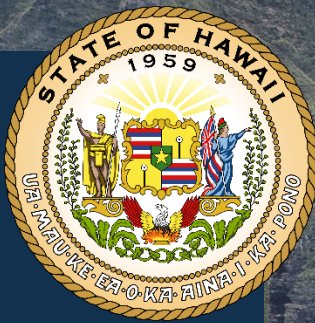
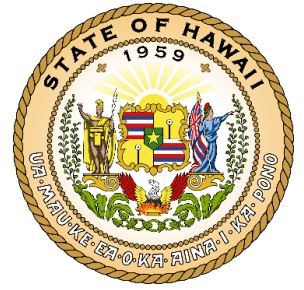


HAWAI'I STATE ETHICS COMMISSION



2020 Annual Report



Hawai‘i State Ethics Commission

Mission & Duties

Established in 1968, the Hawai‘i State Ethics Commission – the first state ethics commission in the United States – represents a commitment by the people of Hawai‘i to the principles that “public officers and employees must exhibit the highest standards of ethical conduct[,] and that these standards come from the personal integrity of each individual in government.” Hawai‘i Constitution, article XIV. The constitution further requires that the State, and each of its subdivisions, establish a code of ethics for public officers and employees.

Pursuant to this constitutional mandate, the Commission is responsible for the administration and enforcement of the State Ethics Code and the State Lobbyists Law, chapters 84 and 97, Hawai‘i Revised Statutes (“HRS”), respectively. The Ethics Code includes laws relating to the acceptance and reporting of gifts, confidential information, fair treatment (the prohibited misuse of official position), conflicts of interests, state contracts, and post-employment restrictions, along with a requirement that state legislators, candidates for state elective office, and certain state employees file financial disclosure statements.

For purposes of the State Ethics Code, the Commission has jurisdiction over more than 50,000 state officials and employees. This includes state legislators and other elected state officials, employees of the legislative, executive, and judicial branches of government (except for judges and justices), and members of all state boards and commissions. The State Ethics Code’s financial disclosure law also applies to all candidates for state elective office.

The Commission also administers the State Lobbyists Law, HRS chapter 97, which applies to lobbying activities at the state level. The Lobbyists Law requires lobbyists to register with the Commission and requires lobbyists and organizations that lobby to report lobbying expenditures and contributions on forms filed with the Commission. The Commission has jurisdiction over nearly 500 lobbyists representing more than 400 organizations that lobby the state legislature or executive branch.

Ethics Advice

The Commission issues advisory opinions and other types of guidance (including written staff opinion letters by the Commission's attorneys) about the application of the State Ethics Code and the State Lobbyists Law. In 2020, the Commission's attorneys received and responded to 950 requests for advice from state legislators, state employees, lobbyists, members of the public, and candidates for state elective office. The Commission considers its ability to provide timely and meaningful guidance and advice to be one of its most essential functions.

In 2020, the Commission issued two formal Advisory Opinions, both of which are available via the Commission's [public data website](#) and on Westlaw, a legal research platform:

1. [Advisory Opinion 2020-1](#), advising that a member of a state board may vote on the approval of online continuing education courses – and administrative rules pertaining to those courses – notwithstanding the member's personal connections to the president of a professional association, provided that the member does not provide any unwarranted benefits to the president or professional association.
2. [Advisory Opinion 2020-2](#), discussing the prohibition against substantial financial transactions between supervisors and subordinates, and advising that a member of the state legislature may not use private funds to compensate a legislative intern.

Ethics Survey of State Employees

The Commission values receiving input from state officials and recognizes that constant dialogue is imperative to fostering high ethical standards in government. With this in mind, the Commission worked in partnership with Professors Sonia Ghumman and Hannah-Hahn Nguyen from the University of Hawai'i to design and disseminate an ethics survey to a sample of state employees across Hawai'i.

The Commission developed the ethics survey in order to gain a better awareness of the areas of concern that need to be further addressed through enforcement or education. This includes the general level of familiarity with the State Ethics Code among state workers, potential ethics infractions that may be of concern, and any large or long-standing ethics problems that may exist in a particular state agency. The survey was distributed electronically and took an estimated ten minutes to complete. Survey respondents were provided assurance of anonymity as all identifying information associated with a survey response was removed.

Approximately 2,300 state officials completed the survey, and the Commission is currently collaborating with the University of Hawai'i to analyze the results and develop meaningful recommendations. The University researchers and the Commission are also working together on a journal article discussing this research and plan to submit the article for publication in early 2021.



950

**Requests for
Advice**



2

**Advisory
Opinions**



2,300+

**Employees
Surveyed**



20

**Interactive
Trainings**



2,888

**Individuals
Trained**

Ethics Education

The Commission is charged with educating state officials and employees about ethics in government, HRS § 84-31(a)(7). To fulfill this mandate, the Commission conducts ethics trainings throughout the year. Traditionally, the Commission holds in-person trainings throughout the islands, providing participants an interactive education in a face-to-face setting. In March 2020, the Commission had to suspend all its in-person trainings because of COVID-19. The Commission pivoted to using videoconference technology to train state officials in real-time – allowing for interactive question-and-answer sessions while adhering to COVID-19 safety regulations.

In addition, the Commission launched an on-demand, on-line training module that is available to all state employees to complete at their convenience. This 30-minute on-line training module can be accessed from any device with an internet connection and is available on the Commission’s website at <https://ethics.hawaii.gov/ethiconlinetraining/>. The on-line training module is available to participants from all state departments on all islands, and a total of 1,692 individuals received a certificate of completion in 2020. The Commission expects to launch a new on-line training specifically for Board and Commission members in early 2021.

The Commission reached a total of 2,888 individuals through its in-person training, web-based training, and videoconference training programs in 2020, an increase of over 750 people when compared to 2019. The Commission held ten in-person trainings and ten videoconference training sessions, reaching 1,196 individuals in a live, interactive format. Two of the videoconference sessions offered Continuing Legal Education (“CLE”) credits for government attorneys. The Commission also conducted mandatory ethics training sessions for all newly elected state officials as required by HRS § 84-42.

Enforcement

The Commission enforces the State Ethics Code, HRS chapter 84, and the State Lobbyists Law, HRS chapter 97. The Commission receives and reviews complaints and conducts investigations on a confidential basis concerning alleged violations of the law. When appropriate, the Commission initiates formal charges against individuals who appear to have violated the law. If there is probable cause to believe that a violation of the law has occurred, the Commission may hold a contested case hearing in accordance with HRS chapter 91, Hawaii’s Administrative Procedure Act.

In 2020, the Commission received 129 new complaints of violations of the Ethics Code and Lobbyists Law – double the number of complaints received in 2019 (65). The Commission issued thirty-three Resolutions authorizing staff to conduct investigations, issued four Charges (and received one Charge filed by members of the public), and closed 112 cases (up from 75 cases closed in 2019). The Commission publicly resolved thirteen Charges and investigations (including those below) by issuing a Resolution of Investigation/Charge document. The Commission resolved another fourteen matters by issuing ethics guidance and closed 85 other matters for lack of jurisdiction, lack of supporting evidence, or another reason. Many of those cases were referred to other government agencies for action). The Commission assessed a total of \$47,225 in administrative penalties, payable to the General Fund. Notable enforcement actions include:



Department of Health (“DOH”), Office of Health Care Assurance: [Resolution of Investigation 2020-05](#)

The Commission resolved an investigation involving a DOH employee who used his official position as a state inspector to obtain unwarranted advantages for himself and his private employer, a real estate brokerage firm. The respondent admitted to multiple violations of the Fair Treatment law, HRS § 84-13, including soliciting private real estate business from two adult residential care home (“ARCH”) operators while conducting state inspections of their care homes and using state time for private business. The respondent admitted to personally receiving a commission of \$9,947.50 (out of a total commission of \$22,750 received by his real estate brokerage firm) from one private real estate transaction that resulted from him soliciting business from an ARCH operator. The respondent agreed to pay an administrative penalty of \$25,000, and the matter was referred to DOH for disciplinary action as appropriate.

Department of Land and Natural Resources (“DLNR”), Division of Conservation and Resources Enforcement (“DOCARE”): [Resolution of Charge 2020-03](#)

The Commission resolved a Charge involving a DOCARE Officer who admitted to (1) assisting his private employer for pay in obtaining a marine/ocean event permit from DLNR and (2) taking official state action affecting his private employer. The Officer used his state position and resources to assist in his private work (as an ocean risk management and marine reconnaissance vehicles trainer). The DOCARE officer admitted to violating the Conflicts of Interests law, which prohibits state employees from (1) being paid to assist or represent another person or business in transactions or proposals before their own state agency and (2) taking official action affecting a business in which they have a substantial financial interest, such as outside private employment. The respondent also admitted to violating the Fair Treatment law, which prohibits state employees from using state resources for private business purposes. The respondent agreed to pay an administrative penalty of \$10,000 and the matter was referred to DLNR-DOCARE for further action as appropriate.

Department of Commerce and Consumer Affairs (“DCCA”), Insurance Division: [Resolution of Charge 2020-05](#)

The Commission resolved a Charge regarding a DCCA employee’s violation of the Gifts Law, HRS § 84-11, and the Gifts Reporting law, HRS § 84-11.5, related to gifts of hundreds of dollars of meals from a state vendor. As part of his duties as Chief Examiner, the respondent oversaw the vendor’s contract with DCCA, and was responsible for negotiating the rate paid to the vendor and monitoring the performance of the vendor’s work. The Gifts law prohibits state employees from soliciting or accepting any gift “under circumstances in which it can reasonably be inferred that the gift is intended to influence the . . . employee . . . or is intended as a reward for any official action[.]” The respondent, who had retired from the State of Hawai‘i prior to the resolution of this Charge, agreed to pay an administrative penalty of \$5,000.

Department of Transportation (“DOT”), Highways Division, O‘ahu District: [Resolution of Investigation 2020-07](#) and [2020-08](#)

The Commission resolved a case involving a DOT employee’s use of state-owned equipment for personal purposes. The employee admitted to using a DOT truck and trailer to transport a DOT Bobcat skid-steer from a nearby job site to his personal residence. The Bobcat was then used to clear rocks, mud, and debris from the employee’s personal property. The employee’s supervisor, a Superintendent for the DOT Highways Division, admitted to authorizing the employee to transport the Bobcat to the employee’s personal residence, store the Bobcat outside of work hours, and utilize the Bobcat for personal use. The employee and the supervisor agreed to pay administrative penalties of \$1,500 and \$1,000, respectively.

Financial & Gifts Disclosures

The Commission administers the filing requirements of the financial disclosure law and the gifts disclosure law, which help provide accountability and transparency in government.

In 2020, the Commission received 1,859 financial disclosure statements, including 181 disclosure statements for candidates of state elective office. Public disclosure statements (for elected officials, department directors, and other designated state officials) are available on the Commission's [public data website](#).

The Commission received and published 188 gifts disclosure statements, all of which are available on the Commission's [public data website](#).

Lobbyists Law: Registration & Expenditure Reports

The Commission administers HRS chapter 97, the Lobbyists Law, which requires lobbyists to register with the Commission and file periodic expenditure reports. In 2019, the Commission launched its new electronic filing system for lobbying registration and reporting, allowing lobbyists to register and file their periodic expenditure reports electronically. The Commission is continually upgrading and improving the e-filing system for lobbying, financial disclosures, and gifts disclosures; the Commission launched a series of enhancements in December 2020 to make it easier for filers to complete their forms.

In 2020, the Commission received and published 1,018 lobbyist registration statements from 486 lobbyists, representing 435 organizations, along with 1,207 lobbyist expenditure reports. Each of these figures represents a year-over-year increase when compared to 2019 (950 registration statements, 438 lobbyists, 415 organizations, and 1,009 lobbyist expenditure reports).

2020 LOBBYING REPORTS AND FINANCIAL/GIFTS DISCLOSURES

Lobbyist Registration Statements Filed	1,018
Lobbying Expenditure Reports Filed	1,207
Total Number of Registered Lobbyists	486
Lobbying Organizations Represented	435
Financial Disclosure Statements Filed	1,859
Candidate Financial Disclosure Statements Filed	181
Gifts Disclosure Statements Filed	188

Administrative Rules

After a three-year process of research, drafting, and deliberation, the Commission considered and promulgated a comprehensive package of administrative rules pursuant to HRS chapter 91. The Commission held a public hearing on May 7, 2020 to gather testimony from all interested persons and discuss the potential implications of the proposed changes. The rules were signed by Governor Ige in November 2020 and took effect on November 28, 2020.

The new rules provide updated procedures for the issuance of advisory opinions, investigations, and contested case hearings. The rules also clarify many of the ethics and lobbyists laws administered by the Commission, and address topics such as gifts, fair treatment, conflicts of interests, and post-employment restrictions. The updated rules are available on the Commission's website at <https://ethics.hawaii.gov/wp-content/uploads/2019/07/TITLE21.pdf>

Anti-Fraud Initiative

The Commission partnered with the Department of the Attorney General to launch an anti-fraud hotline aimed at identifying fraud, waste, and abuse of government funds. The agencies developed a website and online complaint form (antifraud.hawaii.gov), dedicated phone hotline (587-0000), and dedicated email address (antifraud@hawaii.gov) where individuals can confidentially report suspected violations. These anti-fraud resources were created to complement the state's efforts to use CARES Act funds responsibly and empower the public with confidential, easy-to-use methods to report potential violations.

Within the first four months of establishing these anti-fraud resources (September to December 2020), the Commission fielded 41 anti-fraud complaints, including 19 complaints submitted using the online complaint form. These 41 complaints were in addition to the 129 complaints received by the Commission through the Commission's normal complaint channels. Many of the anti-fraud complaints were referred to the relevant administrative agencies for action, and several of those cases resulted in action (policy changes and/or disciplinary action) by the agencies themselves.

Judicial Candidate Reviews

The Commission provides information to the Judicial Selection Commission on applicants for judicial office. In 2020, the Hawai'i State Ethics Commission provided information on approximately 87 applicants (including current judges seeking retention).

Legislation

In 2020, the Commission successfully advocated for the passage of [Act 39 \(House Bill 2125\)](#), which requires financial disclosure filers to report the names of clients they assist or represent for pay before state agencies and updates the law to provide for electronic filing of disclosures. The Legislature also passed [House Bill 2124](#) without a single “no” vote; the bill would have strengthened Hawaii’s post-employment laws by prohibiting high-level state officials from lobbying the Legislature for one year after leaving state service, but the bill was vetoed by the Governor for its possible effects on recruitment for volunteer boards and commissions. The Commission intends to support a revised version of this measure in 2021 that would exclude volunteer members of boards and commissions but retain the strong post-employment restrictions for high-level government employees.

Commissioners and Staff

The Commission is comprised of five members nominated by the State Judicial Council and appointed by the Governor for four-year terms. The current members of the Commission are Ruth Tschumy (Chairperson), Melinda Wood (Vice Chairperson), Reynard Grauly, and Wesley Fong. There is currently a vacancy on the Commission. Former member Susan DeGuzman completed her second term on June 30, 2020.

As of February 2021, the Commission employs a staff of ten: Executive Director Daniel Gluck, Associate Director Susan Yoza, four staff attorneys (Nancy Neuffer, Virginia Chock, Bonita Chang, and Kee Campbell); Computer Specialist Patrick Lui; Office Manager Caroline Choi; Secretary Lynnette Santiago; and Investigator Jason Kamisugi. The Commission has a vacancy for an administrative position that will remain unfilled because of the COVID-19 budget crisis. As the COVID-19 crisis unfolded at the end of the 2019-2020 fiscal year, the Commission cut its expenses and returned \$50,177.44, or approximately 4.2% of the budget (1,202,065) to the General Fund. The Commission expects to return funds to the General Fund at the end of the current fiscal year as well.