

State Ethics Commission

Fiscal Year 2017 Annual Report

**Massachusetts State Ethics Commission
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State Ethics Commission – Fiscal Year 2017

State Ethics Commission Members

Hon. Barbara A. Dortch-Okara, Chair

Chief Justice for Administration and Management of the Trial Court (ret.)
Professor, New England School of Law

William J. Trach, Vice-Chair**

Partner, Latham & Watkins LLP – Boston, MA

Hon. Regina L. Quinlan, Vice-Chair

Superior Court Judge (ret.)

Hon. David A. Mills

Appeals Court Associate Justice (ret.)

Thomas J. Sartory

General Counsel, Goulston & Storrs, PC – Boston, MA

Maria J. Krokidas*

Founder and Of Counsel, Krokidas & Bluestein LLP – Boston, MA

* Appointed October 2016

** Term Ended October 2016

Executive Summary

The State Ethics Commission is a non-partisan, independent state agency which administers, provides advice and training concerning, and civilly enforces the conflict of interest and financial disclosure laws. There are five Commissioners who serve staggered five-year terms. Three Commissioners, including the Chair, are appointed by the Governor, one Commissioner is appointed by the Secretary of the Commonwealth, and one Commissioner is appointed by the Attorney General. No more than two of the gubernatorial appointees, and no more than three members of the Commission overall, may be from the same political party.

The Executive Director, who is responsible for the day-to-day management of the Commission's staff, reports to the Commission. The Commission's Chief Financial Officer and three Division Chiefs report to the Executive Director, except that the Legal Division Chief, who is also the Commission's General Counsel, reports to both the Executive Director and the Commission. The Commission's three Divisions are: the Legal Division, which provides advice to public employees and others on how the conflict of interest law applies to their prospective conduct, provides advice to filers and agencies regarding the financial disclosure law and also administers the requirements of the financial disclosure law; the Enforcement Division, which investigates complaints alleging violations of the conflict of interest and financial disclosure laws, and, in some cases, prosecutes alleged violators; and the Public Education and Communications Division, which maintains the Commission's website, provides education on the conflict of interest law and responds to requests for general information from the media and others.

The Commission began FY 2017 with 19 employees and ended the fiscal year with 23. In FY 2017, the Commission received an appropriation of \$2,093,969. The Commission also continued to manage a multi-year capital account in the amount of \$813,416 for the continued development and testing of its new electronic filing system for Statements of Financial Interests. Due to vacancies in the Commission's Enforcement Division which impacted investigations, and the ongoing development of the new SFI electronic filing application, which affected the ability of filers to electronically file SFIs, the Commission in FY 2017 did not impose any civil penalties for violations of the conflict of interest or financial disclosure laws. Civil penalties collected by the Commission each year revert to the Commonwealth's General Fund.

During most of the first half of FY 2017, the Enforcement Division was significantly understaffed. Two of three Enforcement Division attorney positions, including that of the Division Chief, were vacant, as was the Deputy Chief/Investigations position. For much of FY 2017, the Legal Division was also understaffed due to the Deputy Chief's appointment, first as Acting Executive Director and then as Executive Director. In addition, in early-to-mid- FY 2017, the Senior Assistant General Counsel was temporarily assigned to assist the Enforcement Division. The Legal Division responded to a total of 5,782 requests for advice and to 1,720 calls and emails related to the filing of Statements of Financial Interests. The Enforcement Division received 764 complaints alleging violations of the conflict of interest and financial disclosure laws. The Public Education and Communications Division conducted 72 seminars. By the end of FY 2017, all Enforcement Division and Legal Division vacancies were filled and the Commission was nearly fully staffed.

Mission Statement

The mission of the State Ethics Commission is to foster integrity in public service in state, county and local government, to promote the public's trust and confidence in that service, and to prevent conflicts between private interests and public duties. We strive to accomplish this mission by conducting ongoing educational programs, providing clear and timely advice, and fairly and impartially interpreting and enforcing the conflict of interest and financial disclosure laws.

Introduction

Since 1963, the Massachusetts conflict of interest law, G.L. c. 268A, has regulated the conduct of public officials and employees in the Commonwealth. Chapter 268A governs what public employees may do “on the job,” “after hours” or “on the side,” and after they leave public service. It also sets standards of conduct for all state, county and municipal employees, including elected officials. The law requires that public employees give their undivided loyalty to the level of government for which they work, and that they act in the public interest rather than for private gain. Until 1978, the law was enforced by the Attorney General and the District Attorneys.

In addition to strengthening the conflict of interest law, Chapter 210 of the Acts and Resolves of 1978 established a financial disclosure law, G.L. c. 268B, requiring public officials, candidates for public office and state and county employees in designated major policymaking positions to annually file a Statement of Financial Interests for the preceding calendar year. Chapter 210 also created the State Ethics Commission, and empowered it to interpret and enforce G.L. c. 268A and c. 268B. Commission staff provide advice on how to comply with the conflict of interest and financial disclosure laws, investigate allegations of violations of those laws, conduct seminars, and provide other information. The Commission serves as the primary civil enforcement agency for these laws.

Chapter 28 of the Acts of 2009 further strengthened the conflict of interest law by: increasing the maximum civil penalty for violations; codifying and increasing the statute of limitations from three years to five or six years, depending on the circumstances; strengthening the Commission’s summons authority; prohibiting gifts to public employees that are given because of their official position; authorizing the Commission to order restitution and repayment of any economic advantage obtained by a violator; adding a false or fraudulent claims provision to the conflict of interest law; and creating education and training requirements for all public employees. The financial disclosure law was also amended to ban gifts of any amount from lobbyists to certain public officials and their immediate family members. Chapter 28 directed the Commission to prescribe and publish, pursuant to G.L. c. 30A, rules and regulations providing exemptions to certain sections of G.L. c. 268A. Pursuant to this direction and after completing the formal process to issue regulations, the Commission approved new regulations codified at 930 CMR 5.00 and 6.00.

The conflict of interest law was further amended by Chapter 93 of the Acts of 2011, which added a new section 6B, requiring an applicant for state employment to disclose the names of certain family members employed by the state. Chapter 194 of the Acts of 2011 amended the conflict of interest law by adding a new section 5(b½), imposing a one-year restriction on any former state, county or municipal employee who worked on any expanded gaming legislation or its implementation from becoming employed by a gaming licensee or from having a financial interest in an applicant for a gaming license or a gaming licensee. Chapter 194 also amended section 6 of the financial disclosure law to include gaming licensees and gaming license applicants within the definition of “legislative agents” for the purposes of that section.

Executive Administration

Personnel

At the beginning of FY 2017, the Commission was staffed with 19 employees and there were vacancies in several critical positions. The position of Executive Director had become vacant at the end of June 2016. The Deputy Chief of the Legal Division was appointed Acting Executive Director effective July 1, 2016 and was appointed Executive Director in February 2017. This created an attorney position vacancy in the Legal Division, which was not filled until late June 2017, when a new Assistant General Counsel was hired. The position of Enforcement Division Chief, which had become vacant in March 2016, was filled with the hiring of a new Division Chief at the end of October 2016. In the interim, an Enforcement Division staff counsel served as Acting Enforcement Division Chief. An Enforcement Division attorney position that had been vacant since December 2015 was filled in late January 2017 with the hiring of a new Assistant Enforcement Counsel. The Enforcement Division Deputy Chief/Investigations position became vacant in September 2016. An Enforcement Division investigator was promoted to the newly configured Director of Investigations position in late December 2016, creating a vacant investigator position, which was filled in May 2017. The Commission’s Chief Financial Officer/Director of Budget and Administration position became vacant in August 2016. A new Chief Financial Officer/Director of Budget and Administration was hired in late October 2016. A new part-time receptionist was hired in April 2017. All vacant Commission positions were filled by the end of FY 2017, except for the newly configured Public Information Officer position, which will be filled in FY 2018.

On October 11, 2016, Commissioner William J. Trach’s five-year term as a Commissioner ended. On October 12, 2016, Governor Charles Baker appointed Attorney Maria J. Krokidas to replace Commissioner Trach. Commissioner Krokidas was sworn in on October 17, 2016.

New Electronic Filing Application for Statements of Financial Interests

Nearly 4,000 state and county employees file Statements of Financial Interests (SFIs) with the Commission each year. Since 2002, filers have been able to file SFIs electronically. In FY 2015, the Commission secured capital funding to replace the filing application. In FY 2017, the final component of the new SFI electronic filing application, the Public Inspection Module, was completed. The Public Inspection Module allows the public to obtain SFIs online with minimal involvement by Commission staff.

Joint Task Force on Integrity in State and Local Government

In FY 2017, the General Court adopted a resolve providing for the creation of a Task Force to investigate and study the conflict of interest and financial disclosure laws. The members of the Task Force were appointed by the House Speaker and the Senate President in early January 2017. The Task Force held seven meetings between January and June 2017. The Commission's Executive Director and General Counsel attended each meeting and presented written and oral testimony at each, including some Commission recommendations for changes to the conflict of interest and financial disclosure laws. The Commission advocated for its being granted full regulatory authority. The Task Force reached a consensus that some form of expanded regulatory authority is advisable and that such change must be accomplished by statutory amendment. The Task Force recommended that the General Court and the Governor determine the form and scope of expanded regulatory authority that would be best suited to strengthen, update and clarify the conflict of interest law to protect the interests and people of the Commonwealth, while allowing the Commission appropriate flexibility to carry out its statutory mandate.

Office Renovations

The Commission entered into an interagency service agreement (ISA) with the Division of Capital Asset Management and Maintenance (DCAMM), to complete substantial office renovations in FY 2017 that will continue into FY 2018. The work included construction of a small conference room; installation of HVAC diffusers, ductwork and air returns; electrical work; installation of new telephone and data outlets; painting; installation of new baseboards; and removal and replacement of reflective window film; installation of a small kitchenette; replacement of broken window blinds; cleaning, stripping and resealing the tile floors; carpet cleaning; and replacing all light fixtures with energy-saving LED fixtures.

Case Management Application Replacement Project

The Commission's case management application has been in service since June 2005. The underlying technology and supporting software has become dated and difficult to maintain in recent years. The Commission replaced the application servers in FY 2013 and completed software upgrades in FY 2016 to extend the life of the application. During FY 2017, the Commission retained a consultant to assist with the development of contract and application specifications to replace the application. Work was completed by the end of FY 2017. The consultant provided a set of recommendations for a new application, a list of deficiencies with the current application, RFQ/RFP documents to assist the Commission with selecting a vendor, and a cost estimate for a new application. The Commission used the information provided by the consultant to submit a capital bond funding request to the Executive Office of Technology Services and Security to provide FY 2018 funding to begin the process to replace its case management application.

Online Training Program Accessibility Remediation Project

The 2009 Ethics Reform Law amended the conflict of interest law to require that all public employees complete online training on the requirements of the law. The Commission has two online training programs, one for state and county employees and one for municipal employees. All public employees must complete a program within 30 days of election or appointment to a public position, and every other year thereafter.

In the years following the launch of the new online training programs, the Commission learned of accessibility issues that affected the ability of public employees who use assistive technology to complete the programs. Specifically, the Commission received comments from public employees who use JAWS, a software program that assists visually impaired individuals in navigating websites. In FY 2017, the Commission engaged a consultant to complete upgrades to both online training programs to make them fully accessible to visually impaired persons using assistive technology. Staff from the Massachusetts Commission for the Blind and the Massachusetts Office on Disability provided testing assistance to the Commission. The training programs are now accessible to those using assistive technology.

Mass. Municipal Lawyers Association President's Award

In FY 2017, Commission General Counsel/Legal Division Chief Deirdre Roney was selected by the Executive Board of the Massachusetts Municipal Lawyers Association (“MMLA”) to receive its President’s Award for 2016. The President’s Award is given annually to someone recognized as making a difference in the practice of municipal law. In presenting the award, MMLA President Henry Luthin cited Ms. Roney’s “common sense approach to the legal situations often faced by municipal attorneys,” and the fact that Ms. Roney has always “taken her knowledge, wisdom, and compassion the extra mile to be helpful to municipal attorneys across the state, in person or by phone.”

Updated Personnel Manual

The Commission approved revisions to its Personnel Manual in December 2016 that reflected changes to personnel policies governing sick leave, flex time, standard work hours, progressive discipline, termination for cause of at-will employees, personnel evaluations, and the creation of an Ombudsman position elected annually by staff.

Legal Division

Public employees and others who fall within the jurisdiction of G.L. c. 268A, the conflict of interest law, and G.L. c. 268B, the financial disclosure law, may ask for and receive free, confidential advice about whether their own proposed activities are permissible under these laws. Requests for advice may be made by telephone, through the Commission’s website, by letter or email, or in-person, and are answered by Legal Division attorneys. The Legal Division strives to respond to telephone requests for advice on the

same day and to requests for written advice within 30 days. Division attorneys will confirm oral advice by email if the requestor needs written confirmation of advice. Division attorneys give confidential advice based on prior Commission rulings. If there is no Commission precedent for the issue to be addressed, the issue may be submitted to the full Commission for a formal opinion. Although formal opinions are also confidential, the Commission publishes summaries and public versions of such opinions with the requestor's identifying information redacted. The Commission did not issue any formal opinions in FY 2017. In addition to providing advice, the Division reviews conflict of interest law opinions issued by municipal counsel under G.L. c. 268A, § 22, to ensure that these opinions are consistent with Commission precedent.

Legal Division attorneys also review for completeness conflict of interest law disclosures filed with the Commission by state and county employees. Such disclosures are available to the public upon request, and are listed on the Commission's website. In addition, Division attorneys serve as legal advisors to the Commission in adjudicatory proceedings. At the direction of the Commission or the presiding officer, Division attorneys prepare orders, rulings on motions, and drafts of decisions and orders in adjudicatory proceedings.

The financial disclosure law, G.L. c. 268B, requires that all state and county elected officials, candidates for state and county office and appointed state and county employees in designated major policymaking positions to annually disclose their financial interests and private business associations by filing a Statement of Financial Interests ("SFI").

The Legal Division administers the SFI filing process. The Deputy Chief/SFI, the SFI Administrator/Analyst, the Division Administrative Assistant and the Commission's IT Specialist comprise the Commission's SFI Team. The SFI Team assists filers who have questions about how to complete their SFI as well as agencies that have questions about designating positions as major policymaking positions.

SFIs are public records and are available to the public upon request. The law requires that filers be notified whenever their SFIs have been requested. As a result, requestors must complete a request form and provide a valid picture ID with their name. Prior to making an SFI available to a requestor, Commission staff redacts legally protected information from manually filed SFIs, including home addresses.

For most of FY 2017, the Legal Division consisted of the Division Chief (who also serves as the Commission's General Counsel), the Deputy Chief/SFI, two staff attorneys, the Senior Assistant General Counsel, the SFI Administrator/Analyst and an administrative assistant. The Division operated throughout FY 2017 with reduced staffing due to the Deputy Chief's appointment as Acting Executive Director in June 2016 and subsequent appointment as Executive Director in February 2017. In addition, from October 2016 through February 2017, the Senior Assistant General Counsel was assigned to assist the understaffed Enforcement Division. A new Assistant General Counsel was hired in June 2017, returning the Division to its full staffing level.

FY 2017 Legal Division Accomplishments

Agency Policies

During FY 2017, Legal Division attorneys were involved in drafting revisions to the Commission's Personnel Manual to address changes in agency policy in the following areas:

- At-Will Employment; Termination Absent Cause for Circumstances Affecting the Commission;
- Termination for Cause;
- Progressive Discipline;
- Commission Ombudsman;
- Attendance; Workweek; Regular Work Schedule; Lunch;
- Performance Evaluations;
- Conduct of Employees; and
- Compensation and Benefits, Appointment.

These changes were reviewed by the Commission and approved at the December 15, 2016 meeting.

Joint Legislative Task Force on Integrity in State and Local Government

During FY 2017, the Commission's General Counsel and Executive Director assisted the Joint Legislative Task Force on Integrity in State and Local Government. The Task force reviewed the conflict of interest and financial disclosure laws and issued a report on recommended changes or amendments to these laws. The Task Force held seven meetings between January and June 2017. The General Counsel and Executive Director attended each meeting and presented written and oral testimony at each. The General Counsel compiled staff suggestions for changes to the conflict of interest and financial disclosure laws and presented them to the Commission for consideration at regular and several special meetings held during FY 2017. In many cases, the materials prepared included draft proposed statutory language. The General Counsel, together with the Executive Director, prepared substantial memoranda on behalf of the Commission that were presented to the Task Force by the Executive Director on March 20, 2017, April 25, 2017, and May 25, 2017.

Advice Requests

During FY 2017, the Legal Division answered a total of 5,783 requests for advice, an 8% decrease from the prior fiscal year, when the Division experienced the largest number of requests ever received. These requests consisted of 5,170 telephone or walk-in requests, 560 written requests, and a review of 53 letters issued by municipal counsel pursuant to G.L. c. 268A, § 22. The Division continues a practice of responding to telephone requests on the same day, or the following day, in most cases. The Division's average monthly backlog of written opinion requests older than 30 days was 7 during FY 2017, a significant decrease from 13 during the prior fiscal year. The Division also reviewed 749 conflict of interest law disclosures filed by state and county employees, up from 505 disclosures reviewed during the prior fiscal year, and 342 disclosures of financial interest filed by charter school trustees pursuant to G.L. c. 71, § 89(u).

Statements of Financial Interests

New Electronic Filing Application

In FY 2017, members of the Legal Division’s SFI Team continued work on a multi-year project to develop a new SFI electronic filing application. This was the second year of operation using the new application. The final phase of the new electronic filing application, the Public Inspection Module, opened for use by the public on June 22, 2017. SFIs are public records and may be requested by members of the public. The Financial Disclosure Law, G.L. c. 268B, provides that an SFI shall be available for public inspection and copying upon written request of any individual. Such requests must be accompanied by proof of the requesting individual's identity. The law further requires the Commission to notify the filer of the name and affiliation, if any, of the individual who has viewed their SFI. Using the Public Inspection Module, an individual can now view online, a searchable index of all the public employees, public officials and candidates required to file an SFI for a selected calendar year, beginning with CY 2015. A public user can search for a specific filer(s) by name or search for all filers from a specific agency. In addition, a public user may view online whether a filer has completed their SFI filing. A public user can obtain a redacted SFI from the system if they first register online as a public user. If a filer's redacted SFI is viewed by a public user, the SFI system sends an email to the filer.

SFI Filing Season

During FY 2017, the total number of filers - - appointed state and county employees, elected state and county officials, and candidates for state and county office - - required to file an SFI for calendar year 2016 was 3,845. Ninety-one percent of all filers filed by their respective deadlines of May 1, 2017 (appointed state and county employees), and May 30, 2017 (elected state and county officials). A total of 300 Formal Notices of Lateness (“Formal Notices”) were sent to those who missed their filing deadline. With the functionality now available in the new electronic filing system, 248 Formal Notices were sent automatically by email to individuals with an email address in the system; 52 were sent by regular mail. Twenty-two individuals, representing only .5% of all filers, failed to file their 2016 SFI within ten days of receiving a Formal Notice and are subject to potential civil penalties.

The SFI Team conducted ten training sessions for state and county agency liaisons to educate them about the functionality of the Liaison Module in the application, including the filer designation and notification process. The SFI team also handled a total of 1,720 requests for assistance during the period of December 15, 2016 through June 19, 2017.

The Commission received 65 requests from the media and public to inspect 595 SFIs in FY 2017. To comply with public records law requirements, home addresses and the names of family members are redacted before an SFI is provided to the requestor.

Adjudicatory Proceedings

During FY 2017, the Legal Division was involved in one ongoing adjudicatory proceeding, *In Re Hansen*, alleging violations of c. 268A. A hearing was conducted in during FY 2017 with closing arguments taking

place on June 15, 2017. The Commission is set to commence deliberations in FY 2018.

Litigation

During FY 2017, the Legal Division represented the Commission in two matters before the Superior Court. One matter, *Edward McGovern v. State Ethics Commission*, Hampden Superior Court Civil Action No. 1679CV00082, involves a challenge pursuant to chapter 30A of a finding of a violation of G.L. c. 268A, § 23(b)(2)(ii) by the Commission against the plaintiff and a request to stay the imposition of the \$7,500 civil penalty. The matter is ongoing. The second matter involved an action in the Superior Court where the plaintiffs sought declaratory and injunctive relief against the Commission. The Superior Court granted the Commission's motion to dismiss the proceedings, and the Appeals Court affirmed the dismissal on April 25, 2017. The second matter was impounded and is thus not identified here.

Trainings on the Conflict of Interest Law and the Financial Disclosure Law

During FY 2017, Legal Division attorneys assisted with conducting three training sessions for public employees on the conflict of interest law requirements and were involved in a number of trainings for new Commission staff.

Enforcement Division

The Enforcement Division investigates alleged violations of the conflict of interest and financial disclosure laws, and, when appropriate, civilly prosecutes the alleged violators of those laws. Most complaints to the Commission are resolved confidentially, often with educational letters to the subjects. The Division received a total of 764 complaints in FY 2017 alleging violations of the conflict of interest or financial disclosure laws.

At the beginning of FY 2017, the Enforcement Division was substantially understaffed and consisted of the Acting Division Chief, the Deputy Chief/Investigations, three full-time investigators, one investigator working eighty percent of full-time schedule, and an administrative assistant; the position of Division Chief and a Division staff attorney position were vacant. The Deputy Chief/Investigations position became vacant in September 2016. Due to this understaffing, the Senior Assistant General Counsel was assigned to assist the Division from October 2016 through February 2017.

By the end of FY 2017, all Enforcement Division vacancies were filled and the Division consisted of the Division Chief, a Staff Counsel, an Assistant Enforcement Counsel, the Investigations Director, three full-time investigators, an investigator working eighty percent of full-time schedule, and an administrative assistant. The position of Division Chief, which had become vacant in March 2016, was filled with the hiring of a new Chief at the end of October 2016. A Division staff attorney position that had been vacant since December 2015 was filled in late January 2017 with the hiring of a new Assistant Enforcement Counsel. A Division investigator was promoted to the newly configured Director of Investigations position in late December 2016, creating a vacant investigator position, which was filled in May 2017.

Investigation Process

The Enforcement Division generally receives between 750 and 1,100 complaints annually. Complaints are made by telephone, mail, email, online, and in-person. Roughly seventy percent of these complaints involve municipal officials; the remainder involve state or county officials. The Enforcement Division reviews all complaints received by the Commission. If the matter falls within the Commission's jurisdiction, the Division initiates an informal investigation. Informal investigations, conducted by the Division's five investigators, generally include phone interviews and requests for documents. If, based on this investigation, the Division believes the complaints have merit, they are referred to a Division attorney for further action.

About thirty percent of the complaints are referred to an Enforcement Division attorney. Many complaints are resolved by a private education letter. The Division sends private education letters to the subject of the complaint if the Division believes that the apparent violation is minor in nature, the subject genuinely misunderstood the law, or pursuing the matter would be an inefficient use of Commission resources. These letters explain the legal concerns raised by the complaint, and provide the subject with guidance on how to comply with the law going forward.

If the apparent violation is of a more serious nature, the Enforcement Division will seek authorization from the Commission to conduct a formal investigation, called a preliminary inquiry, in which Division attorneys may issue summonses for documents and testimony under oath. All preliminary inquiries and summonses must be authorized by a majority vote of the Commission. If, after the investigation is complete, the Commission finds by a majority vote that there is reasonable cause to believe that the subject may have violated the conflict of interest law, the subject has a right to an adjudicatory hearing, at which both the subject and the Division present evidence. If, based on the evidence presented at the hearing, the Commission decides by a majority vote that the subject violated the law, it may impose a civil penalty up to \$10,000 per violation, except that a civil penalty of up to \$25,000 per violation may be imposed for G.L. c. 268A, § 2 violations (bribes). The Division civilly prosecutes approximately 3 to 8 cases annually.

The Enforcement Division may also resolve matters that reach the formal investigation stage without an adjudicatory hearing. If the subject agrees to settle the matter, he or she may enter into a Disposition Agreement. In such agreements, the subject admits to the facts and the violation, and agrees to pay a civil penalty. Alternatively, the Commission may, with the subject's agreement, issue a Public Education Letter to resolve a matter without a hearing. Public Education Letters are typically issued when the circumstances are novel or believed to be widespread. In these cases, the subject does not admit to wrongdoing or pay a civil penalty.

Civil Penalties

All civil penalties imposed and collected by the Commission to resolve violations of the conflict of interest and financial disclosure laws revert to the Commonwealth's General Fund. In FY 2017, the Commission did not collect any civil penalties.

FY 2017 Cases

The Commission can resolve public enforcement cases with an adjudicatory hearing, a Disposition Agreement or a Public Education Letter. In FY 2017, the Commission issued one public education letter. The case, listed below, is posted on the Commission’s website.

John L. O’Brien, Jr. Public Education Letter

The Commission issued a Public Education Letter to Southern Essex District Registrar of Deeds John L. O’Brien, Jr. to resolve allegations that Mr. O’Brien violated § 23 of the conflict of interest law by using his position as Registrar to obtain the home addresses of Registry of Deeds employees for his campaign committee mailing list, disclosing the addresses to his campaign committee, and, through his campaign committee, soliciting campaign donations from Registry of Deeds employees.

Enforcement Division FY 2017 Statistics

| Complaints | |
|--|------|
| Conflict of interest and financial disclosure law complaints pending at the beginning of FY 2017 | 334 |
| Conflict of interest law complaints received during FY 2017 | 764* |
| Financial disclosure law complaints received during FY 2017 | 0 |
| Complaints closed after informal investigation with no action required | 520 |
| Complaints closed after informal investigation with private educational letters to the subjects | 76 |
| Complaints assigned for preliminary inquiry recommendation | 39 |
| Conflict of interest law and financial disclosure law complaints pending at the end of FY 2017 | 463 |

*Complaints involving more than one subject are counted as one complaint, although allegations may be resolved individually. For example, if a complaint involves two subjects, and one subject’s case is resolved informally through a private educational letter, but the other one’s case is assigned for a preliminary inquiry recommendation, that complaint will be reported as a preliminary inquiry recommendation.

| Subjects of Complaints | |
|---|-----|
| Municipal employees | 590 |
| State employees | 124 |
| County employees | 14 |
| Private entities | 24 |
| Complaints involving unspecified subjects | 12 |

| Preliminary Inquiries | |
|---|-----|
| Preliminary inquiries pending from FY 2016 | 10* |
| Preliminary inquiries authorized by the Commission during FY 2017 | 19* |
| Preliminary inquiries concluded by the Commission in FY 2017 | 8 |
| Preliminary inquiries concluded with the authorization of an adjudicatory proceeding | 3 |
| Preliminary inquiries terminated by the Commission | 3 |
| Preliminary inquiries terminated with a private education letter to the subject | 1 |
| Preliminary inquiries concluded with a confidential compliance letter to the subject | 1 |
| Preliminary inquiries involving financial disclosure law violations resolved by the Commission by a civil penalty for a late-filed SFI | 0 |
| Preliminary inquiries carried over to FY 2017 | 25 |

**Preliminary inquiries involving more than one subject are counted as one preliminary inquiry.*

Public Education and Communications Division

The Public Education and Communications Division provides free educational seminars throughout the Commonwealth, responds to requests for information from the media and public, maintains the Commission's website, prepares and issues press releases and Commission publications, and manages the education and training requirements for public employees. In FY 2017, the Division consisted of the Division Chief. A second Division position remained vacant in FY 2017.

Seminars

The Public Education and Communications Division conducts free seminars on the conflict of interest law for state, county and municipal employees. In the seminars, staff provide an overview of the law, provide illustrative examples, and explain how to avoid potential conflicts that may arise between the private interests of public employees and their public positions and responsibilities. The number of seminars increased slightly in FY 2017, and seminar attendance increased over 25% as compared to FY 2016. Participation in seminars via webinar was introduced in FY 2014 as an option for agencies and municipalities that could not meet minimum attendance requirements. Webinar use remained steady during FY 2017. Participation by webinar for the bi-monthly seminars conducted at the Commission office continues to be used as a convenience for public employees who cannot easily travel to Boston.

Public and Media Relations

The Public Education and Communications Division receives on average more than 500 telephone and email inquiries each year from the media and public. Due to the confidentiality restrictions imposed on the Commission by law, the Commission neither confirms nor denies the existence of any complaint or investigation, or whether anyone has sought or received advice from the Commission. The Division provides general explanations of the law, and will refer individuals to the website for additional information.

Education and Training Requirements

The conflict of interest law requires that the Commission publish and maintain on its website summaries of the conflict of interest law for state, county and municipal employees, respectively. The summaries are revised periodically to reflect any amendments to the law. Spanish and Portuguese translations of the summaries are also available on the website.

In December 2012, the Commission launched two new online training programs; one for state and county employees, and the other for municipal employees. These interactive programs use multimedia to provide a comprehensive overview of the conflict of interest law.

The conflict of interest law requires all public agencies and municipalities to each year give their employees the summary of the conflict of interest law prepared by the Commission. In addition, every other year, all public employees must complete the Commission's online training program. Public employees must provide a written acknowledgment to their employers that they received the summary, as well as a completion certificate evidencing their completion of the online training program. The Division collects the summary acknowledgments and online training program completion certificates from all elected state and county officials. During the compliance period in FY 2017, all public employees were required to receive the summary of the law and complete the online training program.

Website

The Public Education and Communications Division manages and maintains the Commission's website, www.mass.gov/ethics. The website includes information about the history, activities, and precedents of the Commission. The Commission's educational materials, disclosure forms and instructions, enforcement actions, advisory opinions (summaries of all – and full texts of many), press releases, and meeting minutes and meeting notices are available online. The website contains more than 45 different educational materials, ranging from summaries of the law for specific municipal employees, such as selectmen or school committee members, to primers and advisories which address specific topics or issues. Visitors to the website can also submit complaints or requests for advice through the website. Website activity has increased dramatically due to the education and training requirements added to the conflict of interest law in 2009. Website traffic decreased slightly in FY 2017 as compared with FY 2016, but the average number of monthly page views increased by 9%.

Website Migration Project

During FY 2017, the Commonwealth announced that it would begin work to change its website portal platform and improve portal usability by creating a customer-focused approach to website design. To prepare for the migration to a new platform and content editing application, all state agencies within the Mass.Gov portal were asked to analyze existing website content and remove any content that was no longer needed. All 2,497 individual content items on the Commission’s website were analyzed and 584 content items were removed. Work will continue in the next fiscal year to create new content and migrate existing content onto the new platform. The Public Education and Communications Division Chief also agreed to serve on a committee consisting of website and communications professionals from nine state agencies to review and provide feedback to the Mass.Gov website design team on the various new design elements and features. The group met regularly from September 2016 through June 2017.

| Public Education and Communications Division Activities | |
|---|---------|
| Press releases issued | 2 |
| Educational seminars conducted | 72 |
| Seminar attendance | 2,703 |
| Inquiries from media and general public | 607 |
| Inquiries concerning the education and training requirements | 1,019 |
| Website average monthly visitors | 15,250 |
| Website average monthly page views | 182,517 |

Information Technology Services

The Commission’s information technology and network resources are maintained and updated by the Commission’s Information Technology Specialist, who reports to the Public Education and Communications Division Chief and to the Legal Division Deputy Chief/SFI. The IT Specialist provides technical support for the Commission’s internal case management application, the SFI electronic filing application, and the conflict of interest law online training programs for all public employees. During FY 2017, needed replacements and improvements were made to equipment and software supporting the network environment. The final application module for the SFI electronic filing application was launched to allow public inspection of SFIs. In addition, two test servers were built and deployed to support the new filing application. The IT Specialist was part of the project team working to replace the aging case management application.

State Ethics Commission

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