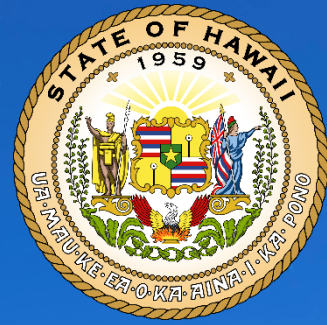


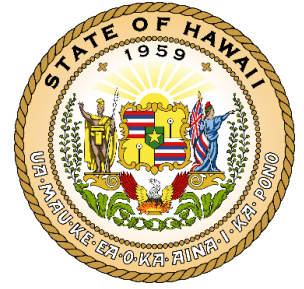
# HAWAII STATE ETHICS COMMISSION

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## 2021 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.

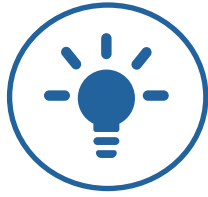
The Commission also administers the State Lobbyists Law, HRS chapter 97, which applies to lobbying activities at the state level. The Lobbyists Law requires lobbyists to register with the Commission and requires lobbyists and organizations that lobby to report lobbying expenditures and contributions 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 2021, the Commission's attorneys received and responded to 851 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 2021, the Commission issued three formal Advisory Opinions, all of which are available via the Commission's [public data website](#) and on Westlaw, a legal research platform:

1. [Advisory Opinion 2021-1](#), advising that agency employees may accept a \$100 stipend as compensation for work performed for nonprofit organizations outside of work hours. The Commission gave significant weight to the fact that the Agency was partnering with the nonprofit organizations to further the State's interests and that the Agency was encouraging the employees to undertake this extra work. The Commission also stated that a \$100 stipend was not excessive, given that the employees would have to perform between 4.5 and 7 hours of work – again, outside of state work hours – to receive the stipend.
2. [Advisory Opinion 2021-2](#), advising that agency employees who became employees of a nonprofit corporation (rather than remaining as state employees) could communicate with their former agency immediately after leaving state service, notwithstanding the post-employment law (HRS § 84-18), when the nonprofit corporation was created by the state agency for the purpose of employing this small class of state employees.
3. [Advisory Opinion 2021-3](#), advising that certain specialized employees are permitted to use state equipment on their personal time, given the need for these employees to maintain their proficiency in using the specialized equipment. However, the Commission required the employees' agency to develop and implement a policy to regulate the employees' personal use of state equipment.



851  
Requests for  
Advice



3  
Advisory  
Opinions



24  
Interactive  
Trainings



2,226  
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 2021, the Commission conducted twenty-three training sessions via videoconference and one session in person. Two of the videoconference sessions offered Continuing Legal Education (“CLE”) credits for government attorneys. The Commission also conducted mandatory ethics training sessions for newly elected and appointed officials as required by HRS § 84-42.

In addition, after launching an on-demand, on-line training module for state employees in 2020, the Commission developed and launched a second module specifically for members of boards and commissions. This 35-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 Commission expects to launch a third on-line training specifically for public charter school governing board members in January 2022. A total of 460 individuals completed an on-line training module in 2021, such that the Commission reached a total of 2,226 individuals through its in-person training, web-based training, and videoconference training programs in 2021.

## Legislation

In 2021, the Commission successfully advocated for the passage of [Act 189 \(H.B. 671\)](#), which strengthened Hawaii’s post-employment laws: the measure prohibits certain high-level state employees, including department directors and other heads of agencies, from lobbying for one year after leaving state service. The measure also provides that former employees are prohibited from using or revealing confidential information gained during state service, regardless of the length of the employees’ state service (as this portion of the post-employment law, HRS § 84-18, previously applied only to employees who served for longer than six months)



## 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 2021, the Commission received 123 new complaints of violations of the Ethics Code and Lobbyists Law. The Commission issued fifteen Resolutions authorizing staff to conduct investigations, issued two Charges (and received – and thereafter dismissed – two Charges against multiple state employees filed by members of the public), and closed 123 cases. The Commission publicly resolved ten Charges and investigations (including those below) by issuing a Resolution of Investigation/Charge document. The Commission resolved another 32 matters by issuing ethics guidance and closed 119 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 \$20,300 in administrative penalties, payable to the General Fund, in addition to \$328.83 in restitution in one matter. Notable enforcement actions include:



### University of Hawai‘i, Study Abroad Center: [Resolution of Charge 2021-02](#)

The Commission resolved a Charge issued against Sarita Rai, the Director of the Study Abroad Center (“SAC”) at the University of Hawai‘i. For several years, the SAC sold identification cards to students for use when traveling abroad; students paid several dollars more than the actual cost of the card, and the SAC kept the excess funds in a non-University account. The respondent then used those funds to pay for alcohol, food, and holiday parties for herself and others. The respondent admitted to violating the Fair Treatment law (HRS § 84-13) and agreed to pay an administrative penalty of \$5,500.

### Ka Waihona o Ka Na‘auao Public Charter School: [Resolution of Investigation 2021-06](#)

The Commission resolved an investigation of Alvin Parker, the former Principal of a public charter school. While Principal of the school, Parker authorized three employees to take cash advances from the school, using school funds. Cash advances to two employees, totaling \$25,000 and \$5,000, were repaid in full. The third employee was Parker’s spouse. Parker’s

spouse repaid \$5,000 of \$13,000 in cash advances, and Parker contended that the remaining \$8,000 was properly offset against back pay owed to him. The respondent admitted to violating the Fair Treatment law (HRS 84-13) in authorizing the cash advances and agreed to pay an administrative penalty of \$4,000.

**Department of Human Services, Hawai‘i Youth Correctional Facility:** [Resolution of Investigation 2021-01](#) and [2021-02](#)

The Commission resolved investigations of two employees of the Hawai‘i Youth Correctional Facility (“HYCF”). First, the Institutional Facility Superintendent admitted to violating the Fair Treatment law (HRS § 84-13), and agreed to pay an administrative penalty of \$4,000, for using HYCF equipment and other state resources for his private cattle ranching business, among other things. Second, the HYCF Administrator admitted to violating the Fair Treatment law and agreed to pay a \$1,500 administrative penalty for several actions, including (1) authorizing a private religious organization to store several trailers (free of charge) on HYCF property and (2) authorizing state resources to mow/clear private property.

**Costco Wholesale Corporation and its Registered Lobbyists:** [Resolution of Investigation 2021-04](#)

Costco Wholesale Corporation (“Costco”) and six registered lobbyists failed to file four consecutive lobbying expenditure reports. They admitted that they did not file timely lobbying reports and agreed to pay an administrative penalty of \$2,000.

**Department of Land and Natural Resources, Division of Conservation and Resources Enforcement:** [Resolution of Investigation 2021-08](#) and [2021-09](#)

The Commission resolved an investigation of a DLNR-DOCARE employee and the employee’s supervisor, both of whom admitted to violating the Fair Treatment law, HRS § 84-13, by spending approximately three hours of state time, on state property, repairing the employee’s personal vehicle. The employee and supervisor agreed to pay administrative penalties of \$300 and \$500, 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 2021, the Commission received 1,846 financial disclosure statements. 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 97 gifts disclosure statements, all of which are available on the Commission’s [public data website](#).



## Judicial Candidate Reviews

The Commission provides information to the Judicial Selection Commission on applicants for judicial office. In 2021, the Hawai'i State Ethics Commission provided information on approximately 107 applicants (including current judges seeking retention).

## 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 2021 to make it easier for filers to complete their forms.

In 2021, the Commission received and published 894 lobbyist registration statements from 462 lobbyists, representing 396 organizations, along with 1,209 lobbyist expenditure reports. Although we started a new lobbying cycle in 2021, the numbers are comparable to 2020 (1,018 registration statements, 486 lobbyists, 435 organizations, and 1,207 lobbyist expenditure reports).

### 2021 LOBBYING REPORTS AND FINANCIAL/GIFTS DISCLOSURES

Lobbyist Registration Statements Filed	894
Lobbying Expenditure Reports Filed	1,209
Total Number of Registered Lobbyists	462
Lobbying Organizations Represented	396
Financial Disclosure Statements Filed	1,846
Gifts Disclosure Statements Filed	97

## 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, and the Commission welcomed two new members in 2021. The current members of the Commission are Melinda Wood (Chairperson), Wesley Fong (Vice Chairperson), Reynard Gaulty, Harry McCarthy, and Beverley Tobias.

As of January 2022, the Commission employs a staff of nine: Executive Director Robert D. Harris, Associate Director Susan Yoza, three staff attorneys (Nancy Neuffer, Bonita Chang, and Kee Campbell) Computer Specialist Patrick Lui; Office Manager Caroline Choi; Secretary Lynnette Santiago; and Investigator Jason Kamisugi. As the COVID-19 crisis continued, the Commission – whose budget had been approved prior to onset of the pandemic – cut its expenses, left a staff position vacant, and delayed salary increases for staff. Consequently, the Commission was able to return 7.7% of its allocated budget to the General Fund (\$96,612 out of a total budget of \$1,252,667).