

# State Ethics Commission

**Fiscal Year 2020  
ANNUAL REPORT**

**Commonwealth of Massachusetts | State Ethics Commission**

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# State Ethics Commission – Fiscal Year 2020

## State Ethics Commission Members

**Maria J. Krokidas, Chair**

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

**Hon. David A. Mills, Vice Chair\***

Appeals Court Associate Justice (ret.)

**Thomas J. Sartory\*\***

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

**Hon. R. Marc Kantrowitz**

Appeals Court Associate Justice (ret.)

**Josefina Martinez**

Senior Partner and General Counsel, EBS – Newton, MA

**Hon. Wilbur P. Edwards, Jr.\*\*\***

Associate Justice of the Southeast Division of the Massachusetts Housing Court (ret.)

\* Term Ended October 2019

\*\* Named Vice Chair December 2019

\*\*\* Appointed December 2019

## 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: three, including the Commission Chair, are appointed by the Governor, one is appointed by the Secretary of the Commonwealth, and one is appointed by the Attorney General. No more than two of the Commissioners appointed by the Governor, and no more than three Commissioners overall, may be from the same political party. Commissioners are appointed to five-year terms and each year one Commissioner's term expires and the term of their newly appointed successor begins. No one may be appointed to more than one full five-year term as a Commissioner.

The Commission's Executive Director is responsible for the day-to-day management of the agency and its staff and 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 alleged 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 provides educational programming on the conflict of interest law, responds to news media and other requests for information about the Commission, its activities, and the conflict of interest and financial disclosure laws, and maintains the Commission's website.

The Commission received an appropriation of \$2,391,848 in FY 2020, an increase of \$152,568 over FY 2019. The Commission collected \$77,000 in civil penalties in FY 2020. Civil penalties collected by the Commission each year revert to the Commonwealth's General Fund.

In FY 2020, the Legal Division responded to 5,728 requests for advice concerning the conflict of interest and financial disclosure laws, the Enforcement Division received 767 complaints alleging violations of those laws, and the Public Education and Communications Division conducted 46 seminars and responded to 435 requests for information about the Commission and the two laws.

### 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

The Commission administers and civilly enforces the provisions of the **conflict of interest law** and **financial disclosure law**.

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; creating a specific statute of limitations for G.L. c. 268A and c. 268B violations of 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 in the Massachusetts Code of Regulations 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

The Commission was staffed with 26 employees, including a contract receptionist, at the beginning of FY 2020 and 27 employees, including two contract investigators, at the end of the fiscal year. During FY 2020, two employees joined the Commission staff. In November 2019, a new special investigator started in the Enforcement Division and a new program coordinator started in the Public Education and Communications Division. The Enforcement Division added a contract investigator in April 2020 and a second contract investigator in May 2020. Three employees, two special investigators and one contract receptionist, left the Commission staff in FY 2020.

In October 2019, Commission Vice Chair David Mills’ five-year term as Commissioner ended. In December 2019, Governor Charles D. Baker appointed Wilbur P. Edwards, Jr. to succeed Commissioner Mills on the Commission. The Commission named Commissioner Thomas J. Sartory Vice Chair in December 2019.

### COVID-19 Pandemic

In March 2020, following Governor Baker’s March 10<sup>th</sup> declaration of a state of emergency due to the COVID-19 pandemic, the Commission closed its office to visitors and staff began working remotely. To enable staff to work effectively while working remotely, they were provided with laptop computers and Virtual Private Network (VPN) remote access to the Commission’s network and Commission office telephones were configured to forward calls to them. Through the remainder of the fiscal year, only a small number of staff were regularly present in the office. The Commission purchased air purifiers, masks, gloves, and hand sanitizer, sanitizing wipes and other cleaning products to ensure the safety of staff working in the office. The March 2020 Commission meeting was canceled due to the state of emergency. In April 2020, the Commission began holding its monthly meetings remotely by videoconference in accordance with the Governor’s March 12, 2020 executive order suspending certain provisions of the Open Meeting Law.

The Enforcement Division initially deferred filing and serving new Orders to Show Cause due to concerns about requiring subjects to defend themselves during the pandemic while the Commission assessed the effect the state of emergency would have on its operations. In-person

investigatory interviews under oath were also suspended. After the Supreme Judicial Court issued a May 26, 2020 order pertaining to taking testimony under oath remotely, the Enforcement Division began conducting remote sworn interviews in June 2020. The Division also resumed filing and serving Orders to Show Cause at that time.

### **Case Management System Replacement Project**

In FY 2020, the Commission worked with the Executive Office of Technology Services and Security's Information Technology Capital Program team to plan the replacement of the Commission's existing case management system, Ethos, which has been in service since 2005 and whose underlying technology and supporting software are dated and difficult to maintain. The Commission continued working to identify a new case management system that includes powerful search tools, dashboard reporting, and the ability to receive disclosures electronically and partnered with other independent and executive branch agencies to identify products that could potentially meet collective case management needs.

### **Conflict of Interest Law Online Training Program Replacement Project**

The conflict of interest law requires the Commission to provide online training to educate public employees about the law. All Massachusetts state, county, and municipal employees are required to complete the training within 30 days of beginning their public positions and every two years thereafter. In FY 2020, the Commission received capital funding to obtain the services of a consultant to develop technical requirements and provide recommendations concerning the creation of a new online training program to replace the existing programs, which have been in place since 2012. Goals for the online training program replacement project include developing a program that is engaging, easy to use, and fully compatible with mobile devices and assistive technology. In June 2020, funding for the project was included in the Executive Office for Administration and Finance's FY 2021-2025 Five-Year Capital Investment Plan.

### **Audit**

During FY 2020, the Office of the State Auditor conducted a performance audit of certain Commission activities for the period of July 1, 2017 through June 30, 2019. The purpose of the audit was to determine whether the Commission complied with Sections 27 and 28 of the conflict of interest law, which require the Commission to ensure that elected state and county employees adhere to requirements related to the completion of the Commission's online training program and annual acknowledgement of receipt of a summary of the conflict of interest law. The audit revealed no significant instances of noncompliance by the Commission.

## Council on Governmental Ethics Laws (COGEL) Annual Conference

The Commission is a member of the Council of Government Ethics Laws (COGEL), an international organization for government agencies and other organizations working in ethics, elections, freedom of information, lobbying, and campaign finance. The Commission's Executive Director, an Enforcement Division Staff Counsel, three Legal Division Staff Counsel, and Public Information Officer attended the 41st annual COGEL conference from December 15-18, 2019, in Chicago.

## 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 those 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 on 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 2020.

In addition to providing advice, the Legal 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, Legal 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 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 Legal Division Deputy Chief/SFI, the Commission’s Government Affairs Officer, the Legal Division Administrative Assistant, and the Commission’s Information Technology Specialist comprise the Commission’s SFI Team. The SFI Team handles all the administrative duties related to the filing of SFIs, including oversight of the SFI electronic filing system. The SFI Team also 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 a filer be notified whenever his or her SFI has been requested. Requestors, who must provide a valid photo ID with their name, may register to review redacted SFIs online using the Public Inspection Module of the SFI system or by completing a request form. Prior to making an SFI available to a requestor, the SFI system redacts information exempted from disclosure under the public records law, including home addresses, from electronically filed SFIs. Commission staff redacts that same information from manually filed SFIs before providing them to requestors.

Throughout FY 2020, the Legal Division consisted of the General Counsel/Legal Division Chief, the Deputy Chief/SFI, two Assistant General Counsels, two Staff Counsels, and an Administrative Assistant.

## FY 2020 Legal Division Activities

### Advice

During FY 2020, the Legal Division answered a total of approximately 5,728 requests for advice, a decrease of approximately 2% from the prior fiscal year. These requests consisted of 5,080 telephone or walk-in requests, 634 written requests, and a review of 14 letters issued by municipal counsel pursuant to G.L. c. 268A, § 22. Of those requests, approximately 50% came from municipal employees, 40% from state employees and 10% from county employees and private parties. The Division continued its 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 3.9 during FY 2020, compared to 3.8 in FY 2019. The Division also reviewed approximately 240 conflict of interest law disclosures filed by state and county employees, a 40% decrease from the approximately 400 disclosures reviewed in FY 2019.

The Legal Division  
staff answered **5,728**  
requests for advice in  
FY 2020.



### Adjudicatory Proceedings

During FY 2020, Legal Division attorneys acted as Legal Advisors in three adjudicatory proceedings alleging violations of G.L. c. 268A. *In the Matter of Stephen Comtois* and *In the Matter of Helen*



*Donahue*, Legal Division attorneys served as Legal Advisors in pre-hearing matters and adjudicatory hearings. *In the Matter of Peter Skorput*, a Legal Division attorney served as Legal Advisor in issuing a Final Order approving a Disposition Agreement.

### Litigation

During FY 2020, the Legal Division represented the Commission in three litigation matters:

*City of New Bedford v. Marc J. Santos, et al*, Bristol Superior Court Civil Action No. 1973CV00546. In August 2019, a Complaint to Terminate and/or Modify a Prior Impoundment Order was filed against the Commission and the Chief of the Commission's Enforcement Division. The Legal Division represented the Commission and the Enforcement Division Chief in a hearing in which the Court modified the impoundment order to allow the City of New Bedford to access certain pleadings and orders in a closed, impounded case. Plaintiff then moved for a voluntary dismissal, which the Court allowed.

*McGovern v. State Ethics Commission*, Appeals Court Docket No. 2018-P-1060, involved an appeal of the Commission's imposition of a \$7,500 civil penalty and its decision that an Agawam police lieutenant and public employee had violated G.L. c. 268A, § 23(b)(2)(ii) in his disposition of a one-car accident involving a fellow Agawam police officer who was off duty at the time. On October 19, 2019, the Appeals Court affirmed the judgment entered in the Superior Court upholding the Commission's Decision and Order in a published opinion, *McGovern v. State Ethics Commission*, 96 Mass. App. Ct. 221 (2019). An opposition to McGovern's Application for Further Appellate Review with the Supreme Judicial Court (SJC) was filed. On December 23, 2019, the SJC denied McGovern's Application for Further Appellate Review.

*[Doe] v. State Ethics Commission*, Berkshire Superior Court Civil Action No. 1976CV00286. In March 2020, the Commission was served with an Amended Complaint for Declaratory Judgment by an individual seeking to quash two summonses, one individually and one as the owner of a business. Plaintiff's motion for impoundment and the Commission's assented-to motion to extend the filing deadline for a responsive pleading were pending as of the end of FY 2020.

### Other Legal Division Activities

During FY 2020, Legal Division attorneys drafted *State Ethics Commission Advisory 19-1: Gifts and Gratuities* to update and replace *Advisory 04-02: Gifts and Gratuities*. Legal Division attorneys also consulted with the Office of Campaign and Political Finance regarding its emergency regulations on social media use; consulted with the Massachusetts Cultural Council on its travel guidelines, credit card use, and purchasing goods and services; revised chapters in two MCLE publications, *Massachusetts Election Administration, Campaign Finance, and Lobbying Law* and *Massachusetts Municipal Law*; and presented conflict of interest law issues raised by the COVID-19 pandemic during a Massachusetts Municipal Lawyers Association teleconference. Legal Division attorneys conducted training sessions for new Commission staff members, served on several staff committees, drafted and finalized a new Internal Control Plan, and acted as the Commission's liaison to the Office of the State Auditor during its audit of the Commission.

## Statements of Financial Interests

### Statements of Financial Interests (SFI) Filing Season

The filing season for calendar year 2019 SFIs opened January 27, 2019, the earliest opening date in the past five years. During FY 2020, the total number of filers — appointed state and county employees, elected state and county officials, and candidates for state and county office —

#### CY 2019 SFI Season

- 3,886 filers
- 94% filed by deadline
- 165 Formal Notices of lateness issued
- 0 Enforcement referrals

required to file an SFI for calendar year 2019 was 3,886. The financial disclosure law sets the filing deadline of May 1 for public employees and the last Tuesday of May for public officials. However, due to the COVID-19 pandemic state of emergency, May 26, 2020 was made the filing deadline for both groups of filers for CY 2019. Ninety-four percent of all filers filed by the deadline. A total of 165 Formal Notices of Lateness were sent to those who missed the filing deadline. No filers were referred to the Enforcement Division for late or non-filing.

Historically, most SFI filers choose to file electronically rather than manually. That trend continued in FY 2020, when 3,807, or 98%, of the total 3,886 CY 2019 SFI filers filed electronically. The SFI Team encouraged electronic filing, which makes the process simpler and faster for the filer. In addition, an electronically filed SFI is automatically redacted by the SFI system so it is immediately available for review by both the filer and a member of the public using the SFI system's Public Inspection Module. As a result of the closure of the Commission's office due to the COVID-19 pandemic, filers could not file manually in person beginning in mid-March 2020. During the CY 2019 filing season in FY 2020, 79 SFIs were filed manually, a decrease from 121 the previous filing year.

When a filer fails to file by the deadline, the financial disclosure law, G.L. c. 268B, requires that a Formal Notice of Lateness (Formal Notice) be sent giving the filer an additional 10-day grace period to file without incurring a civil penalty. Of the 165 Formal Notices that were sent, 91% were sent automatically by email to individuals with an email address in the electronic filing system. The SFI Team worked throughout the year to maintain current contact information for filers and encouraged agency liaisons to obtain and enter personal email addresses of former employees who were still required to file SFIs.

### Updates to the SFI System

The SFI Team worked to enhance the SFI electronic filing system with a vendor with whom the Commission had a support and maintenance agreement covering such enhancements. The update improved the functionality of the system to allow staff to remove SFIs that are opened in error. This enhancement allows staff to address an issue that arises when existing filers are incorrectly

entered into the system as new filers after changing jobs, or when a public agency mistakenly enters into the system an employee who is not required to file an SFI. Prior to this enhancement, only the vendor could remove an SFI that had been opened in error.

### **Public Inspection Module**

SFIs are public records and may be requested by members of the public. The financial disclosure law 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, such as a valid state-issued photographic identification card or driver's license. 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.

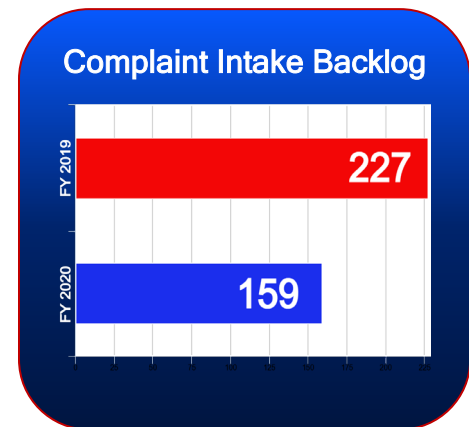
The Commission's online Public Inspection Module launched in June 2017. Using the Public Inspection Module, anyone can view a searchable index of all the public employees, public officials and candidates required to file an SFI for a selected calendar year, beginning with CY 2015. A public user can search for specific filers by name or search for all filers from a particular agency. In addition, a public user may view whether a filer has completed their SFI filing. An individual who wants to view or download a copy of a redacted SFI from the system may do so only if he or she first registers online as a public user, which includes providing a photo ID and identifying their affiliation, if any.

If a filer's redacted SFI is viewed by a registered public user, the SFI system sends an email to the filer if they have an email address in the system. That notice, a copy of which is also sent to the Commission, provides the filer with the name and affiliation, if any, of the public user who viewed their redacted SFI, as well as which year's SFI was reviewed. If a filer does not have an email address in the SFI system, the Commission receives a notification instructing it to provide notice to the filer by mail. Finally, if the email address associated with a filer is no longer valid, the Commission sends the original notice to the filer by mail.

## **ENFORCEMENT DIVISION**

The Enforcement Division investigates alleged violations of the conflict of interest and financial disclosure laws, and, when appropriate, civilly prosecutes alleged violators of those laws. By law, the investigations are confidential and the prosecutions are public. The Division received a total of 767 complaints in FY 2020 alleging violations of the conflict of interest or financial disclosure laws.

A priority for the Enforcement Division in FY 2020 was to continue to reduce the complaint intake backlog. This backlog, which is defined as complaints received by the Commission that have been open more than three months, had increased significantly from 2015 to 2018, a period during which the Division underwent restructuring and significant staffing changes. In FY 2020, the Division was able to reduce the backlog, from 227 to 159 from the beginning to the end of the fiscal year. The number of complaints in intake older than six months was reduced from 131 at the beginning of FY 2020 to 66 by the end of the fiscal year. As of the end of FY 2020, there were no complaints in intake that were older than one year.



At the beginning of FY 2020, the Enforcement Division consisted of the Division Chief, a Staff Counsel, two Assistant Enforcement Counsels, three full-time Special Investigators, two Special Investigators working 80 percent of a full-time schedule, and an Administrative Assistant. A part-time Special Investigator left the Division in August 2019. A full-time Special Investigator joined the Division in November 2019 and left in March 2020. Two contract investigators joined the Division in April and May 2020, respectively.

## Investigations

The Enforcement Division generally receives between 750 and 1,100 complaints annually. Complaints are made by telephone, mail, an online complaint form, fax, and in person. Roughly 70 percent of these complaints involve municipal officials; the remainder involve state or county employees. The 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 telephone interviews and requests for documents. If, based on this investigation, the Division believes the complaints have merit, they are assigned to a Division attorney for further action.

Many complaints assigned to Enforcement Division attorneys are resolved by private education letters. The Division sends a private education letter to the subject of the complaint if the Division believes that the alleged violation is minor in nature, the subject appears to have genuinely misunderstood the law, or pursuing the matter would be an inefficient use of Commission resources. These private letters explain the legal concerns raised by the alleged conduct and provide the subject with guidance on how to comply with the law in the future.

When the alleged 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 the preliminary inquiry fails to indicate reasonable cause for belief that the law has been violated, the Commission is required to immediately terminate the inquiry and so notify the subject and the complainant, if any. If the preliminary inquiry indicates reasonable cause to believe that a violation has occurred that the Commission believes does not warrant a public resolution, the Commission may vote to find facts sufficient for reasonable cause and, in lieu of finding reasonable cause and authorizing adjudicatory proceedings, authorize the issuance of a confidential compliance letter. A confidential compliance letter identifies the alleged violations, explains the application of the law to the specific facts at issue, and informs the subject that future violations may be resolved through a public proceeding. Confidential compliance letters may be authorized in cases where, although there are sufficient facts to warrant a finding of reasonable cause to believe a violation has occurred, the Commission believes it is appropriate to resolve the matter privately.

If the preliminary inquiry indicates reasonable cause to believe that a violation has occurred that the Commission believes warrants a public resolution, the Commission may vote to find reasonable cause and to authorize adjudicatory proceedings. When the Commission so votes, the Enforcement Division offers the subject the opportunity to resolve the matter without an adjudicatory hearing through a public disposition agreement. In a disposition agreement, the subject admits to the facts and the violation, waives the right to a hearing, and, in most cases, agrees to pay a civil penalty. The Commission must approve all disposition agreements.

Upon voting to find reasonable cause and authorize adjudicatory proceedings, Commission may also authorize the Enforcement Division to draft a public education letter to be issued in lieu of adjudicatory proceedings. Public education letters may only be issued with the subject's consent. When public education letters are issued, the subject does not admit to violating the law or pay a civil penalty. The Commission may authorize the issuance of a public education letter for reasons including novel circumstances or the widespread occurrence of similar conduct. The Commission must approve all public education letters.

A subject who chooses not to resolve the matter by consenting to receive a public education letter or by entering into a disposition agreement, has the right to a public adjudicatory hearing at which both the subject and the Enforcement Division present evidence. Based on the evidence presented at the hearing, the Commission may decide by a majority vote that the subject violated the law and 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 violations of G.L. c. 268A, § 2, the corrupt gifts section of the law. A Commission final decision is appealable by the subject to the Superior Court.

## Enforcement Division FY 2020 Investigations Statistics

Complaints	
Conflict of interest and financial disclosure law complaints pending at the beginning of FY 2020	408
Conflict of interest law complaints received during FY 2020	767
Financial disclosure law complaints received during FY 2020	0
Complaints closed after informal investigation with no action by an enforcement attorney	656
Complaints closed after informal investigation with private educational letters to the subjects	119
Complaints assigned for preliminary inquiry recommendation	17
Conflict of interest law and financial disclosure law complaints pending at the end of FY 2020	333

Subjects of Complaints	
Municipal employees	612
State employees	115
County employees	1
Private entities	9
Complaints involving unspecified subjects	30

Enforcement Cases	
Preliminary inquiries and post-reasonable cause matters pending from FY 2019	25*
Preliminary inquiries authorized by the Commission during FY 2020	17*
Preliminary inquiries involving the conflict of interest law concluded by the Commission in FY 2020	14
Preliminary inquiries concluded with the authorization of an adjudicatory proceeding	7
Preliminary inquiries terminated by the Commission	1
Preliminary inquiries terminated and a private education letter issued to the subject	0
Preliminary inquiries concluded with authorization of a confidential compliance letter to the subject	4
Preliminary inquiries involving financial disclosure law violations resolved by the Commission by a civil penalty for a late-filed SFI	0
Preliminary inquiries and post-reasonable cause matters carried over to FY 2021	26*

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

## **FY 2020 Public Enforcement Actions**

The Commission publicly resolves cases through disposition agreements, public education letters, and adjudicatory proceedings resulting in final decisions. In FY 2020, the Commission resolved seven cases through disposition agreements and issued six public education letters in four cases. The Commission held two adjudicatory hearings, *In re Stephen Comtois* and *In re Helen Donohue*, which remained open at the end of FY 2020 pending decision by the Commission. The cases publicly resolved in FY 2020, listed below, are published on the Commission's website.

### **In the Matters of James Atkinson, James Jajuga, and Lynn Vidler**

The Commission issued Public Education Letters to former Methuen City Councilors James Atkinson, James Jajuga, and Lynn Vidler to resolve allegations they violated Section 19 of the conflict of interest law by participating in City Council votes to approve the Methuen Police Department Superior Officers' collective bargaining agreement (CBA). According to the letters, they were prohibited from voting on the CBA because at the time of the votes Atkinson had a pending offer to work for the Methuen Police Department and Jajuga's son and Vidler's husband were superior officers in the Department. According to the letters, the three former councilors relied on incorrect legal advice from the Methuen city solicitor when they voted on the Superior Officers' CBA.

### **In the Matter of Lawrence Beals**

The Commission issued a Public Education Letter to former Winchester Zoning Board of Appeals member Lawrence Beals to resolve allegations that he violated Sections 17 and 23(b)(3) of the conflict of interest law. According to the letter, while a developer's special permit application was pending before the ZBA, Beals did work for the developer and was paid in connection with the application. The letter also states that on another matter, Beals created the appearance of bias by participating as a ZBA member in connection with another special permit request.

### **In the Matter of Jeanne Carnevale**

The Commission approved a Disposition Agreement in which former Peabody City Treasurer Jeanne Carnevale admitted to violating Sections 19 and 23(b)(2)(ii) of the conflict of interest law by using her public position, city funds, and other public resources in three sales of tax-delinquent Peabody properties which financially benefited her family and associates. Carnevale paid a \$50,000 civil penalty.

### **In the Matter of William Francis Galvin**

The Commission issued a Public Education Letter to Secretary of the Commonwealth William Francis Galvin to resolve allegations that he violated Section 23(b)(2)(ii) of the conflict of interest law. According to the letter, Secretary Galvin, a candidate for re-election in 2018, benefitted politically from early voting signs that prominently featured his name and an Information for



Voters booklet that provided him with free positive publicity, which were created and distributed by his office.

**In the Matter of Kenneth Michna**

The Commission approved a Disposition Agreement in which Agawam Junior High School Band Director Kenneth Michna admitted to violating Sections 17, 19, and 23(b)(2)(ii) of the conflict of interest law by accepting payments from a nonprofit organization for helping to organize and judge a series of band competitions during his public work hours, and by giving a payment for the school's music department to a private, parent-run booster association. Michna paid a \$2,500 civil penalty.

**In the Matter of Fayette Mong**

The Commission approved a Disposition Agreement in which Division of Professional Licensure Prosecutor Fayette Mong admitted to violating Section 23(b)(2)(ii) of the conflict of interest law by invoking her state position when seeking town inspections of a Braintree house she sought to purchase. Mong paid a \$2,500 civil penalty.

**In the Matter of Roland Nutter**

The Commission approved a Disposition Agreement in which former Pepperell Selectman Roland Nutter admitted to violating Sections 19 and 23(b)(2)(ii) of the conflict of interest law by voting against authorizing the investigation of a grievance involving his wife, the town Treasurer-Collector, and by participating in matters affecting her employment contract and salary. Nutter paid a \$6,000 civil penalty.

**In the Matter of Brian Scheetz**

The Commission issued a Public Education Letter to former Office of the State Auditor employee Brian Scheetz to resolve allegations that he violated Section 5(a) of the conflict of interest law by representing a private company that marketed software to state agencies in response to the findings of an audit on which he had worked.

**In the Matter of Peter Skorput**

The Commission issued a Final Order approving a Disposition Agreement in which West Stockbridge Fire Chief Peter Skorput, a former Select Board member, admitted to violating Sections 19, 20 and 23 of the conflict of interest law by continuing to serve as Fire Chief after his election to the Select Board; deciding payment amounts for himself, his daughter, and his nephew; voting as a Select Board member to reappoint himself Fire Chief; terminating a firefighter who had filed a complaint against him; and through other actions. Skorput paid a \$5,000 civil penalty. By approving the Disposition Agreement, the Commission allowed a motion to dismiss adjudicatory proceedings that were initiated after the Enforcement Division filed an Order to Show Cause.



**In the Matter of Katherine Touafek**

The Commission approved a Disposition Agreement in which Katherine Touafek, Director of the School to Careers Partnership for the Blue Hills Regional Technical School District, admitted to violating Section 19 of the conflict of interest law by repeatedly participating in hiring her son to do paid work for the Partnership. Touafek paid a \$4,000 civil penalty.

**In the Matter of Stephanie Viens**

The Commission approved a Disposition Agreement in which South Hadley High School teacher Stephanie Viens admitted to violating Sections 3(b), 17(a) and 19 of the conflict of interest law by accepting travel points and stipends from a travel company for organizing school trips to Europe. Viens paid a \$7,000 civil penalty.

**Civil Penalties**

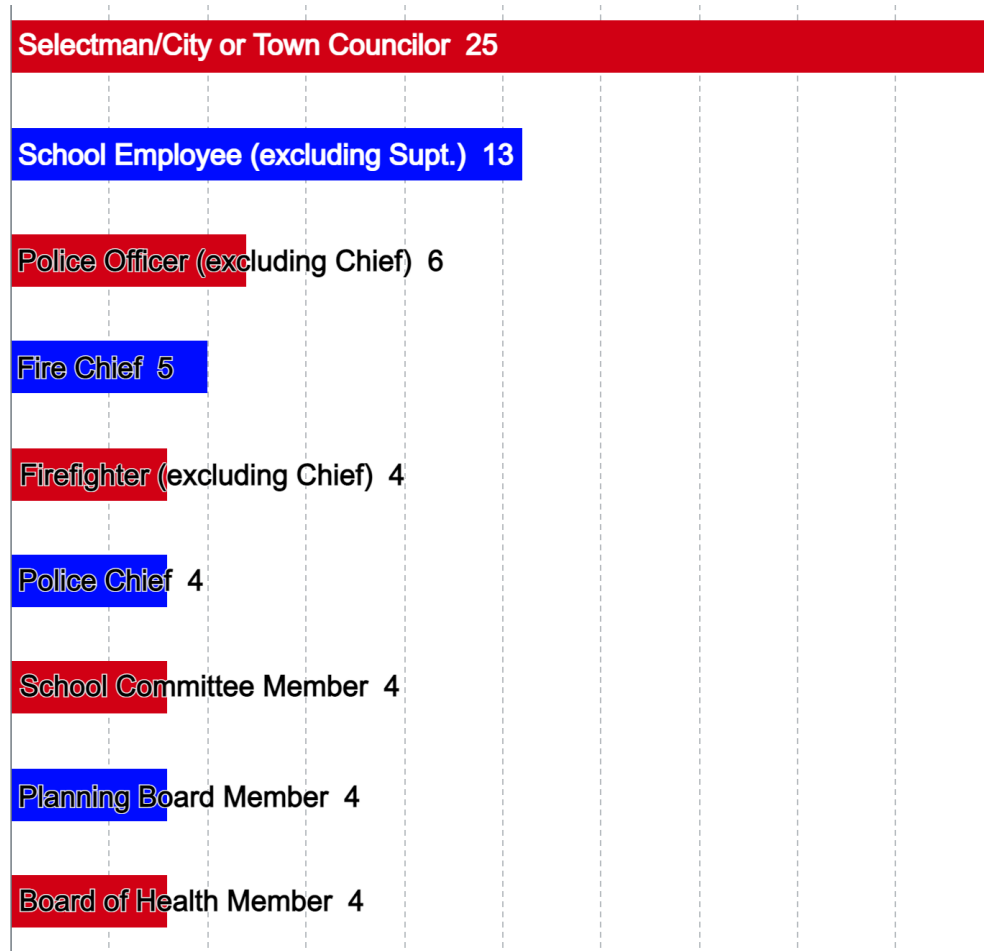
All civil penalties imposed and collected by the Commission to resolve violations of the conflict of interest and financial disclosure laws revert to the Commonwealth's General Fund. In FY 2020, the Commission assessed and collected \$77,000 in civil penalties.

**FY 2020 Private Education Letters**

The Enforcement Division sends Private Education Letters when it believes the conflict of interest law was violated but the matter does not warrant a public resolution. Letters are sent to ensure the subjects do not continue their apparent misconduct and to provide clear guidance on how to comply with the conflict of interest law in the future. The Division sent 119 Private Education Letters in FY 2020.

- Eight of the letters were sent to state employees. The remaining 111 were sent to municipal employees.
- The Division sent letters to employees of 83 towns or cities.
- The highest number of letters went to those in the following positions:

### Private Education Letters by Position



- The Private Education Letters issued by the Enforcement Division in FY 2020 addressed the following kinds of allegations:

Acting as an agent for a private party before the employing municipality (§§ 4 and 17)	8
Accepting compensation in connection with a matter before the employing municipality (§§ 4 and 17)	2
Violating post-employment restrictions (§ 18)	1
Participating in matters pertaining to abutting property (§§ 6 and 19)	7
Participating in other matters that affect the employee's financial interest (§§ 6 and 19)	11
Participating in other matters that directly affect the employee's or employee's family member's financial interest (§§ 6 and 19)	18
Participating in other matters that directly affect the employee's private employer (§§ 6 and 19)	9

<b>Holding multiple municipal positions (§ 20)</b>	10
<b>Having another financial interest in a contract with the employing municipality (§ 20)</b>	6
<b>Employing or entering into a business arrangement with subordinates (§§ 23(b)(2) and 23(b)(3))</b>	0
<b>Using public resources for political activity (§ 23(b)(2)(ii))</b>	17
<b>Using public resources to retaliate against others (§ 23(b)(2)(ii))</b>	1
<b>Using public resources for other private purposes (§ 23(b)(2)(ii))</b>	21
<b>Accepting a gift (§§ 3 and 23(b)(2)(i))</b>	11
<b>Creating the appearance of a conflict (§ 23(b)(3))</b>	16
<b>Improperly disseminating confidential information (§ 23(c)(2))</b>	0

## 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. The Division consisted of the Division Chief and a Public Information Officer at the beginning of FY 2020. A Program Coordinator joined the Division in November 2019.

### 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. In FY 2020, the Public Education and Communications Division conducted 46 seminars, a decrease from the 63 conducted the previous fiscal year. In response to the COVID-19 pandemic, nine seminars that had been scheduled for March and April 2020 were canceled. Beginning in late April 2020, the Division was able to resume seminars, which were conducted by videoconference through the remainder of FY 2020. A total of 1,363 public employees and consultants attended seminars in FY 2020.

### Public Information

In FY 2020, the Public Education and Communications Division responded to 435 telephone and email inquiries from members of the news media and the general 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 does, however, provide general explanations

of the law and other public information concerning the Commission and its activities, and will refer individuals to the Commission’s 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 changes to the law. Spanish and Portuguese translations of the summaries are also available on the website.

In December 2012, the Commission launched two 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 Massachusetts state, county and municipal agencies and municipalities to each year distribute to their employees the summary of the conflict of interest law prepared by the Commission. In addition, every other year, all Massachusetts state, county and municipal employees must complete the Commission’s online training program. The 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 2020, all public agencies were required to distribute the summary of the law to all employees.

## Website

The Public Education and Communications Division manages and maintains the Commission’s website, [www.mass.gov/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission), which is part of the Mass.gov platform. The website includes news and announcements from the Commission as well as 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 65 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, request advice, or request public records through the website.

<b>Public Education and Communications Division Activities</b>	
<b>Press releases issued</b>	14
<b>Educational seminars conducted</b>	46
<b>Seminar attendance</b>	1,363
<b>Inquiries from media and general public</b>	435
<b>Inquiries concerning the education and training requirements</b>	617
<b>Website average monthly visitors</b>	6,921
<b>Website average monthly page views</b>	14,689

## Information Technology Services

The Commission's information technology and network resources are maintained and updated by the Commission's Information Technology (IT) 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.

Work was completed in partnership with the Executive Office of Technology Services and Security in FY 2020 to migrate the Commission's SFI application from a server environment to a cloud-based storage platform and to move the Commission's network equipment from the Commission's office suite to a newly constructed secure server space elsewhere in the McCormack State Office Building.

At the outset of the COVID-19 pandemic state of emergency during the final months of FY 2020, the IT Specialist researched, recommended for purchase, and configured new laptop computers needed by the Commission staff to work remotely during the state of emergency. The IT Specialist provisioned the Commission's firewall and desktop computers to enable staff to remotely connect to the Commission's network via VPN and, through the end of FY2020, provided the technological support needed for Commission staff to work remotely effectively and efficiently.



**INTEGRITY IN  
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