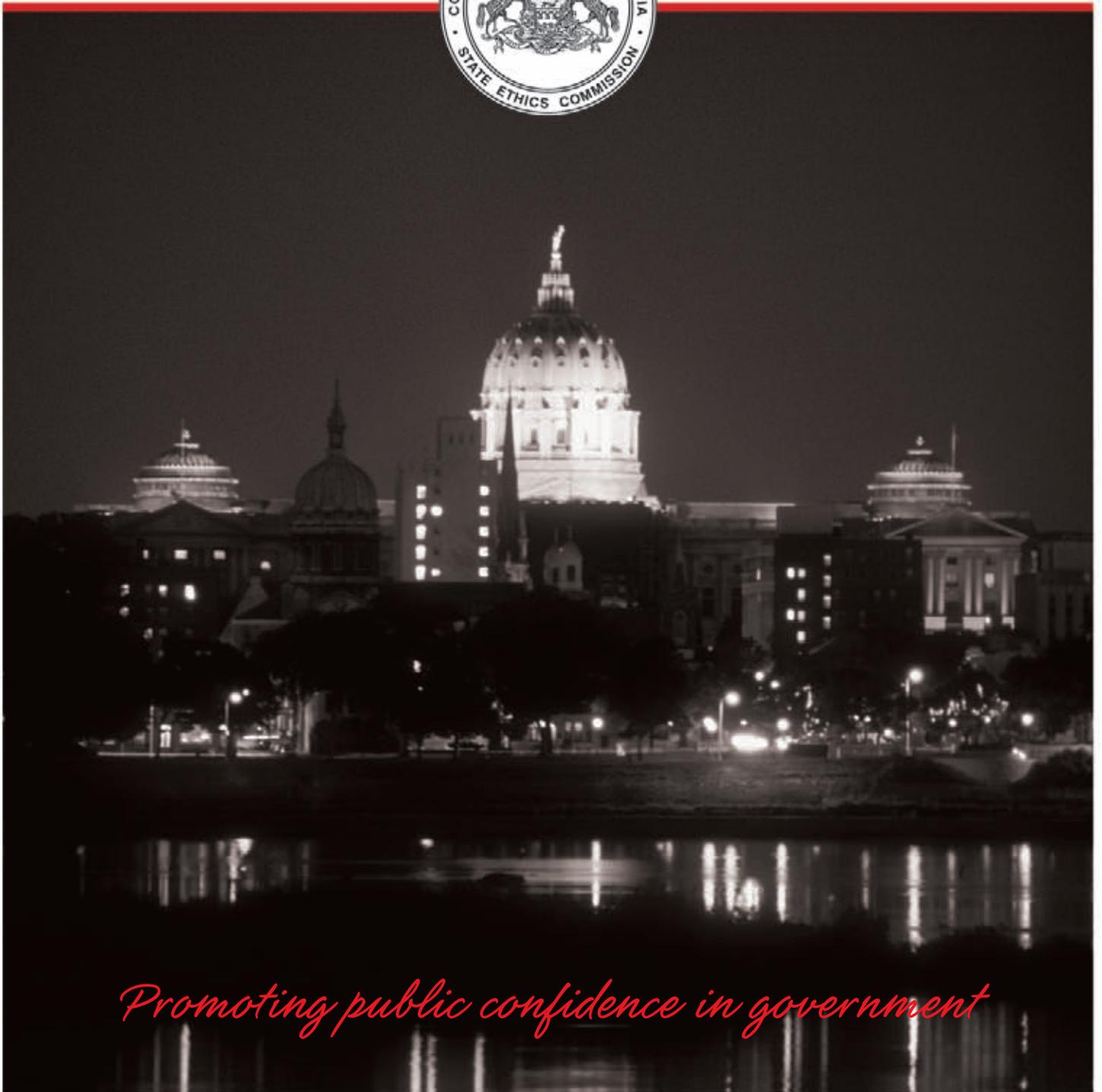


Pennsylvania State Ethics Commission

2008 ANNUAL REPORT



Promoting public confidence in government

Table of Contents

General

- Introduction 2
- Organization and Staffing 3
- Budget 7

Ethics

- Statement of Purpose and Goals 7
- Powers and Duties 8
- Restricted Activities 8
- Frequently Asked Questions 9
- Financial Disclosure 15
- Notice of Non-Compliance Flow Chart 16
- Statements of Financial Interests 17
- Opinions and Advices 21
- Litigation 24
- Regulations 26
- Complaints/Investigations 35

- Legislative Proposals 51
- Pennsylvania Lobbying Disclosure Law 52
- Pennsylvania Race Horse Development and Gaming Act 54
- NORCOL: Northeast Regional Conference on Lobbying 58
- COGEL: Council on Governmental Ethics Laws 58
- Public Outreach and Training 58
- Ethics Commission on the Internet 61
- Ethics and the Right-to-Know Law 62

Introduction

“A people that values its privileges above its principles soon loses both.”

– Dwight David Eisenhower 1890-1969, U.S. General, 34th President of the United States

The sentiments of these words reverberate in the stated purpose of the Ethics Act: “To strengthen the faith and the confidence of the people of the State in their government.” Throughout the nearly 30 years of its existence, the Pennsylvania State Ethics Commission has continued to uphold its core mission and its guiding principle that public office is a public trust and that any effort to realize personal financial gain through one’s public office is a violation of that trust. The Pennsylvania Public Official and Employees Ethics Act, Act 170 of 1978, became effective on January 1, 1979, and in subsequent years was amended and ultimately reenacted in 1989 and again in 1998. Throughout its history, the Ethics Commission has remained ever vigilant and steadfast in its mission of ensuring the public’s confidence in state and local government.

Established through legislation in 1979, the Pennsylvania State Ethics Commission is an independent state agency charged with the responsibility of enforcing the Ethics Act, which also carries the responsibility of rendering prospective advisory opinions regarding the Act; enforcing the Act as it relates to the filing of Statement of Financial Interests forms; filing, receiving, and reviewing Statement of Financial Interest forms of persons required to file; investigating alleged violations of the Ethics Act; and issuing decisions in relation to said investigations. In carrying out the prescribed duties of the Ethics Act, the

Commission is authorized to hold hearings, take testimony, issue subpoenas, and compel the attendance of witnesses. Although the Commission is relatively small compared to other agencies—it nonetheless takes great care in exercising its statutory authority and ensuring the provisions of the Act are upheld.

The Ethics Commission’s responsibilities do not end with the Ethics Act. Pursuant to the Pennsylvania Race Horse Development and Gaming Act, the Ethics Commission is vested with the responsibility of generating a public listing of all state, county, municipal, and other government positions meeting the definition of “executive-level” public employee and/or public official. The “Gaming Act,” which was passed into law by the Pennsylvania General Assembly in 2007, is a testament to the Commission’s primary mission of fostering public accountability and greater transparency in government.

In addition, the Commission has responsibilities under the Lobbying Disclosure Law. These responsibilities include the enforcement of certain provisions of the Lobbying Disclosure Law such as registration and the filing of quarterly expense reports; the issuance of advisory opinions; investigation of alleged violations of the Lobbying Disclosure Act regarding registration; issuing decisions in relation to said investigations; and participation on the Lobbying Disclosure Regulatory Committee.

In order to provide the public with information concerning the Commission’s actions, each year at least two public hearings are conducted, allowing for input from citizens and organizations subject to the provisions of the Ethics Act. Additionally, by the publication of this annual report, special reports, and educational materials, and through the conducting of educational seminars, the Commission attempts to further the purposes of the Act—instilling faith of the people in its government.

Contained within the pages of this annual report is information concerning the Commissioners and staff of the Ethics Commission, as well as information regarding the overall operations of the Commission. Additionally, reports regarding the activities of the Commission throughout the past year can be found, including information about the Commission’s duties, statistical information regarding investigations and compliance efforts, legislative activities effecting the Commission, as well as information regarding the Commission’s on-going involvement with COGEL and NORCOL—two professional associations dedicated to governmental ethics, of which the Commission is a member.

Therefore, in accordance with the provisions of the Public Official and Employee Ethics Act, the Pennsylvania State Ethics Commission is proud to present its Annual Report for the year 2008.

Organization and Staffing

CURRENT COMMISSIONERS

There are seven commissioners; one each appointed by the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House, and the Minority Leader of the House, and three appointed by the Governor only two of whom may be of the same political party. All are appointed without confirmation. Commissioners currently serving are:

Louis W. Fryman, Chair

Louis W. Fryman was appointed to the State Ethics Commission on March 9, 1998 by Robert C. Jubelirer, President Pro Tempore of the Senate. He was reappointed March 14, 2001, and was elected Chair of the Commission May 2, 2002.

Mr. Fryman is partner of the law firm of Conrad O'Brien Gellman & Rohn, P.C. and has served the community in many leadership capacities in professional, social, and educational positions. Mr. Fryman is a Fellow and was a Regent of the American College of Trial Lawyers. He is the past president of the Philadelphia Bar Foundation and The Lawyers' Club of Philadelphia and recipient of the Bar Association's prestigious Obermayer Award for his contribution to education. Mr. Fryman was a commissioner for Lower Merion Township, past president of the Big Brothers/Big Sisters Association of Philadelphia, and now serves on the Big Brothers/Big Sisters of America Foundation, and was the recipient of its Berwind Lifetime Achievement Award. Mr. Fryman has also been recognized by the State of Israel Bonds with their Heritage Award and has received the Learned Hand Award, presented by the American Jewish Committee, as well as the Villanova Alumni Award for Public Service. Mr. Fryman was president of the Board of the Walnut Street Theatre in Philadelphia, past president of the Pennsylvania Jewish Coalition, past chairman of the Episcopal Academy Board of Trustees, was appointed by then-Governor Ridge to the Judicial Advisory Commission, and was appointed by then-Mayor Rendell to the Philadelphia Refinancing Task Force. Mr. Fryman also serves on the boards of the Jewish Community Centers, Main Line Health System, Lankenau Hospital Foundation, and Riddle Memorial Hospital.

John J. Bolger, Vice Chair

John J. Bolger was appointed to the

State Ethics Commission on October 2, 1998 by the Honorable Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, and reappointed by the Honorable Mark Schweiker, Governor of the Commonwealth of Pennsylvania, on March 25, 2002. Mr. Bolger was elected Vice Chair on May 2, 2002.

Mr. Bolger, who is currently retired, served for 28 years with the Pennsylvania Bankers Association in various positions including director of Public Affairs, vice president for Governmental Affairs, and vice president, secretary, and chief administrative officer. Mr. Bolger has also been involved in numerous civic activities including the Holy Spirit Hospital Fund Raising Campaign, the Hospice of Central Pennsylvania, the American Heart Association Jail Bond Program, the Allied Arts Fund Raising Campaign, the United Way Campaign where he served as coordinator, and as a board member of the Harrisburg Rotary Club.

Professionally, Mr. Bolger served as the past president of the Pennsylvania Society of Association Executives. He was named as the Notre Dame Club "Man of the Year" and also served as the past president of the Notre Dame Club of the Harrisburg Area. Mr. Bolger is a graduate of the University of Notre Dame where he received a Bachelor of Science degree in Business Administration.

In 2001, Mr. Bolger received the Award of Excellence from the Pennsylvania Alliance for Association Advancement (PA 3) for his outstanding commitment to profession, service, and community.

Donald M. McCurdy, Commissioner

Donald M. McCurdy was appointed to the Pennsylvania State Ethics Commission on February 22, 2001 by the Speaker of the House, Matthew Ryan.

Mr. McCurdy, an attorney from Springfield, Pennsylvania, is a member of the Delaware County Court, the Pennsylvania Supreme Court, and the U.S. Supreme Court. He is a graduate of Dickinson College and Dickinson School of Law, Carlisle, Pennsylvania. Mr. McCurdy served as the Special Assistant Deputy Attorney General for the Commonwealth of Pennsylvania from 1963 to 1966. Mr. McCurdy was also a Member of the State House of Representatives, 165th District, from 1967 through 1974.

Mr. McCurdy served in active duty as a

helicopter pilot for the United States Navy from 1955–1959. He is a retired Commander USNR with 27 years of service.

Paul M. Henry, Commissioner

Paul M. Henry was appointed as a member of the State Ethics Commission on August 27, 2003 by the Honorable Edward G. Rendell, Governor of the Commonwealth of Pennsylvania.

Mr. Henry is president of BFA Municipal Securities, LLC, a division of Bill Few and Associates, a Pittsburgh Investment Advisor. Mr. Henry entered the municipal bond industry in 1961 with the First National Bank of Chicago, after graduating from the University of Pittsburgh.

Upon his return to Pittsburgh in 1963, he worked for several regional firms before founding Henry/Kearns Municipals and West Penn Municipals. Both firms were actively involved in the distribution, trading, and underwriting of tax exempt municipal bonds.

Throughout his career he has been the leading distributor and underwriter of Pennsylvania Municipal Bonds and is acknowledged by his peers as the foremost authority in this area. He is licensed as a General Securities Principal, a Financial Operations Principal, and a General Securities Representative.

Mr. Henry has served as the president of the Pennsylvania Bond Club and the Pennsylvania Association of Municipal Traders, and is a former member of Shawnee, a national municipal bond organization. He is married to Helen Billak and has three daughters and one son.

Raquel Kennedy Bergen, Commissioner

Raquel Kennedy Bergen was appointed as a member of the State Ethics Commission on March 3, 2004, by the Honorable Edward G. Rendell, Governor of the Commonwealth of Pennsylvania.

Raquel Kennedy Bergen, Ph.D. is professor and chair of the Department of Sociology at Saint Joseph's University in Philadelphia, Pennsylvania. She graduated from Saint Joseph's University with a B.S. in Sociology in 1989 and she received her Ph.D. from the University of Pennsylvania in 1994. She has been a member of the faculty at Saint Joseph's University since 1993. Her area of expertise is the Sociology of Gender and specifically, the sociological study of violence against women. She is the author of several scholarly

publications and books, including *Wife Rape: Understanding the Response of Survivors and Service Providers*, and *Issues in Intimate Violence*. With Claire Renzetti and Jeff Edleson, she edited *Sourcebook on Violence Against Women* and the anthology *Violence Against Women: Classic Statements*. She also co-edited the collection *Violence Against Women* with Claire Renzetti. As a result of her research on violence against women, Dr. Bergen was awarded the McShain Chair in Ethics from Saint Joseph's University for 2002–2004.

Dr. Bergen has been involved in various forms of service at Saint Joseph's University. She has served as a member of the Faculty Senate, University College, Gender Studies Committee, the Board of Rank and Tenure, and the Institutional Review Board, and she served as the chair of the Sexual Harassment Panel. For the past 14 years, she has been the faculty moderator for REPP (the Rape Education Prevention Program) at Saint Joseph's University. This group is responsible for providing educational programs on sexual assault and crisis counseling for survivors of sexual violence within the community. Dr. Bergen volunteers as a crisis counselor for battered and sexually-abused women, and speaks nationally about women's experiences of sexual violence in intimate partnerships. Her current research is a study of physical, sexual, and emotional violence against women during pregnancy.

Nicholas A. Colafella, Commissioner

Nicholas A. Colafella, Ph.D. was appointed as a member of the State Ethics Commission on December 27, 2004, by the Honorable H. William DeWeese, Minority Leader of the Pennsylvania House of Representatives.

Dr. Colafella was a member of the Pennsylvania House of Representatives from 1981 to 2002, serving the 15th Legislative District (Beaver County). As a member of the House of Representatives, Dr. Colafella served as the Democratic Chairman of the House Insurance Committee (1992–1998), and the House Education Committee (1999).

During this time period, Dr. Colafella also served as a member of the Board of Directors of the Pennsylvania Higher Education Assistance Agency, the Pennsylvania State Board of Education, the Council of Higher Education, and the State Board of Vocational Education. From 1969 until 1980, Dr. Colafella served as the Dean of Continuing Education and Community Service for the Community College of Beaver

County as well as its Director of Evening Education. He also served as a Business instructor at the same institution, and previously served as a high school Business teacher at Center High School and Northwestern High School.

In 1992, Dr. Colafella was recognized as the Outstanding Legislator of the Year by the College and University Public Relations Association of Pennsylvania, and also was named Man of the Year in 1982 by the Upper Beaver Valley Jaycees.

Dr. Colafella has devoted substantial efforts towards community involvement, including his service as chairman of the Beaver County Drug and Alcohol Commission, the University of Pittsburgh Medical Center Beaver Valley Hospital Advisory Committee, board member of the Pennsylvania State University Beaver Campus Advisory Committee, and the Beaver County Mental Health and Mental Retardation Agency.

From 1956 to 1958, he served in the United States Navy. He received his Ph.D. from the University of Pittsburgh, where he published his dissertation entitled *A Study of Voluntary Support for Pennsylvania Community Colleges*. He received his Masters of Arts in Education from Duquesne University and his Bachelor of Sciences in Education from Youngstown State University.

The Reverend Scott R. Pilarz, S.J., Ph.D., Commissioner

The Reverend Scott R. Pilarz, S.J., Ph.D. was appointed to the State Ethics Commission May 17, 2005, by the Honorable Robert J. Mellow, Democratic Leader of the Pennsylvania State Senate.

Reverend Pilarz entered the Society of Jesus in 1981 and was ordained a priest in 1992. He received his Bachelor's degree in English from Georgetown University and a Master's degree in Philosophy from Fordham University. He received Master's degrees in divinity and theology from the Weston School of Theology, Cambridge, Massachusetts.

He went on to earn a Ph.D. in English at the City University of New York, and his dissertation, *Sacerdotal Self-Fashioning: Priesthood in the Poetry of Robert Southwell, S.J. and John Donne*, won the 1997 CUNY Alumni Achievement Prize for Dissertation Excellence.

While a student at Weston, Father Pilarz served as a lecturer in the Philosophy Department of Ss. Peter & Paul Seminary and the University of Ibadan, Nigeria. While completing doctoral studies, he was appointed to the English faculty of

St. Joseph's University in 1994. In 1996, he joined the Georgetown faculty as an assistant professor of English. In 2002, he was appointed interim University Chaplain.

Father Pilarz was recognized by the Georgetown Alumni Association in 2002 with the William Gaston Award for Outstanding Service and was chosen by the graduating class of 1999 to receive the Edward B. Bunn, S.J. Award for Faculty Excellence, which recognizes outstanding teaching and service.

Father Pilarz serves on the boards of Boston College; Loyola University Chicago; the Scranton Preparatory School; and Camden Catholic High School, Cherry Hill, New Jersey, from which he graduated. His professional memberships include the John Donne Society, the Renaissance Society of America, the Shakespeare Association of America, the Medieval and Renaissance Drama Society, the Polish Institute of Arts and Sciences of America, and the Modern Language Association.

Father Pilarz has served as a member of The University of Scranton's Board of Trustees since 2000. In April 2003, The University of Scranton's Board of Trustees completed a national search and announced the selection of Father Pilarz as the next President. He became the 24th President of The University of Scranton July 1, 2003.

STAFF

EXECUTIVE DIVISION

John J. Contino, Executive Director
Robert P. Caruso, Deputy Executive Director/Director of Investigations
Claire J. Hershberger, Executive Secretary

OFFICE OF CHIEF COUNSEL

Robin M. Hittie, Chief Counsel
Martin W. Harter, Senior Assistant Counsel
Mary Fox, Assistant Counsel
Alecia Peddigree, Secretarial Support

ADMINISTRATIVE DIVISION

Cynthia A. Lynch, Director for Administration
Sean M. Firestine, IT Generalist
Helen Johns, Clerk Typist
Stanley G. Weaver, Clerk Typist
Esther Torres Rivera, Clerk Typist

INVESTIGATIVE DIVISION (HEADQUARTERS)

Brian D. Jacisin, Assistant Counsel
Katherine Testa, Assistant Counsel
Daniel M. Bender, Special Investigator
Gregory Curran, Special Investigator
Jennifer Kunkle, Special Investigator

Jonathan Millinder, Special Investigator
Jody Zeiders, Secretarial Support

INVESTIGATIVE DIVISION (WESTERN REGIONAL OFFICE)

Jason P. Bricker, Supervising Investigator
Daniel Cali, Special Investigator
Tamara Lefcowitz, Special Investigator
Colleen Hughes, Secretarial Support

COMMISSION MEMBER AND EMPLOYEE RESTRICTIONS

The Ethics Law places certain obligations upon the Commission and staff members. No individual while a member or employee of the Commission, shall:

1. hold or campaign for any other public office.
2. hold office in any political party or political committee.
3. actively participate in or contribute to any political campaign.
4. directly or indirectly attempt to influence any decision by a governmental body, other than a court of law or as a

representative of the Commission on a matter within the jurisdiction of the Commission.

5. be employed by the Commonwealth or a political subdivision in any other capacity whether or not for compensation.
6. no member of the Commission shall have served as an officer in a political party for one year prior to appointment.

The State Ethics Commission has also implemented an internal Code of Conduct to govern the members of the Commission. That code is set forth later in this report as part of the Commission's regulations.

ADDRESSES AND TELEPHONE NUMBERS

The Commission is located in **Room 309 Finance Building, Commonwealth Avenue and North Street, Harrisburg.** The office is open from **8 a.m. to 5 p.m., Monday through Friday.** Mail should be addressed to the **Pennsylvania State**

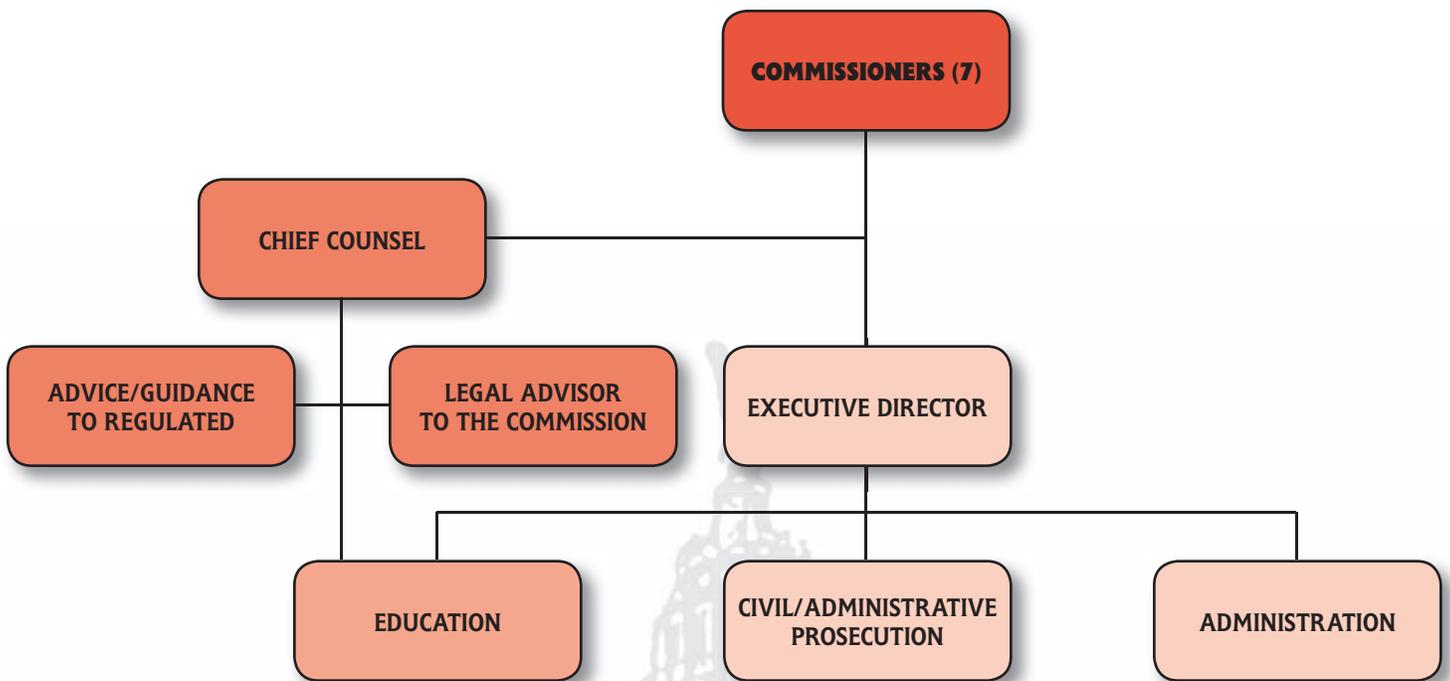
Ethics Commission, Room 309 Finance Building, P.O. Box 11470, Harrisburg, Pennsylvania 17108-1470. Members of the staff may be reached at **(717) 783-1610.** The fax number is **(717) 787-0806.**

The Commission also maintains a **Pittsburgh Regional Office, located at 1 Forestwood Drive, Suite 102, Pittsburgh, Pennsylvania 15237.** Members of the staff may be reached at **(412) 635-2816.** The fax number is **(412) 635-2818.**

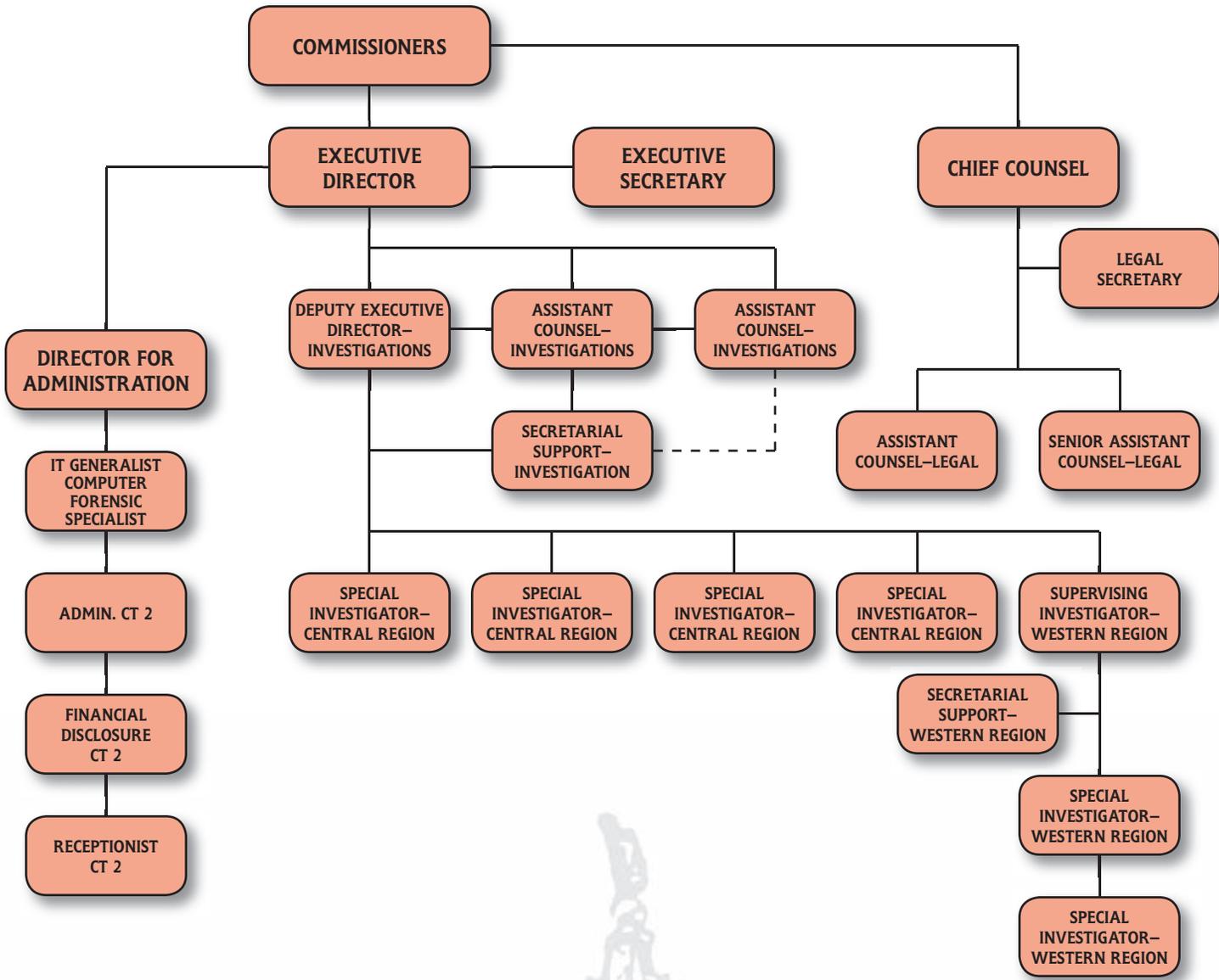
The Commission's Home Page on the Worldwide Web is located at **www.ethics.state.pa.us.** The Commission's e-mail address is **ethics@state.pa.us.**

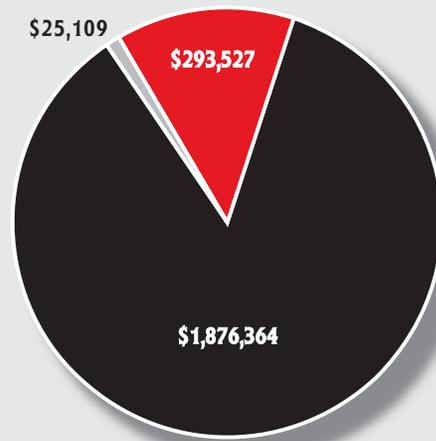
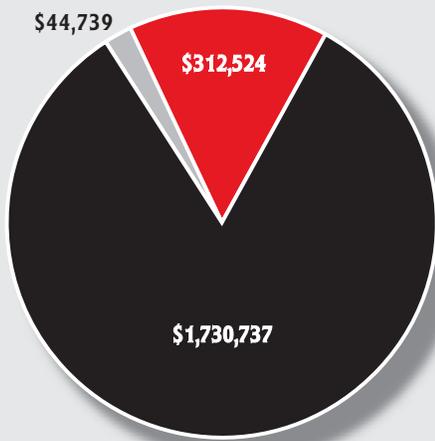
A toll-free line is available for candidates, public officials, public employees, and citizens who have questions about the Act. The number is **800-932-0936.**

For information on filing and inspections of Statements of Financial Interests, ask for Esther Torres Rivera, Stanley Weaver or Helen Johns.



PENNSYLVANIA STATE ETHICS COMMISSION ORGANIZATIONAL CHART





Budget

TWO-YEAR BUDGET ANALYSIS

Appropriation 2007–2008

Employee salaries/benefits	\$ 1,730,737
Miscellaneous personnel services*	\$ 44,739
Agency operations	\$ 312,524
Total	\$ 2,088,000

Appropriation 2008–2009

Employee salaries/benefits	\$ 1,876,364
Miscellaneous personnel services*	\$ 25,109
Agency operations	\$ 293,527
Total	\$ 2,195,000

* Miscellaneous personnel services includes Commissioner Per Diems, Training, Conference Fees, and Leave Pay-Outs.

Statement of Purpose and Goals

The Preamble to the Public Official and Employee Ethics Law sets forth the legislative intent that generated the enactment of the Law. That Section of the Law provides as follows:

SECTION 1. PURPOSE

(a) The legislature hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In order to strengthen the faith and confidence of the people of the State in their government, the Legislature further declares that the people have a right to be assured that the financial interests of holders of or nominees or candidates for public office do not conflict with the public trust. Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this act shall be liberally construed to promote complete financial disclosure as specified in this act. Furthermore, it is recognized that

clear guidelines are needed in order to guide public officials and employees in their actions. Thus, the General Assembly by this act intends to define as clearly as possible those areas which represent conflict with the public trust. 65 Pa.C.S. §1101.

- (b) It is recognized that many public officials, including most local officials and members of the General Assembly, are citizen-officials who bring to their public office the knowledge and concerns of ordinary citizens and taxpayers. They should not be discouraged from maintaining their contacts with their community through their occupations and professions. Thus, in order to foster maximum compliance with its terms, this act shall be administered in a manner that emphasizes guidance to public officials and public employees regarding the ethical standards established by this act. 65 Pa.C.S. §1101.
- (c) It is the intent of the General Assembly that this act be administered by an independent commission composed of members who are cognizant of the responsibilities and burdens of public

officials and employees and who have demonstrated an interest in promoting public confidence in government.

In an effort to effectuate this mandate and fulfill the statutory duties and responsibilities delegated to the Commission the following precepts are intended to be the operative methods of accomplishing these goals:

1. To provide guidance to public officials and public employees in plain and simple language and in an expeditious manner regarding the provisions of the Ethics Law and their duties and responsibilities thereunder.
2. To offer information, guidance, and direction on issues within the Commission's jurisdictional mandate to any public official, public employee or other person seeking such, and in those instances not within the Commission's jurisdiction, to offer alternative sources of such information, guidance and direction.
3. To conduct the affairs of the Commission in an open and public manner within the parameters of the Ethics

Law so as to afford all citizens of the Commonwealth of Pennsylvania with a public accounting of the Commission's activities.

4. To afford all individuals subject to the Commission's jurisdiction or appearing before the Commission due process of law in the review and adjudication of

matters coming before the Commission.

5. To independently and in an apolitical manner evaluate, interpret, and decide issues arising under the law.
6. To provide continuing educational services to public officials, public employees, and citizens of Pennsylvania

regarding the provisions of the law and the decisions of the State Ethics Commission.

7. To abide by the highest standard of conduct in carrying out the mandates of the Public Official and Employee Ethics Law.

Powers and Duties

The powers and duties of the State Ethics Commission are statutorily mandated in Section 7 of the State Ethics Act. These requirements of the law have been delineated in furtherance of the stated purpose of the Act; "to strengthen the faith and the confidence of the people of the State in their government." While the Commission duties as outlined below are a condensed version of those in the Act, they serve to depict the parameters of the Commission's jurisdiction.

- Render prospective advisory opinions to present or former public officials and public employees, their appointing authority or employer regarding such individual's duties and responsibilities under the Ethics Law.
- Receive and review Statements of

Financial Interests of persons required to file; inspect such statements to ascertain whether any reporting person has failed to file such statement or has filed a deficient statement.

- Prescribe forms for filing.
- Accept and file information voluntarily supplied that exceeds the requirements of the Law.
- Preserve statements and reports filed with the Commission for a period of five years.
- Make statements available for public inspection and copying.
- Maintain a master index of statements filed with the Commission.
- Instruct other state and local agencies in the maintenance of systems which facilitate public access to such statements.

- Investigate alleged violations of the Ethics Law and issue decisions in relation to said investigations.
- Prepare and publish an annual report, prepare and publish special reports, educational materials, and technical studies to further the purposes of the Law.
- Hold hearings, take testimony, issue subpoenas, and compel the attendance of witnesses.
- Prescribe rules and regulations to implement the provisions of the Ethics Law. (See 51 PA. Code §1.1 et seq.)
- Hold at least two public hearings each year to seek input from persons and organizations who represent individuals subject to the Ethics Law.

Restricted Activities

The Public Official and Employees Ethics Law provides certain restricted activities in which public officials and employees may not engage. These restrictions provide the basis upon which Commission rulings are issued.

- (a) No public official or public employee shall engage in conduct that constitutes a conflict of interest. A conflict of interest is defined as use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family, or a business with which he or a member of his immediate family is associated. "Conflict" or "conflict of interest" does not include an action having a de minimis economic impact or which affects to the same degree a class consisting of the

general public or a subclass consisting of an industry, occupation, or other group which includes the public official or public employee, a member or his immediate family, or a business with which he or a member of his immediate family is associated.

- (b) No person shall offer or give to a public official, public employee, or nominee or candidate for public office or a member of his immediate family or a business with which he is associated, anything of monetary value, including a gift, loan, political contribution, reward, or promise of future employment based on the offeror's or donor's understanding that the vote, official action, or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.
- (c) No public official, public employee, or nominee or candidate for public

office shall solicit or accept, anything of monetary value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding of that public official, public employee, or nominee that the vote, official action, or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.

- (d) (1) No public official or public employee shall accept an honorarium.
- (e) (1) No person shall solicit or accept a severance payment or anything of monetary value contingent upon the assumption or acceptance of public office or employment.
- (2) This subsection shall not prohibit:
 - (i) Payments received pursuant to an employment agreement in existence prior to the time a person becomes a candidate

- or is notified by a member of a transition team, a search committee, or a person with appointive power that he is under consideration for public office or makes application for public employment.
- (ii) Receipt of a salary, fees, severance payment, or proceeds resulting from the sale of a person's interest in a corporation, professional corporation, partnership, or other entity resulting from termination or withdrawal therefrom upon the assumption or acceptance of public office or employment.
- (3) Payments made or received pursuant to paragraph (2)(i) and (ii) shall not be based on the agreement, written or otherwise, that the vote or official action of the prospective public official or employee would be influenced thereby.
- (f) No public official or public employee or his spouse or child or any business in which the person or his spouse or child is associated shall enter into any contract valued at \$500 or more with the governmental body with which the public official or public employee is associated or any subcontract valued at \$500 or more with any person who has been awarded a contract with the governmental body with which the public official or public employee is associated, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such a case, the public official or public employee shall not have any supervisory or overall responsibility for the implementation or administration of the contract. Any contract or subcontract made in violation of this subsection shall be voidable by a court of competent jurisdiction if the suit is commenced within 90 days of the making of the contract or subcontract.
- (g) No former public official or public employee shall represent a person, with promised or actual compensation, on any matter before the governmental body with which he has been associated for one year after he leaves that body.
- (h) No person shall use for any commercial purpose information copied from Statements of Financial Interests required by this act or from lists compiled from such statements.
- (i) No former executive-level state employee may for a period of two years from the time that he terminates his state employment be employed by, receive compensation from, assist, or act in a representative capacity for a business or corporation that he actively participates in recruiting to the Commonwealth of Pennsylvania or that he actively participated in inducing to open a new plant, facility, or branch in the Commonwealth or that he actively participated in inducing to expand an existent plant or facility within the Commonwealth, provided that the above prohibition shall be invoked only when the recruitment or inducement is accomplished by a grant or loan of money from the Commonwealth to the business or corporation recruited or induced to expand.
- (j) Where voting conflicts are not otherwise addressed by the Constitution of Pennsylvania or by any law, rule, regulation, order, or ordinance, the following procedure shall be employed. Any public official or public employee, who in the discharge of his official duties, would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, provided that whenever a governing body would be unable to take any action on a matter before it because the number of members of the body required to abstain from voting under the provisions of this section makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if disclosures are made as otherwise provided herein. In the case of a three-member governing body of a political subdivision, where one member has abstained from voting as a result of a conflict of interest, and the remaining two members of the governing body have cast opposing votes, the member who has abstained shall be permitted to vote to break the tie vote if disclosure is made as otherwise provided herein.

Frequently Asked Questions

PURPOSE OF THE ETHICS ACT

Q: What is the purpose of the Ethics Act?

A: The Pennsylvania Public Official and Employee Ethics Act was enacted to strengthen the faith and confidence of the people of the Commonwealth in their government. In promulgating the Ethics Act, the Legislature declared that public office is a public trust, and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. The Legislature further declared that the people have a right to be assured that the financial interests of holders of, or nominees or candidates for, public office do not conflict

with the public trust. The Legislature stated that because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, the Ethics Act is to be liberally construed to promote complete financial disclosure as specified by the Act. See, 65 Pa.C.S. § 1101.1(a).

JURISDICTION

Q: Does the State Ethics Commission have jurisdiction over judicial officers or judicial employees?

A: No. The Supreme Court of Pennsylvania has exclusive jurisdiction over judicial officers and judicial employees. *L.J.S. v. State Ethics*

Commission, 744 A.2d 798 (Pa. Cmwlth. 2000); *Billotte*, Opinion 00-005.

Q: Substantively, what does the Ethics Act include?

A: The Ethics Act includes both requirements and restrictions/prohibitions. The Ethics Act imposes affirmative duties and responsibilities upon public officials, public employees, candidates, and nominees with regard to the filing of financial disclosure statements. Additionally, the Ethics Act restricts/prohibits certain types of conduct that violate the public trust.

Q: If a judge presiding over a case is biased resulting in an unfair trial, may a complaint

against the judge be filed with the State Ethics Commission?

A: No. The State Ethics Commission has no jurisdiction over judges or members of the judicial system, including district justices. Contact the Judicial Conduct Board at 717-234-7911. If the matter involves a district justice, call the President Judge of the Court of Common Pleas in your county.

Q: If a private attorney fails to represent a client properly by failing to keep the client apprised of the status of the case, charging an excessive fee, disclosing confidential information related to the client's representation, or representing another client whose interests are directly adverse, will the State Ethics Commission investigate the attorney?

A: No. The State Ethics Commission has no jurisdiction over the conduct of attorneys engaged in the private practice of law. Contact the Disciplinary Board of the Supreme Court at 215-560-6296 (Philadelphia); 610-270-1896 (Blue Bell); 717-731-7083 (Lemoyne); or 412-565-3173 (Pittsburgh).

Q: Will the State Ethics Commission enforce or interpret the Rules of Professional Conduct as they apply to private attorneys?

A: No. Your inquiry may be directed to the Ethics Committee of the Pennsylvania Bar Association or by calling the PBA Ethics Hotline at 717-238-6715 or 800-932-0311, Ext. 2214.

Q: Does the State Ethics Commission investigate the conduct of professionals such as accountants, architects, barbers/hairdressers, dentists, physicians, nurses, psychologists, optometrists, veterinarians, realtors, and pharmacists?

A: No. Contact the Department of State Bureau of Professional and Occupational Affairs at 800-822-2113.

Q: If someone is fired because of race/gender/age/religion/disability, will the State Ethics Commission investigate the matter?

A: No. The State Ethics Commission has no jurisdiction over termination/discharge matters involving discrimination, prejudice and bias. Such matters are handled by the Pennsylvania Human Relations Commission, which also handles housing questions and workplace questions involving discrimination, prejudice, and bias. Contact the PHRC at 717-787-4410 and a private attorney.

Q: Who investigates violations of the Sunshine Act?

A: Questions and concerns about violations of the Sunshine Act should be directed to the county district attorney.

Q: If local officials discuss and vote upon matters not on the agenda, and refuse to hear public comment, may a complaint against the local officials be filed with the State Ethics Commission?

A: The State Ethics Commission does not

have jurisdiction over matters involving the conduct of government meetings. A private attorney can provide legal assistance in such matters.

Q: Does the State Ethics Commission oversee staff members, correctional officers and administrators at State Correctional Institutions with regard to inmate grievances, applications for pre-release, and other matters related to incarceration?

A: No.

Q: If private property was condemned through eminent domain proceedings, is there any recourse through the State Ethics Commission?

A: A private attorney can provide legal guidance. The State Ethics Commission has no jurisdiction over such property disputes.

Q: Does the State Ethics Commission have jurisdiction to review court actions pertaining to divorce, child/spousal support, and custody involving court appointed custody evaluators, domestic relations conciliators, hearing officers, and judges?

A: No. The State Ethics Commission has no jurisdiction over such matters. A private attorney would be able to provide legal guidance.

ADVISORIES UNDER THE ETHICS ACT

Q: What is an "advisory" issued under the Ethics Act?

A: An advisory answers hypothetical questions under the Ethics Act. An advisory is issued in response to a written request received by the State Ethics Commission. Pursuant to Sections 1107(10) and 1107(11) of the Ethics Act, 65 Pa.C.S. §§ 1107(10), (11), an advisory is issued to the requester based upon the facts that the requester has submitted. In issuing the advisory based upon the facts that the requester has submitted, the Commission does not engage in an independent investigation of the facts, nor does it speculate as to facts that have not been submitted. It is the burden of the requester to truthfully disclose all of the material facts relevant to the inquiry. 65 Pa.C.S. §§ 1107(10), (11). An advisory only affords a defense to the extent the requester has truthfully disclosed all of the material facts.

Advisories take two forms: Advices of Counsel, which are issued by the Chief Counsel for the Commission, and Opinions of the State Ethics Commission, which are issued by the Commission itself.

Q: Will the State Ethics Commission issue advisories as to past conduct?

A: No. It is clear from the statutory provisions that authorize the issuance of advisories that such may only be issued as to conduct that has not yet occurred. See, 65 Pa.C.S. §§ 1107(10), (11). See, *Hofrichter*, Opinion 98-003. Past conduct is reviewed by the Commission through investigative proceedings, where it is alleged that the person whose conduct is in

question has already taken action in violation of the Ethics Act. Investigative proceedings are conducted pursuant to Section 1108 of the Ethics Act, 65 Pa.C.S. § 1108.

Q: How do "advisories" differ from investigative proceedings under the Ethics Act?

A: An advisory is issued in response to a request and answers hypothetical questions under the Ethics Act regarding possible future conduct. An advisory affords certain defenses to the subject of the advisory as long as all of the material facts have been disclosed truthfully and the subject of the advisory has acted in reliance on the advisory.

In contrast, investigative proceedings review past conduct. Investigative proceedings are initiated based upon allegations that a person has already taken action in violation of the Ethics Act. Investigative proceedings are conducted pursuant to Section 1108 of the Ethics Act, 65 Pa.C.S. § 1108. Investigative proceedings are adversarial, with the Commission determining the facts from evidence such as documents and witness testimony.

Q: Are State Ethics Commission advisories subject to appeal?

A: Advices of Chief Counsel may be appealed to the full Commission.

As for Opinions of the Commission, Section 1108(i) of the Ethics Act states that a Commission Opinion or Order that becomes final may be appealed "in accordance with law and general rules." 65 Pa.C.S. § 1108(i). There is case law holding that the State Ethics Commission's advisory Opinions are not subject to appeal because they do not involve an actual controversy between the parties. *Suehr v. State Ethics Commission*, 651 A.2d 648 (Pa. Cmwlth. 1994), *alloc. den.*, 541 Pa. 647, 663 A.2d 697 (1995). However, more recent case law establishes that at least some Opinions may be appealed. *Shaulis v. State Ethics Commission*, 574 Pa. 680, 833 A.2d 123 (2003).

SECTION 1103(A) CONFLICT OF INTEREST

Q: When a public official's/public employee's official action on a matter would result in a financial detriment rather than a private pecuniary benefit for the public official/public employee, a member of his immediate family, or a business with which he or a member of his immediate family is associated, would the requisite elements exist to establish a violation of Section 1103(a) of the Ethics Act?

A: No. A violation of Section 1103(a) of the Ethics Act is established by a use of the authority of the public position or confidential information received by being in the public position for the "private pecuniary benefit" of the public official/public employee himself, a member of his immediate family, or a business with which he or a member of his immediate family is associated. 65 Pa.C.S. § 1102 (definition of "conflict" or "conflict of interest"). Where official action would result in a financial detri-

ment and not a “private pecuniary benefit” falling within the parameters of the Section 1103(a) prohibition, Section 1103(a) of the Ethics Act would not prohibit such official action by the public official/public employee. See, e.g., *Gornish*, Advice 05-604.

Q: What is a conflict of interest under the Ethics Act?

A: Under the Ethics Act, a conflict of interest is the use of the authority of public office/employment or confidential information received by holding such a public position for the private pecuniary benefit of the public official/public employee himself, any member of his immediate family, or a business with which he or a member of his immediate family is associated. 65 Pa.C.S. §§ 1102, 1103(a). The term, “business with which he is associated” is defined as “Any business in which the person or a member of the person’s immediate family is a director, officer, owner, employee or has a financial interest. 65 Pa.C.S. § 1102.

Q: Is the particular position of employment of a public official or immediate family member material to the determination of a conflict as to a matter the employer has before the governmental body of the public official?

A: No. *Rubenstein*, Opinion 01-007.

Q: May a public official with a conflict of interest avoid the conflict by delegating his authority to a subordinate?

A: Unless there is a pre-existing mechanism in place specifying how and by whom the public official’s authority is to be exercised in the event of a conflict, the public official’s delegation of such authority to a subordinate is itself a use of authority of office establishing the first element of a conflict of interest. See, *Confidential Opinion*, 02-004.

Q: When a public official/public employee serves in multiple capacities in which he is subject to the Ethics Act, is he restricted from using information to which he has direct and immediate access in one such position to gain an advantage in performing work for compensation in another?

A: Yes. See, *Riley*, Opinion 00-008.

Q: Absent a statutorily declared incompatibility, are there circumstances under which a public official/public employee would have an inherent conflict under the Ethics Act that would prohibit him or her from holding two public positions simultaneously?

A: Yes.

The General Assembly has the constitutional power to declare by law which offices are incompatible, Pa. Const. Art. 6, §2. However, even when there does not appear to be any statutorily declared incompatibility that would preclude simultaneous service in the positions in question, when simultaneous service places the public official/public employee in a continual state of conflict, such

as when in one position he is accounting to himself in the other position on a continual basis, there is an inherent conflict making it impossible, as a practical matter, for the public official/public employee to function in the conflicting positions without running afoul of Section 1103(a) of the Ethics Act. See, *McCain*, Opinion 02-009.

Q: What does the 1-year revolving door provision of the Ethics Act prohibit?

A: Substantively, the 1-year revolving door provision of the Ethics Act, Section 1103(g), provides that no former public official/public employee may represent a person, with promised or actual compensation, before the governmental body with which he has been associated for one year after he leaves that body. 65 Pa.C.S. § 1103(g). The term “person” is broadly defined to include individuals, various forms of entities, and governmental bodies. 65 Pa.C.S. §1102. The term “represent” is also broadly defined to prohibit acting on behalf of any person in any activity. *Id.*

However, Section 1103(g) only restricts the former public official/public employee with regard to representation before his former governmental body. The former public official/public employee is not restricted as to representation before other agencies or entities.

Q: When a public employee retires from the Commonwealth of Pennsylvania, is the period of applicability of the revolving door provision at Section 1103(g) of the Ethics Act impacted if the retiree returns to work under the 95-day emergency return-to-state-service provision which allows annuitants to work up to 95 days per fiscal year?

A: Yes.

The revolving door provision at Section 1103(g) of the Ethics Act generally applies for one year after the former public official/public employee leaves his public position. 65 Pa.C.S. §1103(g). But when a former public employee who is an annuitant returns to State service under the 95-day emergency provision (see, 71 Pa.C.S. §5706(A.1)), he becomes a “public employee” again. *McGlathery*, Opinion 00-004. Following completion of such service, the one-year period of applicability of Section 1103(g) would begin anew. The restrictions of Section 1103(g) would apply for a full one-year period each time the individual would become a former public employee. *Id.*

Q: Is it permissible under the Ethics Act for public officials and public employees to use data or other information to which they have access in their public positions for private business purposes?

A: Only if the data/information is publicly available AND the public official’s or public employee’s access is no more financially favorable/advantageous than the access available to the general public.

With regard to confidential information, the

Ethics Act expressly prohibits the use of confidential information received as a public official/public employee for a private pecuniary benefit. 65 Pa.C.S. § 1103(a); 65 Pa.C.S. § 1102 (definition of “conflict” or “conflict of interest.”) Recently, in *Herron*, Order 1399, the State Ethics Commission held that the Director of Finance for the City of Erie violated Section 1103(a) of the Ethics Act when he retained confidential information obtained in his public position relative to earned income tax (EIT) collections by the City as well as certain EIT-related work product of City vendors, which information he then used for private business purposes upon leaving City employment.

As for the use of public information, the State Ethics Commission has stated that as a general rule, the Ethics Act was not enacted nor should it be interpreted to preclude a public official/public employee from receiving a benefit otherwise available to him as a citizen. See, *Riley*, Opinion 00-008; *cf.*, *Confidential Opinion*, 03-007; *Woodring*, Opinion 90-001. However, concerns may arise under the Ethics Act if a public official’s or public employee’s access to public information occurs in a financially more favorable or advantageous manner than the access available to others.

In *Riley*, Opinion 00-008, *supra*, the State Ethics Commission determined that a county warrant enforcement bureau administrator who also served as a deputy constable would have a conflict of interest under Section 1103(a) of the Ethics Act with respect to serving county warrants for compensation. As county warrant enforcement bureau administrator, this individual controlled the release of certain relevant information that other constables could not obtain independently, and he also had instant access to all of the county’s outstanding warrants. The Commission concluded that because serving as the county warrant enforcement bureau administrator would give this individual a financial advantage over other constables in serving the county’s warrants, he would have a conflict of interest under Section 1103(a) of the Ethics Act and could not serve the county’s warrants as a deputy constable for compensation.

Q: Can a conflict of interest arise for a public official or public employee regarding a person who, in a different capacity, has authority or control over the public official/public employee?

A: Yes. “Reciprocity of power” may form the basis for a conflict of interest under Section 1103(a) of the Public Official and Employee Ethics Act (“Ethics Act”), 65 Pa.C.S. § 1103(a), as illustrated by the following Opinions of the State Ethics Commission.

In *Confidential Opinion*, 05-004, issued June 17, 2005, the Commission held that a school director would have a conflict of interest pursuant to Section 1103(a) of the Ethics Act in matters pertaining to the appointment/em-

ployment of a middle school principal for the school district when one of the candidates for the position exercised some administrative authority and influence over the school director as to the latter's employment as a teacher in a different school district.

In *Elisco*, Opinion 00-003, the Commission held that where a city council member was an assistant principal and another city council member's spouse was a principal in a certain school district, both council members would have a conflict of interest with regard to voting to invest pension funds through an investment company and its sales representative who was a school director in that school district.

In *Woodring*, Opinion 90-001, where the chairman of a redevelopment authority had applied for a federal rehabilitation grant, and executive director of the redevelopment authority also served as the city community development coordinator with authority to administer the grant program for the city, review applications and determine eligibility, the Commission held, *inter alia*, that the chairman of the redevelopment authority would have a conflict of interest and would be required to abstain as to matters involving such individual if the chairman's grant application would be approved and he would receive benefits under the grant program.

In *Bassi*, Opinion 86-007-R, the Commission held that a county commissioner could not enter into a lease with a municipal authority where one of the members of the authority was a county employee directly responsible to the commissioners of the county, unless the execution of the lease was accomplished after an open and public process with the authority member abstaining from participating in the review and award of the lease and the county commissioner abstaining from participating in any matter relating to the authority member in his position as a county employee.

In each instance of a conflict of interest, the public official/public employee with the conflict is required to abstain from participation and to fully satisfy the disclosure requirements of Section 1103(j) of the Ethics Act.

SECTION 1103(j) VOTING CONFLICT EXCEPTIONS

Q: Under what conditions would a public official with a conflict of interest under the Ethics Act be permitted to vote despite the conflict?

A: There are only two "voting conflict exceptions" recognized by the Ethics Act. They are set forth in the portion of Section 1103(j) that is italicized below:

§ 1103. Restricted activities

(j) Voting conflict.—Where voting conflicts are not otherwise addressed by the Constitution of Pennsylvania or by any law, rule, regulation, order or ordinance, the following procedure shall be employed. Any public official

or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken, *provided that whenever a governing body would be unable to take any action on a matter before it because the number of members of the body required to abstain from voting under the provisions of this section makes the majority or other legally required vote of approval unattainable, then such members shall be permitted to vote if disclosures are made as otherwise provided herein. In the case of a three-member governing body of a political subdivision, where one member has abstained from voting as a result of a conflict of interest and the remaining two members of the governing body have cast opposing votes, the member who has abstained shall be permitted to vote to break the tie vote if disclosure is made as otherwise provided herein.*

65 Pa.C.S. § 1103(j) (Emphasis added).

The exception for breaking a tie vote despite a conflict is available exclusively to members of three-member governing bodies who first abstain and disclose their conflicts as required by Section 1103(j) of the Ethics Act. The only exception that enables a member of another board to vote despite a conflict requires that the following conditions be met: (1) the board must be *unable* to take any action on the matter before it *because the number of members required to abstain from voting under the provisions of the Ethics Act makes the majority or other legally required vote of approval unattainable*; and (2) prior to voting, such members with conflicts under the Ethics Act must disclose their conflicts as required by Section 1103(j). *Pavlovic*, Opinion 02-005.

SECTIONS 1104, 1105 STATEMENTS OF FINANCIAL INTERESTS

Q: If one or more political subdivisions would organize an entity, such as a non-profit corporation, to exercise a basic power of government or perform essential governmental functions, might the entity's board members and employees be considered "public officials" and "public employees" subject to the Ethics Act and Regulations of the State Ethics Commission, and particularly, the requirements for filing Statements of Financial Interests (SFIs)?

A: Yes. When one or more political subdivisions (such as, for example, counties, cities, boroughs, townships, school districts, or vocational schools) organize an entity, the newly organized entity is also a political subdivision as that term is defined in the Ethics Act and Commission Regulations. See, 65 Pa.C.S. §

1102; 51 Pa. Code § 11.1. An appointed official of a political subdivision, such as a board member, is a public official subject to the Ethics Act, Commission Regulations, and SFI filing requirements, unless the statutory exclusion for members of purely advisory boards is applicable. See, *Eiben*, Opinion 04-002; 65 Pa.C.S. § 1102 (definition of "public official"). As for employees, depending upon the authority of their respective positions, employees of a political subdivision might be considered "public employees" subject to the Ethics Act, Commission Regulations, and in particular, SFI filing requirements. *Id.* See, *Snyder*, Opinion 05-007 (non-profit 501(c)(3) foundation organized by school district to promote, enhance, and supplement school district programs); *Eiben*, *supra*, (charter school); *Gent*, Opinion 95-006-R (regional planning commission serving as an area loan organization).

Q: In light of the Commonwealth Court ruling in *C.P.C. v. State Ethics Commission*, 698 A.2d 155 (Pa. Cmwlth. 1997), alloc. den., 550 Pa. 686, 704 A.2d 640 (1997), does a solicitor who is retained by as opposed to being an employee of a political subdivision still have to file Statements of Financial Interests pursuant to the Ethics Act?

A: Yes. Section 1104(a) of the Ethics Act provides as follows:

§ 1104. Statements of Financial Interests required to be filed

(a) Public official or public employee.—Each public official of the Commonwealth shall file a Statement of Financial Interests for the preceding calendar year with the Commission no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Each public employee and public official of the Commonwealth shall file a Statement of Financial Interests for the preceding calendar year with the department, agency, body or bureau in which he is employed or to which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. Any other public employee or public official shall file a Statement of Financial Interests with the governing authority of the political subdivision by which he is employed or within which he is appointed or elected no later than May 1 of each year that he holds such a position and of the year after he leaves such a position. *Persons who are full-time or part-time solicitors for political subdivisions are required to file under this section.*

65 Pa.C.S. § 1104(a) (Emphasis added).

Even before the *C.P.C.* case was decided, the State Ethics Commission recognized that the above requirement for all solicitors to file Statements of Financial Interests was specific and did not hinge upon the status of solicitors, that is, whether they would be within the definition of "public official" or "public

employee." See, *Campbell*, Order No. 1024 at 8. In *Foster*, Opinion 98-002, the State Ethics Commission held that although, per *C.P.C., supra*, the conflict of interest provisions of the Ethics Act do not apply to solicitors who are retained by, as opposed to being employees of, the governmental bodies they serve, all solicitors are required to file Statements of Financial Interests pursuant to Section 4(a), now Section 1104(a), of the Ethics Act, 65 Pa.C.S. § 1104(a). In 1999, in *P.J.S. v. State Ethics Commission*, 555 Pa. 149, 723 A.2d 174 (1999), the Supreme Court of Pennsylvania noted that the clear intent of the requirement that full-time or part-time solicitors file Statements of Financial Interests is to include solicitors who are not employees of the governmental units they serve. Therefore, all solicitors continue to be required to file Statements of Financial Interests providing full financial disclosure as required by Sections 1104 and 1105 of the Ethics Act.

Q: With regard to the filing of a Statement of Financial Interests (SFI) pursuant to the Ethics Act, is there any legal authority allowing a filer to list a work address rather than residence address at Block 2 of the FIS form?

A: Yes. In *Bodo*, Opinion 96-007, the Commission held that an office rather than personal residence address may be listed on the SFI form. The Commission based this decision on Section 1105(b)(1) of the Ethics Act and the Commission Regulations at 51 Pa. Code § 17.1. These Sections require that the filer list his "address" but do not require that a personal residence address be listed.

Q: After a Statement of Financial Interests has been filed pursuant to the Ethics Act, may the filer withdraw it and replace it with another filing in order to correct errors or delete information that exceeds the requirements of the Act?

A: No. Statements of Financial Interests filed pursuant to the Ethics Act are public documents. The Ethics Act provides that all Statements of Financial Interests filed pursuant to the Ethics Act must be made available for public inspection and copying. 65 Pa.C.S. §§ 1104(e), 1107(6). Additionally, the Ethics Act specifically requires that the State Ethics Commission accept and file any information voluntarily supplied in excess of the Act's requirements. 65 Pa.C.S. § 1107(4).

Erroneous forms may be amended through the filing of an additional form, but the original filing remains a publicly available document.

Given that a Statement of Financial Interests, once filed, may not be withdrawn, care should be exercised by the filer as to its contents.

The Ethics Act requires that Statements of Financial Interests be preserved by the recipient body/agency for a period of five years

from the date of receipt. 65 Pa.C.S. § 1107(9).

Q: Has the State Ethics Commission taken any measures to alleviate the difficulties encountered by persons on active duty with the United States military as to compliance with the Statement of Financial Interests filing requirements of the Public Official and Employee Ethics Act ("Ethics Act"), 65 Pa.C.S. § 1101 et seq., during wartime or post-war activities?

A: Yes. At its public meeting on April 4, 2003, the Commission adopted Resolution 03-001, which directs:

- (1) That enforcement of the requirements of the Ethics Act as to the filing of Statements of Financial Interests shall be deferred as to any person on active service with any branch of the United States military during wartime or post-war activities;
- (2) That the Chair in conjunction with the Executive Director of the Commission shall have full discretionary authority to defer such enforcement proceedings under the circumstances set forth in the Resolution based upon the review of such matters; and
- (3) That any deferral granted under the Resolution shall not extend beyond 90 days after the person required to file concludes active military service during wartime or post-war activities.

Q: In a 2005 edition of the Newsletter, it was noted that status as a "public employee" subject to the Ethics Act is determined by an objective test that applies statutory and regulatory definitions and criteria to the powers and duties of the position as established by objective sources, such as the job description, job classification specifications and organizational chart. What is the outcome if the job classification specifications give broader authority than the job description, or vice versa? Also, is it possible for an individual's status to change, that is, for the individual to either become a "public employee" or to cease being a "public employee," solely as the result of changes to the job description or job classification specifications?

A: In response to the first question, it is sufficient to establish status as a public employee subject to the Ethics Act if one of the objective sources defining the powers and duties of the position establishes such status. This conclusion is based upon the fact that the objective test considers what an individual has the **authority** to do in a given position, rather than the variable functions that the individual may actually perform in that position. See, *Phillips v. State Ethics Commission*, 470 A.2d 659 (Pa. Cmwlth. 1984); *Shienvold*, Opinion 04-001; *Shearer*, Opinion 03-011. The Commonwealth Court of Pennsylvania has specifically considered and approved the State Ethics Commission's objective test and

has directed that coverage under the Ethics Act be construed broadly and that exclusions under the Ethics Act be construed narrowly. See, *Phillips, supra*. Because the key factor is the authority ascribed to the position rather than the actual duties performed, it is sufficient if one of the objective sources includes authority establishing status as a "public employee" subject to the Ethics Act. *Cf., Bue-naventura*, Opinion 06-005.

In response to the second question, the State Ethics Commission has noted that amendment of a job description may result in a change in status under the Ethics Act. *Spear*, Opinion 04-011 at 5. The same would be true as to amendment of job classification specifications.

Q: To what extent does Act 134 of 2006 amend the Ethics Act?

A: Act 134 of 2006 was signed into law on November 1, 2006. In addition to promulgating Pennsylvania's new lobbying disclosure law, 65 Pa.C.S. § 1301-A et seq., (hereinafter "Lobbying Disclosure Law"), Act 134 of 2006 includes amendments to the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1101 et seq. These amendments took effect January 1, 2007.

First, the "definitions" section (Section 1102) of the Ethics Act has been amended so that the Ethics Act will use the same definitions for the terms "gift" and "hospitality" that are used in the Lobbying Disclosure Law. The new definitions are as follows:

"Gift." Anything which is received without consideration of equal or greater value.

The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business. The term shall not include hospitality, transportation or lodging.

"Hospitality." Includes all of the following:

- (1) Meals.
- (2) Beverages.
- (3) Recreation and entertainment.

The term shall not include gifts, transportation or lodging.

65 Pa.C.S. § 1303-A.

These new definitions make gifts, hospitality, and transportation/lodging mutually exclusive categories, so that any given item may only be considered to fall within one of the categories. This change will eliminate questions that previously existed under the Ethics Act as to the differences between these categories and whether a single item could be subject to disclosure under more than one category.

An additional amendment modifies the financial reporting threshold for transportation, lodging or hospitality received in connection with public office or employment under Section 1105(b)(7) of the Ethics Act. Previously,

disclosure had to be made if the amount involved exceeded \$650 **per event**. With the amendments, the threshold will no longer be a **per event** threshold, but rather, will be an aggregate amount per year like the gift threshold.

Q: I am a school district employee with duties that include recommending equipment purchases. I have been told that I must file Statements of Financial Interests pursuant to the Ethics Act. For school districts, isn't the filing requirement limited to school directors, superintendents and solicitors?

A: No. Although persons in the aforesaid positions certainly would be subject to the filing requirement—as would assistant superintendents, school business managers and principals—the filing requirement would not be limited to these positions.

The Ethics Act provides that public officials, public employees, candidates, nominees, and full-time or part-time solicitors for political subdivisions must file Statements of Financial Interests. 65 Pa.C.S. § 1104. Status as a “public official” or “public employee” is determined by applying definitions and criteria set forth in the Ethics Act, 65 Pa.C.S. § 1101 et seq., and State Ethics Commission Regulations, 51 Pa. Code § 11.1 et seq.

A public official is a person who is: (1) elected by the public; (2) elected or appointed by a governmental body; or (3) an appointed official in the executive, legislative or judicial branch of the Commonwealth or a political subdivision, such as a school district. *Muscalus*, Opinion 02-007; 65 Pa.C.S. § 1102. Members of purely advisory boards lacking authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the State or a political subdivision are excluded from the definition. 65 Pa.C.S. § 1102.

In order to be a “public employee” subject to the Ethics Act, an individual must: (1) stand in an employer-employee relationship with the Commonwealth or a political subdivision, such as a school district (*Ver Ellen*, Opinion 03-005); and (2) have responsibility for **taking** or **recommending** official, nonministerial action with regard to contracting or procurement; administering or monitoring grants or subsidies; planning or zoning; inspecting, licensing, regulating, or auditing any person; or “any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.” 65 Pa.C.S. § 1102.

Status as a “public employee” subject to the Ethics Act is determined by an objective test. The objective test applies the statutory and regulatory definitions and criteria to the powers and duties of the position as established by objective sources, such as the job description, job classification specifications, and organizational chart. Thus, the

objective test considers what an individual has the authority to do in a given position, rather than the variable functions that the individual may actually perform in that position. See, *Phillips v. State Ethics Commission*, 470 A.2d 659 (Pa. Cmwlth. 1984); *Shienvold*, Opinion 04-001; *Shearer*, Opinion 03-011. The Commonwealth Court of Pennsylvania has specifically considered and approved the State Ethics Commission’s objective test and has directed that coverage under the Ethics Act be construed broadly and that exclusions under the Ethics Act be construed narrowly. See, *Phillips*, *supra*.

Because status as a public employee is determined based upon duties and authority, rather than job titles, and because positions and duties may vary greatly from one school district to another, it is not feasible to create one listing of all school district positions subject to the filing requirement. Rather, the duties and authority of each position must be considered to determine status as a public employee.

An employee with duties including recommending equipment purchases would typically fall within the definition of “public employee” and would be subject to the requirements for filing Statements of Financial Interests.

Q: Is a judge who is a candidate for election to a judicial seat required to file the Statement of Financial Interests form required of candidates under Section 1104(b) of the Ethics Act?

A: Yes. The Commission addressed this question in *Darlington*, Opinion 07-011, issued June 13, 2007. Historically, incumbent judicial candidates had not been required to file the Statement of Financial Interests form pursuant to the Ethics Act. However, in light of the ruling in *In re: Nomination Petitions of James H. Owen*, 922 A.2d 973 (Pa. Cmwlth. 2007), the Commission held that members of the judiciary who are candidates are required to file Statements of Financial Interests in conformance with Section 1104(b) of the Ethics Act, using the form promulgated by the Commission. The Commission made its ruling prospective, such that the application of the financial statement filing requirements to incumbent judges as candidates commenced effective for forms due to be filed July 1, 2007, or thereafter.

Q: With regard to the filing of a Statement of Financial Interests pursuant to Sections 1104 and 1105 of the Ethics Act, would Social Security benefits paid to a filer be considered “income” as that term is defined by the Ethics Act?

A: No. In *Quinn*, Opinion 07-014, the Commission held Social Security survivor benefits paid to a school director as the representative payee for his children upon the death of his spouse would be considered “governmentally mandated payments or benefits” excluded

from the definition of “income” as set forth in Section 1102 of the Ethics Act. The Commission based this decision on the case of *In re: Nomination Petition of Benninghoff*, 578 Pa. 402, 852 A.2d 1182 (2004), wherein the Pennsylvania Supreme Court noted that benefits such as workers’ compensation and unemployment compensation benefits, public assistance and the like would be examples of governmentally mandated benefits.

Q: With regard to the filing of a Statement of Financial Interests (SFI) pursuant to Sections 1104 and 1105 of the Ethics Act, would a filer ordinarily be required to disclose on his/her SFI an inheritance received from a family member?

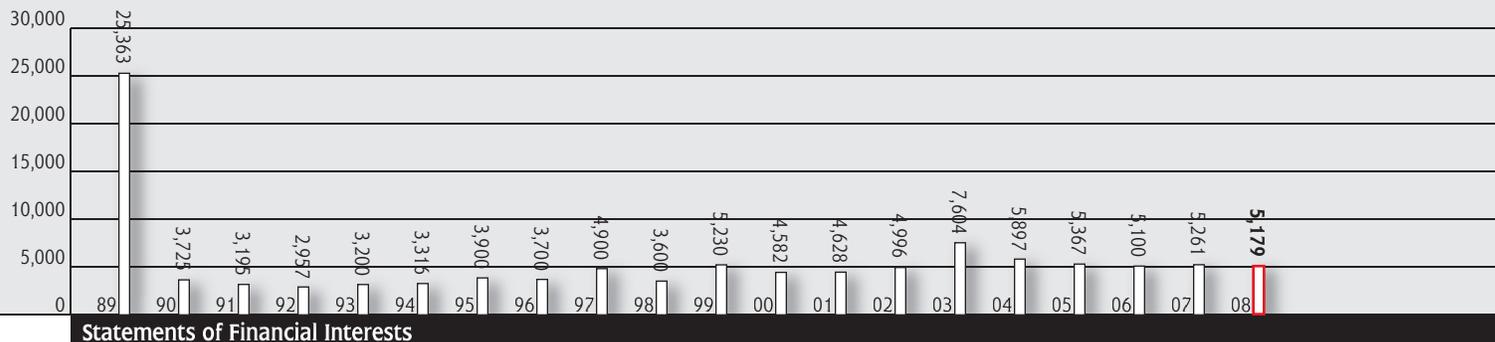
A: No. In *Rouzer*, Opinion 08-001, the Commission noted that Section 1105(b)(6) of the Ethics Act requires the filer to disclose on the SFI form the name and address of the source and the amount of any gift or gifts valued in the aggregate at \$250 or more and the circumstances of each gift. The Commission further noted that the filer is not required to disclose gifts from a family member or friend (with the term “friend” excluding a registered lobbyist or employee of a registered lobbyist) when the circumstances make it clear that the motivation for the action was the personal/family relationship. The Commission concluded that an inheritance received from a family member would ordinarily be considered a gift that would not have to be disclosed on the SFI form as per Section 1105(b)(6) of the Ethics Act. The Commission further concluded that an inheritance received from a family member would not be considered “income” for purposes of financial disclosure under Section 1105(b)(5) of the Ethics Act unless the inheritance would be expressly designated as a payment for, or in recognition of, services.

The Commission parenthetically noted that regardless of whether a given inheritance would itself be subject to disclosure on the SFI form, related information might need to be disclosed, such as, for example, a financial interest in a business received through an inheritance, or investment income received from the investment of an inheritance.

REMEDIAL MEASURES

Q: If a public official/public employee violates the Ethics Act, can he “undo” the violation through remedial measures?

A: No. The Commission has held that “remedial measures,” such as to rescind a prior vote, do not “undo” or negate a violation if such has occurred (See, *Dovidio*, Order 1202; *Peters*, Order 1128; *Hofrichter*, Opinion No. 98-003-R), but may be considered as mitigating circumstances when the Commission considers the imposition of an appropriate penalty or referral for criminal prosecution (See, *Dovidio*, *supra*); see also, *Keller v. State Ethics Commission*, 860 A.2d 659 (Pa. Cmwlth. 2004).



Financial Disclosure

Section 4 of the Ethics Act requires that public officials, public employees, and candidates for public office file Statements of Financial Interests. Section 5 of the Act describes the information to be reported.

In preparation for the May 1, 2009 filing for calendar year 2008, the annual mailing of the Statements of Financial Interests was completed the first week in January 2009. A total of 241,000 forms were mailed to 7,468 state, county, and local government entities for distribution to public officials, public employees, and candidates required to comply with the State Ethics Act. Individuals who file with the State Ethics Commission are also required to file a Statement of Financial Interests with their respective governmental bodies. Local public officials and public employees file only with their county or local governmental body, and state employees file Statements of Financial Interests with their respective agencies.

Included with the mailings of the Statement of Financial Interests form was an instructional booklet that delineates and explains all of the filing requirements including who needs to file, when and where to file and how to complete the form.

Nearly 5,200 individuals filed Statements of Financial Interests with the State Ethics Commission for calendar year 2007 (filing year 2008). Of these filings, 626 were candidates for public office; 1,596 were constables and deputy constables; the remaining filings were by public officials such as members of the legislature, cabinet members, deputy secretaries, members of state boards and commissions, and other individuals who filed voluntarily. Since Statements of Financial Interests filed with the State Ethics Commission are public documents, as they are received they are scanned into the Commission's

document management system and are subsequently posted to the Commission's web site in the e-Library.

CIVIL CITATIONS

Pursuant to Section 7(5) of the Public Official and Employee Ethics Law, the State Ethics Commission, upon discovery that an individual who is required to file a Statement of Financial Interests in accordance with the law has either failed to file said Statement or has filed a Statement that is deficient, shall notify the individual of the failure or deficiency.

Information regarding deficient and delinquent Statements of Financial Interests is provided to the Commission via letters received from the public as well as Compliance Reviews performed by staff members of the Commission's Investigative and Administrative Divisions. The Compliance Reviews are randomly conducted throughout the Commonwealth.

The individuals in question receive a notice letter from the Commission which advises that the failure to file or deficiency must be corrected within 20 days.

If such individual fails to correct the failure or deficiency, the Commission, upon a majority vote of its members, may levy a civil fine of not more than \$25 per day up to a maximum of \$250 and order the filing of the Statements of Financial Interests.

Upon the failure of an individual to comply with the notice letters, a Rule to Show Cause is issued requiring the individual to file an answer indicating the reasons, if any, that said filing was not made or deficiency corrected. Individuals may request a hearing on such matters.

After the conclusion of the process, the Commission will issue an order deciding the matter. Enforcement of the order, if necessary, takes place through an original jurisdiction proceeding in Com-

monwealth Court.

During calendar year 2008, the Commission's Investigative Division conducted and acted upon a total of 33 Statement of Financial Interests Compliance Reviews throughout the Commonwealth. These consisted of two cities, fifteen townships, six boroughs, one authority, four county offices, and five school districts. In addition, in conjunction with the Investigative Division, the Commission's Administrative Division also conducted a series of in-house Compliance Reviews of Statements of Financial Interests. These reviews consisted of 22 school districts, four intermediate units, four vocational technical schools, and 12 charter schools. These reviews resulted in the identification of 226 delinquent filers (individuals who were required to file but failed to do so), and 638 deficient filers (individuals who filed incomplete or deficient forms). As such, 889 civil penalty notices were issued resulting in 898 filers.

Other in-house Compliance Reviews were conducted by the Administrative Division on Statements of Financial Interests filed annually with the State Ethics Commission. During 2008, these in-house Compliance Reviews were performed on Statements of Financial Interests filed by members of the House of Representatives and the Senate, and public officials such as the Governor, Treasurer, Attorney General, and Auditor General along with their respective cabinet members. The reviews also included other public officials such as members of the 244 state Boards and Commissions, and public officials within the 27 various agencies under the Governor's jurisdiction.

In addition to the foregoing, a Compliance Review was conducted with regards to constables and deputy constables. In 2008 (for calendar year 2007), however, very few delinquent filers were identi-

fied. The reason for this increase in overall compliance is the result of mailing blank Statement of Financial Interests forms to a listing of constables and deputy constables received from the Pennsylvania Commission on Crime and Delinquency (PCCD). This concerted effort resulted in the aforementioned 1,596 constables/ deputy constables filing Statements of Financial Interests.

All of the aforementioned compliance activities along with information obtained from other Investigative and Administrative Compliance Reviews, as well as from members of the public, resulted in the issuance of 1,783 notices of civil penalties for delinquent and/or deficient filers.

Of these notices, 1,540 were first notice letters and 243 were second/final notice letters. In summary, there were approximately 1,521 delinquent filers and 691 deficient filers identified via Compliance Reviews. As of year-end 2008, 1,517 individuals have filed as a result of compliance efforts, which represents a near 100 percent compliance rate.

CIVIL PENALTY ORDERS—2008

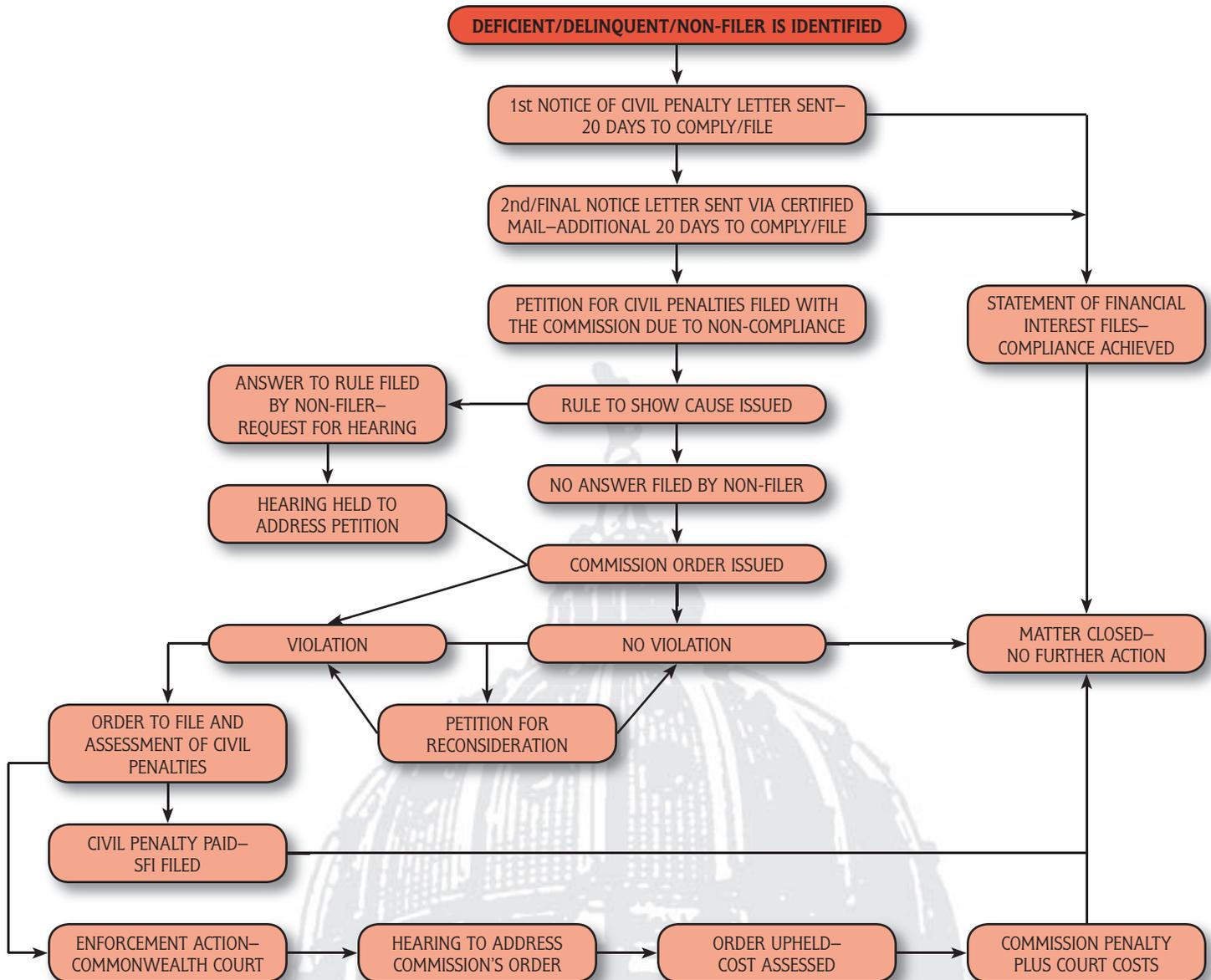
Pursuant to Section 1109(f) of the Ethics Act, 65 Pa.C.S. §1109(f), the State Ethics Commission has the authority to levy civil penalties upon persons who fail to timely file Statements of Financial Interests as required by the Ethics Act, or who file

Statements of Financial Interests which are deficient under the Ethics Act. Civil Penalty Orders are numbered sequentially, and bear the designation “-S” to distinguish them from other Orders.

In 2008, nine Civil Penalty (S) Orders were issued by the State Ethics Commission. All of the Orders were directed to various State and Local Public Officials. A total of \$3,700 in fines was levied by the Commission as a result of these orders.

Note: In 2008, the Pennsylvania State Ethics Commission filed Petitions for Enforcement of numerous of the above Civil Penalty Orders. See, “Litigation,” *infra* page 24.

Notice of Non-Compliance Flow Chart





COMMONWEALTH OF PENNSYLVANIA
STATE ETHICS COMMISSION

P.O. BOX 11470
ROOM 309 FINANCE BUILDING
HARRISBURG, PA 17108-1470
(717) 783-1610 or Toll Free 1-800-932-0936
www.ethics.state.pa.us



STATE ETHICS COMMISSION STATEMENT OF FINANCIAL INTERESTS

DO NOT USE FORMS PRINTED PRIOR TO YEAR 2009 (Rev. 01/09)

**THIS FORM IS CONSIDERED DEFICIENT IF ANY BLOCK IS NOT COMPLETED OR
SIGNATURE IS MISSING**

SIGN THE FORM USING THE CURRENT DATE - DO NOT BACK DATE SIGNATURE

THIS FORM MUST BE COMPLETED AND FILED BY:

- A Candidates** - Persons seeking elected state, county and local public offices, including first-time candidates, incumbents seeking re-election, and write-in candidates who do not resign nomination/election within 30 days of official certification of same.
- B Nominees** - Persons nominated for public office subject to confirmation.
- C Public Officials** - Persons serving as current state/county/local public officials (elected or appointed). The term includes persons serving as alternates/designees. The term excludes members of purely advisory boards.
- D Public Employees** - Individuals employed by the Commonwealth or a political subdivision who are responsible for taking or recommending official action of a non-ministerial nature with regard to: contracting or procurement; administering or monitoring grants or subsidies; planning or zoning; inspecting, licensing, regulating or auditing any person; or any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person. The term does not include individuals whose activities are limited to teaching.
- A former public official or former public employee must file the year after termination of service with the governmental body.**
- E Solicitors** - Persons elected or appointed to the office of solicitor for a political subdivision(s).

IMPORTANT: Please read all instructions carefully prior to completion of form. Also, **review the filing chart (Page 4) for proper filing location.** Any questions may be directed to the State Ethics Commission at (717) 783-1610 or Toll Free at 1-800-932-0936.

This Form is required to be filed pursuant to the provisions of the Public Official and Employee Ethics Act, 65 Pa C.S. §1101 *et seq.*

This form is considered deficient if any block is not completed, or signature is missing.

STATEMENT OF FINANCIAL INTERESTS INSTRUCTIONS

Please print neatly in capital letters. If you require more space than has been provided, please attach an 8 1/2" x 11" piece of paper to the form. Items 01 through 06 are for current information.

- Block 1** Please fill in your last name, first name, middle initial and suffix (if applicable) in the boxes provided. Public office candidates should use the exact name used on official nomination petition or papers.
- Block 2** Listing a business/governmental address and daytime telephone number is sufficient.
- Block 3** Please check the block or blocks to indicate your status. See definitions on page 1. If you are correcting a prior filing, please check the block designating an amended form.
- Block 4** Please check the appropriate block (seeking, holding, held) for each position you list in the blocks below. List all of the public position(s) which you are seeking, currently hold or have held in the prior calendar year. Please be sure to include job titles and official titles such as "member" or "commissioner" (even if serving as alternate/designee).
- Block 5** Please list all political subdivision(s)/agency(ies) as to which you either: (1) are presently seeking a public position or public office as a candidate (incumbent or non-incumbent) or nominee; (2) presently hold a public position or public office; and/or (3) previously held a public position or public office during all or any portion of the calendar year listed in Block 7. (The term "political subdivision" includes a county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned.)
- Block 6** Please list your current occupation or profession. This information may have already been stated in block 4.
- Block 7** List the prior calendar year for which you are filing this form. All information provided in blocks 08 through 15 pertain to the calendar year designated in block 07.
- Block 8** **REAL ESTATE INTERESTS:** This block contains the address of any property which was involved in transactions (leasing, purchasing, or condemnation proceedings of real estate interests) with the Commonwealth or any other governmental body within the Commonwealth. If you have no direct or indirect interests in such a property, then check "NONE."
- Block 9** **CREDITORS:** This block contains the name and address of any creditor and the interest rate of any debt over \$6,500 regardless of whether such debt is held solely by you or jointly by you and any other individual, including your spouse, where each obligor is fully responsible for the obligation. A joint obligation with other persons, for which the filer is responsible only for a proportional share that is less than the reporting threshold, is not required to be reported. Do not report a mortgage or equity loan on your home (or secondary home), or loans or credit between you and your spouse, child, parent or sibling. Car loans, credit cards, personal loans and lines of credit must be listed on the form if the balance owed was in excess of \$6,500 at anytime during the calendar year. If you do not have any reportable debt, then check "NONE."
- Block 10** **DIRECT OR INDIRECT SOURCES OF INCOME:** List the name and address of each source of \$1,300 or more of gross income regardless of whether such income is received solely by you or jointly by you and another individual such as a spouse. "Income" includes any money or thing of value received or to be received as a claim on future services or in recognition of services rendered in the past, whether in the form of a payment, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, reward, severance payment, proceeds from the sale of a financial interest in a corporation, professional corporation, partnership or other entity resulting from termination/withdrawal therefrom upon assumption of public office or employment or any other form of recompense or combination thereof. The term refers to gross income; it includes prize winnings and tax-exempt income but does not include gifts, governmentally mandated payments or benefits, retirement, pension or annuity payments funded totally by contributions of the public official or employee, or miscellaneous, incidental income of minor dependent children. If you did not receive ANY reportable income, check "NONE."
- Block 11** **GIFTS:** For each source of gift(s) valued at \$250 or more in the aggregate, list the following information: the name and address of the source; the circumstances, including a description, of each gift; and the value of the gift(s). Do not report political contributions otherwise reportable as required by law, gift(s) from friends or family members (although the term "friend" does not include a registered lobbyist or employee of a registered lobbyist), or any commercially reasonable loan made in the ordinary course of business. If you did not receive any reportable gift, then check "NONE."
- Block 12** **TRANSPORTATION, LODGING OR HOSPITALITY EXPENSES: NOTE: Per amendments to the Ethics Act effective 1/1/07, the threshold for disclosure in Block 12 has changed. For forms due to be filed in 2007 or thereafter, the following instructions apply.** List the name and address of each source and the amount of each payment/reimbursement by the source for transportation, lodging or hospitality that you received in connection with your public position if the aggregate amount of such payments/reimbursements by the source exceeds \$650 for the calendar year for which you are reporting. Do not report reimbursements made by a governmental body or by an organization/association of public officials/employees of political subdivisions that you serve in an official capacity. If you do not have any reportable expense payments/reimbursements, then check "NONE."
- Block 13** **OFFICE, DIRECTORSHIP OR EMPLOYMENT IN ANY BUSINESS ENTITY:** List any office that you hold (for example, President, Vice President, Secretary, Treasurer), any directorship that you hold (through service on a governing board such as a board of directors), and any employment that you have in any capacity whatsoever, as to any business entity. This block focuses solely on your status as an officer, director or employee, regardless of income.
- Block 14** **FINANCIAL INTERESTS:** List the name and address and interest held in any business for profit of which you own more than 5% of the equity or more than 5% of the assets of economic interest in indebtedness. If you do not have any such financial interest to report, then check "NONE."
- Block 15** **TRANSFERRED BUSINESS INTERESTS:** List the name and address of any business as to which you transferred a financial interest (as defined in Item 14) to a member of your immediate family (parent, spouse, child, brother or sister), as well as the interest held, relationship to the individual, and date of transfer. If you did not transfer any such business interest, then check "NONE."

Please sign the form and enter the current date. Do not back date your signature.

(2)

SEC-1 (Rev. 01/09)

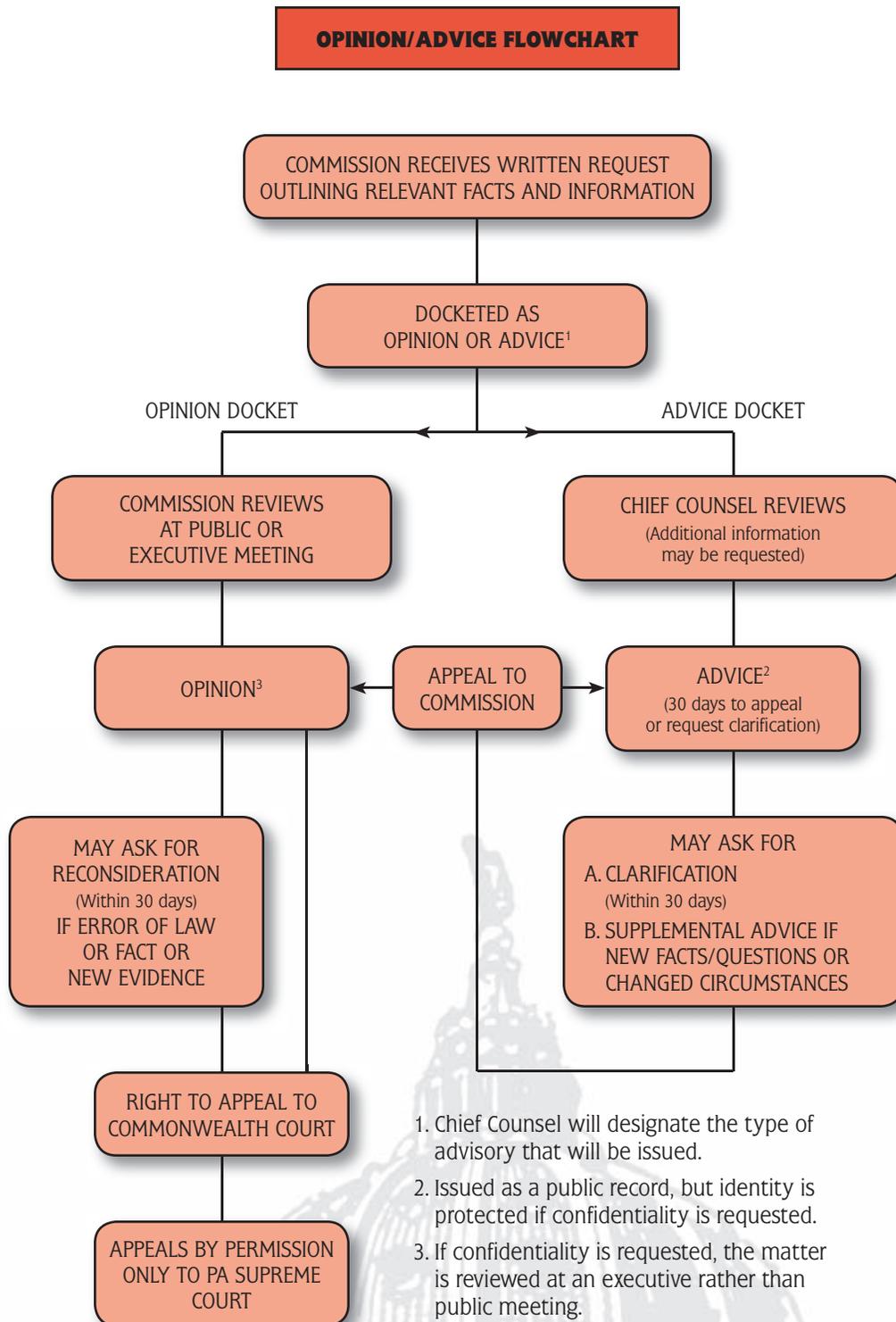
LOCAL OFFICE CANDIDATES AND LOCAL ELECTED OFFICIALS: LIST THE COUNTY WHERE YOU FILE(D) YOUR NOMINATION PETITIONS, NOMINATION PAPERS OR NOMINATION CERTIFICATE.

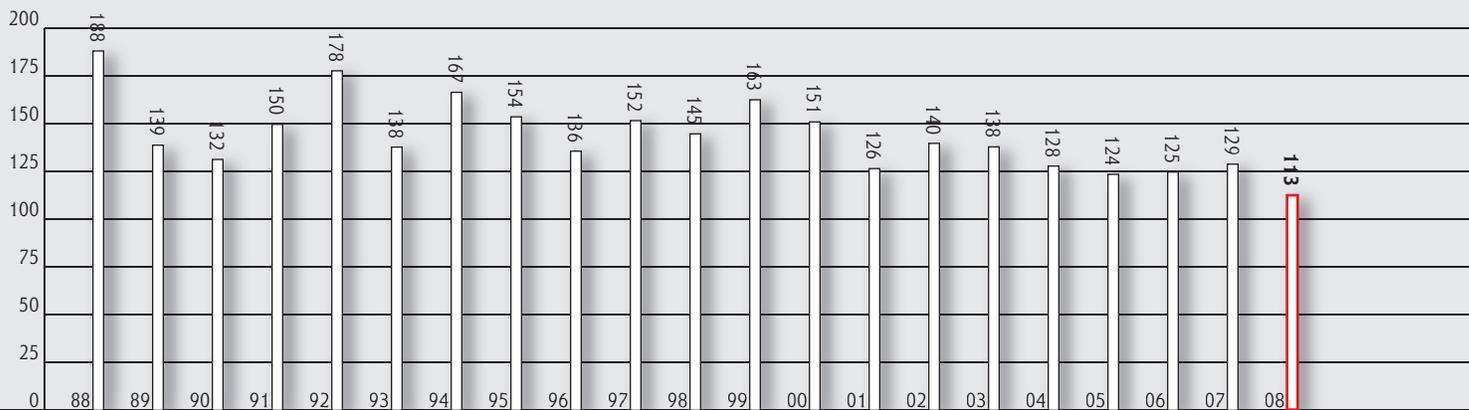
STATEWIDE, STATE SENATE AND HOUSE CANDIDATES, PUBLIC EMPLOYEES, APPOINTED OFFICIALS AND GUBERNATORIAL NOMINEES: LIST THE COUNTY WHERE YOU RESIDE.

WHO MUST FILE	ORIGINAL WHITE COPY	YELLOW COPY	WHEN TO FILE
A. STATUS BLOCK A - CANDIDATES			
Statewide State Senate State House Supreme Court Superior Court Common Pleas Court Traffic Court Municipal Court Commonwealth Court	State Ethics Commission P.O. Box 11470 Room 309 Finance Building Harrisburg, PA 17108-1470	Append to nomination petition when filed with the State Bureau of Elections 210 North Office Building Harrisburg, PA 17120-0029	ON OR BEFORE THE LAST DAY FOR FILING A PETITION TO APPEAR ON THE BALLOT FOR ELECTION
Constables / Deputy Constables	State Ethics Commission	Append to nomination petition when filed with County Board of Elections	
Countywide City Borough Township Municipality (home rule charter)	File with the Clerk/ Secretary in the Municipality in which you are a candidate		
Magisterial District Judges	File with the County in the district in which you are a candidate		
School Director	File in the School District where you are a candidate		
Announced Write-in	For state office file with State Ethics Commission . For county or local office file with governing authority of political subdivision.	This copy is not required to be filed.	Within 30 days of official certification of having been nominated or elected unless such person resigns.
Unannounced Write-in Winners of Nominations			
Unannounced Write-in Winners of Elections			
B. STATUS BLOCK B - NOMINEE			
State Level	State Ethics Commission	File with the Official or Body vested with the power of confirmation	10 days before official or body approved or rejects the nomination.
County/Local Level	Governing authority for political subdivision		
C. STATUS BLOCK C - PUBLIC OFFICIAL			
Commonwealth Public Officials such as: Members of Boards and Commissions (including alternates/designees); Heads of executive, legislative and independent agencies, boards and commissions; and persons appointed to positions designated as offices.	State Ethics Commission P.O. Box 11470 Room 309 Finance Building Harrisburg, PA 17108-1470	File with each Agency, Board, Commission, Department, or Government Body in which employed or appointed to. (make additional copies if needed)	FILE NO LATER THAN MAY 1 OF EACH YEAR A POSITION IS HELD AND OF THE YEAR AFTER LEAVING SUCH A POSITION.
State House Member State Senate Member		File with the House Chief Clerk or Senate Secretary (whichever applies)	
Local Public Officials serving in/as: Counties; Boroughs; Townships; Home Rule Municipalities; Municipal Authorities; School Districts Solicitors (Incumbent Judges and District Justices who are not candidates do not file)	File only with the governing authority of the respective local political subdivision	Yellow copy is not required to be filed (unless serving in multiple capacities, then file with each entity as required)	
Constables / Deputy Constables	State Ethics Commission		
D. STATUS BLOCK D - PUBLIC EMPLOYEE			
Commonwealth PUBLIC EMPLOYEE (Executive, Leg. & Independent Agencies)	File only with your Employer	This copy is not required to be filed	
County City Borough Township Municipal (home rule) Municipal Authority School District	File only with your Political Subdivision		

Opinions and Advices

The following chart depicts the opinion/Advice process:





Advices/Opinion Statistics 1988–2008 (Advices/Opinions issued by the Ethics Commission under the Ethics Act)

OPINIONS AND ADVICES

From January 1, 2008 through December 31, 2008, the State Ethics Commission issued a total of 113 advisories under the Public Official and Employee Ethics Act, consisting of 8 Opinions and 105 Advices of Counsel.

Opinions and Advices are public records. However, a requestor may require that the Opinion or Advice contain such deletions and changes as shall be necessary to protect the identity of the person involved.

Pursuant to the Ethics Act, the Commission is required to provide specified libraries throughout the Commonwealth with copies of advices of counsel, rulings, and orders that are a matter of public record. The Commission provides these copies to the libraries on a quarterly basis. Paper copies of opinions and advices are available at cost from the Commission.*

Sections 1107(10)-(11) direct the Commission to provide an Opinion or Advice to any person about his or her duties under the Act. An Opinion or Advice may also be provided to the employer or appointing authority of such person. Opinions and Advices provide a complete defense against enforcement action initiated by the Commission. An Advice of Counsel is evidence of good faith conduct in any other civil or criminal proceeding if the requester truthfully disclosed all material facts. An Opinion is an absolute defense to any criminal or civil penalty provided all material facts are truthfully disclosed and the requester acts in good faith on the Opinion. The following is a summary of Opinions issued by the Commission during 2008.

Opinion 08-001 (Rouzer)

Decided: January 29, 2008

Issued: February 5, 2008

A school director is a “public official” subject to the Ethics Act, including the requirements for filing Statements of Financial Interests. An inheritance received from a family member would ordinarily be considered a gift that would not have to be disclosed on the Statement of Financial Interests as per Section 1105(b)(6) of the Ethics Act. An inheritance received from a family member would not be considered “income” for purposes of financial disclosure under the Ethics Act unless the inheritance would be expressly designated as a payment for, or in recognition of, services. Based upon the submitted facts, the school director would not be required to disclose an inheritance from his father on his Statement of Financial Interests conditioned upon the assumption that the inheritance was not expressly designated as a payment for, or in recognition of, services.

Opinion 08-002 (Boback)

Decided: January 29, 2008

Issued: February 5, 2008

A Member of the Pennsylvania House of Representatives is a public official subject to the provisions of the Ethics Act, including the requirements for filing Statements of Financial Interests. A Member of the Pennsylvania House of Representatives would not be required to disclose as a gift on her Statement of Financial Interests the provision by a county, municipality, or nonprofit organization of a room on a part-time basis, at no charge, for the Member’s use as a satellite/part-time legislative district office, subject to the conditions that: (1) the provision of such

part-time legislative district office(s) would not cause the Member to exceed any applicable limit to the number of legislative district offices which the Member would be entitled to maintain at Commonwealth expense; and (2) the Member’s use of such part-time office space would be strictly limited to use as a legislative district office and would not extend to non-governmental activities.

Opinion 08-003 (Corcoran)

Decided: January 29, 2008

Issued: February 5, 2008

In this appeal from an Advice of Counsel, the Commission held that a School Director is a public official subject to the provisions of the Ethics Act. A County Coroner is also a public official subject to the provisions of the Ethics Act. Simultaneous service in the positions of County Coroner and School Director would be contrary to Section 1103(a) of the Ethics Act to the extent the public official serving in such positions would receive, in either position, any compensation or other financial gain or pecuniary benefit that would not fall within the “de minimis” exclusion to the definition of “conflict” or “conflict of interest” as set forth in the Ethics Act. The appeal was denied. Advice of Counsel, 07-604 was affirmed as modified. The Opinion was made effective February 6, 2008, as to Appellant Corcoran.

Opinion 08-004 (Desmond)

Decided: July 21, 2008

Issued: August 5, 2008

As the former Deputy Secretary of the Office of Energy and Technology Deployment (“OETD”) within the Pennsylvania Department of Environmental Protection (“DEP”), the requester would be considered a former “public official/public employee”

* Opinions and advices are also available at the Commission’s “e-Library,” which may be accessed via the Commission’s Web site at www.ethics.state.pa.us.

and a former “executive-level State employee” subject to the restrictions of Section 1103(g) and Section 1103(i) of the Ethics Act.

Based upon the submitted facts that: (1) OETD manages several grant initiatives, including the Pennsylvania Energy Development Authority (“PEDA”); (2) PEDA is a public financing agency with a separate and independent Board of Directors; (3) members of OETD staff serve as administrators for PEDA and also review and make recommendations on grants to the PEDA Board of Directors; (4) the PEDA Board of Directors makes decisions on grant awards; and (5) during the time that the requester served as the Deputy Secretary of OETD, a company named “Axion Power International” (“Axion”) was the recipient of a grant in the amount of \$750,000 from PEDA, the requester was advised that the elements of a violation of Section 1103(a) of the Ethics Act would not be established as a result of the requester prospectively entering into a business arrangement with Axion subject to the conditions that, while serving as Deputy Secretary of OETD: (1) the requester did not use the authority of his public position in any matter pertaining to Axion at a time when he had an actual or reasonable expectation that he would enter into a business arrangement with Axion or would otherwise receive a private pecuniary benefit relating to Axion; and (2) the requester did not use confidential information received as a result of being in his public position in furtherance of securing a business arrangement or other private pecuniary benefit relating to Axion.

Under Section 1103(i) of the Ethics Act, the requester would not be prohibited from being employed by, receiving compensation from, assisting, or acting in a representative capacity for Axion subject to the conditions that he did not actively participate in recruiting Axion to Pennsylvania, and that he did not actively participate in inducing Axion to open or expand a plant, facility, or branch in Pennsylvania through a grant or loan of money or a promise of a grant or loan of money from the Commonwealth of Pennsylvania to Axion.

The governmental body with which the requester is deemed to have been associated upon termination of Commonwealth service is DEP in its entirety including, but not limited to, OETD. For the first year following termination of the requester’s service with DEP, Section 1103(g) of

the Ethics Act would apply and restrict “representation” of “persons” before DEP.

Opinion 08-005 (Corey)

Decided: July 21, 2008

Issued: August 5, 2008

A Member of the Pennsylvania House of Representatives (“Member”) is a public official subject to the provisions of the Ethics Act, including the requirements for filing Statements of Financial Interests. Under the submitted facts that: (1) the minor child of the Member is currently undergoing hospitalization and treatment for a serious medical condition; (2) friends of the Member wish to establish a trust in the Member’s child’s name in order to assist with the medical and incidental expenses associated with the child’s hospitalization and treatment; (3) incidental expenses would include reimbursement for mileage expenses and food and lodging for family members to be present for and assist with treatments at distant medical facilities; (4) the Member’s child would be the named beneficiary of the trust; (5) the trustees would be one employee of the bank that will hold the rest of the trust and another individual who is a friend of the Member; (6) it is contemplated that once the Member’s child’s hospitalization and treatment has been successful, any funds remaining in the trust would be donated to a local hospital or other charitable interest; and (7) the trust would not be a blind trust, but rather, the Member and his family would be aware of the names of the donors, the Member was advised as follows.

Contributions to the minor child’s trust would not be subject to disclosure by the Member. Disbursements from the trust to the Member as well as disbursements from the trust to pay the medical expenses of the Member’s minor child and other expenses for which the Member would have legal responsibility would generally constitute gifts to the Member. The source of such gifts would be the trust itself, not the donors who contributed to the trust. If the disbursements from the trust that would be provided to the Member or that would be used to pay expenses for which the Member could have legal responsibility would be valued in the aggregate at \$250 or more for a given calendar year, then the Member would be required to disclose such gifts on his Statement(s) of Financial Interests, identifying the trust itself as the source of the gift(s) and listing the address of the

depository institution holding the rest of the trust and the amount of the gift(s) received in the calendar year. The date of a given disbursement would be the date that particular gift would be deemed to have been received by the Member. Disbursements from the trust for meals, beverages, transportation, or lodging expenses would not constitute “gifts” or “transportation and lodging or hospitality received in connection with public office or employment.” Disbursements from the trust to other family members to reimburse payments made for expenses for which the Member has had legal responsibility would constitute reportable gifts to the Member. This advisory Opinion did not address potential conflicts of interest in matters involving donors/donations to the trust.

Opinion 08-006 (Davison)

Decided: December 4, 2008

Issued: December 12, 2008

In this appeal from Advice of Counsel 08-566, the Commission held that Section 1103(a) of the Ethics Act would allow a public official/public employee to participate in negotiations for a collective bargaining agreement covering or impacting an immediate family member subject to the condition that the “class/subclass exclusion” contained within the Ethics Act’s definition of “conflict” or “conflict of interest” would be applicable. The Commission overruled *Van Rensler*, Opinion 90-017, to the limited extent it was inconsistent with the holding in this matter.

Under submitted facts that the subject school director’s spouse was employed by the school district as a secretary, the collective bargaining agreement reached with the teachers’ bargaining unit would form the basis for negotiations of the benefit package or overall economic package for other school district employee collective bargaining units, and the subject’s spouse, though not a member of the bargaining unit for the secretaries, would receive the wages and benefits negotiated by such bargaining unit, the Commission determined that Section 1103(a) of the Ethics Act would not prohibit the school director from serving as a negotiator for the school district on the teachers’ wage and benefit package, subject to the condition that the class/subclass exclusion would be applicable as to any impact upon his spouse. The appeal was granted, and Advice of Counsel 08-566 was reversed.

Opinion 08-007 (Castor)**Decided: December 4, 2008****Issued: December 12, 2008**

Subject to the statutory exclusions to the definition of “conflict” or “conflict of interest” as set forth in the Ethics Act, pursuant to Section 1103(a) of the Ethics Act, a county commissioner would have a conflict of interest in matters that would financially impact him, the law firm of which he is a partner, or the law firm’s client(s). Under submitted facts that the law firm represents a client in a lawsuit against a company that is under contract with the county for collection of delinquent taxes, and the client has never sought to contract with the county to collect delinquent taxes and will not seek to do so in the future, the Commission determined that the client’s involvement

in such litigation would not in and of itself form the basis for a conflict of interest for the county commissioner in matters pertaining to arrangements for the collection of the county’s delinquent taxes, or in particular, the county’s contract with the aforesaid company.

Opinion 08-008 (Fox)**Decided: December 4, 2008****Issued: December 12, 2008**

Section 1103(a) of the Ethics Act would not prohibit a school director from participating in the contract negotiations with a bargaining unit of which his spouse either is or is not a member, subject to the condition that the class/subclass exclusion would be applicable as to any impact upon his spouse. Section 1103(a) of the Ethics Act would not restrict a school

director from receiving confidential information regarding the health insurance coverage package offered to his spouse’s collective bargaining unit during the negotiations process, as long as the class/subclass exclusion would be applicable as to any impact upon his spouse. Where the class/subclass exclusion initially would apply to permit a public official/public employee to participate in negotiations for a collective bargaining agreement covering or impacting an immediate family member, the public official/public employee would have to remain cognizant as to whether developments during the negotiating process would render the class/subclass exclusion no longer applicable, such that the public official/public employee would be required to abstain from further participation in the negotiations.

Litigation

LEGAL DIVISION

Edward G. Rendell, Governor of Pennsylvania v. Pennsylvania State Ethics Commission, and Edward G. Rendell, Governor of Pennsylvania v. Pennsylvania State Ethics Commission, Nos. 268 and 269 M.D. 2007; 44 and 45 MAL 2008; 79, 80, 82, and 83 MAP 2008 (consolidated):

A. *Commonwealth Court*: These cases were initiated by Petitions for Review filed May 31, 2007, in the Commonwealth Court of Pennsylvania, as to Commission advisory Opinions pertaining to Pennsylvania Secretary of Environmental Protection Kathleen McGinty and Pennsylvania Secretary of Conservation and Natural Resources Michael DiBerardinis. The Petitions for Review combined appeals from the Commission Opinions with declaratory judgment actions. On June 4, 2007, Petitioners filed Applications for consolidation and for a stay pending judicial review. On June 5, 2007, the Commonwealth Court consolidated the two cases. On June 18, 2007, the Commission filed an Answer to Petitioners’ Application for a Stay. Subsequently, the parties reached an amicable settlement as to Petitioners’ Application for a Stay.

On June 29, 2007, the Commission filed Motions to Quash the appeal portions of the Petitions for Review and Preliminary Objections to the declaratory judgment portions of the Petitions for Review.

Petitioners filed answers/responses to the Commission’s Motions to Quash and Preliminary Objections. Briefs were filed.

Argument was held October 31, 2007.

By Order dated December 19, 2007, Commonwealth Court granted the Commission’s Motions to Quash and sustained in part and overruled in part the Commission’s Preliminary Objections. The Court directed that the case would move forward on the following two issues:

- (1) Whether non-profit organizations may be included by the definition of “business” in Section 1102 of the Public Official and Employee Ethics Act (“Ethics Act”), 65 Pa.C.S. § 1102; and
- (2) Whether, when a department head is affected by a conflict of interest, the Ethics Act requires the Governor to appoint a person outside that head’s chain of command in order for the conflict to be avoided.

The Court directed the Commission to file Answers to the Petitions for Review, and the Commission did so.

Petitioner Rendell and the Commission filed cross Applications for Summary Relief. The Commission filed an Answer in Opposition to Petitioner Rendell’s Application for Summary Relief. Both parties filed briefs/memoranda in support of their respective positions. Argument was held before the Commonwealth Court *en banc* on April 9, 2008.

On October 3, 2008, Commonwealth Court issued a 5–2 decision granting the Governor’s Application for Summary Relief and denying the Commission’s Application

for Summary Relief. The majority concluded that it was bound by the Supreme Court’s earlier decision in an election case, specifically *In re Nomination Petition of Carroll*, 586 Pa. 624, 896 A.2d 566 (2006), and held that a non-profit corporation/organization is not included in the definition of “business” under Section 1102 of the Ethics Act, 65 Pa.C.S. § 1102. Based upon its disposition of the non-profit issue, the majority did not reach the chain-of-command issue.

On October 20, 2008, the Commission appealed the October 3, 2008 Opinion and Order of Commonwealth Court. All of the appeals—on the procedural issues and on the merits—are now pending before the Supreme Court of Pennsylvania, as set forth below.

B. *Supreme Court*: On January 18, 2008, Petitioners Rendell, McGinty, and DiBerardinis filed with the Pennsylvania Supreme Court a “Petition for Allowance of Appeal” (docket Nos. 44 MAL 2008 and 45 MAL 2008) from the portion of the December 19, 2007 Opinion and Order of Commonwealth Court quashing their appeals from Commission Opinions 07-009 and 07-010 (see *above*). On January 31, 2008, the Commission filed a Brief in Opposition to the Petition for Allowance of Appeal. On October 16, 2008, the Supreme Court issued an Order granting the Governor’s and Secretaries’ Petitions for Allowance of Appeal as to the procedural issues of whether Commission advisory

Opinions are appealable.

On October 20, 2008, the Commission appealed from the October 3, 2008 Opinion and Order of Commonwealth Court, which held that a non-profit corporation/organization is not included in the definition of “business” under Section 1102 of the Ethics Act, 65 Pa.C.S. § 1102.

All of the aforesaid appeals—on the procedural issues and on the merits—have been consolidated by the Supreme Court for briefing and argument.

These matters are pending.

Pennsylvania Department of Conservation and Natural Resources v. Pennsylvania State Ethics Commission, No. 586 M.D. 2007:

This case was initiated by a Petition for Review filed December 7, 2007, in the Commonwealth Court of Pennsylvania as to a Commission advisory Opinion, Confidential Opinion, 07-017. The filing of the Petition for Review resulted in the Commission file, including the Opinion, becoming public. (See, 51 Pa. Code §13.1(j)).

The Commission Opinion pertained to Carolyn Wallis, a Recreation and Parks Supervisor employed with the Pennsylvania Department of Conservation and Natural Resources (“DCNR”). The Petition for Review, filed by Petitioners DCNR and Ms. Wallis, combined an appeal from the Commission Opinion with a declaratory judgment action.

On December 21, 2007, the Commission filed a Motion to Quash the appeal portion of the Petition for Review and Preliminary Objections to the declaratory judgment portion of the Petition for Review.

On January 7, 2008, Petitioners filed an Answer in Opposition to the Commission’s Motion to Quash Appeal. On January 22, 2008, Petitioners filed Responses to the Commission’s Preliminary Objections.

On January 29, 2008, Petitioners filed an Uncontested Application for a Continuance Pending Final Disposition of Related Matters (referring to *Rendell v. State Ethics Commission* and *Rendell v. State Ethics Commission*, see above). By Order dated January 28, 2008, the Commonwealth Court granted the continuance.

This matter is pending.

INVESTIGATIVE DIVISION

Kenneth Kistler v. State Ethics Commission (1352 C.D. 2007)(740 MAL 2008)

On June 29, 2007, the Commission issued its Order concerning *in re Kenneth Kistler* (Order No. 1441). Kistler was found to have unintentionally violated section 1103(a) of the Ethics Act by using the au-

thority of his office to vote in favor of an individual/business with which Kistler had a prior business relationship, to pursue the construction of a school building for the Carbon-Lehigh Intermediate Unit #21 (CLIU), when, at that time, Kistler was a member of the CLIU Board. Kistler was also found to have violated section 1103(f) of the Ethics Act when Kistler entered into contracts with the individual or businesses associated with the individual, to construct both a transportation facility and an additional school building for the CLIU absent an open and public process.

On July 19, 2007, Kistler filed a Petition for Review with the Commonwealth Court of Pennsylvania, essentially appealing the findings of the Commission. On appeal, Kistler argued that the Commission improperly found him in violation of the Ethics Act in that at no time was he a subcontractor, nor did he receive the contracts from the individual absent an open and public process. Lastly, Kistler argued that he has a complete defense in that the Commission did not grant his request for an advisory opinion. However, such opinion was not provided in that Kistler sought advice on a matter which had already occurred and/or was under current investigation by the Commission.

On April 8, 2008, oral argument was held before a panel of judges of the Commonwealth Court. The Court did not issue an opinion in this matter, but rather on June 11, 2008 scheduled the matter for oral argument *en banc*. On September 10, 2008, the Commission presented oral argument before Court *en banc*. On October 17, 2008, the Commonwealth Court, in a six to one Opinion, reversed the order of the State Ethics Commission.

On November 13, 2008, the State Ethics Commission filed a Petition for Allowance of Appeal with the Supreme Court of Pennsylvania. As of the date of this publication, the Supreme Court has not yet issued any orders regarding this matter.

Eathorne v. State Ethics Commission (178 C.D. 2008)

On or about February 1, 2008, Robert Eathorne filed a Petition for Review in the Commonwealth Court of Pennsylvania challenging the Commission’s Order No. 1451 issued regarding his actions as a Member of the Western Westmoreland Municipal Authority. The Commission’s Order, which was issued on December 28, 2007, determined that Eathorne had violated the Public Official and Employee Ethics Act when he used his office to receive

expense advancements from the Authority for his attendance at conferences and conventions and then claimed expenses in excess of the actual expenses incurred. The Commission also found Eathorne violated the Act when he used his position with the Authority to obtain expense advancements for expenses incurred by his spouse; to obtain advance payment of expenses for himself to attend conferences and conventions that he did not in fact attend; and when he authorized his use of a credit card for the payment of expenses and items of a personal nature for himself and his spouse. Eathorne was ordered to pay treble penalties in the amount of \$64,475.61. The matter was also referred to law enforcement authorities for further review and consideration. In his petition for review, Eathorne primarily challenged the Commission’s refusal to grant him the opportunity to file his Answer *nunc pro tunc*. Eathorne had failed to timely file an Answer to the Commission’s Findings Report; as a result thereof, all facts averred in the Findings Reports were deemed admitted and the Commission issued its ruling based upon these admitted facts. Eathorne’s petition for review challenged the Commission’s utilization of this process and its refusal to grant his application to proceed *nunc pro tunc*. Eathorne also has raised an issue regarding his failure to obtain discovery materials from the Investigative Division of the Commission that would have been provided to him at a hearing had such been held.

Argument on the matter was held on September 11, 2008 before a panel of three members of the Commonwealth Court. Thereafter on November 7, 2008, the Court issued its reported decision overturning the Order of the Commission and remanding the matter back with a direction to accept Eathorne’s answer and proceed to hearing on the merits of the case. In relation to this decision, the Court specifically found that the 30-day responsive pleading deadline of the Commission does not necessarily require all Answers to be filed within that time frame and that any Respondent may file an Answer after that time frame as long as there is good cause for failure to timely file the Answer in accordance with the 30-day time frame. The Commission subsequently filed a Petition for Allowance of Appeal in the Supreme Court of Pennsylvania. The Petition for Allowance of Appeal was filed on December 3, 2008, and Respondent filed an Answer in Opposition thereto on December 29, 2008.

Regulations

(The following regulations became effective April 23, 1993. All amendments are incorporated herein.)

RULES AND REGULATIONS

TITLE 51. PUBLIC OFFICERS

PART I. STATE ETHICS COMMISSION

CHAPTER 1. (RESERVED).

§ 1.1. (Reserved).

CHAPTER 2. (RESERVED).

§§ 2.1–2.6. (Reserved).

§ 2.11. (Reserved).

§ 2.12. (Reserved).

§ 2.14–2.16. (Reserved).

§ 2.31–2.38. (Reserved).

§ 2.51. (Reserved).

CHAPTER 3. (RESERVED).

§ 3.1. (Reserved).

CHAPTER 4. (RESERVED).

§§ 4.1–4.7. (Reserved).

§ 4.10. (Reserved).

§ 4.11. (Reserved).

CHAPTER 5. (RESERVED).

§§ 5.1–5.9. (Reserved).

§§ 5.12–5.16. (Reserved).

CHAPTER 7. (RESERVED).

§§ 7.1–7.3. (Reserved).

§§ 7.11–7.18. (Reserved)

CHAPTER 11. GENERAL PROVISIONS.

Sec.

11.1. Definitions.

11.2. Construction.

11.3. Statute of limitations.

§11.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise. Additional definitions are set forth in the act.

Act – The act of June 26, 1989 (P.L. 26, No. 9)(65 P.S. §§401-413), known as the Public Official and Employee Ethics Law (65 P.S. §§401-413).

Administering or monitoring grants – Directing, supervising or approving the expenditure or reimbursement of grant funds or monitoring another person's or organization's administering of grant funds. The term does not include compiling expenditures, comparing actual to planned expenditures or reimbursements, preparing comparative reports or completing grant proposals or reimbursement forms under specific direction.

Advice – A directive of the Chief Counsel of the Commission issued under Section 7(11) of the act (65 P.S. §407(11)) and based exclusively on prior Commission opinions, the act, regulations promulgated under the act and court opinions which interpret the act. See section 402 of the act (65 P.S. §402).

Appointing authority – The person who is vested with the power to appoint, hire, or terminate; if the power is vested in a governmental body, a majority vote of a quorum of that body constitutes the appointing authority.

Audit – A review of Statements of Financial Interests to determine compliance with the act and to provide technical assistance in its administration.

Chairperson – The Chairperson of the Commission.

Child – The term includes adopted and biological children.

Clear and convincing proof – To a degree which requires more than a preponderance of the evidence but less than beyond a reasonable doubt.

Commission – The State Ethics Commission of the Commonwealth.

Commissioner – An appointed and seated member of the Commission.

Confirmation – The power vested in a person or governmental body to approve the nomination of persons.

Contracting or procurement – Awarding a contract or making a decision to purchase by the preparation of requests for bids and proposals, the solicitation and evaluation of proposals or the selection of a vendor. The term does not include contracting or purchasing through master contracts or purchasing schedules already awarded.

De minimis economic impact – An economic consequence which has an insignificant effect.

Director – An officer acting as an agent for a business who is authorized to regulate, manage and direct alone or in conjunction with other officers.

Docket – The official assignment of a file number to a matter submitted to the Commission.

Election – The term includes primary, special, or general elections.

Employed by – Used in any capacity, with or without compensation. This definition is only used in the context of section 6(d)(5) of the act (65 P.S. §406(d)(5)).

Employer – One who uses the services of others and pays their wages, salaries or other compensation.

Filed – Official papers are filed on the date they are physically received at the Commission Office whether delivered by United States mail, express carrier, hand delivery or by Facsimile Service (FAX). See §19.1 (relating to forms; filing) for additional requirements when filing a Statement of Financial Interests by Facsimile Service (FAX).

Governing authority – The body empowered to enact ordinances, appropriations and resolutions or to otherwise govern a subordinate body.

Gross negligence – The failure to perform a manifest duty in reckless disregard of the consequences or a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness.

Inspecting, licensing, regulating or auditing – The normal meanings of the terms apply, but the terms do not include activities which are exclusively internal in nature, such as auditing the internal process of an organization, and clerical and procedural activities in issuing permits and licenses.

Local – Governmental units other than the Commonwealth or counties.

Office – The position of president, vice president, secretary, treasurer and other positions designated as an office in the bylaws of the business.

Opinion – A directive of the Commission issued pursuant to section 7(10) of the act setting forth a public official's or public employee's duties under the act.

Planning or zoning – An action which is directed

by a planning commission, zoning board, department, agency or governmental body which involves the regulation of real property.

Political subdivision – A county, city, borough, incorporated town, township, school district, vocational school, county institution district and an authority, entity or body organized by the aforementioned.

Public employe –

- (i) The term includes an individual who is employed by the Commonwealth or a political subdivision and who is responsible for taking or recommending official action of a nonministerial nature with regard to one or more of the following:
 - (A) Contracting or procurement.
 - (B) Administering or monitoring grants or subsidies.
 - (C) Planning or zoning.
 - (D) Inspecting, licensing, regulating or auditing a person.
 - (E) Other activities in which the official action has greater than a de minimis economic impact.
- (ii) The following criteria will be used, in part, to determine whether an individual is within the definition of "public employe":
 - (A) The individual normally performs his responsibility in the field without onsite supervision.
 - (B) The individual is the immediate supervisor of a person who normally performs his responsibility in the field without onsite supervision.
 - (C) The individual is the supervisor of a highest level field office.
 - (D) The individual has the authority to make final decisions.
 - (E) The individual has the authority to forward or stop recommendations from being sent to the person or body with the authority to make final decisions.
 - (F) The individual prepares or supervises the preparation of final recommendations.
 - (G) The individual makes final technical recommendations.
 - (H) The individual's recommendations or actions are an inherent and recurring part of his position.
 - (I) The individual's recommendations or actions affect organizations other than his own organization.
- (iii) The term does not include individuals who are employed by the Commonwealth or a political subdivision of the Commonwealth in teaching as distinguished from administrative duties.
- (iv) Persons in the following positions are generally considered public employes:
 - (A) Executive and special directors or assistants reporting directly to the agency head or governing body.
 - (B) Commonwealth bureau directors, division chiefs or heads of equivalent organization elements and other governmental body department heads.
 - (C) Staff attorneys engaged in representing the department, agency or other govern-

- mental bodies.
- (D) Engineers, managers and secretary-treasurers acting as managers, police chiefs, chief clerks, chief purchasing agents, grant and contract managers, administrative officers, housing and building inspectors, investigators, auditors, sewer enforcement officers and zoning officers in all governmental bodies.
- (E) Court administrators, assistants for fiscal affairs and deputies for the minor judiciary.
- (F) School superintendents, assistant superintendents, school business managers and principals.
- (G) Persons who report directly to heads of executive, legislative and independent agencies, boards and commissions except clerical personnel.
- (v) Person in the following positions are generally not considered public employees:
- (A) City clerks, other clerical staff, roadmasters, secretaries, police officers, maintenance workers, construction workers, equipment operators and recreation directors.
- (B) Law clerks, court criers, court reporters, probation officers, security guards and writ servers.
- (C) School teachers and clerks of the schools.
- Public official** – A person elected by the public or elected or appointed by a governmental body, or an appointed official in the Executive, Legislative or Judicial Branch of the Commonwealth or a political subdivision thereof. The term does not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense, or to exercise otherwise the power of the Commonwealth or a political subdivision thereof.
- (i) The following criteria will be used to determine if the exception in this paragraph is applicable:
- (A) The body will be deemed to have the power to expend public funds if the body may commit funds or may otherwise make payment of moneys, enter into contracts, invest funds held in reserves, make loans or grants, borrow money, issue bonds, employ staff, purchase, lease, acquire or sell real or personal property without the consent or approval of the governing body and the effect of the power to expend public funds has a greater than de minimis economic impact on the interest of a person.
- (B) The body will be deemed to have the authority to otherwise exercise the power of the Commonwealth or a political subdivision if one of the following exists:
- (I) The body makes binding decisions or orders adjudicating substantive issues which are appealable to a body or person other than the governing authority.
- (II) The body exercises a basic power of government and performs essential governmental functions.
- (III) The governing authority is bound by statute or ordinance to accept and enforce the rulings of the body.
- (IV) The body may compel the governing authority to act in accordance with the body's decisions or restrain the governing authority from acting contrary to the body's decisions.
- (V) The body makes independent decisions which are effective without approval of the governing authority.
- (VI) The body may adopt, amend and repeal resolutions, rules, regulations or ordinances.
- (VII) The body has the power of eminent domain or condemnation.
- (VIII) The enabling legislation of the body indicates that the body is established for exercising public powers of the Commonwealth or a political subdivision.
- (ii) The term does not include judges and inspectors of elections, notary publics and political party officers.
- (iii) The term generally includes persons in the following offices:
- (A) Incumbents of offices filled by nomination of the Governor and confirmation of the Senate.
- (B) Heads of executive, legislative and independent agencies, boards and commissions.
- (C) Members of agencies, boards and commissions appointed by the General Assembly or its officers.
- (D) Persons appointed to positions designated as officers by the Commonwealth or its political subdivisions.
- (E) Members of municipal, industrial development, housing, parking and similar authorities.
- (F) Members of zoning hearing boards and similar quasi-judicial bodies.
- (G) Members of the public bodies meeting the criteria in paragraph (i)(A).

Requestor – The person seeking an advice or opinion from the Commission.

Respondent – The person who is the subject of a complaint, inquiry or investigation.

Service – Official papers are deemed served on the date of United States postmark if delivered by United States mail, the pickup date if delivered by express carrier, or the date received from the Commission if hand delivered or transmitted by FAX.

Staff – The Executive Director, the chief counsel, investigators, and other personnel as may be employed by or assigned to assist the Commission.

Sworn complaint – A complaint on a form promulgated by the Commission or its equivalent which is notarized and contains the provision that the complaint is signed under the penalty of perjury.

Unannounced write-in-candidate – An individual who is not a "candidate" as defined in the act and who received sufficient write-in votes on election day to be elected to or nominated for an office.

Vice Chairperson – The Vice Chairperson of the Commission.

§11.2. Construction.

Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this

title shall be liberally construed to promote complete financial disclosure as specified in the act.

§11.3. Statute of limitations.

The Commission may investigate a violation of the act within 5 years of its occurrence. The occurrence transpires when an act is complete or requires no further action. This title does not apply to violations committed prior to the effective date of the act, and causes of action initiated for the violations shall be governed by the prior law and title, which are continued in effect for that purpose as if this title were not in force. For the purposes of this title, a violation was committed prior to the effective date of the act if any elements of the violation occurred prior thereto.

CHAPTER 13. OPINIONS AND ADVICES OF COUNSEL

Sec.

13.1. General provisions.

13.2. Advice of counsel.

13.3. Opinions.

13.4. Intervention.

13.5. Public access.

§13.1. General provisions.

- (a) An advice or an opinion may be requested by a public official or public employe as to his own conduct or by the authorized representative of the person, his present employer, or appointing authority of the person through majority action of the appointing authority, if applicable.
- (b) The requestor shall provide the following information in writing:
- (1) The name, address and phone number of the person who is the subject of the request and if different, the name, address and phone number of the person initiating the request.
 - (2) The name of the governmental body with which the subject serves and the name or title of the person's public office or position.
 - (3) If the requestor is the appointing authority, employer or representative of the subject of the request, the nature of the relationship.
 - (4) The nature and duties of the subject's office or job. Include an organization chart, bylaws of the organization, if available, and a job description.
 - (5) List the relevant facts and circumstances surrounding the request.
- (c) The requestor may ask that an opinion or advice be issued under either section 7(10) or (11) of the act (65 P.S. §407(10) and (11)).
- (d) The Commission will decide, within 14 days, whether an opinion or advice should be issued and will so advise the requestor.
- (e) If a requestor seeks an opinion and is advised that an advice should be issued or if the requestor seeks an advice and is advised that an opinion should be issued, the requestor may either withdraw the request by notifying the Commission within 14 days of the date of receiving notice under subsection (d) or may elect to have the opinion or advice issued as docketed by the Commission.
- (f) Advices and opinions are matters of public record except as provided in this section.
- (g) A requestor may seek a confidential advice or

opinion in writing at the time of the request or within 7 days of notification of docketing as an advice or opinion.

- (h) A confidential advice or opinion will be publicly filed but will contain deletions and changes to preserve the confidentiality of the requestor's or subject's identity.
- (i) The files relating to a confidential advice or opinion will not be public and will so remain unless released by the requestor or the public official or public employe who is the subject of the advisory.
- (j) If a Petition for Review or other legal pleading is filed in a court of law regarding a confidential advice or opinion, the files will become public on the date that the Commission record is transmitted to court or on the date the responsive pleading, motion, application or other legal document is filed by the Commission, whichever date comes first, unless the court directs otherwise.
- (k) Documents and submissions to the Commission relating to a request for an opinion or an appeal of an advice shall be made at least 7 days prior to the meeting of the Commission during which the appeal or opinion will be reviewed.

§13.2. Advice of counsel.

- (a) Advice of counsel will be based exclusively on one or more of the following authorities:
 - (1) Prior Commission opinions.
 - (2) The act.
 - (3) This title.
 - (4) Court opinions interpreting the act.
- (b) The Chief Counsel will issue the advice on behalf of the Commission within 21 working days after receipt of the request, but the time may be extended for good cause.
- (c) Clarification of an advice may be requested in cases where the original advice was incomplete, inconsistent or unclear.
- (d) Requests for clarification shall be filed within the 30-day period normally applicable for appealing an advice to the Commission.
- (e) The timely filing of a request for clarification will toll the applicable period for appealing an advice to the Commission.
- (f) Supplemental advice may be requested in cases in which additional facts are present or circumstances have changed from those in the original request.
- (g) An advice of counsel may be appealed to the Commission by the requestor or the subject of the request.
- (h) An appeal from an advice to the Commission shall be in writing and filed within 30 days of the issuance of the advice.
- (i) An appeal from an advice will be considered by the Commission after which an opinion will be issued either affirming, modifying or reversing the original advice.
- (j) Reconsideration may be requested under §21.29 (relating to finality; reconsideration) of an opinion disposing of an appeal of an advice if the request is filed within 30 days of the issuance of the opinion.
- (k) An advice shall be a complete defense in an enforcement proceeding initiated by the Commission, and evidence of good faith conduct in another civil or criminal proceeding, if the requestor, at least 21 working days

prior to the alleged violation, requested written advice from the Commission in good faith, disclosed truthfully the material facts and committed the acts complained of either in reliance on the advice or because of the failure of the Commission to provide advice within 21 days of the request or the later extended time.

§13.3. Opinions.

- (a) Opinions shall be issued under the provisions in section 7(10) of the act (65 P.S. §407(10)).
- (b) Requests for Commission opinions will be considered in accordance with the procedures outlined in §§23.1–23.6.
- (c) A party may request that the Commission reconsider an opinion in accordance with §21.29 (relating to finality; reconsideration). The request shall be filed within 30 days of the service of the opinion and contain a detailed explanation of the reasons in support of the request.
- (d) Reconsideration may be granted in the discretion of the Commission under §21.29(e).
- (e) A person who acts in good faith on an opinion issued to him by the Commission will not be subject to criminal or civil penalties for so acting, if the material facts are as stated in the opinion request.

§13.4. Intervention.

- (a) A person who is not a party in an advice or opinion request or reconsideration thereof, may file a petition to intervene if the person has an interest. One or more of the following criteria will be utilized to determine whether a person has an interest:
 - (1) A right conferred by Federal or State law.
 - (2) An interest which may be affected and which is not adequately represented.
 - (3) An issue of public importance.
- (b) A person shall apply for intervention within 14 days prior to the Commission meeting if the opinion will be reviewed or decided. The Commission may grant an application at any time prior to the meeting, but only for good cause shown.
- (c) An application for intervention shall include the facts which establish the nature of the alleged right or interest and the grounds for intervention. The application shall also address the facts if they are deficient or incorrectly stated, and the relevant issues of law. The application may cite authority in support of the advocated position.
- (d) The Commission will review applications for intervention to determine whether a grant of intervention is appropriate.
- (e) A person may file an amicus brief which shall be received within 14 days prior to the Commission meeting.

§13.5. Public access.

- (a) Subject to §13.1(h) and (i) (relating to general provisions), the Commission's advisories, letters requesting advisories, files and information submitted to the Commission relating to a request are public records and will be available for public inspection and reproduction during normal business hours.
- (b) The Commission will transmit, free of charge, copies of each order, advice and opinion which has become a matter of public record

quarterly to the law library of each county, one public library in each county, the State Library, the State Senate Library, each authority appointing Commission members under this act, the Pennsylvania Association of County Commissioners, the Pennsylvania Association of Boroughs, the Pennsylvania Association of Township Supervisors, the Pennsylvania State Association of Township Commissioners, the Pennsylvania School Boards Association and the Pennsylvania League of Cities.

- (c) The Commission may charge a fee for additional copies at a rate not to exceed actual cost.
- (d) A digest and index of Commission opinions may be published and disseminated annually.

CHAPTER 15. STATEMENTS OF FINANCIAL INTERESTS, APPLICABILITY

Sec.

- 15.1. Federal officials, employes and candidates.
- 15.2. Public officials and public employes.
- 15.3. Candidates/nominees.

§15.1. Federal officials, employes and candidates.

- (a) Federal officials, employes and candidates are not required to file the Statement of Financial Interests with regard to their Federal position.
- (b) Federal officials, employes and candidates who serve with the Commonwealth or a political subdivision as part of an exchange or comparable program are required to file a Statement of Financial Interests.

§15.2. Public officials and public employes.

- (a) Public officials and employes shall file a Statement of Financial Interests for the preceding calendar year by May 1 of each year during which they hold office or a position and by May 1 for the year after they leave the position.
- (b) A public official may not take the oath of office, continue upon his duties or receive compensation for holding office unless a Statement of Financial Interests has been filed.
- (c) Public officials in State-level offices shall file with the Commission and as follows:
 - (1) Executive branch public officials, board and commission members shall file with the Governor's office.
 - (2) Legislative branch public officials shall file with either the Chief Clerk of the House of Representatives or the Secretary of the Senate, depending upon in which body the official serves.
 - (3) Independent agency public officials and other public officials shall file with their agency.
- (d) Public employes of the Commonwealth shall file with the State agency with which they are employed.
- (e) County and local officials, and employes shall file with the governing body of the political subdivision in which they serve or are employed.
- (f) In an election year, public officials, public employes who are also candidates, shall, in addition, file at the times and locations required by candidates.
- (g) Full- or part-time solicitors are required to file Statements of Financial Interests.

- (h) If a law firm or engineering firm is designated solicitor or engineer, the persons primarily responsible for providing the services in the firm are responsible for filing a Statement of Financial Interests.

§15.3. Candidates/nominees.

- (a) A candidate for State level public office shall file a Statement of Financial Interests with the Commission on or before the last day for filing a petition to appear on the ballot and a copy of the Statement shall be appended to the petition.
- (b) A candidate for county and local public office shall file a Statement of Financial Interests with the governing authority of the political subdivision wherein the candidate is seeking office on or before the last day for filing a petition to appear on the ballot and a copy of the Statement shall be appended to the petition.
- (c) A candidate running for office as a substitute nominee shall file a Statement of Financial Interests on or before the last day for filing a substitute nomination certificate as follows:
- (1) A nominee for State level office shall file the Statement with the Commission and a copy shall be appended to the substitute nomination certificate.
 - (2) A nominee for county or local-level public office shall file the Statement with the governing authority of the political subdivision wherein the person is seeking office and a copy of the Statement shall be appended to the substitute nomination certificate.
- (d) An independent candidate not running in a primary election shall file a Statement of Financial Interests on or before the last day for filing a petition to appear on the ballot for election. The filing shall be made in accordance with subsections (a) and (b).
- (e) A write-in-candidate shall file a Statement of Financial Interests within 30 days of having been nominated or elected unless the person declines the nomination or office within that period of time.
- (1) The Statement shall be filed with the Commission for State level public office and with the governing authority of the political subdivision wherein the person has been elected or nominated for county or local-level office.
 - (2) For the purposes of calculating the 30-day period during which the Statement of Financial Interests shall be filed, the time shall commence on the date that the appropriate board of elections certifies the individual as the winner of a nomination or election.
- (f) A petition to appear on the ballot will not be accepted unless a copy of the Statement of Financial Interests is attached thereto.
- (g) A nominee for public office shall file a Statement of Financial Interests for the preceding calendar year at least 10 days prior to the date of approval or rejection by the confirming body.
- (1) A nominee for Commonwealth positions requiring Senate confirmation shall file with the Commission and the Secretary of the Senate.

- (2) A nominee for county or local-level public office shall file with the governing authority of the political subdivision in which the person is a nominee and, if different, with the official or body vested with the power of confirmation.

CHAPTER 17. STATEMENTS OF FINANCIAL INTERESTS, CONTENT

Sec.

- 17.1. General.
- 17.2. Real estate.
- 17.3. Creditors.
- 17.4. Income.
- 17.5. Gifts.
- 17.6. Expense reimbursement.
- 17.7. Office, directorship and employment.
- 17.8. Financial business interest.
- 17.9. Transferred business interests.
- 17.10. Reporting in multiple categories.
- 17.11. Application of lobbying disclosure regulations.

§17.1. General.

The person required to file shall list the following general identification information:

- (1) The full name and address of the public official, public employe or candidate.
- (2) The county of residence.
- (3) The position sought or held, and name of the governmental body associated with the position sought or held.
- (4) An occupation or profession.

§17.2. Real estate.

- (a) The person required to file shall list direct or indirect interests in real estate as follows:
- (1) Real estate sold or leased to the Commonwealth or its agencies or political subdivisions.
 - (2) Real estate purchased or leased from the Commonwealth, or its agencies or political subdivisions.
 - (3) Real estate which is subject to condemnation proceedings by the Commonwealth or its agencies or political subdivisions.
- (b) Real estate interests include ownership in the form of title, as fiduciary, by option agreement, partnership or corporate share, easement, trustee-beneficiary type interests or other forms of interest in realty.
- (c) An indirect interest in real estate constitutes any business entity, the assets of which are 80% or more in real property.

§17.3. Creditors.

- (a) Each creditor to whom is owed in excess of \$6,500 or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to statement of financial interests) and §19.5 (relating to reporting threshold adjustments) shall be reported.
- (b) Mortgages, home equity loans, or other loans secured by a primary or secondary residence of the person filing need not be reported.
- (c) A joint obligation with other persons, for which the filer is responsible only for a proportional share that is less than the reporting threshold, is not required to be reported.
- (d) The joint obligation of a husband and wife shall be reported if within the reporting threshold.
- (e) An obligation within the reporting threshold

for which a person acts as a guarantor for the person required to file shall be reported.

- (f) Loans or credit between the person required to file and the person's spouse, parents, children, brothers or sisters are excluded.
- (g) No dollar amounts are required.
- (h) The interest rate for a reportable obligation shall be indicated.
- (i) A reportable creditor shall be identified by name and address.

§17.4. Income.

- (a) The name and address of a direct or indirect source of income, including employers, in the aggregate of \$1,300 or more or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to Statement of Financial Interests) and §19.5 (relating to reporting threshold adjustments) shall be reported, unless the disclosure would require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges.
- (b) Income from the securities of a particular business equaling or exceeding the reporting threshold, capital gains and dividends equaling or exceeding the reporting threshold shall be listed.
- (c) If the income generated equals or exceeds the reporting threshold, mutual funds and other financial plans for individuals may be reported as a single source if the individual has no authority to buy or sell particular assets in the fund.
- (d) An individual or an individual and a spouse who has an investment portfolio, with a broker, other than a mutual fund, shall list individually the income from each asset to which subsection (b) applies if the asset may be bought and sold by the individual or by the individual and a spouse.

§17.5. Gifts.

- (a) The name and address of the source of a gift valued in the aggregate at \$250 or more or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to Statement of Financial Interests) and § 19.5 (relating to reporting threshold adjustments) shall be reported.
- (b) The amount of the gift as well as the circumstances surrounding it shall be reported.
- (c) A gift from a spouse, parent, parent by marriage, sibling, child, grandchild, other family member or friend is not required to be reported when the circumstances surrounding the gift indicate the motivation for the action was a personal or family relationship.
- (d) The term "friend," under this section, does not include a registered lobbyist or an employe thereof.

§17.6. Expense reimbursement.

- (a) The name and address of the source and the amount of a payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where the actual expenses for transportation and lodging or hospitality exceed \$650, or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to Statement of Financial Interests) and § 19.5 (relating to reporting threshold adjustments), in the course of a single occurrence shall be

reported.

- (b) This subsection does not apply to expenses reimbursed by a governmental body, or to expenses reimbursed by an organization or association of public officials or employees of political subdivisions which the public official or employee serves in an official capacity.
- (c) The reporting requirement shall be based upon the actual expense amount.

§17.7. Office, directorship and employment.

A public official, public employee or candidate shall disclose the name and address of the business entity with which he is associated and the position held, whether the person required to disclose is an officer, director, fiduciary or partner – limited or general.

§17.8. Financial business interest.

- (a) A financial interest in a legal entity engaged in business for profit shall be reported. Financial interest means more than either 5% of the equity of the business, or 5% of the assets of the economic interest in indebtedness.
- (b) A financial interest in a business and employment by the same business shall be listed in both categories of the Statements of Financial Interests.

§17.9. Transferred business interests.

- (a) A financial interest in a business with which the reporting person is or has been associated during the preceding calendar year which has been transferred to a member of the person's immediate family; that is, a parent, spouse, child, brother or sister, shall be reported.
- (b) Financial interests comprise more than 5% of the equity of the business or more than 5% of the assets of the economic interest in indebtedness.
- (c) Transfer includes a conveyance whether or not written or otherwise recorded.

§17.10. Reporting in multiple categories.

- (a) The required disclosure of information in one category does not excuse the nondisclosure of that information in other categories when so required. Therefore, the same information may be required in more than one category.

§17.11. Application of lobbying disclosure regulations.

See, lobbying disclosure regulations, Chapters 31 and 35, (relating to general provisions; and reporting), as to the differentiation between "gift" and "transportation and lodging or hospitality received in connection with public office or employment" and the determination of the amounts for reporting.

CHAPTER 19. STATEMENTS OF FINANCIAL INTERESTS, MISCELLANEOUS

Sec.

19.1. Forms.

19.2. Period covered.

19.3. Late or deficient filings.

19.4. Availability of Statements of Financial Interests.

19.5. Reporting threshold adjustments.

§19.1. Forms; filing.

- (a) Public officials, public employees and candidates shall file Form SEC-1, as published and revised by the Commission.

- (b) The Statement of Financial Interests form is available at the Commission, the State Board of Elections, the County Board of Elections and other locations as conditions warrant. The postal address of the Commission is: State Ethics Commission, Post Office Box 11470, Harrisburg, Pennsylvania 17108-1470. The office of the Commission is located in Room 309, Finance Building, Capitol Complex, Harrisburg, Pennsylvania, (717)783-1610, (800)932-0936.

- (c) Additional sheets may be attached to the Statement of Financial Interests form if more space is required.
- (d) A Statement of Financial Interests sent by FAX transmission is filed on the date the Commission receives the faxed copy if the Commission receives the signed original within 5 business days thereafter. If the Commission does not receive the signed original within 5 business days from the date of receiving the faxed copy, the Statement of Financial Interests is filed on the date the Commission receives the signed original.

§19.2. Period covered.

The Statement of Financial Interests requires information for the full calendar year immediately preceding the year in which the Statement of Financial Interests is filed.

§19.3. Late or deficient filings.

- (a) If an audit or inspection determines that a required filing is deficient or that a required filing has not been made, the Commission will provide written notice to the individual required to file, detailing the deficiency and the penalties for deficient filing or failure to file.
- (b) If a complaint is received alleging that a required filing is deficient or has not been made, the Commission may elect to proceed in the matter under this section rather than through the investigative procedures of Chapter 21 (relating to investigations).
- (1) Upon election, the complainant will be notified of the decision as well as the final resolution of the matter.
- (2) In determining whether to proceed under this section, the Commission may consider whether:
- The deficient filing or failure to file was intentional.
 - The filer had prior notice of the requirements of the act.
 - The filer has in the past complied with the act.
- (c) The individual notified in accordance with subsection (a) has 20 days from the mailing date of the notice to correct deficiencies or to file a Statement of Financial Interests. If an individual fails to file or to correct his statement within that time, the Commission will review the matter to determine whether a civil penalty is appropriate under the act.
- (d) If the Commission determines that a penalty is appropriate, it will issue a rule to show cause, notifying the individual of his deficiency under the act and of the grounds for the rule and of his opportunity to respond in writing to the rule. If cause is not shown, the rule and penalty therein become absolute.

- (e) The Commission may assess a penalty of not more than \$25 per day for the time a Statement of Financial Interests remains delinquent up to a maximum of \$250 total.
- (f) The penalty in subsection (d) is in addition to other penalties provided by law and the filing of a Statement of Financial Interests in accordance with subsection (a) does not otherwise vitiate the failure to comply with the act.

§19.4. Availability of Statements of Financial Interests.

- (a) Statements of Financial Interests filed with the Commission under the act are available for public inspection and copying at a charge not to exceed actual cost at the office of the Commission in Harrisburg, Pennsylvania between the hours of 8:00 a.m. and 5:00 p.m., weekdays.
- (b) A governmental body required to maintain Statements of Financial Interests shall make them available for public inspection and copying during regular business hours.
- (c) Statements of Financial Interests more than 1 year old will be made available for public inspection and copying within 2 working days after the request has been made for the Statements. The Statements will be kept on file for 5 years.

§19.5. Reporting threshold adjustments.

- (a) On a biennial basis commencing in January 1991, the Commission will review and may increase the threshold dollar amounts in §§17.3(a), 17.4(a), 17.5(a), and 17.6(a).
- (b) The Commission will base the increases upon a review of the National Consumer Price Index as published by the United States Department of Labor or other relevant indices.
- (c) The Commission may hold a hearing to receive testimony or information regarding the appropriate rate of increases.
- (d) Upon final determination of the appropriate reporting increases, the Commission will publish a schedule of the increases in the Pennsylvania Bulletin in 2 successive months and take other action deemed necessary to disseminate the information.
- (e) The effective date of threshold increases shall be delayed a sufficient period of time to allow publication of the information to afford affected individuals the opportunity to comply therewith and relevant Commission forms shall be revised accordingly.

CHAPTER 21. INVESTIGATIONS

GENERAL

Sec.

21.1. Complaints.

21.2. Initiation of investigation by the Commission.

21.3. Preliminary inquiries.

21.4. Frivolous complaints; complaints without probable cause, disclosure of complaints.

21.5. Conduct of investigations.

21.6. Confidentiality.

HEARINGS

21.21. General.

21.22. Discovery.

21.23. Scope of hearing.

21.24. Hearing officer.

21.25. Conduct of the hearing.

21.26. Motions.

- 21.27. Briefs.
- 21.28. Decision.
- 21.29. Finality; reconsideration.
- 21.30. Effect of order.

GENERAL

§21.1. Complaints.

- (a) A complaint alleging a violation of the act shall contain the name, position or office held by the respondent and the basis of the complaint which would delineate the facts and circumstances of the alleged violation.
- (b) A complaint shall be sworn and signed by the complainant.
- (c) The identity of the complainant will remain confidential unless there is a wrongful use of the act.
- (d) The Commission will acknowledge, in writing, the receipt of the complaint.
- (e) The Commission through its Executive Director will review complaints and proceed only if the complaint:
 - (1) Contains sufficient information.
 - (2) Is sworn and signed.
 - (3) Is within the Commission's jurisdiction.
 - (4) Concerns an alleged violation of the act having a greater than de minimis economic impact.
- (f) A complaint not meeting the requirements of subsection (e) will be dismissed without prejudice to refile if the requirements are satisfied.
- (g) Upon the receipt of a complaint which satisfies the criteria of subsection (e), the Commission, through its Executive Director, will initiate a preliminary inquiry. If the preliminary inquiry establishes reason to believe that the act was violated, the Commission, through its Executive Director, may initiate a full investigation.
- (h) A complainant will be notified of the dismissal of a complaint under subsection (f).
- (i) In the case of sworn complaints alleging a violation of the Statements of Financial Interests filing requirements, the Commission may elect to proceed under §19.3 (relating to late or deficient filings), in which event this chapter does not apply.
- (j) This section supersedes 1 Pa. Code §35.9 (relating to formal complaints generally).

§21.2 Initiation of investigation by the Commission.

The Commission through its Executive Director may, on its own motion, conduct a preliminary inquiry regarding an alleged violation of the act.

§21.3. Preliminary inquiries.

- (a) A preliminary inquiry will be terminated or opened as a full investigation within 60 days of the initiation thereof. A preliminary inquiry is considered initiated at the time when it is officially docketed.
- (b) The Commission will keep information, records and proceedings relating to a preliminary inquiry confidential. The Commission will, however, have the authority to refer the case to law enforcement officials during a preliminary inquiry or any time thereafter without providing notice to the subject of the inquiry.
- (c) If, after preliminary inquiry, there is reason to believe that the act has been violated, the

Executive Director will commence an investigation. An investigation will be considered commenced when the respondent is notified under §21.5(b) (relating to conduct of investigations).

- (d) The Commission, through its Executive Director, will close the preliminary inquiry if:
 - (1) The occurrence giving rise to the complaint is not within the purview of the act as having been committed and completed prior to the act.
 - (2) The occurrence giving rise to the complaint is clearly not within the purview of the act.
 - (3) The respondent is not a person subject to the act.
 - (4) There is no reason to believe that the act has been violated.
 - (5) The violation complained of has a de minimis economic impact.
- (e) If the preliminary inquiry is closed, the Commission will notify the complainant and the respondent.

§21.4. Frivolous complaints; complaints without probable cause; disclosure of complaints.

- (a) If a public official or public employee has reason to believe a complaint is frivolous due to its having been filed in a grossly negligent manner without basis in law or fact, or without probable cause and made primarily for a purpose other than that of reporting a violation of the act, or that a person has publicly disclosed or caused to be disclosed that a complaint against the public official or public employee has been filed with the Commission, the public official or public employee shall notify the Commission and the Commission, through its Executive Director, will conduct an investigation.
- (b) These matters will be processed by the Commission in accordance with Chapter 25 (relating to wrongful use of the act).

§21.5. Conduct of investigations.

- (a) Within 72 hours of the commencement of an investigation, the complainant will be provided notification thereof by first class mail.
- (b) The respondent will be provided with a general statement of the alleged violation of the act and other applicable statutes under investigation. Service of the notice is complete upon mailing which will be by certified or registered mail.
- (c) The complainant and respondent will be notified of the status of the investigation every 90 days until it is complete.
- (d) The Commission may employ or be assigned staff, including attorneys, investigators, and hearing officers, as may be required to properly investigate, review and dispose of complaints and investigations.
- (e) The Executive Director, staff counsel, director of investigations and special investigators have the authority to conduct interviews, take statements, receive and inspect documents and records and otherwise obtain evidence and gather information by lawful means.
- (f) Commission staff members identified in subsection (e) are designated to administer oaths or affirmations for the purpose of obtaining

voluntary sworn statements with regard to matters which may properly come before the Commission.

- (g) A person having possession or control of documents or records deemed relevant to an investigation that the Commission is authorized to conduct may be required to produce the materials for inspection by subpoena served by the members of the Commission staff designated in subsection (e). These Commission staff members have the right to retain or have access to subpoenaed documents and records for a reasonable period, and to make copies thereof.
- (h) The Commission may authorize one or more members of the Commission staff designated in subsection (e) to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the Commission is authorized to conduct.
 - (1) Sworn statements may be conducted by and before one or more of the staff members in subsection (e).
 - (2) Testimony received in the preparation of a sworn statement will be under oath or affirmation administered and recorded by a stenographer.
 - (3) The authority to question a witness appearing for a sworn statement will be limited to staff members taking the sworn statement, the hearing officer, and counsel for the witness.
 - (4) Persons permitted to be in attendance at the preparation of a sworn statement will be limited to staff members of the Commission, the hearing officer, the witness, counsel for the witness, and a stenographer.
 - (5) A witness giving a sworn statement may object to a question if it is irrelevant or privileged.
 - (6) A witness subpoenaed by the Commission is entitled to compensation as fixed by 42 Pa.C.S. §5903 (relating to compensation and expenses of witnesses).
- (i) Subpoenas issued under subsection (g) or (h) will be authorized by the Commission and signed by the Chairperson or Vice Chairperson. Subpoenas may be served by a person empowered to do so or as designated by the Executive Director.
- (j) Within 180 days of commencing the investigation, the Commission will do one of the following:
 - (1) Terminate the investigation and notify the complainant and respondent.
 - (2) Rule upon a request for an extension by the Executive Director, upon a showing of need, not to exceed 90 days.
 - (i) The granting of or denial of a request for an extension requires a majority vote of a quorum of the Commission.
 - (ii) A maximum of two extensions may be granted.
 - (iii) A findings report will be issued within 180 days after the commencement of an investigation or within the time period of a granted extension.
 - (3) Issue a findings report which sets forth the pertinent facts, and affords the subject of the investigation an opportunity

to respond to the findings and to request an evidentiary hearing.

- (k) The respondent shall file a response to the findings report of the Commission within 30 days, unless an application for an extension is made to the Commission and granted for good cause shown.
 - (1) The respondent shall admit or deny the allegations in the findings report by number. Anything not specifically denied or general denials will be deemed an admission of the individual factual finding.
 - (2) New matter raised by a respondent in his answer does not require a reply by the Commission.
- (l) Investigations by the Commission and the information gained therein will be confidential subject to the exceptions in section 8(k)(1)–(8) of the act (65 P.S. §408(k)(1)–(8)).
- (m) If an investigation conducted under the act indicates that no violation has been committed, the Commission will immediately terminate the investigation and send written notice of the determination to the complainant and the person who was the subject of the investigation.
- (n) Subsection (h) supersedes 1 Pa. Code §§35.142–35.145 (relating to subpoenas; and depositions).

§21.6. Confidentiality.

- (a) As a general rule, a person may not disclose or acknowledge, to any other person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the Commission. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this chapter or 65 Pa.C.S. § 1108 (relating to investigations by commission), when the matters pertain to any of the following:
 - (1) Final orders of the Commission as provided in 65 Pa.C.S. § 1108(h).
 - (2) Hearings conducted in public under 65 Pa.C.S. § 1108(g).
 - (3) For the purpose of seeking advice of legal counsel.
 - (4) Filing an appeal from a Commission order.
 - (5) Communicating with the Commission or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the Commission.
 - (6) Consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency.
 - (7) Testifying under oath before a governmental body or a similar body of the United States of America.
 - (8) Information, records or proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of.
 - (9) The publication or broadcast of information legally obtained by the news media regarding a confidential Commission proceeding.
 - (10) The divulgence by individuals who are interviewees or witnesses as to confiden-

tial Commission proceedings regarding information that was already in their possession or the disclosure of their own statements.

HEARINGS

§21.21. General.

- (a) The Commission will conduct hearings upon the request of a respondent. A respondent shall request a hearing in his answer to the findings report or separately within 30 days of the issuance of the findings report. Failure to request a hearing within the time period will be deemed a waiver.
 - (1) The respondent may be granted an extension for filing an answer upon application to the Chief Counsel and for good cause shown. The Chief Counsel may grant an extension up to 30 days.
 - (2) Further requests shall be made to the Chairperson 2 weeks prior to the extended deadline. The Chairperson may grant a second extension if extraordinary circumstances are demonstrated in writing.
 - (3) Extensions granted will correspondingly advance other deadlines provided for in the act.
 - (4) A hearing will be held within 45 days after the respondent's answer to the Findings Report unless the time is extended upon application for good cause shown.
 - (5) A notice of hearing will be issued to the respondent unless represented by counsel in which case to counsel within a reasonable period of time prior thereto. The notice will advise of the date, time and location of the hearing, and of the hearing rights, privileges, process and procedures in this section.
 - (6) Hearings will be conducted in Harrisburg, Pennsylvania. For cases to which the act applies, a request for a hearing in Philadelphia or Pittsburgh will be granted, if filed with the Commission within 7 days after the notice of hearing is mailed. Failure to request a hearing in those locations within the time period will be deemed a waiver of the right.
- (b) Hearings will be conducted before one or more members of the Commission. The Commission may appoint a hearing officer for the conduct of the hearings.

§21.22. Discovery.

- (a) The respondent will be given access to evidence intended to be used by the Commission at the hearing, as well as exculpatory evidence developed during the investigation.
- (b) Access to evidence does not include the original complaint or the name of the complainant, information which is otherwise privileged or information not within subsection (a).

§21.23. Scope of hearing.

- (a) Hearings may be conducted as follows based upon the express agreement of the parties:
 - (1) Full evidentiary hearing.
 - (2) Oral argument based on stipulated findings.
 - (3) Submission on briefs.
 - (4) Limited hearing based on partially stipulated facts.

- (b) The respondent has the right to a full hearing, if so requested.
- (c) The Commission and the respondent may stipulate one or more of the facts.
- (d) Motions for dismissal made by the respondent will be deferred to the full Commission for consideration.
- (e) This section supersedes 1 Pa. Code §35.126 (relating to presentation by the parties).

§21.24. Hearing officer.

- (a) It is the duty of the hearing officer and he has the power to do one or more of the following:
 - (1) Schedule and conduct a hearing as required to resolve the matter and to provide the parties with proper notice of the hearing.
 - (2) Administer oaths or affirmations to witnesses.
 - (3) Rule on motions, objections or other matters arising during the hearing.
 - (4) Insure that all parties have a full and fair opportunity to be heard.
 - (5) Insure that a record of the proceedings is available for review by the Commission.
 - (6) Advise witnesses and parties to the hearing of the confidentiality requirements of the act.
 - (7) Advise witnesses or the respondents, when not represented by counsel, of their rights as witnesses.
 - (8) Issue subpoenas upon written request for the production of documents, records and persons needed for the proceeding. The hearing officer will be provided with the name and addresses of the persons and a description of the documents or records involved, and will be satisfied that the documents, records or testimony are relevant and are not protected by privilege.
 - (9) Arrange for the payment of witness fees and mileage expenses or pay other related expenses as required by law.
- (b) The presiding officer will make the following available to the Commission to the extent applicable:
 - (1) A transcript of the hearing, including exhibits.
 - (2) Motions, briefs, memorandums or documents filed by a party to the proceeding.
 - (c) Subsection (a) supersedes 1 Pa. Code §35.187 (relating to authority delegated to presiding officers).

§21.25. Conduct of the hearing.

- (a) The formal rules of evidence will not apply to hearings. Relevant probative evidence except properly objected-to hearsay will be admitted.
- (b) Testimony shall be given under oath or affirmation and witnesses shall be subject to cross-examination.
- (c) The investigative staff of the Commission will present its case followed by the case of the respondent.
- (d) Each party may make an opening and closing statement.
- (e) Parties to the proceeding will be afforded a full and fair opportunity to be heard and may be represented by counsel.
- (f) The hearing will be closed to the public un-

less the respondent requests an open hearing.

- (g) Witnesses summoned for hearings shall receive reimbursement for expenses under 42 Pa.C.S. §5903 (relating to compensation and expenses of witnesses).
- (h) Subpoenas may be issued at the request of the parties to the hearing on the approval of the Commission or hearing officer. Information subpoenaed shall be relevant and not privileged.
- (i) The hearing and papers, records and disclosures therein will be confidential except for the contents of the final order as provided in §21.29 (relating to finality; reconsideration).
- (j) If one or more of the participants in a hearing become disrespectful, disorderly, or disruptive, the hearing officer may continue the hearing to allow the full Commission to rule on the proper limitations or sanctions for the person whose behavior does not conform to minimum standards required for an orderly proceeding.
- (k) Subsection (a) supersedes 1 Pa. Code §35.161 (relating to form and admissibility of evidence). Subsection (b) supersedes 1 Pa. Code §35.137 (relating to oral examination). Subsection (c) supersedes 1 Pa. Code §35.125 (relating to order of procedure).

§21.26. Motions.

- (a) A motion filed prior to the issuance of a notice of hearing will be submitted to the Chairperson, Vice Chairperson or designated hearing officer who will rule on the matter unless in the exercise of his discretion the motion should be submitted to the Commission for a determination at the next scheduled executive session of the Commission.
- (b) A motion filed will correspondingly advance other deadlines provided for in the act by an amount of time equal to the period between the date of filing of the motion and the date of disposition.
- (c) A motion filed immediately prior to or at hearing will be submitted to the hearing officer. The hearing officer will rule on the motion except that which would involve a final determination which will be deferred and submitted to the Commission as part of the record for final disposition of the case.
- (d) This section supersedes 1 Pa. Code §35.177 (relating to scope and contents of motions).

§21.27. Briefs.

- (a) The hearing officer or the parties may request that briefs, proposed findings of fact and conclusions of law be presented. The hearing officer will establish a schedule for the presentation of this material. The parties have the right to request a schedule for the filing of briefs. Failure to comply with this schedule without reasonable excuse, as determined by the hearing officer, shall operate as a waiver of the opportunity to present this material.
- (b) The hearing officer will provide the specifications for briefs which will be in conformity with 1 Pa. Code Chapter 35 (relating to formal proceedings).
- (c) Subsection (a) supersedes 1 Pa. Code §35.191 (relating to proceedings in which briefs are to be filed).

§21.28. Decision.

At the conclusion of a hearing concerning an alleged violation and in a timely manner, the Commission will deliberate on the evidence to determine whether there has been a violation of the act.

- (1) At least four members of the Commission present at a meeting must find a violation of the act by clear and convincing proof.
- (2) The names of the members finding a violation and the names of those dissenting and abstaining will be listed in the order.
- (3) The determination of the Commission, in the form of a final order and findings of fact, will be a matter of public record.

§21.29. Finality; reconsideration.

- (a) An order disposing of an investigation will be a final order when issued. Public release of the order will occur 30 days after the date of issuance, unless reconsideration is requested within that 30-day time period.
- (b) Any party may ask the Commission to reconsider an order or opinion within 30 days of service of the order or opinion. The requestor shall present a detailed explanation setting forth the reason why the order or opinion should be reconsidered.
- (c) A request for reconsideration filed with the Commission will delay the public release of an order, but will not suspend the final order unless reconsideration is granted by the Commission.
- (d) A request for reconsideration may include a request for a hearing before the Commission.
- (e) Reconsideration may be granted at the discretion of the Commission if:
 - (1) A material error of law has been made.
 - (2) A material error of fact has been made.
 - (3) New facts or evidence are provided which would lead to reversal or modification of the order or opinion and if these could not be or were not discovered by the exercise of due diligence.
- (f) If the Commission grants reconsideration the Commission may do one or more of the following:
 - (1) Order new hearings.
 - (2) Schedule and conduct oral argument.
 - (3) Take other action or issue an order or opinion in final disposition of the case.
- (g) Pending reconsideration or request for reconsideration, an order will remain confidential.
- (h) An order which becomes final in accordance with this section will be available as a public document, but the files and records relating thereto will remain confidential.
- (i) This section supersedes 1 Pa. Code §§35.231-35.233 and 35.241 relating to reopening of record; and application for rehearing or reconsideration.

§21.30. Effect of order.

In addition to deciding the case before it, the Commission may take one or more of the following actions, if appropriate. The Commission may:

- (1) Order the respondent to make restitution or impose a monetary penalty in accordance with the act.
- (2) Order the respondent to cease and desist from engaging in a particular activity deemed to be in contravention of the act.

- (3) Order the respondent to take specified action to bring himself in compliance with the act.
- (4) Refer the matter for review or with a specific recommendation for action to law enforcement, regulatory or other authorities with jurisdiction over the matters.
- (5) Institute restitution order enforcement proceedings through the Office of Attorney General or the Commission's legal staff.

CHAPTER 23. COMMISSION

GENERAL PROVISIONS

Sec.

- 23.1. Meetings.
- 23.2. Quorum.
- 23.3. Presiding officer.
- 23.4. Conduct of meetings.
- 23.5. Records of meetings.
- 23.6. Supplement procedures.
- 23.7. Election of Chairperson and Vice Chairperson.

CODE OF CONDUCT

- 23.21. Code of conduct.
- 23.22. Prohibited activities.
- 23.23. Limitations on voting/recusal.

GENERAL PROVISIONS

§23.1. Meetings.

Meetings of the Commission will be held at the call of the Chairperson or any four members, at a time and location and for a purpose as may be determined by the Chairperson or the four other members.

§23.2. Quorum.

A minimum of four members of the Commission will constitute a quorum. In a meeting, the majority vote of the quorum will constitute official action, except as provided in §§21.28 and §23.22(e) (relating to decision; and prohibited activities).

§23.3. Presiding officer.

- (a) The Commission will elect a Chairperson and a Vice Chairperson. The Chairperson will preside over Commission meetings. If the Chairperson is absent or that position is vacant, the Vice-Chair will preside.
- (b) If the Chairperson and Vice Chairperson will be absent from a Commission meeting, the Chairperson, or the Vice Chairperson if presiding, may designate a Commission member to preside for a scheduled meeting.
- (c) If no designation is made under subsection (b), the Commission will elect from among its members, a presiding officer by a majority vote.
- (d) The presiding officer will rule upon matters at the meeting and take action as may be necessary to ensure that the meeting proceeds in an orderly and proper manner.

§23.4. Conduct of meetings.

- (a) *Statements.* Persons in attendance before the Commission may be given a reasonable time in which to make relevant commentary. A person may be questioned during the presentation. The presentation may be terminated by the presiding officer if a reasonable time has expired or if the statement is irrelevant.
- (b) *Questioning.* The authority to question an individual making a statement will be limited to the presiding officer, other members of the Commission and to the extent permitted by

the presiding officer, staff members and the parties.

- (c) *Public meetings.* Meetings of the Commission will be open to the general public at a time and place announced in advance under the Sunshine Act (65 P.S. §§271-286).
- (d) *Executive session.* Executive sessions of the Commission will be announced at public meetings of the Commission, including the time and reason for holding of an executive session.

§23.5. Records of meetings.

Records of public meetings will be kept by the Executive Director and filed within a reasonable time following each Commission meeting. These records will be made available for public inspection during office hours.

§23.6. Supplemental procedures.

The Commission may adopt supplemental procedures or guidelines to govern the administrative and internal operations of the Commission in its discretion by resolution of a majority of a quorum.

§23.7. Election of Chairperson and Vice Chairperson.

- (a) At the first meeting of every year, after the expiration of the term of office of the Chairperson and Vice Chairperson, a quorum of the Commission will elect a Chairperson and Vice Chairperson. Commission members who are nominated for these positions are not precluded from voting.
- (b) The term of office for the Chairperson and Vice Chairperson is 2 years. The officers will remain in office during the interim period between the date when the term of office expires and the next regularly scheduled election.
- (c) The Chairperson and Vice Chairperson are eligible to serve successive terms.
- (d) Notice of the election will be public and announced during the final meeting of the Commission in the year preceding the year in which the terms of office of the serving officers expire.
- (e) In the event of the completion of the term of office and nonreappointment, resignation, removal or incapacity of the Chairperson, the Vice Chairperson will serve the unexpired term of the Chairperson or will serve during the period of incapacity of the Chairperson.
- (f) Upon the resignation, removal, completion of the term and nonreappointment, or in the event that the Vice Chairperson must assume the duties of the Chairperson, a majority of the quorum of the Commission may schedule a special election to elect a Vice Chairperson.
- (g) Notice of a special election will be publicly announced at least 30 days prior to the election. Notice will be forwarded to the members of the Commission.
- (h) The Chairperson, or Vice Chairperson may be removed as officers, but not as Commissioners, for just cause upon a majority vote of the Commission.
- (i) A motion to remove a member of the Commission from the offices mentioned in subsection (h) may be made by a Commission member.
- (j) A member may not be removed unless given

reasonable notice and an opportunity to be heard.

CODE OF CONDUCT

§23.21. Code of Conduct.

- (a) Due to their special position, Commissioners have a higher duty than other public officials to avoid conflicts of interests. Respect for the act can be maintained only if Commission members are models of ethical behavior. The purpose of this section and §§23.22 and 23.23 (relating to prohibited activities; and limitations on voting/recusal) is to guide the Commissioners so that their behavior meets the highest of ethical standards.
- (b) The provisions of this section and §§23.22 and 23.23 are in addition to the duties, responsibilities or obligations imposed upon the Commission members as public officials under the act.

§23.22. Prohibited activities.

- (a) A Commissioner may not be employed by the Commonwealth or a political subdivision of the Commonwealth in a capacity with or without compensation, including holding another public office or position.
- (b) A Commissioner may not hold an office in a political party during his tenure or for 1 year prior to his appointment to the Commission, nor may a member hold office in a political committee during his tenure.
- (c) A Commissioner, a spouse of a Commissioner, or a member of a Commissioner's immediate family residing in the Commissioner's household may not actively participate in or contribute to a political campaign.
- (1) Active participation in a campaign includes attempting to assist a candidate or nominee to obtain public office, soliciting support or information, distributing campaign materials or advertisements, fundraising, publicly supporting a candidate, participating in an organized effort for the purpose of helping a candidate or nominee or attending a fundraiser or dinner on behalf of a candidate.
- (2) This section does not abridge the right of a Commissioner to vote or attend a debate, speech or similar event that is held primarily for the purpose of communicating a candidate's platform or position on issues of public concern.
- (d) A Commissioner may not directly or indirectly attempt to influence a decision by a governmental body, other than a court of law or as a representative of the Commission on a matter within the jurisdiction of the Commission.
- (e) If a Commissioner violates section 6(d) of the act (65 P.S. §406(d)), a majority of the Commission may declare the seat vacant.
- (1) A motion to remove a Commissioner will be made by a Commissioner member.
- (2) A Commissioner may not be removed prior to notice and an opportunity to be heard.

§23.23. Limitations on voting/recusal.

- (a) A Commissioner is required to recuse himself from a matter which involves persons with whom the Commissioner has a direct involvement, personally or financially.
- (1) A Commissioner is deemed to have a di-

rect personal involvement with members of his immediate family as defined in the act, in-laws and close friends.

- (2) A Commissioner has a direct financial involvement with an individual who owns a part of or is employed by a business with which the Commissioner is associated within the 2 years prior to the Commission's review of a matter in question if the financial involvement was of more than a de minimis nature.
- (3) If a Commissioner recuses himself from a matter he will:
- (i) Remove himself from that segment of the Commission meeting wherein the matter is to be discussed and avoid casual discussion of the matter with other Commissioners.
- (ii) Receive no further information from the Commission or the Commission staff regarding the matter.
- (iii) Receive copies of minutes of the meeting containing deletions so as to not disclose the matter to the Commissioner.
- (b) A Commissioner who has a potential conflict not addressed in subsection (a) will take one of the following courses of action:
- (1) Disclose the matter to the Commission and seek its guidance as to whether it would be proper to participate and vote in a matter before the Commission.
- (2) Disclose to the parties his potential conflict and solicit their express agreement that he may continue in his official capacity, subject to the approval of the Commission.
- (3) Recuse himself.
- (c) A Commissioner who recuses himself or is recused by the Commission or at the suggestion of one of the parties is subject to subsection (a)(3).
- (d) A Commissioner's participation involving parties with whom the Commissioner has had substantial prior contact may present a conflict under subsection (b) depending on the totality of the circumstances. Circumstances to be considered include whether the matter involves one or more of the following:
- (1) A relative of the Commissioner.
- (2) A former employer or employee.
- (3) A person or business with which a Commissioner has or had financial dealings of more than a de minimis nature within the 2 years prior to the Commissioner's review of the matter in question.
- (4) A source of income reportable on the Statement of Financial Interests.
- (5) The individual appointing authority of the Commissioner is a respondent.
- (6) A person providing the Commissioner with funds, goods or services without compensation.
- (7) A person with whom the Commissioner has a fiduciary relationship.
- (8) A debtor or creditor of the Commissioner.
- (e) A Commissioner recused from a matter shall direct that the individual recording the minutes at the meeting enter into the minutes the recusal and the reasons therefore.
- (f) If the Commission cannot achieve a quorum

because recusals reduce the number of Commissioners available to vote, the matter in question will be deferred until a meeting at which a quorum may be achieved.

CHAPTER 25. WRONGFUL USE OF THE ACT

Sec.

- 25.1. Wrongful use of the act.
- 25.2. Initiation of proceedings.
- 25.3. Disposition.
- 25.4. Appeal of determination.

§25.1. Wrongful use of the act.

Wrongful use of the act is established by one or more of the following elements:

- (1) The filing of a frivolous complaint which is a complaint filed in a grossly negligent manner without basis in law or fact.
- (2) The filing of a complaint without probable cause, primarily for a purpose other than reporting a violation of the act.
- (3) Disclosing publicly or causing to be publicly disclosed the fact that an individual is the subject of a complaint or Commission investigation.

§25.2. Initiation of proceedings.

(a) The Commission may initiate proceedings to determine whether there has been a wrongful use of the act through the filing of a notification by a public official/public employe as provided for in section 8(l) of the act (65 P.S. §408(l)), which notification shall contain the following:

- (1) A reference identifying the complaint/investigation involved.
 - (2) A detailed explanation as to the reasons, information, facts or evidence establishing the elements of wrongful use of act as outlined in §25.1 (relating to wrongful use of the act).
 - (3) If applicable, identification of the person publicly disclosing the existence of Commission proceedings and the specific nature of the disclosure.
 - (4) Additional information necessary to the resolution of the matter.
- (b) Failure to provide information as outlined in

this section will be cause for dismissal of the notification.

§25.3. Disposition.

- (a) Pursuant to a notification containing the requisite information outlined in §25.2 (relating to initiation of proceedings), the Commission will initiate proceedings by conducting an investigation to determine whether there has been a wrongful use of act.
- (b) The investigation will be conducted in a confidential manner.
- (c) The investigation may incorporate information which the Commission has already obtained.
 - (1) If the Commission determines a complaint has been filed in violation of the act, it will release the name and address of the complainant to the respondent after giving the complainant notice and an opportunity to be heard on the issue of whether the complainant wrongfully used the act.
 - (2) If the Commission determines that a complaint was proper, it will so notify the respondent who may appeal that determination and the Commission will schedule a hearing.
- (d) Upon completion of the investigation, the Commission will make a preliminary determination as to wrongful use of the act. The Commission will notify the complainant and subject of the preliminary determination.

§25.4. Appeal of determination.

- (a) Both the complainant and the subject have standing and either may appeal the preliminary determination to the Commission.
 - (1) Any appeal shall be filed with the Commission within 30 days of service of the preliminary determination.
 - (2) If there is no timely appeal filed, the Commission's initial determination will become absolute and will become the final determination of the Commission in the matter as to wrongful use of the act.
- (b) The issuance of Orders to Show Cause is

governed by the following:

- (1) If a subject appeals, the Commission will issue an Order to Show Cause requiring the respondent to set forth reasons why the rule should not be made absolute as to a finding of no wrongful use of the act. The answer to the rule shall contain specific factual averments which establish a basis for believing the act was wrongfully used. One or more of the following are inadequate to establish wrongful use:
 - (i) Dismissal of the complaint.
 - (ii) Dismissal for lack of probable cause.
 - (iii) Dismissal on jurisdictional grounds.
- (2) The Commission will schedule a hearing for the subject's appeal at which the subject shall bear the burden of proving wrongful use of the act by clear and convincing evidence. The investigative staff of the Commission will present the case opposing the subject's appeal.
- (c) If the complainant appeals, the Commission will issue a Rule to Show Cause requiring the complainant to file an answer to the averments in the Rule as to why the Rule should not be made absolute as to a finding of wrongful use of the act. The Commission will schedule a hearing for the complainant's appeal. The investigative staff of the Commission will present the Commission's case and will have the burden of proving wrongful use of the act by clear and convincing evidence.
- (d) If the Commission makes a final determination that the act has been wrongfully used, it will release to the subject the name and address of the complainant solely for the purpose of initiating an action for wrongful use of the act. The complainant's identity will not otherwise be publicly released.
- (e) If the Commission makes a final determination that the act was not wrongfully used, it will issue a final determination setting forth the reasons and evidence for its finding.
- (f) The procedures of §§21.21-21.29 will apply to the hearing to the extent applicable.

Complaints/Investigations

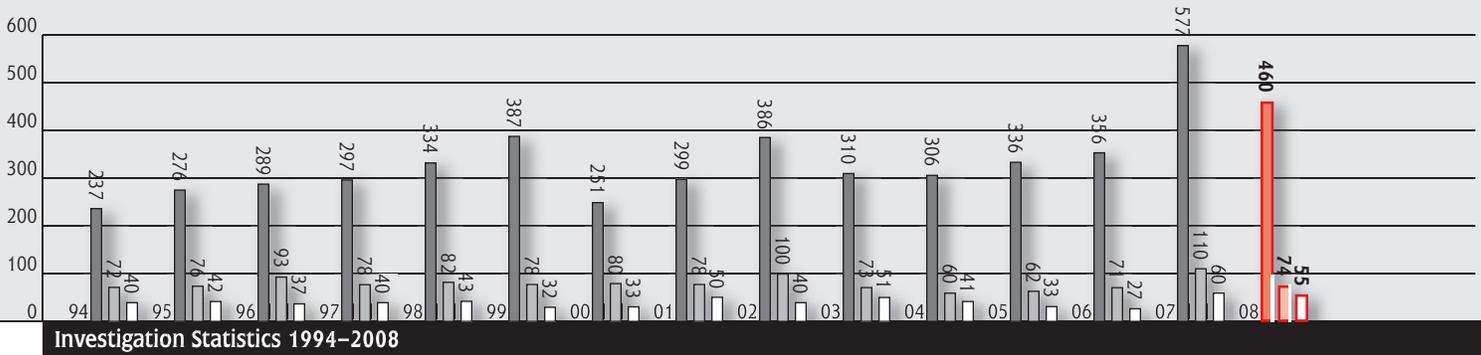
The State Ethics Commission is mandated to investigate sworn complaints and to initiate investigations on its own motion. A sworn complaint must include full names and addresses of the complainant and respondent, contain allegations related to specific individuals, be signed by the complainant, and be properly notarized.

The Commission's Investigative Division will initially acknowledge receipt of a complaint. If the matter is not within the Commission's jurisdiction or if the complaint lacks sufficient information, it will not be processed and the complainant so notified. The Commission's Investigative

COMPLAINT/INVESTIGATION STATISTICAL SUMMARY	
Complaints received in 2008	460
Investigations opened in 2008	74
Orders issued in 2008	55
Orders where violations were found	50
Restitution ordered	\$166,865.39
Cases referred to law enforcement agencies	1

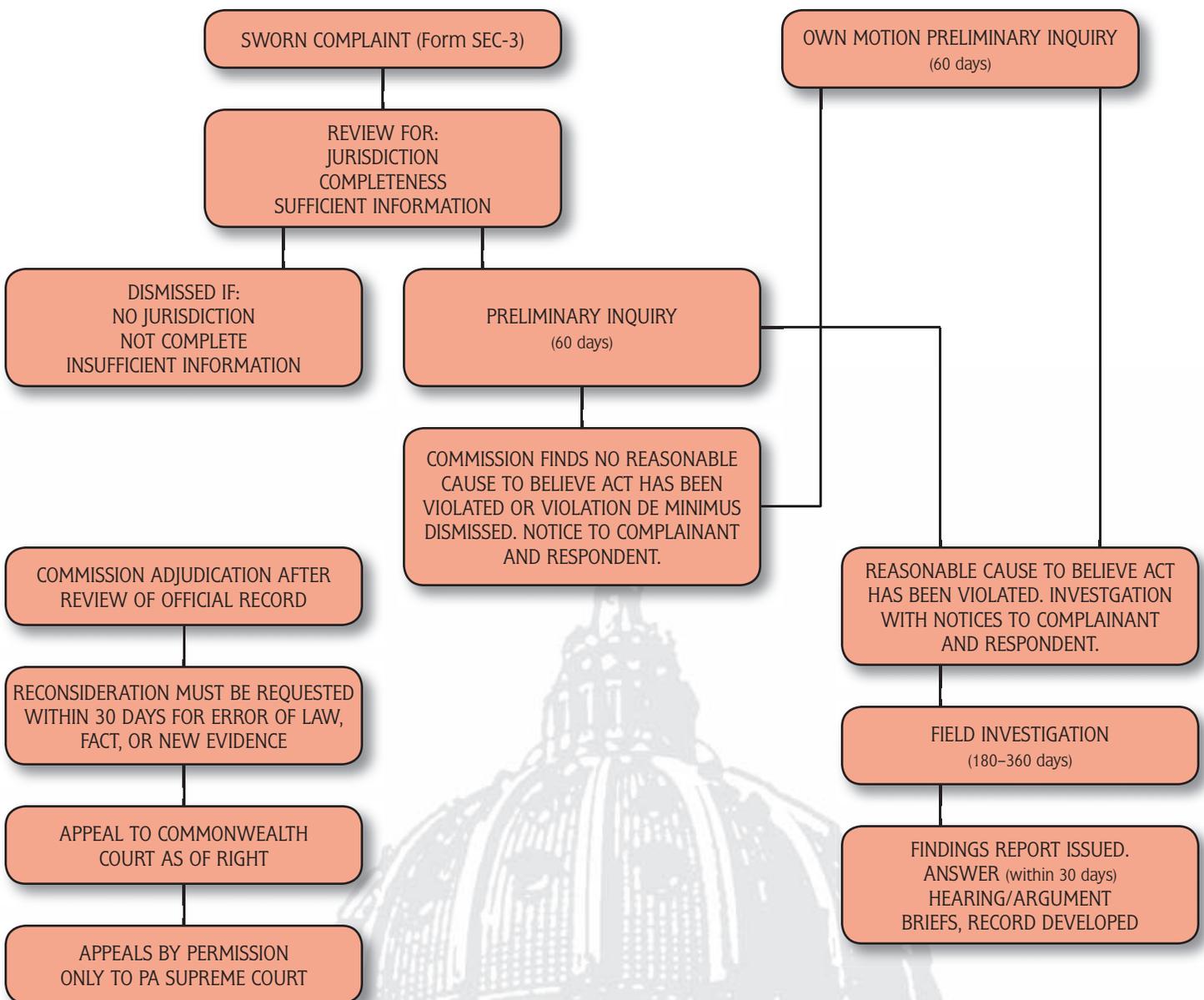
Division may initiate either a preliminary or full investigation. A preliminary investigation must be completed within

60 days and either terminated or opened as a full investigation. The complainant will be notified within 72 hours of the commencement of a full investigation and both the complainant and subject of the investigation will be notified every 90 days thereafter of the status of the matter. The subject of an investigation must be notified prior to the initiation of such investigation of the allegations against said person. If after a preliminary investigation the matter is terminated, both the complainant and subject of the inquiry will be notified. If a complaint is frivolous, the Commission must so state. If a full investigation has been conducted, upon the



INVESTIGATION FLOWCHART

The following chart depicts the investigation process.



conclusion of the field investigation the subject of the complaint will be issued a findings report containing the relevant findings of fact. Such reports must be issued within 360 days of the initiation of the full investigation. The subject of the investigation must respond to said report within 30 days after the issuance thereof. Upon completion of the field investigation and the issuance of and response to the findings report, the subject will be afforded a full and fair opportunity to challenge the findings and allegations. Such may include evidentiary hearings and arguments of law. Upon the conclusion of the investigation and all other proceedings, the Commission will issue a final order containing findings of fact and conclusions of law. Final orders issued by the Commission may be appealed to the Commonwealth Court of Pennsylvania.

INVESTIGATION ORDERS SUMMARY

The State Ethics Commission issued the following Orders based upon alleged violations of the Public Official and Employee Ethics Law ("Ethics Law"), Act 9 of 1989, P.L. 26, 65 P.S. §1101 et seq. While the following summaries of Orders are pertinent only to the involved individuals and their circumstances, the principles can be used as general guidelines.

Orders—2008

Order No. 1407-2 (Complainant A – WUA)
Decided: January 28, 2008
Issued: February 15, 2008

Complainant A, a private individual who on February 16, 2005 filed a complaint with the State Ethics Commission against Public Official B, violated Section 1108(k) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1108(k), when she breached confidentiality as to the aforesaid complaint she filed against Public Official B.

Complainant A did not violate Section 1110(a)(2) of the Ethics Act, 65 Pa.C.S. §1110(a)(2), with respect to the aforesaid complaint based upon a lack of sufficient evidence to establish that she publicly disclosed or caused to be disclosed that a complaint against a person (Public Official B) had been filed with the State Ethics Commission.

The Subject's appeal from the preliminary determination of no wrongful use of act is denied.

Chief Counsel is directed to publicly release only a fully redacted copy of this adjudication and Order at such time when

this determination becomes a public record.

Order No. 1452 (Barr)
Decided: January 28, 2008
Issued: February 15, 2008

A public employee in his capacity as a Uniform Construction Code Building Plans Examiner with the Commonwealth of Pennsylvania Department of Labor and Industry, Bureau of Occupational and Industrial Safety, during the time period from July 28, 2003 to August 11, 2006, violated Section 1103(a) of the Ethics Act when he used the authority of his aforesaid public position as a Uniform Construction Code Building Plans Examiner with the Bureau to create and issue a notification, purportedly from the Department of Labor and Industry, regarding the initiation of an inquiry, the alleged existence of building code violations, and potential penalties, to a contractor with which he was involved in a civil dispute over alleged nonpayment of bills.

Order No. 1453 (Complainant A WUA)
Decided: January 28, 2008
Issued: February 15, 2008

Complainant A, as a resident of Township C in County D, who on January 3, 2007 filed a complaint with the Pennsylvania State Ethics Commission alleging violations of the Ethics Act by the members of the B Authority and the Solicitor for the B Authority and the Solicitor for the B Authority, violated Section 1108(k) of the Ethics Act when he disclosed to newspaper reporter(s) and the media that a complaint had been filed with the State Ethics Commission regarding the conduct of members of the B Authority and the B Authority Solicitor.

Complainant A violated Section 1110(a)(2) of the Ethics Act when Complainant A disclosed to newspaper reporter(s) and the media that a complaint had been filed with the Pennsylvania State Ethics Commission regarding the conduct of members of the B Authority and the B Authority Solicitor.

Pursuant to the Consent Agreement of the parties, Complainant A is directed to make payment in the amount of \$200 to the Commonwealth of Pennsylvania within 30 days of the date of mailing of this Order, by forwarding a check in the amount of \$200 made payable to the Commonwealth of Pennsylvania to this Commission for processing.

At such time as this determination becomes a public record, Chief Counsel shall

publicly release a copy of this redacted adjudication and Order.

Following public release, upon receiving a written request from a Subject of Complainant A's complaint, specifically Public Official 1, Public Official 2, Public Official 3, Public Official 4, Public Official 5, or Attorney H, Chief Counsel shall provide the name and address of Complainant A to such Subject, together with copies of the redacted adjudication and Order of this Commission.

Compliance by Complainant A with Paragraph 3 of this Order will result in the closing of this case with no further action by this Commission beyond that set forth in Paragraphs 4 and 5 of this Order.

Order No. 1454 (Bayle)
Decided: January 28, 2008
Issued: February 15, 2008

A public official in her capacity as a Council Member for Wattsburg Borough from June 26, 2006 to the present, violated Section 1103(a) of the Ethics Act when she, as a Borough Council Member, participate in discussions and actions of Borough Council which resulted in the hiring of her daughter for the position of Borough Secretary/Treasurer.

The Borough Council Member violated Section 1103(a) of the Ethics Act when she, as a Borough Council Member, approved an increase in compensation and payments issued to her daughter, an immediate family member.

Per the Consent Agreement of the parties, the Borough Council Member is directed to make payment in the amount of \$1,200 to be paid in monthly payments of \$50 per month for 24 months, made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission with the first payment due 30 days from the issuance of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1455 (Graeff)
Decided: January 28, 2008
Issued: February 15, 2008

A public employee, in his capacity as Lieutenant for a Township Police Department, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he submitted travel invoices to the Township for payment on his behalf indicating that a trip to Ireland was related to his position with the Police Department.

The Township Police Lieutenant

violated Section 1103(a) of the Ethics Act when he claimed compensation for time traveled on personal matters not related to his public position.

The Township Police Lieutenant technically violated Section 1104(a) of the Ethics Act when he failed to file Statements of Financial Interests for the calendar years of 2002, 2003, 2004, and 2005.

Per the Consent Agreement of the parties, the Township Police Lieutenant is directed to make payment in the amount of \$3,464.14 payable to the Commonwealth of Pennsylvania and forwarded to this Commission within 30 days of the issuance of this Order.

To the extent the Township Police Lieutenant has not already done so, he is directed to file amended Statements of Financial Interests for calendar years 2002, 2003, 2004, and 2005 with the Township Police Department within 30 days of the issuance of this Order, providing full disclosure as required by the Ethics Act and specifically listing the Township as a source of income, and to forward a copy of each such filing to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

NOTE: Commissioner Raquel K. Bergen did not participate in this matter.

Order No. 1455-R (Graeff)

Decided: April 28, 2008
Issued: May 15, 2008

The Request for Reconsideration of Graeff, Order No. 1455, is denied.

NOTE: Commissioner Raquel K. Bergen did not participate in this matter.

Order No. 1456 (Carlock)

Decided: January 28, 2008
Issued: February 15, 2008

Under the unique facts of this case, Respondent, a public official in his capacity as a Township Commissioner from January 1, 1955 until December 31, 2003, did not violate Section 1103(a) of the Ethics Act when he received pension payments funded in part by the Township as it was deemed mandatory for all Commissioners to participate in said pension plan, despite the fact that participation by Commissioners was/is contrary to the First Class Township Code.

The Township Commissioner is directed to comply with the terms of the Consent Agreement of the parties. Compliance will result in the closing of this case with no further action by this

Commission except to the extent further action of this Commission may be needed to accomplish the terms of the Consent Agreement.

Order No. 1457 (Evans)

Decided: January 28, 2008
Issued: February 15, 2008

An Executive Director of a County Housing Authority from September 13, 1978, through April 27, 2005, and as a Member and President of a Housing Corporation Board of Directors from July 14, 1982 through April 27, 2005, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he authorized payments from Authority or Corporation funds for his country club members fees and dues; and for personal purchases made on Authority and/or Corporation issued credit cards, including balance transfers from his personal credit cards.

The County Housing Authority Executive Director/Member and President of the Housing Corporation Board of Directors violated Section 1103(a) of the Ethics Act when he authorized payments from Authority or Corporation funds for insurance premiums and annuities for himself.

The County Housing Authority Executive Director/Member and President of the Housing Corporation Board of Directors violated Section 1103(a) of the Ethics Act when he utilized an Authority and/or Corporation owned automobile for personal purposes.

The County Housing Authority Executive Director/Member and President of the Housing Corporation Board of Directors violated Section 1103(a) of the Ethics Act when he used Authority and/or Corporation funds for other personal purposes unrelated to his public position/public employment.

The County Housing Authority Executive Director/Member and President of the Housing Corporation Board of Directors violated Section 1104(a) of the Ethics Act when he failed to file with the Authority Statements of Financial Interests for the 2000, 2001, 2002, 2003, and 2004 calendar years.

Per the Consent Agreement of the parties, the County Housing Authority Executive Director/Member and President of the Housing Corporation Board of Directors is directed to make payment in the amount of \$40,000, payable under the terms set forth in Paragraphs 4 a-b of the Consent Agreement, specifically:

- a. An initial payment of \$30,000, by way of certified check, payable to the Venango County Housing Authority and forwarded to the Pennsylvania State Ethics Commission for compliance purposes, is due within 30 days of the issuance of this Order; and
- b. The remaining balance of \$10,000 is due within approximately 24 months from the payment date of the initial \$30,000. The remaining \$10,000 balance is payable in monthly installments, by way of certified check, payable to the Venango County Housing Authority and forwarded to the Pennsylvania State Ethics Commission for compliance purposes, in an amount of at least \$416.70, due on or before the last day of each month until the remaining \$10,000 is paid in full. The first monthly payment shall not be due any sooner than 30 days from receipt of the initial \$30,000 payment. The first monthly payment shall be due at the end of the month following the month in which the original \$30,000 payment is due (e.g., if the initial \$30,000 is paid February 15, 2008, the first monthly payment shall be due by the end of March 2008 and the end of each month thereafter). He may prepay this balance at any time.

Per the Consent Agreement of the parties, the County Housing Authority Executive Director/Member and President of the Housing Corporation Board of Directors is further directed that he is to neither seek nor hold any position of public office or of public employment in the Commonwealth of Pennsylvania at any time from the date of the Consent Agreement (December 6, 2007) forward.

Per the Consent Agreement of the parties, the County Housing Authority Executive Director/Member and President of the Housing Corporation Board of Directors is directed to file Statements of Financial Interests for calendar years 2000, 2001, 2002, 2003, and 2004 with the Authority, through this Commission, within 30 days of the issuance of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1458 (Foster)

Decided: January 28, 2008
Issued: February 15, 2008

A Director of the Bureau of Career and Technical Education of the Pennsylvania Department of Education from April 17, 2000 until July 30, 2004, committed

an unintentional violation of Section 1103(a) of the Ethics Act in relation to his attendance at meetings of advisory boards while on Commonwealth time and submitting and being paid for personal expenses which were paid by the Commonwealth.

A technical violation of Section 1103(g) of the Ethics Act occurred when the Director of the Bureau represented the National Occupational Competency Testing Institute, as President/CEO, before his former governmental body within one year of leaving state service.

No violation of Section 1104(a) of the Ethics Act occurred regarding the Director of the Bureau's failure to file a Statement of Financial Interests for the 2005 calendar year in that he was not required to file a 2005 Statement of Financial Interests.

Per the Consent Agreement of the parties, the Director of the Bureau is directed to make payment in the amount of \$512.40 in settlement of this matter payable to the Commonwealth of Pennsylvania and forwarded to this Commission by no later than the 30th day after the mailing date of this Order. Compliance with the foregoing will result in the closing of this case with no further action by this Commission.

Order No. 1459 (Complainant A WUA)

Decided: January 28, 2008
Issued: February 15, 2008

It is the preliminary determination of this Commission that Complainant A did not wrongfully use the Ethics Act with respect to the complaint against the Subject under case number 07-044.

If no timely appeal is filed, this preliminary determination will become absolute and will become the final determination of this Commission in this matter regarding wrongful use of the act and will be released as a public document.

Order No. 1460 (Gerhard)

Decided: March 12, 2008
Issued: March 14, 2008

A public official in his capacity as a Member of the School Board of Weatherly Area School District since approximately December 1999, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he used the authority of his office for the private pecuniary gain of himself and/or Orefield Transit, Inc., a business with which he and/or a member of his immediate family is associated, by participating in Board actions to approve a June 12, 2006 ad-

dendum to a School District contract with Vogel Bus Company, thereby increasing compensation to Vogel Bus Company, at a time when he was negotiating with Vogel bus Company to sell and/or lease buses to Vogel.

The Member of the School Board violated Sections 1105(b)(5), 1105(b)(8), and 1105(b)(9) of the Ethics Act when he failed to disclose, on a Statement of Financial Interests filed for the 2003 calendar year, Country Coach, Inc. as a direct or indirect source of income, his office or directorship with K.C. Trailer Sales, and his financial interest in K.C. Trailer Sales.

The Member of the School Board violated Sections 1105(b)(8) and 1105(b)(9) of the Ethics Act when he failed to disclose on a Statement of Financial Interests filed for the 2004 calendar year his office, directorship, or employment with K.C. Trailer Sales and his financial interest in K.C. Trailer Sales.

The Member of the School Board violated Sections 1105(b)(8) and 1105(b)(9) of the Ethics Act when he failed to disclose on a Statement of Financial Interests filed for the 2005 calendar year his office, directorship, or employment with K.C. Trailer Sales and his financial interest in K.C. Trailer Sales.

The Member of the School Board violated Sections 1105(b)(5), 1105(b)(8), and 1105(b)(9) of the Ethics Act when he failed to disclose on Statements of Financial Interests filed for the 2002, 2003, 2004, 2005, and 2006 calendar years Orefield Transit, Inc. as a direct or indirect source of income, his office, directorship or employment in Orefield Transit, Inc., and his financial interest in Orefield Transit, Inc.

The Member of the School Board is directed to make payment in restitution in the amount of \$50, payable to the Commonwealth of Pennsylvania and forwarded to this Commission within 30 days of the issuance of this Order.

To the extent the Member of the School Board has not already done so, he is further directed to file with the School District, within 30 days of the issuance of this Order, amended Statements of Financial Interests for calendar years 2002, 2003, 2004, 2005, and 2006, providing full financial disclosure as required by the Ethics Act, and to provide to this Commission copies of all of the aforesaid filings for compliance verification purposes.

Order No. 1461 (Gold)

Decided: April 28, 2008
Issued: May 15, 2008

A Township Supervisor from January 4, 2004 to the present, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when, as a Township Supervisor, he directed and/or recommended the use of his son's company to subordinates.

A violation of Section 1103(f) of the Ethics Act occurred when the Township Supervisor participated in actions of the Township Board of Supervisors to award contracts in excess of \$500 to business(es) with which his son, a member of his immediate family, is associated.

The Township Supervisor violated Section 1103(a) of the Ethics Act when he participated in votes to award contracts and issue payments to companies of which his son is co-owner/owner.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment in the amount of \$7,500 payable to the Commonwealth of Pennsylvania and forwarded to this Commission by no later than the 30th day after the mailing date of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1462 (Klitsch)

Decided: April 28, 2008
Issued: May 15, 2008

A Borough Council Member unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), in relation to the provision of bartending and maintenance services at the Borough's Memorial Park Hall by the Borough Council Member and members of her immediate family.

The Borough Council Member violated Section 1104(a) of the Ethics Act when she failed to file Statements of Financial Interests for the 2001, 2002, 2003, 2004, and 2005 calendar years.

Per the Consent Agreement of the parties, the Borough Council Member is directed to make payment in the amount of \$5,500, made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission within 30 days of the issuance of this Order.

To the extent the Borough Council Member has not already done so, the Borough Council Member is directed to file Statements of Financial Interests for calendar years 2001, 2002, 2003, 2004, and

2005 with the Borough within 30 days of the issuance of this Order, and to forward a copy of each such filing to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1463 (Bornstein)

Decided: April 28, 2008
Issued: May 15, 2008

A Health Officer/Code Enforcement Officer for the City of Connellsville from January 10, 2000 to the present, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when she utilized her office, including equipment and materials, in support of her part-time positions as health Code Officer for the Borough of South Connellsville and Dunbar Borough.

The City Health Officer/Code Enforcement Officer violated Section 1103(a) of the Ethics Act when she performed duties related to her part-time positions with South Connellsville and Dunbar during the same hours for which she was being compensated as an employee of the City.

The City Health Officer/Code Enforcement Officer violated Section 1104(a) of the Ethics Act when she failed to file Statements of Financial Interests for the 2001, 2002, 2003, 2004, and 2005 calendar years in her public positions with South Connellsville and Dunbar and failed to file Statements of Financial Interests for the 2002, 2003, 2004, and 2005 calendar years in her public position with the City.

Per the Consent Agreement of the parties, the City Health Officer/Code Enforcement Officer is directed to make payment in the amount of \$2,928.37 as follows: nine payments of \$300 and one payment of \$228.37, with said payments made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State ethics Commission, and with said payments beginning within 30 days of the issuance of this Order.

To the extent the City Health Officer/Code Enforcement Officer has not already done so, the City Health Officer/Code Enforcement Officer is directed to file Statements of Financial Interests with South Connellsville and Dunbar for calendar years 2001, 2002, 2003, 2004, and 2005, and to file Statements of Financial Interests with the City for calendar years 2002, 2003, 2004, and 2005, within 30 days of the issuance of this Order and to forward a copy of each such filing to this

Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1464 (Kohn)

Decided: April 28, 2008
Issued: May 15, 2008

Transgressions of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a) occurred when Statements of Financial Interests for the Superintendent of the Harrisburg School District, for calendar years 2003 through 2005 inclusive, were not on file with the School District in October 2006.

Transgressions of Section 1104(a) of the Ethics Act occurred when the Superintendent of the Harrisburg School District signed Statements of Financial Interests for the 2003 through 2005 calendar years with dates representing the time period when the forms should have been filed rather than when they were actually filed.

Per the Consent Agreement of the parties, the Superintendent of the Harrisburg School District is directed to make payment in the amount of \$750 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission within 30 days of the date of the issuance of this Order.

To the extent that he has not already done so, the Superintendent of the Harrisburg School District is directed to file accurate and complete Statements of Financial Interests for calendar years 2003, 2004, and 2005 with the School District within 30 days of the date of the issuance of this Order, with a copy of each such filing provided to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission

Order No. 1465 (Brown)

Decided: April 28, 2008
Issued: May 15, 2008

A Vocational Education Service Manager, a Vocational Home Economics Education Advisor to a Vocational Education Service Manager, and/or a Division Chief within the Commonwealth of Pennsylvania, Department of Education, unintentionally violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when she, in her public position, recommended and participated in the hiring of her daughter to perform services paid for with Department of Education Curriculum Development Grant funds.

The Vocational Education Service Manager/Vocational Home Economics Education Advisor to a Vocational Education Service Manager and/or a Division Chief within the Commonwealth of Pennsylvania Department of Education did not violate Section 1103(a) of the Ethics Act in relation to the allegation that she recommended and approved her husband's company to provide services to a recipient of a Department of Education grant and approved the hiring of her husband as a consultant for the Department of Education, due to such actions occurred beyond the five-year statute of limitations of the Ethics Act.

The Vocational Education Service Manager/Vocational Home Economics Education Advisor to a Vocational Education Service Manager and/or a Division Chief within the Commonwealth of Pennsylvania Department of Education did not violate Section 1103(a) of the Ethics Act in relation to the allegation that she recommended the hiring of her daughter to perform clerical services for the 2000 Governor's Institute, due to such actions occurring beyond the five-year statute of limitations of the Ethics Act.

Per the Consent Agreement of the parties, the Vocational Education Service Manager/Vocational Home Economics Education Advisor to a Vocational Education Service Manager and/or a Division Chief within the Commonwealth of Pennsylvania Department of Education is directed to make payment in the amount of \$750, payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission within 30 days of the issuance of this Order. Compliance with the forgoing will result in the closing of this case with no further action by this Commission.

Order No. 1466 (Pagan)

Decided: April 28, 2008
Issued: May 15, 2008

A Director of the Bureau of Enterprise Architecture of the Commonwealth Technology Center from November 3, 2003 until November 4, 2005, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he utilized computer hardware and software, which was the property of the Commonwealth, for his personal use.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Director of the Bureau Director failed to file Statements of Financial Interests for

the 2003, 2004, and 2005 calendar years.

Per the Consent Agreement of the parties, the Bureau Director is directed to make payment in the amount of \$5,921.39, with said amount to be paid in monthly payments of \$164.48 per month for 36 months, made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission, and with the first such payment to be due within 30 days of the issuance of this Order.

To the extent that he has not already done so, the Bureau Director is directed to file accurate and complete SFIs for calendar years 2003, 2004, and 2005 through the Bureau within 30 days of the date of the issuance of this Order, with copies of each such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1467 (Vickery)
Decided: April 28, 2008
Issued: May 15, 2008

A Township Supervisor from January 2002 to January 2008 violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a) when, in 2006, he used the authority of his public office of his public office for a private pecuniary benefit by using the Bradford Township Engineer to perform services at a cost to Bradford Township in relation to a permit application prepared and submitted to DEP, which permit application, if approved, would have improved/enhanced the value of property the Township Supervisor was selling to Universal Well Services, Inc.

The Township Supervisor violated Section 1103(a) of the Ethics Act when, in 2006, through the use of the authority of his public office, he caused a permit application to be submitted to DEP in the name of Bradford Township regarding the reconstruction of the Rutherford Run catch basin, in an attempt to have Bradford Township re-route the water at the catch basin site and thereby eliminate the existing waterway on property the Township Supervisor was selling to UWS, and consequently, the need and cost for the Township Supervisor to privately perform the work necessary to resolve issues as to the said existing waterway on such property.

The Township Supervisor is ordered to pay a treble penalty in the amount of

\$2,937, with such payment to be made payable to Bradford Township and forwarded to this Commission within 30 days of the issuance of this Order, for processing.

Order No. 1467-R (Vickery)
Decided: July 21, 2008
Issued: August 5, 2008

The Request for Reconsideration of Vickery, Order No. 1467, is denied.

Order No. 1468 (Arrow)
Decided: June 16, 2008
Issued: June 19, 2008

A public official in her capacity as a Member of the Municipal Authority of Washington Township from August 11, 1999 until July 31, 2007, violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a) when she received compensation in the amount of \$4,525, which was not provided for by law, by participating in actions of the Authority Board to authorize the expenditure of Authority funds for Authority Board Members' compensation in excess of that approved by the Washington Township Board of Supervisors.

The Municipal Authority Township Member violated Section 1103(a) of the Ethics Act when she received compensation in the amount of \$1,400, which was not provided for by law, when she accepted an increase in compensation (meeting pay) prior to the beginning of a new term of office.

The Municipal Authority Township Member did not violate Section 1103(a) of the Ethics Act as to the amount of \$150 (\$200 minus \$50 credit) that she received for Authority Board meetings she did not attend, based upon the applicability of the "de minimis" exclusion to the Ethics Act's definition of "conflict" or "conflict of interest," 65 Pa.C.S. §1102.

The Municipal Authority Township Member is directed to pay restitution to the Authority in the total amount of \$5,925 in monthly payments of \$164.58 for 35 months, and a final payment of \$164.70, with all such payments to be payable to the Authority and forwarded to this Commission for processing, and with the first such payment to be forwarded to this Commission by no later than the 30th day after the mailing date of this Order. Respondent may prepay the amount due at any time.

Order No. 1469 (Complainant A)
Decided: July 7, 2008
Issued: July 10, 2008

A private citizen who filed a complaint with the Pennsylvania State Ethics Commission against Individual B violated Section 1110(a)(2) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1110(a)(2), when he/she caused to be publicly disclosed that that a complaint against Individual B had been filed with this Commission.

At such time as this determination becomes a public record, Chief Counsel shall publicly release only fully redacted copies of the adjudication and this Order.

Following public release, upon receiving a written request from Individual B, Chief Counsel shall provide the name and address of Complainant A to Individual B, together with copies of the redacted adjudication and Order of this Commission.

Order No. 1470 (Reuvenny)
Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a) occurred when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for the Director of Early Childhood Education for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Director signed, in compliance with purported instructions from the School District Secretary, SFI(s) for the 2004 calendar year with a date representing the time period when the form—which the Director asserts was previously filed—should have been filed rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent Director has not already done so, Director is directed to file an accurate and complete SFI for calendar year 2004 with the School District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1471 (Kermes)
Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a) occurred

when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for the Director of the Alternative Education Program for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Director signed, in compliance with purported instructions from the School District Secretary, SFI(s) for the 2004 calendar year with a date representing the time period when the form—which the Director asserts was previously filed—should have been filed rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent the Director has not already done so, the Director is directed to file an accurate and complete SFI for calendar year 2004 with the School District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1472 (Hilinski)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a) occurred when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for the Information Technology Director for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Director signed, in compliance with purported instructions from the School District Secretary, SFI(s) for the 2004 calendar year with a date representing the time period when the form—which the Director asserts was previously filed—should have been filed rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent the Director has not already done so, the Director is directed to file an accurate and complete SFI for calendar year 2004 with the School District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1473 (Gretton)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a) occurred when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for the Assistant Superintendent for Business Affairs for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Assistant Superintendent signed, in compliance with purported instructions from the School District Secretary, SFI(s) for the 2004 calendar year with a date representing the time period when the form—which the Assistant Superintendent asserts was previously filed—should have been filed rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent the Assistant Superintendent has not already done so, the Assistant Superintendent is directed to file an accurate and complete SFI for calendar year 2004 with the School District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1474 (Holman)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a), 65 Pa.C.S. §1104(a) occurred when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for Director of Human Resources for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Director signed, in compliance with purported instructions from the School District Secretary, SFI(s) for the 2004 calendar year with a date representing the time period when the form—which the Director asserts was previously filed—should have been filed rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent the Director has not already done so, the Director is directed to file an accurate and complete SFI for calendar year 2004 with the School

District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1475 (Ferguson)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a) occurred when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for the Director of Curriculum, who served as the Director of Curriculum for the School District from approximately May 2003 to August 2005.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Director signed, in compliance with purported instructions from the School District Secretary, SFI(s) for the 2004 calendar year with a date representing the time period when the form—which the Director asserts was previously filed—should have been field rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent the Director has not already done so, the Director is directed to file an accurate and complete SFI for calendar year 2004 with the School District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1476 (Ford)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1104(a) occurred when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for the Assistant Business Administrator for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when, in compliance with purported instructions from the School District Secretary, the Assistant Business Administrator signed and/or filed with the School District SFI(s) in the Assistant Business Administrator's name for the 2004 calendar year with a date representing the time period when the form—which the Assistant Business Administrator asserts was previously

filed—should have been filed rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent the Assistant Business Administrator has not already done so, the Assistant Business Administrator is directed to file an accurate and complete SFI for calendar year 2004 with the School District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1477 (Tapper)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1104(a) occurred when a Statement of Financial Interests for calendar year 2004 was not on file with the School District for the Assistant Superintendent for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Assistant Superintendent signed, in compliance with purported instructions from the School District Secretary, SFI(s) for the 2004 calendar year with a date representing the time period when the form—which the Assistant Superintendent asserts was previously filed—should have been filed rather than when it was actually filed.

Per the Consent Agreement of the parties, to the extent the Assistant Superintendent has not already done so, the Assistant Superintendent is directed to file an accurate and complete SFI for calendar year 2004 with the School District within 30 days of the date of the issuance of this Order, with a copy of such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1478 (Botel)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1104(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1104(a) occurred when Statements of Financial Interests for calendar years 2003, 2004, and 2005 were not on file with the School District for the Deputy Superintendent for the School District.

An unintentional violation of Section 1104(a) of the Ethics Act occurred when the Deputy Superintendent signed, in

compliance with purported instructions from the School District Secretary, SFIs for the 2003 through 2005 calendar years with dates representing the time periods when the forms—which the Deputy Superintendent asserts were previously filed—should have been filed rather than when they were actually filed.

Per the Consent Agreement of the parties, to the extent the Deputy Superintendent has not already done so, the Deputy Superintendent is directed to file accurate and complete SFIs for calendar years 2003, 2004, and 2005 with the School District within 30 days of the date of the issuance of this Order, with a copy of each such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1479 (Weiss)

Decided: July 21, 2008
Issued: August 5, 2008

A Township Supervisor from January 1996 through December 31, 2005, and Board Municipal Authority Member of a Township from August 11, 1999 through the present, unintentionally violated Section 1103(a) of the Ethics Act when, as a Township Supervisor, he participated in his appointment and reappointment to the Authority Board.

An unintentional violation of Section 1103(a) of the Ethics Act occurred when the Township Supervisor/Board Municipal Authority Member set his compensation in excess of that approved by the appointing authority.

An unintentional violation of Section 1103(a) of the Ethics Act occurred when the Township Supervisor/Board Municipal Authority Member accepted compensation (meeting pay) increase(s) prior to the beginning of a new term of office as an Authority Board Member.

Per the Consent Agreement of the parties, the Supervisor/Board Municipal Authority Member is directed to make payment to the Authority in the amount of \$4,206.84, payable under the terms of the Consent Agreements, specifically:

- a. An initial payment of \$1,206.84, by way of certified check, payable to the Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission, is due within 30 days of the issuance of this Order; and
- b. The remaining balance of \$3,000 is due within approximately 36 months from the payment date of the initial \$1,206.84.

The remaining \$3,000 balance is payable in monthly installments, payable to the Township Municipal Authority and forwarded to the Pennsylvania State Ethics Commission, in an amount of at least \$83.33, due on or before the 8th day of each month until the remaining \$3,000 is paid in full. The first monthly payment shall not be due any sooner than 30 days from receipt of the initial \$1,206.84 payment. The Township Supervisor/Board Municipal Authority Member may prepay this balance at any time.

Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1480 (Hahn)

Decided: July 21, 2008
Issued: August 5, 2008

A violation of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a) occurred in relation to the inappropriate receipt of compensation by a Supervisor for a Township for administrative duties performed by him.

No violation of Section 1104(a) of the Ethics Act occurred regarding the Township Supervisor's 2001 calendar year Statement of Financial Interests form.

A technical violation of Section 1105(b)(5) of the Ethics Act occurred when the Township Supervisor failed to list the Township as a source of income on his Statements of Financial Interests filed for the 2002, 2003, and 2004 calendar years.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment in the amount of \$3,581.50 as follows: monthly payments of \$198.97 for 18 months, made payable to the Township and forwarded to the Pennsylvania State Ethics Commission, with the first payment due within 30 days of the issuance of this Order.

Per the Consent Agreement of the parties, the Township Supervisor is directed to not accept any reimbursement, compensation or other payment from the Township representing a full or partial reimbursement of the amount paid in settlement of this matter. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1481 (Mendez)

Decided: July 21, 2008
Issued: August 5, 2008

A violation of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a) occurred in relation to the

inappropriate receipt of compensation by a Supervisor for a Township for administrative duties performed by him.

No violation of Section 1104(a) of the Ethics Act occurred in relation to the Township Supervisor's alleged failure to file a 2004 calendar year Statement of Financial Interests form.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment to the Township in the amount of \$2,371.25 as follows: monthly payments of \$197.60 per month for 12 months, made payable to the Township and forwarded to the Pennsylvania State Ethics Commission, with the first payment due within 30 days of the issuance of this Order.

Per the Consent Agreement of the parties, the Township Supervisor is directed to not accept any reimbursement, compensation or other payment from the Township representing a full or partial reimbursement of the amount paid in settlement of this matter. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1482 (Sotta)

Decided: July 21, 2008
Issued: August 5, 2008

An unintentional violation of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a) occurred when a Board Municipal Authority Member of a Township received compensation not provided for by law by participating in actions of the Authority Board to authorize the expenditure of Authority funds for Authority Board Members' compensation in excess of that approved by the appointing authority.

An unintentional violation of Section 1103(a) of the Ethics Act occurred when the Board Municipal Authority Member accepted an increase in compensation (meeting pay) prior to the beginning of a new term of office.

An unintentional violation of Section 1103(a) of the Ethics Act occurred when the Board Municipal Authority Member authorized and approved purchases by the Authority from a business with which he is associated.

A violation of Section 1104(a) of the Ethics Act occurred when the Board Municipal Authority Member failed to file Statements of Financial Interests for calendar years 2002, 2003, and 2004 by May 1, 2003, May 1, 2004, and May 1, 2005, respectively.

An unintentional violation of Section 1105(b) of the Ethics Act occurred in relation to the Board Municipal Authority Member's failure to disclose his office, directorship, or employment in a business with which he is associated, and his financial interest in a business with which he is associated on his Statement of Financial Interests filed for calendar year 2005.

Per the Consent Agreement of the parties, the Board Municipal Authority Member is directed to make payment in the amount of \$4,000 payable to the Authority and forwarded to this Commission by no later than the 30th day after the mailing date of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1483 (Martin)

Decided: July 21, 2008
Issued: August 5, 2008

A Supervisor for a Township violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he participated in the hiring of his son to the Township position of part-time road employee.

Per the Consent Agreement of the parties, a violation of Section 1103(a) of the Ethics Act occurred when the Township Supervisor's actions as a Member of the Board of Supervisors resulted in purchases by the Township from businesses owned by the Township Supervisor's wife and son.

No violation of Section 1103(a) of the Ethics Act occurred in relation to the Township Supervisor's alleged use of Township dumpsters to avoid paying trash fees, based upon an insufficiency of evidence.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment in the amount of \$800 payable to the Commonwealth of Pennsylvania and forwarded to this Commission within 30 days of the issuance of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1484 (Neff)

Decided: July 21, 2008
Issued: August 5, 2008

No violation of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), occurred in relation to the allegation that a Chief Information Officer of a City Mayor's Office of Information Services, participated in the award of no bid contracts and approval of payments to Civitium, LLC at a time when she was negotiating employment with said company.

The Chief Information Officer did not violate Section 1103(d) of the Ethics Act in relation to her acceptance of one payment in recognition of her appearance, speech, and presentation in relation to her position as CIO, based upon a non pros by the Investigative Division.

A violation of Section 1104(a) of the Ethics Act occurred in relation to the Chief Information Officer's failure to file a Statement of Financial Interests with the City for the 2006 calendar year by May 1, 2007.

An unintentional violation of Section 1105(b)(7) of the Ethics Act occurred in relation to the Chief Information Officer's failure to disclose on her Statement of Financial Interests filed for the 2004 calendar year transportation and/or lodging and hospitality paid on her behalf for appearances as a speaker at a conference sponsored by Digiport, in that the City's Law Department had approved the trip and the payments as a "gift to the City."

An unintentional violation of Section 1105(b)(7) of the Ethics Act occurred in relation to the Chief Information Officer's failure to disclose on her Statement of Financial Interests filed for the 2005 calendar year transportation and/or lodging and hospitality paid on her behalf for a total of two appearances as a speaker at one conference or convention sponsored by Rock media and another conference or convention sponsored by W2i, in that the Chief Information Officer relied on the City Law Department's rationale for approving the above mentioned trip and payments by Digiport as "Gifts to the City."

Per the Consent Agreement of the parties, the Chief Information Officer is directed to make payment in the amount to \$500 payable to the Commonwealth of Pennsylvania and forwarded to this Commission by no later than the 30th day after the mailing date of this Order.

To the extent that she has not already done so, the Chief Information Officer is directed to file with the City amended Statements of Financial Interests for calendar years 2004 and 2005 and an accurate and complete Statement of Financial Interests for calendar year 2006, providing full financial disclosure as required by the Ethics Act, within 30 days of the date of the issuance of this Order, and to provide a copy of each such filing to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1485 (Young)**Decided: September 22, 2008****Issued: October 10, 2008**

An unintentional technical transgression of Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), occurred in relation to the participation of an Administrative Officer 2 for the Bureau of Information Services, Pennsylvania Department of Transportation, in decisions of BIS, which resulted in her husband being employed as a consultant to PennDOT commencing in February 2005.

Order No. 1486 (Complainant A)**Decided: September 22, 2008****Issued: October 10, 2008**

A violation of Section 1110(a)(1) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1110(a)(1) occurred when Complainant A, a private citizen, filed complaints with the Pennsylvania State Ethics Commission against three officials/employees of Commonwealth Department B in a grossly negligent manner.

A violation of Section 1108(k) of the Ethics Act occurred when Complainant A disclosed or caused to be disclosed to another person that complaints against the aforesaid officials/employees of Commonwealth Department B had been filed with this Commission.

No violation of Section 1110(a)(2) of the Ethics Act occurred when Complainant A disclosed or caused to be disclosed that complaints against the aforesaid officials/employees of Commonwealth Department B had been filed with this Commission since that disclosure was not a public disclosure.

Pursuant to the Consent Agreement of the parties, Complainant A is directed to make payment in the amount of \$500 to the Commonwealth of Pennsylvania within 30 days of the date of mailing of this Order, by forwarding a check in the amount of \$500 made payable to the Commonwealth of Pennsylvania to this Commission for processing.

At such time as this determination becomes a public record, Chief Counsel shall publicly release only fully redacted copies of the adjudication and this Order.

Following public release, upon receiving a written request from a Subject of Complainant A's complaint(s), specifically Individual C, Individual D, or Individual E, Chief Counsel shall provide the name and address of Complainant A to such Subject, together with copies of the redacted adju-

dication and Order of this Commission.

Compliance by Complainant A with Paragraph 4 of this Order will result in the closing of this case with no further action by this Commission beyond that set forth in Paragraphs 5 and 6 of this Order.

Order No. 1487 (Sipper)**Decided: September 22, 2008****Issued: October 10, 2008**

A public official in his capacity as a Commissioner for a Township from approximately 1990 to December 30, 2006 technically violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he participated in actions of the Township Board of Commissioners in relation to his appointment to the position of Township Manager.

Per the Consent Agreement of the parties, the Township Commission is directed to make payment in the amount of \$5,000 as follows: monthly payments of \$833.33 per month for six months, with said payments to be made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission, and with the first such payment to be forwarded to this Commission by no later than the 30th day after the mailing date of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1488 (Berkebile)**Decided: September 22, 2008****Issued: October 10, 2008**

A public official in his capacity as a Supervisor for a Township from January 7, 2002 until January 7, 2008 did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), in relation to his alleged use of authority of his public position for a private pecuniary gain by claiming and approving compensation for meeting pay not related to Township Board of Supervisors meetings, based upon an insufficiency of evidence.

A violation of Section 1103(a) of the Ethics Act occurred in relation to the Township Supervisor's claim and approval of compensation for his attendance at state conventions in excess of his actual compensation due.

A violation of Section 1103(a) of the Ethics Act occurred in relation to the Township Supervisor's receipt of expense reimbursements for attendance at state conventions in excess of actual expenses incurred.

No violation of Section 1103(a) of the Ethics Act occurred in relation to the

allegation that the Township Supervisor claimed and approved compensation as a roadmaster for his responsibilities as a Township Supervisor.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment in the amount of \$2,500 payable to the Township and forwarded to this Commission by no later than the 30th day after the mailing date of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1489 (Keohane)**Decided: September 22, 2008****Issued: October 10, 2008**

A public official in his capacity as a Member of Council for a Borough from approximately 2000 through January 7, 2008 did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), in relation to his alleged use of the authority of his office as to the selection of Philip Rosenau, Inc., a business with which the Borough Council Member is associated, as a supplier/contractor/contractor for purchases made by the Borough, in that the Borough Council Member did not vote or otherwise act to select Philip Rosenau as a supplier/contractor for the Borough.

A technical violation of Section 1103(a) of the Ethics Act occurred in relation to the Borough Council Member's participation in the Borough's process of issuing payments to Philip Rosenau including voting to approve bill lists and signing checks.

An unintentional violation of Section 1103(f) of the Ethics Act occurred when Borough purchases in excess of \$500 were made from Philip Rosenau without an open and public process.

Per the Consent Agreement of the parties, the Borough Council Member is directed to make payment in the amount of \$500 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1490 (Donia)**Decided: September 22, 2008****Issued: October 10, 2008**

A public official in his capacity as a Supervisor for a Township from January 7, 1980 until December 10, 2007 violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a),

in relation to his receipt of expense reimbursements for attendance at state conventions in excess of actual expenses incurred.

A violation of Section 1103(a) of the Ethics Act occurred when the Township Supervisor claimed and approved compensation as a roadmaster for his responsibilities as a Township Supervisor while on sick leave.

A violation of Section 1103(a) of the Ethics Act occurred in relation to the Township Supervisor's participation in the hiring of his wife as a township Secretary/Treasurer and participation in approving her compensation.

No violation of Section 1103(a) of the Ethics Act occurred when the Township Supervisor claimed and approved compensation as a roadmaster for maintaining the Township boiler system during non-business days.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment in the amount of \$8,000, with said amount to be paid as follows: monthly payments of \$150 per month for 53 months followed by a final payment of \$50, with said payments to be made payable to the Township and forwarded to the Pennsylvania State Ethics Commission, and with the first such payment due no later than the 30th day after the mailing date of this Order. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1491 (Morton)

Decided: September 22, 2008

Issued: October 10, 2008

A public official/public employee in his capacity as the Aquatics Director for the Moon Area School District violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when he used the authority of his public position as the MASD Aquatics Director for the private pecuniary gain of himself and/or the "Moon Area Aqua Club, Inc.," a private, for-profit business with which the Aquatics Director is associated, by scheduling the use of the MASD pool for the operation of the MAAC without charge to the MAAC.

The Aquatics Director violated Section 1103(a) of the Ethics Act when he used the authority of his public position as the MASD Aquatics Director for the private pecuniary gain of himself and/or a business with which he is associated by utilizing the non-profit status of the "Moon Aqua Club," a separate legal entity,

to circumvent payment of rental fees to the MASD for use of the pool and facilities by the MAAC.

The Aquatics Director violated Section 1103(a) of the Ethics Act when he used the authority of his public position as MASD Aquatics Director for the private pecuniary gain of himself and/or a business with which he is associated when Premier Coaching Associates, Inc., a business with which the Aquatics Director is associated, contracted and received fees from the MAAC and the MAC for coaching services provided at the MASD pool.

The Aquatics Director violated Section 1104(a) of the Ethics Act when he failed to file Statements of Financial Interests for the 2002, 2003, 2004, 2005, and 2006 calendar years in his position as the MASD Aquatics Director.

The Aquatics Director is directed to make payment in the amount of \$13,000 payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

To the extent that he has not already done so, the Aquatics Director is directed to file with the MASD accurate and complete Statements of Financial Interests for calendar years 2002, 2003, 2004, 2005, and 2006 by no later than the 30th day after the mailing date of this Order, with a copy of each such filing forwarded to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1492 (Burchfield)

Decided: September 22, 2008

Issued: October 10, 2008

A public official in his capacity as a Supervisor for Blair Township since approximately January 1998, violated Section 1103(a) of the Ethics Act when he participated in actions and deliberations of the Township Board of Supervisors to designate the Duncansville Volunteer Fire Company as the primary responding fire department/emergency responder for the Township; participated in actions and deliberations of the Board of Supervisors allotting funding to the DVFC from the Township's Emergency and Municipal Services tax; and then entered into a contract/agreement with the DVFC, in excess of \$500, to lease property/building space owned by him and/or members of his immediate family through the "Burchfield

Limited Partnership," for use by the DVFC as a substation within the Township.

An unintentional violation of Section 1105(b) of the Ethics Act occurred when the Township Supervisor failed to disclose, on Statements of Financial Interests filed for the 2002, 2003, 2004, 2005, 2006, and 2007 calendar years, direct/indirect sources of income in excess of \$1,300; his office, directorship, or employment in any business entity; and his financial interests in any legal entity engaged in business for profit.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment in the amount of \$10,000, payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of this Order.

Per the Consent Agreement of the parties, the Township Supervisor is further directed to file amended SFIs for the 2002, 2003, 2004, 2005, 2006, and 2007 calendar years, providing complete disclosure as required by the Ethics Act, and in particular, reflecting all direct/indirect sources of income in excess of \$1,300 and fully disclosing his directorship or employment in any business entity and financial interest in any legal entity or business for profit, and to forward to this Commission copies of all of the aforesaid filings for compliance verification purposes by no later than the 30th day after the mailing date of this Order. Compliance will result in the closing of this case with no further action by his Commission.

Order No. 1493 (Johnson)

Decided: September 22, 2008

Issued: October 10, 2008

A public official in his capacity as a Supervisor for a Township from approximately 1985 until 1997 and from January 2000 to the present did not violate Section 1103(a) of the Ethics Act, 65 Pa.C.S. § 1103(a), in relation to participating in discussions and actions of the Township Board of Supervisors resulting in contracts being awarded to Robert R. Pearson, Inc. and participating in approving payments issued to Robert R. Pearson, Inc. during calendar year 2003 when he was not associated with that business.

A technical violation of Section 1103(a) of the Ethics Act occurred in relation to the Township Board of Supervisors resulting in contracts being awarded to Robert R. Pearson, Inc. and participating

in approving payments issued to Robert R. Pearson, Inc. in calendar years 2005 and 2006, when he was associated with that business and he failed to file the necessary abstention memorandum.

A technical violation of Section 1103(a) of the Ethics Act occurred in relation to the Township Supervisor participating in discussions and actions of the Board of Supervisors resulting in contracts being awarded to Technicon Enterprises, Inc. II and participating in approving payments issued to Technicon Enterprises, Inc. II in calendar year 2007, when his spouse was associated with that business and he failed to file the necessary abstention memorandum.

Order No. 1494 (Maha)

Decided: September 22, 2008
Issued: October 10, 2008

Under the unique facts of this case, a public official in his capacity as a Commissioner for a Township from January 1, 1982 until December 31, 1994 and from January 1, 2000 until February 28, 2002 did not violate Section 1103(a) of the Ethics Act when he received pension payments funded in part by the Township as it was deemed mandatory for all Commissioners to participate in said pension plan, despite the fact that participation by Commissioners was/is contrary to the First Class Township Code.

The Township Commissioner is directed to comply with the terms of the Consent Agreement of the parties. Compliance will result in the closing of this case with no further action by this Commission except to the extent further action of this Commission may be needed to accomplish the terms of the Consent Agreement.

Order No. 1495 (Lenhart)

Decided: September 22, 2008
Issued: October 10, 2008

A public official in his capacity as a Supervisor for a Township from January 1996 until December 2007 violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when he used Township property for the storage and/or disposal of his personal property in the nature of abandoned vehicles, appliances, scrap metal, and garbage.

The Township Supervisor violated Section 1103(a) of the Ethics Act when he removed recyclable material from Township property during the normal work hours of the Township road crew.

The Township Supervisor did not

violate Section 1103(a) of the Ethics Act when he retained cash received from the sale of recyclable material from Township property, in that the items were his to sell.

The Township Supervisor violated Section 1103(a) of the Ethics Act when he used the Township garage for storage of his personal vehicles and other belongings.

The Township Supervisor is directed to make payment in the amount of \$1,420, with said amount to be paid in monthly payments of \$118.33 per month for 12 months, made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission, and with the first payment due by no later than the 30th day after the mailing date of this Order.

Per the Consent Agreement of the parties, the Township Supervisor is further directed to not accept any reimbursement, compensation or other payment from the Township representing a full or partial reimbursement of the amount paid in settlement of this matter. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1496 (Zadrozny)

Decided: December 4, 2008
Issued: December 19, 2008

A public official in his capacity as a Member of the Municipal Authority of a Township from March 15, 2006 to the present did not violate Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), in relation to his receipt of compensation (meeting pay) in excess of that approved by the Township Board of Supervisors, in that the public official did not participate in any action to instigate an increase in meeting pay or any vote to increase meeting pay, but rather, only received such excess compensation.

The Member of the Township Municipal Authority violated Section 1104(a) of the Ethics Act when he failed to file a Statement of Financial Interests for the 2005 calendar year by May 1, 2006.

The Township Municipal Authority Member violated Section 1104(d) of the Ethics Act when he failed to file an SFI for the 2005 calendar year by May 1, 2006.

Per the Consent Agreement of the parties, the Township Municipal Authority Member is directed to make payment in the amount of \$250, with such payment to be made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission

by no later than the 30th day after the mailing date of the Commission's Order.

To the extent he has not already done so, the Township Municipal Authority Member is directed to file an SFI for calendar year 2005 with the Authority by no later than the 30th day after the mailing date of this Order, and to forward a copy of such filing to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1497 (Zinn)

Decided: December 4, 2008
Issued: December 19, 2008

A public official in his capacity as a Supervisor for a Township from approximately January 2002 through February 13, 2007 violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when he used the authority of his public office in relation to his sale of a whole-life insurance policy to the Township in 2004, as part of a retirement plan for the Township Manager, resulting in a sales commission to the Township Supervisor.

A violation of Section 1103(f) of the Ethics Act occurred in relation to the Township contracting with Fulton Financial Corporation, a business with which the Township Supervisor was associated, for the sale of a whole-life insurance policy for the Township Manager, valued in excess of \$500, absent an open and public process.

A technical violation of Section 1105(b)(5) of the Ethics Act occurred when the Township Supervisor did not list the Township as a direct or indirect source of income on his 2002 and 2004 Statement of Financial Interests forms.

Per the Consent Agreement of the parties, the Township Supervisor is directed to make payment in the amount of \$1,984, with said amount to be paid in monthly payments of \$165.34 per month for 12 months, made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission, and with the first payment due by no later than the 30th day after the mailing date of the Commission's Order.

Per the Consent Agreement of the parties, the Township Supervisor is directed to not accept any reimbursement, compensation, or other payment from the Township representing a full or partial reimbursement of the amount paid in settlement of this matter.

To the extent he has not already done so, the Township Supervisor is directed to file with the Township amended SFIs for calendar years 2002 and 2004, providing full financial disclosure as required by the Ethics Act and the Regulations of this Commission, by no later than the 30th day after the mailing date of this Order, and to forward copies of such filings to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1498 (Neff)

Decided: December 4, 2008
Issued: December 19, 2008

A public official/public employee in her capacities as Secretary/Treasurer of a Borough from approximately 1999 until resigning effective August 17, 2006 and as Borough Tax Collector since at least 1999 violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when she used Borough and tax collection funds for personal use.

The Borough Secretary/Treasurer and Tax Collector violated Section 1103(a) of the Ethics Act when she used Borough credit accounts at Office Depot and Walmart to make purchases of a personal nature.

The Borough Secretary/Treasurer and Tax Collector violated Section 1103(a) of the Ethics Act when she used Borough equipment and facilities in furtherance of personal Ebay and PayPal business transactions.

The Borough Secretary/Treasurer and Tax Collector violated Section 1103(a) of the Ethics Act when she used her authority as a public official/public employee to authorize and issue payments from the Borough for expenses related to her position as the elected Borough Tax Collector.

The Borough Secretary/Treasurer and Tax Collector violated Section 1103(a) of the Ethics Act when she used her authority as a public official/public employee to bill and charge her expenses as Tax Collector to the Borough.

The Borough Secretary/Treasurer and Tax Collector violated Section 1104(a) of the Ethics Act, 65 Pa.C.S. § 1104(a), when she failed to file Statements of Financial Interests for calendar years 2002 and 2003 with the Borough.

The Borough Secretary/Treasurer and Tax Collector violated Section 1105(b)(5) of the Ethics Act, 65 Pa.C.S. § 1105(a)(5), when she failed to disclose all sources of

income of \$1,300 or more on her SFIs for calendar years 2004, 2005, and 2006.

Per the Consent Agreement of the parties, the Borough Secretary/Treasurer and Tax Collector is directed to make payment in the amount of \$12,000 as follows:

An initial payment of \$6,000, by way of certified check, payable to the Borough and forwarded to the Pennsylvania State Ethics Commission for compliance purposes, is due within 30 days of the issuance of the final adjudication in this matter; and the remaining balance of \$6,000 is due within 24 months from the payment date of the initial \$6,000. The remaining \$6,000 balance is payable in monthly installments, by way of certified check, payable to the Borough and forwarded to the Pennsylvania State Ethics Commission for compliance purposes, in an amount of at least \$250, due on or before the last day of each month until the remaining \$6,000 is paid in full. The first monthly payment shall not be due any sooner than 30 days from receipt of the initial \$6,000 payment. The first monthly payment shall be due at the end of the month following the month in which the original \$6,000 payment is due (e.g. if the initial \$6,000 is paid November 15, 2008, the first monthly payment shall be due by the end of December 2008 and the end of each month thereafter). The Borough Secretary/Treasurer and Tax Collector may prepay this balance at any time.

To the extent she has not already done so, the Borough Secretary/Treasurer and Tax Collector is directed to file complete and accurate SFIs with the Borough, through this Commission, for calendar years 2002, 2003, 2004, 2005, and 2006 by no later than the 30th day after the mailing date of the Commission's Order.

This matter will be referred to the Centre County District Attorney, the Pennsylvania Attorney General, and the U.S. Attorney for review and appropriate action.

Order No. 1499 (Snyder)

Decided: December 4, 2008
Issued: December 19, 2008

A public official/public employee in his capacity as Chief of Police for a Borough from October 2001 until September 2006 violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1103(a), when he used the authority of his public office/public employment as Borough Chief of Police to purchase and/or authorize the purchase of a log splitter from the Federal Surplus Property

Program, resulting in said item being retained and/or disposed of in violation of the guidelines of the Federal Surplus Property Program and/or converted to personal use.

The Borough Chief of Police violated Section 1103(a) of the Ethics Act when he used the authority of his public office/public employment as Borough Chief of Police to purchase and/or authorize the purchase of a Kawasaki 4x4 and a Model 128 IHC/Cub Cadet tractor from the Federal Law Enforcement Surplus Property Program, resulting in said items being retained and/or disposed of in violation of the guidelines of the Federal Law Enforcement Surplus Property Program and/or converted to personal use.

Per the Consent Agreement of the parties, the Borough Chief of Police is directed to make payment in the amount of \$7,350 as follows: monthly payments of \$200 per month for 36 months and a final payment of \$150, with said payments to be made payable to the Commonwealth of Pennsylvania and forwarded to this Commission, and with the first such payment due by no later than the 30th day after the mailing date of the Commission's Order.

Per the Consent Agreement of the parties, the Borough Chief of Police is directed to not accept any reimbursement, compensation, or other payment from the Borough representing a full or partial reimbursement of the amount paid in settlement of this matter. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1500 (Complainant A)

Decided: December 4, 2008
Issued: December 19, 2008

A violation of Section 1108(k) of the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1108(k), occurred when Complainant A, a public citizen, disclosed or acknowledged to other persons information relating to a complaint he was filing or filed against a public official with the Pennsylvania State Ethics Commission.

A violation of Section 1110(a)(2) of the Ethics Act, 65 Pa.C.S. § 1110(a)(2), occurred when Complainant A publicly disclosed or caused to be disclosed that a complaint against a person had been filed with the Pennsylvania State Ethics Commission regarding the conduct of Public Official B of Body C by providing copies of the complaint to the media.

No violation of Section 1110(a)(1)

of the Ethics Act, 65 Pa.C.S. §1110(a)(1), occurred when Complainant A filed the Significant Date 2 complaint with the Pennsylvania State Ethics Commission as there is insufficient information to establish that the complaint was filed without probable cause and primarily for a purpose other than reporting a violation of the Ethics Act.

Pursuant to the Consent Agreement of the parties, Complainant A is directed to make payment in the amount of \$500 made payable to the Commonwealth of Pennsylvania and forwarded to the Pennsylvania State Ethics Commission by no later than the 30th day after the mailing date of the Commission's Order.

At such time as this determination becomes a public record, Chief Counsel shall publicly release only fully redacted copy(ies) of the adjudication and the Commission's Order.

Following public release, upon receiving a written request from the Subject of the Complainant A's complaint, specifically Individual L, Chief Counsel shall provide the name and address of Complainant A to such Subject, together with copies of the redacted adjudication and Order of this Commission. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1501 (McCallister)
Decided: December 4, 2008
Issued: December 19, 2008

A public official in his capacity as a Member of the School Board of a School District since December 3, 2001 violated Section 1103(a) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §1103(a), when he voted to appoint his brother to the following positions in the following years: Social Studies Department Head in 2003, Girl's Basketball Coach in 2003, Intramurals Director in 2005 and 2006, Equipment Manager in 2006, and Middle School Academic Challenges Sponsor in 2004. A violation of Section 1103(a) of the Ethics Act occurred in relation to the School District Board Member participating in discussions/actions of the Board in 2006 to make the Athletic/Activities Director position a permanent full-time position at a time when his brother held the position of temporary full-time AD.

A technical violation of Section 1103(a) of the Ethics Act occurred when the School District Board Member voted to approve supplemental position salary paychecks for his brother between 2003 and 2007.

An unintentional violation of Section 1103(a) of the Ethics Act occurred when the School District Board Member voted on May 23, 2005 to appoint his brother to the AD position, based upon the advice of the School Board Solicitor.

No violation of Section 1103(a) of the Ethics Act occurred when the School District Board Member abstained from voting to appoint his brother to supplemental contract positions on nine different occasions between 2002 and 2004 and in 2006.

A technical violation of Section 1104(a) of the Ethics Act occurred in relation to the School District Board Member's failure to file Statements of Financial Interests for the 2001 and 2002 calendar years.

Per the Consent Agreement of the parties, the School District Board Member is directed to make payment in the amount of \$10,313.50 as follows: an initial payment of \$5,000, 11 payments of \$442.79, and one payment of \$442.81, with said payments to be made payable to the Commonwealth of Pennsylvania and forwarded to this Commission, and with said payments to begin by no later than the 30th day after the mailing date of the Commission's Order and to be made each month thereafter.

To the extent the School District Board Member has not already done so, the School District Board Member is directed to file SFIs for calendar years 2001 and 2002 with the School District by no later than the 30th day after the mailing date of the Commission's Order, and to forward a copy of each such filing to this Commission for compliance verification purposes. Compliance will result in the closing of this case with no further action by this Commission.

Order No. 1502 (Miller)
Decided: December 4, 2008
Issued: December 19, 2008

Under the provisions of the Consent Agreement of the parties, the actions of an Executive Director of a Water Authority regarding the approval of work performed by Miller Environmental Inc., a business with which the Executive Director of the Water Authority is associated, as to services rendered to the Water Authority pursuant to a contract that is in conformance with the Municipality Authorities Act, 53 Pa.C.S. §5607(d)(13) and (17), are not considered to be in conformity with the Public Official and Employee Ethics Act, 65 Pa.C.S. §1101, et seq.

The Water Authority Executive Director's approval of accounts payable

forms for payments to Miller Environmental Inc., a business with which the Water Authority Executive Director is associated, regarding services rendered to the Water Authority pursuant to a contract, did not constitute a transgression of Section 1103(a) of the Ethics Act, 65 Pa.C.S. §1103(a), where said accounts payable forms were a mere formality and did not constitute an actual payment to Miller Environmental Inc., in that any actual payment had to be approved by vote of the Water Authority Board.

The Water Authority Executive Director is directed to comply with the Consent Agreement. Compliance will result in the closing of this case with no further action by this Commission.

UPDATE ON PREVIOUS COMMISSION ORDERS

Fiorello (Order No. 1363) On March 14, 2005, the Commission had issued an order in relation to the activities of Stephen Fiorello, the Chief Pharmacist and Director of Pharmacy for the Pennsylvania Department of Public Welfare, Office of Mental Health Substance and Abuse Services. The Commission found that Fiorello had violated the Ethics Law when he participated in actions of the DPW Formulary Committee relating to a pharmaceutical company on the formulary when he had financial relationships with the pharmaceutical company. The Commission further found that he had used his office to obtain private pecuniary benefits for his participation in that pharmaceutical company's advisory board meetings in New York City in 1998, 2000, and 2001 and when he received honoraria for his participation in the advisory board meetings as well as for his presentation at conferences in Orlando, Florida and Dublin, Ireland. The Commission found a number of additional violations of the Ethics Law including his receipt of honoraria from other companies for whom he made presentations in connection with his public employment. Also, he was found to violate the Ethics Law when he obtained a financial gain in the form of fees paid to him by Duquesne University in return for placing pharmaceutical students in an intern program sponsored by DPW. The Commission ordered Fiorello to make restitution in the amount of \$27,268.50 and the matter was referred to the Office of Attorney General. On November 21, 2006, Fiorello was charged by that office in relation to the findings of the State Eth-

ics Commission. Fiorello was specifically charged with two counts of conflict of interests (Section 1103(a)) and one count of accepting honoraria (Section 1103(d)) and one count of failing to disclose income on annual Statements of Financial Interests.

As an alternative to proceeding to trial, Fiorella opted to have a Judge in the Court of Common Pleas in Dauphin County review the transcript and evidence of his proceedings before the Ethics Commission.

On December 23, 2008, Fiorello was convicted on two felony counts in relation to the above referenced activities and one misdemeanor count for his failure to comply with the financial disclosure filing requirements. Sentencing on the matter was scheduled for January 21, 2009.

Peak (Order No. 1438) On June 29, 2007, the Commission issued Order No. 1438 regarding Linda Peak, the former Secretary/Treasurer of Deer Creek Township, Mercer County, Pennsylvania. The Commission found Peak in violation of the Ethics Act when she altered Township checks issued to herself to conceal that funds were being paid to her or for her benefit. Peak agreed to pay, as part of a consent agreement, \$15,404.84 payable to the Commonwealth of Pennsylvania as restitution for the amounts which were diverted by her through her public office. On May 20, 2008, Peak was charged with one count of theft by deception by the Mercer County District Attorney's Office. Arraignment was held on the matter on May 27, 2008, and on August 6, 2008, Peak was held for trial in the Common Pleas Court in Mercer County.

Rhone (Order No. 1430) On April 11, 2007, the Commission issued Order No. 1430 on Dean Rhone, the former Secretary/Treasurer and Tax Collector for Starrucca Borough in Wayne County. The Commission determined that Rhone had violated the Ethics Act when he made payments from Borough accounts to himself in excess of the salary set by the Borough. The Commission also found that Rhone violated the Ethics Act when he converted tax payments to his own personal use and when he failed to report various items on his Statement of Financial Interests, including income sources, and when he failed to file Statements of Financial Interests for several years. As a result of a Consent Agreement, Rhone was ordered by the Commission to pay an amount of \$6,000 in settlement of the matter. On December 18, 2007, Rhone

was charged with theft by unlawful taking and conflicts of interests under Section 1103(a) of the Ethics Act. He was thereafter arraigned on February 13, 2008.

On May 21, 2008, Rhone pled guilty to one count of theft. On August 11, 2008, he was sentenced from three to eighteen months in prison in order to undergo drug testing. He was also required to perform 100 hours of community service and pay \$250 in costs and a \$50 per month supervision fee.

MATTERS INVOLVING STATE ETHICS ACT

In addition to court cases in which the State Ethics Commission is directly involved as a party, various court cases have been initiated or decided from time to time involving the provisions of the State Ethics Act even though the Commission is not a party thereto.

The following is a summary of several such cases of this type in 2007:

Twanda Carlisle et al On April 11, 2007, Pittsburgh Councilwoman Twanda Carlisle was arraigned on three charges of theft by deception, three charges each of criminal conspiracy, violation of the State Ethics Act, Election Code violations, and charges of failing to file required financial disclosures under the Ethics Law. The charges stemmed from a conspiracy to divert city tax dollars through consultants to Ms. Carlisle. Approximately \$43,160 was diverted through associates of Carlisle. These charges were brought by the Office of the District Attorney of Allegheny County.

On November 14, 2007, Carlisle pleaded no contest to the ethics and theft charges and resigned her office as a City Councilperson for the City of Pittsburgh. Carlisle was sentenced on February 4, 2008, to one to two years in prison. Carlisle was assessed \$652.70 in court fees and also ordered to make restitution in the amount of \$43,160.

Frank Lagrotta Former State Representative Frank LaGrotta was charged November 14, 2007 with two felony counts of violating Section 1103(a) of the Public Official and Employee Ethics Law for hiring his sister and niece as Legislative Assistants in 2006 and paying them for work never performed. Lagrotta was charged after a grand jury investigation by the Office of Attorney General.

On February 4, 2008 Lagrotta pled guilty to two felony conflict of interest charges and was ordered to serve six months of house arrest and 2½ years of probation. He was ordered to pay a \$5,000

fine and make \$27,000 in restitution payments. His sister, Ann Bartolomeo, and her daughter, Alissa Lemmon, also pleaded no contest to lying to a Grand Jury in relation to the investigation and received probation and a \$3,000 fine.

Joseph Glenn and Jeffrey Simmons

On or about September 30, 2008, Rochester Borough Councilman Joseph Glenn and Rochester Community Network Authority Treasurer Jeffrey Simmons (Beaver County) were charged with theft, Ethics Act violations, and related offenses. Charges relate to a use of grant funds by these individuals so the Authority could buy more than \$25,000 worth of computers from a business that the officials co-owned. They also were charged with stealing some of the equipment after the Authority was dissolved. The matter was held for court on October 21, 2008.

Arraignment was waived on October 21, 2008, and the matter is currently pending.

Mary Dytko Brentwood Council Borough President Mary Dytko was arrested in June 2007 for misusing Borough credit cards. She was charged with violations of the Public Official and Employee Ethics Act. After several postponements, Dytko waived her right to a preliminary hearing in August 2007. Dytko's trial was then placed on hold for a substantial period time and a non-jury trial was scheduled to begin on December 2, 2008.

On December 4, 2008, Dyko was found guilty of charging more than \$2,500 of personal items to a Borough credit card. Sentencing on the matter has been scheduled for February 2, 2009. This case was prosecuted by the Office of the Allegheny County District Attorney.

Commonwealth v. Veon On July 10, 2008, 12 individuals connected to the Pennsylvania State House of Representatives Democratic Caucus, including a currently sitting State Representative (Sean Ramaley) and former Caucus Whip Michael Veon, were charged with various counts of Crimes Code and Ethics Act violations after a Grand Jury concluded that millions of taxpayers' dollars were illegally siphoned from the public treasury to underwrite political campaigns. The report and charges were based upon facts indicating that taxpayer finance bonuses were provided to House staff members under a system which employees were allowed to work on political campaigns. In all, 12 individuals were charged as a result of the investigation.

Legislative Proposals

On January 2, 2007, the General Assembly of Pennsylvania convened the 190th regular session. The following represent legislative proposals that were introduced or acted upon during the course of the legislative session, and which proposals affect the operations of the State Ethics Commission or amend the Public Official and Employee Ethics Law.

SENATE:

Senate Bill No. 1, P.N. 1726 (prior P.N.s 772, 1509, 1553, 1562, 1583, 1646, 1704, 1721)

This bill is an act allowing for access to open records and imposing various fines and penalties on governmental entities that fail to comply with requests to produce records that are deemed publicly assessable. This bill was originally introduced in the Senate March 29, 2007 and was considered on three occasions, and it finally passed the Senate on November 28, 2007. It was referred to Appropriations on December 3, 2007 in the House and underwent three considerations, finally passing in the House on December 12, 2007. It was referred to the Senate on December 12, 2007, and sat until the end of the year. This bill has undergone a number of changes and originally provided for the State Ethics Commission to administer the Open Records Law. Subsequent amendments to the law provided for the Office of Public Records to be located in the Department of Community and Economic Development. In January and February 2008, this bill went through a number of amendments and considerations on the House and Senate floors. In the Senate the proposal was submitted to Committee for consideration and the Senate finally passed the proposal on February 12, 2008. The bill was signed into law by the Governor on February 14, 2008 as Act No. 3 of 2008. The final proposal did not vest any responsibilities in the State Ethics Commission.

Senate Bill No. 608, P.N. 659

This bill is an amendment to the Ethics Law regarding Statements of Financial Interests. This bill would relate to the filing of Statements of Financial Interests by candidates for public office. The bill would allow the governing authority in a political subdivision to designate an agency for filing of forms. This bill would also require candidates for district judge positions to file their forms with the chief clerk of the

county wherein the district lies or other agency designated by the county. This bill was introduced on May 21, 2007, and referred to the State Government Committee.

Senate Bill No. 858, P.N. 1070

This proposal would amend the Lobbying Disclosure Law to prohibit government agencies from hiring independent contractor lobbyists to influence the action of state government actions. This bill was introduced by Senator Orié on May 31, 2007, and referred to the State Government Committee. The bill was considered for the first time on June 26, 2008, and for the second time on July 2, 2008, and thereafter tabled.

Senate Bill No. 1488, P.N. 2203

This is a proposal to amend the Lobbying Disclosure Law to generally prohibit the receipt of gifts by public officials and public employees from lobbyists. The proposal would have certain exceptions, including gifts of a commemorative nature such as a plaque or decorative item or complementary admission to an event that is widely attended in relation to the official's duties and responsibilities. This bill was introduced on June 16, 2008, and referred to the State Government Committee on June 17, 2008.

Senate Bill No. 1553, P.N. 2404

This proposal is a bill that would create the Office of Inspector General for the General Assembly. Initially, this proposal would recreate the Ethics Commission and establish a new appointing mechanism. The mechanism would provide for one appointment by the Governor, and three appointees by both the Auditor General and Attorney General. Two of the members appointed by the Attorney General are required to have 15 years of experience in law enforcement and two of the members appointed by the Auditor General shall have at least 15 years experience as CPAs. This Commission would then be responsible for appointing an Inspector General for the General Assembly. That position would have the power and duties to investigate fraud, waste, mismanagement, misconduct, abuse, and corruptions, and contracting of the General Assembly, its officers, and agencies. Specific conduct would also be covered and under the jurisdiction of the Inspector General, including such areas as misuse of state-owned automobiles,

planes, and other conveyances, patterns of excessive spending, mismanagement of government operations, use of employees for political purposes or private pecuniary benefits, and use of contracted service vendors for political purposes. The Inspector General appointed by the Commission would also be required to make referrals to the Executive Director of the Commission when violations of the Public Official and Employee Ethics Act are believed to have occurred. This bill was introduced on September 19, 2008, and referred to the Judiciary Committee.

HOUSE:

House Bill No. 1497, P.N. 1860

This bill is a Pennsylvania gubernatorial Public Financing Act. This bill would establish rules and regulations for the conduct of certain elections and provide for public financing of elections involving the Office of Governor and Lieutenant Governor. The bill would establish a Pennsylvania Fair Campaign Fund and would allow for the use of funds for authorized expenditures and limitations on contributions as well as the return of funds. This bill would vest jurisdiction for administration of the law in its entirety in the Pennsylvania State Ethics Commission. The bill was introduced and was thereafter referred to the Committee on State Government.

House Bill No. 2009, P.N. 2838

This bill is an amendment to the Ethics Law which would provide for additional restrictions regarding employment by executive-level state employees and members of the House and Senate. Pursuant to this proposal an individual who is subject to this section may not, for a period of one year after leaving public office, receive appointment by the Governor which is subject to approval by the Senate. The bill was introduced into the House on November 14, 2007, and referred to Committee on State Government.

House Bill No. 2141, P.N. 3050

This proposal is an amendment to the Public Official and Employee Ethics Act, Section 1103(g). The proposal would prohibit individuals from representing any employer before their former governmental body for a period of four years after they leave service. The bill was introduced on January 3, 2008, and referred to the Committee on State Government.

House Bill No. 2155, P.N. 3072

This proposal is an amendment to the Lobbying Disclosure and Registration Law that would require a principal, who has realized a gain as a result of lobbying by the principal or another person on the principal's behalf, and who has failed to register or report as required under the law, to forfeit the gain or its monetary equivalent. This law would require the

Commission to be responsible for determining the manner and the amount of the forfeiture. This bill was introduced into the House on January 14, 2008, and referred to the Committee on State Government.

House Bill No. 2156, P.N. 3073

This bill is an amendment to the Lobbying Registration and Disclosure Law and would increase the penalties for various

violations of the law. Included in the bill is a provision that would increase the administrative penalty for negligent failure to register or report from \$50 to \$250 per day. It would also raise the level of criminal penalties a degree for each offense. This bill was introduced into the House on January 14, 2008, and referred to the Committee on State Government.

Pennsylvania Lobbying Disclosure Law

OVERVIEW

On November 1, 2006, Act No. 134-2006, the Pennsylvania Lobbying Disclosure Law, was signed into law, following a decision in 2002 by the Pennsylvania Supreme Court invalidating the prior Lobbying Disclosure Act as an unconstitutional regulation of attorneys engaged in the practice of law.

Under the new Lobbying Disclosure Law, 65 Pa.C.S. § 13A01 et seq., the State Ethics Commission's responsibilities include enforcement, issuing advisories, and participating on the Lobbying Disclosure Regulatory Committee through the Commission Chair or his designee. Responsibility for the administration of the registration and reporting requirements is vested in the Pennsylvania Department of State.

The substantive provisions of the new Lobbying Disclosure Law took effect January 1, 2007.

ADVISORIES

The Commission issues advisories under the Lobbying Disclosure Law to persons with standing (legal authority) to submit such requests. The process for issuing advisories under the Lobbying Disclosure Law is similar to the process under the former lobbying law and under the Ethics Act. Advisories are issued as to prospective conduct only.

ENFORCEMENT

Also as of January 1, 2007, the Commission has authority to enforce the registration and reporting requirements (Sections 13A04 and 13A05) and, to some extent, the "prohibited activities" section (Section 13A07) of the Lobbying Disclosure Law.

With regard to enforcement of the registration and reporting requirements, the Lobbying Disclosure Law provides a process (see, Section 13A09) whereby the Commission is to issue a "Notice of

Alleged Noncompliance" to a person (hereinafter referred to as the "non-filer") who has failed to register or report as required. The non-filer is given an opportunity to appeal to the Commission and to request a hearing. Intentional violations are referred to the Office of Attorney General and in some instances to the Disciplinary Board of the Supreme Court as discussed more fully below. For negligent violations, the Commission may impose an administrative penalty of up to \$50 for each late day. The Commission may also prohibit a non-filer from lobbying for economic consideration for up to five years if the non-filer fails to comply after notice of noncompliance and a hearing, if requested.

With regard to enforcement of the "prohibited activities" section of the Lobbying Disclosure Law, Section 13A07, the Commission has authority to receive complaints, conduct investigations, hold hearings, and impose administrative penalties as to: (1) lobbying "conflicts of interest" as described in subsection (d); and (2) 10 categories of "unlawful acts" listed in subsection (f). For violations as to these particular types of "prohibited activities," the Commission has authority to impose financial penalties of up to \$2,000 per violation and to prohibit a lobbyist from lobbying for economic consideration for up to five years.

Subject to certain statutory exceptions, it is a "conflict of interest" under the Lobbying Disclosure Law for a registrant to lobby on behalf of a principal "on any subject matter in which the principal's interests are directly adverse to the interests of another principal currently represented by the lobbyist or previously represented by the lobbyist during the current session of the General Assembly or the lobbyist's own interests." 65 Pa.C.S.

§ 13A07(d)(1).

The 10 categories of "unlawful acts" listed in Section 13A07(f) involve: (1) instigating the introduction of legislation for the purpose of obtaining employment to lobby against it; (2) knowingly counseling a person to violate the Lobbying Disclosure Law or any other state/federal statute; (3) engaging in or counseling a person to engage in fraudulent conduct; (4) attempting to influence a State official or employee on legislative or administrative action through a loan; (5) refusing to disclose to a State official or employee, upon request, the identity of the principal while lobbying on behalf of the principal; (6) committing a criminal offense arising from lobbying; (7) using coercion, bribery, or threat of economic sanction to influence a State official or employee in the discharge of his official duties; (8) extorting or otherwise unlawfully retaliating against a State official or employee because of his position or vote as to legislative action or administrative action; (9) attempting to influence a State official or employee on legislative or administrative action through a promise of financial support or the financing of opposition to the candidacy of the State official or employee at a future election; or (10) engaging in conduct that brings the practice of lobbying or the Legislative or Executive Branches of State government into disrepute.

For all of the other prohibited activities detailed in Section 13A07 of the Lobbying Disclosure Law, the Commission may initiate investigations through the Executive Director and hold hearings pursuant to the Commission's general authority under Section 13A08(g). Such prohibited activities are listed in Section 13A07, subparagraphs (a)-(c) and (e) and involve: service by a lobbyist as an officer of a candidate's

political committee or a candidate's political action committee where the candidate is seeking a statewide office or the office of state legislator (subsection (a)); fee restrictions where all or a portion of a lobbyist's fee would be converted into a contribution to a candidate or political committee subject to reporting under the Election Code (subsection (b)); falsification in the course of lobbying (subsection (c)); and compensation for lobbying that is contingent upon achieving certain outcomes (subsection (e)).

However, the only penalty the Commission may impose for these types of violations is a prohibition against lobbying for economic consideration for up to five years in the event of an intentional violation. 65 Pa.C.S. § 13A09(e)(4).

For all of the above types of matters, if the Commission has reason to believe that an intentional violation of the Lobbying Disclosure Law has been committed, the Commission must refer all relevant information to the Office of Attorney General and, if the lobbyist or principal is an attorney, to the Disciplinary Board of the Supreme Court of Pennsylvania ("Disciplinary Board"). 65 Pa.C.S. § 13A09(h). Referrals to the Attorney General and Disciplinary Board would generally not preclude the Commission from conducting its own proceedings. However, matters involving alleged conflicts of interest on the part of attorneys would be handled exclusively by the Disciplinary Board. 65 Pa.C.S. § 13A07(d)(8).

An alleged violation of the "unlawful acts" provision by an attorney would be referred to the Disciplinary Board. 65 Pa.C.S. § 13A07(f)(3)(ii). Matters involving an attorney's failure to register or report would be heard by the Commission with the Commission referring cases involving intentional conduct to the Disciplinary Board as well as the Attorney General. In the event of an attorney's negligent failure to register/report, the Commission could impose an administrative/civil penalty but would be required to inform the Disciplinary Board of such action. 65 Pa.C.S. §§ 13A09(b)(2)-(3), (c)(3).

PARTICIPATION ON THE LOBBYING DISCLOSURE REGULATORY COMMITTEE

The Commission through its representative is actively participating in the work of the Lobbying Disclosure Regulatory Committee (see, 65 Pa.C.S. § 13A10(d)). The Committee has adopted Interim Guidelines for Accounting and Reporting under

the Lobbying Disclosure Law. The Committee is in the process of promulgating regulations under the Lobbying Disclosure Law.

OPINIONS AND ADVICES

From January 1, 2008 through December 31, 2008, the State Ethics Commission issued a total of two advisories under the Lobbying Disclosure Law, consisting of two opinions.

Opinions and Advices are public records. However, a requester may require that the Opinion or Advice contain such deletions and changes as shall be necessary to protect the identity of the person involved.

The Commission provides specified libraries throughout the Commonwealth with copies of advices of counsel, rulings, and orders that are a matter of public record on a quarterly basis. Paper copies of opinions and advices are available at cost from the Commission or via the Commission's "e-Library," which may be accessed via the Commission's Web site at www.ethics.state.pa.us.

Pursuant to Section 13A08, subsection (a) of the Lobbying Disclosure Law, 65 Pa.C.S. § 13A08(a), in conjunction with Sections 1107(10) and (11) of the Public Official and Employee Ethics Act, 65 Pa.C.S. §§ 1107(10), (11), the Commission will issue an Advice of Counsel ("Advice") or Opinion of the Commission ("Opinion") to a requester with standing who requests an advisory regarding compliance with the Lobbying Disclosure Law. The following have standing to request an advisory under the Lobbying Disclosure Law: a principal, lobbying firm, lobbyist, State official or employee, the Pennsylvania Department of State, the Disciplinary Board of the Supreme Court of Pennsylvania, or the authorized representative of any of the aforesaid. See, 65 Pa.C.S. § 13A08(a). Advisories may only be issued as to prospective (future) conduct.

Pursuant to Section 13A08(a) of the Lobbying Disclosure Law, a requester who truthfully discloses all material facts in a request for an advisory and who acts in good faith based upon a written Opinion or Advice issued to the requester shall not be held liable for a violation of the Lobbying Disclosure Law. The protection afforded for reliance upon an Opinion or Advice remains in effect until such time as any regulation, statutory enactment, or ruling precludes further reliance upon same.

OPINIONS

Opinion 08-1001 (Confidential)

Decided: April 28, 2008

Issued: May 15, 2008

In the context of the Lobbying Disclosure Law, "contingent compensation" is compensation that is dependent on the fulfillment of certain conditions. Although Section 13A07(e) of the Lobbying Disclosure Law generally prohibits compensation arrangements whereby a lobbyist would receive compensation for lobbying contingent in whole or in part upon the occurrence, nonoccurrence, or amendment of "legislative action" or "administrative action" as defined by the Lobbying Disclosure Law, that prohibition specifically does not apply where the administrative action consists of procurement by an agency of supplies, services, or construction pursuant to the Commonwealth Procurement Code. The statutory exception pertaining to contingent compensation for procurement lobbying does not apply to any other type of lobbying. Therefore, the requester as a registered lobbyist would be permitted to use a "success fee" for lobbying engagements related to procurement where the success fee would consist of compensation for lobbying services directly related to procurement and would be contingent upon the realization of specific procurement opportunities. As a registered lobbyist, the requester would be required to retain all engagement letters and other documents reasonably necessary to substantiate filings under the Lobbying Disclosure Law for four years from the respective dates of such filings.

Opinion 08-1002 (Confidential)

Decided: July 21, 2008

Issued: August 5, 2008

Corporation A, a registered principal, may separately allocate its expenses from those of other registered principals that are its affiliates in determining whether the reporting thresholds for "gifts" and for "transportation and lodging or hospitality received in connection with public office or employment" have been met for purposes of the lobbying reporting requirements of Section 13A05(b)(3)(i) of the Lobbying Disclosure Law. Any allocation of expenses would be subject to the requirements of Section 13A05(b)(2.1) of the Lobbying Disclosure Law as to using a reasonable method of allocation. As a registered principal, Corporation A would be required to retain all documents rea-

sonably necessary to substantiate filings under the Lobbying Disclosure Law for four years from the respective dates of such filings.

AMENDMENTS TO THE ETHICS ACT WITHIN ACT 134 OF 2006

In addition to promulgating the new Lobbying Disclosure Law, Act 134 of 2006 includes amendments to the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1101 et seq. First, the “definitions” section (Section 1102) of the Ethics Act has been amended so that the Ethics Act will use the same definitions for the terms “gift” and “hospitality” that are used in the Lobbying Disclosure Law. The new definitions are as follows:

“Gift.” Anything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business. The term shall not include hospitality, transportation or lodging.

“Hospitality.” Includes all of the following:

- (1) Meals.
- (2) Beverages.

(3) Recreation and entertainment. The term shall not include gifts, transportation or lodging.

65 PA.C.S. § 13A03.

These new definitions make gifts, hospitality, and transportation/lodging mutually exclusive categories, so that any given item may only be considered to fall within one of the categories. This change will eliminate questions that previously existed under the Ethics Act as to the differences between these categories and whether a single item could be subject to disclosure under more than one category.

An additional amendment modifies the financial reporting threshold for transportation, lodging, or hospitality received in connection with public office or employment under Section 1105(b)(7) of the Ethics Act. Previously, disclosure had to be made if the amount involved exceeded \$650 per event. With the amendments, the threshold will no longer be a per event threshold, but rather, will be an aggregate amount per year like the gift threshold.

AFFIRMATIVE DEFENSES UNDER THE LOBBYING DISCLOSURE LAW AND ETHICS ACT

Section 13A09(g) of the Lobbying Dis-

closure Act provides:

§ 13A09. PENALTIES.

- (g) Affirmative defense.—Any of the following is an affirmative defense to an action brought under Chapter 11 (relating to ethics standards and financial disclosure) or this chapter:
- (1) The respondent or defendant relied on advice and opinions of the commission.
 - (2) The respondent or defendant relied on notice under section 13A05(b)(3)(iv).
 - (3) The respondent or defendant did not receive notice under section 13A05(b)(3)(iv).

Subsection (g)(1) provides an affirmative defense—under both the Ethics Act and the Lobbying Disclosure Law—to a respondent or defendant who relies on advices and opinions of the Commission. Subsections (g)(2) and (3) provide affirmative defenses to public officials and public employees who fail to disclose on their Statements of Financial Interests reportable items received from a registrant under the Lobbying Disclosure Law if the registrant fails to notify the public official or public employee of the need to make such disclosure.

Pennsylvania Race Horse Development and Gaming Act

Amendments to the Pennsylvania Race Horse Development and Gaming Act:

In addition to the Lobbying Disclosure Law, the General Assembly also passed an amendment to the Gaming Act which vested additional duties in the Ethics Commission. Act 135 took effect immediately on November 1, 2006. Previously, the Commission had no responsibilities under the Gaming Act. With the new amendments, the Commission now has responsibilities for:

- (1) Making determinations, upon request, as to whether particular individuals employed by the Gaming Control Board or employed by independent contractors of the Board would be subject to certain “revolving-door” provisions within the Gaming Act. (4 Pa.C.S. §§1201(h)(13)-(14));
- (2) Biennially publishing a listing of all state, county, municipal and other government positions meeting the definitions of the terms “public official” or “executive-level public employees” set

forth in Section 1512(b) of the Gaming Act, for the purpose of enabling the identification of persons who would be subject to the prohibitions of Section 1512; and

- (3) Determining whether to extend deadlines by which executive-level public employees, public officials, party officers or their immediate family members, would be required to divest themselves of financial interests that they would be prohibited from holding under Section 1512 of the Gaming Act.

GAMING ACT OPINIONS

The Commission did not issue any opinions in calendar year 2008.

Opinions under Sections 1201(h)(13)-(14) of the Gaming Act are public records.

Paper copies of Commission opinions are available at cost from the Commission or via the Commission’s “e-Library,” which may be accessed via the Commission’s Web site at www.ethics.state.pa.us.

PREPARATION OF THE LISTING OF PUBLIC OFFICIALS AND PUBLIC EMPLOYEES

Pursuant to the provisions of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §1101 et seq., as amended by Act 135-2006, the Pennsylvania State Ethics Commission is required to publish and maintain a list of all state, county, municipal, and other government positions that meet the definition of “public official” or “executive level public employee” as these terms are defined in the Gaming Law. This list, once compiled, is to be published in the *Pennsylvania Bulletin* biennially and on the Web site of the Gaming Control Board. The law further provides that upon request, every public official shall have a duty to provide the Ethics Commission with adequate information to accurately develop and maintain said list.

Throughout 2007 staff of the Commission arduously worked to compile lists of statewide and local public officials and

public employees. With regard to state government, members of the Commission staff met with representatives from the Office of Administration to elicit their assistance in identifying state-level positions classified under the Gaming Act as public officials and/or public employees. Commission staff also met with representatives from the PA Gaming Control Board, the Department of Revenue and the Department of Community and Economic Development in order to discern which local governmental bodies would statutorily receive proceeds from the gaming facilities. Utilizing this information, the Commission sent correspondence to the local municipalities that would be receiving funds under the Gaming Act, requesting lists of their public officials and public employees along with organizational charts and job descriptions.

After reviewing the information received, additional research and analysis was required in order to determine which positions should be included on the list. Extensive research was conducted utilizing the Internet, administrative codes, home rule charters as well as the information received from the local governments. Lists were then compiled of local public officials and executive-level public employees using the information gleaned from the research. For ease of reference, each position listed is linked to the actual source material used to perform the analysis. The completed lists were reviewed by Commission attorneys for legal accuracy and content.

During calendar year 2008, the aforementioned Gaming Lists were completed and were subsequently published in the *Pennsylvania Bulletin* on May 31, 2008. In addition to being published in the *Pennsylvania Bulletin*, the Gaming Lists are also accessible via the Commission's Web site within its e-Library at www.ethics.state.pa.us and via the PA Gaming Control Board's Web site at www.pgcb.state.pa.us, which features a link to the Commission's e-Library. It is important to note that updates are made to the Gaming Lists throughout the year as additional distributions are made to local government bodies. The lists residing within

the Commission's e-Library reflect these continual updates.

The key definitions:

Section 1512(b) of the Gaming Act defines the terms "executive-level public employee" and "public official" as follows:

"Executive-level public employee." The term shall include the following:

- (1) Deputy Secretaries of the Commonwealth and the Governor's office executive staff.
- (2) An employee of the Executive Branch with discretionary power which may affect or influence the outcome of a State agency's action or decision and who is involved in the development of regulations or policies relating to a licensed entity or who is involved in other matters under this part. The term shall include an employee with law enforcement authority.
- (3) An employee of a county or municipality with discretionary powers which may affect or influence the outcome of the county's or municipality's action or decision and who is involved in the development of law, regulation, or policy relating to a licensed entity or who is involved in other matters under this part. The term shall include an employee with law enforcement authority.
- (4) An employee of a department, agency, board, commission, authority, or other governmental body not included in paragraph (1), (2), or (3) with discretionary power which may affect or influence the outcome of the governmental body's action or decision and who is involved in the development of regulation or policy relating to a licensed entity or who is involved in other matters under this part. The term shall include an employee with law enforcement authority.

"Public official." The term shall include the following:

- (1) The Governor, Lieutenant Governor, a member of the Governor's cabinet, Treasurer, Auditor General, and

Attorney General of the Commonwealth.

- (2) A member of the Senate or House of Representatives of the Commonwealth.
- (3) An individual elected or appointed to any office of a county or municipality that directly receives a distribution of revenue under this part.
- (4) An individual elected or appointed to a department, agency, board, commission, authority, or other governmental body not included in paragraph (1), (2), or (3) that directly receives a distribution of revenue under this part.
- (5) An individual elected or appointed to a department, agency, board, commission, authority, county, municipality, or other governmental body not included in paragraph (1), (2), or (3) with discretionary power which may influence or affect the outcome of an action or decision and who is involved in the development of regulation or policy relating to a licensed entity or who is involved in other matters under this part.

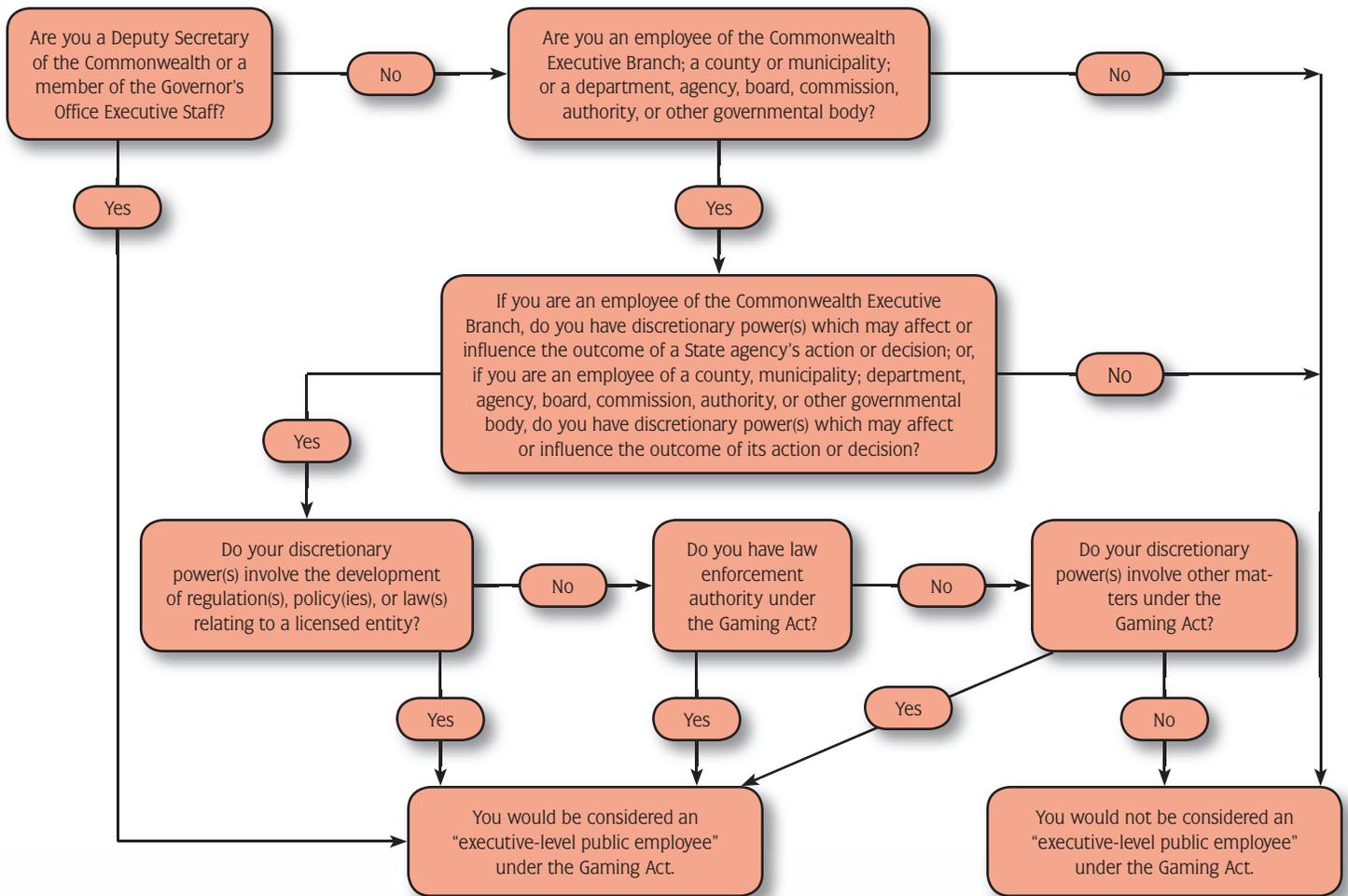
The term does not include a member of a school board or an individual who held an uncompensated office with a governmental body prior to January 1, 2006, and who no longer holds the office as of January 1, 2006. The term includes a member of an advisory board or commission which makes recommendations relating to a licensed facility. 4 Pa.C.S. § 1512(b).

Status as an executive-level public employee or public official:

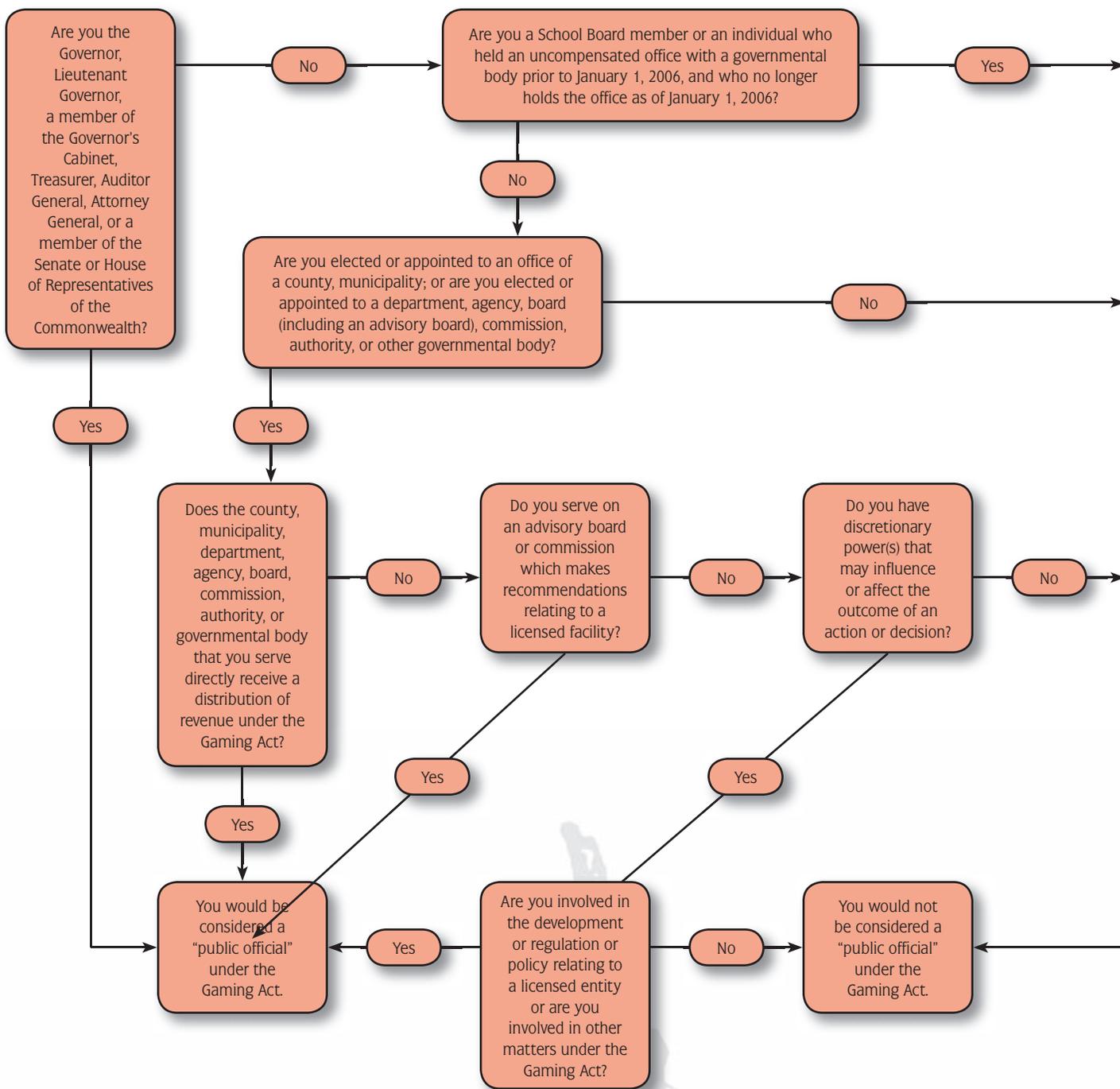
Status as an executive-level public employee or public official has significance under various provisions of the Gaming Act, including but not limited to Section 1512.

A person who is an executive-level public employee or public official as defined by the Gaming Act, or who is a member of such a person's immediate family (spouse, minor child, or unemancipated child), is subject to significant restrictions and may be subject to penalties as set forth in Sections 1512(a), (a.1), (a.2), (a.3), and (a.4) of the Gaming Act.

The following flow chart outlines questions used to determine whether an individual would be considered an **“executive-level public employee”** under the Pennsylvania Race Horse Development and Gaming Act (Gaming Act), 4 Pa.C.S. § 1101 et seq.:



The following flow chart outlines questions used to determine whether an individual would be considered a “public official” under the Pennsylvania Race Horse Development and Gaming Act (Gaming Act), 4 Pa.C.S. § 1101 et seq.:



NORCOL: Northeastern Regional Conference on Lobbying

The Pennsylvania State Ethics Commission continued to be active in the Northeastern Regional Conference on Lobbying (NORCOL) which includes lobbying regulators from the New England states to Washington, D.C.

The 2008 Annual NORCOL Conference was held in Atlantic City, New Jersey. Pennsylvania State Ethics Commission Senior Assistant Counsel Martin Harter attended the conference as the Commis-

sion's representative. NORCOL Members held a roundtable discussion regarding significant topics in lobbying regulation.

NORCOL plans to hold its 2009 annual conference in Vermont.

COGEL: Council on Governmental Ethics Laws

The Commission has continued to be active in the activities of the Council on Governmental Ethics Laws (COGEL). COGEL is an international professional association of agencies, organizations, and individuals with duties and responsibilities relating to conflicts of interest, lobbying registration and reporting, campaign finance reporting and administration, election, and freedom of information laws. The Commission's Executive Director is currently a member of the Past President's Committee and Global Affairs Committee. Chief Counsel Robin M. Hittie is currently a member of the Past President's Committee and Nominating Committee.

Representatives of the Commission attended the 30th Annual COGEL Conference in Chicago, Illinois from December 7 through December 10, 2008. Representatives of the Commission present at the conference were Commissioners Nicholas A. Colafella and Donald M. McCurdy. Staff representatives from the Commission

included John Contino, Executive Director, Robin Hittie, Chief Counsel, and Brian Jacisin, Investigative Attorney. The conference included a three-and-one-half-day intensive training session on all aspects of areas involved in the Commission's operational mandates. Keynote speakers included Seton Hall University Professor Paula Franzese, Thomas B. Sullivan, former United States Attorney for the Northern District of Illinois, and Ronald A. Gould, former Assistant Chief Electoral Officer of Canada. Concurrent training sessions attended by Commission Representatives included:

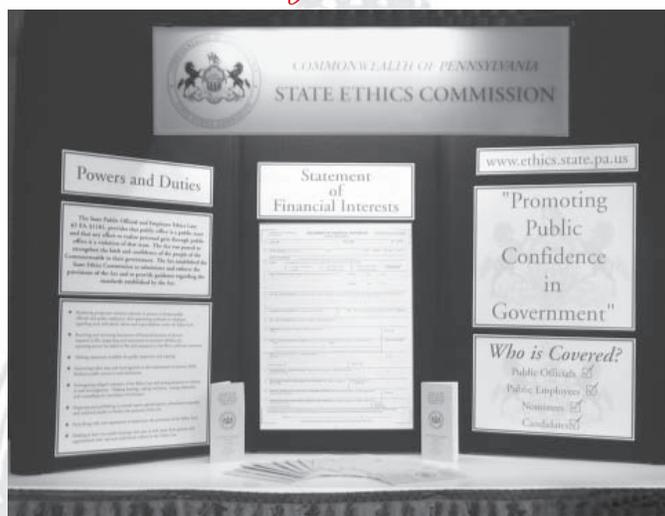
- Ethics Update; a Survey and Discussion of Developments and Trends and the Ethics and Conflicts of Interests
- Legislation, Litigation, and Advisory Issues
- Managing Electronic Records: Dealing with the Maintenance of an Increased Demand for Government Records that Are Stored and Generated Electronically

- Conflicts of Interest in University Research
- Personal Financial Disclosure: A Review of the Comprehensive Filing Requirements Imposed by Various Jurisdictions
- Commissioners Roundtable: Leadership Challenges
- Freedom of Information Legislation/ Litigation Update Effective Audit Techniques
- Lobbying Update: A Review and Discussion of Significant Developments in Legislation and Litigation Effecting Lobbying Registration, Reporting, and Regulation
- Watchdog Agencies: The Changes in Government Administration Influence the Effectiveness of Watchdog Agencies
- Ethics Agency Organizational Structures
- Readying the Case: Development of Enforcement Actions and Insuring That All Steps Are Taken in Order to Make a Case Complete

Public Outreach and Training

The Ethics Commission strives to fulfill its educational role by providing guidance to public officials and public employees regarding their responsibilities under the Public Official and Employee Ethics Act. The Commission believes that it is important for government officials to always remember that they have been entrusted to serve in the public's best interest. As such, public officials and employees must keep abreast of their duties and responsibilities under the Ethics Law.

To reach out to more public



officials across the state regarding their duties and responsibilities under the Ethics Law, and to augment the appearances and presentations made at annual events, the Commission expanded its already active educational outreach and training program. To facilitate this endeavor, the Commission partnered with organizations such as the PA State Boroughs Association, the PA State Association of Township Supervisors, the PA Commission on Crime and Delinquency, the Department of Community and Economic Development Center

for Local Government Services, the State Association of County Commissioners, the PA League of Cities, the PA County Controllers Association, and the Local Government Academy. Meetings were held with representatives of these organizations in order to plan future ethics training sessions that would be geared towards a variety of local public officials such as Borough Managers and Council members, Township Supervisors, Solicitors, Municipal Authority members, Mayors, Controllers, Commissioners, and Tax Collectors. Typical topics covered during Commission presentations include how to avoid conflicts of interest, financial disclosure, restricted activities, jurisdiction, the intent of the Ethics Act and relevant advisory opinions.

During calendar year 2008, 29 presentations were made. Some of the topics included the new lobbying disclosure act, basic ethics law instruction, local government and school district conflicts of interests. Organizations included

the PA Association of County Controllers; the PA Municipal Authorities Association; the Local Government Academy; the PA Recreation and Park Society; the Allegheny County Bar Association; the State Auditor General; the Blair County Association of Township Officials; the PA Coalition of Charter Schools; Government Finance Officers; the PA State Association of Township Supervisors; the County Treasurers Association; the PA State Management Associates Program; North Allegheny Local Officials; the Local Government Academy; the Indiana University of Pennsylvania; the Office of General Council University; the 2008 Institute for Municipal Secretaries, Clerks, and Administrators; the Employment Alliance of Municipalities; the Greene County Association of Township Officials; the PA Economic Development Association; the Philadelphia School District; and the PA Public Utility Commission.

Presentations scheduled for 2009 include the Borough of Franklin Park, the Berks County Association of Township Officials, the PA State Association of Township Supervisors, the PA Bar Institute, the Dickinson College Law and Policy Class, the PA Registers of Wills, and the Chief Clerks of Court Association.

Those interested in scheduling a speaker or a training session for their particular group, organization, or association can contact the PA State Ethics Commission at 1-800-932-0936 or 717-783-1610. There is also a speaker request form available for download on the Commission's Web site at www.ethics.state.pa.us that can be completed and forwarded to the Commission.

PUBLIC INFORMATION

Ethics Commission Web site:

<http://www.ethics.state.pa.us>

The following information is available on-line:

- Who is covered by the Ethics Law
- Restricted activities
- Publications
- Regulations
- Filing a Statement of Financial Interests
- Filing a Complaint
- Requesting an Opinion
- Commissioners
- Ethics Staff
- e-Library containing rulings and Statements of Financial Interest
- Statement of Financial Interests (Form)
- Complaint (Form)

Pamphlets and Guides:

- Guide to the Pennsylvania Public Official and Employee Ethics Law
- Consolidated Rulings Digest 1979-1987
- Consolidated Rulings Digest 1988-1991
- Annual Report
- e-Library Pamphlets

Statement of Financial Interests Filings:

All Statements of Financial Interest forms filed with the Commission are available for public inspection and copying. There is a charge of 25 cents per page for copies.

Statements of

Financial Interests are also available for public inspection via the Commission's Web site at www.ethics.state.pa.us.

Commission Decisions:

Commission decisions, (orders, opinions, and advice of counsel) are available at the offices of the State Ethics Commission and may also be available at county law and public libraries and via the Commission's Web site at www.ethics.state.pa.us.

Opinions and Advices are issued to public officials and public employees at their request.

Orders are issued at the conclusion of an investigation and contain allegations, findings, discussion of the findings, and the conclusion of the Commission.

The Commission may require payment for a large quantity of pamphlets or decisions.

ETHICS TRAINING REQUEST FORM

If you are interested in scheduling one of the PA State Ethics Commission's trainers for your association, agency or organization, please complete this form and submit it to:

PA State Ethics Commission
Attention: Training
PO Box 11470
Room 309 Finance Building
Harrisburg, PA 17108-1470
Fax: 717-787-0806

List the name of your Agency, Organization or Association:

List the Name and Title of a Contact Person(s):

Street Address (city, state, zip):

Phone number and best time to call:

Fax number: _____ email: _____

Time you would prefer training: (circle one):

9:00am to noon 1:00pm to 3:00pm 6:00pm to 9:00pm

Proposed Dates for Training:

Potential number of attendees:

Are you planning to charge a registration fee for training? Yes No
 If answer is yes, what will the cost be? _____

Do you have a facility available to hold training? Yes No

Do you have any specific topics or areas of the Ethics Act you would like covered? Yes No
 If answer above was yes, please elaborate on issues you would like covered during training: _____

Note: The Ethics Commission prefers a minimum of 20 attendees per training session

PRESENTATIONS—CALENDAR YEAR 2008

DATE	GROUP	LOCATION	SUBJECT
February 27	PA State Assn. of County Controllers	Carlisle Hotel	Ethics Training for New Controllers
March 5	PA Municipal Authorities Association	Cranberry Marriott	Ethics Training
March 6	Local Government Academy	Canonsburg	Ethic Training for Newly Elected Local Government Officials
March 10	PA Recreation and Park Society (PRPS)	Seven Springs, Champion, Pa.	Ethics Session for PRPS Annual Conference
March 12	PA Municipal Authorities Association (PMAA)	Bethlehem	Ethics Update
March 20	Allegheny County Bar Association	Pittsburgh	Allegheny County Municipal and School Solicitors Association
April 3	Auditor General	Days Inn, State College	Bureau of Audits Training
April 3	Blair County Association of Township Officials	Williamsburg Farm Show Building	Ethics Act
April 29	PA Coalition of Charter Schools	Marriott, Downtown Pittsburgh	Ethics Act for Charter School Officials and Administrators
May 5	Government Finance Officers	State College	Ethics and the Finance Officers Association
May 12	PSATS	Hershey Motor Lodge	Exhibit at Annual Conference
May 13	PA Management Associates Program		Ethics Act
June 12	County Treasurers Association	Erie	Ethics Training
June 13	North Allegheny Local Officials	Cranberry	Ethics for Local Government Officials
June 18	Local Government Academy		Ethic Training for Newly Elected Local Government Officials
June 28	Indiana University of PA	Indiana University of Pennsylvania	Ethics for School Officials
July 21	PA State Association of County Controllers	Chateau Resort and Conference Center	Annual Conference
September 9	PMAA	Hershey Motor Lodge	Annual Conference
September 16	OGC University	Hershey Motor Lodge	Ethics Update
September 19	2008 Institute for Municipal Secretaries, Clerks and Administrators (IMSCA)	Shippensburg University Foundation Conference Center	Policies and Procedures of the Ethics Commission
September 24	Employment Alliance of Municipalities (TEAM)	Harrisburg Hilton Hotel	Part of labor and employment seminar
September 26	Greene County Association of Township Officials	Greene County Fair Grounds	Ethics Act
October 16	PA Economic Development Association	Normandy Farm Hotel and Conference Center, Blue Bell, Pa.	Ethics in Government
October 27	Philadelphia School District	Philadelphia	Ethics in School Districts
October 28	PA Public Utility Commission	PUC Hearing Room 1	Financial Information to Be Reported to Ethics Commission and Why
October 30	PA Public Utility Commission	PUC Hearing Room 1	Financial Information to Be Reported to Ethics Commission and Why
November 3	PA Public Utility Commission	PUC Hearing Room 1	Financial Information to Be Reported to Ethics Commission and Why
November 3	Philadelphia School District	Philadelphia	Ethics in School Districts
November 6	Philadelphia School District	Philadelphia	Ethics in School Districts

Ethics Commission on the Internet

The State Ethics Commission maintains an Internet site located at <http://www.ethics.state.pa.us> that provides useful information on the Ethics Act and Regulations. Visitors can also find guidance with regards to Statements of Financial Interests, who is covered by the Ethics Act, how to request an advisory, and how to file a complaint. Other sections include general information about the Commission such as biographies of the Commissioners, a listing of staff members, and public meeting dates and agendas. Using the latest technologies, the Commission strives to continually enhance its Web site so that visitors will find it easy to navigate and obtain the information they are searching for. 2005 brought the addition of taped recordings of the Commission's public meetings to the Web site. With this latest enhancement, individuals interested in seeing first-hand the business conducted by the Commission can do so at their leisure via their own computer. Also new to the Web site in 2005 was a Training section featuring a calendar listing dates and locations of Ethics training provided by Commission staff members. The Commission has received the Pennsylvania Destination of the Day Award from Kessler-Freedman, Inc., an organization that highlights the best of Pennsylvania's Web sites.

In addition to meeting notices and agendas, as well as employment opportunities with the Commission, visitors to the Web site will find a calendar listing important filing dates and deadlines and direct links to printable forms such as the Complaint form and Statement of Financial Interests that can be printed out using Adobe Acrobat Reader. Frequent visitors also have the capability to subscribe to "e-alerts" so that they can be notified of important Commission information, news, and reminders.

The most frequently utilized feature of the State Ethics

Commission's Web site is its "e-Library" that includes all of the Commission's rulings. This electronic document management system provides state-of-the-art search and retrieval capabilities of thousands of Commission documents that date back to the Commission's inception in 1979. This initiative involved the scan-

ning and indexing of thousands of documents that were subsequently posted to the Commission's Web site. As future rulings are issued, they will be added to the on-line library.

Prior to the deployment of this new document management system, the State Ethics Commission stored paper copies of rulings in over 100 binders. If an individual wanted a copy of a document, staff would perform the research, make a photocopy of the document requested, and then forward it to the requestor. Keyword indexes were created manually in order to provide an efficient search mechanism for topics, orders, opinions and advices.

With the electronic document management system, anyone can log onto the Commission's Web site and click on the convenient link to the e-Library and type in a name, topic, or date, etc. and the software does the retrieval work in just seconds. Once the keyword is located, the user can easily scan through all of the documents to find the exact information they are looking for as search words are highlighted to show their exact location within a given document. They can then save the image to a file for future reference, print it out in hard-copy form, copy it to a CD, or even send it to another party via e-mail.

Users will also find with the e-Library a helpful Search Guide and instructions for performing more advanced or complex searches.

With the addition of the e-Library to the Commission's Web site, the Commission realized a long-standing goal of scanning and indexing all of its rulings and making those rulings easily accessible to the public. Public access to the Commission rulings with research capabilities benefits anyone who needs or wants to get answers to Ethics Law issues quickly.

During 2003, the Commission realized another long-standing goal with the addition of Statements of Financial Interests to the Web site and e-Library.

Each year, the Commission receives more than 5,000 Statements of Financial Interests that are required to be filed specifically with the State Ethics Commission by public officials and public employees such as candidates, legislators, cabinet members, deputy secretaries, members

of state boards and commissions, constables and deputy constables and other persons who file voluntarily. The Ethics Act requires that these public officials, public employees, and candidates for public office file Statements of Financial Interests by May 1 of every year they hold their position and the year after they terminate their position. (Local public officials and public employees file only with their respective governmental bodies, and state employees file only with their respective agencies.) The Ethics Act stipulates that all Statements be kept on file for five years and must be made available for public inspection.

Instead of calling, writing to or visiting the Commission, now anyone interested in seeing a Statement of Financial Interests that has been filed with the State Ethics Commission can easily have access to the document via the Internet and the Commission's e-Library. Statements of Financial Interests are organized within the e-Library according to filing calendar years. Interested parties select a given year and type the person's name into a template. The system then provides an image of the Statement of Financial Interests that can be printed out, saved to their computer for future reference or e-mailed to another party. The State Ethics Commission provides the most recent five filing years of Statements of Financial Interests on its Web site.

The Commission will continue to look for ways to improve its Web site to make it user-friendly and useful and as such, will take advantage of new and emerging technologies to accomplish this goal.

As part of its technology and Web site initiatives, the State Ethics Commission utilizes a tracking mechanism to monitor activity on the Web site. This tracking mechanism produces monthly statistical information regarding the visitors to the Commission's Web site. The reports detail how many visitors the Web site has, what the average usage is per day, and what the most popular features of the Web site are. During 2008, there were 4,559,479 total visitors to the Commission's Web site, and 220,768 user sessions. The average number of visits per day was 12,442 and the average number of user sessions per day was 603.

Ethics and the Right-to-Know Law

Effective December 26, 2002, pursuant to the Pennsylvania Right-to-Know Act, as amended by Act 100-2002, the Pennsylvania State Ethics Commission established administrative policies and forms in order to provide access to public records of the Commission. These policies remained in effect through December 31, 2008. A new Right-to-Know Law and new Commission policies took effect January 1, 2009. (see below)

During calendar year 2008, the Commission received and responded to 30 requests for documents. Since December 26, 2002, through the end of calendar year 2008, a total of 251 requests were received and responded to. The most common request received is for Statements of Financial Interests.

In 2008, requests for access to public records of the Commission were required to sufficiently identify the requested records so as to enable a determination of which records were being requested. When requests were received, an initial review was performed in order to determine if the records or documents requested were public records under the Right-to-Know Law. Requests were to be submitted to John J. Contino, Esquire, Executive Director, Pennsylvania State Ethics Commission, 309 Finance Building, PO Box 11470, Harrisburg, Pennsylvania 17108-1470; Telephone #: (717) 783-1610 or 1-800-932-0936; Fax #: (717) 787-0806. Written requests were to be submitted in person, by mail or delivery service, or by facsimile transmission (Fax); e-mail requests and subsequent responses were not permitted. Written requests were to provide the name, address and title if any, to which the response was to be sent. The fee for duplication of requested records on paper was \$.25 per page. The fee for providing the requested records on computer disk, if available, was the actual cost of duplication, including the cost of labor. The fee for postage for mailing the requested records was the actual mailing cost. Prepayment of fees could be required at the discretion of the Executive Director if such fees were expected to exceed \$100.

Per the 2008 policy as outlined above, all requests for documents, including Statements of Financial Interests, under the Right-to-Know Law were to be submitted in writing using the prescribed

SEC RTKL Request for Information form. Responses to requests included a copy of the original written request and an approved State Ethics Commission response letter signed by the Executive Director.

THE NEW RIGHT-TO-KNOW LAW

The new Right-to-Know Law, Act 3 of 2008, 65 P.S. § 67.101 et seq., takes effect January 1, 2009. The Commission's Web site has been updated to include information regarding the new law and a link to the Commonwealth's new Open Records Office (www.openrecords.state.pa.us). In addition, a specific e-mail address has been created on the Commission's Web site for requests under the new Right-to-Know Law. This new e-mail address is ra-ethicsRTKL@state.pa.us.

At the Commission's September 23, 2008 meeting, the Commission designated an "Open-Records Officer" (the Executive Director), as required by Section 502 of the new law. Additionally, the Commission approved a new form for the submission of requests for access to records under the new Right-to-Know Law and new Commission policies for implementing the new law, as permitted by Sections 504 and 505 of the new law.

Under the new law, all records of an agency will be presumed to be public. 65 P.S. § 67.305. The agency will bear the burden of proving that a given record is exempt from public access. 65 P.S. § 67.708. Records retention/disposition schedules are still to be followed and are not superseded by the new law. 65 P.S. § 67.507.

The new Right-to-Know Law request form and Commission policies follow.

POLICIES OF THE PENNSYLVANIA STATE ETHICS COMMISSION UNDER THE PENNSYLVANIA RIGHT-TO-KNOW LAW

The Pennsylvania State Ethics Commission has established the following policies **effective January 1, 2009**, for providing access to public records of the Commission pursuant to the Pennsylvania Right-to-Know Law, Act 3 of 2008, 65 P.S. § 67.101 et seq.:

Submission of requests for access: Written requests for access to public records of the Commission shall be submitted using either the form designated as SEC-5 or the request form developed by the Office of Open Records. Requests for access to public records of the Commis-

sion must sufficiently identify or describe the requested records so as to enable a determination of which records are being requested. Requests shall be submitted to the following Open-Records Officer at the Commission's Harrisburg Office:

John J. Contino, Esquire, Executive Director
 Pennsylvania State Ethics Commission
 309 Finance Building
 P.O. Box 11470
 Harrisburg, PA 17108-1470
 Telephone: (717) 783-1610
 or 1-800-932-0936
 FAX: (717) 787-0806
 E-mail: ra-ethicsRTKL@state.pa.us

Written requests must be submitted in person, by mail, by e-mail, or by facsimile transmission (FAX). Written requests must provide the name and address of the person to whom the response is to be sent.

Fees for processing requests for access: The following fees shall apply to the provision of access to public records of the Commission:

- The fee(s) for duplication will be as established by the Office of Open Records.
 - The fee for postage for mailing will be the actual cost of mailing.
- Prepayment of fees may be required at the discretion of the Executive Director if such fees are expected to exceed \$100.

CONTACT INFORMATION

For the Open-Records Officer of the Pennsylvania State Ethics Commission:

John J. Contino, Esquire, Executive Director
 Pennsylvania State Ethics Commission
 309 Finance Building
 P.O. Box 11470
 Harrisburg, PA 17108-1470
 Telephone: (717) 783-1610 or
 1-800-932-0936
 FAX: (717) 787-0806
 E-mail: RA-ethicsRTKL@state.pa.us

For the Pennsylvania Office of Open Records:

PHYSICAL ADDRESS:
 Commonwealth of Pennsylvania
 Office of Open Records
 Commonwealth Keystone Building
 400 North Street, Plaza Level
 Harrisburg, PA 17120-0225

MAILING ADDRESS:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: 717-346-9903

Fax: 717-425-5343

E-mail: openrecords@state.pa.us

Executive Director: Terry Mutchler

SEC-5 EFFECTIVE 01/01/09

RTKL request SEC tracking number _____

Official use only (date/time stamp) _____



Name of Requestor: _____
(please print) LAST FIRST MI

Signature of Requestor: _____

Mailing Address: _____
Street/PO Box

City State Zip

Telephone Number: _____ Fax Number: _____
Optional Optional

Please identify each record for which you are requesting access. You must identify or describe each such record with sufficient specificity to enable a determination of which record(s) are being requested.

Please check one of the following boxes:

- I am only requesting access to the documents identified above.
- I am only requesting a copy of the documents identified above.
- I am requesting access **and** copies of the documents identified above.

If you are requesting a copy of the documents identified above, please check one of the following boxes:

- I would like a paper copy of the documents
- I would like a computer-readable copy of the documents (i.e. diskette or CD)
- Other (please specify) _____

State Ethics Commission
Room 309 Finance Building
P.O. Box 11470
Harrisburg, PA 17108-1470



PRSRT STD
U.S. POSTAGE
PAID
HARRISBURG, PA
PERMIT # 955