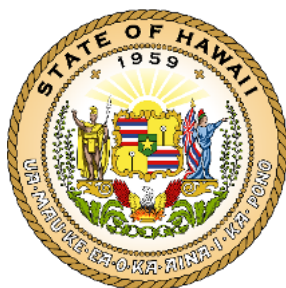


HAWAII STATE ETHICS COMMISSION

**2022
ANNUAL
REPORT**



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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 2022, the Commission's attorneys received and responded to 1,129 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 2022, the Commission issued two 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 2022-1](#), addressed whether a state employee could apply to her own state agency for a license to operate a private business. Because the employee was directly involved in regulating this industry, the Commission concluded that the State Ethic Code prohibited the employee from applying for and obtaining the requested license while being employed by that agency.
2. [Advisory Opinion 2022-2](#), advising whether state employees may own a business and, through that business, procure the services of an Agency research facility. The Commission concluded that the State Ethics Codes does not prohibit this, provided the employees abided by certain restrictions. The Commission provided guidance to avoid potential conflicts of interest and noted the employees could not use their state position to obtain unwarranted advantages or benefits for themselves, their business, or any of its clients.

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 in-person and videoconference trainings, and offers self-directed online training modules throughout the year.

In 2022, the Commission conducted twenty-seven training sessions via videoconference with a total of 3,157 participants. In addition to offering general ethics trainings, the Commission scheduled several specialized trainings targeted towards lobbyists, board & commission members, and legislators. The Commission also offered two sessions with Continuing Legal Education credits for government attorneys.

As a change in 2022, the Commission moved towards a set calendar of trainings. While the Commission will consider requests for tailored agency trainings, the Commission encourages participants to sign up for one of the regularly scheduled trainings. The Commission's videoconference training calendar can be found at <https://ethics.hawaii.gov/training/#signup>.

The Commission also offers on-demand, on-line training modules for (1) state employees; (2) board and commission members; and (3) charter schools. These on-demand training modules take around 35-minutes to complete and are intended to be a flexible and easy way for state employees to take an ethics training at their convenience. They can be accessed from any device with an internet connection. These modules are available on the Commission's website at <https://ethics.hawaii.gov/ethiconlinetraining/>. A total of

ETHICS EDUCATION MANDATE:

Starting on January 1, 2023, all state employees will be required to take either a live or online ethics training course within ninety days of becoming an employee and at least once every four years thereafter. The Commission is meeting this new requirement by, among other things, collaborating with the University of Hawai'i, the Judiciary, and the Department of Human Resources Development to incorporate its on-demand, on-line training modules into their existing on-line training platforms.

6,042 employees completed an on-demand training module with the Commission in 2022.

Cumulatively, a total of 9,199 individuals were trained by the Commission through its in-person training, web-based training, and videoconference training programs in 2022.

LEGISLATION

In 2022, the Commission successfully advocated for the passage of Act 165 (H.B. 1475), which mandates ethics training for all State employees. This new law requires state employees to complete a live or online ethics training course within ninety days of becoming an employee and at least once every four years thereafter. Existing employees, if they have not taken an ethics training within three years, must take a new ethics training by January 1, 2024.

In addition, the Commission, through its Executive Director, actively participated in the Commission to Improve Standards of Conduct. Approximately 10 ethics-related policy proposals were drafted, considered, and recommended by the Standards Commissions for consideration by the 2023 Legislature.

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 2022, the Commission received 240 new complaints of violations of the Ethics Code and Lobbyists Law. The Commission issued fifteen Resolutions authorizing staff to conduct investigations, issued three Charges, and closed 169 cases. The Commission publicly resolved three Charges and investigations (including those below) by issuing a Resolution of Investigation/Charge document. The Commission resolved another 10

matters by issuing ethics guidance and closed 140 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 \$2,550 in administrative penalties, payable to the General Fund, in addition to \$16,600 in restitution in one matter. Notable enforcement actions include:

Hawai'i State Senate, Senator Jarrett

Keohokalole: Resolution of Investigation 2022-1



The Commission resolved an Investigation of Jarrett Keohokalole, Senator, Hawai'i State Senate. On two occasions, Senator Keohokalole used campaign funds to pay for travel expenses (\$894.89 and \$303.60, respectively). He later requested, and received, reimbursement from the state for the same expenses. The money was deposited to his personal account instead of reimbursing his campaign account. Similarly, Senator Keohokalole used campaign funds to purchase food for a town hall meeting (\$65.55). He also received reimbursement from the state, and those funds were put into his personal account instead of going to his campaign account. The respondent admitted to violating the Fair Treatment law (Haw. Rev. Stat. § 84-13) and agreed to repay the \$1,264.05 to the State of Hawai'i and pay an additional administrative penalty of \$1,500.

Hawai'i State Senate, Senator Maile Shimabukuro: Resolution of Investigation 2022-2

The Commission resolved an Investigation of Maile Shimabukuro, Senator, Hawai'i State Senate. Senator Shimabukuro participated, in her official capacity, in a parade to celebrate several Nanakuli School student athletic teams. At the event, small goodie bags were passed out that included the name of her campaign committee and contact information for the campaign committee. Senator Shimabukuro did not suggest or direct the placement of these cards, but she accepted responsibility for the occurrence.

Respondent admitted to violating the Fair Treatment law (Haw. Rev. Stat. § 84-13) and agreed to pay an administrative penalty of \$300.

Department of Education, Moanalua Elementary School: Resolution of Investigation 2022-3

The Commission resolved an investigation of a teacher, Irene Bayudan, at Moanalua Elementary School. Respondent participated in a training where she was told that money or checks could not be personally accepted by teachers. Nonetheless, Respondent accepted six checks from an elderly volunteer at the school totalling \$16,600. These funds were deposited into a personal bank account, and not used for school-related purposes. Respondent knew the donor solely because of her position as a teacher at Moanalua Elementary. Respondent acknowledged she violated the Fair Treatment law and the Gifts law. She agreed to pay an administrative penalty of \$750 to the State of Hawai'i and pay restitution of \$16,600 to the donor.

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 2022, the Commission received 1,872 financial disclosure statements, including 263 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

2022 LOBBYING REPORTS AND FINANCIAL/GIFTS DISCLOSURES	
Lobbyist Registration Statements Filed	552
Lobbying Expenditure Reports Filed	1,217
Total Number of Registered Lobbyists	529
Lobbying Organizations Represented	428
Financial Disclosure Statements Filed	1,872
Gifts Disclosure Statements Filed	151

received and published 151 gifts disclosure statements, all of which are available on the Commission's public data website.

LOBBYISTS 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 2022 to make it easier for filers to complete their forms.

In 2022, the Commission received and published 552 lobbyist registration statements from 529 lobbyists, representing 428 organizations, along with 1,217 lobbyist expenditure reports.

FRAUD, WASTE, AND ABUSE

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 (808.587.0000), 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.

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 Commission welcomed one new member in 2022. The current members of the Commission are Wesley Fong

(Chairperson), Reynard Gaulty (Vice Chairperson), Harry McCarthy, Beverley Tobias, and Robert Hong.

As of December 2022, the Commission employs a staff of nine: Executive Director Robert D. Harris; Associate Director Susan Yoza; four staff attorneys (Nancy Neuffer, Bonita Chang, Kee Campbell, and Jennifer Yamanuha); Computer Specialist Patrick Lui; Office Manager Caroline Choi; and Secretary Lynnette Santiago. The Commission is in the process of hiring an administrative assistant and an investigator.

The Commission prioritizes fiscal prudence and efficiency. In 2022, the Commission was able to return approximately \$35,000 of its allocated budget back to the General Fund.

For quick, confidential ethics advice, or to lodge a confidential complaint, please contact the Commission at ethics@hawaiiethics.org or 587-0460.

