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SCPW-26-0000498

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

RALPH S. CUSHNIE and TAMARA McKAY,

Petitioners,

v.

SCOTT T. NAGO, in his official capacity as
Chief Election Officer, State of Hawai‘i; and
OFFICE OF ELECTIONS, State of Hawai‘i,

Respondents.

ORIGINAL PROCEEDING

RESPONDENTS' ANSWER TO PETITION FOR WRIT OF MANDAMUS

DECLARATION OF RAYMUND DE VEGA

EXHIBITS 1-4

CERTIFICATE OF SERVICE

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Chief Election Officer, State of Hawai‘i;
and OFFICE OF ELECTIONS, State of
Hawai‘i

RESPONDENTS' ANSWER TO PETITION FOR WRIT OF MANDAMUS

I. INTRODUCTION

Pursuant to the Order issued herein by the Hawai‘i Supreme Court, Respondents SCOTT T. NAGO, in his official capacity as Chief Election Officer, State of Hawaii, and OFFICE OF ELECTIONS, State of Hawaii, submit this Answer to the Petition for Writ of Mandamus filed on July 8, 2026, by Petitioners Ralph S. Cushnie and Tamara McKay (“Petitioners”).

Petitioners seek to unilaterally call a meeting of the Elections Commission, without being the chairperson of that body or in accordance with any act of the body passed by a majority vote. Intertwined with this, they seek to require the Office of Elections to facilitate and give the trappings of legitimacy to their interpretation of the law regarding the calling of meetings.

II. STATEMENT OF THE CASE

Hawaii Revised Statutes (“HRS”) § 11-1.5(b) provides as follows:

The office of elections shall provide staff support to the elections commission, *as requested by the elections commission*.

(Emphasis added).

This support is provided primarily by Office of Elections employee Raymund de Vega. Declaration of de Vega (“de Vega Dec.”) at ¶ 3. Additionally, the Department of the Attorney General represents the Elections Commission in all legal matters. *Id.* at ¶ 5.

The Elections Commission has eight members that are appointed by the majority and minority of the state senate and state house of representatives. HRS § 11-7(a). Additionally, a ninth member, the chairperson, is selected by a two-thirds vote of those eight members. HRS § 11-7(b). The term of office for each member is four years. HRS § 11-7(f).

To the extent there is a vacancy, the statute explains as follows:

A vacancy in the elections commission shall be filled in the same manner as the original appointment as specified in subsection (a) within fifteen days. A vacancy in the elections commission shall be filled with a person from the same county as the departing elections commission member. Elections commission member vacancies not filled within the times specified shall be filled promptly thereafter by the chief justice of the supreme court.

HRS § 11-7(c).

As it relates to actions of the Elections Commission, the statute provides:

The elections commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

HRS § 11-7(d).

In light of the foregoing authority, the Office of Elections provides support to the Elections Commission in response to actions passed by the Commission by a majority vote. *See* HRS section 11-7(d); *see also* de Vega Dec. at ¶ 12. Additionally, the Office of Elections assists the chairperson selected by the Elections Commission with the traditional duties conferred to the chairperson, such as convening meetings, setting agendas, and otherwise addressing other administrative matters. *Id.* at ¶ 14.

The term for Chairperson Michael Curtis was scheduled to end on June 30, 2026, and steps were taken to recruit replacement applicants for the Elections Commission to consider. *Id.* at ¶¶ 15-16.

A meeting was held on June 10, 2026, for this purpose, subject to an agenda that had been posted. *Id.* at ¶¶ 17-18 and Exhibit 1. At the June 10, 2026, meeting, the Elections Commission failed to garner the required votes to select a new chairperson. *Id.* at ¶ 19.

Minutes were prepared of what transpired at the meeting. *Id.* at ¶¶ 21-22 and Exhibit 2.

The following, according to the minutes, occurred before the meeting adjourned:

Commissioners debated whether they could appoint a temporary Chair Pro Tem with fewer than six votes. Commissioner Cushnie argued that a Pro Tem position requiring only five votes was allowed under Robert's Rules of Order, while Commissioner Osterkamp strongly disagreed, insisting Hawaii law requires six votes and that Robert's Rules cannot override statute. Multiple members questioned whether Hawaii law permits electing a Pro Tem at all.

Deputy Attorney General (DAG) Jordan Ching explained that the statute is ambiguous regarding whether the Chief Justice can appoint a Chair if the Commission cannot elect one, although he confirmed the Chief Justice can fill Commissioner vacancies. He stated that if the Commission cannot elect a Chair at the current meeting, the Chair may call another meeting before the end of his term. He added that if the Commission still cannot reach consensus at that time, options include electing a Chair Pro Tem from current members solely for the purpose of selecting a new Chair, or ultimately referring to the Chief Justice. Commissioners requested a written legal opinion from DAG Ching to clarify the process for replacing the Chair without six votes. Commissioner agreed to reconvene on June 24.

Id. at Exhibit 2 at 13-14.

On June 15, 2026, Chairperson Curtis canceled the June 24, 2026 meeting as he expressed that “[d]ue to the current makeup of the Hawaii Election Commission, it is unreasonable to expect six votes to elect my successor to the position of Chairman.” *Id.* at ¶¶ 28-30 and Exhibit “3”. Chairperson Curtis further stated that “[t]he new Chairman will be appointed/elected as prescribed by law.” *See id.* at ¶ 28 and Exhibit “3”.

Mr. de Vega was contacted after the chairperson's term ended by Petitioners in an attempt to get him as support staff to endorse their interpretation of what should occur as a result of the vacancy. *Id.* at ¶ 31. Elections Commissioner McKay in subsequent email correspondence memorialized her request for support staff for a meeting she was planning to call unilaterally on her own. *Id.* at ¶ 32.

Elections Commissioner McKay had interactions with other governmental entities advocating for her position that she could call a meeting and that support staff were to support

such a meeting. *Id.* at ¶ 33. The Office of Information Practices issued a letter, dated July 10, 2025, indicating that it would not investigate or provide a legal opinion in relation to Elections Commissioner McKay’s allegations. *Id.* at ¶¶ 34-35 and Exhibit 4.

Mr. de Vega was left with questions about possible Sunshine law and Ethics violations if he were to proceed with Petitioners’ requests. *Id.* at ¶¶ 31-38.

With this as context, Mr. de Vega has indicated that “setting in motion the convening of an official meeting and all of what that entails, including representing to the public what the agenda will be, without regard to whether the meeting is even authorized to occur is not something as a government employee that I should be expected to be a part of, absent clear guidance that such conduct is permissible.” *Id.* at ¶ 39. Given this, the Office of Elections did not recognize the Petitioners as having the clear and explicit authority to act on behalf of the Elections Commission to request support services for a meeting that was not even clearly and explicitly authorized to be called by Petitioners.

III. STANDARD OF REVIEW

It is well-established that “[a] writ of mandamus and/or prohibition is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to the relief requested and a lack of other means to redress adequately the alleged wrong or to obtain the requested action.” *See Kema v. Gaddis*, 91 Hawai‘i 200, 204, 982 P.2d 334, 338 (1999) (internal citation omitted).

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IV. ARGUMENT

A. THE OFFICE OF ELECTIONS DID NOT FAIL OR REFUSE TO PROVIDE STAFF SUPPORT TO THE ELECTIONS COMMISSION AND DID NOT PREVENT THE ELECTIONS COMMISSION FROM MEETING TO ELECT A CHAIRPERSON.

The Court's order directed Respondents to file an answer that addressed the following:

Whether the Office of Elections has failed or refused to provide staff support to the Elections Commission as requested pursuant to Hawai'i Revised Statutes (HRS) § 11-1.5(b) (2009), and whether any such failure prevented the Elections Commission from meeting to elect a chairperson.

Dkt. 14 at 1-2.

As to the first question, the Office of Elections did not fail or refuse to provide staff support to the Elections Commission as requested pursuant to HRS § 11-1.5(b), as neither the Commission nor a chairperson selected by the Commission has requested the support sought by Petitioners. Because Petitioners lack any authority to convene a meeting on behalf of the Elections Commission, the Office of Elections did not fail to provide the support required under HRS § 11-1.5(b).

As explained above, HRS § 11-1.5(b) requires the Office of Elections to “provide staff support to the elections commission, *as requested by the elections commission.*” (Emphasis added). HRS section 11-7(d) requires the Elections Commission to act by majority vote of its membership, which is five (5) votes. In accordance with this statutory requirement, the Office of Elections provides support to the Commission in response to actions passed by the Commission by a majority vote. *See de Vega Dec.* at ¶ 12. In relation to its obligation to provide administrative support to the Elections Commission, the Office of Elections also provides support to the chairperson selected by the Commission. *See id.* at ¶¶ 13-14. This includes

assisting the chairperson with the traditional duties conferred to commission and board chairs, including convening and agendizing meetings. *See id.*

Applied here, the Elections Commission has not passed any action to request the Office of Elections for support to convene the meeting requested by Petitioners. Further, the Elections Commission has not authorized any individual commissioner, including Petitioners, to convene a meeting on its behalf. The only single commissioner who is authorized to convene a meeting on the Elections Commission's behalf is the chairperson selected by the Commission. Chairperson Curtis, in his discretion, elected not to convene a meeting after the June 10, 2026 meeting, where the Elections Commission failed to select his successor, noting that his successor "will be appointed/elected as prescribed by law." *See id.* at ¶ 28. Because the Commission did not select a new chairperson and did not vote to convene any subsequent meeting (or authorize any commissioner to convene a subsequent meeting on its behalf), the Office of Elections could not provide the support requested by Petitioners. Further, there is nothing in HRS chapter 11 nor the Elections Commission's rules codified under Hawai'i Administrative Rules ("HAR") chapter 3-170 that authorize individual commissioners to act on behalf of the Commission, including to unilaterally convene a meeting as sought by Petitioners. Given the foregoing, the Office of Elections did not fail or refuse to provide staff support to the Elections Commission, as neither the Commission nor a chairperson selected by the Commission has made a request for the support sought by Petitioners.

As to the second question, as neither the Commission nor a chairperson selected by the Commission has requested to convene a meeting or to ask for staff support under HRS § 11-1.5(b), the Office of Elections did not prevent the Elections Commission from meeting to elect a chairperson. As discussed further in Section IV.B., *infra*, Petitioners have no clear and explicit

authority to act on behalf of the Elections Commission. This includes not having authority to make requests for the Office of Elections to support meetings that they have no authority to unilaterally convene.

The support staff, in the form of Mr. de Vega, makes it clear in his declaration that he was faced with a situation in which there was no clear and explicit authority for him to do what Petitioners sought. In terms of context, he explains his understanding of the support that is provided by his office and the Department of the Attorney General to the Elections Commission, along with the composition of the Elections Commission, and how it acts as a body to make requests through either votes or the Chair. *See id.* at ¶¶ 4-14. As the Petitioners lacked clear and explicit authority to act on behalf of the Elections Commission to convene a meeting or to ask for staff support under HRS § 11-1.5(b), the Office of Elections did not prevent the Elections Commission from meeting to elect a chairperson.

B. PETITIONERS HAVE NO AUTHORITY TO BRING AN ACTION AS INDIVIDUAL ELECTIONS COMMISSION MEMBER INDEPENDENT OF OR IN THE ABSENCE OF A COLLECTIVE DECISION BY THE ELECTIONS COMMISSION

Petitioners appear to assume that as members of the Elections Commission that they are entitled to bring this action on their own without a majority vote decision by the Elections Commission.

Petitioners' apparent assumption as to their autonomous official authority for purposes of calling a meeting at their unilateral convenience and filing a lawsuit is misplaced. The Elections Commission is established by HRS §11-7 and any actions by the Elections Commission must be by majority vote of its members as stated in HRS §11-7(d) as follows: "The elections commission *shall act by majority vote of its membership* and shall establish its own procedures, except as may be provided by law." (Emphasis added). As shown here, the plain language of the

enabling statute contains no authorization for an individual Elections Commissioner to initiate an action without a majority vote of the Elections Commission's members.

Further HRS §11-7.5, which enumerates the duties of the Elections Commission also does not contain any authorization for an individual commission member to act independently of the other members and without a majority vote decision. HRS §11-7.5 prescribes the duties of the Elections Commission, not individual members, as follows:

§11-7.5 Duties of the elections commission. The duties of the elections commission are to:

- (1) Hold public hearings;
- (2) Investigate and hold hearings for receiving evidence of any violations and complaints;
- (3) Adopt rules pursuant to chapter 91;
- (4) Employ, without regard to chapter 76, a full-time chief election officer, pursuant to section 11-1.6;
- (5) Conduct a performance evaluation of the chief election officer within two months after the date a general election is certified;
- (6) Hold a public hearing on the performance of the chief election officer and consider the information gathered at the hearing in deliberations on the chief election officer's reappointment; and
- (7) Advise the chief election officer on matters relating to elections.

As this Court advised in *Cushnie v. Nago*, SCEC-24-0000797, 2024 WL 5183213 at *4 (December 20, 2024), “[w]hen asked to decide whether a litigant is asserting legally recognized interests, personal and peculiar to that person, ‘we have spoken of standing[.]’” (citing *Tax Found. of Hawai‘i v. State*, 144 Hawai‘i 175, 191, 439 P.3d 127, 143 (2019)). The Court reflected on the plaintiff needing to establish a sufficient interest in the matter to serve as a basis for the involvement of the court. *Id.* (citing *Life of the Land v. Land Use Comm’n*, 63 Haw. 166, 172, 623 P.2d 431, 438 (1981) (quoting *Warth v. Seldin*, 422 U.S. 490, 498-99 (1975))).

“Standing requirements may be tempered or prescribed by legislative declarations of policy.” *Tax Found.*, 144 Hawai‘i at 191, 439 P.3d at 143. It further noted that “[w]hen construing a statute, our foremost obligation is to ascertain and give effect to the intention of the

legislature, which is to be obtained primarily from the language contained in the statute itself, and we must read statutory language in the context of the entire statute and construe it in a manner consistent with its purpose.” *Id.* at 145 (citation omitted).

In this case, Petitioners fails to adequately cite authority for an individual Elections Commissioner in their official capacity to challenge the actions, inaction, or omissions of their own board. The two Elections Commission statutes set forth above contain no authority for an individual Elections Commissioner to bring an action in their individual official capacity without the support of the full Elections Commission. In keeping with the Hawaii Supreme Court’s decision in *Tax Foundation*, the plain language of the statute does not allow for the actions that Petitioners are now taking.

Additionally, to the extent Petitioners are determined to be able to pursue this petition in their individual official capacities as Elections Commissioners, this would mean that Petitioners are imbued with some type of inherent state authority as Elections Commissioner or that they are an extension of or an agent of the governmental body of the Elections Commission.

Under any of these interpretations, an attorney would be necessary for Petitioners in their individual official capacity, to pursue the present matter. *See* HRS § 605-2 and 605-14.

As stated by this Court, “The prevailing rule is that a corporation cannot appear and represent itself either in proper person or by its officers, but can do so only by an attorney admitted to practice law.” *Oahu Plumbing and Sheet Metal, Ltd. v. Kona Const., Inc.*, 60 Haw. 372, 374, 590 P.2d 570, 572 (1979) (citations omitted). All of the policy reasons associated with not permitting an officer of a corporation to appear on its behalf without an attorney likewise apply to anyone contending they are acting in their official capacity.

The reasoning is that a corporation, being an artificial entity, can act only through its agents. *In re Holliday's Tax Services, Inc.*, *supra*, *Brandstein v. White Lamps, Inc.*, 20 F.Supp. 369, 370 (S.D.N.Y.1937). Courts thus require that persons trained in the law and familiar with court procedure act as the agents of corporations in litigation in order to protect the courts and to further the efficient administration of justice.

Id. at 376 (citations omitted).

Further, Petitioners status as an individual private citizens cannot easily be separated from their individual official capacities as Elections Commissioners. Nor do Petitioners apparently seek such separation, particularly where they repeatedly assert their role as Elections Commissioners.

Ultimately, as previously noted, HRS §§ 11-7 and 11-7.5 provide no authority for an Elections Commissioner to challenge the actions, inaction, or omissions of their own board, in the Elections Commissioner's official capacity as an individual Elections Commissioner or as a private citizen in their individual capacity.

To the extent Petitioners contend they are pursuing this matter in their individual capacity as private citizens, HRS § 11-8(b)(6) provides that an Elections Commissioner may "[o]therwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise the elections commission member's efficiency or integrity as an elections commission member or the neutrality, efficiency, or integrity of the elections commission." Essentially, permitting Petitioners to pursue the present case as private citizens challenging the lack of a decision by the Elections Commission to hold a meeting could require a consideration of this provision.

Given these types of questions and others about the permissible activities of Elections Commissioners, HRS § 11-8(c) provides that "[a]n elections commission member may request an advisory opinion from the state ethics commission to determine whether a particular activity

constitutes or would constitute a violation of the code of ethics or this section.” The record does not reflect Petitioners obtaining such an opinion about whether they could pursue the present case without the authorization of the Elections Commission or the representation of the Department of the Attorney General.

C. PETITIONERS’ CLAIMS ARE MOOT

It is well-settled that the mootness doctrine encompasses the circumstances that destroy the justiciability of a case previously suitable for determination. A case is moot where the question to be determined is abstract and does not rest on existing facts or rights. Thus, the mootness doctrine is properly invoked where "*events . . . have so affected the relations between the parties that the two conditions for justiciability relevant on appeal — adverse interest and effective remedy — have been compromised.*" *Wong v. Board of Regents, University of Hawaii*, 62 Haw. 391, 394, 616 P.2d 201, 203-04 (1980).

In re Thomas, 73 Haw. 223, 225-26 (Haw. 1992) (Emphases added).

Similarly, here the Petitioners’ claims with respect to Respondents are moot. Petitioners’ case relates to a meeting they sought to be held on July 14, 2026, and their petition to have the Office of Elections take certain actions by July 8, 2026, to avoid that meeting being canceled. Dkt. 1 at 13-14. Those dates have passed, and the meeting they sought was not held.

Additionally, Petitioners have stated, in part, the following:

This Petition does not require the Court to resolve the broader governance issues presently affecting the Elections Commission. Nor does it request an advisory opinion concerning the authority to election a chairperson or every question arising under HRS § 11-7. Those matters provide the factual context for this dispute, but they are not the legal questions presented.

Dkt. 1 at 2.

Under these circumstances, there are no matters explicitly raised by Petitioners that are not moot.

V. CONCLUSION

For the foregoing reasons, Respondents respectfully requests this Court to deny the petition.

DATED: Honolulu, Hawai‘i, July 24, 2026.

ANNE E. LOPEZ
Attorney General, State of Hawai‘i

/s/ Nietzsche L. Tolan
RANDALL S. NISHIYAMA
NIETZSCHE L. TOLAN
Deputy Attorneys General

/s/ Aaron H. Schulaner
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SCOTT T. NAGO, in his official capacity as Chief
Election Officer, State of Hawai‘i; and OFFICE OF
ELECTIONS, State of Hawai‘i

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

RALPH S. CUSHNIE and TAMARA
MCKAY,

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SCOTT T. NAGO, in his official capacity as
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OFFICE OF ELECTIONS, State of Hawai'i ,

Respondents.

ORIGINAL PROCEEDING

DECLARATION OF RAYMUND DE
VEGA; EXHIBITS 1-4

DECLARATION OF RAYMUND DE VEGA

I, RAYMUND DE VEGA, do declare under penalty of law that the following is true and correct:

1. I am a resident of the City and County of Honolulu, State of Hawaii, and am an employee of the Office of Elections.

2. I make this declaration based on my personal knowledge and am competent to testify as to the matters set forth herein.

3. As an employee of the Office of Elections since 2014, my duties and responsibilities have been primarily associated with voter services. However, I have recently been providing support services to the Elections Commission, to the extent administrative support is required to be provided by the Office of Elections, in addition to my normal duties and responsibilities.

GENERAL ADMINISTRATIVE SUPPORT OF THE ELECTIONS COMMISSION

4. In terms of context, HRS § 11-1.5(b) provides as follows:

The office of elections shall provide staff support to the elections commission, as requested by the elections commission.

5. Additionally, it is my understanding that the Department of the Attorney General represents the Elections Commission in all legal matters.

6. With that understanding, I work in conjunction with the assigned deputy attorney general from the Department of the Attorney General, to provide support to the Elections Commission.

7. The Elections Commission has eight members that are appointed by the majority and minority of the state senate and state house of representatives. HRS § 11-7(a). Additionally, a ninth member, in the form of a chairperson, is selected by a two-thirds vote of those eight members. HRS § 11-7(b).

8. The term of office for each member is four years. HRS § 11-7(f).

9. To the extent there is a vacancy, the statute explains as follows:

A vacancy in the elections commission shall be filled in the same manner as the original appointment as specified in subsection (a) within fifteen days. A vacancy in the elections commission shall be filled with a person from the same county as the departing elections commission member. Elections commission member vacancies not filled within the times specified shall be filled promptly thereafter by the chief justice of the supreme court.

HRS § 11-7(c).

10. As it relates to actions of the Elections Commission, the statute provides as follows:

The elections commission shall act by majority vote of its membership and shall establish its own procedures, except as may be provided by law.

HRS § 11-7(d).

11. As the Elections Commission is established to have nine members, I understand a majority to be five votes.

12. With this as context, the provision of support by me to the Elections Commission occurs in response to actions of the Elections Commission, supported by a majority vote. Outside of a meeting of an Elections Commission, as it cannot take a vote and it does not appear to be able to otherwise take action, my understanding is that the Elections Commission cannot take any actions unless specifically authorized by law.

13. With that in mind, I provide support to the Chair of the Elections Commission, who was selected by at least a two-thirds vote of the initial eight members.

14. This action of the Elections Commission to appoint a chair and with it the traditional duties of a chair to call meetings, set agendas, and otherwise address administrative matters outside of meetings, is the context in which I understand my office provides support to the chair, which is in essence support to the Elections Commission as a whole.

THE ELECTIONS COMMISSION CHAIR VACANCY

15. The term of office for Elections Commission Chair Michael Curtis was scheduled to end on June 30, 2026.

16. As such, steps were taken to recruit applicants for the Elections Commission to consider to select to take over after the term of Chair Curtis ended.

17. A meeting was held on June 10, 2026, for this purposes.

18. Attached hereto as Exhibit 1 is a true and correct copy of the meeting notice containing the agenda.

19. The Elections Commission was unable to garner the six votes required under HRS § 11-7(b) at the June 10, 2026 meeting to select a new chair.

20. As provided for by HRS § 92-7, written minutes are required to be made available within forty days of a meeting.

21. Given this, the draft minutes, subject to approval by the Elections Commission, were posted to the website of the Elections Commission, which is a page on the website of the Office of Elections, at <https://elections.hawaii.gov/wp-content/uploads/2026-06-10-EC-Regular-Mtg-Minutes-DRAFT.pdf>.

22. Attached hereto as Exhibit 2 is a true and correct copy of the draft minutes.

23. The minutes were prepared by me, and I understand them to reflect “[t]he substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken.” HRS § 92-9(a)(3).

24. Please note that the meeting was recorded on video and the video was used for purposes of drafting the minutes.

25. The recording of the video was posted to the website of the Elections Commission, which is a page on the website of the Office of Elections, at <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>.

26. The last thing that I heard at the meeting of the Elections Commission before it adjourned was the following:

Commissioners debated whether they could appoint a temporary Chair Pro Tem with fewer than six votes. Commissioner Cushnie argued that a Pro Tem position requiring only five votes was allowed under Robert’s Rules of Order, while Commissioner Osterkamp strongly disagreed, insisting Hawaii law requires six votes and that Robert’s Rules cannot override statute. Multiple members questioned whether Hawaii law permits electing a Pro Tem at all.

Deputy Attorney General (DAG) Jordan Ching explained that the statute is ambiguous regarding whether the Chief Justice can appoint a Chair if the Commission cannot elect one, although he confirmed the Chief Justice can fill

Commissioner vacancies. He stated that if the Commission cannot elect a Chair at the current meeting, the Chair may call another meeting before the end of his term. He added that if the Commission still cannot reach consensus at that time, options include electing a Chair Pro Tem from current members solely for the purpose of selecting a new Chair, or ultimately referring to the Chief Justice. Commissioners requested a written legal opinion from DAG Ching to clarify the process for replacing the Chair without six votes. Commissioner agreed to reconvene on June 24.

Exhibit 2 at 13-14.

27. Suffice it to say, the Elections Commission did not clearly act or otherwise define if meetings could be called and under what circumstances, if there was no chair, along with what support, if any, support staff could provide in the absence of a chair.

28. On June 15, 2026, Chair Curtis sent an email to the Elections Commission email address stating, in part, the following:

Due to the current makeup of the Hawaii Election Commission, it is unreasonable to expect six votes to elect my successor to the position of Chairman. Therefore, I'm cancelling the scheduled June 24th Election Commission meeting.

Several new appointments to the Commission are due July 1st, changing the makeup of the Commission. The new Chairman will be appointed/elected as prescribed by law.

If there are any questions regarding this matter, please contact me.

29. I confirmed with Chair Curtis that I would notify the other Commissioners.

30. Attached hereto as Exhibit 3 is a true and correct copy of the email string, dated June 15, 2026, documenting this, which has been redacted to remove the direct individual email addresses of those in the email string.

INTERACTIONS WITH ELECTIONS COMMISSIONERS MCKAY AND CUSHNIE

31. Elections Commissioner McKay, who was recently appointed to the Elections Commission on June 15, 2026, and Commissioner Cushnie have contacted me in an attempt to

get me in my role as support staff to endorse their interpretation of what should occur as a result of the vacancy that occurred when the term of Chair Curtis ended on June 30, 2026.

32. Among other things, Elections Commissioner McKay in email correspondence has sought support staff for a meeting she was planning to call unilaterally on her own.

33. Elections Commissioner McKay had interactions with other governmental entities advocating for her position that she could call a meeting and that support staff were to support such a meeting.

34. The Office of Information Practices issued a letter, dated July 10, 2025, indicating that it would not investigate or provide a legal opinion in relation to Elections Commissioner McKay's allegations.

35. Attached hereto as Exhibit 4 is a true and correct copy of the letter from the Office of Information Practices to Elections Commissioner McKay.

36. Given what transpired at the end of the last Elections Commission meeting on June 10, 2026, and that no governmental entity has issued an opinion indicating that Elections Commissioner McKay can unilaterally call a meeting on behalf of the Elections Commission as a whole, I am not aware of any clear authority to support her position.

37. As a government employee, under HRS § 84-13, it is my understanding that I cannot use my "position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others," which could be interpreted as applying to using government resources to call a meeting that may not be authorized by law.

38. Additionally, as a government employee, I must avoid being associated with a possible violation of HRS § 92-13, which prohibits willfully violating the Sunshine law. While I cannot speak as to Elections Commissioner McKay's understanding of the Sunshine law or the

reasons for her conduct, I am not in a position to act without regard to whether it might be a violation of the law. Specifically, it is unclear if it would be violation of the Sunshine law for her to represent and for me to consequently facilitate her position that she has the authority to unilaterally act on behalf of the Elections Commission to call a Sunshine meeting.

39. In conclusion, setting in motion the convening of an official meeting and all of what that entails, including representing to the public what the agenda will be, without regard to whether the meeting is even authorized to occur is not something as a government employee that I should be expected to be a part of, absent clear guidance that such conduct is permissible.

I, RAYMUND DE VEGA, declare under penalty of law that the foregoing is true and correct.

DATED: Pearl City, Hawai'i, July 24, 2026.


RAYMUND DE VEGA



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

STATE OF HAWAII ELECTIONS COMMISSION

NOTICE OF ELECTIONS COMMISSION MEETING

Date: Wednesday, June 10, 2026
Time: 10:00 AM
Place: via Video Conference or Telephone*
or Office of Elections at 802 Lehua
Avenue, Pearl City, HI 96782

*Pursuant to Section 92-3.7, Hawaii Revised Statutes, the Elections Commission will be using interactive conference technology. The public may view the video and audio of the meeting through the following video link or dialing one of the following telephone numbers (you will need the Meeting ID below, but will not have a panelist number) and comply with the instructions to join.

View Remote Meeting: <https://youtube.com/live/cz-AM1brOcY>

Remote Oral Testimony: <https://us02web.zoom.us/j/84805738676>

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+1 646 931 3860	+1 689 278 1000
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+1 309 205 3325	+1 312 626 6799
+1 360 209 5623	

Meeting ID: 848 0573 8676

In the event audiovisual communication cannot be maintained with all Commissioners participating in the meeting, the meeting shall be automatically recessed for up to thirty (30) minutes to allow staff to attempt to restore communication.

If, however, audiovisual communication cannot be restored, please go to <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/> for more information including reconnection instructions.

EXHIBIT 1

MEETING INFORMATION

Public Testimony

Pursuant to Section 92-3, Hawaii Revised Statutes and Section 3-170-11, Hawaii Administrative Rules, oral testimony may be limited to three (3) minutes at the discretion of the presiding officer and will be accepted only on matters directly related to the board agenda. Generally, each agenda item is addressed (and testimony received) in the order listed in the agenda; however, agenda items may occur out of order without notice and testimony is not accepted for completed agenda items. The Board agenda and meeting materials for this meeting are also made available for inspection on the Elections Commission website at: <https://elections.hawaii.gov/about-us/boards-and-commissions/elections-commission/>.

- **Internet Access:**
If you wish to testify through the internet, please click the Raise Hand button found on your Zoom screen. Board staff will individually enable that testifier to unmute their microphone. When recognized by the Chair, please unmute your microphone before speaking and mute your microphone after you finish speaking in order to prevent audio feedback.
- **Phone Access:**
If you wish to testify by phone, you may indicate you want to testify by entering “*” and then “9”, a voice prompt will let you know that the host of the meeting has been notified. When recognized by the Chair, you may unmute yourself by pressing “*” and then “6” on your phone. A voice prompt will let you know that you are unmuted. Once you are finished speaking, please enter “*” and then “6” again to mute yourself.

Written Testimony

Pursuant to Section 3-170-11, Hawaii Administrative Rules, to ensure the public, as well as its board members, receive such testimony in a timely manner, written testimony should be submitted no later than two workdays prior to the scheduled meeting date and time. Any written testimony submitted after such time cannot be guaranteed to be distributed in time for the meeting. Written testimony may be submitted by one of the methods listed below:

- By email to: elections.commission@hawaii.gov
- By U.S. Postal Mail: 802 Lehua Avenue, Pearl City, HI 96782
- By facsimile to: (808) 453-6006

Written testimony submitted to the Elections Commission will be made a public record and any contact information contained therein will be available for public inspection and

copying. Please do not include information in your testimony that you do not want disclosed to the public.

Public Note

For propriety, all comments are to be addressed to the Elections Commission Chair. Arguments and side discussions will not be tolerated.

For Further Assistance

If you require special assistance or auxiliary aids and/or services to participate in the public hearing process of the Elections Commission, please contact the Office of Elections at (808) 453-8683 or toll free at 1-800-442-8683 or email elections.commission@hawaii.gov as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request.

AGENDA*

- I. Call to order**
- II. Roll call and determination of a quorum**
- III. Interviews for Elections Commission Chair position**

[View the written questions sent to the Elections Commission Chair applicants](#)

a) 10:00 – 10:30 AM Tamara McKay

[View applicant's responses](#)

b) 10:30 – 11:00 AM Wally Nishimura

[View applicant's responses](#)

c) 11:00 – 11:30 AM Michael Jauch

[View applicant's responses](#)

d) 11:30 – 12:00 PM David Wiseman

[View applicant's responses](#)

e) 12:00 – 12:30 PM Wendell Elento

[View applicant's responses](#)

f) 12:30 – 01:00 PM Jo Kim

[View applicant's responses](#)

g) 01:30 – 02:00 PM Ralph Cushnie

[View applicant's responses](#)

h) 02:00 – 02:30 PM Sherilyn Wells

[View applicant's responses](#)

- IV. Deliberation and vote for the selection of Elections Commission Chair**

V. Adjournment

*Any person may submit comments or testimony on any agenda item at the time the item is called.



MICHAEL CURTIS
ELECTIONS COMMISSION CHAIR

**STATE OF HAWAII
ELECTIONS COMMISSION**

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

June 10, 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
Kahiolani Papalimu
John Sabas

Support Staff in Attendance:

Jordan Ching, Department of the Attorney General
Raymund de Vega, Office of Elections
Scott T. Nago, 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.

EXHIBIT 2

II. Roll call and determination of a quorum [10:00 AM]

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

III. Interviews for Elections Commission Chair position [10:02 AM]

Commissioner Sabas announced he would recuse himself from the Chair-selection process because one of the applicants is also a Commissioner. Chair Curtis questioned the need for recusal, and several Commissioners raised points of order about procedure, all of which Chair Curtis overruled. Chair Curtis ultimately accepted Commissioner Sabas' recusal.

a) 10:00 – 10:30 AM Tamara McKay

Tamara McKay provided the following introduction:

She is a Maui civic leader with experience in community organizing, election-related problem solving, and familiarity with the Sunshine Law and Robert's Rules. She aims to strengthen the Elections Commission's transparency and consistency, citing past concerns as a public observer. Ms. McKay advocates for clear motion tracking, equal treatment of Commissioners and the public, and transparent meetings. She also noted she has a 90-day plan and is committed to protecting the integrity of Hawai'i's elections.

Commissioners asked about her participation history, redacted communications, lawful audits, views on the 2020 Election, knowledge of Robert's Rules, and ability to lead a politically diverse commission. Ms. McKay said personal opinions should not guide her actions and that she would rely on law, bylaws, counsel, and clear principles. She emphasized fairness, professionalism, verifiable elections, and working across party lines. She closed by reaffirming her commitment to voter rights, transparency, and public trust.

b) 10:30 – 11:00 AM Wally Nishimura

Chair Curtis noted that Wally Nishimura withdrew his application for the Elections Commission Chair position.

c) 11:00 – 11:30 AM Michael Jauch

Michael Jauch provided the following introduction:

He is an engineer experienced in public contracts, regulations, and procedural compliance. Mr. Jauch said he wants to serve to ensure election laws and safeguards are followed across all voting methods. He emphasized transparency, full disclosure of Commission communications, and equal access to information for all Commissioners. He described the Commission's role as investigating valid concerns and ensuring election processes meet legal requirements.

Commissioners asked about his views on the 2020 Election, familiarity with parliamentary procedure, and lack of attendance at past meetings. Mr. Jauch said the Commission needs full cooperation from the Office of Elections and the Attorney General to function effectively. He argued that questions about the 2020 Election remain and that public confidence requires investigating them. He said he knows Robert's Rules but believes they should not obstruct meetings. He added that while he has not attended Commission meetings, he is committed to doing so and noted that meetings should be more efficient and respectful of participants' time.

d) 11:30 – 12:00 PM David Wiseman

David Wiseman provided the following introduction:

He is a retired jurist with decades of legal and public-service experience. He stressed the seriousness of the Chair selection process and objecting that two applicants were allowed to proceed despite not submitting the required resumes. Mr. Wiseman then highlighted his background as an attorney, judge, mediator, and Chair of various boards, emphasizing his experience managing complex, contentious matters and leading meetings with fairness, calm, and impartiality. He stated that the Commission should constantly pursue accuracy, verification, and best practices in election administration.

During questioning, Mr. Wiseman emphasized the need for reliable election systems, stronger oversight of the Chief Election Officer, and independence from political pressure. He acknowledged gaps in his familiarity with some procedures but committed to studying past hearings and statutes before serving. He said Commissioners should receive unredacted communications and saw no legal basis for withholding them. He also raised transparency concerns when sitting Commissioners apply for positions. He closed by saying his experience, ethics, and impartial approach would benefit the Commission if selected as Chair.

e) 12:00 – 12:30 PM Wendell Elento

Wendell Elento provided the following introduction:

He is a longtime Navy veteran and engaged citizen focused on election transparency, accountability, and public trust. Mr. Elento said his review of past Commission meetings showed motions and public concerns were not properly tracked. He pledged to restore order, ensure required investigations, maintain written minutes, hold an open hearing for the Chief Election Officer, and improve transparency through structured tracking tools, including an AI system he built to organize election documents.

During questioning, Mr. Elento criticized past Commission leadership and the Office of Elections, said neither the Commission nor the Attorney General should withhold communications, and insisted the Commission must be able to audit ballots during the 22-month retention period. He affirmed his belief that Donald Trump won the 2020 Election, linking it to broader distrust in election administration. Commissioners raised concerns about his neutrality, availability, and past participation, and he explained that family health issues had limited his involvement but are now resolved. He closed by saying he wants to bring transparency, unity, and responsiveness to the Commission, shorten meetings by addressing unresolved issues directly, and restore public confidence through open and consistent investigations.

f) 12:30 – 01:00 PM Jo Kim

Jo Kim provided the following introduction:

She opened by expressing appreciation for the Commissioners' work and the diversity of perspectives among applicants. As a lawyer who values constructive problem-solving, she said she is motivated to serve because elections are fundamental to constitutional governance and public confidence. Ms. Kim emphasized wanting to work collaboratively with the Commission to identify real problems, understand why they occur, and develop thoughtful, practical improvements.

During questioning, Ms. Kim acknowledged that she has no prior Commission involvement but expressed confidence she can learn quickly. She discussed attorney-client privilege, saying the Attorney General may limit access to certain communications depending on who the client is. She challenged claims of large ballot envelope discrepancies and suggested some questions from Commissioners may stem from misunderstandings. She identified ballot tracking as the biggest integrity challenge but noted she lacks statistical expertise to offer specific fixes. She closed by saying the Chair role is difficult and important, and she wants to serve because strengthening elections benefits everyone.

g) 01:00 – 01:30 PM Ralph Cushnie

Commissioner Cushnie provided the following introduction:

He emphasized his long-standing focus on transparency, verifiability, and strict adherence to election laws. Commissioner Cushnie outlined a detailed set of priorities for the Chair role, including proper maintenance of voter rolls, verifiable envelope counts, meaningful oversight of signature verification, accurate chain-of-custody records, and audits using original paper ballots. Commissioner Cushnie stressed that the Elections Commission should serve as an independent oversight body for the people, not as protection for the Office of Elections. He described persistent resistance to process-based questions as a major problem and used a credit-card analogy to argue that the Commission should allow verification rather than dismiss concerns. He framed his work as entirely about process and accountability, not partisanship.

Commissioners pressed him on whether he had become a divisive figure, his ability to earn colleagues' confidence, his public statements criticizing elections, his Instagram activity targeting a former Commissioner, and whether he should have recused himself from aspects of the selection process. Commissioner Cushnie defended his actions as efforts to educate the public and expose procedural failures, denied any ethics violations, and insisted that resistance to his questions, not the questions themselves, created division. He also maintained that he could not determine who rightfully won the 2020 Presidential Election because he believes Hawaii's election processes were not verifiable. In closing, Commissioner Cushnie reiterated concerns about unverified ballot counts, inadequate audits, and withheld documentation, arguing that only full transparency and strict process compliance can restore public trust.

h) 01:30 – 02:00 PM Sherilyn Wells

Sherilyn Wells was interviewed after Michael Jauch as she had requested an earlier interview prior to the meeting.

Sherilyn Wells provided the following introduction:

She emphasized her background as a journalist, educator, and former candidate for public office, noting her longstanding commitment to transparency and strict adherence to election law. She argued that Hawaii's interpretation of the 22-month ballot-retention rule is flawed and that ballot-envelope counts can legally occur during that period. Ms. Wells asserted that the Elections Commission has full authority over the Chief Election Officer and should demand access to all unredacted communications, maintaining that withholding

information violates both the law and the principles of transparency. She expressed strong concern that election processes are being obstructed and urged the Commission to take decisive action, including replacing the elections officer if necessary.

In response to questions, Wells supported pursuing an audit of Hawaii County ballot envelopes after the retention period ends and criticized what she viewed as resistance from the Office of Elections. She described her participation in Commission matters as focused primarily on raising concerns about legal compliance, and she committed to prioritizing meeting attendance if selected as Chair. When asked about the 2020 Election, she reiterated claims involving foreign interference and vulnerabilities in electronic election systems, referencing various sources she views as credible. In closing, Ms. Wells expressed that election integrity must be fully restored to protect constitutional rights and public trust.

Tamara McKay provided testimony defending the accuracy and integrity of her prior statement about the certified 2020 Election and asserted that a Commissioner's remarks unfairly questioned her character and violated basic decorum during the candidate consideration process.

Andrew Aker provided testimony criticizing Hawaii's chain of custody, and voiced strong support for Ralph Cushnie and Tamara McKay as trustworthy, effective leaders committed to transparency.

Jamie Detwiler provided testimony arguing that the candidate questionnaire included irrelevant subjective questions, criticized unprofessional conduct and poor meeting management by some Commissioners, and urged the Commission to choose a Chair based on objective skills, accountability, transparency, and service to the people of Hawaii.

Ellen provided testimony in support of David Wiseman, arguing that his integrity and steady, ethical leadership are needed to replace a Commission she sees as chaotic and fixated on past elections rather than preparing effectively for the upcoming one.

Michelle Stefanik provided testimony in support of Tamara McKay or Ralph Cushnie, arguing that Ms. McKay has demonstrated the most unbiased, non-political, process-focused approach needed to restore public confidence through fair, legal, and transparent elections.

Tina Marie provided testimony in support of David Wiseman, praising his integrity, fairness, and open-minded leadership while expressing concern that some other applicants are election deniers and unfit to lead.

Martina Wing provided testimony in support of David Wiseman, praising his integrity, legal expertise, and commitment to fair, law-based proceedings while criticizing applicants and Commissioners who spread election misinformation or disregard proper procedures, arguing that Mr. Wiseman offers the professionalism and stability the commission needs.

Ruth Robison provided testimony arguing that the Commission's search process has serious ethical and procedural irregularities, including conflicts of interest and incomplete applications, and urged selecting legally experienced candidates like Jo Kim or David Wiseman to restore effective, lawful functioning.

James Ryan Malish provided testimony arguing that the Commission is biased, divided, and failing its public duties, and raised concerns about conflicts of interest and broader systemic issues.

Patti Cook provided testimony urging the Commission to prioritize integrity, expertise, and public trust by selecting Jo Kim or David Weissman as Chair, while expressing concern over Commissioners who missed application deadlines and emphasizing the need for trained, steady leadership.

Kathy G provided testimony in support of David Weisman, praising his integrity, fairness, and commitment to truth and the rule of law while expressing concern that several other candidates are election deniers lacking sound judgment.

April Lee provided testimony expressing appreciation for public input, and expressed her support for Tamara McKay as a leader who reflects Hawaiian values, independence from political influence, and a return to accountability.

Blanca Larson provided testimony in support of Ralph Cushnie, rejecting judges and former government employees and asserting that Commissioner Cushnie understands the system, has been unfairly treated, and is the right person for the job.

Karl Dicks provided testimony asserting that the Office of Elections has long failed to communicate properly with the Election Commission, said he has submitted 103 unanswered legal and procedural questions about election compliance, and warned the matter may escalate to higher courts if the Commission does not address these issues.

Shelby Billionaire provided testimony thanking the Commission and outgoing Chair, expressing that Tamara McKay and Ralph Cushnie are the best candidates, and expresses concerns about primary election rules and future lawsuits.

Susan Strom provided testimony criticizing the Commission for political bias, unresolved election questions, and resistance to scrutiny, arguing that Commissioners impede progress and fail to address substantive concerns about Hawaii's election processes.

Alohalani Hope Cermelj provided testimony claiming there is a 19,203-ballot discrepancy, expressing distrust in election officials and pending legal action, and urged the Commission to choose a new Chair who will restore integrity and protect voters' rights.

Peggy Regentine provided testimony in support of Ralph Cushnie, praising his management experience and efforts to expose election irregularities, citing her own concerns from working as an election volunteer, and criticized officials for ignoring problems she reported.

Jennifer Cabjuan provided testimony urging the Commission to choose a Chair who will fire Chief Election Officer Scott Nago, and criticized the Commission for failing to address simple issues.

Chanara Richmond provided testimony criticizing the Commission for ignoring its own decisions and lack of integrity, arguing that those who raise concerns are wrongly labeled "election deniers", and endorsed Tamara McKay and Ralph Cushnie.

Melvin Amaral provided testimony in support of Ralph Cushnie and Wendell Elento.

Vernelle Oku provided testimony questioning why candidates who have never attended meetings are running and expressed concern that David Wiseman's comment about fraud suggests an unacceptable tolerance for it.

Victoria Thompson provided testimony in support of Ralph Cushnie, and emphasized the Commission's duty to hold the Chief Elections Officer accountable, and stresses that unresolved ballot discrepancies and loss of public trust must be addressed.

Tammy Ash Perkins provided testimony in support of Tamara McKay and Ralph Cushnie, arguing that the Commission needs independent, principled leaders

committed to transparency, accountability, and restoring public trust rather than political prestige or establishment influence.

Denize Machit provided testimony in support of David Wiseman for his strong ethical focus and rejects having election deniers on the Commission, urging the choice of someone grounded in verified facts rather than unsubstantiated accusations.

Robin Nagasako provided testimony in support of Ralph Cushnie, and criticized the Commission and election system as broken, and urged choosing a Chair with the courage to make needed changes and remove ineffective leadership.

Doug Pasnik provided testimony arguing that the Commission has ignored alleged procedural irregularities in certifying the 2022 Elections and urged the Commission to uphold statutory requirements and select a Chair who will act in the best interest of the people.

Sheryl Bieler provided testimony criticizing the Commission's decorum, and expressed support for Tamara McKay due to her fairness under pressure, and argued that some members resist an audit because they may have something to hide.

Belinda Jacobs provided testimony raising concerns about hardware security and ballot handling, expressed support for hand counts, and criticized inadequate voting access such as long lines at Kapolei Hale.

Julie provided testimony criticizing attendees who appeared only to support certain candidates, rejecting being labeled an election denier, and argued that Commissioners who consistently defend election laws are being unfairly targeted for political reasons.

Michael Plumhoff provided testimony arguing that the Commission lacks professionalism, civics, and proper vote-counting accountability, citing multiple alleged election law violations.

Mara H provided testimony in support of David Wiseman, arguing that his legal and ethical expertise would bring order and fairness to the Commission, while criticizing what she sees as distrustful behavior from recent meeting attendees who deny evidence and disrupt the process.

Sam Guckenheimer provided testimony in support of David Wiseman, saying the Commission needs respect for law, facts, and solid procedure, all of which he

believes Mr. Wiseman has consistently demonstrated through his public service and leadership experience.

Jennifer Hunt provided testimony in support of Ralph Cushnie or Tamara McKay, arguing that other applicants lack familiarity with ongoing issues and long-time participants who understand rules, accountability, and open-record verification are better qualified to lead.

Enoka-Shayne Bingo provided testimony urging the Commission to choose experienced, consistently involved members such as Tamara McKay or Ralph Cushnie, as they are fair, knowledgeable, and committed.

Austin Martin provided testimony urging the Commission to resist political pressure, choose a neutral and rule-focused Chair, and take time to address deep organizational and procedural problems he says are being obscured by partisan conflict and disinformation.

Wallyn Christian provided testimony urging the Commission to choose a prepared, consistently involved, law-focused, and professional Chair, favoring Tamara McKay, while stressing the need for accountability, neutrality, and respect to restore public trust in Hawaii's elections.

Tara Malia Gregory provided testimony arguing that the Commission has repeatedly failed to enforce multiple election laws and hold the Chief Election Officer accountable, and urged selecting consistent, knowledgeable participants like Tamara McKay or Ralph Cushnie to lead and restore proper oversight.

Peter Bernegger provided testimony stating that he has obtained USPS records of 2024 mailed absentee ballots and plans to travel to Hawaii to discuss them with interested individuals.

Brett Kulbis provided testimony urging Commissioners to choose a Chair who embodies servant leadership by putting service, transparency, and the confidence of Hawai'i's voters above personal ambition or prestige.

Wawa Santiago provided testimony arguing that Commissioner Sabas should not be allowed to vote due to not showing his camera during interviews, criticizing inattentive behavior by another Commissioner, and expressed support for Tamara McKay and Ralph Cushnie as strong potential leaders.

Susan Strom provided additional testimony defending Ralph Cushnie as a diligent Commissioner who asks necessary questions for transparency, arguing

he has been unfairly vilified despite consistently pushing for accountability in the election process.

Jaime Detwiler provided additional testimony in support of Ralph Cushnie and Tamara McKay, citing their strong grasp of rules, thorough preparation, and proven engagement with election issues based on her years of involvement as an advocate and observer.

Wendy N. provided testimony saying Commissioners dismiss evidence because they avoid looking for it, expressing that the truth will become increasingly visible, and expresses support for Tamara based on her own long-term engagement with the meetings.

IV. Deliberation and vote for the selection of Elections Commission Chair [2:57 PM]

Commissioners debated the appropriate voting method for choosing a new Chair after completing interviews. Chair Curtis suggested exploring online survey tools or ranked-choice voting, but several Commissioners objected, noting that state law requires a six-vote majority and that each Commissioner must be able to cast an explicit yes or no vote. Others reminded the group that at the previous meeting they had already passed a motion, introduced by Commissioner Kamm and seconded by Commissioner Papalimu, to use a sequential runoff system. Under this method, Commissioners vote yes or no on each candidate, the lowest vote-getters are eliminated, and the Commission repeats the process until one candidate reaches the required six votes. Support staff confirmed that the Commission passed a motion stating these procedures.

Commissioners questioned whether they should vote given uncertainties about reappointments, but Chair Curtis insisted that all current members must participate until officially replaced. Commissioners also asked what would happen if no candidate secured six votes. Ultimately, the Commission agreed to proceed with the previously adopted sequential runoff method, conducting roll-call voice votes and eliminating applicants with the least votes.

Votes were taken in consideration for the following individuals to be elected as Chair of the Elections Commission noting the recusal of Commissioner Sabas. [3:07 PM]

Tamara McKay

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Apana, Dalton, Osterkamp

Michael Jauch

YES: Cushnie, Papalimu

NO: Andrion, Apana, Dalton, Kamm, Osterkamp

David Wiseman

YES: Dalton, Osterkamp

NO: Andrion, Apana, Cushnie, Kamm, Papalimu

Wendell Elento

YES: Andrion, Cushnie, Papalimu

NO: Apana, Dalton, Kamm, Osterkamp

Jo Kim

YES: Dalton, Osterkamp

NO: Andrion, Apana, Cushnie, Kamm, Papalimu

Ralph Cushnie

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Apana, Dalton, Osterkamp

Sherilyn Wells

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Apana, Dalton, Osterkamp

Tamara McKay

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Apana, Dalton, Osterkamp

Wendell Elento

YES: Cushnie, Papalimu

NO: Andrion, Apana, Dalton, Kamm, Osterkamp

Ralph Cushnie

YES: Cushnie, Papalimu

NO: Andrion, Apana, Dalton, Kamm, Osterkamp

Sherilyn Wells

YES: Cushnie

NO: Andrion, Apana, Dalton, Kamm, Osterkamp, Papalimu

Commissioner Cushnie moved to elect Tamara McKay to replace Mike Curtis as Chair of the Elections Commission. The motion was seconded by Commissioner Papalimu and failed noting the recusal of Commissioner Sabas. [3:24 PM]

YES: Andrion, Cushnie, Kamm, Papalimu

NO: Apana, Dalton, Osterkamp

Commissioner Dalton called for the question, and it was seconded by Commissioner Osterkamp and failed noting the recusal of Commissioner Sabas. [3:26 PM]

YES: Dalton, Osterkamp, Curtis

NO: Andrion, Apana, Cushnie, Kamm, Papalimu

Commissioners debated whether they could appoint a temporary Chair Pro Tem with fewer than six votes. Commissioner Cushnie argued that a Pro Tem position requiring only five votes was allowed under Robert's Rules of Order, while Commissioner Osterkamp strongly disagreed, insisting Hawaii law requires six votes and that Robert's Rules cannot override statute. Multiple members questioned whether Hawaii law permits electing a Pro Tem at all.

Deputy Attorney General (DAG) Jordan Ching explained that the statute is ambiguous regarding whether the Chief Justice can appoint a Chair if the

Commission cannot elect one, although he confirmed the Chief Justice can fill Commissioner vacancies. He stated that if the Commission cannot elect a Chair at the current meeting, the Chair may call another meeting before the end of his term. He added that if the Commission still cannot reach consensus at that time, options include electing a Chair Pro Tem from current members solely for the purpose of selecting a new Chair, or ultimately referring to the Chief Justice.

Commissioners requested a written legal opinion from DAG Ching to clarify the process for replacing the Chair without six votes. Commissioner agreed to reconvene on June 24.

V. Adjournment [3:52 PM]

Chair Curtis adjourned the meeting at 2:38 PM.

Respectfully submitted,

Raymund de Vega

Raymund de Vega
Elections Commission Support Staff

From: [Michael C Curtis, REALTOR](#)
To: [OE.Elections.Commission](#)
Cc: [Ching, Jordan AK](#)
Subject: Re: [EXTERNAL] Cancel June 24, 2026 Election Commission Meeting
Date: Tuesday, June 16, 2026 9:57:24 AM

Please notify them. I only sent to this thread.

**Aloha,
mike**

Michael Curtis

[REDACTED]
PoipuKotary.Org

On Mon, Jun 15, 2026 at 11:33 AM OE.Elections.Commission
<elections.commission@hawaii.gov> wrote:

Hi Chair Curtis,

Understood. Did you need me to forward your email to the other Commissioners, or have you already notified them?

Thanks,

Ray

From: Michael C Curtis, REALTOR <[REDACTED]>
Sent: Monday, June 15, 2026 9:13 AM
To: OE.Elections.Commission <elections.commission@hawaii.gov>
Cc: Ching, Jordan AK <[REDACTED]> Nago, Scott T <[REDACTED]>
Subject: [EXTERNAL] Cancel June 24, 2026 Election Commission Meeting

Aloha Kakou,

EXHIBIT 3

Due to the current makeup of the Hawaii Election Commission, it is unreasonable to expect six votes to elect my successor to the position of Chairman. Therefore, I'm cancelling the scheduled June 24th Election Commission meeting.

Several new appointments to the Commission are due July 1st, changing the makeup of the Commission. The new Chairman will be appointed/elected as prescribed by law.

If there are any questions regarding this matter, please contact me.

Aloha,

Michael Curtis, Chairman

Hawaii Election Commission

June 15, 2026



JOSH GREEN, M.D.
GOVERNOR

**STATE OF HAWAII
OFFICE OF INFORMATION PRACTICES**

CARLOTTA AMERINO
DIRECTOR

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www.oiip.hawaii.gov

July 10, 2025

VIA EMAIL

Ms. Tamara McKay
Elections Commission

Re: CORR 2026-0706-03 / Office of Elections' Administrative Support

Dear Ms. McKay:

The Office of Information Practices (OIP) received your emails, three of which were dated July 2, 2026, and two of which were dated July 6, 2026, in which you asked OIP to:

Investigate the Office of Elections' failure to perform its mailing list distribution function under [Hawaii Administrative Rules (HAR)] § 3-170-14(d). Provide written guidance confirming that the Commission may proceed with the July 8th meeting using independently arranged conference technology given the Office of Elections' documented refusal. Issue a formal opinion clarifying the respective obligations of the Office of Elections and the Commission under HAR chapter 3-170 and [Hawaii Revised Statutes (HRS)] §11-1.5(b).

OIP only has jurisdiction over the state open meetings law, part I of chapter 92, HRS (the Sunshine Law), and state open records law, the Uniform Information Practices Act (Modified), chapter 92F, HRS (the UIPA). OIP does not have jurisdiction over section 11-1.5, HRS, or section 3-170-14(d), HAR. Therefore, OIP cannot investigate whether the Office of Elections (Office) has complied with section 3-170-14(d), HAR, nor provide a legal opinion on whether or not the Office has met its obligations to the Elections Commission (Commission) under section 11-1.5, HRS, or section 3-170-14(d), HAR.

Section 92-7, HRS, requires that, no less than six calendar days before a meeting, a board post the notice for the meeting on the State's electronic calendar, in the board's office, and at the meeting site when feasible, file a copy of the notice in the Office of the Lieutenant Governor, and mail or email copies of the notice to all persons on the board's mailing list. Section 92-3.7, HRS, requires that the notice for a remote meeting inform the public how to (A) remotely view the video and audio of the meeting and (B) provide remote oral testimony that allows board members and other participants to hear the testimony and for the testifier to be visible to board members and other participants upon request. The Sunshine Law does not have provisions that would prohibit a board from arranging a remote meeting without the support of an agency that provides administrative support to the board. As long as the notice contains the statutorily required information and is posted and filed in all of the statutorily required places, including mailing or emailing the notice to those on

EXHIBIT 4

the Commission's mailing list, the Sunshine Law's notice requirement would be satisfied. Therefore, if the Commission were to arrange the use of interactive conference technology for the purposes of holding a remote meeting without the support of the Office, or mail and email the notice to those on the Commission's mailing list without the support of the Office, doing so would not violate the Sunshine Law as long as the notice for the meeting includes information on how to access the meeting through that interactive conference technology and the notice is posted at least six calendar days before the meeting. However, OIP cannot opine on whether or not there are any rules outside of the Sunshine Law, such as the Office's or the Commission's administrative rules, that would be affected by doing so.

Please also note that not all boards have staff support, and the Sunshine Law sets requirements for boards to meet, not board staff. The Office is not a board and even though the Office usually provides administrative support for Commission meetings, the Sunshine Law does not directly apply to the Office. It is the Commission's responsibility to ensure that the notice for a Commission meeting contains all of the statutorily required information and is posted and filed in all of the places that are statutorily required, including mailing or emailing the notice to those on the Commission's mailing list.

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

If you have any questions concerning this matter, please contact OIP.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert Shimizu', is written over the typed name.

Robert Shimizu
Staff Attorney

RHS:nn

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

RALPH S. CUSHNIE and TAMARA McKAY,

Petitioners,

v.

SCOTT T. NAGO, in his official capacity as
Chief Election Officer, State of Hawai'i; and
OFFICE OF ELECTIONS, State of Hawai'i,

Respondents.

ORIGINAL PROCEEDING

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the forgoing document was
duly served electronically via JEFS or by U.S. Mail to the parties as indicated and listed below:

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VIA JEFS

VIA U.S. MAIL

DATED: Honolulu, Hawai'i, July 24, 2026.

/s/ Nietzsche L. Tolan
RANDALL S. NISHIYAMA
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Deputy Attorneys General

/s/ Aaron H. Schulaner
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Attorneys for Respondents
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Election Officer, State of Hawai'i; and OFFICE OF
ELECTIONS, State of Hawai'i