



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

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

January 7, 2026 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
Barbara Dalton
Lindsay Kamm
Jeffrey Osterkamp
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.

- II. Introduction of new Commissioner: Barbara Dalton, completing the term of Clare McAdam [10:00 AM]

Deputy Attorney General (DAG) Jordan Ching administered the Oath of Office to Commissioner Dalton.

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

All members of the Elections Commission were present at the meeting with the exception of Commissioner Papalimu.

- IV. Approval of written minutes from the December 3, 2025 meeting [10:02 AM]

Commissioner Cushnie requested that the minutes reflect several omitted discussion items, including Commissioner Claire McAdam's resignation, a commitment to place Chief Election Officer (CEO) Scott Nago's re-evaluation on the next agenda, formation of a Permitted Interaction Group (PIG) on signature verification, the status of a prior motion on Doug Pasnik's complaint, the Office of Elections' legislative agenda, and review of the 2025 vote-by-mail report. He stated these matters were discussed at the prior meeting but not recorded. Commissioner Kamm agreed that the discussions occurred and questioned why they were left out.

Commissioner Dalton moved to approve the written minutes from the December 3, 2025 meeting. The motion was further amended to include the announcement of Commissioner McAdam's resignation, that Chair Curtis committed to putting CEO Nago's reevaluation on the next agenda, formation of a PIG on signature verification, status of motions from the last meeting to refer Doug Pasnik's complaint referenced in Agenda Item VII, request for the Office of Election's legislative agenda including lawmakers CEO Nago is working with to pass legislation, and review of the 2025 Elections by Mail report to the Legislature in compliance with Act 136 reporting compliance. The motion was seconded by Commissioner Apana and **failed** noting the excused absence of Commissioner Papalimu. [10:02 AM]

YES: Andrion, Cushnie, Kamm, Curtis

NO: Apana, Dalton, Osterkamp

ABSTAIN: Sabas

Commissioner Cushnie moved to amend the motion, to approve the written minutes from the December 3, 2025 meeting, by including the announcement of Commissioner McAdam's resignation, that Chair Curtis

committed to putting CEO Nago's reevaluation on the next agenda, formation of a PIG on signature verification, status of motions from the last meeting to refer Doug Pasnik's complaint referenced in Agenda Item VII, request for the Office of Election's legislative agenda including lawmakers CEO Nago is working with to pass legislation, and review of the 2025 Elections by Mail report to the Legislature in compliance with Act 136 reporting compliance. The motion was seconded by Commissioner Kamm and **carried** noting the excused absence of Commissioner Papalimu.
[10:02 AM]

YES: Andrion, Apana, Cushnie, Kamm, Curtis

NO: Dalton, Osterkamp

ABSTAIN: Sabas

V. Report from Chief Election Officer [10:09 AM]

Austin Martin provided testimony alleging election fraud, improper meeting procedures, altered minutes, suppression of public testimony, and stating that CEO Nago should be removed.

Keoni Payton provided testimony alleging unethical and unlawful appointments to the Hawaii State Ethics Commission, improper coordination and communications among officials, violations of ethics and lobbying laws, demands for records under the Sunshine Law, and intent to seek investigation by law enforcement agencies.

Junya Nakoa provided testimony emphasizing the need for transparency and a public report to build voter confidence, criticizing closed-door decision-making, frequent interruptions of public testimony, and expressing concern about new Commissioners and trust in the election process.

Yumi Kawano provided testimony expressing disappointment with the tone of the meetings, urging courtesy, transparency, and upholding the will of the voters through free and fair elections.

Jenn provided testimony raising concerns about limited observer access to voter rolls, lack of transparency in ballot chain of custody, and emphasizing the need for comprehensive accounting of ballots to ensure election security and voter trust.

Doug Pasnik provided testimony asserting that missing ballot custody records and lack of accountability made the election unverifiable, created security vulnerabilities, and required corrective action to protect election integrity.

Karl Dicks provided testimony alleging that CEO Nago was not properly reappointed, that election problems stemmed from this improper appointment, and calling for his removal due to alleged corruption and fraud in the election system.

Shirlene Ostrov provided testimony urging greater transparency and accountability in the election administration, including release of ballot custody records, independent audits, improved public access to records, and reforms to strengthen public trust in election results.

Nolan Chang provided testimony alleging noncompliance with federal election laws, including HAVA and NVRA, citing voter registration, audit, and chain of custody failures, and urging the Commission to hold election officials accountable and remove the Chief Election Officer to restore public trust.

Charmane Valerio provided testimony expressing concern about lack of transparency, dissatisfaction with CEO Nago's performance, and support for his replacement.

Elizabeth Cook provided testimony describing long lines and ballot shortages on Election Day, questioning whether votes were properly counted, citing reported ballot discrepancies, and calling for audits, transparency, leadership changes, and a return to precinct-based paper ballot elections.

Tara Malia provided testimony alleging statutory violations, ballot reconciliation and chain of custody failures, unverifiable election results, and urging the immediate removal of CEO Nago for noncompliance with state and federal election laws.

Jamie Detwiler provided testimony asserting repeated failures of accountability by CEO Nago, including not following Commission recommendations, failing to clean voter rolls, pursuing disapproved contracts, and not reconciling ballot discrepancies, and calling for nonpartisan accountability to ensure fair elections.

Andrew Aker provided testimony requesting that CEO Nago explain and document the source of the reported 19,000 ballot discrepancy in his official report.

Tara Rojas provided testimony alleging lack of accountability by the Commission and the Chief Election Officer, criticizing refusal to follow legislative and

Commission guidance, questioning voting decisions contrary to public concerns, and calling for the removal of CEO Nago and the Chair to restore accountability.

Victoria Thompson provided testimony citing ongoing election discrepancies, lack of transparency, unresolved ballot custody issues, and urging the immediate replacement of the Chief Election Officer due to prolonged failures.

Cheryl Toyofuku provided testimony expressing strong support for fair, free, and accountable elections, affirming the concerns raised by prior testifiers, and urging the Commission to act in the best interest of Hawaii.

Brennon Cabral provided testimony generally expressing agreement with prior testifiers.

Michelle Stefanik provided testimony stating that CEO Nago's report failed to address known election deficiencies or corrective actions, citing voter roll and chain of custody issues, and calling for the removal of both the Chief Election Officer and the Chair due to lack of transparency and accountability.

Megeso William-Denis provided testimony alleging long-standing election fraud and corruption, criticizing the Chief Election Officer's integrity, calling for his termination, demanding transparency, voter roll access, voter ID, paper ballots, and one-day voting.

Tamara McKay provided testimony criticizing the Chief Election Officer's report and the Commission's inaction, raising concerns about refusal to correct meeting minutes, lack of transparency and independent judgment, and urging accountability and compliance with the law to protect election integrity.

Craig Spencer provided testimony supporting the Chief Election Officer, praising protection of voter data and vote-by-mail, and urging the Commission to defend mail voting and prevent disenfranchisement.

Jaerick Medeiros provided testimony criticizing CEO Nago and the Commission, asserting that public voices are not being heard, opposing vote by mail, advocating for county-controlled elections, and calling for removal and legal action against election officials.

Alohalani Hope Cermelj provided testimony alleging missing ballots and lack of transparency in the 2024 Election, citing unanswered communications and omissions in the Chief Election Officer's report, and calling for disclosure of ballot records and the removal of CEO Nago.

Susan Strom provided testimony asserting that the Chief Election Officer failed in his duties, characterizing election handling as negligent, and calling for the immediate removal of CEO Nago and the resignation of the Chair and Commissioners who do not act on public demands.

Tammy Ash Perkins provided testimony supporting the removal of the Chief Election Officer, emphasizing that voter information is public by law, criticizing reliance on universal mail-in voting, and urging transparent, lawful election practices that uphold constitutional principles and public trust.

Wallyn Christian provided testimony expressing concern about election fairness and integrity, calling for the removal of the Chief Election Officer and Commissioners who oppose public demands, and urging leadership that prioritizes transparency, accountability, and public trust.

Sheryl Bieler provided testimony expressing frustration with repeated inaction by the Commission, alleging lack of transparency and possible partisan coordination, criticizing vote by mail, and calling for the removal of the Chief Election Officer, the Chair, and certain Commissioners.

Commissioners discussed whether they could participate in the hand count and were advised they should not, as it would compromise oversight. CEO Nago confirmed the ballots are within the 22-month retention period and would require a court order to unseal. DAG Ching said he would need to research the process to confirm if a court order is necessary. Commissioners agreed they could still vote to express intent while legal requirements were clarified later, noting the motion did not specify who would conduct the count.

Commissioner Kamm moved to hand count the Hawaii County ballot return envelopes to determine the actual total of 2024 General Election ballots received. The motion was further amended to include sorting the ballot envelopes into two piles, one pile that was returned through the mail and one pile that was not returned through the mail that came in drop boxes. The motion was seconded by Commissioner Andrion and **carried** noting the excused absence of Commissioner Papalimu. [12:27 PM]

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

NO: Dalton, Osterkamp

Commissioner Cushnie explained that the amendment would sort ballot envelopes into two piles, mail-returned and non-mail drop box envelopes, and count each. Chair Curtis clarified that the purpose was to verify disputed ballot totals by counting envelopes in Big Island custody, with legal access questions to

be addressed later. CEO Nago noted that postmarks are not a reliable indicator of mail return.

Commissioners discussed implementation details, including observer transparency, timing, leadership, possible court orders, and costs, though Chair Curtis limited discussion to the amendment itself. The amendment was restated as sorting envelopes into mail-returned and non-mail piles and hand-counting Hawaii County ballot return envelopes.

Commissioner Apana stated he would vote yes to avoid further debate, despite believing the count would not be fully accurate or reflective of events.

Commissioner Cushnie moved to amend the motion, to hand count the Hawaii County ballot return envelopes to determine the actual total of 2024 General Election ballots received, to include sorting the ballot envelopes into two piles, one pile that was returned through the mail and one pile that was not returned through the mail that came in drop boxes. The motion was seconded by Commissioner Kamm and **carried** noting the excused absence of Commissioner Papalimu. [12:32 PM]

YES: Andrion, Apana, Cushnie, Kamm, Sabas

NO: Dalton, Osterkamp, Curtis

Chair Curtis and DAG Ching clarified that two Commissioners may discuss board business privately but may not discuss or commit to votes. and added that discussions involving three or more members must occur at a noticed meeting. The Commission then discussed appointing two Commissioners to lead the Hawaii Island hand count. Commissioners expressed support to proceed expediently and stated that they would need to rely on the Chief Election Officer for logistics.

Commissioner Cushnie moved to have Commissioner Kamm and Commissioner Sabas chair, set up, and oversee the audit of the Hawaii County ballot return envelopes. The motion was seconded by Commissioner Apana and **carried** noting the excused absence of Commissioner Papalimu. [1:04 PM]

YES: Andrion, Apana, Cushnie, Dalton, Kamm, Sabas, Curtis

NO: Osterkamp

DAG Ching said a vote on timeliness was premature because legal steps and possible court orders were unresolved. Several Commissioners opposed the

motion, arguing a deadline was unreasonable, premature, and imposed constraints on an unidentified entity.

Although some Commissioners supported acting expediently, there was a consensus that the deadline was inappropriate, and members indicated they would vote no.

Commissioner Kamm moved that the audit of the Hawaii County ballot return envelopes be completed by the end of February. The motion was seconded by Commissioner Cushnie and **failed** noting the excused absence of Commissioner Papalimu. [1:09 PM]

YES: Cushnie

NO: Andrion, Apana, Dalton, Kamm, Osterkamp, Sabas, Curtis

Commissioner Cushnie supported the motion, arguing that electronic reconciliation alone does not build voter confidence and that clearly defining a chain of custody from drop boxes and post offices would help.

Commissioner Apana opposed it, saying the Commission should avoid piecemeal actions, noting that such recommendations can be consolidated and made through a report from the PIG.

Commissioner Andrion agreed with the concept but voted no because the motion was to be withdrawn, adding that the issue should be examined more broadly and earlier in the ballot process.

Commissioner Cushnie moved to advise CEO Nago that the chain of custody begins when envelopes are picked up at drop boxes and the USPS. The motion was seconded by Commissioner Andrion and **failed** noting the excused absence of Commissioner Papalimu. [1:12 PM]

NO: Andrion, Apana, Dalton, Kamm, Osterkamp, Sabas, Curtis

ABSTAIN: Cushnie

Commissioner Andrion asked whether the motion simply reaffirmed that the elections office is complying with federal law. Commissioner Cushnie argued a formal vote was needed to advise compliance with HAVA, citing unresolved issues like voter rolls, postage, and an outdated state plan.

Commissioners Apana and Osterkamp opposed the motion as unnecessary and potentially confusing, saying officials are already obligated to follow the law and

interpretations may differ, while Commissioner Andrion supported it on principle, viewing the vote as a clear public statement favoring legal compliance.

Commissioner Cushnie moved that the Election Commission advise CEO Nago to comply with all federal election laws. The motion was seconded by Commissioner Andrion and **failed** noting the excused absence of Commissioner Papalimu. [1:19 PM]

YES: Andrion, Cushnie, Kamm

NO: Apana, Dalton, Osterkamp, Sabas, Curtis

Commissioner Osterkamp objected to the motion, calling its claims unsupported and arguing that involving the Attorney General would be a waste of time. Commissioner Andrion briefly noted that although he understood Commissioner Cushnie's concerns, the Commission should proceed strategically, emphasizing that a hand count on the Big Island was already planned.

Commissioner Cushnie moved to ask the Attorney General that since 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** noting the excused absence of Commissioner Papalimu. [1:39 PM]

YES: Andrion, Cushnie

NO: Apana, Dalton, Kamm, Osterkamp, Sabas, Curtis

Commissioner Cushnie argued that Hawaii's elections are not verifiable due to missing or inconsistent chain of custody records across counties, lack of observer access, outdated compliance plans, and failures by the Chief Election Officer, and urged his removal to restore public trust.

Commissioner Kamm opposed the removal of the Chief Election Officer, citing the need to keep CEO Nago in place to carry out the planned envelope count.

Commissioner Andrion supported the removal in principle, stating that based on his long experience on the Commission and the issues raised, he would vote yes while awaiting further findings from the PIG.

Commissioner Cushnie moved to remove Scott Nago as the Chief Election Officer. The motion was seconded by Commissioner Andrion and **failed** noting the excused absence of Commissioner Papalimu. [1:55 PM]

YES: Andrion, Cushnie

NO: Apana, Dalton, Kamm, Osterkamp, Sabas, Curtis

VI. Communications and correspondence [1:59 PM]

Sheryl Bieler provided testimony expressing concern over inconsistent explanations about ballot postmarks and drop-box security, stating that these contradictions undermine election transparency and verifiability.

Austin Martin provided testimony stating that votes are transmitted off-island without local verification and that election officials and vendors obstructed oversight and accountability.

Tammy Ash Perkins provided testimony alleging that Maui County elections lack chain of custody and auditability, criticizing mail-in voting, and faulting CEO Nago and the Commission for failing to correct these issues.

Peter Bernegger provided testimony alleging Hawaii is out of compliance with HAVA, questioning why his formal complaint was omitted from the agenda, and stating he has filed state and federal actions seeking repayment of approximately \$30 million in federal election funds.

Jenn provided testimony asserting that the Hawaii election laws that require a complete, verifiable chain of custody for ballots are not being followed, making missing ballots unverifiable and undermining public confidence in election integrity.

Chris Neff provided testimony emphasizing, based on decades of federal audit experience, that rigorous, multi-level audits are essential to detect fraud and ensure integrity, noting that failure to audit can allow serious misconduct to go undetected.

Jaerick Medeiros provided testimony accusing the Commission of corruption and incompetence, questioning the origin of 19,000 ballots, criticizing state control over county elections, and calling for county-run elections and accountability for alleged chain of custody failures.

Junya Nakoa provided testimony calling for CEO Nago's removal, supporting counting the missing ballots without current leadership, advocating for returning

elections to county control, and expressing concern about accountability and public trust in the voting process.

Jamie Detwiler provided testimony urging the Commission to direct all county auditors to conduct standardized, law-based audits and criticizing the Chair's inconsistent decorum.

Tara Malia provided testimony arguing that the state auditor's letter supports county-level audits without CEO Nago's involvement, criticized continued reliance on him and mail-in ballots as unverifiable, and urged the Commission to act lawfully and honor public testimony.

Alohalani Hope Cermelj provided testimony calling for county-level audits on all islands, criticizing reliance on outdated information, alleging thousands of missing ballots, and urging that CEO Nago be excluded from the audits and terminated.

Michelle Stefanik provided testimony requesting agenda additions, county-level audits statewide, an independent investigation, and raised concerns about transparency, conflicts of interest, and leadership conduct.

Shelby Billionaire provided testimony alleging that forcing party selection in primaries violates the Hawaii Constitution and unfairly disadvantages independent and nonpartisan candidates.

Commissioner Cushnie stated that HRS §23-7 requires the state auditor to report to the Legislature and Governor once notified of potential election irregularities. He explained that the action was solely to document that notice on the record. Chair Curtis and Commissioner Apana noted the auditor had already acknowledged the Commission's letter, with Commissioner Apana questioning potential legal implications. Cushnie clarified the intent was not litigation, but formal follow up.

Commissioner Cushnie moved that the Elections Commission transmit a formal written notice to the state auditor advising that based on the Commission's Permitted Interaction Group reports transmitted on December 12, 2025, evidence of potential irregular and improper handling of the election administration has come to the auditor's knowledge and requesting written confirmation of compliance with HRS §23-7. The motion was seconded by Commissioner Apana and **failed** noting the excused absence of Commissioner Papalimu. [2:39 PM]

YES: Andrion, Cushnie, Kamm

NO: Apana, Dalton, Osterkamp, Sabas, Curtis

Commissioner Apana stated he would support the motion, emphasizing that the chairs of the PIGs should be given whatever resources they need to effectively perform their duties.

Commissioner Sabas moved that we send a letter to the different county auditors, the auditors for Honolulu County, Maui County, Hawaii County, and Kauai County, and suggest that they do an audit of the 2024 General Election as recommended by State Auditor, Leslie Kondo. The motion was seconded by Commissioner Kamm and **carried** noting the excused absence of Commissioner Papalimu. [2:55 PM]

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

NO: Dalton, Osterkamp

The Commissioners discussed inviting a U.S. Postal Service representative to answer questions, agreeing it could educate both the Commission and the public. Barbara Dalton suggested contacting knowledgeable local USPS personnel and advised starting at the Hilo Post Office. Commissioner Dalton offered to make the request, with consensus that the invitation should clearly outline the topics to be addressed.

Commissioner Cushnie moved to have the Elections Commission request that the Postal Service send a representative to answer the Commission's questions. The motion was seconded by Commissioner Kamm and **carried** noting the excused absence of Commissioner Papalimu. [2:59 PM]

YES: Andrion, Apana, Cushnie, Kamm, Sabas

NO: Osterkamp, Curtis

ABSTAIN: Dalton

VII. Sunshine Appeals [3:12 PM]

a) S Appeal 26-07

b) S Appeal 26-10

c) S Appeal 26-13

d) S Appeal 26-17

e) S Appeal 26-15

Austin Martin provided testimony criticizing the Chair's conduct and urged the Commission to release requested election records and respect First Amendment protections.

Tammy Ash Perkins provided testimony questioning whether the appeals were submitted to the Office of Information Practices, who is responsible for reviewing and remedying them, and what the timeline is, urging that the appeals are not ignored or dismissed.

Mary Healy provided testimony criticizing inconsistent enforcement of free speech during public testimony, alleging widespread election fraud tied to mail-in ballots and unsecure drop boxes, accusing election officials of corruption, and urging immediate systemic change and accountability.

Jaerick Medeiros provided testimony arguing that Sunshine Law inquiries were rejected for lack of state jurisdiction and urging elections be returned to county control, asserting county-run elections would be more secure, accountable, and effective than state administration.

Michelle Stefanik provided testimony stating that required responses to the appeals were not provided, alleged Sunshine Law violations by the Chair, and called for a formal review of his role at the next meeting.

Junya Nakoa provided testimony urging that elections and audits be returned to county control, criticizing state oversight, CEO Nago's influence, and ERIC involvement, and emphasizing local accountability through county clerks.

Commissioner Cushnie argued that all appeals, including one he disagreed with, were important and should be discussed, stating he would vote against excluding any. DAG Ching explained that only certain appeals had draft responses ready and suggested deferring one appeal to a later meeting, which Chair Curtis and Commissioners agreed to, clarifying it would be heard at the next meeting rather than dismissed.

Commissioner Dalton moved to amend the agenda by replacing Agenda Item VII d) S Appeal 26-17 with S Appeal 26-12 which was included in the meeting packet. The motion was seconded by Commissioner Andrión and **carried** unanimously noting the excused absence of Commissioner Papalimu. [3:32 PM]

Commissioner Cushnie argued that Chair Curtis violated the Sunshine Law by selectively sharing records he submitted with only one Commissioner, rather than the full Commission and the public, and urged the Commission to admit the

violation in its response to OIP. He maintained this undermined transparency and informed deliberation, citing the “as open as possible” standard in HRS Chapter 92.

Chair Curtis and DAG Ching countered that the Sunshine Law does not require distribution of materials to all Commissioners, does not mandate board packets, and restricts information sharing outside noticed meetings, concluding no violation occurred. Other Commissioners expressed confusion, raised questions about proper information sharing, suggested Sunshine Law training, and ultimately refocused discussion on whether to approve the DAG’s response, after which a call for the question was made.

Commissioner Cushnie moved to have the Elections Commission acknowledge that Chair Curtis violated the Sunshine Law, HRS 92-1 and HRS 92-2.5, by sharing a letter sent to the entire Elections Commission with only Jeffrey Osterkamp and these actions and inactions materially prevented the Commission from deliberating with full and equal access to information. The motion was seconded by Commissioner Andrion and **failed** noting the excused absence of Commissioner Papalimu. [3:42 PM]

YES: Andrion, Cushnie, Kamm

NO: Dalton, Osterkamp, Curtis

ABSTAIN: Apana, Sabas

Commissioner Dalton called for the question, and it was **carried** noting the excused absence of Commissioner Papalimu. [4:04 PM]

YES: Apana, Dalton, Kamm, Osterkamp, Sabas, Curtis

NO: Andrion, Cushnie

Commissioner Cushnie argued that the Commission violated the Sunshine Law by selectively sharing information and failing to distribute materials to all Commissioners and announced his no vote on supporting the DAG’s response.

Commissioners Apana and Andrion asked how Commissioners may properly share information or proposed corrections in advance without violating the Sunshine Law. DAG Ching explained that materials should generally go through the secretary and be discussed only in noticed meetings, acknowledging some gray areas and the need for Sunshine Law training.

Chair Curtis repeatedly expressed that broader process questions were not germane to the motion to approve the DAG's response to Appeal 26-10.

Commissioner Osterkamp moved to approve Deputy Attorney General Ching's response to S Appeal 26-10. The motion was seconded by Commissioner Dalton and **failed** noting the excused absence of Commissioner Papalimu. [4:07 PM]

YES: Apana, Dalton, Osterkamp, Curtis

NO: Andrion, Cushnie, Kamm

ABSTAIN: Sabas

Commissioner Cushnie argued that the DAG's response wrongly treated Sunshine Law violations as discretionary, stating that denying public testimony and removing a Commissioner during deliberations cannot be cured later and violated open-meeting requirements.

Commissioner Andrion acknowledged procedural failures, including muting a Commissioner and not voting on an appeal of Chair Curtis, and stressed the need for Sunshine Law training, though he supported parts of the DAG's response.

Chair Curtis and DAG Ching stated that the Commission's administrative rules, not Robert's Rules of Order, govern meetings, prompting confusion among Commissioners about which procedural standards apply.

Commissioner Cushnie moved to approve Deputy Attorney General Ching's response to S Appeal 26-07 and S Appeal 26-13. The motion was seconded by Commissioner Kamm and **failed** noting the excused absence of Commissioner Papalimu. [4:22 PM]

YES: Osterkamp, Curtis

NO: Andrion, Apana, Cushnie, Kamm

ABSTAIN: Dalton, Sabas

Commissioner Cushnie asserted that he has repeatedly been muted or removed for raising uncomfortable questions, demonstrating inconsistent and discretionary enforcement of meeting rules. He urged the Commission to clarify which procedural rules govern meetings and argued that current practices violate the Sunshine Law.

Commissioner Cushnie moved to approve Deputy Attorney General Ching's response to S Appeal 26-15. The motion was seconded by Commissioner Kamm and **failed** noting the excused absence of Commissioner Papalimu. [4:32 PM]

YES: Osterkamp, Sabas, Curtis

NO: Andrion, Apana, Cushnie, Kamm

ABSTAIN: Dalton

Commissioner Cushnie cited HRS §92-9, outlining the statutory requirements for meeting minutes, including attendance, matters discussed or decided, individual votes, recording links, and any information a board member requests to be included. He argued that the law clearly requires recording substantive events and member requests, stating that the Commission voted contrary to those requirements, and asserted that the matter should be acknowledged as a violation and referred to the Office of Information Practices.

Commissioner Cushnie moved to have the Elections Commission acknowledge that it is violating HRS 92-9 minutes. The motion was seconded by Commissioner Andrion and **failed** noting the excused absence of Commissioner Papalimu. [4:36 PM]

YES: Andrion, Cushnie, Kamm

NO: Apana, Dalton, Osterkamp, Sabas, Curtis

Commissioner Dalton called for the question, and it was **carried** unanimously noting the excused absence of Commissioner Papalimu. [4:39 PM]

Commissioner Cushnie contended that DAG Ching misinterpreted the Sunshine Law by framing accurate meeting minutes as optional instead of required, and stressed that the law mandates recording all substantive procedural events regardless of a majority vote. After clarification that the appeal related to the October 1 meeting and the August 27 minutes, Commissioner Andrion acknowledged deficiencies in the minutes but concluded the DAG Ching's response was adequate and stated he would vote to approve it.

Commissioner Apana moved to approve Deputy Attorney General Ching's response to S Appeal 26-12. The motion was seconded by Commissioner Andrion and **carried** noting the excused absence of Commissioner Papalimu. [4:40 PM]

YES: Andrion, Apana, Dalton, Osterkamp, Sabas, Curtis

NO: Cushnie, Kamm

VIII. Adjournment [4:44 PM]

Chair Curtis adjourned the meeting at 4:44 PM.

Respectfully submitted,



Nicole Noel
Elections Commission Secretary

DRAFT



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

January 15, 2026

Roberta Kaaumoana, Postmaster
United States Postal Service
1299 Kekuanaoa St.
Hilo, HI 96720

Dear Ms. Kaaumoana,

I write today to ask your help in clarifying a misunderstanding among members of the State of Hawai'i Elections Commission regarding Business Reply Mail.

With the enactment of "Vote by Mail" in 2020, the County Clerk for each county enclosed a Business Reply Mail return envelope with ballots that were mailed to registered voters. This practice was already well established for the significant number of voters who historically voted absentee in Hawai'i elections.

Once voting began and the many BRM mail pieces with secure ballot envelopes inside were received and processed by the post office, and postage deducted from either High-Volume Qualified BRM or Qualified BRM trust accounts, they were delivered to the County Clerks. The County Clerks then opened the BRM mail pieces and executed a reconciliation process for the secure ballot envelopes contained inside the BRM envelope. According to the Hawai'i County Clerk, "that process relied solely on cross checks with the voter registration system and the ballot counting system, not on any tally of BRM envelopes furnished by the Postal Service. . .the County does not use BRM statements to reconcile ballot envelope counts."

As a retired Postmaster I am familiar with Business Reply Mail and understand its distinction from what the U.S. Postal Service defines as "accountable mail." I explained (somewhat unsuccessfully) to the Commission that BRM is not considered accountable mail. Further, I agreed to reach out to you directly for an explanation.

Ms. Roberta Kaaumoana, Postmaster

January 15, 2026

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It is important to note the distinction between the BRM envelopes and what they contained: the secure ballot envelope with the voter's signature on the outside and their ballot inside. There are no circumstances in which USPS staff would handle the secure ballot envelopes containing ballots.

It is the position of some members of the Elections Commission that a cumulative count of BRM mail pieces processed and delivered to the County Clerks by the post office should serve as a means of accounting for ballots. Following are questions Commissioners seek responses to:

1. whether 48,683 mail-in ballot envelopes for the 2024 General Election were delivered to Hawai'i County by USPS;
2. whether USPS maintains records, logs, or receipts for the balance of the deliveries; and if no receipts were provided in this instance, the reason no documentation exists.

Please note in #1 that "mail-in ballot envelopes" more correctly refers to "Business Reply Mail" envelopes.

Thank you in advance for your prompt response.

Sincerely,

Barbara Dalton

Barbara Dalton
Elections Commission

BD:rd
EC-26-001

c: Elections Commission



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

January 23, 2026

Office of the County Auditor, Hawaii County
120 Pauahi St., Suite 309
Hilo, HI 96720

countyauditor@hawaiicounty.gov

RE: 2024 General Election Audit Request

Aloha,

This is written in response to a motion made by the Elections Commission at our January 7, 2026, meeting. The Elections Commission passed a motion that:

The Elections Commission send a letter to the different county auditors, the auditors for Honolulu County, Maui County, Hawaii County, and Kauai County, and suggest that they do an audit of the 2024 General Election as recommended by State Auditor Les Kondo.

The motion was made by Commissioner Sabas and seconded by Commissioner Kamm; and passed with Commissioners Andrion, Apana, Cushnie, Kamm, Sabas, and Curtis voting in favor. Commissioners Dalton and Osterkamp voted against the motion.

On December 12, 2025, the Elections Commission sent a letter to State Auditor Leslie H. Kondo, requesting an audit of the 2024 Election. Mr. Kondo sent a response on December 30, 2025, stating that it may be more appropriate to address our request to the respective county auditors. The letters are attached for your reference.

As stated in the letter to Mr. Kondo, 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_MofqXFso1HP-jwiReACxZub/view.

PIG 2 Big Island Vote Count; September 29, 2025, Report on Purported Big Island Ballot Discrepancy:
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We request that your office initiate an audit of the 2024 General Election for your respective county. We appreciate your consideration.

Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-26-002

Enclosures

c: Elections Commission



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

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.

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Mr. Leslie H. Kondo, State Auditor
December 12, 2025
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We appreciate your consideration.

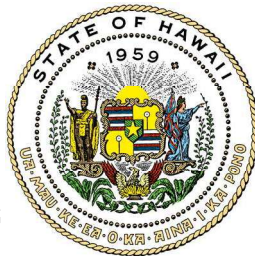
Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-25-007

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

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Michael Curtis, Chairperson

December 30, 2025

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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



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

January 23, 2026

Office of the County Auditor, Maui County
Wells St. Professional Center
2145 Wells Street, Suite 303
Wailuku, HI 96793

county.auditor@mauicounty.us

RE: 2024 General Election Audit Request

Aloha,

This is written in response to a motion made by the Elections Commission at our January 7, 2026, meeting. The Elections Commission passed a motion that:

The Elections Commission send a letter to the different county auditors, the auditors for Honolulu County, Maui County, Hawaii County, and Kauai County, and suggest that they do an audit of the 2024 General Election as recommended by State Auditor Les Kondo.

The motion was made by Commissioner Sabas and seconded by Commissioner Kamm; and passed with Commissioners Andrion, Apana, Cushnie, Kamm, Sabas, and Curtis voting in favor. Commissioners Dalton and Osterkamp voted against the motion.

On December 12, 2025, the Elections Commission sent a letter to State Auditor Leslie H. Kondo, requesting an audit of the 2024 Election. Mr. Kondo sent a response on December 30, 2025, stating that it may be more appropriate to address our request to the respective county auditors. The letters are attached for your reference.

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Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-26-003

Enclosures

c: Elections Commission



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

December 12, 2025

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465 South King Street, Room 500
Honolulu, HI 96813-2917

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Mr. Leslie H. Kondo, State Auditor
December 12, 2025
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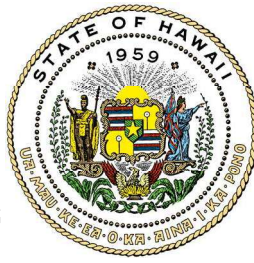
Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-25-007

c: Elections Commission



December 30, 2025

VIA EMAIL (elections.commission@hawaii.gov)

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State of Hawai'i Elections Commission
c/o Office of Elections
802 Lehua Avenue
Pearl City, HI 96782

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Michael Curtis, Chairperson

December 30, 2025

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Leslie H. Kondo

State Auditor

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Kaiolani Papalimu, Commissioner
John Sabas, Commissioner



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

January 23, 2026

Office of the County Auditor, Kauai County
Hale Pumehana Building
3083 Akahi Street, Room 201
Līhu'e, Hawai'i 96766

auditor@kauai.gov

RE: 2024 General Election Audit Request

Aloha,

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Michael Curtis
Elections Commission Chair

MC:rd
EC-26-004

Enclosures

c: Elections Commission



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

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465 South King Street, Room 500
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Mr. Leslie H. Kondo, State Auditor
December 12, 2025
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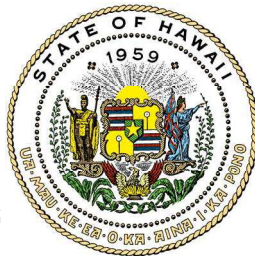
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Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-25-007

c: Elections Commission



December 30, 2025

VIA EMAIL (elections.commission@hawaii.gov)

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State of Hawai'i Elections Commission
c/o Office of Elections
802 Lehua Avenue
Pearl City, HI 96782

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Michael Curtis, Chairperson

December 30, 2025

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MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

January 23, 2026

Office of the County Auditor, City and County of Honolulu
1001 Kamokila Blvd, Suite 216
Kapolei, Hawai'i 96707

oca@honolulu.gov

RE: 2024 General Election Audit Request

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Sincerely,

Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-26-005

Enclosures

c: Elections Commission



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

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465 South King Street, Room 500
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Mr. Leslie H. Kondo, State Auditor

December 12, 2025

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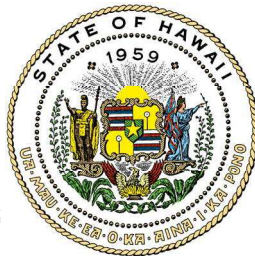
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Michael Curtis

Michael Curtis
Elections Commission Chair

MC:rd
EC-25-007

c: Elections Commission



December 30, 2025

VIA EMAIL (elections.commission@hawaii.gov)

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Michael Curtis, Chairperson

December 30, 2025

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State Auditor

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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: oiip@hawaii.gov
www.oiip.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.

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)



JOSH GREEN, M.D.
GOVERNOR

**STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES**

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

CARLOTTA AMERINO
DIRECTOR

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
X	the minutes of the relevant meeting
X	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

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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 hawaiiag@hawaii.gov and via website form:
<https://ag.hawaii.gov/contact-us/email-the-department-of-ag/>