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**To:** [Standards of Conduct](#)  
**Subject:** Testimony Calling for a Permanent Commission  
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Jim Shon

(808) 282-1509 [jshon@hawaii.edu](mailto:jshon@hawaii.edu)

Please Find attached Written testimony for your october 5, 2022 meeting. In general, the purposes and assumptions of the Commission suggest justifications for making the Commission permanent in state law.

손기철

Testimony Submitted by Jim Shon

## COMMISSION TO IMPROVE STANDARDS OF CONDUCT

DATE: Wednesday, October 5, 2022 TIME: 2:00 p.m. PLACE: Room 309 State Capitol 415 South Beretania Street

Judge Daniel R. Foley (Ret.), Chair Robert D. Harris, Barbara C. Marumoto, Kristin E. Izumi-Nita, Nikos Leverenz, Janet Mason, Florence T. Nakakuni

**RE: The Purpose, Assumptions and Directions of the Commission – the Case For More Definitions, Budgets and a Permanent Role**

**Out of Control:** These are the givens that are generally beyond our control:

1. The financial power and behavior of Political Action Committees unconnected to an individual candidate.
2. The inability to limit the influx of large amounts of outside, special interest funds.
3. The persistent status quo preference of voters, endorsing organizations and contributors for the existing incumbents, political parties and familiar names.
4. The need for each elected official to attend to their own costs of living, including housing, childcare, education, and support for older family members. This relates to the degree to which a legislator earns enough of a public salary to meet family needs or is tempted to seek compromising relationships with current or future employers.
5. The likelihood that immediate family members such as spouses or relatives would also have independent professional lives and be engaged in advocacy or employment that complicates ethics issues created with the presumption that they are mere extensions of a legislator's ethical environment.
6. The political and cultural influences of national political behavior, conspiracies, information overload, and the social media.
7. The consensus decisions of our public education (k-12; UH) policy makers not to emphasize civic and citizenship education.

**Existing “Good Government”** accountability Agencies include the State Ombudsman; the Ethics Commission; The Civil Rights Commission; the State Auditor; The Office of Information; the Campaign Spending Commission, and similar agencies at the county levels. All of these depend on adequate appropriations and staffing. They are also generally operating separately, in their own legal silos, sometimes with confusing contradictions.

Thus, an analysis of the adequacy of funding may be more consequential than analysis of the language of the laws.

### The purposes (and *inferred* Assumptions) of the Commission:

1. Review and assess existing state laws and rules relating to standards of conduct of public officers and employees; [Generally public employees are embedded in collective bargaining agreements that would limit the work of your Commission.]
2. To Ensure those state laws and rules contain clear standards, enforcement, and penalties of a criminal nature?;
3. To assume that there is a cultural and or political consensus as to the definitions and ideals of conduct that are acceptable or objectionable;
4. To presume that there can be some objective assessment of compliance with laws that suggests recommendations to further the goals of the Code of Ethics, lobbying laws, campaign finance laws, and other applicable laws and rules that will increase awareness of, compliance with, and deterrent effects of those laws and rules. In other words, the goals of these laws and rules are somehow self-evident.

### Some Presumed Broader Assumptions of the Commission.

That the lack of clarity *and effectiveness* of existing laws and rules directly and negatively impacts

- a) The deterrence and conviction of those guilty of clear corruption;
- b) The standards of conduct and behavior of campaigning;
- c) The issues that are systemically biased toward the election dominance of incumbents. Political parties, and factions;
- d) That the real or perceived lack of turnover among elected officials has a demonstrable negative set of outcomes for Hawaii's democracy, such as discouraging public belief that the "system" or the power of the existing establishment is subject to meaningful change – thus voting does not matter;
- e) That the term limits imposed on Council seats, and its consequential "musical chairs" movement from council to legislature and back again, have improved government and encouraged election of new candidates.

These assumptions, all debatable, also suggest differences between the process and outcome of elections as one major category, and the actual behavior and policy decisions of those elected. But all of these are debatable, and often the result of general dissatisfactions often in search of something or someone to blame.

Also among the assumptions is the belief that the corruptive power of special interest political contributions is amplified when overtly collected through face-to-face fundraising events vs, less formal collections during the state legislative session. This is debatable. A corollary of this assertion is that by the lack of a visible event where the public can meet and greet a candidate will discourage corruptive contributions. However, the elimination of events may have the unintended consequence of driving all contributions into the darker shadows away from public scrutiny. It also may skew advantages towards incumbents vs. new candidates.

All of these issues and assumptions suggest that the Commission create an initial list of its own “givens”, assumptions, metrics, and definitions centered on Standards of Conduct – i.e. behavior, in various contexts. These might include:

- Adequate metrics for funding levels in the various Good Government agencies – none of the laws will matter if these are underfunded.
- Election Campaigning Standards of Conduct
- Legislative Session Standards of Conduct
- Fundraising Standards of Conduct
- Ethics and Conflicts of Interest Standards of Conflict
- The creation of a permanently maintained and independently staffed web based report card registering outside income, campaign contributions, bills introduced, votes, speeches and Coalition loyalty.

All of these suggestions require an analysis of governmental conduct anchored in real world data. This is perhaps beyond the time and scope of a temporary commission.

**The Big Idea. The Commission needs to be created and enacted into law as one of our permanent Good Government agencies that transcends the narrow silos of our current fragmented approach to across the board Standards of Conduct.**