this motion. EDLC stated that the discussion refers to law enforcement first responders. Commissioner Adler insisted that the Commission include firefighters and paramedics.

Commissioner Kanda withdrew her motion and Commissioner Adler withdrew his second of her motion.

The EDLC proposed a new motion: “Allow first responders to accept tokens of aloha and acts of kindness during a state of emergency or disaster as proclaimed by the governor and/or mayor.”

Commissioner Amano moved and Commissioner Lily seconded the motion. The motion carried unanimously.

III. Adjournment

Commissioners agreed that the next Ethics Commission meeting will be held on June 24, 2020.

At approximately 1:59 p.m., Vice Chair Monk made and Commissioner Lily seconded a motion to adjourn the meeting. The motion carried unanimously.

DRAFT

**Agenda Item II.B.4.,
Page 2
[E-Newsletter (*the Compass*)]**



ETHICS REMINDERS DURING THE COVID-19 PANDEMIC

Many city officers and employees are working from home under the Mayor's stay-at-home directives. Other city personnel continue to report to their work sites or are working to reopen their agencies to the public. Whether you're working from your home or at your city worksite, work is different under COVID-19. Stress and anxiety can affect the way you do your work and make decisions. Here are some ethics law reminders to help you make good ethical decisions.

Make Fair Decisions (Fair and Equal Treatment)

- Make decisions that treat people as equally as possible. City work decisions affect our community and should not favor some people, but disadvantage others.
- Your duty is to serve the public—make decisions that serve the public interest, not your own interest or the interest of anyone else.
- Many people in Honolulu have lost their jobs. Even if you want to help, you may not enter into a financial or business transaction with anyone you supervise or for anyone or any business your city agency regulates.
- You can't be involved in hiring or promoting a relative.
- You can't award a city contract to a family member's business.

Using City Resources and Working from Home

- If you're working from home with city-issued equipment (laptop, Toughbook, NUC, printer, other device), use that equipment for city work only.
- Report to work as scheduled and work a full day. Trust is very important as you work from home, so be diligent and honest about the hours you've worked.
- If you're using city supplies (paper, pens, paper clips, staplers, other) and equipment in your home office to work from home, return leftover supplies and equipment to your city office after work-from-home orders have been lifted and you return to your city office or worksite.
- You may have been given access to secret (confidential) city information in the city's servers so that you can do your work from home. The city has entrusted you with sensitive city resources, so do the right thing and keep that information safe.



Avoid Conflicts of Interest when Spending Special Emergency or Disaster Funds

- If your agency will receive special funding for COVID-19-related matters, follow all applicable guidelines (federal, state, city, procurement, others) when spending that money. Even though some state procurement laws (such as HRS Chapters 103D, 103F) have been suspended through May 2020, they will apply again after the governor's proclamations end. Contact your agency's COR deputy for guidance on spending special funding such as CARES Act funds. Contact the Ethics Commission or your agency's COR deputy for guidance on conflicts of interest.
- If you have a personal, business, or financial interest in a matter, take yourself out of making decisions and delegate that decision to someone else. Notify your appointing authority and file a public Disclosure of Conflict of Interest Statement. Find this form on the Ethics Commission website: [honolulu.gov/ethics/Disclosure Forms & Instructions/Disclosure of Conflict of Interest Statement](http://honolulu.gov/ethics/Disclosure%20Forms%20&%20Instructions/Disclosure%20of%20Conflict%20of%20Interest%20Statement).
- Don't make decisions involving your relative or close friend.

Gifts to First Responders and Gifts of Cash, Personal Protective Equipment

- If you are a city officer or employee first responder, including those who enforce the law (e.g., police officer, fire fighter, emergency medical technician, lifeguard, other), the Commission recently decided that you may accept tokens of aloha and acts of kindness during the governor's and/or mayor's declaration of state of emergency or disaster. For example, you may accept gifts of food, coffee, personal protective equipment (PPE), and discounts.
- In general, gift guidelines remain unchanged during the pandemic. Politely refuse and return personal gifts of cash and gift cards. If you receive an anonymous cash gift or gift card and can't return the gift, forward the cash or gift card to your director's office.
- Only the City Council can accept gifts of cash as a "gift to the City." Consult your agency's COR deputy for guidance.
- The Council can also accept gifts of PPE as a "gift to the City" and designate use by your department. Consult your agency's COR deputy for guidance.

Still have questions?

Contact the Ethics Commission for specific guidance on city ethics laws:
p: 768-9242 w: honolulu.gov/ethics e: ethics@honolulu.gov

Stay safe during the pandemic.



Campaign Activities Checklist **DOs AND DON'Ts** for City Officers and Employees



DO vote.

DO stay focused and work hard at your city job through the election season.

DO delete campaign emails and unsubscribe from campaign distribution lists on your city email account.



DON'Ts

DON'T use city time, equipment, social media accounts, materials, offices, and work sites for campaign activities. Campaign activities include:

1. Selling, buying, or passing out campaign fundraiser tickets
2. Holding political meetings
3. Organizing or participating in political rallies and sign-waving
4. Making or sending campaign flyers and materials
5. Asking people to help, support, or contribute to a campaign
6. Asking people to vote for a candidate or ballot measure (note: there are exceptions for ballot measures, so contact the Commission for more information)

DON'T use city workers during city working hours to do campaign work or activities.

DON'T use your city title or position to give a special advantage to a political candidate or campaign.

1. You and your city agency can't endorse a candidate.
2. You can't use your city position to require anyone to contribute time or money to a campaign.

DON'T allow candidate walk-throughs in the non-public areas of your city agency.

2020 is an election year and many candidates may ask for your support. Use this checklist to help you ethically navigate through the campaign season. Mahalo for doing the right thing!

Are you a candidate for city office?

Follow these additional tips.

 **DO** file your public financial disclosure with the Office of the City Clerk.

 **DON'T** link city websites to your campaign website and campaign social media sites and avoid sending campaign emails to city email addresses.

 **DON'T** put the City Seal on campaign flyers and materials.

Still have questions?

Contact the Ethics Commission for more information:

p: 768-9242

w: honolulu.gov/ethics

e: ethics@honolulu.gov



WORKING FOR A PRIVATE EMPLOYER AFTER WORKING AT THE CITY

Applying for a job with a private company?
If this is you, keep these 5 simple tips in mind.



- 1. One year cooling-off period.** City ethics laws limit the type of work you can do for one year after leaving your city job so that your new employer doesn't get special treatment because of your former position. The one year cooling-off period applies to full-time and part-time city officers and employees and members of city boards and commissions.
- 2. Secret information.** Keep secret (confidential) information to yourself even after you leave your city job. If you share secret city information with someone, you may give yourself or someone else an unfair advantage.
- 3. No pay from a private employer for your prior city work for one year.** It's your responsibility to tell your employer that you can't work on a matter that you worked on while at your city job for one year after leaving your city job. Also, your private employer can't pay you to work on something if you know secret information about it.

There are 2 exceptions. You can work on the matter and be paid by your private employer if:

Exception #1. You didn't work on it while working for the city, don't know any secret information about it, and file a sworn statement in writing (affidavit form) with the city agency you'll be working with. Find this form on our website: <https://www.honolulu.gov/rep/site/ethics/Affidavit.pdf>

Exception #2. The matter is routine, clerical, or administrative and doesn't involve any special decisions.

- 4. Okay to be a paid city consultant.** If the City hires you directly as a consultant, you can work on a matter even if you worked on the same matter while working for the city and have secret information about it. Also, you can appear on any matter before any city agency. "Appear" includes in-person and virtual meetings, telephone calls, letters, and emails.
- 5. No negotiating for a job with a private employer while reviewing, licensing, or permitting their work.** Your future job is a financial interest so negotiating for a job while you work on your future employer's city applications, permits, and other matters is a conflict of interest.

Still have questions?

Contact the Ethics Commission for specific guidance on city ethics laws:
p: 768-9242 w: honolulu.gov/ethics e: ethics@honolulu.gov

**Agenda Item II.B.5.a.,
Page 2
[Resolution 19-331]**



RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), RELATING TO THE HONOLULU ETHICS COMMISSION.

WHEREAS, Section 11-107 of the Revised Charter of the City and County of Honolulu1 1973 (2017 Edition) ("Charter"), establishes an Ethics Commission ("Commission") composed of seven members appointed by the Mayor and confirmed by the Council to staggered five-year terms; and

WHEREAS, the Commission is attached to the Department of the Corporation Counsel for administrative purposes only; and

WHEREAS, the Commission has the basic duties of rendering advisory opinions, educating City officers and employees on and enforcing the standards of ethical conduct of the City, and registering lobbyists; and

WHEREAS, because the Commission is attached to the Department of the Corporation Counsel for administrative purposes, the Department of the Corporation Counsel/City Administration, may, after the annual executive operating budget ordinance has been enacted, impose restrictions on the Commission's budgeted expenditures; and

WHEREAS, the 2016 Charter Commission proposed, and the electorate ratified, an amendment to the Charter that prohibits the City Administration from withholding funding that has been approved by the Honolulu City Council ("Council") for the operation of the Department of the Prosecuting Attorney; and

WHEREAS, the Council believes that similarly prohibiting the City Administration from withholding funding that has been approved by the Council for the Commission would allow the Commission greater autonomy from the City Administration and further the Commission's ability to carry out the Commission's Charter-prescribed duties efficiently and effectively; now, therefore,



RESOLUTION

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the ballot for the 2020 general election:

"Shall the Revised City Charter be amended to allow the Honolulu Ethics Commission to control its own budget after it has been enacted?"

2. That Section 9-106 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Administration and Enforcement of the Budget Ordinances") be amended by amending subsection 2 to read as follows:

"2. Administration and enforcement of the executive operating budget ordinance:

- (a) The enactment of the executive operating budget ordinance or any supplementary appropriation shall constitute an appropriation of the sums specified therein for the purposes and from the funds indicated. Such appropriation shall be considered valid only for the fiscal year for which made, and any part of such appropriation which is not encumbered or expended shall lapse at the end of the fiscal year. Executive agencies authorized to make expenditures under the executive operating budget ordinance may proceed without other authority from the council to incur obligations or make expenditures for proper purposes to the extent that the moneys are available.
- (b) Immediately following the enactment of the executive operating budget ordinance, the heads of all executive agencies, including the prosecuting attorney~~[-]~~ and the chair of the ethics commission, shall submit to the director of budget and fiscal services schedules, supported by work programs, showing the expenditures anticipated for each quarter of the fiscal year.
- (c) The approval of an expenditure schedule by the mayor shall constitute a budgetary allotment which shall, unless a revision thereof is approved by the mayor, be binding upon such agencies. The director of budget and fiscal services



RESOLUTION

shall approve or issue no requisition, purchase order, voucher, or warrant that is not in accordance with an allotment.

- (d) ~~The~~ Except as provided in paragraph (e), allotments herein provided may be altered at any time by the mayor. The mayor shall direct appropriate revisions in allotments to keep expenditures within the revenues received or anticipated.
- (e) The expenditure ~~schedule~~ schedules submitted by the prosecuting attorney and chair of the ethics commission shall constitute ~~a~~ budgetary ~~allotment,~~ allotments, without the approval by the mayor, which shall, unless a revision thereof is made by the prosecuting attorney[-] or chair of the ethics commission, be binding upon the prosecuting attorney[-] and ethics commission. The director of budget and fiscal services shall approve or issue no requisition, purchase order, voucher, or warrant that is not in accordance with an allotment. The allotments herein provided may not be altered at any time by the mayor. The mayor shall not direct ~~appropriate~~ revisions in allotments under this paragraph to keep expenditures within the revenues received or anticipated.
- (f) Any part of an allotment which is not expended or encumbered shall lapse at the end of the allotment period.
- (g) The mayor may transfer an unencumbered appropriation balance or portion thereof within the same department only as prescribed by law. Transfers between departments shall be made only by the council by ordinance upon the recommendation of the mayor.
- (h) The director of budget and fiscal services and the director's surety shall be liable for moneys withdrawn from any operating fund other than in accordance with the executive operating budget ordinance and allotments."



RESOLUTION

3. That Section 11-107 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) be amended to read as follows:

"Section 11-107. Ethics Commission --

There shall be ~~[within the department of the corporation counsel for administrative purposes only]~~ an ethics commission which shall consist of seven members. The commission shall be governed by ~~[the provisions of Section 13-103 [of this charter].~~ In accordance with the prohibition in Article XIV of the Constitution of the State of Hawaii, the members of the ethics commission shall be prohibited from taking an active part in political management or in political campaigns.

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from ~~[the provisions of]~~ Chapter 11 of Article VI ~~[of this charter]~~, but such staff positions, except the position of executive director and staff attorneys, shall be included in the position classification plan. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salaries of the executive director and any staff attorneys of the ethics commission shall be set by the ethics commission. The salary of the executive director shall not exceed the salary of the first deputy corporation counsel and the salaries of any other staff attorney shall not exceed the salary of the executive director.

The chair of the commission shall establish an expenditure schedule for appropriations made for the commission in the executive operating budget ordinance. For all other administrative purposes, the commission shall be within the department of the corporation counsel.

The commission is authorized to hold hearings and to conduct investigations concerning the application of this article ~~[of the charter]~~ and shall have the powers provided in Section 13-114 ~~[of this charter]~~.

The commission may, on its own initiative, render advisory opinions with respect to this article ~~[of the charter]~~. An advisory opinion shall be rendered pursuant to a written request of any elected or appointed officer or employee concerned and may be rendered pursuant to the request of any person. The commission shall publish its advisory opinions with such



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deletions as may be necessary to prevent disclosure of the identity of the persons involved.

The commission may impose civil fines established by ordinance against elected and appointed officers and employees of the city with significant discretionary or fiscal power as determined by ordinance, found by the commission to have violated the standards of conduct established by this article [~~of the charter~~] or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have violated the standards of conduct established by this article [~~of the charter~~] or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation."

4. That in Sections 2 and 3, Charter material to be repealed is bracketed and stricken and new Charter material is underscored. When revising, compiling, or printing these Charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973, the Revisor of the Charter need not include the brackets, the bracketed material, or the underscoring.
5. That if these Charter provisions are amended by any other Charter amendment(s) approved by the voters at the 2020 general election, the Revisor of the Charter, in revising, compiling, or printing the Revised Charter:
 - a. May designate or redesignate articles, chapters, sections or parts of sections, and rearrange references thereto;
 - b. Shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved; and
 - c. Change capitalization or the form of numbers and monetary sums for the sake of uniformity.
6. That upon adoption of this resolution by the Council, the City Clerk be and is hereby directed:
 - a. To prepare the necessary ballots with the question contained in this resolution and with spaces for "yes" and "no" votes on the question



RESOLUTION

for presentation to the electors at the 2020 general election. The City Clerk may make technical and nonsubstantive changes to the form of the question presented in order to conform it to the form of other Charter amendment questions presented to the electors at the same election; and

b. To publish the above-proposed Charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to their submission to the electors at the 2020 general election.

7. That upon approval of the Charter amendment question posed in this resolution by a majority of the electors voting thereon, as duly certified, the Charter amendments proposed in this resolution shall take effect July 1, 2021.

INTRODUCED BY:

Tony Watts

DATE OF INTRODUCTION:

DEC 13 2019

Honolulu, Hawaii

Councilmembers

**Agenda Item II.B.5.b.,
Page 2
[Resolution 20-83, FD1]**



RESOLUTION

INITIATING AMENDMENTS TO THE REVISED CHARTER OF THE CITY AND COUNTY OF HONOLULU 1973 (2017 EDITION), AS AMENDED, RELATING TO ETHICS COMMISSION STAFF.

WHEREAS, the Hawaii State Constitution provides that each political subdivision of the state shall adopt a code of ethics, which shall apply to appointed and elected officers and employees of the political subdivision, including members of its boards and commissions and registered lobbyists; and

WHEREAS, the Revised Charter of the City and County of Honolulu 1973 (2017 Edition) ("Charter"), Article XI, establishes standards of conduct that declare that elected and appointed officials and employees shall demonstrate by their example the highest standards of ethical conduct, to the end that the public may justifiably have trust and confidence in the integrity of government, and registered lobbyists; and

WHEREAS, Charter Section 11-107 establishes within the Department of the Corporation Counsel of the City and County of Honolulu ("City"), for administrative purposes only, an Ethics Commission, which consists of seven members; and

WHEREAS, the Charter provides that the Ethics Commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties, which includes among other tasks, educating City officers, employees, and agents of the Standards of Conduct under Charter Article XI and enforcing the City's policies regarding work-related conflicts of interest, gift reporting and acceptance, disclosure of personal and financial conflicts of interest, preferential treatment and misuse of city resources, and lobbyist registration; and

WHEREAS, the Charter provides that Ethics Commission staff shall be exempt from the provisions of Chapter 11 of Article VI of the Charter ("Department of Human Resources"), but such staff positions, except the position of executive director and staff attorneys, shall be included in the position classification plan; and

WHEREAS, the City Council ("Council") acknowledges that the Ethics Commission has undertaken a rigorous multi-year strategic planning effort and determined that a primary objective is to strengthen the internal capabilities and procedures of the Ethics Commission by ensuring adequate and fairly compensated staffing; and

WHEREAS, the Council supports the Ethics Commission's strategic staffing objective to increase specialized staffing to address identified deficiencies and



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inefficiencies, and to fulfill State constitutional and Charter ethics program and lobbyist program mandates; and

WHEREAS, the Council believes that exempting Ethics Commission staffing from the position classification plan will assist the Ethics Commission in attracting and retaining specialized staffing to achieve its strategic objective; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu:

1. That the following question be placed on the 2020 general election ballot:

"Shall the Revised Charter be amended to require ethics commission staff to be appointed based on merit principles, but exempt them from the civil service position classification plan, and to have the salaries of all ethics commission staff set by the ethics commission, subject to specified limitations?"

2. That Sections 6-1103 and 11-107 of the Revised Charter of the City and County of Honolulu 1973 (2017 Edition), as amended, be further amended to read as follows:

"Section 6-1103. Civil Service and Executive Branch Exemptions –

The provisions of this chapter of the charter shall apply to all positions in the service of the executive branch. This section shall apply to semi-autonomous agencies as though they are departments of the executive branch. The following positions shall be exempt from the provisions of this chapter of the charter:

- (a) Positions of officers elected by public vote; positions of heads of departments; the position of the band director of the Royal Hawaiian Band; the position of the executive for housing; the position of the manager and chief engineer of the board of water supply[.]; the executive for climate change, sustainability and resiliency[.]; and the manager of any semi-autonomous agency created by ordinance.
- (b) Positions in the office of the mayor, but such positions shall be included in the position classification plan. Employees of the civil defense agency and Royal Hawaiian Band, other than the band director, shall not be exempted from civil service.



RESOLUTION

- (c) Positions of deputies of the corporation counsel, deputies and administrative or executive assistants of the prosecuting attorney and law clerks.
- (d) Positions of members of any board, commission or equivalent body.
- (e) Positions of a temporary nature filled by students.
- (f) Personal services obtained by contract where the director has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.
- (g) Personal services of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service, the director of human resources shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable.
- (h) Personal services performed on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and when such fact is certified to by the director of human resources.
- (i) Positions of one first deputy; and for the [~~Honolulu Police-Department~~] police department one additional deputy; private secretaries to heads of departments and their deputies and to the executive for housing; and the position of managing director, one first deputy and private secretaries to each; but private secretarial positions shall be included in the position



RESOLUTION

- classification plan. The first deputy in the department of human resources, however, shall not be exempt from civil service.
- (j) Positions or personal services in demonstration programs and joint participation and special projects which serve the community; provided that such exemptions are required by federal law or rules and regulations and then in accordance with procedures established by ordinance.
 - (k) The following positions of the public transit authority:
 - (1) The executive director, deputy director(s), private secretaries to the executive director and deputy director(s); and
 - (2) Positions certified by the director of human resources that require specialized knowledge and experience in fixed guideway system planning, development, operations, maintenance, and management, or transit-oriented development; provided that, except for private secretarial positions, such positions shall not be included in the position classification plan and salaries for such positions shall be set by the public transit authority.
 - (l) Positions in the liquor commission of the liquor administrator and the deputy liquor administrator, but such positions shall be included in the position classification plan.
 - (m) Positions in the ethics commission.

The director of human resources shall determine the applicability of this section of the charter to specific employment or services in the executive branch."

"Section 11-107. Ethics Commission –

There shall be within the department of the corporation counsel for administrative purposes only an ethics commission which shall consist of seven members. The commission shall be governed by the provisions of Section 13-103 of this charter. In accordance with the prohibition in Article XIV of the Constitution of the State of Hawaii, the members of the ethics commission shall be prohibited



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from taking an active part in political management or in political campaigns.

The commission may appoint such staff and engage consultants as is necessary to assist it in the performance of its duties. Such staff and consultants may include attorneys who may advise the commission independently of the department of the corporation counsel. All staff positions shall be exempt from the provisions of Chapter 11 of Article VI of this charter, ~~but such staff positions, except the position of executive director and staff attorneys, shall be included in position classification plan.~~ but staff shall be appointed in a manner consonant with the merit principles set forth in Section 6-1102 of this charter. The executive director shall be an attorney qualified to practice law in the State of Hawaii. The salaries of ~~[the executive director and any]~~ all staff [attorneys] positions of the ethics commission shall be set by the ethics commission. The salary of the executive director shall not exceed the salary of the first deputy corporation counsel and the salaries of any other staff attorney shall not exceed the salary of the executive director.

The commission is authorized to hold hearings and to conduct investigations concerning the application of this article of the charter and shall have the powers provided in Section 13-114 of this charter.

The commission may, on its own initiative, render advisory opinions with respect to this article of the charter. An advisory opinion shall be rendered pursuant to a written request of any elected or appointed officer or employee concerned and may be rendered pursuant to the request of any person. The commission shall publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the persons involved.

The commission may impose civil fines established by ordinance against elected and appointed officers and employees of the city with significant discretionary or fiscal power as determined by ordinance, found by the commission to have violated the standards of conduct established by this article of the charter or by ordinance. The commission shall recommend appropriate disciplinary action against officers and employees found to have



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violated the standards of conduct established by this article of the charter or by ordinance. The appointing authority shall promptly notify the commission of the action taken on the recommendation."

3. That in Section 2, Charter material to be repealed is bracketed and stricken and new material is underscored. When revising, compiling, or printing these charter provisions for inclusion in the Revised Charter of the City and County of Honolulu 1973 (2017 Edition), as amended, the Revisor of the Charter need not include the brackets, the bracketed and stricken material, or the underscoring.
4. That if these Charter provisions are amended by any other Charter amendment approved by the electors at the 2020 general election, the Revisor of the Charter, in revising, compiling, or printing the Charter:
 - a. May designate or redesignate articles, chapters, sections, or parts of sections, and rearrange references thereto; and
 - b. Shall, except as otherwise expressly provided in this resolution or in the other resolution(s) amending these Charter provisions, give effect, to the extent possible, to all of the amendments approved.

The Revisor of the Charter may also change the capitalization or the forms of numbers and monetary sums for the sake of uniformity.

5. That upon adoption of this resolution by the Council, the City Clerk be and is hereby directed:
 - a. To prepare the necessary ballots with the question contained in this resolution and with spaces of "yes" and "no" votes on the question for presentation to the electors at the 2020 general election. The City Clerk may make technical and nonsubstantive changes to the form of the question presented in order to conform it to the form of other Charter amendment questions presented to the electors at the same election; and
 - b. To publish the above-proposed Charter amendments at length in a daily newspaper of general circulation in the City and County of Honolulu at least 45 days prior to their submission to the electors at the 2020 general election.



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6. That upon approval of the Charter amendment question posed in this resolution by a majority of the voters voting thereon, as duly certified, the Charter amendments proposed in this resolution shall take effect on January 1, 2021.

INTRODUCED BY:

Ron Menor (br)

DATE OF INTRODUCTION:

April 7, 2020
Honolulu, Hawaii

Councilmembers