



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

**MINUTES OF THE
REGULAR MEETING OF THE
ELECTIONS COMMISSION**

December 3, 2025 at 10:00 AM

Pursuant to Section 92-3.7, Hawaii Revised Statutes, the Elections Commission met remotely using interactive conference technology. The video of the meeting may be viewed on our website at: <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>.

Commissioners in Attendance:

Michael Curtis, Chair
Dylan Andrion
James Apana
Ralph Cushnie
Lindsay Kamm
Jeffrey Osterkamp
Kahiolani Papalimu
John Sabas

Support Staff in Attendance:

Jordan Ching, Department of the Attorney General
Scott T. Nago, Office of Elections
Nicole Noel, Office of Elections
Aaron Schulaner, Office of Elections
Aulii Tenn, Office of Elections

PROCEEDINGS

I. Call to order [10:00 AM]

The regular meeting of the Elections Commission was called to order by Chair Curtis.

Elections Commission Meeting

December 3, 2025

Page 2

II. Roll call and determination of a quorum [10:01 AM]

All members of the Elections Commission were present at the meeting.

III. Meeting minutes [10:01 AM]

a) Approval of written minutes from the October 29, 2025 meeting

Nancy Moser provided testimony asking the Commission to enforce clear rules and curb disruptive behavior so public meetings can be more orderly and focused.

Austin Martin provided testimony arguing that public comment on meeting minutes is unnecessary and suggesting the Commission move on to substantive agenda items instead.

Robert Duerr provided testimony stating that the meeting minutes should note his concern that counties lacked required procedures, testing, observer access, and audits for mail-sort machines when they were introduced.

Tara Rojas provided testimony arguing that public comment on the minutes is necessary because past minutes and meetings have been inaccurate, poorly run, and not transparent, and she urged the public to continue holding the Commission accountable.

Commissioner Cushnie stated that he would vote against the motion, expressing concern that the minutes are not accurately recorded and that important details are being omitted.

Commissioner Apana moved to approve the written minutes from the October 29, 2025 meeting. The motion was seconded by Commissioner Sabas and **carried**. [10:12 AM]

YES: Apana, Kamm, Osterkamp, Sabas, Curtis

NO: Andrion, Cushnie, Papalimu

IV. Discussions relating to Permitted Interaction Groups (PIG) [10:14 AM]

- a) Former Commissioner Young's PIG relating to Kauai County compliance and discrepancies in ballot counts
- b) Commissioner Andrion's PIG relating to Maui County chain of custody

- c) Commissioner Osterkamp's PIG relating to Hawaii County election result discrepancies
- d) Formation of a Permitted Interaction Group to work with the County Clerks regarding chain of custody and daily reports

Judith Mills-Wong provided testimony opposing a return to in-person Election Day voting due to accessibility and voter-information concerns, and she supported improving chain-of-custody procedures while rejecting ballot counting at drop boxes and encouraging more voter service center locations.

Laurie Tanner provided testimony defending mail-in voting as reliable and essential for accessibility, arguing that ballot issues stem from training and oversight rather than the mail-in system itself, and urging the Commission not to abandon mail-in voting without a feasible alternative.

Austin Martin provided testimony criticizing mail-in voting and recent election changes as insecure and politically manipulated, claiming widespread fraud and urging a return to more traditional, in-person election practices.

Jennifer Hunt provided testimony claiming there is no reliable chain of custody for mailed or drop-box ballots, arguing that expanded mail-in voting enables fraud, and urging a return to a single in-person Election Day as the only accountable system.

Corey Harden provided testimony supporting mail-in voting, citing its reliability during disasters, the pandemic, and other obstacles to in-person voting, and arguing that claims of widespread fraud are unfounded.

Shana Kukila provided testimony strongly supporting mail-in voting, arguing it is essential for accessibility in Hawai'i County and that election problems stem from accountability issues between counties and the state, not from the mail-in system itself.

Samuel Takara provided testimony supporting mail-in voting, explaining that it reduces financial and mobility burdens for him and his elderly parents and offers a more practical way for them to participate in elections.

Nolan Chang provided testimony urging the Commission to show independent judgment and improve transparency, integrity, and accountability in Hawaii's electoral process.

Brennon Cabral provided testimony sharing his perspective as a disabled individual, expressing concerns about fairness, accessibility, and how certain processes affect people with disabilities.

Jaerick Medeiros provided testimony urging the Commission to return election administration to the counties, reduce reliance on statewide mail-in voting, and support more in-person voting to prevent perceived problems with ballot handling.

Jamie Detwiler provided testimony urging the Commission to terminate the Chief Elections Officer for alleged noncompliance with ballot-accounting laws and to improve voter roll maintenance and election integrity measures.

Keoni Payton provided testimony supporting a return to in-person voting, arguing that disability accommodations already exist under law and calling for greater election transparency and leadership changes.

Wendy N. provided testimony urging a return to traditional in-person voting, arguing that mail-in voting has created unnecessary problems, increased costs, and false claims about disenfranchising disabled voters.

Ann Marie Hamilton provided testimony supporting the elimination of voting machines and universal mail-in voting, arguing that unverifiable proprietary software undermines election transparency and public trust.

Doug Pasnik provided testimony urging the elimination of universal mail-in voting, arguing that it expands chain-of-custody risks, while emphasizing that absentee voting would remain fully available and that in-person precinct voting would improve ballot accountability and public confidence.

Representative Garner Shimizu provided testimony citing the PIG report's findings of unresolved ballot-handling discrepancies, urging accountability, audits, and clear explanations from state and county election officials to restore public confidence.

Jennifer Cabjuan provided testimony expressing frustration about recurring election procedure issues, calling for better public education on absentee voting, supporting further investigations, criticizing drop-box security, and urging officials to follow existing rules.

Wallyn Christian provided testimony supporting in-person voting, calling for improved voting center access, maintaining absentee voting for those who need it, expressing concerns about drop boxes and voting machines, and urging the Commission to strengthen election procedures for public trust.

Michelle Stefanik provided testimony stating that the PIG report is invalid, claiming the current election process lacks transparency and accountability based on her experience as an observer, urging a return to in-person voting with more polling places, calling for improved chain-of-custody procedures, and requesting changes in election leadership.

Rita Kama-Kimura provided testimony stating that she supports returning to the previous in-person voting system while maintaining absentee voting, expressing concern about voter misunderstanding of absentee options, inconsistencies in ballot handling, and limitations placed on poll watchers.

Susan Strom provided testimony arguing for a return to one-day in-person voting, expressing concerns about mail-in ballot vulnerabilities, urging the creation of an Oahu PIG, and raised concerns about transparency and conflict-of-interest regarding Commissioners.

Junya Nakoa provided testimony urging Commissioners to follow through on the direction of the community, and to stop revisiting the same issues without taking action.

Kyle Daniel provided testimony opposing the recommendation to return to in-person Election Day voting and urging the Commission to improve and secure the existing mail-in system rather than eliminate it.

Megeso William-Denis provided testimony calling for one-day in-person voting with ID, no machines, and limited absentee exceptions while criticizing mail-in voting and urging new leadership to restore election integrity.

Tara Malia Gregory provided testimony supporting one-day in-person voting with voter ID, arguing that universal mail-in voting is unsafe compared to verified absentee ballots, citing unaccounted ballots as evidence of systemic failure, and urging accountability for election officials.

Tara Rojas provided testimony urging the Commission to listen to recurring concerns raised by testifiers, aligning herself with previous speakers and asking Commissioners to act accordingly.

Laura Nakanelua provided testimony criticizing the Commission for failing to address election concerns, expressing support for in-person voting, and arguing that problems with transparency, legal compliance, and ballot handling undermine public confidence.

Victoria Thompson provided testimony supporting more accessible and secure voting options, emphasizing the need for better authentication, improved polling resources, technological solutions, and stronger accountability for election officials.

Enoka-Shayne Bingo provided testimony criticizing the Commission for blocking investigations into disputed ballot counts, accusing members of gatekeeping, failing to act on public concerns, and refusing to support motions aimed at restoring voter confidence.

A testifier identified only as “iPhone” provided testimony urging the Commission to follow Sunshine Law requirements, criticizing limits on Commissioner questions, and requesting that Chief Election Officer (CEO) Scott Nago withdraw due to repeated transparency failures.

Andrea Rodgers provided testimony supporting a return to neighborhood precinct voting and argued that eliminating local in-person sites disenfranchises community members, including those with disabilities who rely on nearby polling places.

Shelby Billionaire provided testimony claiming that mail-in voting has major chain-of-custody problems in Honolulu and Maui and urged the Commission to address these issues and support the PIG’s efforts.

Commissioner Kamm outlined options for pursuing an election audit, including finding a legislative sponsor, requesting action from the state auditor, or submitting a report to the governor. The Chair noted that the state auditor could initiate an audit independently and discussed beginning with Kauai to establish a process. Commissioners then debated whether the audit should start with Kauai, the Big Island, or cover the entire state, with Commissioner Cushnie citing concerns about reported ballot envelope discrepancies and Commissioner Osterkamp disputing those claims. Commissioner Papalimu supported beginning with the Big Island as the Commission worked toward finalizing the motion.

Commissioner Kamm moved that the Elections Commission transmit the findings of the 2025 Permitted Interaction Groups and the Commission’s October 1, 2025 audit motion to the state auditor and to ask that he conduct an audit of the 2024 General Election as soon as possible. The motion was further amended to have the state auditor begin the audit with the County of Hawaii. The motion was seconded by Commissioner Cushnie and **carried**. [12:09 PM]

YES: Andrion, Apana, Cushnie, Kamm, Papalimu, Sabas

NO: Osterkamp, Curtis

Elections Commission Meeting

December 3, 2025

Page 7

Commissioner Cushnie argued that reported discrepancies involving 19,000 Big Island mail ballots supported beginning the audit there and raised a point of order regarding limits on his discussion; Chair Curtis clarified that the amended motion directed the audit to begin with the Big Island while still covering the entire state.

Commissioner Cushnie moved to amend the motion, that the Elections Commission transmit the findings of the 2025 Permitted Interaction Groups and the Commission's October 1, 2025 audit motion to the state auditor and to ask that he conduct an audit of the 2024 General Election as soon as possible, to begin the audit with the County of Hawaii. The motion was seconded by Commissioner Papalimu and **carried**. [12:14 PM]

YES: Andrion, Cushnie, Kamm, Papalimu, Sabas

NO: Apana, Osterkamp, Curtis

Commissioner Cushnie argued that because Hawaii is a mandatory vote-by-mail state, reliable mail tracking is essential, and he cited findings from all three PIG reports showing missing USPS records, unexplained increases in envelope counts, and incomplete chain-of-custody documentation, including an alleged 19,000-ballot discrepancy on the Big Island. He stated these issues could indicate serious violations and urged referring all three PIG reports to the U.S. Department of Justice for independent investigation.

Commissioner Cushnie moved that the Elections Commission refer all three Permitted Interaction Group reports to the United States Department of Justice and formally request a federal investigation into possible mail fraud and related irregularities in the handling of ballot envelopes during the 2024 Election. The motion was seconded by Commissioner Kamm and **failed**. [12:24 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Apana, Osterkamp, Sabas, Curtis

Commissioner Andrion stated that while he supports the motion, he and other Commissioners could seek clarification directly from the county clerk if it doesn't pass. Commissioner Sabas opposed the motion, calling it premature and suggesting the Commission first speak with the Maui County Clerk's office. Commissioner Cushnie argued the motion is justified, citing a UIPA response and prior correspondence indicating Maui lacks required election records. Commissioner Apana opposed the motion as redundant but noted he has

Elections Commission Meeting

December 3, 2025

Page 8

already spoken with the current and three former county clerks, all of whom are willing to meet with the Commission.

Commissioner Cushnie moved to form a PIG to investigate why the County of Maui has no chain of custody records. The motion was seconded by Commissioner Andrion and **failed**. [12:31 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Apana, Osterkamp, Sabas, Curtis

Commissioner Cushnie reiterated concerns from the audit report regarding thousands of ballots reportedly received through the mail without corresponding USPS business-reply-mail receipts, and he questioned whether the state or counties could face liability for unpaid postage. Commissioner Osterkamp disputed Cushnie's interpretation, stating the report does not claim the county failed to pay for envelopes. Commissioners Apana and Papalimu sought clarity on whether liability exists if no bill was ever received and whether Commissioners themselves have any fiduciary exposure. The Commissioners discussed asking the Attorney General directly, and the Deputy Attorney General advised that he could only provide written guidance if the Commission formally requests it.

Commissioner Cushnie moved to ask the Attorney General that since more than more than 19,000 ballots were reported as received through the mail yet no postage was paid to the federal government and no USPS business reply mail receipts exist to document their delivery, does knowingly certifying those ballots without paying the required federal postage expose the counties or the state to liability under federal law. The motion was seconded by Commissioner Andrion and **failed**. [12:51 PM]

YES: Andrion, Cushnie, Papalimu

NO: Apana, Kamm, Osterkamp, Curtis

ABSTAIN: Sabas

Commissioner Cushnie argued the Commission should directly request USPS records because no one has contacted the Post Office and the public expects accountability. Commissioner Kamm supported the request, saying the USPS should be able to answer a straightforward factual question.

Commissioner Apana opposed the motion, stating that the Commission already voted to pursue an audit and that the auditor should gather this information to

maintain neutrality. Commissioner Papalimu countered that the auditor may decline or take months, and the Commission should still seek basic information now, especially since prior reports did not contact USPS. She added that the county may not have provided receipts, and this request could help regardless of the audit outcome.

Chair Curtis noted that only the County of Hawaii, as the account holder, has standing to obtain USPS Business Reply Mail records. CEO Nago confirmed that USPS will only provide records to the account holder, not to the Commission or the Office of Elections.

Some Commissioners argued that the Commission should still send a letter, even if USPS declines, to demonstrate due diligence. Commissioners Kamm and Sabas expressed support for making the request, and members discussed who would draft the letter. The Chair indicated the inquiry would be limited to requesting USPS mail-receipt documentation for the 2024 election.

Commissioner Cushnie moved to send a letter from the Elections Commission to the USPS Inspector General asking them how many ballot envelopes were delivered to the County of Hawaii during the 2024 General Election broken out by how many ballots were returned by voters versus how many simply were undeliverable or returned to sender. The motion was seconded by Commissioner Kamm and **carried**. [1:00 PM]

YES: Andrion, Cushnie, Kamm, Papalimu, Sabas

NO: Apana, Osterkamp, Curtis

Commissioner Cushnie explained that BallotTrax logs every USPS scan and could help reconcile discrepancies between reported ballot counts and physical envelopes. He asked that CEO Nago work with Hart InterCivic, the BallotTrax contractor, to obtain these tracking records for the Commission. Commissioners discussed whether BallotTrax captures data for all ballots or only for voters who opt in, and CEO Nago clarified that full tracking data may not be available for non-enrolled voters.

Despite the limitations, Commissioners agreed the records could still help improve accountability and provide additional insight while audits are pending. Commissioner Cushnie stressed the importance of pursuing every avenue for verification. Commissioner Papalimu noted that BallotTrax likely tracks all ballots even if it only sends notifications to those who sign up.

Commissioner Cushnie moved that the Elections Commission formally direct the Chief Election Officer to produce the full BallotTrax tracking logs from Hart

Elections Commission Meeting

December 3, 2025

Page 10

InterCivic for all counties for the 2024 General Election before the next meeting. The motion was seconded by Commissioner Andrion and **carried**. [1:11 PM]

YES: Andrion, Apana, Cushnie, Kamm, Papalimu, Sabas

NO: Osterkamp, Curtis

Commissioners Andrion and Sabas expressed concern that sending the reports to the governor would be premature, noting that multiple audits and reviews are already underway and should be allowed to proceed before escalating the matter. Commissioner Andrion supported transparency in principle but questioned whether involving the governor now would be productive. Commissioner Sabas agreed, saying the Commission should wait for audit findings.

Commissioner Cushnie maintained that the reports should still be formally transmitted, so the governor is officially notified of outstanding issues. Commissioner Andrion asked whether the motion required the governor to take action or simply receive the documents, seeking clarity on its scope. Commissioner Papalimu opposed the motion, arguing that the Commission should first handle its own responsibilities and that involving outside entities before establishing the facts would not be useful.

Commissioner Kamm moved that the Elections Commission transmit a formal report to the Governor including the findings of the Permitted Interaction Groups, the Commission's October 1st audit motion, the Chair's letter to the Legislature, and Speaker Namakura's deferral. The report will include a request for an executive branch review of ballot accountability and assistance in securing full compliance with election laws. The motion was seconded by Commissioner Cushnie and **failed** unanimously. [1:27 PM]

Commissioners discussed forming a Permitted Interaction Group (PIG) to work with County Clerks on improving chain-of-custody procedures, documentation, and ballot-tracking workflows. Commissioner Andrion and others said the group could address both past reporting gaps and future standards, including the need for consistent, paper-based logs.

Kamm supported creating the PIG as a practical way to understand county processes, develop clearer procedures, and strengthen public confidence, noting that independent verification is difficult without uniform records. Several Commissioners agreed that collaboration could help resolve recurring discrepancies.

Commissioner Papalimu opposed the proposal, arguing that the Chief Election Officer is already responsible for enforcing these requirements and that a PIG might shift accountability. The Commissioners continued discussing the PIG's scope, membership, and whether to finalize details before voting.

Commissioner Andrion moved to form a Permitted Interaction Group to work with the County Clerks regarding chain of custody and daily reports. The motion was seconded by Commissioner Papalimu and **carried**. [1:34 PM]

YES: Andrion, Apana, Cushnie, Kamm, Papalimu, Sabas

NO: Osterkamp, Curtis

V. Suit filed in U.S. District Court, District of Hawaii: Bernegger v. Nago, 1:25-CV-00482-JAO-RT [2:02 PM]

Commissioners debated whether the Deputy Attorney General's written opinion should remain confidential. Some members argued that attorney-client privilege was already compromised because the opinion was shared with the Office of Elections rather than only with the Commission. Others said transparency was important and that the public should see the opinion.

The Deputy Attorney General advised against releasing it because the opinion relates to ongoing litigation involving the state. Some Commissioners felt they needed confidential guidance to understand the lawsuit, while others believed the Commission never chose to assert privilege and should not withhold the document.

Commissioners also questioned who the client is in this situation. Since the lawsuit names the Chair and the Chief Elections Officer, several Commissioners noted that the Commission may not have standing to assert privilege. Concerns were raised about conflicts of interest and whether the Commission should consider obtaining separate legal counsel.

Commissioner Cushnie moved to assert attorney client privilege. The motion was seconded by Commissioner Andrion and **carried**. [2:46 PM]

YES: Andrion, Kamm, Osterkamp, Sabas, Curtis

NO: Cushnie

ABSTAIN: Apana, Papalimu

VI. Communications and correspondence, received for the record [3:20 PM]

Janet Mason provided testimony urging the Commission to pursue formal state audits rather than relying on United States Postal Service data, which she argued is unreliable, unauthorized, and not valid election information.

Austin Martin provided testimony alleging that the Commission has ignored election-related complaints, asserting widespread corruption and obstruction, and urging action and accountability for what he believes are serious violations.

Tara Rojas provided testimony asserting that the Commission has repeatedly failed to acknowledge or act on public complaints, calling this a serious breach of process and public trust and urging the Commission to formally acknowledge, review, and transparently address all pending complaints.

Laura Nakanelua provided testimony asserting that the Attorney General's office should represent the Elections Commission rather than defend the Chief Elections Officer and said she plans to gather more information to share with the Commission.

A testifier identified only as "iPhone" provided testimony alleging loss of public trust, calling for Commissioner Curtis and CEO Nago to step down during pending litigation, arguing that the Attorney General should not defend them due to conflict of interest, and criticizing the AG's lack of intervention in Sunshine Law concerns.

Junya Nakoa provided testimony expressing frustration with Commissioner infighting, urging the Attorney General to properly guide the Commission, calling for officials facing litigation to obtain their own attorneys, and urging the Commission to focus on election oversight instead of internal conflict.

Michelle Stefanik provided testimony urging the Commission to address and act on formal complaints, expressing concern that Chair Curtis and CEO Nago are named in a lawsuit, and arguing that officials named individually should pay for their own legal defense rather than rely on the Attorney General.

Andrew Aker provided testimony urging the Chair, the Chief Elections Officer, and the Deputy Attorney General to obtain their own legal counsel, expressing agreement with earlier speakers about accountability, and stating that they will be pursued in court.

Jamie Detwiler provided testimony criticizing the Office of Elections for denying her complaint on a 90-day deadline despite taking 17 months to respond to her

earlier correspondence, arguing that the agency is acting hypocritically and out of compliance with the law.

Jennifer Hunt provided testimony that her formal complaint about chain-of-custody issues was misfiled as a request for information, which she said caused it to be overlooked and contributed to public suspicion.

Jennifer Cabjuan provided testimony stating that she wants confirmation that her correspondence is read by the entire Commission rather than filtered only through the Chair.

Commissioners discussed how the Commission should handle Sunshine Law appeals from the Office of Information Practices. Commissioner Cushnie argued that responses must be approved by a majority of the Commission and that handling them through the Attorney General's office without sharing the communications lacks transparency. He said the Commission should vote on each response before it is sent.

The Deputy Attorney General explained that state agencies typically delegate these responses to the Attorney General due to short deadlines and logistical constraints. He said his office can prepare the responses on behalf of the Commission and share copies, but a vote is not legally required.

Several Commissioners said they were unaware of past OIP complaints and supported greater visibility. Others raised concerns that requiring votes on each response could slow the process and complicate meeting agendas. The discussion ended with differing views on whether the Commission or the Attorney General should manage the responses.

Commissioner Cushnie moved that the Elections Commission follow the law under HAR 2-73 by ensuring that all required responses to OIP Sunshine Law appeals are prepared and submitted by majority vote of the Commission. The motion was further amended to apply only to the four OIP Notice of Appeal of Sunshine Law Complaints listed under Agenda Item VI of the December 3, 2025 meeting. The motion was seconded by Commissioner Andrion and **carried**. [4:00 PM]

YES: Andrion, Apana, Cushnie, Kamm, Papalimu, Sabas

NO: Osterkamp

ABSTAIN: Curtis

Elections Commission Meeting

December 3, 2025

Page 14

Commissioner Andrion moved to amend the motion, that the Elections Commission follow the law under HAR 2-73 by ensuring that all required responses to OIP Sunshine Law appeals are prepared and submitted by majority vote of the Commission, to apply only to the four OIP Notice of Appeal of Sunshine Law Complaints listed under Agenda Item VI of the December 3, 2025 meeting. The motion was seconded by Commissioner Cushnie and **carried**. [4:35 PM]

YES: Andrion, Apana, Cushnie, Kamm, Papalimu, Sabas

NO: Osterkamp

ABSTAIN: Curtis

Commissioners discussed the procedure for a vote of no confidence and the potential removal of the Chair. Members asked how the transition would work, including whether the current Chair would continue to preside until a replacement is selected and whether a temporary Chair would need to be elected. The Deputy Attorney General was asked to clarify the applicable process.

Some Commissioners expressed concerns about initiating the motion when it was clear there were not enough votes to remove the Chair. They said such motions prolonged meetings and created unnecessary tension. Others stressed that a leadership change could improve efficiency and accountability.

The Chair acknowledged the discussion and noted that any replacement would require majority support. The conversation concluded with differing views on whether the motion was productive and whether new leadership was warranted.

Commissioner Cushnie moved to remove the Elections Commission Chair. The motion was seconded by Commissioner Andrion and **failed**. [4:38 PM]

YES: Andrion, Cushnie, Papalimu

NO: Apana, Osterkamp, Sabas, Curtis

ABSTAIN: Kamm

VII. Formal complaints [4:43 PM]

a) ECC-25-011

b) ECC-25-012

Elections Commission Meeting

December 3, 2025

Page 15

Public testimony for Agenda Item VI and VII were taken together.

Commissioners considered a motion to formally request documentation from the Chief Election Officer to independently validate the 2024 election results.

Supporters said the Commission still lacks essential records, including chain of custody materials and county-level logs, which are required for its oversight duties under HRS §11-8.5. They stressed that repeated attempts to obtain clear information have been unsuccessful and that a formal request is necessary.

Other Commissioners agreed the documentation is important but noted that many records are held by the counties, not the Chief Election Officer. They felt the investigative PIG is better positioned to gather the material because it has broader authority, including the ability to subpoena records. They preferred allowing the PIG to continue its work rather than submitting another request that may not yield results.

Members also discussed past delays in completing required election review reports and raised concerns about gaps in leadership and statutory compliance. Regardless of their vote, Commissioners agreed that improved access to election records and clearer processes are needed for the Commission to meet its responsibilities.

Commissioner Cushnie moved that the Elections Commission formally request the Chief Election Officer to provide any and all documentation that can be used to independently validate the results of the 2024 General Election, including any chain of custody records, county-level logs, reconciliation forms, and other materials necessary for the Commission to fulfill its duties under HRS §11-8.5. The motion was seconded by Commissioner Kamm and **failed**. [4:43 PM]

YES: Andrion, Cushnie, Papalimu

NO: Apana, Kamm, Osterkamp, Sabas, Curtis

VIII. Adjournment [5:08 PM]

Chair Curtis adjourned the meeting at 5:08 PM.

Respectfully submitted,



Nicole Noel
Elections Commission Secretary



**STATE OF HAWAII
OFFICE OF ELECTIONS**

SCOTT T. NAGO
CHIEF ELECTION OFFICER

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
elections.hawaii.gov

December 24, 2025

TO: Elections Commission

FROM: Scott T. Nago
Chief Election Officer

A handwritten signature in black ink, appearing to read "ST NAGO".

RE: Status of Operations

In the administration and conduct of the elections, the State is responsible for printing ballots, processing and counting voted ballots, and voter education. We continue to work in collaboration with the county clerks to ensure secure, accessible, and convenient election services for Hawaii's voters.

In addition to our planning and preparing for the 2026 Elections, our office has also worked to fulfill various requests made by the Elections Commission including an audit of state representative district 37 for the 2022 General Election and responses to the permitted interaction groups (PIGs). Additionally, we have tracked election related legislation and litigation.

2026 ELECTION PREPARATIONS

Preparations for the 2026 Elections began with the conclusion of the 2024 Elections. Within weeks of the election, our office debriefed with the Official Observers, the teams at the county clerks' offices, and vendors to review what went well and what we can improve on moving forward. We evaluated the feedback and reflected on our experiences to develop our plans and identify projects. While no election is the same and each has its own challenges, there are some aspects of planning that must be completed.

- **Identifying community events.** Our office continued outreach efforts throughout 2025, carrying out voter registration and voter education events within the community. Additionally, we continued planning for 2026 by securing events with

a goal of reaching a variety of Hawaii residents including college students, senior citizens, and the disability community. For example, we participate in the annual Day at the Capitol event which brings together those with disabilities, their families, and the organizations that serve them. The event allows us to interact with these eligible voters and provide demonstrations of accessible ways to vote. Likewise, every September we conduct the Future HVoter Program with Hawaii high schools to pre-register eligible students of at least 16 years of age. In the current school year, 21 high schools are participating, reaching over 4,000 junior and senior year students.

- **Review of procedure manuals.** We review and evaluate our Candidate's Manual and Counting Center Manual based on our team experiences and user comments. Adjustments and updates are made to incorporate recommendations related to clarity and usability as well as general procedural changes to improve the administration of the election. The review of procedure manuals involves subject matter expertise, anticipation and reflection, and discussions and input among stakeholders.
- **Reservation and services for counting center facilities.** Our office creates the schedule for processing voted ballots, reviews space requirements, and establishes timelines for ancillary services. Since our operations are temporary and short term, it has been challenging to locate facilities.
- **Procuring supplies and equipment.** Our office procures and secures the necessary supplies and equipment, including the amount of ballot stock, outgoing and incoming envelopes, secrecy sleeves, securable containers, and seals.
- **Administration and maintenance of the statewide voter registration system (SVRS).** The Help America Vote Act (HAVA) provided for "a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level", while state law provides that voter registration is conducted by the county clerks. The result is that our office hosts and provides technical support to SVRS, while the county clerks are the primary users to enter voter registration records and ensure the accuracy of the voter registration rolls.

The digital voter guide, which we introduced during the 2024 Elections, is just one example of our office's commitment to evaluating and improving upon past elections. The guide was established by Act 115, SLH 2023, and provides voters with a centralized resource to view candidate statements and explanations of the ballot questions. Since our initial implementation, we have reviewed the processes involved in producing the guide and are working to improve several areas including: the collection and compilation of candidate statements; the layout and sequencing of the guide; the distribution of printed copies; and how the guide is publicized. For example, to increase

the reach of this informative resource, we have revised the design of the mail ballot packet envelope to include language that direct voters to view the digital voter guide.

In our planning and administration of the 2026 Elections, we have also been working with the teams at the county clerks' offices to develop materials that strengthen the processes around the chain of custody of the valid return identification envelopes. Chain of custody is a process used to track the movement and control of an asset through its lifecycle by documenting each organization who handles an asset, the date/time it was collected or transferred, and the purpose of the transfer. As such, we will be providing forms with the expectation for each county clerk to note the security, and transfer of the valid return envelopes to the state-operated counting center. We would add that inventory is an accounting of items different from the process of chain of custody. As an example, the county clerks inventory the number of valid return envelopes received through the statewide voter registration system; and state election officials inventory the number of voted ballots within the counting center. The inventory of voted ballots is established through the myriad and extensive procedures of opening, processing, and counting voted ballots at the state-operated counting center.

Further, we would add that we worked with the Committee for Safe and Secure Elections (CSSE) to host a tabletop on de-escalation techniques. The event brought together state and county election officials to roleplay and develop techniques to approach contentious situations that may arise given the national political rhetoric around elections.

As we look forward to the 2026 Elections, we would like to highlight some of the important dates.

Important dates

February 2, 2026	Candidate filing opens
May 13, 2026	Election proclamation issued
June 2, 2026	Candidate filing closes
July 21, 2026	Primary Election mail ballot packets delivered to voters and county clerks may open places of deposit
July 27, 2026	Voter service centers open
August 8, 2026	Primary Election Day. Voting closes at 7:00 PM
August 14, 2026	Primary Election return identification envelope curing deadline

October 16, 2026	General Election mail ballot packets delivered to voters and county clerks may open places of deposit
October 20, 2026	Voter service centers open
November 3, 2026	General Election Day. Voting closes at 7:00 PM
November 10, 2026	General Election return identification envelope curing deadline

RECAP OF AUDIT, REPORTS, AND MOTIONS

At the start of 2025, our office conducted an audit of state representative district 37 from the 2022 General Election by motion of the Elections Commission. Over the course of 3 days in January 2025, we worked with the League of Women Voters as auditors and conducted the audit in the presence of Official Observers. One (1) precinct from representative district 37 was selected to audit. All voted ballots were accounted for and all contests (12) that appeared on the selected ballot style were audited. The audit reconfirmed the integrity of the 2022 General Election results. A report of our findings, entitled [Audit of Representative District 37 from the 2022 General Election](#) dated February 18, 2025, is available through our website, elections.hawaii.gov.

In reviewing the 2024 Elections, we submitted metrics to the Elections Commission in March 2025. The March timeframe follows the federal post-election reporting requirements and removal of inactive voters from the voter registration rolls by the county clerks. We would note that some county and voter registration metrics are only available following the general election. The correspondence of the 2024 Elections metrics was shared via email with the Commissioners and includes:

- 2024 Undeliverable Election Mailings by County
- Ballots Mailed by district/precinct (D/P) for the Primary and General
- 2024 Deficient Return Envelopes by County by Election
- Summary Results Report for the Primary and General
- Over/Under Report for the Primary and General

We supplemented the 2024 metrics report to include the number of voters removed following the 2024 General Election with an email to Commissioners dated April 23, 2025.

Our office also submitted a letter to the Elections Commission dated March 17, 2025, which detailed the roles of the Office of Elections and county clerks; the transfer of return identification envelopes from county to state and included the 2024 General

Election chain of custody forms and over/under report. Likewise, as the Elections Commission sought to form PIGs, our office responded to an inquiry requested by Commissioner Young's PIG and subsequently submitted the following reports in response to the findings by the PIGs. Our response reports are available through our website, elections.hawaii.gov.

- [Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission](#)
- [Response to the Elections Commission Permitted Interaction Group's Report on Complaints Relating to the Chain of Custody of Election Ballots and Reported Irregularities in the Administration of the 2024 General Election](#)

We submitted correspondence via email to the Commissioners dated October 24, 2025, in response to allegations of ballot discrepancies in Hawaii County for the 2024 General Election.

Our office continues to respond to requests by the Elections Commission, including the following from 2025:

- **Motion by the Commission to instruct the Chair to ask the staff to research the cost and timing of verbatim minutes and report back to the Commission.** Our office submitted a response to the Commission dated October 22, 2025, and included in the materials for the meeting of October 29, 2025, presenting options for consideration.
- **Motion by the Commission that the Office of Elections obtain from Hawaii County and provide to the Elections Commission before the next meeting the complete set of USPS business reply mail receipts accounting for all mail ballots received from the postal service during the 2024 General Election.** Our office wrote a letter to Jon Henricks, Hawaii County Clerk, dated October 6, 2025, regarding the motion made by the Commission.

LITIGATION

The following table outlines the status of litigation naming the Chief Election Officer as a defendant:

2024 General Election to December 17, 2025

Court	Case Name	Open/Closed
HI SCT	<i>Bales, et al. v. Green, et al.</i> , SCPW-25-0000384 Petitioners sought a writ of mandamus to force the Governor to appoint someone to the Board of Registration for the Island of Hawaii to address a pending voter challenge. The petition was denied as there was no showing that the Governor had unreasonably refused to appoint a qualified candidate.	Closed
HI SCT	<i>Cushnie, et al. v. State, Office of Elections, et al.</i> , SCEC-24-0000797 Plaintiffs filed an election contest concerning the 2024 General Election on Kauai. Judgment was entered in favor of the State and County, and against Plaintiffs.	Closed
HI SCT	<i>Rosenlee v. State, Office of Elections, et al.</i> , SCEC-24-0000800 Plaintiff filed an election contest challenging the election results associated with the office of State Representative, District 39. Judgment was entered in favor of the State and County, and against the Plaintiff.	Closed
HI SCT	<i>Dicks, et al. v. State, Office of Elections, et al.</i> , SCEC-24-0000761 Plaintiffs sought a writ of mandamus that declared early voting, mail-in voting, and Act 136 of the 2019 Hawai'i Session Laws were unconstitutional or illegal. The case was dismissed for failure to state a claim and the petition for writ of mandamus was denied.	Closed

Court	Case Name	Open/Closed
CC	<i>Cushnie v. Nago, et al.</i> , 5CCV-25-0000041 As this case is on appeal, we will not comment on it other than to note that it concerned matters in the County of Kauai, that the motions to dismissed that were filed were granted, and that the case was appealed to the Hawaii Intermediate Court of Appeals and assigned Case No. CAAP-25-0000571.	On Appeal
CC	<i>Republican National Committee v. State, Office of Elections, et al.</i> , 1CCV-25-0001691 As this case is currently in litigation, we will not publicly comment on it other than to note that it relates to accessing voter registration information and that we have filed a motion to dismiss.	Pending
USDC	<i>Public Interest Legal Foundation, Inc. v. Nago</i> , No. 1:23-cv-00389-LEK-WRP, 2024 WL 7476532 (D. Haw. Oct. 29, 2024), <i>appeal docketed</i> , No. 24-6629 (9th Cir. Oct. 30, 2024) As this case is currently in litigation, we will not publicly comment on it other than to note that it relates to accessing voter registration information, our motion to dismiss was granted, and Plaintiff appealed the matter to the Ninth Circuit Court of Appeals, where we are waiting on a decision.	On Appeal
USDC	<i>United States v. Nago</i> , No. 1:25-cv-00522-LEK-RT (D. Haw. filed Dec. 11, 2025). As this case is currently in litigation, we will not publicly comment on it other than to note that on December 11, 2025, a complaint was filed in the U.S. District Court for the District of Hawaii by the federal government seeking records from the statewide voter registration system.	Pending

Court	Case Name	Open/Closed
USDC	<p><i>Bernegger v. Nago</i>, No. 1:25-cv-00482-JAO-RT (D. Haw. filed Nov. 13, 2025)</p> <p>As this case is currently in litigation, we will not publicly comment on it other than to note that on November 13, 2025, a complaint was filed in the U.S. District Court for the District of Hawaii taking issue with a variety of matters. The defendants include the Chief Election Officer, the Chair of the Elections Commission, and the four county clerks.</p>	Pending

LEGISLATION

For the 2025 Legislative Session, we submitted a housekeeping bill (HB408/SB275) to conform the statutory language in HRS §§ 11-16 and 15D-6 to the deadline to register to vote stated in HRS § 11-24 (i.e. 10 days prior to the election) and to repeal obsolete language regarding permanent absentee ballots. HB408 was passed and enacted as Act 6, SLH 2025.

The Legislature passed 2 additional election related bills:

- **HB134** requires the Chief Election Officer to provide a system for the electronic filing of nomination papers and requires that the system for the electronic filing of nomination papers be provided at no additional cost to the filer (Act 194, SLH 2025).
- **SB176** allows for ballots designated by the county clerks for inclusion to be included in the initial tabulation for purposes of initial recounts; prohibits ballots that the county clerks initially determine are deficient or need additional time to be corrected or verified from being included in the initial tabulation; and increases the minimum threshold required to trigger an automatic recount (Act 226, SLH 2025).

For the upcoming 2026 Legislative Session, our office has submitted a housekeeping bill to address the timelines in which a state senate vacancy occurs. As written, the statutes related to state senate vacancies impact ballot mailing timelines and interfere with the requirements of the federal Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA) to send ballots to eligible voters 45-days before Election Day.

ONGOING AND FUTURE IMPROVEMENTS

Ongoing projects and future improvements to the administration of elections include list maintenance via the Electronic Registration Information Center, Inc. (ERIC); and the aforementioned development and implementation of an electronic candidate filing system.

ERIC provides member states with the ability to share and compare voter registration and driver licensing data to maintain states' voter rolls. The shared information is used to notify states when a voter has registered to vote or applied for a driver license in another jurisdiction to flag the record, starting the removal process, where the voter no longer resides. Hawaii joined ERIC in mid-2025 pursuant to Act 190, SLH 2024. We are working with ERIC, the Department of Transportation (DOT), and the county clerks to make the necessary connections to allow the sharing of data and list maintenance to further improve the accuracy of the voter registration rolls. The state has expended \$25,000 for a one-time membership fee and \$45,264 in membership dues for the current fiscal year (FY26).

Before the transfer of data, there are two main components of testing of the connections that need to occur. The first involves the database connection between SVRS and ERIC, which we expect to be completed at the end of January 2026. The second is the testing of the connection between DOT and ERIC. Our project has had to compete with their other priorities as the DOT database is administered by the City and County of Honolulu's Department of Information and Technology (City DIT). From our latest discussions with City DIT and DOT, they tentatively estimate that they could begin their testing in Spring 2026. The timing of DOT/City DIT testing will determine and influence the coordination with the county clerks to flag voters who may have moved out of their county to other ERIC jurisdictions and are no longer eligible to vote.

The electronic candidate filing system is in development for implementation for the 2028 Elections. Currently, would be candidates may receive their nomination paper online, but must file in-person at their election office or by mail. The electronic candidate filing system will allow candidates to submit their nomination paper and meet the requirements online improving ballot access.



**STATE OF HAWAII
OFFICE OF ELECTIONS**

SCOTT T. NAGO
CHIEF ELECTION OFFICER

802 LEHUA AVENUE
PEARL CITY, HAWAII 96782
elections.hawaii.gov

December 24, 2025

Chair Michael Curtis
and Members of the Elections Commission
c/o Office of Elections
802 Lehua Avenue
Pearl City, Hawaii 96782

Dear Chair Curtis and Members of the Elections Commission:

This is written in response to the motion made by the Elections Commission at the meeting on December 3, 2025:

To direct the Chief Election Officer to produce the full BallotTrax tracking logs from Hart InterCivic for all counties for the 2024 General Election before the next meeting.

The BallotTrax notifications are generated using files each County Elections Division exports of voter information from the statewide voter registration system (SVRS). Enclosed are the following reports from BallotTrax:

Current Election Tracked Ballots reports by status for the 2024 General Election. We would note that tracked ballots are not captured in multiple statuses. Instead, the status would move from outbound to a subsequent category and end once accepted. The statuses applicable to Hawaii are:

- *Outbound* indicates that a mail ballot packet has been created and mailed.
- *Rejected-curable* indicates that the county clerk received the return identification envelope, but the voter must fix an issue with the signature within 5 business days post-Election Day for it to be accepted for counting.

- *Accepted* indicates that the county clerk received and accepted the return identification envelopes for counting.
- *In-person* indicates that the voter voted at a voter service center.
- *No status* indicates a voter had their registration flagged by the county clerk (e.g., questionable address) and as such was not automatically sent a ballot.

Voter Turnout for Current Election indicates voter turnout for the 2024 General Election for all active registered voters and for BallotTrax users.

BallotTrax is a tool to support voters, and SVRS remains the system of record used by election officials to track voters and voting. Please note that, pursuant to law, personal voter information is not subject to release. The county clerks maintain statutory authority over voter registration and the dissemination of voter data for authorized election or governmental purposes.

Very truly yours,



SCOTT T. NAGO
Chief Election Officer

STN:AT:nn
OE-25-157

Enclosure

c: County Clerks

Tracked Ballots for State of Hawaii (pdf)

Status	Ballots	Percent
Printed	0	0.0%
Reprinted	0	0.0%
Outbound	231739	29.8%
Undeliverable	0	0.0%
Inbound	0	0.0%
Received	0	0.0%
Rejected	0	0.0%
Rejected-curable	3008	0.4%
Accepted	484348	62.2%
In-person	39094	5.0%
No Status	20334	2.6%
Total	778523	100.0%

Voter Turnout For Election for State of Hawaii (pdf)

Item	Value
Election Name	November 5, 2024 General Election
-	-
Voter Type	Eligible
Total Eligible Voters	776744
Eligible Ballots Returned	523420
Turnout Percentage	67.4%
-	-
Voter Type	BallotTrax
Total BallotTrax Voters	121082
BallotTrax Ballots Returned	96817
BallotTrax Turnout Percentage	80.0%

A BILL FOR AN ACT

RELATING TO VACANCIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 11-118, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§11-118 Vacancies; new candidates; insertion of names on**
4 **ballots.** (a) In case of death, withdrawal, or disqualification
5 of any party candidate, the vacancy so caused may be filled by
6 the party. The party shall be notified by the chief election
7 officer or the clerk in the case of a county office immediately
8 after the death, withdrawal, or disqualification.

9 (b) If the party fills the vacancy, and so notifies the
10 chief election officer or clerk not later than 4:30 p.m. on the
11 third day after the vacancy occurs, [but not later than 4:30
12 p.m. on the fiftieth day prior to a primary or special primary
13 election or not later than 4:30 p.m. on the fortieth day prior
14 to a special, general, or special general election,] the name of
15 the replacement shall be printed in an available and appropriate
16 place on the ballot to the extent reasonably possible, not
17 necessarily in alphabetical order; provided that the replacement

1 candidate fills out an application for nomination papers, signs
2 the proper certifications on the nomination paper, and takes
3 either an oath or affirmation as provided by law. If the party
4 fails to fill the vacancy pursuant to this subsection, no
5 candidate's name shall be printed on the ballot for the party
6 for that race.

7 (c) If the ballots have been printed and it is not
8 reasonably possible to insert an alternate's name, the chief
9 election officer shall issue a proclamation informing the public
10 that the votes cast for the vacating candidate shall be counted
11 and the results interpreted as follows:

12 (1) In a primary or special primary election:

13 (A) In partisan races, if, but for candidate's
14 vacancy, the vacating candidate would have been nominated
15 pursuant to section 12-41(a), a vacancy shall exist in the
16 party's nomination, to be filled in accordance with subsection
17 (b); and

18 (B) In nonpartisan races, if, but for the candidate's
19 vacancy, the vacating candidate would have qualified as a
20 candidate for the general or special general election ballot
21 pursuant to section 12-41(b), the nonpartisan candidate who
22 received the next highest number of votes shall be placed on the

1 ballot; provided that the candidate also meets the requirements
2 of section 12-41(b);

3 (2) In a special, general, or special general election,
4 if, but for the candidate's vacancy, the vacating candidate
5 would have been elected, a vacancy shall exist in the office for
6 which the race in question was being held, to be filled in the
7 manner provided by law for vacancies in office arising from the
8 failure of an elected official to serve the official's full term
9 because of death, withdrawal, or removal; and

10 (3) In any other case where, but for the candidate's
11 vacancy, the vacating candidate would have been deemed elected,
12 a vacancy shall exist in the office for which the candidate has
13 filed, to be filled in the manner provided by law for vacancies
14 in office arising from the failure of an elected official to
15 serve the official's full term in office because of death,
16 withdrawal, or removal.

17 (d) The parties shall adopt rules to comply with this
18 provision, and those rules shall be submitted to the chief
19 election officer.

20 (e) The chief election officer or county clerk in county
21 elections may waive any or all of the foregoing requirements in

1 special circumstances as provided in the rules adopted by the
2 chief election officer.

3 (f) For the purposes of this section, "party candidate"
4 means the person or persons who would be the candidate or
5 candidates of the party under section 12-41(a).

6 SECTION 2. Section 17-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§17-3 State senator.** (a) Whenever any vacancy in the
9 membership of the state senate occurs, the term of which ends at
10 the next succeeding general election:

11 (1) The governor shall make an appointment within sixty
12 calendar days following the first day of vacancy to fill the
13 vacancy for the unexpired term by selecting a person from a list
14 of three prospective appointees submitted by the same political
15 party as the prior incumbent. The appointee shall be at the
16 time of appointment, and for at least six months immediately
17 prior to the appointment, a member of the political party. The
18 appointee shall, at the time of appointment, be a resident of
19 the same senate district as the prior incumbent. The political
20 party shall submit the list of prospective appointees to the
21 governor within thirty calendar days following the first day of
22 vacancy; and

1 appointment, and shall have been, for at least six months
2 immediately prior to the appointment, a member of the political
3 party. The appointee shall, at the time of appointment, be a
4 resident of the same senate district as the prior incumbent. If
5 the prior incumbent was not a member of any political party, the
6 governor shall appoint a person who is at the time of
7 appointment a resident of the same senate district as the prior
8 incumbent and is not and has not been, for at least six months
9 immediately prior to the appointment, a member of any political
10 party;

11 (2) If it occurs later than on the tenth day prior to the
12 close of filing for the next succeeding primary election but not
13 later than on the [sixtieth] day of the close of filing prior to
14 the next succeeding primary election, or if there are no
15 qualified candidates for any party or nonpartisan candidates
16 qualified for the primary election ballot, nominations for the
17 unexpired term may be filed not later than 4:30 p.m. on the
18 [fiftieth] fifty-seventh day prior to the next succeeding
19 primary election. The chief election officer shall issue a
20 proclamation designating the election for filling the vacancy.
21 All candidates for the unexpired term shall be nominated and
22 elected in accordance with this title. Pending the election the

1 governor shall make a temporary appointment to fill the vacancy
2 and the person appointed shall serve until the election of the
3 person duly elected to fill the vacancy. The governor shall
4 make the appointment from a list of three prospective appointees
5 submitted by the same political party as the prior incumbent.
6 The appointee shall be, at the time of the appointment, and
7 shall have been, for at least six months immediately prior to
8 the appointment, a member of the political party. The appointee
9 shall, at the time of appointment, be a resident of the same
10 senate district as the prior incumbent. If the prior incumbent
11 was not a member of any political party, the governor shall
12 appoint a person who is at the time of appointment a resident of
13 the same senate district as the prior incumbent and is not and
14 has not been, for at least six months immediately prior to the
15 appointment, a member of any political party;

16 (3) If it occurs after the ~~sixtieth day~~ close of filing
17 prior to the next succeeding primary but not later than on the
18 ~~fiftieth~~ seventieth day prior to the next succeeding general
19 election, or if there are no qualified candidates for any party
20 or nonpartisan candidates in the primary, the vacancy shall be
21 filled for the unexpired term at the next succeeding general
22 election. The chief election officer shall issue a proclamation

1 designating the election for filling the vacancy. Party
2 candidates for the unexpired senate term shall be nominated by
3 the county committees of the parties not later than 4:30 p.m. on
4 the [fortieth] sixtieth day prior to the general election;
5 nonpartisan candidates may file nomination papers for the
6 unexpired term not later than 4:30 p.m. on the [fortieth]
7 sixtieth day prior to the general election with the nonpartisan
8 candidate who is to be nominated to be decided by lot, under the
9 supervision of the chief election officer. The candidates for
10 the unexpired term shall be elected in accordance with this
11 title. Pending the election, the governor shall make a
12 temporary appointment to fill the vacancy, and the person
13 appointed shall serve until the election of the person duly
14 elected to fill the vacancy. The governor shall make the
15 appointment from a list of three prospective appointees
16 submitted by the same political party as the prior incumbent.
17 The appointee shall be, at the time of the appointment, and
18 shall have been, for at least six months immediately prior to
19 the appointment, a member of the political party. The appointee
20 shall, at the time of appointment, be a resident of the same
21 senate district as the prior incumbent. If the prior incumbent
22 was not a member of any political party, the governor shall

1 appoint a person who is at the time of appointment a resident of
2 the same senate district as the prior incumbent and is not and
3 has not been, for at least six months immediately prior to the
4 appointment, a member of any political party;

5 (4) If it occurs after the [fiftieth] seventieth day prior
6 to the next succeeding general election or if no candidates are
7 nominated, the governor shall make an appointment to fill the
8 vacancy for the unexpired term by selecting a person from a list
9 of three prospective appointees submitted by the same political
10 party as the prior incumbent. The appointee shall be, at the
11 time of the appointment, and shall have been, for at least six
12 months immediately prior to the appointment, a member of the
13 political party. The appointee shall, at the time of
14 appointment, be a resident of the same senate district as the
15 prior incumbent. If the prior incumbent was not a member of any
16 political party, the governor shall appoint a person who is at
17 the time of appointment a resident of the same senate district
18 as the prior incumbent and is not and has not been, for at least
19 six months immediately prior to the appointment, a member of any
20 political party."

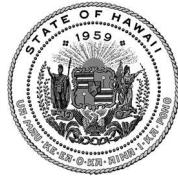
21 SECTION 3. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

.B. NO.

1 SECTION 4. This Act shall take effect _____.

2

3 INTRODUCED BY: _____



**STATE OF HAWAII
ELECTIONS COMMISSION**

MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

December 12, 2025

Mr. Leslie H. Kondo, State Auditor
465 South King Street, Room 500
Honolulu, HI 96813-2917

RE: 2024 State Election Audit Request

Aloha Mr. Kondo,

The Hawaii Elections Commission has voted to audit the 2024 General Election. There are procedural and processing concerns in this mail-in voting system that warrant investigation.

There are allegations of ballot count discrepancies that warrant resolution. Links to three Election Commission Permitted Interaction Groups (PIG) reports follow, for your reference.

PIG 1 Kauai Vote and Envelope Count; July 13, 2025, Report on the Investigation into State and Kauai County Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendations to the State of Hawaii Elections Commission: https://drive.google.com/file/d/1kj-LDJRe_MofgXFso1HP-jwiReACxZub/view.

PIG 2 Big Island Vote Count; September 29, 2025, Report on Purported Big Island Ballot Discrepancy:
<https://drive.google.com/file/d/15iGTQPNay6innBOKiN4qW6Nm8r29M1Dp/view>.

PIG 3; August 27, 2025, Report on complaints relating to the chain of custody of election ballots and reported irregularities in the administration of the 2024 General Election:
https://drive.google.com/file/d/1CM5PyyW0vK7CZAkFDxkUgWa1UD_imvJh/view.

Mr. Leslie H. Kondo, State Auditor

December 12, 2025

Page 2

We invite you to our Elections Commission meeting on January 7, 2026 to share our audit options. One of those options is to request the State Auditor to initiate an investigation.

We appreciate your consideration.

Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-25-007

c: Elections Commission



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

December 12, 2025

The Honorable Ronald D. Kouchi
President of the Senate
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Nadine K. Nakamura
Speaker of the House
State Capitol, Room 439
Honolulu, Hawaii 96813

RE: 2024 State Election Audit Request

Aloha Honorable Kouchi and Nakamura,

The Hawaii Elections Commission has voted to audit the 2024 General Election. There are procedural and processing concerns in this mail-in voting system that warrant investigation.

There are allegations of ballot count discrepancies that warrant resolution. Links to three Election Commission Permitted Interaction Groups (PIG) reports follow, for your reference.

PIG 1 Kauai Vote and Envelope Count; July 13, 2025, Report on the Investigation into State and Kauai County Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendations to the State of Hawaii Elections Commission: https://drive.google.com/file/d/1kj-LDJRe_MofgXFso1HP-jwiReACxZub/view.

PIG 2 Big Island Vote Count; September 29, 2025, Report on Purported Big Island Ballot Discrepancy:
<https://drive.google.com/file/d/15iGTQPNay6innBOKiN4qW6Nm8r29M1Dp/view>.

PIG 3; August 27, 2025, Report on complaints relating to the chain of custody of election ballots and reported irregularities in the administration of the 2024 General Election:
https://drive.google.com/file/d/1CM5PyyW0vK7CZAkFDxkUgWa1UD_imvJh/view.

The Honorable Senate President Kouchi, and
The Honorable House Speaker Nakamura
December 12, 2025
Page 2

We ask that you sponsor (as requested) legislation to authorize and fund an audit of the 2024 Election process and ballot count.

We appreciate your consideration.

Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-25-008

c: Elections Commission



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

December 12, 2025

United States Postal Inspection Service
San Francisco Division (Pacific Area)
Attention: Election Mail Investigations
P.O. Box 882528
San Francisco, CA 94188-2528

RE: Request for USPS Mail Count for Hawaii County, 2024 General Election

At its public meeting on December 3, 2025, the Hawaii Elections Commission voted to request information from the United States Postal Service regarding the number of ballot envelopes mailed for the 2024 General Election in Hawaii County.

The Commission respectfully requests the following USPS information:

1. The total number of ballot envelopes delivered through USPS to the Hawaii County Elections Division during the 2024 General Election.
2. Of that total, how many ballot envelopes were returned by voters.
3. How many ballot packets were processed by USPS as undeliverable or returned to sender.

Thank you for your assistance.

Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

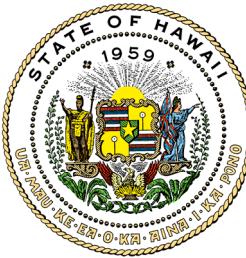
United States Postal Inspection Service

December 12, 2025

Page 2

MC:rd
EC-25-009

c: Elections Commission



December 30, 2025

VIA EMAIL (elections.commission@hawaii.gov)

Mr. Michael Curtis, Chairperson
State of Hawai'i Elections Commission
c/o Office of Elections
802 Lehua Avenue
Pearl City, HI 96782

Re: 2024 State Election Audit Request

Dear Chair Curtis:

Thank you for your letter dated December 12, 2025, inviting me to the Election Commission's meeting on January 7, 2026 to hear the options being considered by the Commission for its audit of the 2024 General Election. While I appreciate the courtesy extended by the Commission, I respectfully decline the invitation.

My participation will not provide the Commission with meaningful information. We do not outsource any of our performance audits, and I am unfamiliar with the organizations offering performance audit services or their audit work.

Moreover, with limited exception, our audits are conducted at the direction of the Hawai'i State Legislature through a concurrent resolution or legislative act. Speaker Nadine Nakamura similarly explained the process in her response of November 18, 2025 to the Commission's request for an audit. I do not have insight into the process that could help the Commission if it decides to pursue the option of requesting that my office conduct the audit.¹

Please be aware that, generally, my office does not audit the performance of county departments or their activities. Each county has its own auditor. From my separate discussions with

¹ If that is the option pursued by the Commission, I strongly suggest that the scope and objective of the requested audit be very specifically described or defined in the concurrent resolution or bill.

Michael Curtis, Chairperson

December 30, 2025

Page 2

Commissioners Ralph Cushnie and Lindsay Kamm as well as with others, the Commission's concerns seem to be about the counties' handling of the 2024 election ballots. Those concerns may be more appropriately addressed to the respective county auditors.

Very truly yours,



Leslie H. Kondo

State Auditor

cc: Dylan Andrion, Commissioner
James Apana, Commissioner
Ralph Cushnie, Commissioner
Lindsay Kamm, Commissioner
Jeffrey Osterkamp, Commissioner
Kaiolani Papalimu, Commissioner
John Sabas, Commissioner



JOSH GREEN, M.D.
GOVERNOR

STATE OF HAWA'I
OFFICE OF INFORMATION PRACTICES

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWA'I 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

September 29, 2025

VIA EMAIL

Mr. Michael Curtis
Chair
Elections Commission

Re: Notice of Appeal of Sunshine Law Complaint (S APPEAL 26-07)

Dear Chair Curtis:

The Office of Information Practices (OIP) received an appeal from Mr. Ralph Cushnie, a member of the Elections Commission (Commission), concerning the Commission's meeting held August 27, 2025. Specifically, Mr. Cushnie asked whether the Commission violated Part I of chapter 92, Hawaii Revised Statutes (HRS) (Sunshine Law) by not allowing him to testify on agenda item III and not allowing testimony generally on agenda item IV. A copy of Mr. Cushnie's appeal is enclosed for your information. OIP requests that the Commission provide a copy of this letter, with enclosures, to all its members.

Please respond in writing to Mr. Cushnie's appeal within ten business days of receiving this notice. The Commission's response is its opportunity to justify its actions and provide additional information for OIP's consideration in this appeal. The Commission's written statement should include the information listed in the attached summary of appeal procedures. Please remember that OIP must interpret the Sunshine Law to favor openness and to disfavor closed meetings. For this reason, when a complainant alleges that a board is conducting its business in violation of the Sunshine Law, the board bears the burden of justifying any departures from the law's general requirement of openness.

Please provide OIP with unaltered copies of the minutes and meeting recording (if a recording was made) for the August 27, 2025, meeting for OIP's use in reviewing this appeal. We would appreciate receiving the copies of these documents no later than ten business days from receipt of this notice.¹

¹ OIP understands that boards have 40 days to prepare meeting minutes under section 92-9, HRS, and if minutes for the meetings at issue are not yet available, the Commission may submit them 40 days after the date of the meeting.

The Commission and Mr. Cushnie, by copy of this notice, are informed that OIP appeals are informal proceedings. Parties are not required to provide each other with copies of their submissions to OIP unless so ordered by OIP. With the exception of records provided for OIP's *in camera* review, OIP will, upon request, provide copies of a submission by a party to other parties without notice to the submitting party. Submissions to OIP are generally considered public records subject to the exceptions to disclosure at section 92F-13, HRS. If a party's submission to OIP contains what the party believes to be nonpublic information, it should indicate on the submission what the nonpublic information is.

Please be advised that any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law. HRS § 92-12(c).

Please be aware that OIP is currently operating with a backlog of cases, so it will take time to resolve your appeal. Moreover, OIP's decision for your appeal will be limited to findings as to whether the Commission violated the Sunshine Law. Even if OIP determines that the Sunshine Law had been violated, OIP does not have the power to remove a board member.

This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

Thank you for your attention to this matter. If you have any questions or would like to discuss this, please do not hesitate to contact the undersigned attorney.

Very truly yours,

Jennifer Z. Brooks
Staff Attorney

JZB:rw
Enclosure

cc: Mr. Ralph Cushnie (without enclosure)
Mr. Scott Nago, Chief Election Officer



**STATE OF HAWAI'I
OFFICE OF INFORMATION PRACTICES**

JOSH GREEN, M.D.
GOVERNOR

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAI'I 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

Appeal Procedures and Responsibilities of the Parties

This is an informational summary of the applicable procedures and the parties' responsibilities in an appeal before OIP pursuant to chapter 2-73, Hawaii Administrative Rules (HAR). The procedures described here are more fully set out in chapter 2-73, HAR, itself, which controls in the event of any inconsistency between its language and the language of this informational summary.

Parties may contact OIP to request an extension of a deadline in writing.

1. Agency response (HAR §§ 2-73-14, -15)

The agency's written response is due ten business days after it receives the notice of appeal from OIP. Its written response must include:

- (1) a concise statement of the factual background;
- (2) An explanation of the agency's position, including its justification for the actions complained of, with citations to the specific statutory sections and other law supporting the agency's position;
- (4) Any evidence necessary to support the agency's argument; and
- (5) Contact information for the agency officer or employee who is authorized to respond and make representations on behalf of the agency concerning the appeal.

If checked, the agency's response must include, for OIP's *in camera* review, if applicable, an unredacted copy of

	the records to which access was denied
X	the minutes and recording of the relevant meeting
X	other records:

Where the agency claims that a record is protected by the attorney-client privilege, the agency may request to submit to OIP the record in redacted form in order to preserve this privilege. OIP will

generally allow such a request where the application of the claimed privilege can be determined by review of the redacted record.

2. Other submissions to OIP (HAR § 2-73-15)

In addition to the information and materials submitted as part of the appeal, OIP may ask the person who filed the appeal, or any other parties participating in the appeal, to submit a written statement or statements. If OIP does so, OIP will also let all the parties know when the statement is due, whether there are any requirements as to the form it takes or what it includes, and when any response by the agency or other parties is due.

OIP can consider information or materials submitted by any person, not just parties to the appeal. However, if someone other than the person who filed the appeal and the responding agency wants to participate in the appeal as a party or in some other way, that person must submit a written request and must explain the reason for the request, and OIP will then determine whether to allow such participation.

Because an appeal before OIP is an informal proceeding, a party's or third person's communication with OIP can be *ex parte*, i.e., outside the presence of the other party or parties. However, OIP does have the option to require the parties to copy each other on submissions.

3. OIP's Decision (HAR §§ 2-73-15, -17, -18, -19)

OIP's written decision on the appeal will be sent to all parties when it is issued. There is no specific deadline set for OIP's decision on an appeal. If the parties have not received either a decision on the appeal or a notice of dismissal from OIP as discussed below, then this appeal is still pending.

A party can request that OIP reconsider its decision. The deadline to request reconsideration is ten business days after the date the decision was issued. If a party misses the deadline for reconsideration or if OIP declines to reconsider the opinion, the party still has the option of appealing the decision to court. Section 92F-43, Hawai'i Revised Statutes (HRS), sets out the standard for an agency's appeal of an OIP decision. For a record requester or Sunshine Law complainant, appeal to court is provided by section 92F-15, HRS (denial of general record request), section 92F-27, HRS (denial of a personal record request), or sections 92-11 and -12, HRS (Sunshine Law complaint).

In some instances, OIP may issue a notice to all parties dismissing all or part of an appeal, instead of issuing a written decision. The circumstances in which OIP can dismiss an appeal are listed in section 2-73-18, HAR. OIP may also ask (but will not require) the parties to mediate the appeal, or an issue within the appeal, as an alternative means to resolve the appeal.

From: [Ralph Cushnie \(EC\)](#)
To: [OIP](#)
Cc: [Dylan Andrion](#)
Subject: [EXTERNAL] Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)
Date: Tuesday, September 16, 2025 12:48:22 PM

Dear Director,

At the August 27, 2025 Elections Commission meeting, during Agenda Item III — Discussion and decision-making relating to the Permitted Interaction Group report on the 2024 General Election — I sought recognition to speak. The Chair refused to recognize me and muted my microphone, despite my *Point of Order*. This prevented me, as a commissioner, from participating in deliberation on a properly noticed agenda item.

Later in the meeting, when Agenda Item IV was reached, Commissioner Andrion requested that the public be permitted to offer testimony. The Chair refused and did not allow public testimony on that item.

This meeting, including the video recording, is available to the public on the Elections Commission website/video archive. <https://youtu.be/03ws-44EKBA?si=3nUquCV9lrPbePGF>

These actions violate:

- HRS §92-1, which requires that all board discussions, deliberations, and decisions be conducted *as openly as possible*;
- HRS §92-3, which mandates that all interested persons must be afforded the opportunity to present oral testimony on any agenda item; and
- *Robert's Rules of Order, 12th ed., §1:4*, which affirms that members are entitled to full participation in proceedings, including the rights to make motions, speak in debate, and vote.

By silencing a commissioner and denying the public's right to testify, the Chair has acted in direct violation of both the letter and spirit of the Sunshine Law. These are not technical oversights — they represent willful suppression of participation and a clear abuse of authority.

Because this matter directly affects the ability of the Elections Commission to function lawfully, I respectfully request that OIP conduct an expedited review of this case. In light of these serious violations, I further submit that the Chair should be removed from their position for failing to uphold the requirements of Chapter 92 and for undermining public trust in the Commission's proceedings.

Thank you for your immediate attention to this urgent matter.

Sincerely,
Ralph Cushnie
Commissioner, Hawai'i State Elections Commission

From: [OIP](#)
To: ["Ralph Cushnie \(EC\)"](#)
Bcc: [Kelly, Patrick K](#)
Subject: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)
Date: Friday, September 19, 2025 11:53:00 AM

Dear Mr. Cushnie,

Thank you for your email. For agenda item IV, it appears that Commissioner Andrion requested public testimony on the agenda item after the meeting was already adjourned. OIP can open an appeal on that issue, however it appears that the PIG report will be on the agenda for discussion at the next meeting. If the Commission did not hear testimony at the prior meeting, it is possible that that would be mitigated at the next meeting with the report is discussed. As such, would you be willing to wait until after that meeting to determine whether you would like to pursue an appeal on that issue?

For agenda item III, OIP does not have jurisdiction over the Commission's use of Robert's Rules of Order, including your point of order and/or your failure to be recognized.

Should you have any questions or wish to discuss, please do not hesitate to contact OIP.

Patrick Kelly
Staff Attorney
Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Tuesday, September 16, 2025 12:48 PM
To: OIP <oip@hawaii.gov>
Cc: Dylan Andrion <dylanandrion@gmail.com>
Subject: [EXTERNAL] Request for Expedited Review — Sunshine Law Complaint: Denial of

Dear Director,

At the August 27, 2025 Elections Commission meeting, during Agenda Item III — Discussion and decision-making relating to the Permitted Interaction Group report on the 2024 General Election — I sought recognition to speak. The Chair refused to recognize me and muted my microphone, despite my *Point of Order*. This prevented me, as a commissioner, from participating in deliberation on a properly noticed agenda item.

Later in the meeting, when Agenda Item IV was reached, Commissioner Andrion requested that the public be permitted to offer testimony. The Chair refused and did not allow public testimony on that item.

This meeting, including the video recording, is available to the public on the Elections Commission website/video archive. <https://youtu.be/03ws-44EKBA?si=3nUquCV9lrPbePGF>

These actions violate:

- HRS §92-1, which requires that all board discussions, deliberations, and decisions be conducted *as openly as possible*;
- HRS §92-3, which mandates that all interested persons must be afforded the opportunity to present oral testimony on any agenda item; and
- *Robert's Rules of Order, 12th ed., §1:4*, which affirms that members are entitled to full participation in proceedings, including the rights to make motions, speak in debate, and vote.

By silencing a commissioner and denying the public's right to testify, the Chair has acted in direct violation of both the letter and spirit of the Sunshine Law. These are not technical oversights — they represent willful suppression of participation and a clear abuse of authority.

Because this matter directly affects the ability of the Elections Commission to function lawfully, I respectfully request that OIP conduct an expedited review of this case. In light of these serious violations, I further submit that the Chair should be removed from their position for failing to uphold the requirements of Chapter 92 and for undermining public trust in the Commission's proceedings.

Thank you for your immediate attention to this urgent matter.

Sincerely,
Ralph Cushnie
Commissioner, Hawai'i State Elections Commission

From: [Ralph Cushnie \(EC\)](#)
To: [OIP](#)
Subject: [EXTERNAL] RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)
Date: Friday, September 19, 2025 1:39:35 PM

Mr. Kelly, Yes lets wait on number 4 and proceed #3.

Sincerely,

Ralph Cushnie

From: OIP <oip@hawaii.gov>
Sent: Friday, September 19, 2025 11:54 AM
To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Subject: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Mr. Cushnie,

Thank you for your email. For agenda item IV, it appears that Commissioner Andrion requested public testimony on the agenda item after the meeting was already adjourned. OIP can open an appeal on that issue, however it appears that the PIG report will be on the agenda for discussion at the next meeting. If the Commission did not hear testimony at the prior meeting, it is possible that that would be mitigated at the next meeting with the report is discussed. As such, would you be willing to wait until after that meeting to determine whether you would like to pursue an appeal on that issue?

For agenda item III, OIP does not have jurisdiction over the Commission's use of Robert's Rules of Order, including your point of order and/or your failure to be recognized.

Should you have any questions or wish to discuss, please do not hesitate to contact OIP.

Patrick Kelly
Staff Attorney
Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>

Sent: Tuesday, September 16, 2025 12:48 PM

To: OIP <oop@hawaii.gov>

Cc: Dylan Andrion <dylanandrion@gmail.com>

Subject: [EXTERNAL] Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Director,

At the August 27, 2025 Elections Commission meeting, during Agenda Item III — Discussion and decision-making relating to the Permitted Interaction Group report on the 2024 General Election — I sought recognition to speak. The Chair refused to recognize me and muted my microphone, despite my *Point of Order*. This prevented me, as a commissioner, from participating in deliberation on a properly noticed agenda item.

Later in the meeting, when Agenda Item IV was reached, Commissioner Andrion requested that the public be permitted to offer testimony. The Chair refused and did not allow public testimony on that item.

This meeting, including the video recording, is available to the public on the Elections Commission website/video archive. <https://youtu.be/03ws-44EKBA?si=3nUquCV9lrPbePGF>

These actions violate:

- HRS §92-1, which requires that all board discussions, deliberations, and decisions be conducted *as openly as possible*;
- HRS §92-3, which mandates that all interested persons must be afforded the opportunity to present oral testimony on any agenda item; and
- *Robert's Rules of Order, 12th ed., §1:4*, which affirms that members are entitled to full participation in proceedings, including the rights to make motions, speak in debate, and vote.

By silencing a commissioner and denying the public's right to testify, the Chair has acted in direct violation of both the letter and spirit of the Sunshine Law. These are not technical oversights — they represent willful suppression of participation and a clear abuse of authority.

Because this matter directly affects the ability of the Elections Commission to function

lawfully, I respectfully request that OIP conduct an expedited review of this case. In light of these serious violations, I further submit that the Chair should be removed from their position for failing to uphold the requirements of Chapter 92 and for undermining public trust in the Commission's proceedings.

Thank you for your immediate attention to this urgent matter.

Sincerely,
Ralph Cushnie
Commissioner, Hawai'i State Elections Commission

From: [OIP](#)
To: ["Ralph Cushnie \(EC\)"](#)
Bcc: [Shimizu, Robert H](#)
Subject: RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)
Date: Friday, September 19, 2025 2:43:00 PM

Dear Mr. Cushnie:

As Patrick informed you, the Office of Information Practices (OIP) does not have jurisdiction over Robert's Rules of Order. Robert's Rules of Order are not a part of the Sunshine Law, and the Elections Commission's (Commission) alleged failure to recognize your point of order or any other alleged violations of Robert's Rules of Order would not be violations of the Sunshine Law which could be appealed to OIP. As such, we are not able to open an appeal on the issue you presented regarding agenda item III.

Thank you.

Robert Shimizu
Staff Attorney

Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Friday, September 19, 2025 1:39 PM
To: OIP <oip@hawaii.gov>
Subject: [EXTERNAL] RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Mr. Kelly, Yes lets wait on number 4 and proceed #3.

Sincerely,

Ralph Cushnie

From: OIP <oip@hawaii.gov>

Sent: Friday, September 19, 2025 11:54 AM

To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>

Subject: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Mr. Cushnie,

Thank you for your email. For agenda item IV, it appears that Commissioner Andrion requested public testimony on the agenda item after the meeting was already adjourned. OIP can open an appeal on that issue, however it appears that the PIG report will be on the agenda for discussion at the next meeting. If the Commission did not hear testimony at the prior meeting, it is possible that that would be mitigated at the next meeting with the report is discussed. As such, would you be willing to wait until after that meeting to determine whether you would like to pursue an appeal on that issue?

For agenda item III, OIP does not have jurisdiction over the Commission's use of Robert's Rules of Order, including your point of order and/or your failure to be recognized.

Should you have any questions or wish to discuss, please do not hesitate to contact OIP.

Patrick Kelly
Staff Attorney
Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>

Sent: Tuesday, September 16, 2025 12:48 PM

To: OIP <oop@hawaii.gov>

Cc: Dylan Andrion <dylanandrion@gmail.com>

Subject: [EXTERNAL] Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Director,

At the August 27, 2025 Elections Commission meeting, during Agenda Item III — Discussion and decision-making relating to the Permitted Interaction Group report on the 2024 General Election — I sought recognition to speak. The Chair refused to recognize me and muted my microphone, despite my *Point of Order*. This prevented me, as a commissioner, from participating in deliberation on a properly noticed agenda item.

Later in the meeting, when Agenda Item IV was reached, Commissioner Andrion requested that the public be permitted to offer testimony. The Chair refused and did not allow public testimony on that item.

This meeting, including the video recording, is available to the public on the Elections Commission website/video archive. <https://youtu.be/03ws-44EKBA?si=3nUquCV9lrPbePGF>

These actions violate:

- HRS §92-1, which requires that all board discussions, deliberations, and decisions be conducted *as openly as possible*;
- HRS §92-3, which mandates that all interested persons must be afforded the opportunity to present oral testimony on any agenda item; and
- *Robert's Rules of Order, 12th ed.*, §1:4, which affirms that members are entitled to full participation in proceedings, including the rights to make motions, speak in debate, and vote.

By silencing a commissioner and denying the public's right to testify, the Chair has acted in direct violation of both the letter and spirit of the Sunshine Law. These are not technical oversights — they represent willful suppression of participation and a clear abuse of authority.

Because this matter directly affects the ability of the Elections Commission to function lawfully, I respectfully request that OIP conduct an expedited review of this case. In light of these serious violations, I further submit that the Chair should be removed from their position for failing to uphold the requirements of Chapter 92 and for undermining public trust in the Commission's proceedings.

Thank you for your immediate attention to this urgent matter.

Sincerely,

Ralph Cushnie
Commissioner, Hawai'i State Elections Commission

From: [Ralph Cushnie \(EC\)](#)
To: [OIP](#)
Subject: [EXTERNAL] RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)
Date: Saturday, September 20, 2025 1:16:33 PM

Dear Mr. Shimizu,

Thank you for your response. I understand that OIP does not adjudicate matters strictly involving Robert's Rules of Order. However, I wish to clarify that my complaint is not limited to parliamentary procedure.

At the August 27, 2025 Elections Commission meeting, I was not afforded the opportunity to present oral testimony or to participate as a commissioner on Agenda Item III. Despite raising a Point of Order, the Chair muted my microphone and prevented me from speaking on a properly noticed agenda item. This directly denied me, as a member of the Commission, the right to participate in deliberations.

Additionally, the meeting was not conducted “as openly as possible” as required under HRS §92-1. The meeting was cut short, which had the effect of preventing both commissioners and members of the public from being heard on pending business. This was not merely an issue of Robert's Rules, but a Sunshine Law violation under:

- **HRS §92-1:** requiring that agency business be conducted as openly as possible to protect the people’s right to know.
- **HRS §92-3:** requiring that “all interested persons shall be afforded an opportunity to present oral testimony on any agenda item.”

By ending the meeting prematurely and silencing participation on Agenda Item III, the Commission failed to uphold these statutory requirements.

Accordingly, I continue to request OIP’s expedited review of these Sunshine Law violations.

Respectfully,
Ralph Cushnie
Commissioner, Hawai‘i State Elections Commission

From: OIP <oip@hawaii.gov>
Sent: Friday, September 19, 2025 2:44 PM
To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Subject: RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Mr. Cushnie:

As Patrick informed you, the Office of Information Practices (OIP) does not have jurisdiction

over Robert's Rules of Order. Robert's Rules of Order are not a part of the Sunshine Law, and the Elections Commission's (Commission) alleged failure to recognize your point of order or any other alleged violations of Robert's Rules of Order would not be violations of the Sunshine Law which could be appealed to OIP. As such, we are not able to open an appeal on the issue you presented regarding agenda item III.

Thank you.

Robert Shimizu
Staff Attorney

Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Friday, September 19, 2025 1:39 PM
To: OIP <oip@hawaii.gov>
Subject: [EXTERNAL] RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Mr. Kelly, Yes lets wait on number 4 and proceed #3.

Sincerely,

Ralph Cushnie

From: OIP <oip@hawaii.gov>
Sent: Friday, September 19, 2025 11:54 AM
To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Subject: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and

Public Participation (Aug 27, 2025 EC Meeting)

Dear Mr. Cushnie,

Thank you for your email. For agenda item IV, it appears that Commissioner Andrion requested public testimony on the agenda item after the meeting was already adjourned. OIP can open an appeal on that issue, however it appears that the PIG report will be on the agenda for discussion at the next meeting. If the Commission did not hear testimony at the prior meeting, it is possible that that would be mitigated at the next meeting with the report is discussed. As such, would you be willing to wait until after that meeting to determine whether you would like to pursue an appeal on that issue?

For agenda item III, OIP does not have jurisdiction over the Commission's use of Robert's Rules of Order, including your point of order and/or your failure to be recognized.

Should you have any questions or wish to discuss, please do not hesitate to contact OIP.

Patrick Kelly
Staff Attorney
Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>

Sent: Tuesday, September 16, 2025 12:48 PM

To: OIP <oip@hawaii.gov>

Cc: Dylan Andrion <dylanandrion@gmail.com>

Subject: [EXTERNAL] Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Director,

At the August 27, 2025 Elections Commission meeting, during Agenda Item III — Discussion and decision-making relating to the Permitted Interaction Group report on the 2024 General Election — I sought recognition to speak. The Chair refused to recognize me and muted my microphone, despite my *Point of Order*. This prevented me, as a commissioner, from participating in deliberation on a properly noticed agenda item.

Later in the meeting, when Agenda Item IV was reached, Commissioner Andrion requested that the public be permitted to offer testimony. The Chair refused and did not allow public testimony on that item.

This meeting, including the video recording, is available to the public on the Elections Commission website/video archive. <https://youtu.be/03ws-44EKBA?si=3nUquCV9lrPbePGF>

These actions violate:

- HRS §92-1, which requires that all board discussions, deliberations, and decisions be conducted *as openly as possible*;
- HRS §92-3, which mandates that all interested persons must be afforded the opportunity to present oral testimony on any agenda item; and
- *Robert's Rules of Order, 12th ed., §1:4*, which affirms that members are entitled to full participation in proceedings, including the rights to make motions, speak in debate, and vote.

By silencing a commissioner and denying the public's right to testify, the Chair has acted in direct violation of both the letter and spirit of the Sunshine Law. These are not technical oversights — they represent willful suppression of participation and a clear abuse of authority.

Because this matter directly affects the ability of the Elections Commission to function lawfully, I respectfully request that OIP conduct an expedited review of this case. In light of these serious violations, I further submit that the Chair should be removed from their position for failing to uphold the requirements of Chapter 92 and for undermining public trust in the Commission's proceedings.

Thank you for your immediate attention to this urgent matter.

Sincerely,
Ralph Cushnie
Commissioner, Hawai'i State Elections Commission

From: [OIP](#)
To: [Ralph Cushnie \(EC\)](#)
Bcc: [Kelly, Patrick K](#)
Subject: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)
Date: Monday, September 22, 2025 3:58:00 PM

Dear Mr. Cushnie:

OIP will open an appeal regarding the August 27, 2025, Elections Commission meeting addressing:

1. Your allegation that you were not allowed to testify or participate on agenda item III, and
2. Whether the commission did not allow testimony on agenda item IV.

Patrick Kelly
Staff Attorney

Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Saturday, September 20, 2025 1:16 PM
To: OIP <oip@hawaii.gov>
Subject: [EXTERNAL] RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Mr. Shimizu,

Thank you for your response. I understand that OIP does not adjudicate matters strictly involving Robert's Rules of Order. However, I wish to clarify that my complaint is not limited to parliamentary procedure.

At the August 27, 2025 Elections Commission meeting, I was not afforded the opportunity to present oral testimony or to participate as a commissioner on Agenda Item III. Despite raising a Point of Order, the Chair muted my microphone and prevented me from speaking on a properly noticed agenda item. This directly denied me, as a member of the Commission, the right to participate in deliberations.

Additionally, the meeting was not conducted "as openly as possible" as required under

HRS §92-1. The meeting was cut short, which had the effect of preventing both commissioners and members of the public from being heard on pending business. This was not merely an issue of Robert's Rules, but a Sunshine Law violation under:

- **HRS §92-1:** requiring that agency business be conducted as openly as possible to protect the people's right to know.
- **HRS §92-3:** requiring that "all interested persons shall be afforded an opportunity to present oral testimony on any agenda item."

By ending the meeting prematurely and silencing participation on Agenda Item III, the Commission failed to uphold these statutory requirements.

Accordingly, I continue to request OIP's expedited review of these Sunshine Law violations.

Respectfully,
Ralph Cushnie
Commissioner, Hawai'i State Elections Commission

From: OIP <oip@hawaii.gov>

Sent: Friday, September 19, 2025 2:44 PM

To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>

Subject: RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Mr. Cushnie:

As Patrick informed you, the Office of Information Practices (OIP) does not have jurisdiction over Robert's Rules of Order. Robert's Rules of Order are not a part of the Sunshine Law, and the Elections Commission's (Commission) alleged failure to recognize your point of order or any other alleged violations of Robert's Rules of Order would not be violations of the Sunshine Law which could be appealed to OIP. As such, we are not able to open an appeal on the issue you presented regarding agenda item III.

Thank you.

Robert Shimizu
Staff Attorney

Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813

Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Friday, September 19, 2025 1:39 PM
To: OIP <oip@hawaii.gov>
Subject: [EXTERNAL] RE: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Mr. Kelly, Yes lets wait on number 4 and proceed #3.

Sincerely,

Ralph Cushnie

From: OIP <oip@hawaii.gov>
Sent: Friday, September 19, 2025 11:54 AM
To: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Subject: Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Mr. Cushnie,

Thank you for your email. For agenda item IV, it appears that Commissioner Andrion requested public testimony on the agenda item after the meeting was already adjourned. OIP can open an appeal on that issue, however it appears that the PIG report will be on the agenda for discussion at the next meeting. If the Commission did not hear testimony at the prior meeting, it is possible that that would be mitigated at the next meeting with the report is discussed. As such, would you be willing to wait until after that meeting to determine whether you would like to pursue an appeal on that issue?

For agenda item III, OIP does not have jurisdiction over the Commission's use of Robert's Rules of Order, including your point of order and/or your failure to be recognized.

Should you have any questions or wish to discuss, please do not hesitate to contact OIP.

Patrick Kelly
Staff Attorney
Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP's "Attorney of the Day" (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP's formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Tuesday, September 16, 2025 12:48 PM
To: OIP <oip@hawaii.gov>
Cc: Dylan Andrion <dylanandrion@gmail.com>
Subject: [EXTERNAL] Request for Expedited Review — Sunshine Law Complaint: Denial of Commissioner and Public Participation (Aug 27, 2025 EC Meeting)

Dear Director,

At the August 27, 2025 Elections Commission meeting, during Agenda Item III — Discussion and decision-making relating to the Permitted Interaction Group report on the 2024 General Election — I sought recognition to speak. The Chair refused to recognize me and muted my microphone, despite my *Point of Order*. This prevented me, as a commissioner, from participating in deliberation on a properly noticed agenda item.

Later in the meeting, when Agenda Item IV was reached, Commissioner Andrion requested that the public be permitted to offer testimony. The Chair refused and did not allow public testimony on that item.

This meeting, including the video recording, is available to the public on the Elections Commission website/video archive. <https://youtu.be/03ws-44EKBA?si=3nUquCV9lrPbePGF>

These actions violate:

- HRS §92-1, which requires that all board discussions, deliberations, and decisions

be conducted *as openly as possible*;

- HRS §92-3, which mandates that all interested persons must be afforded the opportunity to present oral testimony on any agenda item; and
- *Robert's Rules of Order, 12th ed., §1:4*, which affirms that members are entitled to full participation in proceedings, including the rights to make motions, speak in debate, and vote.

By silencing a commissioner and denying the public's right to testify, the Chair has acted in direct violation of both the letter and spirit of the Sunshine Law. These are not technical oversights — they represent willful suppression of participation and a clear abuse of authority.

Because this matter directly affects the ability of the Elections Commission to function lawfully, I respectfully request that OIP conduct an expedited review of this case. In light of these serious violations, I further submit that the Chair should be removed from their position for failing to uphold the requirements of Chapter 92 and for undermining public trust in the Commission's proceedings.

Thank you for your immediate attention to this urgent matter.

Sincerely,
Ralph Cushnie
Commissioner, Hawai'i State Elections Commission



JOSH GREEN, M.D.
GOVERNOR

STATE OF HAWAI'I
OFFICE OF INFORMATION PRACTICES

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAI'I 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

October 17, 2025

VIA EMAIL

Chairperson Michael Curtis
Elections Commission

Re: Notice of Appeal of Sunshine Law Complaint (S APPEAL 26-10)

Dear Chair Curtis:

The Office of Information Practices (OIP) received an appeal from Commissioner Ralph Cushnie asserting two issues:

1. Whether the Elections Commission (Commission) violated the “opening-meeting principals” of Part I of chapter 92, Hawaii Revised Statutes (HRS) (Sunshine Law), specifically, sections 92-1 and 92-3, HRS, by allegedly failing to distribute his email to the Commission dated August 31, 2025 (August 31 email), to the full Commission and instead “selectively” sharing it with Commissioner Jeffery Osterkamp. Mr. Cushnie asserts that these actions or inactions “materially prevented the Commission from deliberating with full and equal access to information.”
2. Whether the Commission violated sections 92-3 and 92-2.5, HRS, by allowing Chair Curtis, who is not a Permitted Interaction Group (PIG) member, to work with Commissioner Osterkamp on the PIG report, thereby “engag[ing] in non-permitted discussions or coordination outside of a noticed meeting.”

Mr. Cushnie asked that OIP direct the Commission to share his August 31 email and records with all Commissioners and the public.

The appeal alleges that Mr. Cushnie's August 31 email requested that his message be placed on the next meeting agenda,¹ and shared with the public and all Commissioners, especially Jeffery Osterkamp and Claire McAdam. The appeal alleges that Mr. Cushnie's email was only shared with Commissioner Osterkamp, not the full Commission, and that only a portion of it appeared in the PIG report. The appeal also claims that at the October 1 meeting, Commissioner Kahiolani Papalimu stated publicly that Chair Curtis and Commissioner Osterkamp collaborated on the PIG report, even though Chair Curtis was not a PIG member.

Please review all of Mr. Cushnie's claims in his complaint to OIP, which is enclosed. OIP requests that the Commission provide a copy of this letter, with enclosures, to all its commissioners.

Response to Appeal

Please respond in writing to Mr. Cushnie's appeal within ten business days of receiving this notice. The Commission's response is its opportunity to justify its actions and provide additional information for OIP's consideration in this appeal. Please remember that OIP must interpret the Sunshine Law to favor openness and to disfavor closed meetings. HRS § 92-1. For this reason, when a complainant alleges that a board is conducting its business in violation of the Sunshine Law, the board bears the burden of justifying any departures from the law's general requirement of openness.

The Commission's written statement should include the information listed in the attached summary of appeal procedures. Additionally, OIP requests copies of the Commission's:

1. Minutes² and recording of the October 1, 2025 meeting;
2. Board packet for the October 1, 2025 meeting; and
3. Minutes and recording of the meeting at which Commissioner Osterkamp's relevant PIG was established.

¹ The Sunshine Law requires that a meeting notice "include an agenda that lists all of the items to be considered at the forthcoming meeting." HRS § 92-7. This requirement ensures the public has enough detail to understand the agenda topics and decide whether to attend the meeting and offer testimony. OIP Op. Ltr. No. 07-02 at 4. The Sunshine Law does not dictate what topics must be included or who decides them. This is typically determined by the board's own rules. See OIP, Open Meetings Guide to the Sunshine Law for the State and County Boards, (August 2025) at 25, <https://oip.hawaii.gov/wp-content/uploads/2025/08/2025-Sunshine-GUIDE-Final.pdf> ("For instance, where the chair of a board has the sole discretion to set the agenda, the board has no 'power' over that decision and, therefore, board members may request the addition of possible agenda items outside of a properly noticed meeting, so long as they do not discuss the substance of items.").

² OIP understands that boards have 40 days to prepare meeting minutes under section 92-9, HRS, and if minutes for the meetings at issue are not yet available, boards may submit them 40 days after the date of the meeting.

Mr. Cushnie's first issue alleges that the Commission's failure to distribute his August 31 email violated the "opening-meeting principals" under sections 92-3 and 92-1, HRS, which provides,

[I]t is the policy of this State that the formation and conduct of public policy – the discussions, deliberations, decisions, and action of governmental agencies – shall be conducted as openly as possible. To implement this policy the legislature declares that:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings.

HRS § 92-1. Please note that the Sunshine Law's provisions on meeting material distribution are found at section 92-7.5, HRS, the board packet law. "Board packet" is defined as "documents that are compiled by the board and distributed to board members before a meeting for use at that meeting." HRS § 92-7.5(b) (am L 2025, c 169, §2). It also does not require that a board packet include particular materials. OIP Op. Ltr. No. 23-01 at 29 (citing HRS § 92-7.5(b) (limiting the definition of "board packet" to documents distributed in advance of a meeting)). The Sunshine Law also does not require a board to create a board packet, but if a board does decide to create a board packet, it must make it available to the public at least three full business days before its meeting. HRS § 92-7.5(a)

With respect to the second issue, the Sunshine Law generally requires a board to discuss board business in an open meeting. OIP Op. Ltr. No. 23-01 at 6; HRS § 92-3. When not in a "meeting," board members may only discuss board business if a permitted interaction in section 92-2.5, HRS, applies. HRS § 92-2.5(i). When a board establishes an investigative PIG under section 92-2.5(b), HRS, it must define the scope of the investigation and each member's authority. HRS § 92-2.5(b)(1)(A). Once formed, PIG members cannot discuss its investigation with non-PIG board members until a meeting at least six business days after the meeting at which the PIG reports its investigation to the full board. OIP Op. Ltr. No. 23-01 at 9. "To do otherwise would put the discussion outside the parameters of section 92-2.5(b)(1), HRS, and would violate the spirit of the Sunshine Law." Id. (citing HRS §§ 92-1, 92-2.5(b)).

Notice

The Commission and Mr. Cushnie, by copy of this notice, are informed that OIP appeals are informal proceedings. Parties are not required to provide each other with copies of their submissions to OIP unless so ordered by OIP. With the exception of records provided for OIP's *in camera* review, OIP will, upon request, provide copies of a submission by a party to other parties without notice to the submitting party. Submissions to OIP are generally considered public records subject to the exceptions to disclosure at section 92F-13, HRS. If a party's submission to OIP contains what the party believes to be nonpublic information, it should indicate on the submission what the nonpublic information is.

Chairperson Michael Curtis

October 17, 2025

Page 4

Please be advised that any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law. HRS § 92-12(c).

Please be aware that OIP is currently operating with a backlog of cases, so it will take time to resolve your appeal. Moreover, OIP's decision for your appeal will be limited to findings as to whether the Commission violated the Sunshine Law. Even if OIP determines that the Sunshine Law had been violated, OIP does not have the power to enforce its decisions by voiding the Commission's final action.

Only the court may void a final action of a board that was taken in violation of the open meeting or notice requirements of the Sunshine Law. HRS § 92-11. While any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, a suit to void any final action must be commenced within ninety days of the action. HRS §§ 92-11, -12. After determining whether the Sunshine Law was or will be violated, the court may also order payment of reasonable attorney's fees and costs to the prevailing party. HRS § 92-12(c).

This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

Thank you for your attention to this matter. If you have any questions or would like to discuss this, please do not hesitate to contact the undersigned attorney.

Sincerely,



Tiara Maumau
Staff Attorney

TSM:rw

Enclosures

cc: Ralph Cushnie (without enclosures)
 Mr. Scott Nago, Chief Election Officer



**STATE OF HAWAI'I
OFFICE OF INFORMATION PRACTICES**

JOSH GREEN, M.D.
GOVERNOR

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAI'I 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

Appeal Procedures and Responsibilities of the Parties

This is an informational summary of the applicable procedures and the parties' responsibilities in an appeal before OIP pursuant to chapter 2-73, Hawaii Administrative Rules (HAR). The procedures described here are more fully set out in chapter 2-73, HAR, itself, which controls in the event of any inconsistency between its language and the language of this informational summary.

Parties may contact OIP to request an extension of a deadline in writing.

1. Agency response (HAR §§ 2-73-14, -15)

The agency's written response is due ten business days after it receives the notice of appeal from OIP. Its written response must include:

- (1) a concise statement of the factual background;
- (2) An explanation of the agency's position, including its justification for the actions or inactions complained of, with citations to the specific statutory sections and other law supporting the agency's position;
- (3) Any evidence necessary to support the agency's argument; and
- (4) Contact information for the agency officer or employee who is authorized to respond and make representations on behalf of the agency concerning the appeal.

If checked, the agency's response must include, if applicable, a copy of

<input checked="" type="checkbox"/>	Minutes and recording of the October 1, 2025 meeting
<input checked="" type="checkbox"/>	Board packet for the October 1, 2025 meeting
<input checked="" type="checkbox"/>	Minutes and recording of the meeting at which Commissioner Jeffery Osterkamp's relevant Permitted Interaction Group (PIG) was established.

Where the agency claims that a record is protected by the attorney-client privilege, the agency may request to submit to OIP the record in redacted form in order to preserve this privilege. OIP will

generally allow such a request where the application of the claimed privilege can be determined by review of the redacted record.

2. Other submissions to OIP (HAR § 2-73-15)

In addition to the information and materials submitted as part of the appeal, OIP may ask the person who filed the appeal, or any other parties participating in the appeal, to submit a written statement or statements. If OIP does so, OIP will also let all the parties know when the statement is due, whether there are any requirements as to the form it takes or what it includes, and when any response by the agency or other parties is due.

OIP can consider information or materials submitted by any person, not just parties to the appeal. However, if someone other than the person who filed the appeal and the responding agency wants to participate in the appeal as a party or in some other way, that person must submit a written request and must explain the reason for the request, and OIP will then determine whether to allow such participation.

Because an appeal before OIP is an informal proceeding, a party's or third person's communication with OIP can be *ex parte*, i.e., outside the presence of the other party or parties. However, OIP does have the option to require the parties to copy each other on submissions.

3. OIP's Decision (HAR §§ 2-73-15, -17, -18, -19)

OIP's written decision on the appeal will be sent to all parties when it is issued. There is no specific deadline set for OIP's decision on an appeal. If the parties have not received either a decision on the appeal or a notice of dismissal from OIP as discussed below, then this appeal is still pending.

A party can request that OIP reconsider its decision. The deadline to request reconsideration is ten business days after the date the decision was issued. If a party misses the deadline for reconsideration or if OIP declines to reconsider the opinion, the party still has the option of appealing the decision to court. Section 92F-43, Hawai'i Revised Statutes (HRS), sets out the standard for an agency's appeal of an OIP decision. For a record requester or Sunshine Law complainant, appeal to court is provided by section 92F-15, HRS (denial of general record request), section 92F-27, HRS (denial of a personal record request), or sections 92-11 and -12, HRS (Sunshine Law complaint).

In some instances, OIP may issue a notice to all parties dismissing all or part of an appeal, instead of issuing a written decision. The circumstances in which OIP can dismiss an appeal are listed in section 2-73-18, HAR. OIP may also ask (but will not require) the parties to mediate the appeal, or an issue within the appeal, as an alternative means to resolve the appeal.

From: [Ralph Cushnie \(EC\)](#)
To: [OIP](#)
Subject: [EXTERNAL] RE: Failure to Distribute Commissioner-Submitted Materials – HAR §3-170-5 Violation
Date: Tuesday, October 7, 2025 7:30:57 AM

Dear Ms. Feldman,

Thank you for your response and for forwarding my prior correspondence for review. I wish to clarify that my main concern is not limited to the drafting of the PIG report itself, but the pattern of selective information sharing by Chair Michael Curtis, which prevents the Commission and the public from making informed decisions.

On August 31, 2025, I submitted a letter and supporting records to the Elections Commission requesting that the material be placed on the next meeting agenda and distributed to all commissioners and the public. My message stated:

“Hello Raymond or whomever is reading this e-mail. Please put this on the next meeting agenda and distribute to the rest of the commissioners especially Jeffery Osterkamp and Claire McAdam. Please let the public see this documentation.”

Chair Curtis did not distribute these materials to the full Commission as requested. Instead, he shared them privately with Commissioner Jeffery Osterkamp alone. This selective disclosure deprived other commissioners of the same information and the public of lawful access.

Commissioner Osterkamp then incorporated portions of the correspondence into his Permitted Interaction Group (PIG) Report while omitting the key County of Hawai‘i drop-box collection records I provided—records showing that 27,912 envelopes were collected from drop boxes and 29,641 were received by mail (57,553 total). By excluding this data, his report gave a misleading impression and obscured the fact that the remaining 19,000 ballots reported by the State could only have originated from electronic entries.

At the October 1 Commission meeting, Commissioner Kahiolani Papalimu publicly stated that Chair Curtis and Commissioner Osterkamp had worked together to draft the report, even though the Chair was not a member of the PIG. She also asked that her name be removed from the report.

The failure to distribute my submission and the selective sharing of records with one commissioner constitute a violation of the Sunshine Law’s open-meeting principles under HRS §92-1, §92-2.5, and §92-3. It has materially prevented the Commission from deliberating with full and equal access to information.

I respectfully request that OIP investigate this matter to determine whether:

1. Chair Curtis’s selective distribution of commissioner-submitted materials violated the Sunshine Law;
2. Chair Curtis and Commissioner Osterkamp engaged in non-permitted discussions or coordination outside of a noticed meeting; and

3. The Commission should be directed to release my full letter and records to all members and to the public, as originally requested.

Thank you for your attention and for ensuring that the Elections Commission complies with both the letter and the spirit of Hawai'i's open-government laws.

Sincerely,
Ralph Cushnie

From: OIP <oip@hawaii.gov>

Sent: Monday, October 6, 2025 1:58 PM

To: Ralph Cushnie (EC) <ralphcushniecc@cushniecci.com>

Subject: Failure to Distribute Commissioner-Submitted Materials – HAR §3-170-5 Violation

Mr. Cushnie:

According to your email received today regarding the “Failure to Distribute Commissioner-Submitted Materials – HAR §3-170-5 Violation,” you wrote that Commissioner Osterkamp, a member of the Elections Commission’s permitted interaction group (PIG), had communicated about matters in the PIG’s report to a non-member of the PIG, Commission Chair Curtis. If this established, the communication between PIG member Commissioner Osterkamp and non-PIG member Commission Chair Curtis may be deemed a violation of the Sunshine Law, and specifically, section 92-2.5, Hawaii Revised Statutes (HRS).

As your email requests that an appeal file be opened, your request will be forwarded to OIP’s Director for review. Please be advised that if an appeal file is opened, this appeal will allege a violation of the Sunshine Law by the Elections Commission as a whole, and not a violation by an individual member.

Sincerely,
Edith Feldman
Staff Attorney

Office of Information Practices
State of Hawaii
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph.: (808) 586-1400
Facsimile: (808) 586-1412
Email: oip@hawaii.gov
Website: <http://oip.hawaii.gov>

This e-mail has been sent under OIP’s “Attorney of the Day” (AOD) service. The AOD service allows anyone to ask an OIP attorney any UIPA or Sunshine Law question (chapter 92F, and part I of chapter 92, HRS). AOD advice is non-binding, general, informal guidance to the public and to agency and board personnel, and does not have the precedential value of OIP’s formal opinions.

From: Ralph Cushnie (EC) <ralphcushnieec@cushniecci.com>
Sent: Sunday, October 5, 2025 3:20 PM
To: OIP <oip@hawaii.gov>
Cc: Lindsay Kamm <lindsaykamm.ec@gmail.com>
Subject: [EXTERNAL] FW: Failure to Distribute Commissioner-Submitted Materials – HAR §3-170-5 Violation

TO:
Office of Information Practices (OIP)
State of Hawai‘i
Email: oip@hawaii.gov

DATE:
October 4, 2025

SUBJECT:
Sunshine Law Complaint – Chair Curtis Shared Correspondence Only with
Commissioner Osterkamp and Possibly Assisted in Drafting PIG Report

I am filing this complaint under HRS Chapter 92 regarding Chair Michael Curtis’s improper handling of Commission correspondence and his possible collaboration with Commissioner Jeffery Osterkamp on the Permitted Interaction Group (PIG) report concerning Hawai‘i County’s 2024 ballot discrepancies.

On August 31, 2025, I sent an email stating: (See E-Mail below)
“Hello Raymond or whomever is reading this e-mail. Please put this on the next meeting agenda and distribute to the rest of the commissioners especially Jeffery Osterkamp and Claire McAdam. Please let the public see this documentation.”

Chair Curtis did not distribute my letter and attached records to the full Commission as requested. Instead, he privately shared the correspondence only with Commissioner Osterkamp. This selective sharing excluded other Commissioners and the public and violates the Sunshine Law’s requirement that board business be conducted openly and equally among members. Mr. Osterkamp went on to tell the commission and the public that we had not submitted the records backing our report.

Because Osterkamp received these materials privately, he was able to selectively edit his PIG report, omitting the drop box collection records I submitted. Those records show 27,912 envelopes collected from drop boxes across the big Island during the election cycle. (see appendix 6 State of Hawaii Elections Commission Permitted Interaction Group Report on Purported Big Island Ballot Discrepancy September 29, 2025 Jeffrey M. Osterkamp, Chair/Commissioner Clare McAdam, Member/Commissioner Kahiolani Papalimu, Member/Commissioner)

At a subsequent meeting on October 1st, Commissioner Kahiolani Papalimu publicly

stated that Chair Curtis and Commissioner Osterkamp worked together to draft the PIG report. She also asked for her name to be removed from the report. Chair Curtis was not a member of that PIG. His possible private participation, combined with the selective handling of correspondence, supports the conclusion that both engaged in non-permitted discussions of Commission business outside a public meeting. See recording https://youtu.be/6im_DYJuxp4?si=wGbFP3_6X8nmBOqe around 3 pm

By withholding my full correspondence and enabling one Commissioner to privately use and edit official materials, Commissioner Osterkamp and possibly Chair Curtis produced a misleading and incomplete report and deprived the rest of the Commission and the public of equal access to information.

I respectfully request that OIP investigate these actions and direct the Elections Commission to release my full letter and records to all Commissioners and to the public, as originally requested.

Sincerely,

Ralph Cushnie

From: Ralph Cushnie (EC)
Sent: Monday, September 29, 2025 1:39 PM
To: OE.Elections.Commission <elections.commission@hawaii.gov>
Cc: OIP <oip@hawaii.gov>; Lindsay Kamm <lindsaykamm.ec@gmail.com>
Subject: FW: Failure to Distribute Commissioner-Submitted Materials – HAR §3-170-5 Violation

Hello Raymund, can you make the following information available to screen share during our next meeting October 1st . I would like to spend a few minutes to share and explain the records from Hawaii County with the commissioners and the public. I asked on August 31st and September 25 for this to be posted on the agenda then on meeting materials, but the chair has chosen to conceal these important records from the commissioners and the public. I look forward to your cooperation on this matter.

Sincerely,

Ralph Cushnie

From: Ralph Cushnie (EC)
Sent: Thursday, September 25, 2025 4:59 PM
To: OE.Elections.Commission <elections.commission@hawaii.gov>

Cc: OIP <oip@hawaii.gov>

Subject: Failure to Distribute Commissioner-Submitted Materials – HAR §3-170-5 Violation

Aloha,

On August 31, 2025, I submitted the attached documentation (“Big Island evidence of ballots being inserted electronically”) with a specific request that it be placed on the next Elections Commission agenda and distributed to all commissioners and the public. This has not occurred.

By withholding this information from commissioners, you are preventing us from making informed decisions on matters that fall squarely within our statutory duties. Selectively filtering commissioner-submitted materials undermines both transparency and the lawful operation of the Commission.

HAR §3-170-5 provides:

“(a) Any person may obtain information available for public dissemination concerning the activities of the elections commission during established business hours.
(b) Any person may file in the office of the elections commission requests, objections, or views on any matter before the elections commission in accordance with this chapter.”

My submission is a commissioner-filed records from the County of Hawaii on a matter before the Commission, and by rule it must be accepted, published, and made available to the commission and the public.

I am formally notifying the Office of Information Practices (OIP) of this violation. Going forward, I expect my submitted documentation to be included in the Meeting Materials packet, made available to commissioners and the public.

Please confirm that this material will be circulated to all commissioners and noticed publicly in compliance with HAR §3-170-5 and HRS Chapter 92.

Respectfully,
Ralph Cushnie
Elections Commissioner

From: Ralph Cushnie (EC)
Sent: Sunday, August 31, 2025 1:31 PM
To: OE.Elections.Commission <elections.commission@hawaii.gov>
Subject: FW: Big Island evidence of ballots being inserted electronically.

Hello Raymond or whomever is reading this e-mail. Please put this on the next meeting agenda and distribute to the rest of the commissioners especially Jeffery Osterkamp and Claire McAdam. Please let the public see this documentation.

The State reported counting 76,595 ballots.

The County has a record of collecting 27,912 ballot envelopes from drop boxes across the Big Island. They also provided receipts from the USPS for 29,641 ballot envelopes. For a total of 57,553 ballot envelopes received. They can not account for 19,042 ballot envelopes.

The County of Hawaii's reason for the discrepancy is that the USPS did not send receipts for 19,042 envelopes worth over \$13,000.

I recently sent a UIPA records request to get the communication from Hawaii County to the USPS to get missing invoices. There has been no communication.

The state claims that 76,595 envelopes were signature verified and counted. They have provided a one-page electronic print out with no back up documentation.

The 19,042 ballots were added electronically into the SVRS Statewide Voter Registration System with no paper records. Read Scott Nago's March 17 letter(OE-25-042) to the elections commission page 3 second Paragraph.

Sincerely,

Ralph Cushnie

From: [OIP](#)
To: [OE.Elections.Commission](#); [OE.Elections](#)
Cc: [Nago, Scott T](#); [Ching, Jordan AK](#)
Subject: Re: Notice of Appeal of Sunshine Law Complaint (S APPEAL 26-13)
Date: Wednesday, November 12, 2025 8:50:37 AM
Attachments: [111225 Ltr to DAGS-ELFCC.pdf](#)
[Appeal Procedures and Responsibilities of the Parties.pdf](#)
[101125 Email fr Cushnie.pdf](#)

Dear Chair Curtis,

Attached is a letter dated November 12, 2025 from the Office of Information Practices regarding S APPEAL 26-13 request for assistance we received from Mr. Ralph Cushnie. Also attached are the Appeal Procedures and Responsibilities of the parties and Mr. Cushnie's request.

Please contact our office if you have difficulty opening the attachments.

Thank you,

Office of Information Practices
State of Hawai'i
No. 1 Capitol District Building
250 S. Hotel Street, #107
Honolulu, HI 96813
Ph: (808) [REDACTED]
Facsimile: (808) [REDACTED]
Email: [REDACTED]
Website: <http://oip.hawaii.gov>



JOSH GREEN, M.D.
GOVERNOR

STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) [REDACTED] FAX: (808) [REDACTED]
E-MAIL: [REDACTED]
www.oip.hawaii.gov

November 12, 2025

VIA EMAIL

Chairperson Michael Curtis
Elections Commission

Re: Notice of Appeal of Sunshine Law Complaint (S APPEAL 26-13)

Dear Chair Curtis:

The Office of Information Practices (OIP) received an appeal from Commissioner Ralph Cushnie concerning the Elections Commission's (Commission) October 1, 2025 meeting (October 1 meeting).¹ Mr. Cushnie asked whether the Commission violated Part I of chapter 92, Hawaii Revised Statutes (HRS) (Sunshine Law), specifically sections 92-3, 92-5(b), and 92-9, HRS, by allegedly (1) refusing to recognize him during Agenda Item III, "Discussion and decision making relating to the PIG report on compliance with HAR 3-177 and ballot discrepancies[,]” declaring him "ejected," muting his microphone, and barring his participation in further agenda items; and (2) denying public testimony during Agenda Item IV, despite objections from Commissioner Andrion.

A copy of Mr. Cushnie's appeal² is enclosed for your information. OIP requests that the Commission provide a copy of this letter, with enclosures, to all its commissioners.

Response to Appeal

Please respond in writing to Mr. Cushnie's appeal within ten business days of receiving this notice. The Commission's response is its opportunity to justify its actions and provide additional information for OIP's consideration in this appeal. Please remember that OIP must interpret the Sunshine Law to favor openness and to disfavor closed meetings. For this reason, when a

¹ The Commission's response is also pending in S Appeal 26-10, involving the same October 1 meeting, but different issues. Because the appeals involve similar facts and similarly situated parties, OIP may consolidate S Appeal 26-10 and S APPEAL 26-13 pursuant to section 2-73-15(g), Hawaii Administrative Rules (HAR). The Commission is permitted, but not required, to submit a joint response addressing all issues raised in both appeals.

² Mr. Cushnie's appeal asserted additional allegations. In a letter dated October 27, 2025, OIP informed him that these claims either required additional documentation, were duplicative of existing appeals, or outside of OIP's jurisdiction. This appeal, S APPEAL 26-13, is limited to the issues outlined above and does not address the other allegations.

complainant alleges that a board is conducting its business in violation of the Sunshine Law, the board bears the burden of justifying any departures from the law's general requirement of openness.

The Commission's written statement should include the information listed in the attached summary of appeal procedures. Additionally, OIP requests copies of the Commission's minutes³ and recording of the October 1 meeting for review in this appeal. We would appreciate receiving the copies of these documents no later than ten business days from receipt of this notice.

Notice

The Commission and Mr. Cushnie, by copy of this notice, are informed that OIP appeals are informal proceedings. Parties are not required to provide each other with copies of their submissions to OIP unless so ordered by OIP. With the exception of records provided for OIP's *in camera* review, OIP will, upon request, provide copies of a submission by a party to other parties without notice to the submitting party. Submissions to OIP are generally considered public records subject to the exceptions to disclosure at section 92F-13, HRS. If a party's submission to OIP contains what the party believes to be nonpublic information, it should indicate on the submission what the nonpublic information is.

Please be advised that any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law. HRS § 92-12(c).

Please be aware that OIP is currently operating with a backlog of cases, so it will take time to resolve your appeal. Moreover, OIP's decision for your appeal will be limited to findings as to whether the Commission violated the Sunshine Law. Even if OIP determines that the Sunshine Law had been violated, OIP does not have the power to enforce its decisions by voiding the Commission's final action.

Only the court may void a final action of a board that was taken in violation of the open meeting or notice requirements of the Sunshine Law. HRS § 92-11. While any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, a suit to void any final action must be commenced within ninety days of the action. HRS §§ 92-11, -12. After determining whether the Sunshine Law was or will be violated, the court may also order payment of reasonable attorney's fees and costs to the prevailing party. HRS § 92-12(c).

This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

³ OIP understands that boards have 40 days to prepare meeting minutes under section 92-9, HRS, and if minutes for the meetings at issue are not yet available, boards may submit them 40 days after the date of the meeting.

Thank you for your attention to this matter. If you have any questions or would like to discuss this, please do not hesitate to contact the undersigned attorney.

Sincerely,



Tiara Maumau
Staff Attorney

TSM: rw
Enclosures

cc: Mr. Ralph Cushnie (without enclosures)
Mr. Scott Nago, Chief Election Officer
Mr. Jordan Ching, Deputy Attorney General

From: [Ralph Cushnie \(EC\)](#)
To: [OIP](#)
Cc: [OE.Elections.Commission](#)
Subject: [EXTERNAL] Sunshine Law Complaint and Ethical Misconduct Allegation – Chair Curtis's Concealment of Records, Redacted Communications, and Deputy Attorney General's Professional Misconduct
Date: Saturday, October 11, 2025 4:11:50 PM
Attachments: [1454 NTR Mike Curtis OE Communications.pdf](#)
[1276 NTR Mike Curtis Communications October.pdf](#)
[1379 NTR Curtis Communication November.pdf](#)
[1377 NTR Curtis OE Communication Jan.pdf](#)
[2025-06-23NAME-RequestforCommunications-May2025.pdf](#)
[2025-06-26 Cushnie 2 - Request for Communications - December 2024.pdf](#)
[Curtis e-mail OIP slow.pdf](#)

Dear OIP,

This complaint is submitted pursuant to HRS Chapter 92 and HAR §2-73 concerning multiple Sunshine Law violations by Chair Mike Curtis and ethical misconduct by Deputy Attorney General (DAG) Jordan Ching.

Chair Curtis continues to conceal, redact, and control access to official email communications between himself, the Office of Elections staff, Chief Election Officer Scott Nago, and the DAGs advising the Commission. These communications concern official Commission business and are being withheld from commissioners and the public, contrary to HRS §92-1, which requires that government operations be conducted “as openly as possible.”

Further, DAG Jordan Ching has knowingly allowed and enabled this concealment, in violation of his professional duties under the Hawai‘i Rules of Professional Conduct (HRPC).

Evidence and Background

1. January 14, 2025 Emails:

Chair Curtis wrote to DAG Christopher Leong stating his intent to “share OIP complaints with the Commission if and when the issue is aired.” This constitutes an intentional decision to withhold records from commissioners and the public until compelled by OIP.

In the same email chain, Curtis instructed DAG Leong to write to OIP claiming that “our records are online” and that “by the time OIP gets around to looking at meeting minute discrepancies, the minutes will be approved.” This demonstrates a conscious effort to obstruct or delay OIP oversight.

2. Redacted Communications:

Multiple Notices to Requesters from the Office of Elections (April–June 2025) confirm that Curtis's communications with Office of Elections staff were redacted under HRS §92F-13(3) and (4) as "attorney-client privileged." These communications are not private legal advice but administrative exchanges between public officials performing statutory duties, which must be open to both commissioners and the public.

3. October 1, 2025 Meeting Violations:

- Chair Curtis refused to recognize Commissioner Cushnie under Agenda Item III ("Discussion and decision making relating to the PIG report on compliance with HAR 3-177 and ballot discrepancies").
- He declared Commissioner Cushnie "ejected," muted his microphone, and blocked participation in further agenda items.
- Public testimony was denied under Agenda Item IV, despite objections from Commissioner Andrion.

These actions violate HRS §§92-3, 92-5(b), and 92-9.

Violations of the Hawai'i Rules of Professional Conduct by DAG Jordan Ching

This behavior violates multiple provisions of the Hawai'i Rules of Professional Conduct, including Rules 1.13, 1.11, and 8.4.

1. Organizational Client and Duty to the Entire Commission

Under Rule 1.13 (Organization as Client), a lawyer for a government agency represents the organization as a whole — not individual officials. The DAG's client is the Elections Commission, not the Chair, not the Chief Election Officer, and not the Office of Elections.

By providing legal advice only to Chair Curtis and allowing selective withholding of that advice from other commissioners, DAG Ching breached his duty to the organizational client. His conduct allowed the Chair and the Chief Election Officer to act as if they were private clients, contrary to Rule 1.13(a).

2. Conflict of Interest and Divided Loyalty

Under Rule 1.11(d), a government lawyer shall not participate in a

matter if professional judgment is materially limited by responsibilities to another client.

The DAG has acted as legal counsel to both the Elections Commission and the Office of Elections—two entities with oversight and subordinate relationships. This dual role constitutes a direct conflict. He cannot serve as impartial counsel to the Commission while simultaneously coordinating with the agency it oversees.

3. Improper Invocation of Attorney–Client Privilege

The DAG and Chair Curtis have invoked attorney-client privilege to conceal administrative and oversight communications. Under Rule 1.6, confidentiality applies only to legal advice — not routine administrative or oversight matters.

The DAG’s cooperation in withholding these communications prevented commissioners from fulfilling their statutory duties under HRS §11-8.5 and HAR §3-170-5.

4. Misrepresentation and Deception

By advising Chair Curtis privately while publicly claiming neutrality, DAG Ching misled the Commission about the nature and extent of his representation. This conduct violates Rule 8.4(c) (misrepresentation or deceit) and Rule 8.4(d) (conduct prejudicial to the administration of justice).

5. Harm to the Public and the Commission

The DAG’s conduct has damaged the Commission’s ability to function transparently, issue accurate reports to the Legislature, and exercise oversight of the Office of Elections. It has undermined both public trust and the independence of the Elections Commission.

Requests for Action

1. That OIP conduct an expedited investigation into Sunshine Law violations by Chair Curtis and the unlawful concealment of Commission communications.
2. That OIP require immediate disclosure of all unredacted communications between Chair Curtis, the Office of Elections, and the Attorney General’s Office that concern Commission business.
3. That OIP order the Commission to correct the October 1, 2025 meeting minutes to reflect all discussion, dissent, and denied

testimony.

4. That the Director of the Office of Information Practices or a designated representative attend the October 29, 2025 Elections Commission meeting to provide direct guidance on Sunshine Law compliance and government transparency.
5. That the Office of Disciplinary Counsel open an investigation into DAG Jordan Ching for violations of HRPC Rules 1.13, 1.11, 1.6, and 8.4, as his conduct has compromised the impartiality and integrity of the Attorney General's Office.

Request for Expedited Review

Expedited review is necessary because these violations are ongoing and continue to impair the Elections Commission's ability to conduct lawful, open meetings and exercise oversight. Public trust in Hawai'i's election administration is at risk unless immediate corrective action is taken.

Sincerely,
Ralph Cushnie



**STATE OF HAWAI'I
OFFICE OF INFORMATION PRACTICES**

JOSH GREEN, M.D.
GOVERNOR

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107

HONOLULU, HAWAI'I 96813

Telephone: (808) [REDACTED] FAX: (808) [REDACTED]
E-MAIL: [REDACTED]
www.oip.hawaii.gov

Appeal Procedures and Responsibilities of the Parties

This is an informational summary of the applicable procedures and the parties' responsibilities in an appeal before OIP pursuant to chapter 2-73, Hawaii Administrative Rules (HAR). The procedures described here are more fully set out in chapter 2-73, HAR, itself, which controls in the event of any inconsistency between its language and the language of this informational summary.

Parties may contact OIP to request an extension of a deadline in writing.

1. Agency response (HAR §§ 2-73-14, -15)

The agency's written response is due ten business days after it receives the notice of appeal from OIP. Its written response must include:

- (1) A concise statement of the factual background;
- (2) An explanation of the agency's position, including its justification for the actions complained of, with citations to the specific statutory sections and other law supporting the agency's position;
- (3) Any evidence necessary to support the agency's argument; and
- (4) Contact information for the agency officer or employee who is authorized to respond and make representations on behalf of the agency concerning the appeal.

If checked, the agency's response must include, for OIP's *in camera* review, if applicable, an unredacted copy of

	the records to which access was denied
<input checked="" type="checkbox"/>	Minutes and recording of the October 1, 2025 meeting
	other records: none

Where the agency claims that a record is protected by the attorney-client privilege, the agency may request to submit to OIP the record in redacted form in order to preserve this privilege. OIP will generally allow such a request where the application of the claimed privilege can be determined by review of the redacted record.

2. Other submissions to OIP (HAR § 2-73-15)

In addition to the information and materials submitted as part of the appeal, OIP may ask the person who filed the appeal, or any other parties participating in the appeal, to submit a written statement or statements. If OIP does so, OIP will also let all the parties know when the statement is due, whether there are any requirements as to the form it takes or what it includes, and when any response by the agency or other parties is due.

OIP can consider information or materials submitted by any person, not just parties to the appeal. However, if someone other than the person who filed the appeal and the responding agency wants to participate in the appeal as a party or in some other way, that person must submit a written request and must explain the reason for the request, and OIP will then determine whether to allow such participation.

Because an appeal before OIP is an informal proceeding, a party's or third person's communication with OIP can be *ex parte*, i.e., outside the presence of the other party or parties. However, OIP does have the option to require the parties to copy each other on submissions.

3. OIP's Decision (HAR §§ 2-73-15, -17, -18, -19)

OIP's written decision on the appeal will be sent to all parties when it is issued. There is no specific deadline set for OIP's decision on an appeal. If the parties have not received either a decision on the appeal or a notice of dismissal from OIP as discussed below, then this appeal is still pending.

A party can request that OIP reconsider its decision. The deadline to request reconsideration is ten business days after the date the decision was issued. If a party misses the deadline for reconsideration or if OIP declines to reconsider the opinion, the party still has the option of appealing the decision to court. Section 92F-43, Hawai'i Revised Statutes (HRS), sets out the standard for an agency's appeal of an OIP decision. For a record requester or Sunshine Law complainant, appeal to court is provided by section 92F-15, HRS (denial of general record request), section 92F-27, HRS (denial of a personal record request), or sections 92-11 and -12, HRS (Sunshine Law complaint).

In some instances, OIP may issue a notice to all parties dismissing all or part of an appeal, instead of issuing a written decision. The circumstances in which OIP can dismiss an appeal are listed in section 2-73-18, HAR. OIP may also ask (but will not require) the parties to mediate the appeal, or an issue within the appeal, as an alternative means to resolve the appeal.



JOSH GREEN, M.D.
GOVERNOR

STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

November 14, 2025

VIA EMAIL

Chairperson Michael Curtis
Elections Commission

Re: Notice of Appeal of Sunshine Law Complaint (S APPEAL 26-17)

Dear Chair Curtis:

The Office of Information Practices (OIP) received an appeal from Mr. James Raymond, alleging that he was not allowed to complete his testimony on agenda item IV (b) of the Elections Commission (the Commission) meeting on October 29, 2025. Although not specified, OIP considers Mr. Raymond's complaint to allege that the Commission's actions violated Part I of chapter 92, Hawaii Revised Statutes (HRS) (Sunshine Law) by not affording him an opportunity to submit testimony on an agenda item as required by section 92-3, HRS. A copy of Mr. Raymond's appeal is enclosed for your information. OIP requests that the Commission provide a copy of this letter, with enclosures, to all its members.

Please respond in writing to Mr. Raymond's appeal within ten business days of receiving this notice. The Commission's response is its opportunity to justify its actions and provide additional information for OIP's consideration in this appeal. Please remember that OIP must interpret the Sunshine Law to favor openness and to disfavor closed meetings. For this reason, when a complainant alleges that a board is conducting its business in violation of the Sunshine Law, the board bears the burden of justifying any departures from the law's general requirement of openness.

The Commission's written statement should include the information listed in the attached summary of appeal procedures. Additionally, OIP requests copies of the Commission's minutes¹ and recording of the October 29 meeting for review in this appeal. We would appreciate receiving the copies of these documents no later than ten business days from receipt of this notice.

The Commission and Mr. Raymond, by copy of this notice, are informed that OIP appeals are informal proceedings. Parties are not required to provide each other with copies of their submissions to OIP unless so ordered by OIP. With the exception of records provided for OIP's *in camera*

¹ OIP understands that boards have 40 days to prepare meeting minutes under section 92-9, HRS, and if minutes for the meetings at issue are not yet available, boards may submit them 40 days after the date of the meeting.

November 14, 2025

Page 2

review, OIP will, upon request, provide copies of a submission by a party to other parties without notice to the submitting party. Submissions to OIP are generally considered public records subject to the exceptions to disclosure at section 92F-13, HRS. If a party's submission to OIP contains what the party believes to be nonpublic information, it should indicate on the submission what the nonpublic information is.

Please be advised that any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law. HRS § 92-12(c).

Please be aware that OIP is currently operating with a backlog of cases, so it will take time to resolve this appeal. Moreover, OIP's decision for this appeal will be limited to a finding as to whether the Commission violated the Sunshine Law. Even if OIP determines that the Sunshine Law had been violated, OIP does not have the power to enforce its decisions by voiding the Commission's final action.

Only the court may void a final action of a board that was taken in violation of the open meeting or notice requirements of the Sunshine Law. HRS § 92-11. While any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, a suit to void any final action must be commenced within ninety days of the action. HRS §§ 92-11, -12. After determining whether the Sunshine Law was or will be violated, the court may also order payment of reasonable attorney's fees and costs to the prevailing party. HRS § 92-12(c). Note that the ninety-day deadline to file a lawsuit is not tolled while an appeal is pending with OIP.

This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

Thank you for your attention to this matter. If you have any questions or would like to discuss this, please do not hesitate to contact the undersigned attorney.

Very truly yours,



Patrick Kelly
Staff Attorney

PKK:nn

Enclosures

cc: Mr. James Raymond (without enclosures)



**STATE OF HAWAI'I
OFFICE OF INFORMATION PRACTICES**

JOSH GREEN, M.D.
GOVERNOR

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107

HONOLULU, HAWAII 96813

Telephone: (808) 586-1400 FAX: (808) 586-1412

E-MAIL: oip@hawaii.gov

www.oip.hawaii.gov

Appeal Procedures and Responsibilities of the Parties

This is an informational summary of the applicable appeal procedures and the parties' responsibilities in an appeal before OIP pursuant to chapter 2-73, Hawaii Administrative Rules (HAR). The procedures described here are more fully set out in chapter 2-73, HAR, itself, which controls in the event of any inconsistency between its language and the language of this informational summary.

Parties may contact OIP to request an extension of a deadline in writing.

1. Agency response (HAR §§ 2-73-14 and -15)

The agency's written response is due ten business days after it receives the notice of appeal from OIP. Its written response must include:

- (1) A concise statement of the factual background;
- (2) An explanation of the agency's position, including its justification for preventing Mr. Raymond from completing his testimony, with citations to the specific statutory sections and other law supporting the agency's position;
- (3) Any evidence necessary to support the agency's argument; and
- (4) Contact information for the agency officer or employee who is authorized to respond and make representations on behalf of the agency concerning the appeal.

If checked, the agency's response must include, for OIP's *in camera* review, if applicable, an unredacted copy of

	the records to which access was denied
<input checked="" type="checkbox"/>	the minutes of the relevant meeting
<input checked="" type="checkbox"/>	other records: recording of the October 29, 2025 meeting

Where the agency claims that a record is protected by the attorney-client privilege, the agency may request to submit to OIP the record in redacted form in order to preserve this privilege. OIP will generally allow such a request where the application of the claimed privilege can be determined by review of the redacted record.

2. Other submissions to OIP (HAR § 2-73-15)

In addition to the information and materials submitted as part of the appeal, OIP may ask the person who filed the appeal, or any other parties participating in the appeal, to submit a written statement or statements. If OIP does so, OIP will also let all the parties know when the statement is due, whether there are any requirements as to the form it takes or what it includes, and when any response by the agency or other parties is due.

OIP can consider information or materials submitted by any person, not just parties to the appeal. However, if someone other than the person who filed the appeal and the responding agency wants to participate in the appeal as a party or in some other way, that person must submit a written request and must explain the reason for the request, and OIP will then determine whether to allow such participation.

Because an appeal before OIP is an informal proceeding, a party's or third person's communication with OIP can be *ex parte*, *i.e.*, outside the presence of the other party or parties. However, OIP does have the option to require the parties to copy each other on submissions.

3. OIP's Decision (HAR §§ 2-73-15, -17, -18, and -19)

OIP's written decision on the appeal will be sent to all parties when it is issued. There is no specific deadline set for OIP's decision on an appeal. If the parties have not received either a decision on the appeal or a notice of dismissal from OIP as discussed below, then this appeal is still pending.

A party can request that OIP reconsider its decision. The deadline to request reconsideration is ten business days after the date the decision was issued. If a party misses the deadline for reconsideration or if OIP declines to reconsider the opinion, the party still has the option of appealing the decision to court. Section 92F-43, Hawaii Revised Statutes (HRS), sets out the standard for an agency's appeal of an OIP decision. For a record requester or Sunshine Law complainant, the right to appeal to a court is provided by section 92F-15, HRS (denial of general record request), section 92F-27, HRS (denial of a personal record request), or sections 92-11 and -12, HRS (Sunshine Law complaint).

In some instances, OIP may issue a notice to all parties dismissing all or part of an appeal, instead of issuing a written decision. The circumstances in which OIP can dismiss an appeal are listed in section 2-73-18, HAR. OIP may also ask (but will not require) the parties to mediate the appeal, or an issue within the appeal, as an alternative means to resolve the appeal.

Nov. 12, 2025

555-B Keolu Dr.
Kailua, HI 96734

(808) 348-5025
attyraymond@gmail.com

Office of Information Practice (OIP)
No. 1 Capitol District Building
250 South Hotel Street, Suite 107
Honolulu, Hawai'i 96813
email: oip@hawaii.gov

**Re: Complaint: Sunshine Law violation of requirements relating to public testimony
during the Hawai'i Elections Commission October 29, 2025 meeting**

Dear Office of Information Practices:

I am writing to complain about the fact that I was not allowed to complete my public testimony at the subject meeting of the Hawai'i Elections Commission. I am requesting a formal opinion from the OIP. In the interest of full disclosure, I am a retired Deputy Attorney General and advised the Early Learning Board for a number of years.

Details of my complaint follow, but it should be obvious, to even the most casual observer, that the Hawai'i Elections Commission has been rendered completely dysfunctional. The chaos at the Commission is primarily due to an attack by political entities working on behalf of President Trump to undermine our election processes.

THESE ARE NOT NORMAL TIMES!

The current chair, Curtis, appears to be striving to preserve functionality through standard procedures, but he is failing.

For telling evidence of this failure, one only has to look at how the Commission was manipulated into a "No" vote on a motion "to follow the law . . . when recording minutes . . ."¹

¹ See Office of Elections website at Elections Commissions page: <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>

See October 29, 2025 meeting, Video 1 (the meeting took place over two days) The subject discussion and motion are contained in Video 1 and start at real time marker 10:01:30 a.m.

I believe that the Legislature, the Governor, and the Attorney General must assert themselves and right the foundering vessel the Elections Commission has become if we are to have anything approaching a free and fair election in November, 2026. I have copied these entities in hopes that at least one of them will exercise the leadership we desperately need.

Complaint

I was the first public testifier at the meeting and after identifying myself, I stated: "I'm submitting this testimony in strong support of mail-in voting."² Upon hearing "mail-in voting," Chair Curtis immediately interrupted me and informed me that my testimony must address the agenda item. Once Chair Curtis identified himself as the chair (I had to ask twice for identification because while testifying I could not see the other speaker), I relinquished the microphone.

The agenda item at issue was clearly visible on the split screen video; although in abbreviated form. The published Agenda stated:

IV. Updates relating to motions from Permitted Interaction Groups

a) Status of the audit of the Office of Elections

View letter from the Office of Elections to the Legislature regarding the Commission's motion to request for the Officer of the Auditor to conduct an audit of the Officer of Elections and to request the Legislature to return to polling place elections³

b) Status of the Commission's request for USPS business reply mail receipts for Hawaii County's 2024 General Election

² See Office of Elections website at Elections Commissions page: <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>

See October 29, 2025 meeting, Video 1 (the meeting took place over two days) James Raymond 's attempted testimony is contained in Video 1 and starts at real time marker 10:26:13 a.m.

³ The Noticed Agenda on the Commissions website (see fn 1) contains live links to the letters referenced in Agenda sub-items a) and b) -- the links are reproduced here:

a) https://drive.google.com/file/d/1AqaAEyXpluWc_741WN4v-CNCrhfAc1T-/view?usp=drive_link

b) https://drive.google.com/file/d/1PnwP-G3gdBoK5fnMLNSVY0nZ_e03NXwX/view?usp=drive_link

View letter from the Office of Elections to the Hawaii County Elections Division regarding the Commission's request to obtain from Hawaii County and provide the Elections Commission the complete set of USPS business reply mail receipts for the 2024 General Election

The relevant section of the October 6, 2025 letter from the Chief Elections Officer to the Legislature (referenced in Agenda sub-item a) states:

2) Request for the Legislature to return to polling place elections.

The Elections Commission passed a motion:

To send a letter to the legislature and advise the Chief Election Officer to return to in person voting in the precinct, hand counting paper ballots, one day voting, ID required, with the exceptions for absentee voting for military and special needs. Votes shall be counted where cast, then reported to the county before transferring ballots.

There could not be a clearer link from the agenda item to my testimony in strong support of mail-in voting.

This link was obviously clear to subsequent testifiers (there were many) that essentially all testified regarding mail-in ballots. The Agenda item's relation to mail-in voting was also clear to the public at large. I received email from a pro-democracy activist group alerting members and urging testimony in support of mail-in voting at the subject Elections Commission meeting ('Indivisible Hawai'i Statewide Network' Oct. 26, 2025 email).

If the chair or other commissioners intended the Agenda item to preclude public testimony regarding mail-in voting, they would have done well to heed the guidance provided by the OIP:

The statute's notice requirement is intended to, among other things, **give interested members of the public enough information so that they can decide whether to participate in the meeting.**" OIP Op. Ltr. No. 03-22 at 6 (emphasis added). Thus, as further explained below, **OIP recommends that agendas set forth brief descriptions of agenda items instead of just the titles of documents or names of persons speaking** on the agenda items.

...

When creating an agenda, a board should not assume that the public will be familiar with its issues and areas of concern beyond what could reasonably be expected of a member of the general community, and it should not assume familiarity with ongoing board issues or specialized jargon. Nor can a board expect members of the public to read an external document, such as a legislative bill or a report or letter available at the board's office, in order to understand what a board plans to discuss at its meeting. Rather, the **agenda must stand by itself in informing members of the public of what topics the board plans to consider.**

'Agenda Guidance for Sunshine Law Board'
(Revised August 2025), pp. 1-2 (emphasis in original).

It was also clear that the Chair's position changed shortly after my testimony. After the second testifier received a similar admonition from the Chair for mentioning mail-in voting, she and subsequent testifiers (there were many) were allowed by the chair to testify regarding mail-in voting. I was never called back to complete my testimony.

Please consider my complaint in the broader context of the introductory paragraphs, and feel free to contact me if I can be of assistance.

Sincerely,

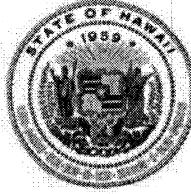
/James E. Raymond/

Deputy Attorney General (ret.)

cc: The Honorable Karl Rhoads. Chair, Senate Committee on Judiciary
senrhoads@capitol.hawaii.gov

The Honorable Josh Green, M.D., Governor of Hawai‘i
governor.green@hawaii.gov and via the Governor's website form:
<https://governor.hawaii.gov/contact-us/contact-the-governor/>

The Honorable Anne E. Lopez, Attorney General, Hawaii State Department of the Attorney General hawaiag@hawaii.gov and via website form:
<https://ag.hawaii.gov/contact-us/email-the-department-of-ag/>



JOSH GREEN, M.D.
GOVERNOR

STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

November 25, 2025

VIA EMAIL

Chairperson Michael Curtis
Elections Commission

Re: Notice of Appeal of Sunshine Law Complaint (S APPEAL 26-15)

Dear Chair Curtis:

The Office of Information Practices (OIP) received an appeal from Commissioner Ralph Cushnie concerning the Elections Commission's (Commission) October 29, 2025, meeting (October 29 meeting). Mr. Cushnie's appeal asked whether the Commission violated Part I of chapter 92, Hawaii Revised Statutes (HRS) (Sunshine Law) specifically, sections 92-1 and 92-3, HRS, by muting his microphone and removing him from the meeting. A copy of Mr. Cushnie's appeal is enclosed for your information. OIP requests that the Commission provide a copy of this letter, with enclosures, to all its members.

Response to Appeal

Please respond in writing to Mr. Cushnie's appeal within ten business days of receiving this notice. The Commission's response is its opportunity to justify its actions and provide additional information for OIP's consideration in this appeal. Please remember that OIP must interpret the Sunshine Law to favor openness and to disfavor closed meetings. For this reason, when a complainant alleges that a board is conducting its business in violation of the Sunshine Law, the board bears the burden of justifying any departures from the law's general requirement of openness.

The Commission's written statement should include the information listed in the attached summary of appeal procedures. Additionally, OIP requests copies of the Commission's minutes¹ and recording of the October 29 meeting for review in this appeal. We would appreciate receiving the copies of these documents no later than ten business days from receipt of this notice.

Notice

The Commission and Mr. Cushnie, by copy of this notice, are informed that OIP appeals are informal proceedings. Parties are not required to provide each other with copies of their submissions

¹ OIP understands that boards have 40 days to prepare meeting minutes under section 92-9, HRS, and if minutes for the meetings at issue are not yet available, boards may submit them 40 days after the date of the meeting.

Chairperson Michael Curtis

November 25, 2025

Page 2

to OIP unless so ordered by OIP. With the exception of records provided for OIP's *in camera* review, OIP will, upon request, provide copies of a submission by a party to other parties without notice to the submitting party. Submissions to OIP are generally considered public records subject to the exceptions to disclosure at section 92F-13, HRS. If a party's submission to OIP contains what the party believes to be nonpublic information, it should indicate on the submission what the nonpublic information is.

Please be advised that any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law. HRS § 92-12(c).

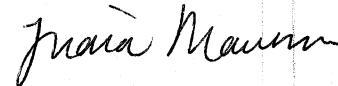
Please be aware that OIP is currently operating with a backlog of cases, so it will take time to resolve your appeal. Moreover, OIP's decision for your appeal will be limited to findings as to whether the Commission violated the Sunshine Law. Even if OIP determines that the Sunshine Law had been violated, OIP does not have the power to enforce its decisions by voiding the Commission's final action.

Only the court may void a final action of a board that was taken in violation of the open meeting or notice requirements of the Sunshine Law. HRS § 92-11. While any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, a suit to void any final action must be commenced within ninety days of the action. HRS §§ 92-11, -12. After determining whether the Sunshine Law was or will be violated, the court may also order payment of reasonable attorney's fees and costs to the prevailing party. HRS § 92-12(c).

This letter also serves as notice that OIP is not representing anyone in this appeal. OIP's role herein is as a neutral third party.

Thank you for your attention to this matter. If you have any questions or would like to discuss this, please do not hesitate to contact the undersigned attorney.

Sincerely,



Tiara Maumau
Staff Attorney

TSM/rw

Enclosures

cc: Mr. Ralph Cushnie (without enclosures)
Mr. Scott Nago, Chief Election Officer
Mr. Jordan Ching, Deputy Attorney General



**STATE OF HAWAI'I
OFFICE OF INFORMATION PRACTICES**

JOSH GREEN, M.D.
GOVERNOR

CARLOTTA AMERINO
DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAI'I 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oip@hawaii.gov
www.oip.hawaii.gov

Appeal Procedures and Responsibilities of the Parties

This is an informational summary of the applicable procedures and the parties' responsibilities in an appeal before OIP pursuant to chapter 2-73, Hawaii Administrative Rules (HAR). The procedures described here are more fully set out in chapter 2-73, HAR, itself, which controls in the event of any inconsistency between its language and the language of this informational summary.

Parties may contact OIP to request an extension of a deadline in writing.

1. Agency response (HAR §§ 2-73-14, -15)

The agency's written response is due ten business days after it receives the notice of appeal from OIP. Its written response must include:

- (1) A concise statement of the factual background;
- (2) An explanation of the agency's position, including its justification for the actions complained of, with citations to the specific statutory sections and other law supporting the agency's position;
- (3) Any evidence necessary to support the agency's argument; and
- (4) Contact information for the agency officer or employee who is authorized to respond and make representations on behalf of the agency concerning the appeal.

If checked, the agency's response must include, an unredacted copy of

	The records to which access was denied
<input checked="" type="checkbox"/>	Minutes and recording of the October 29, 2025 meeting
	Other records: none

Where the agency claims that a record is protected by the attorney-client privilege, the agency may request to submit to OIP the record in redacted form in order to preserve this privilege. OIP will generally allow such a request where the application of the claimed privilege can be determined by review of the redacted record.

2. Other submissions to OIP (HAR § 2-73-15)

In addition to the information and materials submitted as part of the appeal, OIP may ask the person who filed the appeal, or any other parties participating in the appeal, to submit a written statement or statements. If OIP does so, OIP will also let all the parties know when the statement is due, whether there are any requirements as to the form it takes or what it includes, and when any response by the agency or other parties is due.

OIP can consider information or materials submitted by any person, not just parties to the appeal. However, if someone other than the person who filed the appeal and the responding agency wants to participate in the appeal as a party or in some other way, that person must submit a written request and must explain the reason for the request, and OIP will then determine whether to allow such participation.

Because an appeal before OIP is an informal proceeding, a party's or third person's communication with OIP can be *ex parte*, i.e., outside the presence of the other party or parties. However, OIP does have the option to require the parties to copy each other on submissions.

3. OIP's Decision (HAR §§ 2-73-15, -17, -18, -19)

OIP's written decision on the appeal will be sent to all parties when it is issued. There is no specific deadline set for OIP's decision on an appeal. If the parties have not received either a decision on the appeal or a notice of dismissal from OIP as discussed below, then this appeal is still pending.

A party can request that OIP reconsider its decision. The deadline to request reconsideration is ten business days after the date the decision was issued. If a party misses the deadline for reconsideration or if OIP declines to reconsider the opinion, the party still has the option of appealing the decision to court. Section 92F-43, Hawai'i Revised Statutes (HRS), sets out the standard for an agency's appeal of an OIP decision. For a record requester or Sunshine Law complainant, appeal to court is provided by section 92F-15, HRS (denial of general record request), section 92F-27, HRS (denial of a personal record request), or sections 92-11 and -12, HRS (Sunshine Law complaint).

In some instances, OIP may issue a notice to all parties dismissing all or part of an appeal, instead of issuing a written decision. The circumstances in which OIP can dismiss an appeal are listed in section 2-73-18, HAR. OIP may also ask (but will not require) the parties to mediate the appeal, or an issue within the appeal, as an alternative means to resolve the appeal.

From: [Ralph Cushnie \(EC\)](#)
To: [OIP](#)
Cc: [OE.Elections.Commission](#)
Subject: [EXTERNAL] Improper Removal and Muting of Commissioner During October 29, 2025 Elections Commission Meeting
Date: Wednesday, November 5, 2025 7:27:57 AM

SUBJECT:

Sunshine Law Appeal – Improper Removal and Muting of Commissioner During October 29, 2025 Elections Commission Meeting

I. Introduction

This is an appeal under Hawai‘i Revised Statutes (HRS) Chapter 92, the Sunshine Law. I request that the Office of Information Practices investigate and issue a determination regarding actions taken by Chair Michael Curtis during the October 29, 2025 meeting of the Hawai‘i State Elections Commission, when he muted my microphone and removed me from participation in violation of HRS §92-1 and §92-3, and contrary to recognized parliamentary procedure under *Robert’s Rules of Order Newly Revised* (12th Edition).

II. Background

During discussion of an agenda item relating to the withholding of information from Commissioners, I asked Chair Curtis to state under what authority he was refusing to share records and correspondence with the full Commission. Chair Curtis responded by declaring that I was “out of order.” (6:00 in meeting)

I immediately and properly appealed the ruling of the Chair pursuant to *Robert’s Rules of Order*, §62:6, by stating “I appeal from the decision of the chair.” The motion was seconded, requiring that the Chair state the appeal question to the body and allow discussion and a vote. Instead, Chair Curtis muted my microphone, refused to acknowledge the appeal, and ultimately removed me from the meeting entirely.

III. Applicable Law and Authority

1. HRS §92-1 (Declaration of Policy and Intent):

The Sunshine Law exists to ensure that “the formation and conduct of public policy – the discussions, deliberations, decisions, and actions of governmental agencies – shall be conducted as openly as possible.” The statute requires that provisions be *liberally construed* in favor of openness and participation, and exceptions *strictly construed* against closure.

2. HRS §92-3 (Open Meetings):

Every meeting of a board shall be open to the public, and “all persons shall be permitted to attend any meeting.” Further, the statute requires that “all interested persons” be given the opportunity to present oral testimony on any agenda item.

The only lawful basis for removal is for willful disruption that prevents or compromises the conduct of the meeting.

3. Robert's Rules of Order (12th Edition):

- §62:4 affirms that if a chair ignores a properly made motion or violates a rule, a member may raise a *Point of Order* immediately.
- §62:6 allows any member to appeal a ruling of the chair by declaring “I appeal from the decision of the chair.” Once seconded, the chair is obligated to put the question to the body.
- §62:8–9 clarify that if the chair ignores a valid appeal, the member may repeat the motion, and if still ignored, may put the question to a vote without debate.

By muting and removing me for exercising these rights, the Chair obstructed lawful participation, violated the rules governing board deliberation, and effectively conducted Commission business in a non-public manner.

IV. Grounds for Appeal

- The Chair's actions prevented a duly appointed member from exercising statutory and parliamentary rights to participate, debate, and appeal.
- The removal was not based on “willful disruption,” but was retaliatory for questioning the Chair's authority.
- The public was denied full and open deliberation on an important procedural matter concerning transparency and access to information.
- These actions constitute a denial of both the public's right to observe deliberations and the Commission's obligation to conduct its policy discussions openly.

V. Requested Determination and Relief

I respectfully request that OIP:

1. Find that Chair Curtis's removal and muting of a Commissioner during a duly noticed public meeting violated the intent and requirements of HRS §92-1 and §92-3.
2. Direct the Elections Commission to take corrective action, including acknowledgment of the violation and adoption of procedures ensuring equal participation by all members.
3. Recommend that future meetings adhere strictly to Robert's Rules of Order and that the Chair be reminded of the statutory limits on his authority to mute or remove members.

Submitted by:

Ralph Cushnie
Commissioner, Hawai'i State Elections Commission