

Appendix B – Meeting Minutes June 1, 2022

Commission to Improve Standards of Conduct

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Sandy Ma, Executive Director of Common Cause Hawaii;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Chair Foley convened the meeting at 2:01 pm. All members of the Commission attended the meeting.

Housekeeping matters

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsconduct@capitol.hawaii.gov

The Commission will meet in the upcoming weeks on the following topics, which are summarized in greater detail in the Commission's [April 14, 2022, Meeting Minutes](#):

- June 15, 2022: Elections and Voting;
- June 29, 2022: Campaign Finance Reform;
- July 13, 2022: Criminal Prosecution and Fraud; and
- July 27, 2022: Open Government Laws.

No decision-making occurred at the meeting. Any proposals made by the Commission to the House of Representatives in its Final Report will be the subject of future public meetings with public input.

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I. Public testimony

The Commission requested that testifiers limit their testimony to three minutes each.

The Commission heard oral testimony from two individuals that centered on creating a statement of principles of our values as a community such as access, transparency, accessibility, and accountability and recommendations concerning fundraisers, legislative committee decision-making and ending certain unilateral powers of committee chairs.

II. Discussion of ethics related reform

The Commission presented the [ethics discussion slides](#) which included the following topics of discussion: Ethics Commissions, Lobbyists, Legislators, Anti-Nepotism, Transparency, and Legislator Civility/Aloha Rule.

Ethics Commissions

Funding

The Commission discussed having an independent commission analyze the workload and budget allocations for watchdog agencies, such as the ethics commissions, and make funding recommendations to the county councils and Legislature for these agencies. The intent of the independent commission is to make recommendations on resource allocations, not to put the various watchdog agencies together or get into their operational or supervision functions. The primary reason for establishing the independent commission is to ensure that the agencies have the capacity to fulfill their constitutional mandates. The secondary reason is to create some independence and protection for watchdog agencies.

Streamlining

The Commission proposed streamlining registration and reporting requirements for lobbyists and others, possibly through statutory flexibility.

Lobbyists

The Commission presented the following reform proposals specifically related to lobbyists:

- Banning lobbyists from offering prohibited gifts, with some potential exceptions based on existing exceptions for legislators and state employees. The hope is to mitigate gift giving by lobbyists and reduce the pressure on legislators and state employees to decline or navigate these situations;

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- Requiring registered lobbyists to complete a mandatory training program before filing their initial lobbyist registration and before renewing their registration for the next legislative cycle. The training could either be a live, online webinar or self-directed, online training module; and
- Requiring lobbyists to report on the administrative rules or bill numbers lobbied on, rather than the subject area of the legislative and administrative action that was supported or opposed (Hawaii Revised Statutes §97-3(c)(5)).

The Commission also discussed concepts to prohibit lobbyists from fundraising for candidates and prohibit lobbyists who are advising the campaign of any sitting elected official running for re-election or higher office from representing any entities under the jurisdiction of the committees that the elected official sits on.

Legislators

Conflicts of interest

The Commission discussed proposed conflicts of interest amendments to House and Senate rules to:

- Make recusal a default requirement if a conflict exists, rather than simply disclosure of a potential conflict;
- Define conflict as personal, familial, business, property, or financial interest;
- Specify that conflict of interest exemptions must be general and apply to a broad class; and
- Require a floor vote if there is a question of whether a conflict exists or a waiver is needed.

The suggested proposal is intended to be broad and prevent legislators with a conflict of interest from lobbying or working on a bill. The Commission drafted some proposed rule language, which can be provided.

The commissioners also discussed proposing statutory amendments to address legislator conflicts of interest since it may be difficult to change House and Senate rules but recognized that there may be constitutional issues.

Financial disclosure/prohibition

The Commission discussed the following three proposals to address legislator financial issues:

- Requiring legislators to disclose business connections with lobbyists or lobbying organizations. Specifically, the Commission proposed adding a new subsection to

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section 84-17(f)(8) to require every member of the Legislature to disclose the name of any lobbyist or organization that is required to file lobbying contributions and expenditures reports and is:

- A partner of the legislator;
- An employee of the legislator;
- An officer or director of the legislator's employer; or
- A client of the legislator, the legislator's partner, or the legislator's employer where the client provided at least \$10,000 of income during the preceding calendar year;
- Prohibiting legislators from working as lobbyists or for lobbying entities; and
- Designating legislators as full-time employees, prohibiting secondary employment or similar financial relationships, and directing the Commission on Salaries to consider ethical concerns as a factor in determining salaries.

The Commission also briefly discussed its continued support of concepts to regulate and disclose the receipt of protocol gifts, as mentioned in its Interim Report.

Contact disclosure

The Commission discussed the topic of requiring every elected official, executive official, and staff member or lobbyists to report a monthly lobbyist meeting disclosure contact log to the state or county ethics commission for publication on their website.

Nepotism

The Commission discussed establishing a bright-line rule about promotion and hiring decisions. The proposed legislative concept includes:

- Prohibiting the employment, hiring, or promotion of a family member or member of a household;
- Prohibiting the hiring or supervision of a business owned by a relative; and
- Allowing the continuation of a job assignment already existing at the date of passage.

Transparency

The Commission discussed proposed recommendations to amend section 24-1, Hawaii Revised Statutes, to:

- Require each house of the Legislature to post on its website for public inspection legislative allowance expenditures on a rolling basis for each member; and

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- Prohibit legislators from claiming legislative allowance funds as payment or reimbursement for any expenses paid with campaign funds.

Legislator Aloha/Civility Rule

The Commission discussed the various types of complaints about legislator behavior and how existing mechanisms may not work. Commissioners recognized the difficulty in drafting and enforcing a legislator aloha/civility rule and the potential for legal challenges. Other proposed ideas to address the issues included:

- Establishing an intermediary process that involves independent review, protection of confidentiality where necessary, and reporting; and
- Having legislators, before each session, sign a voluntary pledge of civility and conduct themselves during the session.

The Commission will work on drafting rule or statutory proposals for consideration.

III. Other matters

Comments from the Commissioners on the draft agenda for the meeting on June 15, 2022, are requested by Friday. The June 15, 2022, meeting on elections and voting will be led by Commissioners Ma and Mason.

Public written testimony will be posted on the Commission's webpage.

Final comments from testifiers:

- The first testifier indicated that they will be working on statement of principles to share with the Commission; and
- The second testifier stated that reducing the unilateral power of individuals by requiring votes of the committees would address issues involving abuse of power. The testifier also suggested that fundraising (including both fundraising events and acceptance of donations) should be prohibited during session, and that legislators be reminded that state employees work for the Governor, not the legislator.

The public can interact with Commissioners directly or with the Commission generally through email or future meetings. The Commission is open to any public input at any time on any topic. The next four Commission meetings are on certain topics. However, the

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Commission will be meeting every two weeks until December and will come back to the various topics discussed.

The meeting adjourned at 3:46 pm.