

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.

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 2011 were:

	<u>Term Expiration</u>
Charles W. Gall, Esq., Chair	December 31, 2014
Geri Marullo, R.N., Dr. PH, Vice Chair	December 31, 2011
Rachel Wong, DR. PH.....	December 31, 2013
Steven Silva.....	December 31, 2011
W. Jeffrey Burroughs, Ph.D.....	December 31, 2014
Jeffrey S. Portnoy, Esq.....	December 31, 2015
Michael A. Lilly, Esq.	December 31, 2015

The Commission staff consists of the executive director/legal counsel, the associate legal counsel and the legal clerk. The Commission's budget for FY 2011 was \$270,690.

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 2011, the Commission trained 137 city officials, bringing the total to over 5,000 public servants trained since the law was enacted. In addition, the Commission staff presented its "Ethics Checklist" orientation training to 336 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.

In 2009, the Commission introduced a mandatory ethics refresher course for all elected officials, supervisors, managers, and board and commission members. This year, 313 attended, bringing the total receiving retraining to 1,531.

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 the ethical conduct of city employees and officers.

Advice and Enforcement

In the past fiscal year, the Commission workload jumped by 29 percent over FY 2010. The City Auditor noted that the Commission is one of the busiest in the nation considering the size of its staff. The Commission received 464 requests for ethics advice and complaints of misconduct. By the end of FY 2011, the Commission had responded to all but nine of the requests for advice. In FY 2011, the Commission opened investigations into 77 complaints of unethical conduct by city personnel, and 32 of these complaints were outstanding at fiscal year end. The increase in the number of complaints received in FY 2011

The Ethics Commission is attached to the Department of the Corporation Counsel for administrative purposes only.

shows 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 added another full-time attorney position in FY 2011.

The Commission also received and reviewed over 500 financial disclosure statements from high-level city officials.

The Commission rendered formal advisory opinions in the following cases:

- City agencies that receive gifts to pay for the costs of official government functions should obtain all needed accounting records to establish that the gift complies with the City Gift Policy. If an agency does not review these records, it may not be able to comply with the gift policy because the agency may not know the actual value of the gift. Also, the agency would not know whether a city official received a personal benefit from the gift. In a separate issue, the Commission did not find probable cause of a gift law violation where a city official did not have reason to know that a donor of a gift to the City had also paid for a service of personal benefit to the official. To avoid undue personal benefit, the official paid the donor the fair market value of the personal gift. Advisory Opinion No.2010-4, <http://www1.honolulu.gov/ethics/advisory+opinion+2010-4.htm>.
- The Commission opined that a city officer had a financial interest in property, the value of which could be affected by the granting of a permit. The conflict of interest created between the private financial interest and the officer's duty to fairly and impartially discharge his/her city duties prohibited the officer from appearing before the City permitting agency to oppose the request for a permit. Advisory Opinion No. 2010-5, <http://www1.honolulu.gov/ethics/advisory+opinion+2010-5.htm>.
- The Commission found that former Council Chair Todd Apo did not file a disclosure of conflict of interest on a bill until after he voted on the bill. The Commission had previously cautioned Mr. Apo that he was legally bound to file a disclosure of conflict of interest when the conflict first becomes apparent, and not later than the first vote on the measure. Because Mr. Apo failed to follow the prior advisory opinion, the Commission imposed a fine on him of \$500. Advisory Opinion No. 2011-1, <http://www1.honolulu.gov/ethics/advisory+opinion+2011-1.htm>.

Legislation

In FY 2011, the Commission began the process of updating and expanding the procedural and substantive ordinances and rules. The Commission intends to incorporate the best practices used in ethics agencies nationally and to close potential loopholes in the ethics laws. This process will extend into FY 2012.