

Dean Toyofuku
Chair

Mia Shiraishi
Vice Chair

Susan Burriss
Secretary

Members:
Ryan de la Pena
Maureen Tabura
Mary Tudela

**COUNTY OF KAUAI BOARD OF ETHICS
NOTICE OF MEETING AND AGENDA**

Friday, June 28, 2019
1:00 p.m. or shortly thereafter
Mo'ikeha Building, Liquor Conference Room 3
4444 Rice Street, Lihue, HI 96766

CALL TO ORDER

APPROVAL OF MINUTES

Open Session Minutes of May 17, 2019
Executive Session Minutes of May 17, 2019

COMMUNICATION

BOE 2019-16

Possible conflict of interest dated May 23, 2019 from Luke Evslin relating to C 2019-116 and proposed Draft Bill 9no. 2752), ZA-2019-2 (Island School, applicant).

BOE 2019-17

Email from Dan Gluck, Hawaii State Ethics Commission, dated June 12, 2019 relating to Hawaii Ethics Conference on September 5, 2019.

REQUEST FOR AN ADVISORY OPINION

RAO 2019-04

Possible conflict of interest and Request for Advisory Opinion dated May 21, 2019 from Arryl Kaneshiro relating to a proposed Draft Bill for an ordinance amending Zoning designation in Puhi, Kaua'I (Island School, Applicant) (ZA-2019-2)

BUSINESS

BOE 2019-04

Substantive Disclosures information. Review and approve letter to Charter Review Commission regarding change in language to Section 20.04.

BOE 2018-17

Explicit recommendation on the steps to be taken at the Charter level and the administrative level to improve the **existing** countywide disclosure requirement coupled with a fine schedule for non-compliance

An Equal Opportunity Employer

DISCLOSURES

Employees

1. Felicia Cowden – County Council
2. Michael Dahilig – Managing Director
3. Todd Jenson – Deputy County Attorney
4. Andrew Michaels – Deputy County Attorney

Volunteers

5. William Gibson – Liquor Control Commission

EXECUTIVE SESSION

Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (2) and (4), §92-6 (a) (b), the purpose of this Executive Session is to consider the evaluation, dismissal or discipline of an employee or officer of the County in which charges have been alleged against an employee or officer where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with the Board's legal counsel on issues pertaining to the Board's and the County's powers, duties, privileges, immunities, and /or liabilities as they may relate to this item, deliberate and take such action as appropriate.

RETURN TO OPEN SESSION

ANNOUNCEMENTS

Next Meeting: Friday, July 19, 2019 – 1:00 p.m., Mo'ikeha Building, Liquor Conference Room 3

ADJOURNMENT

NOTICE OF EXECUTIVE SESSION

Pursuant to Hawaii Revised Statutes §92-7(a), the Board may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a). Discussions held in Executive Session are closed to the public.

cc: Deputy County Attorney Maryann Sasaki

PUBLIC COMMENTS and TESTIMONY

Persons wishing to offer comments are encouraged to submit written testimony at least 24 hours prior to the meeting indicating:

1. Your name and if applicable, your position/title and organization you are representing;
2. The agenda item that you are providing comments on; and
3. Whether you will be testifying in person or submitting written comments only.
4. If you are unable to submit your testimony at least 24 hours prior to the meeting, please provide 10 copies of your written testimony at the meeting clearly indicating the name of the testifier; and

While every effort will be made to copy, organize and collate all testimony received, materials received on the day of the meeting or improperly identified may be distributed to the members after the meeting is concluded.

The length of time allocated to persons wishing to present verbal testimony may be limited at the discretion of the chairperson or presiding member.

Send written testimony to:

Board of Ethics
Office of Boards & Commissions
4444 Rice Street, Suite 150
Līhu'e, HI 96766
Phone: (808) 241-4881 Fax: (808) 241-5127

SPECIAL ASSISTANCE

If you need an ASL Interpreter, materials in an alternate format, or other auxiliary aid support, or an interpreter for a language other than English, please contact Anela Segreti at (808) 241-4917 or asegreti@kauai.gov at least seven calendar days prior to the meeting.

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission:	BOARD OF ETHICS	Meeting Date	May 17, 2019
Location	Mo'ikeha Building, Liquor Conference Room 3	Start of Meeting: 1:01 p.m.	End of Meeting: 2:07 p.m.
Present	Chair Dean Toyofuku, Secretary Susan Burriss. Member: Mary Tudela, Ryan de la Pena, Also: Deputy County Attorney Mark Bradbury. Boards & Commissions Office Staff: Administrator Ellen Ching and Administrative Specialist Anela Segreti.		
Excused	Vice Chair Mia Shiraishi, Maureen Tabura, Deputy County Attorney Maryann Sasaki		
Absent			
SUBJECT	DISCUSSION	ACTION	
Call To Order		Chair Toyofuku called the meeting to order at 1:01p.m. with four members present which constituted a quorum.	
Approval of Minutes	<u>Open Session Minutes of April 12, 2019</u>	Ms. Tudela moved to approve the minutes of April 12, 2019 as presented, seconded by Mr. de la Pena. Motion carried 4:0.	
Communication	<u>BOE 2019-14 Possible conflict of interest dated May 6, 2019, from Arryl Kaneshiro relating to Agenda Item C 2019-108, Legal document.</u>	Mr. de la Pena moved to receive BOE 2019-14. Ms. Tudela seconded. Motion carried 4:0	
Request for an Advisory Opinion	None		

SUBJECT	DISCUSSION	ACTION
Business	<p><u>BOE 2019-04 Substantive Disclosures Information</u></p> <p>Reviewed and discussed revisions to Disclosure Statement Form to clarify in instructions who is required to complete form and any additions to form to clarify when it becomes public record i.e. N/A if nothing to disclose, and the addition of “current” and “type” of business question II.</p> <p>Ms. Burriss asked why is it that on employees delegated or authorized under the director of finance required to complete the form and questioned if limited to the direction of the Charter. Discussion of those required to file statements as defined in the Charter.</p>	<p>Ms. Tudela moved to approve BOE 2019-04 Disclosure Statement as amended by staff. Mr. de la Pena seconded. Motion carried 4:0</p>
	<p><u>BOE 2018-17 Explicit recommendation on the steps to be taken at the Charter level and the administrative level to improve the existing countywide disclosure requirement coupled with a fine schedule for non-compliance.</u></p> <p>Ms. Ching announced that Ms. Sasaki was not available today and Mr. Bradbury was filling in. He suggested deferring the matter as he does not have her report.</p> <p>Discussion followed regarding making a recommendation in the context of the disclosure statement. Ms. Burriss suggested alerting the Charter Review Commission that the Board has noticed that the requirement in the Charter is not all inclusive and that language be considered so that it encompasses everything that exist currently job wise as well as jobs that may be created.</p> <p>Ms. Ching suggested that the Board send a formal specific letter to the Charter Review Commission. Given the discussion, she summarized the concern is along the lines of responsibility, authority and delegated authority. If an employee is in a position of authority (department head or head of agency or office) the employee should be required to file a disclosure and if that authority is transferred at any given time, then that person</p>	

SUBJECT	DISCUSSION	ACTION
	<p>should also be required to file a disclosure.</p> <p>Ms. Tudela suggested that the Board ask the Commission to review the degree of inclusivity of personnel in positions of authority in the Charter as it relates to Disclosure Statements and review if the requirement needs to be broadened. The question on delegated authority arose as currently the requirement for a disclosure is only levied on personnel with delegated authority in the Finance Department.</p> <p>Chair Toyofuku stated that certain appointed employees are required to complete a Disclosure Statement. But shouldn't the intent of the requirement be equally applied for the whole County not just some.</p> <p>Ms. Ching discussed how it's currently applied. Department/Division Heads and Deputies have filed Disclosure Statements.</p> <p>Ms. Tudela volunteered to write a draft letter to the Charter Review Commission and will send it to Ms. Ching, Boards & Commissions Administrator.</p> <p><u>BOE 2019-08 Review Advisory Opinions RAO 13-006 and RAO 18-004.</u></p> <p>Ms. Sasaki is looking into procedure to revoke an opinion.</p>	<p>Mr. de la Pena moved to defer BOE 2018-17. Ms. Burriss seconded. Motion carried 4:0.</p> <p>Ms. Tudela moved to defer BOE 2019-08. Mr. de la Pena seconded. Motion carried 4:0</p>

SUBJECT	DISCUSSION	ACTION
Disclosures	<u>Employees</u> 1. Kaaina Hull – Planning Director 2. Todd Raybuck – Police Chief 3. James Forrest – Deputy County Attorney <u>Volunteers</u> 4. Beth Tokioka – Civil Service Commission	Ms. Tudela moved to approve employees #1-3, and volunteer #4. Ms. Burriss seconded. Motion carried 4:0
Executive Session	Chair Toyofuku entertained a motion to enter into Executive Session pursuant to HRS 92-4 and 92-5(a)(2) and (4) to consult with Counsel.	Ms. Burriss moved to move into Executive Session. Ms. Tudela seconded. Motion carried 4:0
Return to Open Session	Discussion on items for next meeting's agenda.	The Board resumed in Open Session at 1:57 p.m. Ms. Burriss moved to ratify decisions made in Executive Session. Mr de la Pena seconded. Motion carried 4:0
Announcements	<u>Next Meeting: Friday, June 21, 2019 – 1:00 p.m., Mo‘ikeha Building, Liquor Conference Room 3.</u> Mr. de la Pena noted that he will be absent from the June 21, 2019 meeting.	
Adjournment		Ms. Tudela moved to adjourn the meeting, Mr. de la Pena seconded. Chair Toyofuku adjourned the meeting at 2:07 p.m.

Submitted by: _____
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
 Dean Toyofuku, Chair

() Approved as circulated.

() Approved with amendments. See minutes of _____ meeting.

COUNTY COUNCIL
Arryl Kaneshiro, Chair
Ross Kagawa, Vice Chair
Arthur Brun
Mason K. Chock
Felicia Cowden
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

MEMORANDUM

RECEIVED

May 23, 2019

MAY 28 2019

TO: Arryl Kaneshiro, Council Chair
and Members of the Kaua'i County Council

BOARDS & COMMISSIONS

FROM: Luke A. Evslin, Councilmember *LMC*

**RE: POSSIBLE CONFLICT OF INTEREST RELATING TO
C 2019-116 AND PROPOSED DRAFT BILL (NO. 2752), ZA-2019-2
(ISLAND SCHOOL, APPLICANT)**

Pursuant to Section 20.04(B) of the Kaua'i County Charter, Section 3-1.9 of the Kaua'i County Code 1987, as amended, and Rule No. 8 of the Rules of the Council of the County of Kaua'i, I hereby provide written disclosure on the record of a possible conflict of interest relating to C 2019-116 and Proposed Draft Bill (No. 2752), regarding Zoning Amendment ZA-2019-2, as my sister is a member of the Board of Directors for Island School and my brother is the Dean of Students for Island School.

In light of the above, I will recuse myself from the aforementioned items.

Should you have any questions, please feel free to contact me. Thank you for your attention to this matter.

CT:ks

cc: June 13, 2019 Council Meeting Agenda
County of Kaua'i Board of Ethics
Council Services Staff

Anela Segreti

From: Dan Gluck <dgluck@hawaiiethics.org>
Sent: Wednesday, June 12, 2019 12:24 PM
To: 'Jan Yamane'; 'Yoshimoto, J'; 'Gary Murai'; 'Bigornia, Kristine Ian D'; Anela Segreti
Cc: Susan Yoza; Pat Mukai
Subject: Hawaii ethics conference - September 5, 2019

Dear all,

Looks like we're a go for a Hawaii ethics conference on Thursday, September 5, at Kapalama Hale (conference room 277, 925 Dillingham Boulevard)! Our rough attendance count right now is 34 people (16 state, 10 Honolulu, 4 Maui, 4 Hawaii; no word yet from Kauai). My office will take care of lunch (and, with a bit of luck, morning coffee/tea) for everyone, and we'll work with Krissy/Jan (Honolulu Ethics) on those logistics.

Not entirely sure what time we'd start, but I'll defer to our neighbor island attendees' preferences (since they're the ones with very early mornings to deal with). I'm hoping the conference could last for roughly 5-6 hours including lunch and breaks (say, 10:15-4:15), but again, I'll defer to the people traveling here on what's feasible.

- J, I just checked Hawaiian, and from Hilo, there are flights at 7:26 a.m. (arriving 8:19) and then not again until 8:57 (arriving 9:51). Please let me know your preference – we could aim to start around 8:45/9, or we could do a later start (like 10:15/10:30). Also, I have you down for 3 commissioners plus you, but if you're looking at just the commissioners, please just let me know.
- Gary, if we do a later start time, there's a Hawaiian flight at 8:51 a.m. that arrives at 9:28 a.m. that's currently \$38.80 per person (one way). Earlier flights are \$74 (one way), so still not too bad. On Southwest, there's a \$39 flight at 7:05 (arriving 7:45), but the next Southwest flight isn't until 11am.

I'm thinking we can have some all-group sessions and then some break-out groups, but we haven't set the agenda by any means. Please send your thoughts for what you'd like to discuss (and how you'd like to have those discussions). Just to get that conversation started, here are a few things that come to mind (by no means exhaustive):

1. Training tools (Honolulu has recently launched an online training tool, and we should be starting ours soon as well)
2. Enforcement – best practices, limitations, problem areas
3. Comparisons of ethics laws – what works, what doesn't
4. Regulation of lobbying (administration, enforcement)
5. Disclosure statements (administration, review)
6. Technology – tools for doing our work
7. Giving ethics advice – best practices
8. Looking forward: what more can we do?

Please let me know what you'd like to discuss – what would be most helpful to you and to your board/commission members?

Thank you all so much – I think this is going to be a really productive conference, and everyone on my end is very excited to see this come together!

Take care,

Dan

Daniel Gluck
Executive Director and General Counsel
Hawaii State Ethics Commission
1001 Bishop St., Suite 970
Honolulu, HI 96813
dgluck@hawaiiethics.org
<http://ethics.hawaii.gov/>
(808) 587-0460
Twitter: [@HawaiiEthics](https://twitter.com/HawaiiEthics)

Notice: The information contained in this email may be confidential and privileged. If you are not the intended recipient, please be advised that any use or distribution of this communication is prohibited; please immediately notify the sender by return email, and delete this email, any attachments, and all copies.

COUNTY COUNCIL
Arryl Kaneshiro, Chair
Ross Kagawa, Vice Chair
Arthur Brun
Mason K. Chock
Felicia Cowden
Luke A. Evslin
KipuKai Kualii



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Scott K. Sato, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
E-mail: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

May 21, 2019

RECEIVED

MAY 22 2019

Dean Toyofuku, Chair
and Members of the Board of Ethics
c/o Office of Boards & Commissions
4444 Rice Street, Suite 150
Lihu'e, Hawai'i 96766

BOARDS & COMMISSIONS

Dear Chair Toyofuku and Members of the Board of Ethics:

**RE: POSSIBLE CONFLICT OF INTEREST & REQUEST FOR
ADVISORY OPINION RELATING TO A PROPOSED DRAFT
BILL FOR AN ORDINANCE AMENDING ZONING
DESIGNATION IN PUHI, KAUA'I (ISLAND SCHOOL,
APPLICANT) (ZA-2019-2)**

I am writing to request that the Board of Ethics provide me with an advisory opinion regarding my participation in County Council proceedings and voting on a Proposed Zoning Amendment for the Puhi area, specifically for Island School.

Mr. David Pratt, is the Vice President and also a Member of the Board of Directors for Island School. In addition to his involvement with Island School, Mr. Pratt is a Member of Board of Directors for Grove Farm Company, Inc. Due to my employment with Grove Farm Company, Inc., please advise me if I should recuse myself from this item and all related items, involving this zoning amendment.

Should you have any questions, please feel free to contact me at the Office of the County Clerk, Council Services Division, at 241-4188.

Sincerely,

ARRYL KANESHIRO
Council Chair, Kaua'i County Council

CT:jy
cc: **Ellen Ching, Boards & Commissions Administrator**

Dean Toyofuku
Chair

Mia Shiraishi
Vice Chair

Susan Burriss
Secretary



Members:
Susan Burriss
Michael Curtis
Ryan de la Pena
Maureen Tabura
Mary Tudela

COUNTY OF KAUAI BOARD OF ETHICS

c/o Office of Boards & Commissions
4444 Rice Street, Suite 150
Lihue, HI 96766

June 28, 2019

Mr. Ricky Watanabe
Chair Charter Review Commission
c/o Office of Boards & Commissions
4444 Rice Street, Suite 150
Lihue, HI 96766

Re: Board of Ethics (BOE) concerns regarding the Ethics Disclosure Statements Requirements

Dear Chair Watanabe:

During a recent Board of Ethics revision of the instructions to the Disclosure Statement the Board of Ethics members discovered a potential limitation that we felt important to bring to your commission's attention.

From the Instruction sheet for disclosure statement's current language:

- I. WHO MUST FILE. The Mayor, Councilpersons, Prosecuting Attorney, all department heads and deputies, members of boards and commissions, the purchasing agent, and all candidates for elective office.

Revised language (**in bold**) by commission vote as of May 17, 2019:

- I. WHO MUST FILE. The Mayor, Councilpersons, Prosecuting Attorney, all department heads and deputies, members of boards and commissions, the purchasing agent, **any employee delegated or authorized to act on behalf of the director of finance and deputy director of finance in their absence**, and all candidates for elective office.

Charter - Section 20.04. Disclosure Excerpt

- A. The mayor, councilpersons, all department heads and deputies, members of boards and commissions, the purchasing administrator and any employee delegated or authorized to act on behalf of the director of finance and the deputy director of finance in their absence shall within thirty days of assuming office, file with the board...etc.

Our commission had two concerns about the new language we approved which was copied from existing charter language:

- 1) The limitation of the delegation authority disclosure requirement to only the finance department head and his/her deputy, and
- 2) The absence of recent new titles, i.e. managing director, mayor's chief of staff, etc.

The Board of Ethics did not feel it appropriate to update our language in any way that was broader in scope than that in the Charter.

As we understand it is the Charter Review Commission's defined role to review the operation of the county government under our charter, on behalf of the Board of Ethics, I respectfully request your study and review of broadening the requirement to file a disclosure statement to all individuals who are in a position that on occasion will serve as a department head or deputy with all the responsibilities of that position.

Secondly, that the listing of new key titles/positions be included in the Charter.

Sincerely,

Dean Toyofuku
Chair - Kauai County Board of Ethics