

State Ethics Commission

**Fiscal Year 2021
ANNUAL REPORT**

Commonwealth of Massachusetts | State Ethics Commission

One Ashburton Place, Room 619, Boston, MA 02108

www.mass.gov/ethics

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State Ethics Commission – Fiscal Year 2021

State Ethics Commission Members

Maria J. Krokidas, Chair

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

Thomas J. Sartory*, Vice Chair

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.)

Eron L.A. Hackshaw***

Assistant Director for Government and Public Interest Careers, Boston University School of Law

* Commission Service ended November 2020

** Named Vice Chair February 2021

*** Appointed December 2020

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 has three Divisions. The Legal Division 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, advises the Commission during adjudicatory proceedings, and administers the requirements of the financial disclosure law. The Enforcement Division investigates alleged violations of the conflict of interest and financial disclosure laws and, when appropriate, civilly prosecutes alleged violators. The Public Education and Communications Division 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 \$2,583,964 in FY 2021, an increase of \$191,845 over FY 2020. The Commission collected \$28,500 in civil penalties in FY 2021. Civil penalties collected by the Commission revert to the Commonwealth's General Fund.

In FY 2021, the Legal Division responded to 5,306 requests for advice concerning the conflict of interest and financial disclosure laws, the Enforcement Division received 865 complaints alleging violations of those laws, and the Public Education and Communications Division conducted 65 seminars and responded to 414 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 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.

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

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

it to interpret and civilly 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 strengthened the conflict of interest law and enhanced the Commission’s ability to civilly enforce both the conflict of interest law and the financial disclosure law by: increasing the maximum

penalties for violations of G.L. c. 268A and G.L. c. 268B; creating a statute of limitations specifically for Commission civil enforcement actions; giving Commission summonses the same force and effect as those issued by a superior court justice; prohibiting gifts to public employees because of their official positions; empowering the Commission to order restitution and repayment of the economic advantage obtained through certain conflict of interest law violations; adding a false or fraudulent claims provision; and imposing conflict of interest law education and training requirements for all public employees. Chapter 28 also amended the financial disclosure law 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 each candidate for state employment to disclose in writing as part of

the application process the names of certain of their relatives employed by the Commonwealth. 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 at the beginning of FY 2021 and 28 employees at the end of the fiscal year. In January 2021, two new Special Investigators joined the Commission staff. In May 2021, a new Assistant Agency Counsel started work with the Commission. A special investigator left the Commission staff in June 2021.

In November 2020, Commission Vice Chair Thomas J. Sartory’s service as Commissioner ended. In December 2020, Attorney General Maura Healey appointed Eron L.A. Hackshaw to succeed Commissioner Sartory on the Commission. The Commission named Commissioner R. Marc Kantrowitz Vice Chair in February 2021.

COVID-19 Pandemic

Pursuant to Governor Baker’s March 10, 2020 declaration of a state of emergency due to the COVID-19 pandemic, the Commission’s office remained closed to visitors throughout FY 2021. As they had done continuously since March 2020, in FY 2021, most Commission staff worked remotely from home on Commission-provided laptop computers, using Virtual Private Network (VPN) access to connect to the Commission’s computer servers. The Commission provided staff with cell phones in FY 2021 to enhance privacy and data security for staff working remotely. During FY 2021, Commission office occupancy was limited to 25 percent of staff at any time. Commission administration conducted an anonymous survey of staff in April 2021 regarding the future reopening of the office. In spring 2021, Legal Division staff originated a draft telecommuting policy, which was pending as of the end of FY 2021. In May 2021, the Executive Director announced his intention to begin gradually re-opening the office in July 2021, following Governor Baker’s lifting of certain COVID-19 restrictions in the Commonwealth.

Case Management System Replacement Project

In FY 2021, the Commission continued to work with the Executive Office of Technology Services and Security's Information Technology Capital Program team to plan for the replacement of the Commission's case management system, Ethos, which has been in service since June 2005 and whose underlying technology and supporting software have become dated and difficult to maintain. The Commission partnered with other independent and executive branch agencies to identify products that could potentially meet their collective case management needs. In April 2021, the Commission hired a consultant to oversee the selection and long-term implementation of a new case management system.

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 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 2021, the Commission contracted with a consultant to assist in defining technical requirements for the new conflict of interest law online training program to replace the current programs, which have been in place since 2012. With the consultant's assistance, the Commission issued a request for information and received responses from several vendors. The consultant provided the Commission with a set of recommendations which were used to produce a request for proposals for the development and delivery of a new online training course. The Commission selected a vendor in spring 2021 to create the new online training course and provide a learning management system to host the new content. The project was ongoing as of the end of the fiscal year.

Regulatory and Rulemaking Authority

Although the Commission has full authority to prescribe and publish, pursuant to G.L. c. 30A, rules and regulations to carry out the financial disclosure law, it lacks full authority to prescribe and publish rules and regulations to carry out the conflict of interest law, but instead may only to provide exemptions from certain provisions of that law. In February 2021, at the Commission's request, Senate Minority Leader Bruce E. Tarr filed SD.1374 [An Act Relative to the Authority of the State Ethics Commission](#) which would grant to the Commission full regulatory and rule-making authority to carry out the conflict of interest law.

Diversity Training

In July 2020, all Commission staff were required to participate in training regarding implicit bias conducted by the Boston Law Collaborative. In June 2021, all Commission staff participated in two required LGBTQ+ training programs provided by the MaeBright Group to help ensure that the agency is a welcoming place for staff and the public.

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 or next business day and to requests for written advice within 30 days. Division attorneys will confirm oral advice by email if the requestor needs written confirmation. 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 2021.

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, Division attorneys prepare orders, rulings on motions, and drafts of decisions and orders in adjudicatory proceedings. In addition, the Commission's General Counsel is appointed by the Attorney General as a Special Assistant Attorney General and represents the Commission in civil litigation involving the Commission.

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 Government Affairs Officer, the Legal Division Administrative Assistant, and the Commission IT 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, and identify their affiliation, if any, 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.

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. Without having to register, a public user can search for specific filers by name, search for all filers from a particular agency and may view whether a filer has completed their SFI filing.

Throughout FY 2021, the Legal Division consisted of the General Counsel/Legal Division Chief, the Legal Division Deputy Chief/SFI, two Assistant General Counsels, two Staff Counsels, and an Administrative Assistant. An Assistant Agency Counsel, who divides time between the Legal and Enforcement Divisions, started in May 2021.

FY 2021 Legal Division Activities

Advice

During FY 2021, the Legal Division answered a total of approximately 5,306 requests for advice. These requests consisted of 4,627 telephone or walk-in requests, 664 written requests, and a review of 15 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 4 during FY 2021, compared to 3.9 in FY 2020. Overall, the Division received fewer requests for advice in FY 2021 compared to FY 2020 (an approximately 7.6% decrease). The Division also reviewed approximately 189

The Legal Division staff answered **5,306** requests for advice in FY 2021.



conflict of interest law disclosures filed by state and county employees. The number of disclosures received by the Division in FY 2021 decreased by approximately 20% from FY 2020.

Adjudicatory Proceedings

During FY 2021, Legal Division attorneys acted as Legal Advisors in 10 adjudicatory proceedings alleging violations of G.L. c. 268A. Adjudicatory proceedings in FY 2021 were held remotely by videoconference, including a one-day hearing in April 2021. The Division drafted Guidelines on Remote Proceedings, which were adopted by the Commission in October 2020.

The adjudicatory matters included *In the Matter of Stephen Comtois* (Decision and Order); *In the Matter of Helen Donohue* (Decision and Order); *In the Matter of Jeffrey Fournier* (adjudicatory hearing); *In the Matter of Christopher Hicks* (Final Decision and Order); *In the Matter of Susan Anderson* (pre-hearing matters and order on motion to dismiss); *In the Matter of Joseph D. Early, Jr.* (pre-hearing matters); *In the Matter of Richard McKeon* (pre-hearing matters), *In the Matter of Jeffrey Travers* (discovery matters and order on motion to dismiss); *In the Matter of Charles Carroll* (pre-hearing conference, order on motion for summary decision, and disposition agreement); and *In the Matter of Gary Haley* (pre-hearing conference). The *Anderson*, *Early*, *McKeon*, and *Travers* matters were consolidated by the Presiding Officer in August 2020.

Litigation

During FY 2021, the Legal Division represented the Commission in four litigation matters:

Comtois v. State Ethics Commission, Suffolk Superior Court Civil Action No. 2084CV02105: On September 16, 2020, Stephen Comtois filed a Complaint in Superior Court seeking judicial review of the Commission's Decision and Order finding Comtois violated two provisions of the conflict of interest law and imposing a \$20,000 civil penalty. The Commission filed the Administrative Record and subsequently a Memorandum in Opposition to Plaintiff's Motion for Judgment on the Pleadings and in Support of its Cross-Motion for Judgment on the Pleadings. After an April 2021 hearing via Zoom on the parties' cross-motions, the Court affirmed the Commission's Decision and Order. On June 15, 2021, Comtois filed a Notice of Appeal.

Condez v. Town of Dartmouth, et al., Bristol Superior Court Civil Action No. 1673CV00929: On September 3, 2020, the Plaintiff served a Motion for Discovery Order on the Commission seeking records regarding an alleged closed investigation. After the General Counsel discussed the matter with the parties, the Plaintiff informed the Commission that he would no longer be seeking a discovery order from the Court and withdrew the motion.

[Doe] v. State Ethics Commission, Berkshire Superior Court Civil Action No. 1976CV00286: In FY20, Plaintiff Doe filed a declaratory judgment action in Superior Court seeking to quash two investigative summonses issued by the Commission. In FY21, the parties filed a Stipulation of Dismissal of Count II (failure to properly serve summons) and the Commission subsequently filed an Answer to Count I (declaratory judgment that the

summonses violate the 5th Amendment and Art. 12 of the Mass. Declaration of Rights). The parties attempted to resolve the matter without further litigation.

Donohue v. State Ethics Commission, Norfolk Superior Court Civil Action No. 2082CV00886: On September 17, 2020, Plaintiff Helen Donohue filed a civil complaint in Superior Court seeking judicial review of the Commission's Decision and Order finding she violated the conflict of interest law and imposing a \$50 civil penalty. On December 18, 2020, the Commission filed the Administrative Record with the Court. To date, Donohue has not filed a motion for judgment on the pleadings.

Collection of Delinquent Civil Penalties

In FY 2021, the Legal Division prepared final demand letters in cases with unpaid civil penalties and obtained the assistance of the state Office of the Comptroller to enter these debts into the Commonwealth's Intercept program. As a result, the Commission collected unpaid civil penalties in five matters totaling \$13,045.74. All civil penalties collected by the Commission are paid into the Commonwealth's General Fund and none are retained by the Commission.

Other Legal Division Activities

In FY 2021, Legal Division attorneys prepared a new draft advisory on the application of the conflict of interest law to social media use by public employees. In October 2020, the Commission approved a draft version of Advisory 20-1: Social Media. The draft advisory was published on the Commission's website, where the public was invited to review it and submit comment. In addition, Division attorneys prepared a memorandum to the Commission's Legal Committee regarding mediation and prepared a draft telecommuting policy. Division staff trained two new staff members on the conflict of interest law, provided a training session on the conflict of interest law for new judges at the Executive Office of the Trial Court Judicial Institute, and presented on the conflict of interest law at the MCLE 18th Annual Municipal Law Conference.

Statements of Financial Interests

The filing season for calendar year 2020 SFIs opened February 10, 2021. During FY 2021, 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 CY 2020 was 3,760. The filing deadline was May 3, 2021 for appointed public employees and May 25, 2021 for elected public officials. The filer compliance rate for the CY 2020 SFI filing season was the highest in the last eight years, with 98.4% of all filers filing by the deadline. A total of 59 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.

In FY 2021, as in prior years, most SFI filers chose to file electronically rather than on paper. In FY 2021, 3,622 CY 2020 SFI filers, or 98.5% of all such filers, filed electronically. The SFI Team encouraged electronic filing, which makes the process simpler and faster for the filer. In addition,

CY 2020 SFI Season

- 3,760 filers
- 98.4% filed by deadline
- 59 Formal Notices of lateness issued
- 0 Enforcement referrals

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 on paper in person beginning in mid-March for CY 2020. During the CY 2020 filing season in FY 2021, 54 SFIs were filed on paper, a decrease from 79 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. There were 59 Formal Notices sent for the CY 2020 filing season.

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 865 complaints in FY 2021 alleging violations of the conflict of interest law. There were no complaints of violations of the financial disclosure law. The Division negotiated six disposition agreements and two public education letters, issued four confidential compliance letters, was actively involved in eight adjudicatory proceedings, and sent 108 private education letters in FY 2021.

During much of FY 2021, the Enforcement Division's investigator staffing level was about 70 percent of normal, due in part to hiring delays caused by budgetary concerns. An ongoing priority for the Division was to continue to reduce the complaint intake backlog, which is defined as complaints received by the Commission that have been open more than three months. In FY 2021, the complaint backlog remained essentially level, only decreasing from 159 to 158 from the beginning to the end of the fiscal year. However, despite the lower-than-normal investigator staffing level, the number of complaints in intake older than six months was reduced from 66 at the beginning of FY 2021 to 45 by the end of the fiscal year. As of the end of FY 2021, there were no complaints in intake that were older than one year.



At the beginning of FY 2021, 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. Two full-time Special Investigators joined the Division in January 2021. A full-time Special Investigator left the Division in June 2021. An Assistant Agency Counsel, who divides time between the Enforcement and Legal Divisions, started in May 2021.

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 complained about 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 with 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, with the Commission's authorization, issue summonses for documents and testimony under oath. All preliminary inquiries and summonses must be authorized by 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 statutorily 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 which the Commission thinks 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 thus may be authorized in cases where, although there are sufficient facts for reasonable cause to believe a violation has occurred, the Commission concludes it is appropriate to resolve the matter privately.

If the preliminary inquiry indicates reasonable cause to believe that a violation has occurred which the Commission concludes 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 by majority vote all disposition agreements.

Upon voting to find reasonable cause and authorizing adjudicatory proceedings, Commission may further 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 agree to 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 by majority vote 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 decides by a majority vote whether the subject violated the law and, if it so finds, 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 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 2021 Investigations Statistics

| Complaints | |
|--|-----|
| Conflict of interest and financial disclosure law complaints pending at the beginning of FY 2021 | 333 |
| Conflict of interest law complaints received during FY 2021 | 865 |
| Complaints alleging failure to file an SFI during FY 2021 | 0 |
| Complaints closed after informal investigation with no action by an enforcement attorney | 619 |

| | |
|---|-----|
| Complaints closed after informal investigation with private educational letters to the subjects | 105 |
| Complaints assigned for preliminary inquiry recommendation | 10 |
| Conflict of interest law and financial disclosure law complaints pending at the end of FY 2021 | 421 |

| Subjects of Complaints | |
|---|-----|
| Municipal employees | 681 |
| State employees | 122 |
| County employees | 6 |
| Private entities | 17 |
| Complaints involving unspecified subjects | 38 |

| Enforcement Cases | |
|--|-----|
| Preliminary inquiries and post-reasonable cause matters pending from FY 2020 | 26* |
| Preliminary inquiries authorized by the Commission during FY 2021 | 8* |
| Preliminary inquiries and post-reasonable cause matters involving the conflict of interest law concluded by the Commission in FY 2021 | 12 |
| Preliminary inquiries concluded with the authorization of an adjudicatory proceeding in FY21 | 7 |
| Preliminary inquiries terminated by the Commission in FY21 | 2 |
| Preliminary inquiries terminated and a private education letter issued to the subject in FY21 | 1 |
| Preliminary inquiries concluded with authorization of a confidential compliance letter to the subject to at least one party in FY21 | 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 2022 | 22* |

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

FY 2021 Public Enforcement Actions

The Commission publicly resolves cases through disposition agreements, public education letters, and adjudicatory proceedings resulting in final decisions. In FY 2021, the Commission resolved six cases through disposition agreements and issued public education letters in two cases. The Commission held three adjudicatory hearings, *In the Matter of Stephen Comtois*, *In the Matter of Helen Donohue*, and *In the Matter of Jeffrey Fournier*. Adjudicatory proceedings *In the Matter of Gary Haley*, *In the Matter of Susan Anderson*, *In the Matter of Joseph D. Early, Jr.*, *In the Matter of Richard McKeon*, and *In the Matter of Jeffrey Travers* remained pending as of the end of FY 2021. The cases publicly resolved in FY 2021, listed below, are published on the Commission's website.

In the Matter of John Buckley

The Commission approved a disposition agreement in which Templeton Planning Board Member John Buckley admitted to violating Section 19 of the conflict of interest law by participating in Planning Board decisions related to proposals to re-zone areas where he and his wife owned property. Buckley paid a \$2,000 civil penalty.

In the Matter of Charles Carroll

The Commission approved a disposition agreement in which Templeton Planning Board Member Charles Carroll admitted to violating Section 19 of the conflict of interest law by participating in Planning Board decisions related to proposals to re-zone areas where his father owned property. Carroll paid a \$1,500 civil penalty.

In the Matter of Scott Chatigny

The Commission approved a disposition agreement in which Hubbardston Police Officer Scott Chatigny admitted to violating Sections 20, 23(b)(2)(ii) and 23(b)(4) of the conflict of interest law by submitting fraudulent proposals to the town to steer town construction contracts to his private business, by having a financial interest in the town contracts while employed by the town, and by using his position as a police officer to attempt to obtain a prepayment from the town on one of the contracts. Chatigny paid a \$10,000 civil penalty.

In the Matter of James Clark

The Commission issued a Public Education Letter to Boston Police Officer James Clark to resolve allegations that he violated Section 23(b)(2)(ii) of the conflict of interest law by creating a false criminal complaint application for his friend's brother, who had falsely told his boss that he had missed a day of work due to being arrested.

In the Matter of Stephen Comtois

The Commission issued a Final Decision and Order finding that former Brookfield Selectman Stephen Comtois violated Sections 19 and 23(b)(2)(ii) of the conflict of interest law by acting as selectman concerning the proposed donation to the town of land he was interested in buying and using his official position to derail the proposed donation in order to privately purchase it himself for substantially less than its assessed value. The Commission ordered Comtois to pay a \$20,000 civil penalty.

In the Matter of Helen Donohue

The Commission issued a Final Decision and Order finding that Norwood Selectman Helen Donohue violated Section 23(b)(3) of the conflict of interest law by participating as a selectman in matters related to a business plaza in Norwood without first disclosing her contentious personal history with the plaza's owner. The Commission ordered Donohue to pay a \$50 civil penalty.

In the Matter of Douglas Gillespie

The Commission approved a disposition agreement in which former Weston Selectman Douglas Gillespie admitted to violating Sections 19, 23(b)(2)(ii), 23(c)(2), and 23(b)(3) of the conflict of interest law by repeatedly participating as a selectman in matters affecting a proposed affordable housing development on property owned by him and his brothers, directing that Board of Selectmen meeting minutes be altered to conceal his conflict of interest, and using his selectman position provide his family an advantage in negotiating a sale of the property. Gillespie paid an \$8,000 civil penalty.

In the Matter of Nicole Goodman

The Commission issued a Public Education Letter to former Falmouth Historical Commission and Community Preservation Commission member Nicole Goldman to resolve allegations that she violated Section 17(c) of the conflict of interest law by acting on behalf of a private nonprofit organization in connection with its requests for town funding and support to preserve a 1950s geodesic dome.

In the Matter of Christopher Hicks

The Commission issued a Final Decision and Order finding that former Berkley Planning Board Member Christopher Hicks violated Sections 27 and 28 of the conflict of interest law by failing to fulfill the statute's education and training requirements in 2018 and 2019. The Commission ordered Hicks to pay a \$2,000 civil penalty.

In the Matter of Frank Moschetti

The Commission approved a disposition agreement in which Templeton Planning Board Member Frank Moschetti admitted to violating Section 19 of the conflict of interest law by participating in Planning Board decisions related to proposals to re-zone areas where he and his son owned property. Moschetti paid a \$2,000 civil penalty.

In the Matter of Kirk Moschetti

The Commission approved a disposition agreement in which Templeton Planning Board Member Frank Moschetti admitted to violating Section 19 of the conflict of interest law by participating in Planning Board decisions related to proposals to re-zone areas where he and his father owned property. Moschetti paid a \$5,000 civil penalty.

Civil Penalties

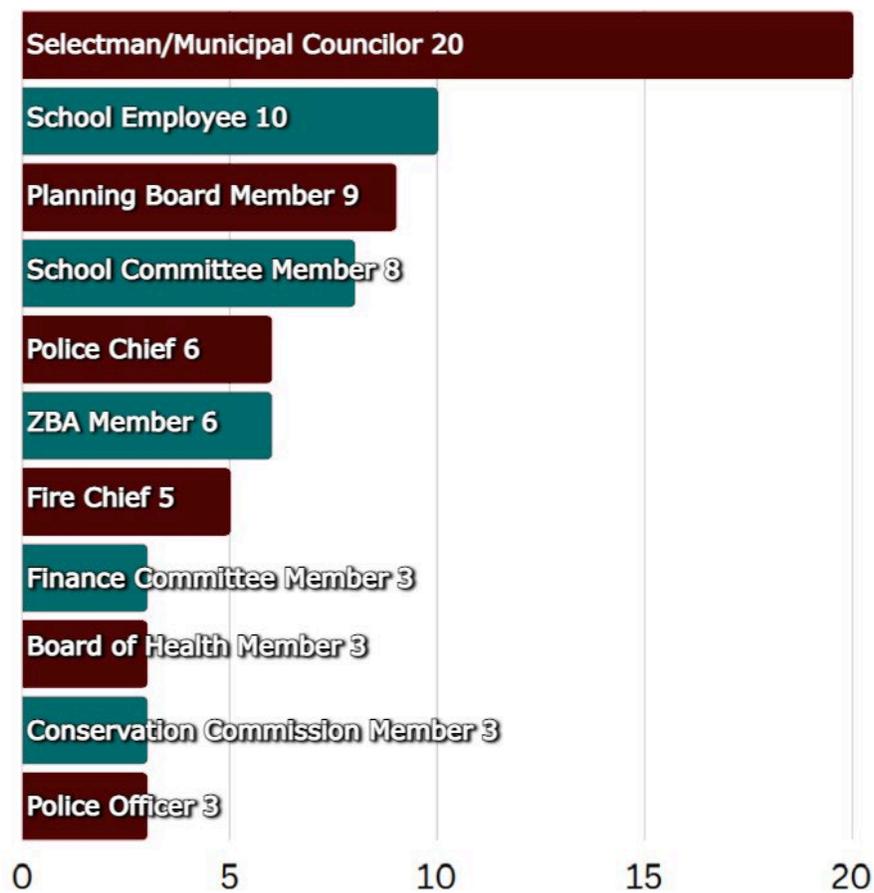
All civil penalties imposed and collected by the Commission to resolve violations of the conflict of interest and financial disclosure laws revert to the Commonwealth's General Fund. In FY 2021, the Commission assessed and collected \$28,500 in civil penalties, all of which reverted to the General Fund and none of which were retained by the Commission.

FY 2021 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 108 private education letters in FY 2021.

- Eleven of the letters were sent to state employees, 96 were sent to municipal employees, and one to a private entity.
- The Division sent letters to employees of 79 towns or cities.
- The highest number of letters went to those in the following positions:

Private Education Letters by Position



- The letters issued by the Enforcement Division in FY 2021 addressed the following allegations:

| | |
|--|----|
| Acting as an agent for a private party before the employing state or municipality (§§ 4 and 17) | 10 |
| Accepting private compensation in connection with a matter before the employing state or municipality (§§ 4 and 17) | 2 |
| Violating post-employment restrictions (§ 18) | 2 |
| Participating in matters pertaining to abutting property (§§ 6 and 19) | 8 |
| Participating in other matters that affect the employee’s financial interest (§§ 6 and 19) | 10 |
| Participating in other matters that directly affect the employee’s or employee’s family member’s financial interest (§§ 6 and 19) | 14 |
| Participating in other matters that directly affect the employee’s private employer (§§ 6 and 19) | 4 |
| Holding multiple municipal positions (§ 20) | 1 |
| Having another financial interest in a contract with the employing municipality (§ 20) | 9 |
| Employing or entering into a business arrangement with subordinates (§§ 23(b)(2) and 23(b)(3)) | 1 |
| Using public resources for political activity (§ 23(b)(2)(ii)) | 17 |
| Using public resources to retaliate against others (§ 23(b)(2)(ii)) | 5 |
| Using public resources for other private purposes (§ 23(b)(2)(ii)) | 27 |
| Accepting a gift (§§ 3 and 23(b)(2)(i)) | 6 |
| Creating the appearance of a conflict (§ 23(b)(3)) | 22 |
| Improperly disseminating confidential information (§ 23(c)(2)) | 3 |

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, Public Information Officer, and Program Coordinator at the beginning of FY 2021.

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 2021, the Division conducted 65 seminars, an increase from the 46 conducted the prior fiscal year. A total of 3,101 public employees and consultants attended seminars in FY 2021. All but one FY 2021 seminars were conducted remotely by videoconference.

Public Information

In FY 2021, the Public Education and Communications Division responded to 414 telephone and email inquiries from members of the news media and the general public. Due to 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. The law also requires that the Commission prepare and maintain online training programs on the requirements of the conflict of interest law. The Commission provides 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 public 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 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 Public Education and Communications Division collects the summary acknowledgments and online training program completion certificates from all elected state and county officials. During the compliance period in FY 2021, all public agencies were required to distribute the summary of the law to all employees. All public employees were required to complete a mandatory conflict of interest law online training course and provide a record of their completion to their public employer.

Website

The Public Education and Communications Division manages and maintains the Commission’s website, 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.

| Public Education and Communications Division Activities | |
|---|--------|
| Press releases issued | 12 |
| Educational seminars conducted | 65 |
| Seminar attendance | 3,101 |
| Inquiries from media and general public | 414 |
| Inquiries concerning the education and training requirements | 1,029 |
| Website average monthly visitors | 8,497 |
| Website average monthly page views | 15,773 |

Other Public Education and Communications Division Activities

Public Education and Communications Division staff provide support for Commission meetings by recording meeting minutes, posting meeting notices, preparing electronic meeting packets, and providing videoconference support. Division staff also provide videoconference support to the Legal and Enforcement Divisions. During FY 2021, with the Enforcement Division short-staffed, the Public Education and Communications Division provided support by assisting with complaint intake from October 2020 through May 2021.

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.

In FY 2021, the IT Specialist researched and made recommendations to purchase new cell phones, laptop and desktop computers, and other IT hardware equipment. The IT specialist also worked with a vendor to install a new card access system for exterior and interior doors to provide greater security for the Commission's office. In FY 2021, the IT Specialist completed work with Executive Office of Technology Services and Security (EOTSS) staff on a project to relocate the Commission's network equipment to a more secure server rack space in a newly constructed area on the 7th floor of the McCormack Building and also completed work with a vendor on a project to migrate the Commission's case management application from aging 32-bit servers to virtual environments in 64-bit servers. Throughout the fiscal year, the IT Specialist supported Commission staff working remotely due to the COVID-19 pandemic to connect to the Commission's network via VPN and to perform their work effectively and efficiently.



**INTEGRITY IN
PUBLIC SERVICE**

Commonwealth of Massachusetts | State Ethics Commission

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