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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

PUBLIC FIRST LAW CENTER,

Plaintiff,

vs.

UNIVERSITY OF HAWAI'I,

Defendant.

CIVIL NO. 1CCV-26-0000569 (KLH)
(Other Civil Action)

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS AND ALTERNATIVELY, FOR LEAVE TO AMEND [DKT. 65]; EXHIBIT "A"

JUDGE: Hon. Karin L. Holma
TRIAL DATE: January 10, 2028

HEARING
HEARING DATE: October 19, 2026
HEARING TIME: 2:00 p.m.

ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS AND ALTERNATIVELY, FOR LEAVE TO AMEND [DKT. 65]

Plaintiff Public First Law Center's (Plaintiff) Motion for Partial Judgment on the Pleadings and Alternatively, for Leave to Amend (motion), filed August 31, 2026 [Dkt. 65] came for hearing on October 19, 2026 at 2:00 p.m., before the Honorable Karin L. Holma, Judge of the above-entitled Court. Benjamin M. Creps appeared for Plaintiff.

Justin M. Luney appeared for Defendant University of Hawai‘i. No other appearances were made.

After having considered the motion, memoranda, the declarations and exhibits submitted and the authorities cited by both parties, the pleadings and other records in this case, and argument of counsel, it is hereby ORDERED, ADJUDGED, AND DECREED, as follows:

(1) Plaintiff's alternative request to amend its Complaint, in the form attached, is GRANTED; and

(2) Plaintiff's motion is DENIED in all other respects.

DATED: Honolulu, Hawai‘i, November 16, 2026

/s/Karin L. Holma

JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

GREG H. TAKASE
JUSTIN M. LUNEY
Attorneys for Defendant

Exhibit “A”

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Attorneys for Plaintiff Public First Law Center

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI‘I

PUBLIC FIRST LAW CENTER,

Plaintiff,

vs.

UNIVERSITY OF HAWAI‘I; WENDY HENSEL; JULIAN VASQUEZ HEILIG; and KIM SIEGENTHALER,

Defendants.

CIVIL NO. 1CCV-26-0000569 (KLH)
(Other Civil Action)

FIRST AMENDED COMPLAINT; SUMMONS

JUDGE: Hon. Karin L. Holma

TRIAL DATE: January 10, 2028

FIRST AMENDED COMPLAINT

Plaintiff Public First Law Center (Public First) alleges as follows:

PARTIES

1. Public First is a nonprofit organization dedicated to promoting open government in Hawai‘i.

2. Defendant University of Hawai‘i (Defendant or UH) is constitutionally established as the state university of Hawai‘i and a body corporate that is governed by the UH Board of Regents (Regents), an agency, board, commission, authority, or

committee of the State of Hawai‘i within the definition of "Board" under Hawai‘i Revised Statutes (HRS) § 92-2.

3. Claims against the Regents are brought against UH pursuant to HRS § 304A-108.

4. Wendy Hensel (Hensel) is the current President of UH and was one of two finalist candidates interviewed by the Regents for the position in October 2024.

5. Julian Vasquez Heilig (Heilig) was the other finalist candidate for the position of UH President and was interviewed by the Regents in October 2024.

6. Kim Siegenthaler (Siegenthaler) was interviewed and hired by the Regents in January 2025 as the sole candidate for the position of Senior Advisor to the UH President.

7. Hensel, Heilig, and Siegenthaler are named as individuals who "could claim an interest" related to the subject of this action pursuant to *Civil Beat Law Ctr. for the Pub. Interest, Inc. v. City & Cty. of Honolulu*, 144 Haw. 466, 445 P.3d 47 (2019).

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action to enforce the provisions of the Sunshine Law, HRS chapter 92 part I, by injunction or other appropriate remedy pursuant to HRS §§ 92-12(b) and 603-21.5(3).

9. Venue is proper in this Court pursuant to HRS §§ 92-12(c) and 603-36(5) for any one of the following: the prohibited act occurred in this circuit; the claim for relief arose in this circuit; and the Defendant is headquartered and domiciled in this circuit.

10. This suit is brought within two years of the prohibited acts and thus timely under HRS §§ 92-12(c).

FACTUAL BACKGROUND

11. The Sunshine Law exists to provide the people of Hawai‘i the opportunity to observe and participate meaningfully in government processes and to promote trust in government.

12. The Sunshine Law provides that every meeting of every board "shall" be open to the public and that the deliberations, decisions, and actions of these boards "shall" be conducted as openly as possible, subject to narrowly construed exceptions. HRS §§ 92-1, -3, -4, and -5.

13. This suit seeks declaratory and injunctive relief to compel the Regents' compliance with part I of chapter 92, HRS; determine the applicability of the same to the Regents' discussions and decisions; deter future violations; and afford the public proper access to the Regents' board meetings.

14. The Regents used open meeting exemptions excessively and improperly to secretly hire the UH President and a Senior Adviser to the UH President, award them a combined one-million-dollars in annual compensation, and evaluate the UH President's first year of performance, entirely behind closed doors.

15. Among other relief, Public First seeks disclosure of the Regents' executive session minutes concerning its hiring of UH President (October 16-17, 2024) and the Senior Advisor to the UH President (January 16, 2025), and its annual performance evaluation of the UH President (October 16, 2025).

16. These executive session discussions are plainly "board business" of great significance to the entire State. Then and now, they should be open to the public.

17. Public First does *not* seek to invalidate any "final action" under HRS § 92-11.

18. Pursuant to HRS §§ 92-3 and 92-9, the Regents posts true and correct copies of its agendas, minutes, and recordings of public meetings—for all meetings at issue in this Complaint—at https://www.hawaii.edu/offices/bor/archive/.

THE REGENTS INTERVIEW TWO CANDIDATES FOR UH PRESIDENT, SELECT ONE, AND OFFER A $750,000 ANNUAL COMPENSATION PACKAGE ENTIRELY BEHIND CLOSED DOORS

19. The Regents has the sole authority to hire the UH president.

20. The UH president is the Chief Executive Officer of the ten-campus UH system and also serves as the Regents' executive officer.

21. The UH President has a high level of fiscal authority.

22. The UH President has a high level of discretionary authority.

23. The UH President is a high-level government official.

24. The public has a legitimate interest in the selection process for UH President.

25. After the Regents announced the names of the two finalists—Heilig and Hensel—the Regents met in executive session for several hours on October 16, 2024, to interview Heilig and Hensel and deliberate on their selection and compensation.

26. The Regents continued the executive session on October 17.

27. The October 16 meeting agenda cited HRS § 92-5(a)(2) and (4) as the bases for the executive session.

28. During the October 16-17 executive session, on information and belief, the Regents:

a. Interviewed Heilig and Hensel;

b. Discussed the candidates' vision or plans for UH;

c. Discussed candidate preference and selection;

d. Discussed candidate compensation;

e. Discussed Hensel's compensation;

f. Offered Hensel a compensation package;

g. Discussed hiring a "special advisor" for Hensel; and

h. Discussed matters not directly related to exempt purposes.

THE REGENTS CREATE A NEW POSITION AND HIRE THE SOLE CANDIDATE ENTIRELY IN EXECUTIVE SESSION

29. The Regents' January 16, 2025 agenda cited HRS § 92-5(a)(2) and (4) as the bases to discuss hiring a "Senior Advisor to the President" in executive session.

30. On information and belief, at the January 16 meeting, the Regents met in executive session and discussed hiring a senior advisor to President Hensel and compensation for the position.

31. When the Regents reconvened in open session on January 16, the Regents did not summarize the executive session discussion.

32. The Regents approved the motion to hire Siegenthaler and pay her $250,000 unanimously with no public discussion.

COUNT I
THE REGENTS VIOLATED THE SUNSHINE LAW BY MEETING IN EXECUTIVE SESSION TO INTERVIEW AND EVALUATE CANDIDATES FOR UH PRESIDENT AND DISCUSS COMPENSATION ON OCTOBER 16-17, 2024

33. The paragraphs above are incorporated and realleged here.

34. The Regents violated the Sunshine Law by meeting in executive session on October 16-17 to discuss and select a candidate for UH President.

35. The Regents relied on HRS § 92-5(a)(2) to hold the October 16-17 executive session.

36. HRS § 92-5(a)(2) permits a closed meeting "[t]o consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved."

37. The Regents exceeded the bounds of a permissible executive session on October 16-17 by discussing and deliberating toward a decision in executive session on matters not "directly related" to consideration of matters affecting privacy.

38. Not all information concerning the interview and evaluation of candidates for the UH President is "highly personal and intimate."

39. There is a legitimate public interest in the disclosure of information concerning the interview and evaluation of candidates for UH President.

40. There is a legitimate public interest in the disclosure of the Defendant's deliberations regarding the interview and evaluation of candidates for UH President.

41. The Regents also relied on HRS § 92-5(a)(4) to hold the October 16-17 executive session.

42. HRS § 92-5(a)(4) permits a closed meeting for a board to consult with its attorney regarding the board's powers, privileges, duties, and liabilities.

43. The Regents did not consult with its attorney for the entirety of the October 16-17 executive session.

44. The Regents' closed-door candidate interviews and post-interview discussions on October 16-17 exceeded the scope of any permissible exception.

45. The Regents did not have a valid legal basis for interviewing candidates entirely in executive session on October 16-17.

46. The Regents did not have a valid legal basis for evaluating candidates in executive session on October 16-17.

47. The Regents did not have a valid legal basis for discussing UH president compensation in executive session on October 16-17.

48. The entirety of the Regents' October 16-17 executive session was not directly related to a purpose stated in HRS § 92-5.

49. At least a portion of the Regents' October 16-17 executive session discussion was not directly related to a purpose stated in HRS § 92-5.

50. The Regents' closed-door interviews and discussions on October 16-17 exceeded the scope of any permissible exception.

51. Nothing in the Sunshine Law allows the Regents to withhold the entirety of the October 16-17 executive session minutes concerning the selection of UH President.

52. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by exceeding permissible exceptions for executive session during the October 16-17 meeting.

53. Public First is entitled to an order compelling Defendant to disclose executive session minutes and recordings for the October 16-17 meeting.

COUNT II
THE REGENTS VIOLATED THE SUNSHINE LAW BY DISCUSSING THE CREATION OF A NEW POSITION AND HIRING THE SOLE CANDIDATE ENTIRELY IN EXECUTIVE SESSION ON JANUARY 16, 2025

54. The paragraphs above are incorporated and realleged here.

55. The Regents violated the Sunshine Law by meeting in executive session on January 16 to discuss a new presidential special advisor without recruitment.

56. The Regents relied on HRS § 92-5(a)(2) to hold the January 16 executive session.

57. The Regents exceeded the bounds of a permissible executive session on January 16 by discussing and deliberating toward a decision in executive session on matters not "directly related" to consideration of matters affecting privacy.

58. The Regents' January 16 executive session discussion about creating a new high-level position is unrelated to matters affecting privacy.

59. Not all information concerning the candidate for special advisor to the UH President is "highly personal and intimate."

60. There is a legitimate public interest in the Regents' creation and hiring of a special advisor position without recruitment.

61. The Regents also relied on HRS § 92-5(a)(4) to hold the January 16 executive session.

62. On information and belief, the Regents did not consult with its attorney for the entirety of the January 16 executive session.

63. The Regents' closed-door discussion on January 16 exceeded the scope of any permissible exception.

64. The entirety of the Regents' January 16 executive session was not directly related to a purpose stated in HRS § 92-5.

65. At least a portion of the Regents' January 16 executive session discussions was not directly related to a purpose stated in HRS § 92-5.

66. On information and belief, the Regents did not have a valid legal basis to discuss hiring a special advisor to President Hensel entirely in executive session on January 16.

67. Nothing in the Sunshine Law allows the Regents to withhold the entirety of the January 16 executive session minutes concerning hiring a senior advisor for President Hensel.

68. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by exceeding permissible exceptions for executive session during the January 16 meeting concerning a special advisor to the UH President.

69. Public First is entitled to an order compelling Defendant to disclose executive session minutes and recordings for the January 16 meeting concerning the special advisor to the UH President.

COUNT III
THE REGENTS VIOLATED THE SUNSHINE LAW BY EVALUATING PRESIDENT HENSEL ENTIRELY IN SECRET ON OCTOBER 16, 2025

70. The paragraphs above are incorporated and realleged here.

71. The published agenda for the Regents' October 16, 2025 meeting identified the personnel-privacy exemption and attorney consultation as the legal basis for holding an executive session to evaluate President Hensel's annual performance.

72. Neither exemption justifies the closed-door evaluation.

73. Not all information concerning the annual performance of the UH President and the Regents' evaluation of that performance is "highly personal and intimate."

74. There is a legitimate public interest in the annual performance evaluation of the UH President.

75. The Regents did not have a valid legal basis for conducting the entirety of its performance review and evaluation of President Hensel in executive session.

76. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by exceeding the permissible exceptions for executive session during the October 16 meeting to evaluate President Hensel.

77. Public First is entitled to an order compelling Defendant to disclose executive session minutes and recordings for the October 16 meeting.

COUNT IV
THE REGENTS VIOLATED THE SUNSHINE LAW BY FAILING TO SUMMARIZE EXECUTIVE SESSION DISCUSSIONS

78. The paragraphs above are incorporated and realleged here.

79. HRS § 92-4(b) provides, "Any discussion or final action taken by a board in an executive meeting shall be reported to the public when the board reconvenes in the open meeting at which the executive meeting is held."

80. The Regents failed to summarize its executive session discussions at meetings held on January 16, February 20, March 20, April 17, July 17, August 21, and October 16, 2025.

81. The Regents failed to summarize its executive session discussions at meetings held on January 15, February 5, and February 19, 2026.

82. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by failing to summarize Defendant's executive session discussions at meetings held on January 16, February 20, March 20, April 17, July 17, August 21, and October 16, 2025; and January 15, February 5, and February 19, 2026.

COUNT V
THE REGENTS VIOLATED THE SUNSHINE LAW BY FAILING TO KEEP ACCURATE MEETING MINUTES

83. The paragraphs above are incorporated and realleged here.

84. HRS § 92-9(a) requires that boards "keep written or recorded minutes of all meetings" that "give a true reflection of the matters discussed at the meeting and the views of the participants" and include the "substance of all matters proposed, discussed, or decided" among other particulars.

85. The Regents failed to record minutes that provide a true reflection of the matters discussed and the views of the participants for its meetings held on January 16, February 20, March 20, April 17, July 17, August 21, and October 16, 2025; and January 15, February 5, and February 19, 2026.

86. The regular session minutes for these meetings, identified immediately above, represent that Chair Lee stated, upon exiting executive session, that the board discussed the matters "as noted on the agenda."

87. But Chair Lee did not actually say that; in each instance, he simply moved to the next agenda item or concluded the meeting.

88. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by failing to maintain accurate minutes for meetings held on January 16, February 20, March 20, April 17, July 17, August 21, and October 16, 2025; and January 15, February 5, and February 19, 2026 insofar as the minutes incorrectly represent that Defendant publicly summarized the executive session discussions.

COUNT VI
THE REGENTS VIOLATED THE SUNSHINE LAW BY REMOTELY ATTENDING MEETINGS NOTICED AS "IN PERSON ONLY"

89. The paragraphs above are incorporated and realleged here.

90. Defendant noticed its January 16, February 6, and February 20, 2025 meetings as "in person only."

91. The agenda for each of these meetings provided: "Although remote oral testimony is being permitted, this is a regular meeting and not a remote meeting by interactive conference technology under Section 92-3.7, [HRS]."

92. The agenda for each of these meetings failed to provide a link for remote public participation.

93. At each of these meetings, at least one board member appeared remotely.

94. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by allowing board members to participate remotely at "in person only" meetings held on January 16, February 6, and February 20, 2025.

COUNT VII
THE REGENTS VIOLATED THE SUNSHINE LAW BY REQUIRING REGISTRATION FOR PUBLIC TESTIMONY

95. The paragraphs above are incorporated and realleged here.

96. The Regents require members of the public to register in advance of a meeting to be able to testify orally at the meeting.

97. For each of its meetings held in 2025, the Regents required remote testifiers to register before the meeting to obtain a link to enable remote participation.

98. For each of its meetings held in 2025, the Regents required in-person testifiers to register before the meeting in order to testify during the meeting.

99. For each of its meetings held to-date in 2026, the Regents required remote testifiers to register before the meeting to obtain a link for remote participation.

100. For each of its meetings held to-date in 2026, the Regents required in-person testifiers to register before the meeting in order to testify during the meeting.

101. The Regents require members of the public who wish to provide oral testimony on board business to submit their name, email address, and topic of intended testimony.

102. The Regents do not solicit public testimony from unregistered testifiers before beginning a new agenda item.

103. The Regents do not permit unregistered testifiers to testify remotely.

104. The Regents do not permit unregistered testifiers to testify in person.

105. Under the Sunshine Law, boards must afford all members of the public an opportunity to testify on each and every meeting agenda item.

106. Under the Sunshine Law, boards cannot make registration a prerequisite to allowing a member of the public to testify orally at a public meeting.

107. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by requiring registration as a prerequisite to oral testimony at each of its meetings held in 2025 and 2026 (to-date).

COUNT VIII
THE REGENTS VIOLATED THE SUNSHINE LAW BY USING OVERLY VAGUE AGENDA LANGUAGE

108. The paragraphs above are incorporated and realleged here.

109. The Sunshine Law requires boards to adequately describe agenda topics, including topics for executive session.

110. The Sunshine Law's notice requirement is intended to, among other things, give interested members of the public enough information to decide whether to participate in the meeting.

111. The Regents' January 16, 2025 agenda provided as item VIII.3: "Privileged and Confidential Briefing by the University General Counsel regarding Pending and Anticipated Legal Matters."

112. The Regents' April 17, 2025 agenda provided as item VII.A.1: "Privileged and Confidential Briefing by the University General Counsel regarding Pending and Anticipated Legal Matters."

113. The Regents July 17, 2025 agenda provided as item VI.A1: "Privileged and Confidential Briefing by the University General Counsel regarding Pending and Anticipated Legal Matters."

114. The Regents October 16, 2025 agenda provided as item VI.A.1: "Privileged and Confidential Briefing by the University General Counsel regarding Pending and Anticipated Legal Matters."

115. The Regents January 15, 2026 agenda provided as item VI.B.1: "Privileged and Confidential Briefing by the University General Counsel regarding Pending and Anticipated Legal Matters."

116. Public First is entitled to an order declaring that the Regents violated the Sunshine Law by failing to sufficiently describe anticipated executive session discussions on its January 6, April 17, July 17, and October 16, 2025, and January 15, 2026 agendas, as identified above.

DEMAND FOR RELIEF

Based on the foregoing, Public First respectfully asks this Court to grant the following relief:

A. Enter an order declaring that the Regents violated the Sunshine Law by:

(1) Exceeding permissible exceptions for executive session during the October 16-17, 2024 meeting;

(2) Exceeding permissible exceptions for executive session during the January 16, 2025 meeting concerning a special advisor to the UH President;

(3) Exceeding permissible exceptions for executive session during the October 16, 2025 meeting to evaluate President Hensel;

(4) Failing to summarize executive session discussions at meetings held on January 16, February 20, March 20, April 17, July 17, August 21, and October 16, 2025; and January 15, February 5, and February 19, 2026;

(5) Failing to keep accurate minutes for meetings held on January 16, February 20, March 20, April 17, July 17, August 21, and October 16, 2025; and February 5, and February 19, 2026 insofar as the minutes incorrectly represent that the Regents publicly summarized the executive session discussions;

(6) Allowing board members to participate remotely at "in person only" meetings held on January 16, February 6, and February 20, 2025;

(7) Requiring registration as a prerequisite to oral testimony at each meeting held in 2025 and 2026 (to-date); and

(8) Failing to sufficiently describe the anticipated executive session discussion on Defendant's January 6, April 17, July 17, and October 16, 2025, and January 15, 2026 agendas as above-identified;

B. Enter an order compelling Defendant to disclose executive session minutes and recordings for the October 16-17, 2024 meeting and the January 16 and October 16, 2025 meetings;

C. Enter judgment in favor of Plaintiff and against Defendants on all counts respectively brought against them;

D. Award Plaintiff reasonable attorney's fees and all other expenses reasonably incurred in the litigation, pursuant to HRS § 92-12(c); and

E. Grant such other and further relief as it deems reasonable and just.

DATED: Honolulu, Hawai'i, _____ 2026

/s/_____
ROBERT BRIAN BLACK
BENJAMIN M. CREPS
Attorneys for Plaintiff