

BEFORE THE BOARD OF ETHICS
COUNTY OF HAWAI'I

In the Matter of the Petition by

[REDACTED]

Petitioner.

PETITION NO. 2023-07

INFORMAL ADVISORY OPINION

Initial Review: May 10, 2023

INFORMAL ADVISORY OPINION

By Petition dated April 17, 2023, with the Hawai'i County Board of Ethics (hereinafter "the Board"), Petitioner [REDACTED] (hereinafter referred to as "Petitioner") who is an appointed member of the County of Hawai'i Salary Commission (hereinafter "Salary Commission"), requested an Informal Advisory Opinion from the Board. Petitioner sought guidance as to whether Petitioner has a conflict of interest of participating in the Salary Commission, that could affect the salary of County Councilperson, to which Petitioner has a family relation.

At its duly noticed meeting on May 10, 2023, in a closed hearing, the Board reviewed and considered the above-captioned Petition pursuant to Rule 4 of the *Rules and Practice and Procedure of the Board of Ethics*. Petitioner attended the meeting, provided testimony, and further expounded on the potential conflict of interest. Petitioner described [REDACTED] relation to the Council person, as being the spouse to the Petitioner's [REDACTED] uncle. Petitioner noted within [REDACTED] Petition that *Hawai'i County Code of Ethics* Section 2-86 defines "Immediate family" to mean the "employee's or officer's spouse, siblings, children, grandchildren, or parents." The Board heard from Deputy Corporation Counsel Dakota Frenz, who informed the Board of the

general practice and procedures of commission members disclosing an appearance of a conflict to the Salary Commission as a whole.

The Board, having deliberated and considered and giving appropriate weight to the testimony and evidence submitted by the Petitioner, Deputy Corporation Counsel, and having considered the arguments presented, hereby renders the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. To the extent that any of these Findings of Fact are Conclusions of Law, they are to be so construed.
 - A. The Petition
2. Petitioner is a commissioner member of the Salary Commission, which establishes the salaries of all County elected officials and appointed directors and deputy directors of departments.
3. Petitioner is related to a County elected official, in that the Council person is the spouse to the Petitioner's [REDACTED] uncle.
4. *Hawai'i County Code of Ethics* Section 2-82 defines "Immediate family" to mean the "employee's or officer's spouse, siblings, children, grandchildren, or parents."
5. The relationship of an employee's or officer's [REDACTED] uncle and/or [REDACTED] uncle's spouse, is not an "immediate family member" as defined by the *Hawai'i County Code of Ethics*.
6. Petitioner informed the Board of [REDACTED] intent to still disclose to the Salary Commission the Petitioner's relationship with the Council Member when opportunity arises.
7. Petitioner informed the Board that [REDACTED] was willing to recuse [REDACTED] self if the Board found there was a conflict under the *Hawai'i County Code of Ethics*.

B. Board's Ruling

8. Based on the evidence and testimony presented, the Board finds that there is no conflict of interest for the Petitioner to participate in as commissioner member of the Salary Commission.
9. However, the Board finds that it be prudent for the Petitioner to disclose to the Salary Commission the Petitioner's relation to the Council Member.
10. Board Member Sarah Gibbon moved that the Board find that there is no conflict of interest under Section 2-84 of the Hawai'i County Code of Ethics for the Petitioner.
11. Board Member Christopher Ho seconded the motion. The motion passed 6-0.

CONCLUSION OF LAW

Based upon the evidence presented and the Board's review of the Hawai'i County Code of Ethics and the *Rules and Practice and Procedure of the Board of Ethics*, the Board finds there is no conflict interest for the Petitioner participating as a member of the Salary Commission as it establishes salaries of all County elected officials, including Council Members.

ORDER

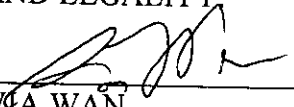
Pursuant to Board Rule 4.9, this Informal Advisory Opinion shall be filed and a copy shall be sent to the Petitioner.

Dated: Hilo, Hawai'i, JUN 14 2023, 2023.

BOARD OF ETHICS, COUNTY OF HAWAI'I

By 
RACHEL SHORT
Chair

APPROVED AS TO FORM
AND LEGALITY:



SYLVIA WAN
Deputy Corporation Counsel