

State Ethics Commission

Fiscal Year 2019 ANNUAL REPORT

Commonwealth of Massachusetts | State Ethics Commission

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www.mass.gov/orgs/state-ethics-commission

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State Ethics Commission – Fiscal Year 2019

State Ethics Commission Members

Maria J. Krokidas, Chair *

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

Hon. Barbara A. Dortch-Okara, Chair **

Chief Justice for Administration and Management of the Trial Court (ret.)

Professor, New England School of Law

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

* Designated Chair October 2018

** Term Ended September 2018

*** Appointed October 2018

EXECUTIVE SUMMARY

The State Ethics Commission is a non-partisan, independent state agency which administers, provides advice and training concerning, and civilly enforces the conflict of interest and financial disclosure laws. There are five Commissioners who serve five-year terms which expire in successive years. Three Commissioners, including the Chair, are appointed by the Governor, one Commissioner is appointed by the Secretary of the Commonwealth, and one Commissioner is appointed by the Attorney General. No more than two of the gubernatorial appointees, and no more than three members of the Commission overall, may be from the same political party. 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 began FY 2019 with 24 employees and ended the fiscal year with 25 employees. In FY 2019, the Commission received an appropriation of \$2,391,848, an increase of \$297,879 compared to FY 2018. The Commission assessed and collected \$63,000 in civil penalties in FY 2019. Civil penalties collected by the Commission each year revert to the Commonwealth's General Fund.

In FY 2019, the Legal Division responded to 5,870 requests for advice, the Enforcement Division received 875 complaints alleging violations of the conflict of interest and financial disclosure laws, and the Public Education and Communications Division conducted 63 seminars and responded to 557 requests for information: 360 from the general public and 197 from members of the news media.

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 of the Commonwealth.

In addition to strengthening the conflict of interest law, Chapter 210 of the Acts and Resolves of 1978 established a financial disclosure law, G.L. c. 268B, requiring public officials, candidates for public office, and state and county employees in designated major policymaking positions to annually file a Statement of Financial Interests for the preceding calendar year. Chapter 210 also created the State Ethics Commission and empowered it to interpret and enforce G.L. c. 268A and

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

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 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 24 employees at the beginning of FY 2019 and 25 employees at the end of the fiscal year. During FY 2019, five employees joined the Commission staff. A new General Counsel/Legal Division Chief started at the Commission in August 2018, filling a position that had been vacant for eight months. The Legal Division hired two attorneys in FY 2019, filling positions that became vacant during the fiscal year. In December 2018, the Enforcement Division added a new attorney, restoring a position that had long been unfilled due to a lack of funding. The Enforcement Division also added an investigator in December 2018, filling a position that became vacant earlier in the fiscal year. Three employees left the Commission staff in FY 2019.

In September 2018, Commission Chair Barbara Dortch-Okara’s five-year term as a Commissioner ended. In October 2018, Governor Charles D. Baker appointed Josefina Martinez to replace Chair Dortch-Okara and designated Commissioner Maria J. Krokidas as the Commission’s new Chair.

Office Improvements

The Commission coordinated with the Division of Capital Asset Management and Maintenance (DCAMM) to solicit bids for the installation of new carpeting throughout the Commission’s office suite. The carpeting was installed in June 2019.

Case Management System Replacement Project

In FY 2019, the Commission continued its work to identify a new case management system that includes powerful search tools, dashboard reporting, and the ability to receive disclosures electronically. The new case management system would replace the Commission’s current case management application, Ethos, which has been in service since June 2005. The underlying technology and supporting software have become dated and difficult to maintain. During FY 2019, Commission staff members worked with the Executive Office of Technology Services and Security’s IT Capital Program team to identify products that could potentially meet the needs of the Commission as well as other independent and executive branch agencies. On June 6, 2019, the Executive Office for Administration and Finance’s FY 2020 – 2024 Capital Investment Plan

recommended funding to support the issuance of an RFQ for the Statewide Legal Case Management System project.

Conflict of Interest Law Online Training Program Replacement Project

The conflict of interest law requires that the Commission provide an online training program 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 2019, the Commission sought capital funding to create a new program to replace the existing programs, which have been in place since 2012. Stated goals of the project include developing a program that is engaging, easy to use, and fully compatible with mobile devices and assistive technology. In June 2019, funding for the project was included in the Executive Office for Administration and Finance's FY 2020-2024 Five-Year Capital Investment Plan. The availability of capital funding was pending as of the end of FY 2019.

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, General Counsel/Legal Division Chief, Government Affairs Officer, and two Legal Division Staff Counsel attended the 40th annual COGEL conference from December 9-12, 2018, in Philadelphia.

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 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 2019.

In addition to providing advice, the Division reviews conflict of interest law opinions issued by municipal counsel under G.L. c. 268A, § 22, to ensure that these opinions are consistent with Commission precedent.

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

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

The Legal Division administers the SFI filing process. The Deputy Chief/SFI, Government Affairs Officer, Legal Division Administrative Assistant and the Commission's 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, 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.

At the beginning of FY 2019, the Legal Division consisted of the Deputy Chief/SFI, three staff attorneys, the Senior Assistant General Counsel, and an administrative assistant. In August 2018, a new General Counsel/Legal Division Chief joined the staff. The Senior Assistant General Counsel left the staff in July 2018, and a staff attorney left the staff in November 2018. Two new staff attorneys joined the Commission staff in January and April 2019, respectively.

FY 2019 Legal Division Activities

Advice

During FY 2019, the Legal Division answered a total of approximately 5,879 requests for advice, a decrease of approximately 5% from the prior fiscal year. These requests consisted of 5,145 telephone or walk-in requests, 704 written requests, and a review of 21 letters issued by municipal

The Legal Division
staff answered **5,879**
requests for advice in
FY 2019.



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 3.8 during FY 2019, the same as the average monthly backlog for FY 2018 and the lowest of any year's average monthly backlog over the past decade. The Division also reviewed approximately 400 conflict of interest law

disclosures filed by state and county employees, an 17% increase from the 340 disclosures reviewed in FY 2018.

Adjudicatory Proceedings

During FY 2019, Legal Division attorneys acted as Legal Advisors in three adjudicatory proceedings alleging violations of G.L. c. 268A. *In the Matter of Harold MacGilvray*, an Amended Scheduling Order and Notice of Adjudicatory Hearing were issued. A memorandum was prepared to assist the Commission with its deliberations on a motion to dismiss. An order was drafted, finalized and issued. *In the Matter of Stephen Comtois*, a pre-hearing conference was held. An order on the pre-hearing conference was prepared and issued to the parties. An adjudicatory hearing was scheduled. *In the Matter of Helen Donohue*, notices were prepared and sent to the parties. A pre-hearing conference and adjudicatory hearing were scheduled.

Legal Division attorneys also worked on an adjudicatory proceeding alleging a violation of G.L. c. 268B, the financial disclosure law. *In the Matter of Oscar Walker*, materials were prepared and issued to the parties. Pre-hearing conferences were held. In lieu of an adjudicatory proceeding, the parties agreed to a procedure in which the Presiding Officer would recommend a civil penalty to the full Commission. The Presiding Officer's recommendation of a civil penalty was drafted and issued. A memorandum and chart of past financial disclosure law civil penalties were prepared to assist the Commission with its deliberations regarding the civil penalty. An Order Regarding Penalty was drafted, approved by the Commission, and issued. After Respondent paid the civil penalty, an Order of Dismissal was drafted, approved by the Commission, and issued.

Litigation

During FY 2019, the Legal Division represented the Commission in two litigation matters:

Edward 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. An

appellee brief was drafted and filed on behalf of the Commission. Oral argument was presented in the Appeals Court. The matter was pending as of the end of FY 2019.

Howard Hansen v. State Ethics Commission, Norfolk Superior Court Civil Action No. 1782CV1384, involved an appeal pursuant to chapter 30A of a finding of violations of G.L. c. 268A, § 19, § 20, and § 23(b)(2)(ii) by the Commission and the Commission's imposition of a \$4,000 civil penalty. On August 10, 2018, the Superior Court dismissed Howard Hansen's Complaint for Judicial Review for lack of prosecution of G.L. c. 30A appeal.

Other Legal Division Activities

During FY 2019, Legal Division attorneys developed and conducted a training session on the conflict of interest law and financial disclosure law for new state court judges. Legal Division attorneys also conducted numerous training sessions for Commission staff members. In addition, Legal Division attorneys prepared a revision to *State Ethics Commission Advisory 05-05: The Rule of Necessity*.

Statements of Financial Interests

Statements of Financial Interests (SFI) Filing Season

The filing season for calendar year 2018 SFIs opened January 29, 2019, the earliest opening date in the past five years. During FY 2019, the total number of filers — appointed state and county employees, elected state and county officials, and candidates for state and county office — required to file an SFI for calendar year 2018 was 3,699. Ninety-four percent of all filers filed by their respective deadlines of May 1, 2019 (appointed state and county employees), and May 28, 2019 (elected state and county officials). A total of 200 Formal Notices of Lateness were sent to those who missed their filing deadline. No filers were referred to the Enforcement Division for late or non-filing.

CY 2018 SFI Season

- 3,699 filers
- 94% filed by deadline
- 200 Formal Notices of lateness issued
- 0 Enforcement referrals

Historically, most filers choose to file electronically rather than manually. That trend continued during FY 2019, when 3,578, or 97%, of the total 3,699 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. During the filing season, 121 SFIs were filed manually.

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 200 Formal Notices that were sent, 176 were sent automatically by email to individuals with an email address in the electronic filing system; 24

were sent by conventional mail. 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 with its vendor to make several enhancements to the SFI electronic filing system, which were covered by the Commission's support and maintenance agreement with the vendor. The updates were designed to improve internal reporting functions and allow the SFI team to better identify and contact filers who have not yet filed an SFI. In addition, the Commission funded improvements to enhance the SFI filing system's security and increase reporting functionality for the Public Inspection Module.

Public Inspection Module

SFIs are public records and may be requested by members of the public. The financial disclosure law, G.L. c. 268B, provides that an SFI shall be available for public inspection and copying upon written request of any individual. Such requests must be accompanied by proof of the requesting individual's identity, 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.

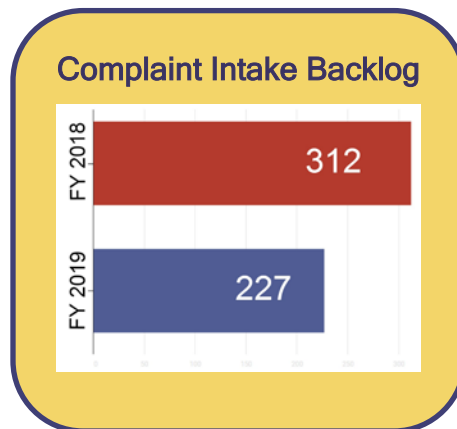
The new online Public Inspection Module launched in June 2017. Using the Public Inspection Module, anyone can view a searchable index of all the public employees, public officials and candidates required to file an SFI for a selected calendar year, beginning with CY 2015. A public user can search for 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 the alleged violators of those laws. The Division received a total of 875 complaints in FY 2019 alleging violations of the conflict of interest or financial disclosure laws.

A top priority for the Division in FY 2019 was to reduce the complaint intake backlog. This backlog had increased significantly from 2015 to 2018, when the Enforcement Division underwent several staffing changes and restructuring. In FY2019, the Enforcement Division was able to reduce the backlog, which is defined as complaints received by the Commission that have been open more than three months, from 312 to 227 from the beginning to the end of FY 2019. The number of complaints in intake open for over a year was reduced from 41 at the end of the previous fiscal year to only two such cases.



At the beginning of FY 2019, the Division consisted of the Division Chief, a Staff Counsel, an Assistant Enforcement Counsel, an Investigations Director, three full-time investigators, an investigator working 80 percent of a full-time schedule, and an administrative assistant. The Investigations Director left the staff in September 2018. An Assistant Enforcement Counsel and an investigator joined the staff in December 2018. By the end of FY 2019, the Enforcement Division had the same staffing level as it did in FY 2014.

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 Enforcement Division reviews all complaints received by the Commission. If the matter falls within the Commission's jurisdiction, the Division initiates an informal investigation. Informal investigations, conducted by the Division's five investigators, generally include 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 a Division attorney are resolved by a private education letter. 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

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.

If 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. After the investigation is complete, the Commission may find by a majority vote that there is reasonable cause to believe that the subject violated the conflict of interest law and authorize adjudicatory proceedings.

In lieu of finding reasonable cause to believe that a violation has occurred and authorizing adjudicatory proceedings, the Commission may instead vote to find facts sufficient to find reasonable cause and 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 Commission finds reasonable cause that a subject violated the conflict of interest law, the Enforcement Division offers the subject the opportunity to resolve the matter without an adjudicatory hearing through a public disposition agreement. In such agreements, 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 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 agreement. When public education letters are issued, the subject does not pay a civil penalty. The Commission may authorize the issuance of a public education letter for a number of reasons, including when circumstances are novel or believed to widespread. The Commission must approve all final agreements.

If a subject chooses not to settle the matter with the Enforcement Division, he or she has a right to a public adjudicatory hearing, at which both the subject and the 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 of 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, which is the corrupt gifts section of the law.

Enforcement Division FY 2019 Investigations Statistics

Complaints	
Conflict of interest and financial disclosure law complaints pending at the beginning of FY 2019	553
Conflict of interest law complaints received during FY 2019	873
Financial disclosure law complaints received during FY 2019	2
Complaints closed after informal investigation with no action by an enforcement attorney	816
Complaints closed after informal investigation with private educational letters to the subjects	120
Complaints assigned for preliminary inquiry recommendation	37
Conflict of interest law and financial disclosure law complaints pending at the end of FY 2019	408

Subjects of Complaints	
Municipal employees	706
State employees	127
County employees	2
Private entities	30
Complaints involving unspecified subjects	10

Enforcement Cases	
Preliminary inquiries and post-reasonable cause matters pending from FY 2018	22*
Preliminary inquiries authorized by the Commission during FY 2019	19*
Preliminary inquiries involving the conflict of interest law concluded by the Commission in FY 2019	15
Preliminary inquiries concluded with the authorization of an adjudicatory proceeding	7
Preliminary inquiries terminated by the Commission	4
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	2
Preliminary inquiries involving financial disclosure law violations resolved by the Commission by a civil penalty for a late-filed SFI	1
Preliminary inquiries and post-reasonable cause matters carried over to FY 2019	25*

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

FY 2019 Public Enforcement Actions

The Commission can resolve public enforcement cases with an adjudicatory hearing, a disposition agreement, or a public education letter. In FY 2019, the Commission resolved nine cases through disposition agreements. The Commission did not hold any adjudicatory hearings or issue any public education letters in FY 2019. The cases publicly resolved in FY 2019, listed below, are posted on the Commission's website.

In the Matter of Frederick Brack

The Commission approved a disposition agreement in which former Boston Public Health Commission (BPHC) worker Frederick Brack admitted to violating Section 23(b)(2)(ii) of the conflict of interest law by using BPHC supplies, equipment, and worktime to conduct his private snowplowing business. Brack paid a \$10,000 civil penalty.

In the Matter of Jeffrey Collingwood

The Commission approved a disposition agreement in which former Sheffield Conservation Commission member Jeffrey Collingwood admitted to violating Section 17 of the conflict of interest law by representing a private client before the town while serving on the Conservation Commission. Collingwood agreed to pay a \$2,500 civil penalty.

In the Matter of John DeRosa

The Commission approved a disposition agreement in which former North Adams City Solicitor John DeRosa admitted that he violated sections 17, 19, and 23 of the conflict of interest law by representing and performing compensated legal work for parties other than the city in connection with proposed North Adams redevelopment projects while he was City Solicitor, and by advising the city on those projects simultaneously as City Solicitor. DeRosa paid a \$7,500 civil penalty.

In the Matter of Thomas Fleming

The Commission approved a disposition agreement in which Northern Essex Community College Police Academy Director Thomas Fleming admitted to violating sections 4(c) and 6 of the conflict of interest law by recommending the college purchase training gear for the Academy from his private employer, a sporting goods company, and by representing both the Academy and the company in those transactions, for which he earned commissions. Fleming paid a \$5,000 civil penalty.

In the Matter of Kendel Joyce

The Commission approved a disposition agreement in which Wrentham Housing Authority Maintenance Worker Kendel Joyce admitted to violating section 20 of the conflict of interest law by using a third party to purchase a surplus truck from the Housing Authority after the State Ethics Commission's Legal Division advised him that he could not lawfully buy the vehicle. Joyce paid a \$3,500 civil penalty.

In the Matter of Harold MacGilvray

The Commission approved a disposition agreement in which Medford Police Officer Harold MacGilvray admitted to violating Section 23(b)(2)(ii) of the conflict of interest law by engaging in political activity while on duty and in uniform. MacGilvray paid a \$1,500 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 Daniel O’Connell

The Commission approved a disposition agreement in which Daniel O’Connell, former Superintendent-Director of the North Shore Technical High School and Essex North Shore Agricultural & Technical School districts, admitted to violating sections 19 and 23 of the conflict of interest law by directing a subordinate to reinstate his expired stipend; by giving his son pay raises and increased opportunities to work overtime; by allowing his son to use a school truck for private business; by using his position to pressure a plumbing supply company in a personal dispute; and by ordering school employees to use public worktime and resources to deliver surplus bricks to his home. O’Connell paid a \$23,000 civil penalty.

In the Matter of Donald Pipczynski

The Commission approved a disposition agreement in which former Hadley Select Board member Donald Pipczynski admitted to violating sections 23(b)(2)(ii) and 19 of the conflict of interest law by invoking his official position to threaten a private club that expelled him, and by voting as a Select Board member against forwarding complaints about his conduct to the State Ethics Commission. Pipczynski paid a \$5,000 civil penalty.

In the Matter of Oscar Walker

The Commission issued a final order allowing a joint motion to dismiss adjudicatory proceedings against former Roxbury Community College Director of Public Safety Oscar Walker after he paid a \$100 civil penalty for violating the financial disclosure law by failing to timely file a 2017 Statement of Financial Interests.

In the Matter of Randall Walker

The Commission approved a Disposition Agreement in which New Braintree Select Board Member Randall Walker admitted that he violated sections 19 and 20 of the conflict of interest law by voting to authorize the sale of town-owned land he wished to buy, then privately purchasing that land from the town when it was publicly auctioned. Walker paid a \$5,000 civil penalty.

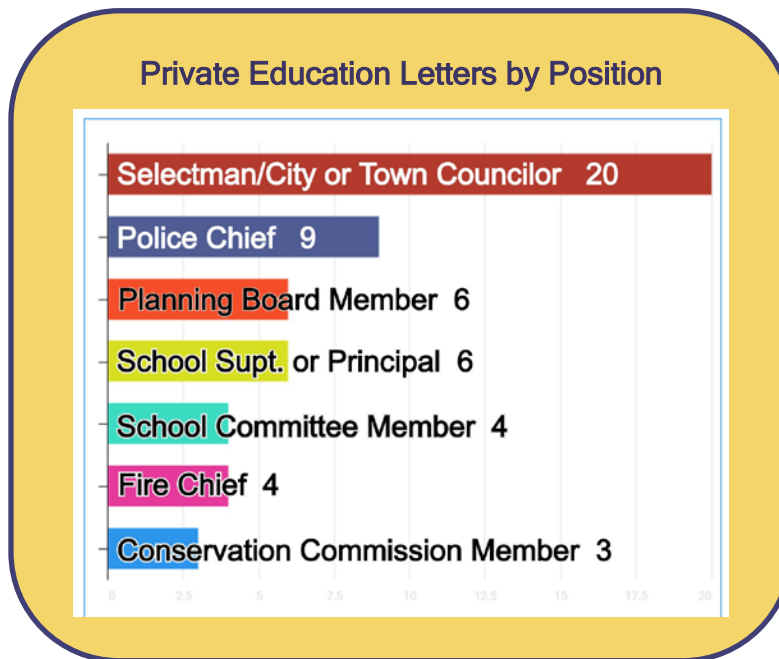
Civil Penalties

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 2019, the Commission assessed and collected \$63,000 in civil penalties.

FY 2019 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 90 private education letters in FY 2019.

- Nine letters were sent to state employees. The remaining 81 were sent to municipal employees.
- The Division sent letters to employees of 69 towns or cities.
- The highest number of letters went to those in the following positions:



- The letters issued by the Enforcement Division in FY 2019 addressed the following allegations:

Acting as an agent for a private party before the employing municipality (§§ 4 and 17)	6
Participating in matters pertaining to abutting property (§§ 6 and 19)	6
Supervising, hiring or approving the salary of a family member (§§ 6 and 19)	4
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)	5
Holding multiple municipal positions (§ 20)	1
Having another financial interest in a contract with the employing municipality (§ 20)	4

Employing or entering into a business arrangement with subordinates (§§ 23(b)(2) and 23(b)(3))	2
Using public resources for political activity (§ 23(b)(2)(ii))	22
Using public resources to retaliate against others (§ 23(b)(2)(ii))	2
Using public resources for other private purposes (§ 23(b)(2)(ii))	18
Accepting a gift (§§ 3 and 23(b)(2)(i))	2
Creating the appearance of a conflict (§ 23(b)(3))	19
Improperly disseminating confidential information (§ 23(c)(2))	1

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 throughout the entirety of FY 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 2019, the Public Education and Communications Division conducted 63 seminars, the same number as in FY 2018. Cumulative seminar attendance in FY 2019 increased approximately 2% compared to the prior fiscal year. Participation in seminars via webinar was introduced in FY 2014 as an option for agencies and municipalities that could not meet minimum attendance requirements. One seminar was conducted by webinar in FY 2019. In addition, participation by webinar for the bi-monthly seminars conducted at the Commission office continues to be offered as a convenience for public employees who cannot easily travel to Boston.

Public Information

In FY 2019, the Public Education and Communications Division responded to 557 telephone and email inquiries from 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 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 Division collects the summary acknowledgments and online training program completion certificates from all elected state and county officials. During the compliance period in FY 2019, all public agencies were required to distribute the summary of the law to all employees, and all public employees were required to complete conflict of interest law online training.

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 new Mass.gov platform. FY 2019 was the first full fiscal year that the new Drupal-based Mass.gov website portal was in place. The website includes information about the history, activities, and precedents of the Commission. The Commission's educational materials, disclosure forms and instructions, enforcement actions, advisory opinions (summaries of all – and full texts of many), press releases, and meeting minutes and meeting notices are available online. The website contains more than 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 or requests for advice through the website.

Public Education and Communications Division Activities	
Press releases issued	16
Educational seminars conducted	63
Seminar attendance	2,600
Inquiries from media and general public	557
Inquiries concerning the education and training requirements	592
Website average monthly visitors	8,566
Website average monthly page views	17,711

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. During FY 2019, needed replacements and improvements were made to equipment and software supporting the network environment. The Commission's telephone service was converted from analog to Voice over Internet Protocol (VoIP) telephones. Work was done in partnership with the Executive Office of Technology Services and Security to migrate the Commission's SFI application from a server environment to a cloud-based storage platform. The IT Specialist continues to participate as a member of the project team working to replace the aging case management application.



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