

WELCOME TO THE ETHICS COMMISSION MEETING

Please sign in at the testimony table.

As a courtesy, please silence your cell phone.



Date: February 21, 2018
Time: 11:30 a.m.
Place: Kapālama Hale
925 Dillingham Boulevard
1st Floor Conference Room

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ORDER OF BUSINESS

I. Call to Order, Public Notice, Quorum



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II. NEW BUSINESS

A. Chair's Report

1. Announcements, Introductions, Correspondence, and Additional Distribution



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II.A. CHAIR'S REPORT (cont'd)

2. For Action: Approval of Open Session Minutes of January 17, 2018
3. For Action: Approval of Executive Session Minutes of January 17, 2018

[exec/session if needed, HRS §92-5(a)(4)]



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

1. Staff Work Reports Summary



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS SENIOR CLERK TYPIST (P/T)

- Start date – Feb. 1, 2018
- Processing lobbyist registrations, annual reports
- Assisting with legal clerk functions



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

- Assuming most Legal Clerk III responsibilities
- Reviewed scanned docs for archiving
- Processing meeting materials, financial disclosures, lobbyist forms, responses to UIPA and Auditor’s Service Efforts and Accomplishments report requests
- Managing board/commission training
- Updating, redesigning, refreshing website
- Handling front-office intake, phones, other



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

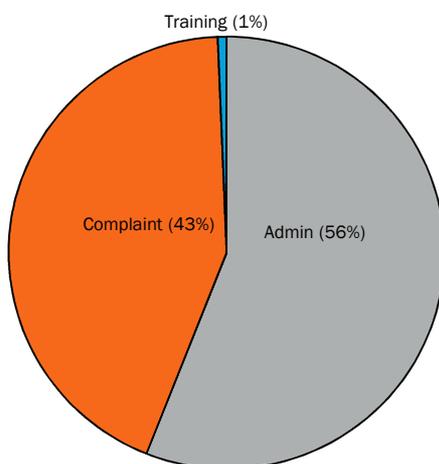
- Managing case load (interviews, investigation, research/analysis, reporting)
- Prepping for and attending case management meetings
- Assisting with EC minutes, meetings



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II.B.1. STAFF WORK REPORTS SUMMARY INVESTIGATOR – JAN. TO FEB. 2018



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II.B.1. STAFF WORK REPORTS – HIGHLIGHTS ASSOCIATE LEGAL COUNSEL (ALC)

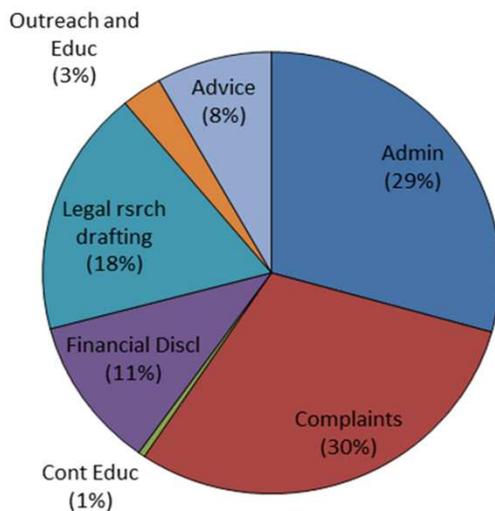
- Investigating/managing cases, strategy, training Investigator and Legal Clerk I
- Handling ongoing admin responsibilities
- Conducting legal research and drafting
- Reviewing financial disclosures
- Managing requests for advice



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II.B.1. STAFF WORK REPORTS SUMMARY ALC – DEC. 2017 TO JAN. 2018



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II.B.2 STATISTICS

a. Website Sessions

- January 2018 - 551



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II.B.2. STATISTICS – FINANCIAL DISCLOSURES

CLERK’S OFFICE

(public disclosure)

Councilmembers

Mayor

Cabinet

~72

ETHICS COMMISSION

(confidential disclosure)

EForm – Employees, Officers
(395)

PDF – Board & Commission
Members (135)

~530



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II.B.2. STATISTICS – LOBBYISTS

2018 REGISTRATION

Hardcopy Filings

(by Organization)

~131

(by Lobbyist)

~105

2017 ANNUAL REPORT

Hardcopy Filings

(by Organization)

~151

(by Lobbyist)

~115



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II.B.3 BUDGET

b. FY2019 Operating Budget Request

- EDLC and ALC salary increases for FY2018, FY2019 included
- Other details pending
- Budget Briefing – Mon., Mar. 12, 2018



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II.B.4. EDUCATION AND OUTREACH

a. Ethics Training Program

- Feedback
- Begin developing course for next biennium: July 1, 2018–June 30, 2020 (FY19–FY20)
- Non-domain (private) user interface pending



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II.B.4. EDUCATION AND OUTREACH

a. Ethics Training Program

- Mindflash – As of Feb. 14 the following completed
 - ✓ Civil Service Commission [3/4]
 - ✓ Grants in Aid Advisory Commission [4/5]
 - ✓ Salary Commission [7/7]
 - ✓ Board of Water Supply [5/7]



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II.B.6. LEGISLATION

State Legislature

- **House Bill 71, House Draft 1 (relating to ethics)**
Description: Prohibits a sitting governor or mayor from maintaining outside employment or receiving emoluments.



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II.B.7. EDUCATION OPPORTUNITIES

a. Administrative Hearings

Presenter: Office of Administrative Hearings
(Dept. of Commerce and Consumer
Affairs)

Date: Wed., May 9, 2018

Time: 1:00 p.m.

Place: Leiopapa a Kamehameha Building
State Office Tower (SOT), Rm. 204
235 S. Beretania Street



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II.B.7. EDUCATION OPPORTUNITIES

Other Commissioner Training (planning)

- Crisis Management (Cmmrs. Kanda and Monk)
- Campaign Spending (Campaign Spending Commission)

[End – EDLC Report]



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III. EXECUTIVE SESSION

A. For Discussion:

Kealoha vs. Totto



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III. EXECUTIVE SESSION

C. For Discussion:

Procedural Issues Relating to Reconsideration of Staff's Preliminary Determination of April 19, 2017, Ethics Commission Meeting Agenda Item III.A.: Whether Officer Knew or Should Have Known That Officer's Alleged Partisan Advocacy for Charter Amendment on the November 8, 2016, Ballot Violated RCH Section 11-104



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III. EXECUTIVE SESSION

D. For Action:

Request for a Motion to Approve and Adopt Settlement After Notice of Alleged Violation of RCH Sec. 11-104 Against a City Employee

E. For Action:

Request for a Motion to Approve and Adopt Advisory Opinion No. 2018-1 Regarding Alleged Violation of RCH Sec. 11-104 Against a City Employee



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IV. STRATEGIC PLANNING

A. Exposure Draft (dated January 17, 2018)

B. Media Policy (dated July 23, 2015)



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IV. STRATEGIC PLANNING (cont'd)

Timeline:

- ✓ *Sept. 1, 2017 – Receive comments*
- ✓ *Sept. 20, 2017 – Ethics Comm. reviews comments*
- ✓ *Sept. 27, 2017 – Permitted Interaction Grp (PIG) reviews comments, amends draft*
- ✓ *Nov. 2017 – PIG's am'd draft to Ethics Comm. (1)*
- ✓ *Jan. 2018 – Ethics Comm. amended strategic plan*
- *Feb. 2018 – Ethics Comm. reviews strategic plan (2)*
- *Mar. 2018 – Ethics Comm. adopts strategic plan (3)*



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V. ADJOURNMENT

Honolulu Ethics Commission
Kapālama Hale
925 Dillingham Boulevard, Suite 190
Honolulu, Hawai`i 96817
Ph: (808) 768-9242

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



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**Agenda Item II.B.6.,
Page 2
[HB71 HD1]**

HB71 HD1

Measure Title: RELATING TO ETHICS.
Report Title: Governor; Mayors; Outside Employment; Emoluments; Prohibited
Description: Prohibits any Governor or county Mayor, while serving in their respective individual capacities as Governor or county Mayor, to maintain any other employment or receive any emolument, beginning on the sixty-first calendar day after their election or appointment to office. (HB71 HD1)
Companion:
Package: None
Current Referral: LAB, FIN
Introducer(s): SAIKI, JOHANSON, LUKE

<u>Sort by</u> <u>Date</u>		<u>Status Text</u>
1/18/2017	H	Pending introduction.
1/19/2017	H	Pass First Reading
1/27/2017	H	Referred to CPC, LAB, JUD, FIN, referral sheet 4
2/2/2017	H	Bill scheduled to be heard by CPC on Thursday, 02-09-17 2:00PM in House conference room 329.
2/9/2017	H	The committee(s) on CPC recommend(s) that the measure be deferred.
11/30/2017	D	Carried over to 2018 Regular Session.
1/26/2018	H	Re-referred to LAB, FIN, referral sheet 6
2/5/2018	H	Bill scheduled to be heard by LAB on Thursday, 02-08-18 10:30AM in House conference room 309.
2/8/2018	H	The committees on LAB recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 7 Ayes: Representative(s) Johanson, Holt, Evans, Ichiyama, Keohokalole, Yamashita, Matsumoto; Ayes with reservations: none; Noes: none; and Excused: none.
2/15/2018	H	Reported from LAB (Stand. Com. Rep. No. 463-18) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
2/15/2018	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with none voting aye with reservations; none voting no (0) and Representative(s) DeCoite, Ing, McDermott, Nakamura, Souki, Todd excused (6).

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

HB71 HD1

Honolulu, Hawaii
February 15, 2018

RE: H.B. No. 71
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred H.B. No. 71 entitled:

"A BILL FOR AN ACT RELATING TO ETHICS,"

begs leave to report as follows:

The purpose of this measure is to prohibit a sitting Governor or county Mayor from maintaining outside employment or receiving emoluments.

The League of Women Voters of Hawaii and an individual testified in support of this measure. The Hawaii State Ethics Commission testified in support of the intent of this measure.

Your Committee has amended this measure by:

- (1) Establishing a sixty-day period after the election or appointment of a Governor or county Mayor before the emoluments and outside employment prohibition take effect;
- (2) Specifying that emoluments do not include the owning of stocks, mutual funds, or real estate, or rental income; and
- (3) Changing its effective date to January 1, 2019.



As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 71, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 71, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,


AARON LINE JOHANSON, Chair



A BILL FOR AN ACT

RELATING TO ETHICS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 84, Hawaii Revised Statutes, is amended
2 by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§84- Executive heads of state and counties; outside
5 employment and emolument prohibited. (a) Beginning on the
6 sixty-first calendar day after their election or appointment to
7 office, it shall be unlawful for any governor or county mayor,
8 while serving in their respective individual capacities as
9 governor or county mayor to maintain any other employment or
10 receive any emolument.

11 (b) As used in this section, "emolument" means any salary,
12 fee, payment, wage, earning, allowance, stipend, honorarium, or
13 reward; provided that "emolument" does not include the salary or
14 benefits for service as governor or county mayor or any pension,
15 retirement, social security payment, or owning of stocks, mutual
16 funds, or real estate, or rental income."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on January 1, 2019.



Report Title:

Governor; Mayors; Outside Employment; Emoluments; Prohibited

Description:

Prohibits any Governor or county Mayor, while serving in their respective individual capacities as Governor or county Mayor, to maintain any other employment or receive any emolument, beginning on the sixty-first calendar day after their election or appointment to office. (HB71 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813
50th ANNIVERSARY 1968-2018

Committee: Committee on Labor & Public Employment
Bill Number: H.B. 71
Hearing Date/Time: February 8, 2018, 10:30 a.m.
Re: Testimony of the Hawaii State Ethics Commission **SUPPORTING**
THE INTENT of H.B. 71, Relating to Ethics

Dear Chair Johanson and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports the intent of H.B. 71 as it relates to the governor. The Commission does not have jurisdiction over county officials, such that the Commission takes no position regarding the heads of state of each county.

As an initial matter, the Commission notes that Hawaii’s fair treatment law, Hawaii Revised Statutes (“HRS”) § 84-13, already prohibits a governor from receiving a stipend or honorarium for done work (for example, giving speeches) in his/her capacity as governor. Furthermore, Hawaii’s financial disclosure law, HRS § 84-17, already requires the governor to file a disclosure of financial interests every year. The Commission also notes that the governor is already prohibited from holding “any other office or employment of profit under the State or the United States” while in office. Hawaii Const. Art. V, section 1.

The Commission supports legislation to help avoid conflicts of interest, but respectfully requests that, if this Committee advances H.B. 71, the Committee clarify the scope of this measure. As currently drafted, H.B. 71 appears to prohibit any outside employment, investment, rental income, and so on, with the exception of retirement accounts. As currently written, this measure appears to bar any income other than a governor’s salary and retirement-related income. Consequently, this measure would seem to prohibit a governor from owning mutual funds or stocks (other than in an IRA or 401K program), thus prohibiting a sitting governor from having a 529 college savings plan for the governor’s child(ren); it would likewise prohibit the governor from owning and renting out real estate, and would therefore prohibit a governor from renting out her/his home while residing in the governor’s mansion. This measure also does not provide an incoming governor with a grace period to sell off assets, other than the short time (roughly three weeks) between an election and inauguration. Furthermore, this measure does not appear to allow the governor to place assets in a blind trust. The Commission does not presently take any position on whether there ought to be exceptions for any of these scenarios; instead, the Commission respectfully requests that the Legislature provide clear direction to the Commission so that it may best effectuate the Legislature’s intent.

Finally, although the Commission takes no position as to this measure's applicability to the counties, the Commission notes that the measure currently places the restriction on mayors in HRS chapter 84, the State Ethics Code. As such, the measure appears to give the State Ethics Commission jurisdiction to enforce violations of this provision against county mayors. The measure also appears to make county mayors subject to state-level fines and procedures for violations. The Committee may wish to consider whether the county ethics commissions, rather than the Hawaii State Ethics Commission, should have jurisdiction to enforce these provisions. See Hawaii Const., article XIV.

The Commission supports the Legislature's efforts to strengthen Hawaii's conflict of interest laws. These types of measures help to ensure that state officials focus on serving the people of Hawaii with the utmost integrity.

Thank you for considering the Commission's testimony on H.B. 71.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel



February 12, 2018 | 🌤️ 73° | 🚗 Check Traffic

EDITORIAL | OUR VIEW

No outside jobs for governor, mayors

Posted February 12, 2018

February 12, 2018

Updated February 12, 2018 12:05am

Hawaii's business and political communities are intertwined — an inevitable fact of a small state. Knowing this, state lawmakers are moving along a measure, House Bill 71, that would prohibit outside employment for the state's governor and four mayors, while he or she is in office.

While tightening the rules about the top elected executives would be a sensible step, this does not ignore the need to ride herd on the state and county legislative branches. They also are accountable for potential ethical conflicts between elected duties and other entanglements. Lawmakers do not always scrupulously declare their outside interests, and they should be called on that, as well.

But underscoring HB 71 is this distinction: Elected executives and county councils work year-round, but state legislative offices are part-time jobs, making it more likely that legislators will seek extra pay. According to the Center for Public Integrity, a nonpartisan, nonprofit organization, roughly 3 out of 4 state lawmakers nationally have outside employment income.

By contrast, the public expectation of a governor or mayor is to focus on the job at hand. That's why HB 71 proposes to make it illegal for a governor or county mayor "to maintain any other employment or receive any emolument" once the new law takes effect.

The House Labor and Public Employment Committee passed the bill Thursday. The measure, carried over from the 2017 session, has to gain the approval of the Finance Committee before getting a vote on the House floor.

The bill is likely to evolve as it moves through, as it should. For example, Daniel Gluck, executive director of the state Ethics Commission, said in testimony that the commission supports the intent of the measure, but he questioned whether the commission would be able to enforce the bar it places on county mayors.

Further, he said, the absolute "emolument" prohibition might need to be loosened; for example, it would preclude a mayor or governor from owning stock or mutual funds, or from renting out property.

House Labor Chairman Aaron Johanson said the panel agreed and, rightly, would incorporate those changes, as well as giving newly elected executives two months of transition time to divest themselves of their private business associations.

State lawmakers maintain that this bill did not arise as a restriction aimed at Honolulu Mayor Kirk Caldwell and his outside job. Whether or not it did, the Caldwell example is on point.

For the past decade, and despite criticism, the mayor has retained a post on the Territorial Savings Bank board, drawing an annual base salary of about \$49,000. Charles Djou, his 2016 mayoral challenger, filed an ethics complaint, later dismissed.

Caldwell countered that Territorial does no business with the city that poses a conflict, adding that he only needs to spend a few hours, one day a month, at board meetings. His campaign chief said the former Ethics Commission cleared Caldwell of conflict when approached about the bank post, preceding two prior elections.

Regardless, the money at issue is significant: Between 2011 and 2017, his pay rose by \$150,000-\$200,000 a year because of stock payouts. Even without a direct conflict, the bank leaders themselves have outside associations, possibly including some that do have city business.

Gluck said the state Constitution already prohibits an outside job for the governor. But HB 71, with some revision, could clarify what this means and extend it to the mayors. Clarity is needed.

Unlike in the legislative branch, state and county chief executives have power to effect change unilaterally. The public should have assurances that Hawaii's top

elected officials act in its interest, with as little external financial distraction as possible.

🔍 PREVIOUS STORY

Gradually raise minimum wage

**Agenda Item IV.A,
Page 3
[Exposure Draft-D5]**

Ethics Commission – 2027

This strategic plan involved a review of current practices and procedures, and sets forth a blue print for the future.

This document sets out a longer-term strategy and is based on discussions held in 2017. It is a work in progress, a flexible and directional touchstone for Commissioners and Staff. It will be revisited periodically over the next several years—2020 (year three), 2022 (year five), and 2024 (year seven)—and as key assumptions change or as internal or external conditions require. As needed, we will use it as source material to drive specific changes in direction, laws and rules, procedures and activities.

As part of this strategy, we will examine other jurisdictions and determine best practices for ethics commissions and ethics oversight. Similar jurisdictions may have similar ethics laws, oversight and enforcement responsibilities, population size, demographics, geographic size, among other factors.

Finally, we commit to properly balancing transparency and openness with necessary and legally warranted confidentiality. Critical to our success, however, is the need for appropriate resources, including adequate budget, number and type of staff, and commissioner capacity proportionate to the overall workload.

Mission Statement

To ensure that elected officials, appointed officers and employees demonstrate the highest standards of ethical conduct so that the public may have trust and confidence in the integrity of government.

“We hold the public’s trust.”

I. Who We Are

Chartered by the Hawai'i State Constitution and Revised Charter of the City & County of Honolulu, we are the City & County of Honolulu's ethics watchdog agency. Our job is to ensure that all of the C&C's approximately 10,000 elected leaders, appointed officials, and employees understand and follow the highest ethical standards of conduct governing their work for the public.

In Fiscal Year 2017, we began to review our policies and procedures to determine where we were and then plan for the future. We filled our full complement of five budgeted staff—Executive Director and Legal Counsel, Associate Legal Counsel, Investigator, and two Legal Clerks—and assessed and debriefed our practices and began making adjustments for efficiency and effectiveness. The work is on-going, but in progress.

Skills training for Commissioners and Staff is also essential for success. While some training has been accomplished—for example, sunshine law and government records training, core computer application refresher training, and investigation training—there is much more to do.

II. What We Do

We have jurisdiction over education and enforcement of the following laws:

- Conflicts of interest, including gifts
- Disclosure of personal and financial conflicts of interest
- Preferential treatment and misuse of city resources
- Lobbyist regulation

III. Why We Are Working on a Forward-Facing Strategy

We are giving intentional forethought to shape the Commission's future. We have a new Executive Director, a competent and hardworking Staff, and a strong set of Commissioners, all of whom are dedicated to implementing the agency's mission. We anticipate a rising volume of work and cases of increasing complexity. With this

document, we want to further position ourselves so that our work is conducted with the greatest possible efficiency and integrity.

We recognize that a rising volume of work and cases of increasing complexity drive a need for budget and resources proportionate to workload. Meeting this need will be one of our strategic priorities.

IV. Dashboard

Here are the metrics and vital signs we plan to use to monitor ourselves. Wherever possible, we will apply “aging” reports to evaluate workload and stay alert for backlogs, gaps, and case-handling delays. This dashboard is meant to be a management and decision support tool for Commissioners and Staff.

Trailing Indicators *(Looking Back)*

1. Requests for training
2. Requests for advice
3. Advisory opinions
4. Preliminary determinations (reevaluate and address via future rule-making or policy adoption)
5. Investigations
6. Complaints filed
7. Requests for information via the Uniform Information Practices Act (UIPA), Hawaii Revised Statutes Chapter 92F
8. Hearings
9. Ethics Commission meetings that comply with Hawaii open meetings law, also known as the sunshine law, Hawaii Revised Statutes Chapter 92

Leading Indicators (*Looking Ahead*)

- 10. Anticipated population growth/decline in the C&C of Honolulu
- 11. Anticipated number of C&C employees and elected and appointed officials
- 12. Anticipated number of new employees and elected and appointed officials
- 13. Anticipated Ethics Commission budget and staff positions required to handle anticipated needs

V. Our Key Values

- 1. **Independence.** We will dispassionately appraise every circumstance that comes before us against pertinent laws and specific facts. We will play no political favorites, and let the chips fall where they may.
- 2. **Transparency.** We will strive for the greatest possible openness while honoring the rights of privacy and confidentiality. We endeavor to balance a user-friendly guidance and approach with sound procedures to vet, triage, and bring actions to enforce the City’s standards of conduct.
- 3. **Above Reproach.** We ourselves, as a Commission and as individuals, will continuously strive to exemplify the behaviors we enforce on others.

VI. The Current Situation

Here is how we evaluate ourselves at this moment:

Major Strengths	Major Weaknesses
<p>We now have a strong Staff in place and a cohesive and dedicated group of Commissioners.</p> <p>Our relationships with other agencies are continuously improving.</p> <p>We are developing increasingly better methods of training the City’s approximately 10,000 employees on their ethical duties.</p>	<p>Our budget is insufficient to meet our core needs and rising demands. Our existing staff is not large enough to fulfill all functions; that is, investigations, prosecutions, advisory opinions, ethics training, etc.</p> <p>We need to update and clarify our rules.</p> <p>We need to update our policies and procedures.</p>

<p>Our monthly data collection and reporting systems are steadily improving.</p> <p>Our meetings are more efficient with good opportunities for public testimony.</p>	<p>Staff and Commissioners lack sufficient opportunities for skills and ethics training and upward mobility and opportunities to interact with ethics commissions of other jurisdictions.</p> <p>The ordinances that direct and guide us require updating.</p> <p>We are not well understood by City elected officials, officers, employees, and the public at large.</p> <p>We remain entangled in litigation, which impedes our work and drains resources.</p> <p>Administrative support duties are blurry and need to be clarified.</p> <p>How we interpret and best function with sunshine law requirements is an on-going effort.</p>
<p style="text-align: center;">Opportunities</p> <p>We will eventually be audited, but we will undertake our own thinking on lessons learned and future efforts; knowledge gained from this effort will be supplemented by what external auditors recommend.</p> <p>We can define, operationalize, and make public our best practices.</p> <p>Rotation of Commissioners brings new perspectives and adds strength.</p> <p>We can utilize skilled volunteers who understand the Ethics Commission's work.</p> <p>There are opportunities to impact ordinances and adopt rules.</p> <p>We can position ourselves for inevitable future administrations and councils.</p>	<p style="text-align: center;">Challenges</p> <p>Turnover and rotation. Potential loss of Staff and Commissioners.</p> <p>Flat resources or budget cuts if the economy dips, which is expected.</p> <p>A small number of excessively time-consuming cases that pull us away from other required work.</p> <p>Physical location. Not close to other agencies.</p> <p>Scofflaws who ignore C&C ethical requirements, for which the Ethics Commission gets blamed.</p>

<p>We can explore coordinating ethics trainings, for mutual benefit, with other departments and agencies.</p> <p>We can explore collaborating with state and county agencies to harmonize requirements and forms.</p>	
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VII. Assumptions About the Next 10 Years

- Ethics Commission’s staffing needs will increase even as we gain efficiency, but our budget will always be determined by others.
- Our caseload will go up because:
 - C&C of Honolulu’s population increases about 10 percent every 10 years.
 - The more training and outreach we do, the more inquiries and cases are generated.
 - As the social fabric in Hawai’i changes because of demographic shifts and as O’ahu becomes more crowded and factionalized, we will receive more ethics inquiries and concerns. People are increasingly argumentative and litigious.
 - When the economy dips and city services are diminished, we will receive more ethics inquiries, concerns, and requests for advice.
 - As C&C employee ranks turn over, training will need to be continuously refreshed and delivered to new cohorts of employees.
- More employees will have electronic devices, enabling greater reach for ethics training. Computerized training delivery will become easier, faster, and cheaper.
- The “80/20” principle will continue to prevail; that is, 80 percent of our work and effort will tend to respond to 20 percent of our caseload. Some

of that 20 percent will be hot potatoes with high media visibility. As social media expands, there may be increasing numbers of hot potatoes.

- We will always be in some kind of “stretch mode” and likely never have all the resources our demands require.
- Over the next 5-10 years, federal and state funding will decline.
- The process of Commissioner appointments will stay the same: Mayor appoints, Council confirms.
- We will need to do more effective education and outreach to the Mayor and Council to ensure they understand what we do, what their unique ethical requirements are, and to secure the funds and positions we need to operate effectively.
- The Commission may on its own initiative initiate complaints.

VIII. Priority Objectives

Objective 1: Review, update, and realign ethics programs for compliance, effectiveness, and efficiency:

Areas to be Reviewed for Changes and Priorities	Charter/ Ordinance	Substan Admin Rules	Proced Admin Rules	SOPs	Training/ Education
Financial Disclosures	x	x		x	x
Lobbyist Regulations	x	x		x	x
Separation of Duties (intake, investigation, prosecution, adjudication)	x		x	x	
Gifts	x	x		x	x
Fair & Equal Treatment	x	x		x	x
Conflict of Interest Disclosures	x	x		x	x

In conjunction with the above:

- Examine procedures from: Hawai'i Office of Disciplinary Counsel (ODC); Regulated Industries Complaints Office (RICO), Hawai'i Department of Commerce and Consumer Affairs (DCCA); and other

ethics commissions, e.g., Austin, TX (population ~947,890); City and County of San Francisco, CA (population ~870,887); San Jose, CA (population ~1,025,350); Jacksonville, FL (population ~880,619); among others; and also review their staff-to-workload ratios.

- b. Review and revise, as needed, the definition of “complaint” and consider disallowing anonymous complaints to proceed to investigation without named complainant. Prior to that, it would be a “contact.”
- c. Provide opportunity to review proposed changes and offer comments and concerns.
- d. Analyze and potentially pursue having Corporation Counsel conduct certain prosecutions as a way of reducing internal conflicts between Commission functions.
- e. To ensure uniformity of practice and continuity to the future, develop an updatable set of policies and procedures available to the Commission, Staff, and the public. Collate existing Commission policies and procedures and develop new ones in conjunction with future changes to the ordinances and rules described above.
- f. Consider adopting as a policy that the Commission may not initiate or proceed with its own investigation if official investigations are being conducted by other agencies or tribunals with sufficient resources and enforcement powers. Any such policy must recognize that the Commission enforces ethics laws, which may be very different from those of other agencies or tribunals.

Objective 2: Further strengthen and expand the education and training of the City and County’s ~10,000 officers, employees, and elected officials.

- a. Develop and deliver improved outreach materials (brochures, FAQs, newsletters, etc.) that describe the Commission’s work and provide offers of assistance.
- b. Conduct additional outreach to all elected and appointed officials and to all agency employees to make them fully aware of the Commission’s capabilities and to provide regular or specialized trainings.

- c. Continue to refine, track, and regularly evaluate the use of training software as a core-training tool.
- d. Offer an annual training for lobbyists, possibly with the State Ethics Commission to avoid duplication of efforts.
- e. Continue to work with the City Department of Information Technology to develop an in-house ethics training application for both domain users (honolulu.gov) and non-domain users (e.g., board and commission members).

Objective 3: Strengthen the internal capabilities and procedures of the Ethics Commission.

- a. Acquire and implement a case management data base to enable tracking, dashboard monitoring, and reporting.
- b. Acquire and implement a comprehensive compendium of Ethics Commission Advisory Opinions and Ethics Commission-related Corporation Counsel Opinions that is easy to use when conducting legal research.
- c. Develop and implement training and professional development activities for Staff and Commissioners. Potential areas to be covered include sunshine law, information technologies, and data management. Mechanisms can include:
 - i. State Public Library's Gale Courses for computer application training (MS Word, Excel, Power Point, Access, others);
 - ii. Equal Opportunity Office Internal Investigation Training;
 - iii. Reid Investigator Interview Training; and
 - iv. Attendance at Council on Governmental Ethics Laws (COGEL) and/or the Society of Corporate Compliance and Ethics (SCCE) conferences.
- d. Review, revise as needed, and implement a simple written policy on who speaks publicly for the Commission.

Objective 4: Above and beyond our management “dashboard,” develop, implement, and use a simple set of overall effectiveness measures that will describe quantitatively the core efficacy of the Commission. The measures should reflect both inputs and outputs and the quantity and quality of both.

IX. Short Term Actions and Accelerators – Fiscal Year 2018

Actions completed or started in fiscal year 2017 are shown in Attachment 1, *Accomplishments - FY2017 (July 1, 2016–June 30, 2017)*.

Actions to be continued, completed or started in fiscal year 2018 will be reported at monthly Ethics Commission meetings in a format similar to Attachment 1.

Draft 5

Attachment 1
Accomplishments - FY2017
(July 1, 2016 - June 30, 2017)

Item	Timeframe
Ethics Commission - 7-Member Commission Fully Appointed	
	Aug 2016 - 1 new commissioner appointed (Adler)
	Apr 2017 - 2 holdover commissioners termed out (Silva, Yuen)
	May 2017 - 2 new commissioners appointed (Kanda, Monk)
Personnel - All Budgeted Vacant Positions Filled in FY2017, EC Fully-Staffed (5/5)	
	May 2016 - 2 legal clerks on staff (2/5 staff)
	Aug 2016 - ALC and EDLC hired (4/5 staff)
	Nov 2016 - INV hired (5/5 staff)
Interns, Fellows Assisted EC	
	Jan - Jul 2017 - 1 Pookela Fellow (12 hrs/wk)
	Mar - Sep 2017 - 1 MPA Intern (rules, guidelines)
	Jun - Aug 2017 - 2 law school interns (brief AOs)
Office Relocated to Kapālama Hale	
	Nov 2016 - relocated from South King Street to Kapālama Hale
	Feb 2017 - 1st EC meeting held in Kapālama Hale
Strategic Planning Commenced	
	Fall 2016 - began planning
	Apr, May, Sep 2017 - PIG meetings - Apr, May, Sep 2017
	June 2017 - draft discussed at EC meeting, posted to website, comments solicited
Ethics Training - Learning Management System (LMS) Development On-Going	
	Fall 2016 - began working with DIT to develop LMS
	Spring 2017 - create prototype LMS for all officers/employees, test pilot on Legislative Branch
	Spring 2017 - create prototype LMS for bd/comm member training, test pilot on select bds/comms
Advisory Opinions Issued (2)	
	AO 2017-1 (re: independent expenditures by Super Political Action Committees)
	AO 2017-2 (re: EC's jurisdiction to decide if a councilmember's receipt of 40% or more of campaign contributions by a special interest group creates a conflict of interest)
Ethics Inquiries	
	Total # inquiries - 278
	# inquiries closed - 261 (94%)
	# requests for advice - 189 (68%)
	# complaints - 87 (31%)

Attachment 1
Accomplishments - FY2017
(July 1, 2016 - June 30, 2017)

Ethics Commission Meetings (13)

Timely agendas filed, mins prepared, materials prepped/uploaded, post-meeting clean-up completed
Fall 2016 - Meeting format amended, utilize IT equipment for enhanced transparency
Spring 2017 - Website redesigned to feature agendas, minutes, meeting materials
Spring 2017 - Meeting materials posted to website when distribution made to Commission

Ethics Outreach - Newsletters Produced and Delivered

Winter (Dec) 2016
Spring/Summer (May) 2017

Office Procedures Reviewed, Amended, Implemented

Fall 2016/Spr 2017 - implemented new EC meeting procedures, timeframes, deadlines
Fall 2016/Spr 2017 - implemented weekly staff meetings, case management meetings
Fall 2016/Spr 2017 - implemented EC meeting calendar with relevant dates, deadlines
Fall 2016/Spr 2017 - posted EC meeting agendas, minutes, materials in more accessible format
Winter 2016 - amended financial disclosure forms and instructions
Spr 2017 - posted meeting materials to Commissioners and public at the same time
Spr 2017 - debriefed lobbyist reg'n, annual rpt; F/D; disclosure of interest (CC-8)
Spr 2017 - uploaded lobbyist summary, registration forms to website
Sum 2017 - revised intake form, procedures

Charter Amendment and Conforming Legislation Passed

Fall 2016 - track charter amendment through Nov 2016 general election
Nov 2016 - charter amendment passes
Spring 2017 - submit bill to conform ordinances to charter amendment
Summer 2017 - amended ordinance passes

Training Taken - 7 Commrs (6 hours)

OIP - training session @ EC meeting on UIPA and sunshine law

Training Taken - 5 Staff (400+ hours)

OIP - training session @ EC meeting on UIPA and sunshine law
OIP training and new rules
Reid Investigator Training
Internal Investigator Training
Management Development Training
Excel, Word, Power Point, other computer application training
Senior Management Training
State Ethics Training
Center for the Advancement of Public Integrity Training (online)
Benefits Processing
New Employee Orientation Training
LexisNexis Training
Prevention of Sexual Harassment Training

Attachment 1
Accomplishments - FY2017
(July 1, 2016 - June 30, 2017)

Lifting Hazards & Proper Lifting Techniques Training
DIT Video-Conferencing Training
Open Web Ethic Concerns Training
Leadership Seminar
Legislative Reference Bureau and Administrative Rules Drafting Manual
Native Hawaiian Peacemaking Concepts
DEM Disaster Training
Fire Extinguisher Training
Dbase Management Essentials

Statistics - Newly Compiled and Reported

EC complaints - by quarter, FYs, comparisons
RFAs - by quarter, FYs, comparisons
Budget - FY comparisons
Intake - category breakdown
Financial Disclosures - FYs, comparisons
Lobbyists - FYs, comparisons
Disclosure of Interests (CC-8)
UIPA requests
Website hits - FYs, comparisons

Managed Litigation

Managed Procurement for Conflict of Interest Cases

Document Management - EC Files Scanned and Archived, Hardcopies Shredded

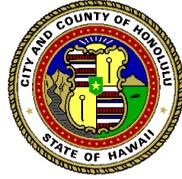
Hardcopy files prepped, scanned for archiving
Hardcopy files shredded
Target completion - FY2018

Last Updated: 2018-02-16

**Agenda Item IV.B.,
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[Media Policy;
Dated July 23, 2015]**

ETHICS COMMISSION CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

CHARLES W. TOTTO
EXECUTIVE DIRECTOR &
AND LEGAL COUNSEL

Media Policy July 23, 2015

Policy

One of the primary roles of the Honolulu Ethics Commission is to maintain and improve public confidence in government officials and employees. One of the ways in which it fulfills that role is by communicating with the public through the news media. The purpose of a news release from the Commission is to summarize and communicate to the public the important positions or actions taken by the Commission, as well as their impact on the public and the integrity of city government and city officials.

Procedure

The following procedures will be followed as reasonably practicable:

1. Media interaction will aim to educate and inform the public and city workforce about the City ethics program, including the standards of conduct governing the work of City officers and employees, ethics training, legislation, statistics and Commission priorities.
2. In news releases about formal advisory opinions and findings, staff should refrain from interpreting the opinions and findings. However, it is permissible to extrapolate from advisory opinions or findings of the Commission to comment on how those opinions or findings may affect future hypothetical situations.
3. All media enquiries should be directed to the Executive Director/Legal Counsel ("EDLC"). The EDLC will respond in the normal course. At the earliest reasonable opportunity, the EDLC will inform the Commission members by email of the content of comments made to the media. To avoid confusion and potentially contradictory information, Commission members and staff should not communicate with media on behalf of the Commission. However, Commission members and staff are permitted to comment publicly in their individual capacities.
4. Comments in a news release shall be attributed to either the Commission or the Commission staff, as consistent with the statement being reported.

5. All written media communications shall be sent to the following, in order:
 - Commission members
 - Complainant(s) and respondent(s), if applicable
 - City Administration (mayor, managing director, cabinet)
 - Councilmembers
 - Media
 - Members of the public who have asked to receive Commission news releases
 - Departmental administrative service officers
 - Any other Requestor