

# **STATE ETHICS COMMISSION**

Fiscal Year 2023  
Annual Report

**Commonwealth of Massachusetts State Ethics Commission**

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# State Ethics Commission – Fiscal Year 2023

## State Ethics Commission Members



### **Maria J. Krokidas, Chair\***

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



### **Hon. R. Marc Kantrowitz, Vice Chair\*\***

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



### **Hon. Thomas A. Connors (ret.)\*\*\***

Regional Administrative Justice for Norfolk County (ret.)

\* Service ended January 2023

\*\* Service ended March 2023

\*\*\* Service began March 2023

## EXECUTIVE SUMMARY

The State Ethics Commission is a non-partisan, independent state agency which administers, provides advice and training concerning, and civilly enforces the state 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 them, helps those required to file a Statement of Financial Interests and public agencies comply with the financial disclosure law, advises the Commission during adjudicatory proceedings, and administers the Statement of Financial Interests filing process. 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 \$2,954,468 in FY 2023, an increase of \$288,095 over FY 2022. The Commission imposed \$200,800 in civil penalties in FY 2023. Civil penalties collected by the Commission revert to the Commonwealth's General Fund.

In FY 2023, the Legal Division responded to 5,808 requests for advice concerning the conflict of interest and financial disclosure laws, the Enforcement Division received 889 complaints alleging violations of those laws, and the Public Education and Communications Division conducted 56 seminars and responded to 415 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, General Laws chapter 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, and 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.

Chapter 210 of the Acts and Resolves of 1978 established the state financial disclosure law, General Laws chapter 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 (SFI) for the preceding calendar year.

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

Chapter 210 also created the State Ethics Commission and empowered 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, and conduct educational programs and provide information about the laws and the Commission. The Commission serves as the primary civil enforcement agency for the two 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 (the Commission 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); 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 mandating conflict of interest law education and training 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.

Chapter 93 of the Acts of 2011 added section 6B to the conflict of interest law, 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 added section 5(b½) to G.L. c. 268A, 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 28 employees at the beginning of FY 2023 and 30 at the end of the fiscal year. A Receptionist left the Commission staff and an Assistant Enforcement Counsel, a Special Assistant to Administration and SFI, and a Receptionist joined the staff during fiscal year 2023.

### Office Reopening

As public health conditions resulting from the COVID-19 pandemic significantly improved, the Commission fully reopened its office to the public on October 3, 2022. Throughout the year, most Commission staff worked hybrid schedules, dividing their time between working in the office and working remotely from home. When telecommuting, staff worked on Commission-provided laptop computers, using Virtual Private Network (VPN) access to connect to the Commission’s computer servers, and Commission-provided cell phones for work-related calls and text messages. The Commission held its monthly meetings in person with video conference access for Commissioners and staff unable to attend in person, as well as for the public.

### Telecommuting Policy

On September 8, 2022, the Commission voted to approve a Telecommuting Policy and Program, which was developed in consultation with staff, and to amend the Commission Personnel Manual to include the new policy. The policy allows for most staff to, with management approval, work hybrid schedules, dividing their time between working in the office and working remotely from home.

### Case Management System Replacement Project

In FY 2023, the Commission continued to work with the Executive Office of Technology Services and Security (EOTSS) and the Legal Case Management System project four partner agencies (Department of Labor Relations, DML-Legal, Department of Criminal Justice Information Services and MassHealth’s Board of Hearings) to replace 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, the LCMS partner agencies, and EOTSS previously identified Litify and Salesforce products as meeting their collective and individual legal case management system needs.

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

The conflict of interest law requires that all state, county and municipal employees complete online training on the law every two years and annually be furnished with and acknowledge in writing their receipt of a written summary of the law prepared by the Commission. During FY 2023, work continued on the project to create a new online training program to replace the legacy programs that had been in use since 2012. Early in the fiscal year, the script of the new program was translated into Spanish, Portuguese, traditional Chinese, and simplified Chinese. The narrated audio content of the program is in English, with translations available via closed captioning. The training program and the previously translated conflict of interest law summaries and receipt acknowledgement forms were loaded onto the Commission’s new vendor-provided online learning management system.

In fall 2022, prior to launching the new online training program, the Commission contacted municipalities, regional entities, and state and county agencies to determine which would be using the Commission’s new online learning management system and which would be hosting the new training on their own learning management systems. The Commission’s new online training learning management system automatically records users’ completion of the training requirements, sends reminder messages, and stores compliance data that agencies can access by generating reports. Each organization using the Commission’s learning management system has its own administrative account that allows access to the system’s administrative functions.

The new online training program and learning management system launched on January 12, 2023. By the end of FY 2023, 805 state and county agencies, municipalities, independent municipal districts, regional school districts and educational collaboratives, and charter schools had signed up to use the new learning management system; more than 120,000 public employees had created user accounts on the new learning management system; and more than 200,000 completions of the new online training program and/or acknowledgment of receipt of the summary of the law had been digitally recorded. The Commission worked with its vendor, SkillBurst Interactive, to implement a series of improvements following the launch. These improvements were designed to enhance user experience and ease of use for agency-level administrators.

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

The Commission is a member of the Council on Governmental Ethics Laws (COGEL), an international organization for government agencies and other organizations working in ethics, elections, freedom of information, lobbying, and campaign finance. A Commission delegation,

consisting of one Commissioner, the Commission's Executive Director, two Legal Division attorneys, two Enforcement Division attorneys, a Special Investigator, and a Senior Program Coordinator attended the 43rd annual COGEL conference from December 4-7, 2022, in Montreal, Canada.

In May 2023, COGEL informed the Commission that the proposal the staff submitted in early 2023 to present on its new online training program had been accepted and that Commission staff would participate in a panel on e-learning at the December 2023 COGEL Conference in Kansas, City, Missouri. In June 2023, COGEL invited Commission staff to make a presentation on the online training program at a videoconference workshop scheduled for July 2023.

## 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 how those laws apply to them and their specific circumstances. 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. Advice is not given about past conduct or about the conduct of a third party who has not authorized the request. 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 issued no formal opinions in FY 2023.

The Legal Division  
staff answered 5,808  
requests for advice in  
FY 2023.



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 and appeals 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 Special Assistant to Administration and SFI, the Legal Division Administrative Assistant, and the Commission IT Specialist comprised the Commission's SFI Team in FY 2023. 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 SFIs as well as agencies that have questions about designating positions as major policymaking positions.

SFIs are public records and are available upon request. Requestors may either complete a written request form or register online to view SFIs using the Public Inspection Module of the electronic SFI system. In either case, certain information exempt from disclosure under the Public Records Law is redacted before an SFI is made available to a requestor. In addition, G.L. c. 268B requires that all requestors provide identification acceptable to the Commission, including their affiliation, if any, and that the Commission notify SFI filers of each request for their SFIs.

Without having to register as an SFI requestor, however, anyone may use the online Public Inspection Module to 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, and may search for specific filers by name, or for all filers from a particular agency, and learn whether required filers have completed their SFI filing for the year selected.

Throughout FY 2023, the Legal Division consisted of the General Counsel/Legal Division Chief, the Legal Division Deputy Chief/SFI, a Senior Assistant General Counsel, an Assistant General Counsel, two Staff Counsels, an Assistant Agency Counsel (who performed work for both the Legal and Enforcement Divisions as assigned), and an Administrative Assistant.

## FY 2023 Legal Division Activities

### Advice

During FY 2023, the Legal Division answered 5,808 requests for advice. These requests consisted of 5,115 telephone or walk-in requests, 676 written requests, and a review of 17 letters issued by municipal counsel pursuant to G.L. c. 268A, § 22. 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 nine during FY 2023. Overall, the Division received a 10% increase in requests for advice in FY 2023 compared to FY 2022. The Division also reviewed approximately 276 conflict of interest law disclosures filed by state and

county employees. The number of disclosures received by the Division in FY 2023 increased by approximately 11% from FY 2022.

### Adjudicatory Proceedings

During FY 2023, Legal Division attorneys acted as Legal Advisors in 10 adjudicatory proceedings alleging violations of G.L. c. 268A or 268B.

The adjudicatory matters included: *In the Matters of Susan Anderson, Joseph D. Early Jr., Richard McKeon, and Jeffrey Travers; In the Matter of Gary Haley; In the Matter of Robert O'Brien; In the Matter of Brooke Merkin; In the Matter of Michael Byrne; In the Matter of David Rose; and In the Matter of Barbara Davis-Hassan.*

### Litigation

During FY 2023, the Legal Division represented the Commission in five litigation matters:

Comtois v. State Ethics Commission, Appeals Court Docket No. 2021-P-1151: On March 21, 2023, the Appeals Court issued a full opinion affirming the Superior Court's decision upholding the Commission's decision that former Brookfield Selectman Stephen Comtois violated the conflict of interest law through his actions concerning a proposed donation to the town of land that he was interested in buying. In doing so, the Appeals Court upheld the Commission's long-standing interpretation of "financial interest" in Section 19 as "a financial interest of any size, either positive or negative, as long as it is direct and immediate or reasonably foreseeable." In May 2023, the Supreme Judicial Court denied Comtois's application for further appellate review, which the Commission opposed in a letter to the Court. In June 2023, Comtois paid his \$20,000 civil penalty in full.

Donohue v. State Ethics Commission, Norfolk Superior Court Civil Action No. 2082CV00886: On May 9, 2023, the Superior Court issued an Order allowing the Commission's Motion to Dismiss for failure to prosecute a Chapter 30A appeal.

Fournier v. State Ethics Commission, Suffolk Superior Court Civil Action No. 2184CV2474B: On September 19, 2022, the Superior Court issued a Memorandum of Ruling on Cross-Motions for Judgment on the Pleadings allowing the Commission's Motion for Judgment on the Pleadings, thereby affirming the Commission's decision, and dismissed the case.

Haley v. State Ethics Commission, Suffolk Superior Court Civil Action No. 2284CV02661: In a Chapter 30A action for judicial review of the Commission's decision, the Commission filed a Memorandum in Opposition to Plaintiff's Motion for Judgment on the Pleadings and in Support of the Commission's Cross-Motion for Judgment on the Pleadings Pursuant to Mass. R. Civ. P. 12(c), which was filed in April, 2023. Oral argument was pending as of the end of FY 2023.

McKeon v. Executive Office of Public Safety et al., Worcester Superior Court Civil Action No. 2285CV01305; Anderson v. Executive Office of Public Safety et al., Worcester Superior

Court Civil Action No. 2285CV1299C: On February 7, 2023, the Commission served on each Plaintiff a Motion to Dismiss the Amended Complaint which sought indemnification for legal fees and expenses incurred as a consequence of defending an action brought by the Commission, and Memorandum of Law in support thereof. In lieu of an opposition, McKeon and Anderson each dismissed with prejudice their case against the Commission.

### Other Legal Division Activities

In FY 2023, Legal Division attorneys provided multiple trainings and presentations on the conflict of interest law for public employees, including the Senate, the Academy for New Legislators, Legislative staff, the MCLE Municipal Law Conference, the Governor's Office and Cabinet, and new judges at the Executive Office of the Trial Court Judicial Institute. In addition, Division attorneys trained two new Commission staff members on the conflict of interest law, and participated in the Commission's online training and legal case management system replacement projects.

### Statements of Financial Interests

The filing season for calendar year 2022 SFIs opened February 1, 2023. During FY 2023, the total number of persons — appointed state and county employees, elected state and county officials, and candidates for state and county office — required to file an SFI for CY 2022 was 3,748. The filing deadline was May 1, 2023 for appointed public employees and May 30, 2023 for elected public officials. The filer compliance rate for the CY 2022 SFI filing season was one of the highest in the most recent 10 years, with 96.2% of all filers filing by the deadline.

#### CY 2022 SFI Season

- 3,748 filers
- 96.2% filed by deadline
- 138 Formal Notices of Lateness issued
- 0 Enforcement referrals

When a filer fails to file by the deadline, the financial disclosure law, G.L. c. 268B, requires that a Formal Notice of Lateness be sent giving the filer an additional 10-day grace period to file without incurring a civil penalty. A total of 138 Formal Notices of Lateness were sent to those who missed the filing deadline. No filers were referred to the Enforcement Division in FY 2023 for failing to file.

In FY 2023, as in prior years, most SFI filers chose to file electronically rather than on paper. In FY 2023, 3,695 CY 2022 SFI filers, or 97.4% of all such 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 CY 2022 filing season, 49 SFIs were filed manually. Individuals were able to resume filing manually in-person as a result of the Commission's office reopening to the public after it had been closed to in-person visitors since March 2020 due to the COVID-19 pandemic.

## 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 889 complaints in FY 2023 alleging violations of the conflict of interest law or the financial disclosure law. In FY 2023, the Division negotiated 11 disposition agreements in 10 cases, issued public education letters in two cases, issued two confidential compliance letters, was actively involved in eight adjudicatory proceedings, and sent 100 private education letters.

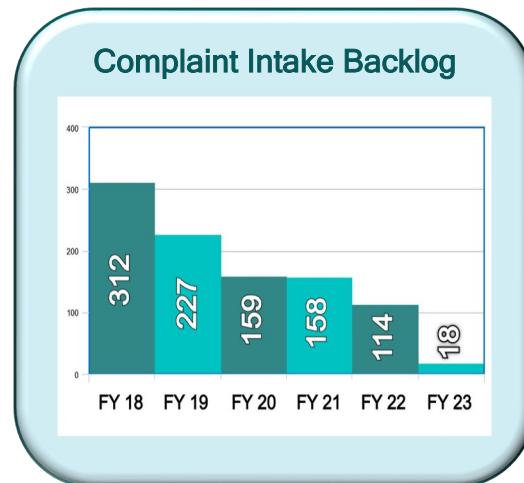
An ongoing FY 2023 priority for the Division was to continue to reduce the complaint intake backlog, which is defined as complaints received by the Commission that have been open more than three months. From the beginning to the end of FY 2023, the overall complaint intake backlog decreased from 114 to 18, and the number of complaints in intake older than six months decreased from 40 to one.

At the beginning of FY 2023, the Enforcement Division consisted of the Division Chief, a Staff Counsel, a Senior Assistant Enforcement Counsel, an Assistant Agency Counsel (who performed work for both the Enforcement and Legal divisions as assigned), five fulltime Special Investigators, a part-time Special Investigator, a contract Investigator, and an Administrative Assistant. An Assistant Enforcement Counsel joined the Division in September 2022.

### Investigations

The Enforcement Division, which generally receives between 750 and 1,100 complaints annually, received 889 in FY 2023. 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 complaint is about a matter that falls within the Commission's jurisdiction, the Division initiates an informal investigation. Informal investigations, conducted by the Division's investigators, generally include telephone interviews and requests for documents. If, based on this informal investigation, the Division believes there is some credible evidence to support the allegations, the complaint is 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 Commission may authorize 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.

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 agrees to pay a civil penalty. The Commission must approve all disposition agreements by three affirmative votes.

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, which impose no civil penalty, may only be issued with the subject's consent. The Commission may authorize the issuance of a public education letter for reasons including novel circumstances or the widespread occurrence of similar conduct. The Commission must approve all public education letters by three affirmative votes.

A subject who chooses not to resolve the matter by entering a disposition agreement, or in some cases by consenting to receive a public education letter, 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 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 finding of a violation requires three affirmative votes. A Commission final decision is appealable by the subject to the Superior Court.

## Enforcement Division FY 2023 Investigations Statistics

Complaints	
<b>Conflict of interest and financial disclosure law complaints pending at the beginning of FY 2023</b>	267
<b>Conflict of interest law complaints received during FY 2023</b>	889
<b>Complaints alleging failure to file an SFI</b>	1
<b>Complaints closed after informal investigation with no action by an enforcement attorney</b>	811
<b>Complaints closed after informal investigation with private educational letters to the subjects</b>	100
<b>Complaints assigned for preliminary inquiry recommendation</b>	25
<b>Conflict of interest law complaints pending at the end of FY 2023</b>	186

Subjects of Complaints	
<b>Municipal employees</b>	690
<b>State employees</b>	136
<b>County employees</b>	11
<b>Private entities</b>	39
<b>Complaints involving unspecified subjects</b>	13

Enforcement Cases	
<b>Preliminary inquiries and post-reasonable cause matters pending from FY 2022</b>	17*
<b>Preliminary inquiries authorized by the Commission</b>	27*
<b>Preliminary inquiries and post-reasonable cause matters involving the conflict of interest law concluded by the Commission</b>	19
<b>Preliminary inquiries concluded with the authorization of an adjudicatory proceeding</b>	15
<b>Preliminary inquiries terminated by the Commission</b>	2
<b>Preliminary inquiries concluded with authorization of a confidential compliance letter to the subject to at least one party</b>	3
<b>Preliminary inquiries involving financial disclosure law violations resolved by the Commission</b>	1
<b>Preliminary inquiries and post-reasonable cause matters carried over to FY 2024</b>	22*

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

## FY 2023 Public Enforcement Actions

The Commission publicly resolves cases through disposition agreements, public education letters, and adjudicatory proceedings resulting in final decisions. In FY 2023, the Commission negotiated 11 disposition agreements in 10 cases and issued public education letters in two cases. Two cases were closed following adjudicatory proceedings: *In the Matter of Gary Haley* and *In the Matters of Susan Anderson, Joseph D. Early Jr., Richard McKeon, and Jeffrey Travers*. One case was dismissed due to the subject's death. The cases publicly resolved in FY 2023, listed below, are published on the Commission's website.

### **In the Matters of Susan Anderson, Joseph D. Early Jr., Richard McKeon, and Jeffry Travers**

The Commission issued a Final Decision and Order dismissing its case against Worcester County District Attorney Joseph D. Early Jr., Senior First Assistant District Attorney Jeffrey Travers, former State Police Colonel Richard McKeon, and former State Police Major Susan Anderson after finding that it had not been proved that they violated §§ 23(b)(2)(ii) and 23(b)(3) of the conflict of interest law by their actions relating to the police report of the arrest of a judge's daughter.

### **In the Matter of Ricardo Arroyo**

The Commission approved a Disposition Agreement in which Boston City Councilor Ricardo Arroyo admitted to violating § 17(c) of the conflict of interest law by continuing to represent his brother in a civil lawsuit against his brother and the City of Boston after he became a City Councilor. Arroyo signed a Disposition Agreement in which he admitted to the violation and paid a \$3,000 civil penalty.

### **In the Matter of Kevin Clayton**

The Commission issued a Public Education Letter to Massachusetts Environmental Police (MEP) Major Kevin Clayton after finding reasonable cause to believe he violated the conflict of interest law by providing an attorney with whom he is friendly the opportunity to promote his private law practice at a mandatory MEP training.

### **In the Matter of Christine Emerson**

The Commission approved a Disposition Agreement in which Cheshire Town Clerk Christine Emerson paid a \$5,000 civil penalty for violating §§ 19, 23(b)(2) and 23(b)(3) of the conflict of interest law by hiring her daughter and granddaughter to perform work for the town on multiple occasions.

### **In the Matter of William Fahey**

The Commission approved a Disposition agreement in which former Andover Youth Services Director William Fahey paid a \$20,000 civil penalty for violating §§ 17, 19, 23(b)(2)(i), and 23(b)(2)(ii) of the conflict of interest law by receiving payments from a private nonprofit in connection with his employment with the Town of Andover and by allocating the payments to himself and members of his municipal staff.

### **In the Matter of Melissa Fay**

The Commission approved a Disposition Agreement in which Wareham Public Schools Director of Student Services Melissa Fay paid a \$4,000 civil penalty for violating §§ 19 and 23(b)(2) of the conflict of interest law by hiring her mother and participating in hiring her son for jobs in the school district.

**In the Matter of Robert Gray**

The Commission approved a Disposition Agreement in which Robert Gray, a former project engineer for the state Division of Capital Asset Management and Maintenance (DCAMM), paid a \$5,000 civil penalty for violating §§ 23(b)(2) and 23(b)(4) of the conflict of interest law by routinely using his state position to obtain cars DCAMM rented for work purposes for his personal, non-work-related travel.

**In the Matter of Gary Haley**

The Commission issued a Final Decision and Order finding that Aquinnah Select Board member Gary Haley violated §19 of the conflict of interest law by selecting himself to install underground conduits for utility wires for the town and by approving the town's payment of his \$17,445 invoice for the work. The Commission ordered Haley to pay a \$10,000 civil penalty for the violations. The Commission found it was not proved that Haley violated §§ 20 and 23(b)(4) as alleged.

**In the Matter of Steven Madelle**

The Commission approved a Disposition Agreement in which Charlton Police Sgt. Steven Madelle admitted to violating §§ 23(b)(2)(i) and 23(b)(2)(ii) of the conflict of interest law by using police resources to locate a person with whom he had a private relationship. Madelle paid a \$10,000 civil penalty.

**In the Matter of Brooke Merkin**

The Commission issued a Final Order allowing a Joint Motion to Dismiss and approving a Disposition Agreement in which Brooke Merkin, a former employee of the Center for Health Information and Analysis and the Executive Office of Technology Services and Security, admits to violating §§ 7, 23(b)(2)(ii), and 23(b)(4) of the conflict of interest law by holding the two paid state positions at the same time and seeking payment from both state agencies for overlapping work hours. The Commission accepted Merkin's payment of a \$2,500 civil penalty and dismissed the adjudicatory proceeding against her.

**In the Matter of Robert O'Brien**

The Commission issued a Final Order approving a Disposition Agreement in which former Sandisfield Highway Road Superintendent Robert O'Brien admits to repeatedly violating §§ 17(a), 19, 20, and 23(b)(2)(ii) of the conflict of interest law by deciding to hire his private business to provide services to the town more than 90 times, signing off on town payments to his business more than 40 times, using inside town information to underbid competitors for a town contract, using his public position to solicit private work, and having the town billed for materials his business used to do private jobs. The Commission accepted O'Brien's payment of a \$50,000 civil penalty and dismissed the adjudicatory proceeding against him.

**In the Matter of Lisa Riccobene**

The Commission issued a Public Education Letter to Lisa Riccobene, former state Office of the Chief Medical Examiner Chief of Staff and Chief Administrative Officer, after finding reasonable cause to believe she violated §§ 23(b)(2)(i), 23(b)(2)(ii), and 23(b)(3) of the conflict of interest law by borrowing money from a subordinate and using the subordinate's credit card for personal purchases.

**In the Matter of David A. Rose**

The Commission issued a Decision and Order allowing a motion to dismiss adjudicatory proceedings against former Area Director of Massachusetts Rehabilitation Commission Cape & Islands/Plymouth David A. Rose, who was alleged to have violated the financial disclosure law by failing to file a Statement of Financial Interests for calendar year 2021, due to his death.

**In the Matter of Steven Tompkins**

The Commission approved a Disposition Agreement in which Suffolk County Sheriff Steven Tompkins admitted to violating §§ 23(b)(2)(i), 23(b)(2)(ii), and 23(b)(3) of the conflict of interest law by using his position as Sheriff to create a paid state job for his niece and by repeatedly asking his subordinates to do personal errands for him during paid public work hours. Tompkins paid a \$12,300 civil penalty.

**In the Matter of Radhika Uppaluri**

The Commission approved a Disposition Agreement in which Radhika Uppaluri, a former programmer and systems supervisor for the state Executive Office of Education (EOE), admitted to violating §§ 4(a), 6, 7, and 23(b)(2) of the conflict of interest law by as an EOE employee, hiring and supervising information technology consultants recruited by her family's company. Uppaluri paid a \$70,000 civil penalty.

**In the Matter of Glenn Wilson**

The Commission approved a Disposition Agreement in which former Andover Youth Services Director Glenn Wilson admitted to violating sections 17(a), 23(b)(2)(1), and 23(b)(2)(ii) of the conflict of interest law by receiving payments from a private nonprofit relating to his employment and because of his position as a Town of Andover employee. Wilson paid a \$9,000 civil penalty.

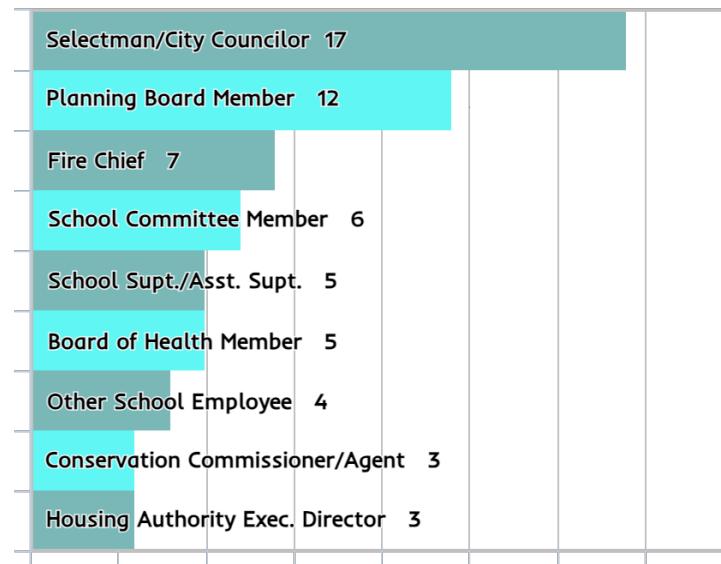
## Civil Penalties

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 2023, the Commission assessed \$208,000 in civil penalties and collected \$218,000, including a \$20,000 civil penalty which was imposed in FY 2021 but was not paid until the conclusion of an appeal in 2023. As of the end of FY 2023, a \$10,000 civil penalty imposed by the Commission was unpaid pending an appeal.

## FY 2023 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 100 private education letters in FY 2023. Nine of the letters were sent to state employees, and 91 were sent to municipal employees. The Division sent letters to employees of 75 towns or cities.

- The highest number of letters went to those in the following positions:



- The letters issued by the Enforcement Division in FY 2023 addressed the following allegations:

Acting as an agent for a private party before the employing state or municipality (§§ 4 and 17)	3
Accepting compensation in connections with a matter before the employing state municipality (§§ 4 and 17)	0
Engaging in post-employment restrictions, the one year and forever ban (§ 18)	0
Participating in matters pertaining to abutting property (§§ 6 and 19)	10
Participating in other matters that directly affect the employee's financial interest (§§ 6 and 19)	18
Participating in other matters that directly affect the employee's family member's financial interest (§§ 6 and 19)	14
Participating in other matters that directly affect the employee's private employer or potential employer (§§ 6 and 19)	3
Participating in other matters that directly affect a business organization where the employee serves as an officer or director (§§ 6 and 19)	2
Holding multiple state or municipal positions (§§ 7 and 20)	2
Having another financial interest in a contract with the employing state or municipality (§§ 7 and 20)	2
The appointment to a position by one's own board (§ 21A)	0

<b>Employing or entering into a business arrangement with subordinates (§§ 23(b)(2) and 23(b)(3))</b>	2
<b>Using public resources to retaliate against others (§ 23(b)(2)(ii))</b>	2
<b>Using public resources for political activity (§ 23(b)(2)(ii))</b>	9
<b>Soliciting subordinates for charitable causes (§ 23(b)(2)(ii))</b>	0
<b>Using public resources to benefit private business (§ 23(b)(2)(ii))</b>	4
<b>Using public resources to benefit private charities or nonprofits (§ 23(b)(2)(ii))</b>	3
<b>Using public resources for other private purposes (§ 23(b)(2)(ii))</b>	23
<b>Accepting a gift (§§ 3 and 23(b)(2)(i))</b>	1
<b>Creating the appearance of a conflict (§ 23(b)(3))</b>	20
<b>Releasing confidential information (§ 23(c)(2))</b>	2
<b>Filing a false claim (§ 23(b)(4))</b>	1

## Public Education and Communications Division

The Public Education and Communications Division provides free educational seminars both online and in person 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, Senior Public Information Officer, and Senior Program Coordinator in FY 2023.

### 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. Since May 2022, all seminars have included content specifically informing municipalities and public agencies that contracted vendors, attorneys, and consultants who become public employees for purposes of the conflict of interest law must comply with conflict of interest law education requirements. In FY 2023, the Division conducted 56 seminars, an increase from the 40 conducted the prior fiscal year. A total of 2,760 public employees and consultants attended seminars in FY 2023. Thirty-two FY 2023 seminars were conducted remotely by videoconference, and 24 were held in person.

## Public Information

In FY 2023, the Public Education and Communications Division responded to 415 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, each year, all state, county, and municipal employees be furnished with a summary of the conflict of interest law prepared by the Commission, their receipt of which they are required to acknowledge in writing. The law requires the Commission to furnish the summary to all elected state and county officials, and to receive for filing their acknowledgments of receipt. The law also requires that, every two years, all state, county, and municipal employees complete the Commission's online training program on the conflict of interest law. Newly appointed public employees and elected officials must complete the education and training requirements within 30 days of their appointment or election.

In January 2023, the Commission launched a new online training program to replace two legacy programs that had been in use since December 2012. The new training program and the summaries of the conflict of interest law are now hosted on a vendor-provided learning management system, allowing for electronic notifications and program completions, and eliminating the need to manually track employee compliance with conflict of interest law education requirements or collecting and storing paper records. Public employees now receive and acknowledge receipt of the summary of the conflict of interest law electronically. Digital completion certificates are stored in the system where public employees and the administrators at their agencies or municipalities may view them. The Public Education and Communications Division maintains records of the summary acknowledgments and online training program completions from all elected state and county officials.

Beginning in October 2022, the Commission began messaging public agencies to announce the new learning management system and online training program and to request that public agencies wishing to use the new learning management system either register to use it or inform the Commission about how they would otherwise administer the education requirements for their employees. The Commission offered to provide the training program and summary acknowledgment files to public agencies if they preferred to use their own learning management system or web server. By the end of FY 2023, 805 state and county agencies, municipalities, independent municipal districts, regional school districts and educational collaboratives, and charter schools signed up to use the new learning management system. The Commission provided the program files to 14 public agencies to load to their own hosted solutions.

## Website

The Public Education and Communications Division manages and maintains the Commission's website, [www.mass.gov/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission), which is part of the Mass.gov platform. The website includes news and announcements from the Commission as well as information about the history, activities, and precedents of the Commission. The Commission's educational materials, disclosure forms and instructions, enforcement actions, advisory opinions (summaries of all – and full texts of many), press releases, and meeting minutes and meeting notices are available online. The website contains more than 65 different educational materials, ranging from summaries of the law for specific municipal employees, such as selectmen or school committee members, to primers and advisories which address specific topics or issues. Visitors to the website can also submit complaints, request advice, or request public records through the website.

Beginning at the end of FY 2022 and continuing through FY 2023, the Division continued to upload older Commission formal opinions to the website. By the end of FY 2023, all Commission formal opinions dating back to 1985 were available on our website. The uploads of approximately 1,000 opinions dating from 1978 through 1984 remained pending. During FY 2023, the launch of the new online training program and training platform slowed the pace of this work, however, and 81 opinions from 1984 and 1985 were uploaded.

Public Education and Communications Division Activities	
Press releases issued	22
Educational seminars conducted	56
Seminar attendance	2,760
Inquiries from media and general public	415
Inquiries concerning the education and training requirements	524
Website average monthly visitors	5,712
Website average monthly page views	13,515

## 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. In addition, the Senior Public Information Officer serves as the Commission's Records Access Officer and responded to 79 public records requests, to which 1,436 records were provided in response. Division staff also led the Commission's online training replacement project and participated in the legal case management system replacement project.

## 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 2023, the IT Specialist performed an upgrade to increase the number of computers that can be hosted on the Commission's network by deploying a new, larger subnet of Internet Protocol addresses. The IT Specialist also researched and made recommendations on the purchase of new desktop computers, laptops, and other IT hardware equipment, and repurposed older desktops to be available as backup systems. The IT Specialist attended Check Point Certified Automation and cybersecurity training classes and participated in monthly Executive Office of Technology Services and Security briefings for state agency information officers to receive updates on statewide IT initiatives. In addition, the IT Specialist continued to provide IT support for the SFI filing application, successfully completed the annual rollover of the application for the new filing year, and worked with the Commission's SFI vendor to deploy fixes and new features for the SFI application.



# INTEGRITY IN PUBLIC SERVICE

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Commonwealth of Massachusetts State Ethics Commission

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