



INTRODUCTION

The Pennsylvania Public Official and Employee Ethics Act (“Ethics Act”), 65 Pa.C.S. § 1101 et seq., has been the subject of numerous appellate court decisions. The Ethics Act Case Law Index (“Index”) was prepared by the State Ethics Commission to help readers find appellate cases involving legal issues related to the Ethics Act. The Index is broken down by topics, and some cases may appear under multiple section headings. The Index does not include every appellate case involving the Ethics Act, and it is not designed to replace legal research skills.

The Index includes non-precedential decisions of the Commonwealth Court and the Superior Court. Rule 126 of the Pennsylvania Rules of Appellate Procedure, Pa.R.A.P. 126, authorizes the citation of non-precedential decisions for only their persuasive value in appellate proceedings under certain circumstances.

The Ethics Act was originally enacted in 1978 and was amended substantially in 1989. The Ethics Act was subsequently codified at Title 65 of the Pennsylvania Consolidated Statutes, 65 Pa.C.S. § 1101 et seq., in 1998. All references in the Index to statutory provisions of the Ethics Act reflect the provisions as codified.

TABLE OF CONTENTS

Selected Text of the Ethics Act	2
Table of Cases	5
Topics of Case Summaries	7
Case Summaries	8

APPLICABLE TEXT OF THE ETHICS ACT

(Selected portions of 65 Pa.C.S. §§ 1102, 1103, 1104, 1107, 1108, and 1112)

§ 1102. Definitions

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Authority of office or employment." The actual power provided by law, the exercise of which is necessary to the performance of duties and responsibilities unique to a particular public office or position of public employment.

"Business." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

"Conflict" or "conflict of interest." 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. The term 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 of his immediate family or a business with which he or a member of his immediate family is associated.

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

"Governmental body." Any department, authority, commission, committee, council, board, bureau, division, service, office, officer, administration, legislative body or other establishment in the executive, legislative or judicial branch of a state, a nation or a political subdivision thereof or any agency performing a governmental function.

"Governmental body with which a public official or public employee is or has been associated." The governmental body within State government or a political subdivision by which the public official or employee is or has been employed or to which the public official or employee is or has been appointed or elected and subdivisions and offices within that governmental body.

"Immediate family." A parent, spouse, child, brother or sister.

"Person." A business, governmental body, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.

"Political subdivision." Any county, city, borough, incorporated town, township, school district, vocational school, county institution district, and any authority, entity or body organized by the aforementioned.

"Represent." To act on behalf of any other person in any activity which includes, but is not limited to, the following: personal appearances, negotiations, lobbying and submitting bid or contract proposals which are signed by or contain the name of a former public official or public employee.

§ 1103. Restricted activities

(a) Conflict of interest.--No public official or public employee shall engage in conduct that constitutes a conflict of interest.

(c) Accepting improper influence.--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.

(f) Contract.--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) Former official or employee.--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.

§ 1104. Statement 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.

(b) Candidate.--

(1) Any candidate for a State-level public office shall file a statement of financial interests for the preceding calendar year with the commission on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.

(2) Any candidate for county-level or local office shall file a statement of financial interests for the preceding calendar year with the governing authority of the political subdivision in which he is a candidate on or before the last day for filing a petition to appear on the ballot for election. A copy of the statement of financial interests shall also be appended to such petition.

(3) No petition to appear on the ballot for election shall be accepted by the respective State or local election officials unless the petition has appended thereto a statement of financial interests as set forth in paragraphs (1) and (2). Failure to file the statement in accordance with the provisions of this chapter shall, in addition to any other penalties provided, be a fatal defect to a petition to appear on the ballot.

§ 1107. Powers and duties of commission

(13) Issue findings, reports and orders relating to investigations initiated pursuant to section 1108, which set forth the alleged violation, findings of fact and conclusions of law. An order may include recommendations to law enforcement officials. Any order resulting from a finding that a public official or public employee has obtained a financial gain in violation of this chapter may require the restitution plus interest of that gain to the appropriate governmental body

§ 1108. Investigations by commission

(k) Confidentiality.--As a general rule, no person shall 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 subsection when the matters pertain to any of the following:

. . .

(8) any information, records or proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of

§ 1112. Conflict of law

Except as otherwise provided in Chapter 13 (relating to lobby regulation and disclosure), if the provisions of this chapter conflict with any other statute, ordinance, regulation or rule, the provisions of this chapter shall control.

TABLE OF CASES

Allen v. State Ethics Commission (Pa. Cmwlth., No. 1790 C.D. 1988, filed March 17, 1989) (unpublished memorandum) 10

Ballou v. State Ethics Commission, 496 Pa. 127, 436 A.2d 186 (1981) 23

Bartholomew v. State Ethics Commission, 795 A.2d 1073 (Pa. Cmwlth. 2002) 9

Bixler v. State Ethics Commission, 847 A.2d 785 (Pa. Cmwlth. 2004) 12, 15, 17

Bloom v. State Ethics Commission (Pa. Cmwlth., No. 1539 C.D. 2017, filed December 19, 2019) (unpublished memorandum) 9, 14

Borland v. State Ethics Commission (Pa. Cmwlth., Nos. 1091 C.D. 1991 and 1092 C.D. 1991, filed November 27, 1991) (unpublished memorandum) 8

Bouch v. State Ethics Commission, 848 A.2d 1078 (Pa. Cmwlth. 2004) 12

C.P.C. v. State Ethics Commission, 698 A.2d 155 (Pa. Cmwlth. 1997) 23

Commonwealth v. Cherpes, 520 A.2d 439 (Pa. Super. 1987) 17

Commonwealth v. Como, 1687 EDA 2018 (Pa. Super. Unpub. 2020) 14

Commonwealth v. Feese, 79 A.3d 1101 (Pa. Super. 2013) 13, 16

Commonwealth v. Habay, 934 A.2d 732 (Pa. Super. 2007) 13, 16

Commonwealth v. Orié, 88 A.3d 983 (Pa. Super. 2014) 14, 16

Commonwealth v. Veon, 637 Pa. 442, 150 A.3d 435 (2016) 14

Corbett v. Desiderio, 698 A.2d 134 (Pa. Cmwlth. 1997) 16

Delaware River Port Authority v. State Ethics Commission, 585 A.2d 587 (Pa. Cmwlth. 1991) 22

Eathorne v. State Ethics Commission, 960 A.2d 206 (Pa. Cmwlth. 2008) 9

G.L. v. State Ethics Commission, 17 A.3d 445 (Pa. Cmwlth. 2011) 13, 23

G.S.G. v. State Ethics Commission (Pa. Cmwlth., No. 724 C.D. 2006, filed April 9, 2007) (unpublished memorandum) 9

Gallen v. State Ethics Commission (Pa. Cmwlth., No. 1497 C.D. 2001, filed August 9, 2002) (unpublished memorandum) 11, 23

Garmong v. Stephani, 802 A.2d 1264 (Pa. Cmwlth. 2002) 10

Heineman v. State Ethics Commission (Pa. Cmwlth., No. 1095 C.D. 2004, filed July 9, 2004) (unpublished single-judge memorandum and order, Quigley, J.) 8

Hitchings v. State Ethics Commission, 607 A.2d 866 (Pa. Cmwlth. 1992) 22

Holt v. State Ethics Commission (Pa. Cmwlth., No. 1582 C.D. 2000, filed March 30, 2001) (unpublished memorandum) 8

In re Benninghoff, 578 Pa. 402, 852 A.2d 1182 (2004) 20, 21

In re Cioppa, 533 Pa. 564, 626 A.2d 146 (1993) 20

In re Guzzardi, 627 Pa. 1, 99 A.3d 381 (2014) 21

<u>In re Nomination Petition of deYoung</u> , 588 Pa. 194, 903 A.2d 1164 (2006)	21
<u>In re Nomination Petitions of Kosko</u> , 293 A.3d 779 (Pa. Cmwlt. 2023)	21
<u>In re Nomination Petition of Littlepage</u> , 589 Pa. 455, 909 A.2d 1235 (2006)	20, 21
<u>In re Nomination Petition of Paulmier</u> , 594 Pa. 433, 937 A.2d 364 (2007)	20, 21
<u>In re Olshefski</u> , 692 A.2d 1168 (Pa. Cmwlt. 1997)	20
<u>In re Petition of Granat</u> , 590 A.2d 849 (Pa. Cmwlt. 1991)	20
<u>In re Williams</u> , 972 A.2d 32 (Pa. Cmwlt. 2009)	20, 21
<u>Keller v. State Ethics Commission</u> , 860 A.2d 659 (Pa. Cmwlt. 2004)	13
<u>Kistler v. State Ethics Commission</u> , 610 Pa. 516, 22 A.3d 223 (2011)	17, 24
<u>Koslow v. State Ethics Commission</u> , 540 A.2d 1374 (Pa. Cmwlt. 1988)	10
<u>Kraines v. State Ethics Commission</u> , 805 A.2d 677 (Pa. Cmwlt. 2002)	12, 15
<u>Kremer v. State Ethics Commission</u> , 503 Pa. 358, 469 A.2d 593 (1983)	16, 19
<u>L.J.S. v. State Ethics Commission</u> , 744 A.2d 798 (Pa. Cmwlt. 2000)	22
<u>Maunus v. State Ethics Commission</u> , 518 Pa. 592, 544 A.2d 1324 (1988)	19, 22
<u>McCutcheon v. State Ethics Commission</u> , 466 A.2d 283 (Pa. Cmwlt. 1983)	10
<u>McGuire v. State Ethics Commission</u> , 657 A.2d 1346 (Pa. Cmwlt. 1995)	11, 23
<u>P.J.S. v. State Ethics Commission</u> , 555 Pa. 149, 723 A.2d 174 (1997)	23
<u>Phillips v. State Ethics Commission</u> , 470 A.2d 659 (Pa. Cmwlt. 1984)	22
<u>Pilchesky v. Mellow</u> , 19 A.3d 570 (Pa. Cmwlt. 2011)	19
<u>Popkave v. State Ethics Commission</u> (Pa. Cmwlt., No. 2221 C.D. 2004, filed May 26, 2005) (unpublished memorandum)	8
<u>Pulice v. State Ethics Commission</u> , 713 A.2d 161 (Pa. Cmwlt. 1998)	9, 11, 17
<u>Quaglia v. State Ethics Commission</u> , 986 A.2d 974 (Pa. Cmwlt. 2010)	22
<u>R.H. v. State Ethics Commission</u> , 673 A.2d 1004 (Pa. Cmwlt. 1996)	11
<u>Rebottini v. State Ethics Commission</u> , 634 A.2d 743 (Pa. Cmwlt. 1993)	10
<u>Rendell v. State Ethics Commission</u> , 603 Pa. 292, 983 A.2d 708 (2009)	17
<u>Rogers v. State Ethics Commission</u> , 470 A.2d 1120 (Pa. Cmwlt. 1984)	22
<u>Russell v. State Ethics Commission</u> , 987 A.2d 835 (Pa. Cmwlt. 2009)	13, 15
<u>Salem Twp. Mun. Auth. v. Twp. of Salem</u> , 820 A.2d 888 (Pa. Cmwlt. 2003)	12, 18
<u>Seropian v. State Ethics Commission</u> , 20 A.3d 534 (Pa. Cmwlt. 2011)	13, 15
<u>Shaulis v. State Ethics Commission</u> , 574 Pa. 680, 833 A.2d 123 (2003)	18, 19
<u>Shawnee Tabernacle Church v. State Ethics Commission</u> , 76 A.3d 117 (Pa. Cmwlt. 2013)	9
<u>Sivick v. State Ethics Commission</u> , 662 Pa. 283, 238 A.3d 1250 (2020)	14, 15, 18, 24
<u>Sivick v. State Ethics Commission</u> (Pa. Cmwlt., No. 307 C.D. 2021, filed December 22, 2021) (unpublished memorandum)	14
<u>Snider v. Shapp</u> , 405 A.2d 602 (Pa. Cmwlt. 1979)	16, 19
<u>Snyder v. State Ethics Commission</u> , 686 A.2d 843 (Pa. Cmwlt. 1996)	11
<u>State Ethics Commission v. Honore</u> , 150 A.3d 521 (Pa. Cmwlt. 2016)	18

<u>Stephens v. State Ethics Commission</u> , 571 A.2d 1120 (Pa. Cmwlth. 1990)	18
<u>Stilp v. Contino</u> , 613 F.3d 405 (3d Cir. Pa. 2010), <u>on remand</u> , 743 F. Supp. 2d 460 (M.D. Pa. 2010)	10, 16
<u>Wajert v. State Ethics Commission</u> , 491 Pa. 255, 420 A.2d 439 (1980)	18, 19
<u>Yezzi v. State Ethics Commission</u> (Pa. Cmwlth., No. 693 C.D. 1992, filed December 15, 1992) (unpublished memorandum)	9
<u>Yocabet v. State Ethics Commission</u> , 531 A.2d 536 (Pa. Cmwlth. 1987)	10
<u>Zangrilli v. State Ethics Commission</u> (Pa. Cmwlth., No. 2689 C.D. 1994, filed February 15, 1996) (unpublished memorandum)	11

TOPICS OF CASE SUMMARIES

Appealability/Reconsideration of Commission Orders	8
Appellate Scope of Review of Commission Orders	9
Commission Investigations and Orders	9
Confidentiality Considerations	10
Conflict of Interest – Section 1103(a)	10
Conflict of Interest – Class/Subclass Exclusion	15
Conflict of Interest – De Minimis Exclusion	15
Constitutional Considerations	16
Contracting and an Open and Public Process	17
Definition of “Business”	17
Definition of “Immediate Family”	17
Improper Understanding – Section 1103(c)	17
Penalties	18
Revolving Door Restriction – Section 1103(g)	18
Separation of Powers – Conduct of Attorneys and Judicial Officers	19
Standing	19
Statement of Financial Interests	19
Statement of Financial Interests – Elections	20
Status as a Public Official or a Public Employee	22
Status of Solicitors Under the Ethics Act	23
Use of Authority of Office	23

Appealability/Reconsideration of Commission Orders

Borland v. State Ethics Commission (Pa. Cmwlth., Nos. 1091 C.D. 1991 and 1092 C.D. 1991, filed November 27, 1991) (unpublished memorandum). An administrative agency's grant or denial of a petition for reconsideration is a matter of discretion, and as such, the Court's scope of review on appeal from the Commission's denial of a petition for reconsideration is confined to a determination of whether the Commission abused its discretion in denying the petition for reconsideration. The issue on appeal from the denial of a petition for reconsideration is not whether the Commission made an error of law in its decision on the merits.

Holt v. State Ethics Commission (Pa. Cmwlth., No. 1582 C.D. 2000, filed March 30, 2001) (unpublished memorandum). A public employee's appeal from a Commission order finding him in violation of the Ethics Act was dismissed as untimely because it was not filed during the 30-day time period to appeal the Commission's order. Although the public employee filed a request for reconsideration of the order with the Commission, the filing of a request for reconsideration does not toll the 30-day appeal period.

Heineman v. State Ethics Commission (Pa. Cmwlth. No. 1095 C.D. 2004, filed July 9, 2004) (unpublished single-judge memorandum and order, Quigley, J.). Two individuals who filed complaints against a township commissioner did not have standing to appeal from a Commission order finding that the township commissioner had committed some but not all of the alleged misconduct because the two individuals did not have a direct interest in the outcome of the matter and were therefore not aggrieved by the order.

Popkave v. State Ethics Commission (Pa. Cmwlth., No. 2221 C.D. 2004, filed May 26, 2005) (unpublished memorandum). The Commission did not abuse its discretion in dismissing as untimely filed a public official's petition for reconsideration of a Commission order where: (1) the public official was represented by an attorney, who failed to file an answer to the investigative complaint issued to the public official; (2) a copy of the Commission's order finding the public official to have violated various provisions of the Ethics Act was mailed to the public official's attorney; (3) no petition for reconsideration of the Commission's order was filed within thirty days of service of the order in accordance with the Commission's regulations; and (4) the public official subsequently obtained new counsel, who then filed a petition for reconsideration of the Commission's order. The Court concluded that the public official was properly served with the Commission's order through the mailing of the order to his counsel of record even if the public official himself did not receive a copy of the order. Accordingly, any request for reconsideration must have been received by the Commission within thirty days of the issuance of the order. Although the public official argued that the Commission should have considered his untimely request for reconsideration on its merits because it was untimely due to the negligence of his prior counsel, an untimely petition for reconsideration may be accepted by an administrative agency only upon a showing of fraud or breakdown in the administrative process, and the negligence of one's counsel does not justify an extension of the required filing deadline because any resulting injury to the victimized client may be remedied by appropriate legal recourse against his attorney.

Appellate Scope of Review of Commission Orders

Pulice v. State Ethics Commission, 713 A.2d 161 (Pa. Cmwlth. 1998). During appellate review of a Commission order, the Court must first apply a “substantial evidence” test to ascertain whether there is substantial evidence to support each of the necessary findings of fact relied upon by the Commission for its determination that there was a violation of the Ethics Act. After all the necessary findings of fact are found to be supported, the Court must then ascertain whether all of those facts constitute “clear and convincing proof” of a violation of the Ethics Act.

Commission Investigations and Orders

Yezi v. State Ethics Commission (Pa. Cmwlth., No. 693 C.D. 1992, filed December 15, 1992) (unpublished memorandum). It is not an abuse of discretion and does not violate due process for persons other than the hearing officer to make credibility determinations in the final adjudication, as members of an administrative body who participate in the administrative body’s ultimate decision need not aurally receive evidence so long as they have reviewed the testimony. See, Markis v. Bureau of Professional and Occupational Affairs, 599 A.2d 279 (Pa. Cmwlth. 1991).

Bartholomew v. State Ethics Commission, 795 A.2d 1073 (Pa. Cmwlth. 2002). Findings of fact in an investigative complaint issued by the Commission that are admitted in the answer to the investigative complaint are judicial admissions binding upon the Commission, and the Commission is precluded from making contrary findings of fact in its final adjudication.

G.S.G. v. State Ethics Commission (Pa. Cmwlth., No. 724 C.D. 2006, filed April 9, 2007) (unpublished memorandum). Pursuant to the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.115 and 1 Pa. Code § 35.111, the Investigative Division of the Commission has the power to negotiate consent agreements.

Eathorne v. State Ethics Commission, 960 A.2d 206 (Pa. Cmwlth. 2008). The Commission has the discretion to allow the untimely filing of an answer to an investigative complaint if good cause is shown for the late filing and neither party would be prejudiced.

Shawnee Tabernacle Church v. State Ethics Commission, 76 A.3d 117 (Pa. Cmwlth. 2013). A church was not eligible to intervene in Commission proceedings against the church’s founder and pastor with regard to conflicts of interest in his capacity as chief executive officer of a charter school that leased space from the church because the church was not accused of violating any laws.

Bloom v. State Ethics Commission (Pa. Cmwlth., No. 1539 C.D. 2017, filed December 19, 2019) (unpublished memorandum). Statements contained in a public official’s/public employee’s answer to an investigative complaint issued by the Investigative Division are express statements made by the public official/public employee or his attorney in preparation for a hearing before the Commission that concede certain truths for the purposes of the hearing.

Confidentiality Considerations

Garmong v. Stephani, 802 A.2d 1264 (Pa. Cmwlth. 2002). Although an exception to the confidentiality requirements of Section 1108(k) of the Ethics Act does not foreclose a person who is the subject of a Commission preliminary inquiry/investigation from disclosing information related to the preliminary inquiry/investigation which would otherwise be confidential, that exception does not authorize the person to obtain the Commission's files and records related to the preliminary inquiry/investigation.

Stilp v. Contino, 613 F.3d 405 (3d Cir. Pa. 2010), on remand, 743 F. Supp. 2d 460 (M.D. Pa. 2010). Section 1108(k) of the Ethics Act is unconstitutional insofar as it prohibits public disclosure by a complainant of the fact that a complaint has been filed with the Commission.

Conflict of Interest – Section 1103(a)

McCutcheon v. State Ethics Commission, 466 A.2d 283 (Pa. Cmwlth. 1983). Two township supervisors, who were also township employees, used the authority of their public office to obtain financial gain in violation of the Ethics Act when they voted to purchase life annuity policies for a pension fund for themselves out of township funds in the absence of affirmative action by the township auditors to approve the life annuity policies as compensation for acting as township employees.

Yocabet v. State Ethics Commission, 531 A.2d 536 (Pa. Cmwlth. 1987). A township supervisor violated the Ethics Act when he voted to appoint himself to the office of township secretary/treasurer and then accepted compensation for the office that had not been set by the township auditors as required by the Second Class Township Code.

Koslow v. State Ethics Commission, 540 A.2d 1374 (Pa. Cmwlth. 1988). A township commissioner violated the Ethics Act when he participated in a vote to appoint himself to a compensated position as a member of the board of the township municipal authority.

Allen v. State Ethics Commission, (Pa. Cmwlth. No. 1790 C.D. 1988, filed March 17, 1989) (unpublished memorandum). A borough tax collector violated the Ethics Act when he charged taxpayers a fee for tax certifications in the absence of a borough ordinance establishing a tax certification fee.

Rebottini v. State Ethics Commission, 634 A.2d 743 (Pa. Cmwlth. 1993). Members of one authority board did not violate the Ethics Act when they voted to elect themselves to officer positions and participated in setting their own officer salaries. Their actions were authorized by the Municipality Authorities Act, which expressly gives authority board members the power to create officer positions, appoint board members to officer positions, and set officer salaries and contains no exceptions prohibiting authority board members from voting on their own appointment to officer positions and their own salaries. However, members of a different authority board violated the Ethics Act when they voted to approve a motion to create additional paid officer positions in order to allow each authority board member to become an officer. The municipalities which established the latter authority had not intended for the authority board members to be compensated, and the additional officer positions were created specifically to circumvent

the Municipality Authorities Act's requirement that the salaries of members of an authority board be set by the authority's governing bodies.

McGuire v. State Ethics Commission, 657 A.2d 1346 (Pa. Cmwlt. 1995). Two members of a township sanitary authority board did not violate Section 1103(a) of the Ethics Act when, as a result of an erroneous practice of the authority that began before they took office, they accepted monthly meeting pay that was greater than the amount authorized by the township board of commissioners. Because Section 1103(a) of the Ethics Act requires action by a public official/public employee that facilitates his receipt of compensation to which he is not entitled, and the two authority board members merely accepted what was given to them, they did not use their office to obtain personal financial gain in violation of the Ethics Act.

Zangrilli v. State Ethics Commission (Pa. Cmwlt., No. 2689 C.D. 1994, filed February 15, 1996) (unpublished memorandum). The plumber foreman for the Pittsburgh School District violated the Ethics Act when he directed purchases to plumbing supply businesses owned by his wife, awarded contracts to those businesses without an open and public process, and failed to file statements of Financial Interests. The Commission did not err in imposing a treble penalty upon the plumber foreman based upon its finding that his conduct was egregious in nature and included deliberate and scheming attempts to hide what he was doing.

R.H. v. State Ethics Commission, 673 A.2d 1004 (Pa. Cmwlt. 1996). Two township supervisors, who were also employed as both township roadmasters and township laborers, violated the Ethics Act in various respects, including when they: (1) billed the township as laborers for road-related work included in their roadmaster duties; (2) retained the township solicitor for legal representation in a lawsuit they filed against the township auditors to challenge the township auditors' decision to decrease the annual labor wage for township supervisors working as township laborers; and (3) received hourly wages for performing township supervisor duties.

Snyder v. State Ethics Commission, 686 A.2d 843 (Pa. Cmwlt. 1996). A township supervisor had a conflict of interest and violated the Ethics Act by discussing and voting on motions involving matters in which he had a private pecuniary interest, and it was irrelevant whether the motions would have passed even without his votes.

Pulice v. State Ethics Commission, 713 A.2d 161 (Pa. Cmwlt. 1998). A school director did not violate Section 1103(a) of the Ethics Act when he participated in personnel committee actions to create a new position of assistant principal/athletic director and when he voted to appoint his son-in-law to the newly created administrative position at a salary higher than his son-in-law was making in his then-current position with the school district. There was no financial impact upon a member of the school director's immediate family because the Ethics Act's definition of the term "immediate family" does not include in-laws.

Gallen v. State Ethics Commission (Pa. Cmwlt., No. 1497 C.D. 2001, filed August 9, 2002) (unpublished memorandum). A township commissioner, whose father owned an insurance company that employed the township commissioner's sister and brothers, used the authority of his office when he participated in

deliberations of the township board of commissioners with regard to a proposal from the insurance company for new insurance coverage for the township. The fact that the township commissioner ultimately abstained from voting on the insurance company's proposal was of no moment and did not remove the taint of his involvement in the deliberations regarding the proposal.

Kraines v. State Ethics Commission, 805 A.2d 677 (Pa. Cmwlth. 2002). A county controller, whose husband was a pathologist performing autopsies and other pathology services for the county under a contract with the county, did not violate Section 1103(a) of the Ethics Act when she participated in the approval process of payments to her husband for autopsy fees in excess of the amounts set forth in the contract between her husband and the county, because: (1) the contract was in place before the county controller's election to office; (2) the autopsy fee was renegotiated by the county coroner; (3) the county controller's husband performed the autopsies for the county and was entitled to the payments he received for the autopsies; (4) her husband was a member of a subclass of pathologists who performed autopsies for the county and who all received the same autopsy fee; and (5) the county suffered no adverse economic consequences as a result of the payments to her husband, and as such, any economic impact was de minimis.

Salem Twp. Mun. Auth. v. Twp. of Salem, 820 A.2d 888 (Pa. Cmwlth. 2003). Although the Ethics Act provides specific penalties that may be imposed upon a public official/public employee who engages in conduct that constitutes a conflict of interest, the Ethics Act does not authorize the Commission or a court to void the vote of a public official as a penalty for failing to abstain from voting in the case of a conflict of interest. See also, Yaracs v. Summit Academy, 845 A.2d 203 (Pa. Cmwlth. 2004); T. H. Properties, L.P. v. Upper Salford Twp. Bd. of Supervisors, 970 A.2d 495 (Pa. Cmwlth. 2009).

Bixler v. State Ethics Commission, 847 A.2d 785 (Pa. Cmwlth. 2004). A township supervisor who was employed as a truck mechanic with a business did not violate Section 1103(a) of the Ethics Act when he suggested that the township's vehicles could be taken to the business that employed him for service, participated in a unanimous vote to take the township's vehicles there for service, and participated in approving payments to the business. The \$561.77 net profit received by the business as a result of the township supervisor's actions had an insignificant economic impact on both the business and the township and was therefore de minimis in nature. Although the business received contracts with the township in excess of \$500 that were not awarded through an open and public process, the township supervisor did not violate Section 1103(f) of the Ethics Act (requiring an open and public process as to contracting between certain parties and a public official's/public employee's governmental body) because he was not a party to the contract nor even a principal of the business.

Bouch v. State Ethics Commission, 848 A.2d 1078 (Pa. Cmwlth. 2004). A township supervisor did not violate Section 1103(a) of the Ethics Act when he had a township photocopier at his residence for three and a half months because the total lease value of the photocopier for three and a half months was approximately \$130, there was no evidence that the township supervisor reaped any private pecuniary benefit for himself or any other party as a result of his possession of the photocopier, and there was no evidence that the township suffered any adverse economic consequences as a result of his possession of the photocopier.

Keller v. State Ethics Commission, 860 A.2d 659 (Pa. Cmwlth. 2004). A borough mayor violated Section 1103(a) of the Ethics Act when he received payments for performing marriage ceremonies which he donated to various charities and non-profit organizations. The borough mayor realized a pecuniary benefit because he treated the money that he received for performing the marriages as his own and he determined to whom it was donated.

Commonwealth v. Habay, 934 A.2d 732 (Pa. Super. 2007). A state legislator violated Section 1103(a) of the Ethics Act when he directed several state employees to conduct work on political fundraisers for him during their regular work hours. As a result of using the authority of his office to direct the state employees to conduct the political work, the state legislator received the benefit of hours of labor and the utilization of office facilities and equipment for which he otherwise would have needed to pay.

Russell v. State Ethics Commission, 987 A.2d 835 (Pa. Cmwlth. 2009). A member of the board of an authority established by a township violated Section 1103(a) of the Ethics Act when she participated in votes that authorized payment of compensation to the authority board members which exceeded the compensation set for them by the township supervisors pursuant to the Municipality Authorities Act. Although the authority board member's action of voting to approve the excess compensation affected all of the authority board members to the same degree, the class/subclass exclusion to the definition of "conflict of interest" did not apply to her action. In order for the class/subclass exclusion to apply, the underlying action taken by the public official/public employee must be legal, and the authority board member's action of voting to approve excess compensation for herself and the other authority board members was not a legal action under the Municipality Authorities Act.

G.L. v. State Ethics Commission, 17 A.3d 445 (Pa. Cmwlth. 2011). A borough council president violated Section 1103(a) of the Ethics Act when he signed an agreement and final plan drawings for a project with which his construction company was involved. Although the project had been approved by borough council at a time when the borough council president's construction company was not yet involved with the project, the borough council president's signing of the agreement and final plan drawings was not an obligatory ministerial duty under the law but rather was a use of the authority of his office that facilitated the commencement of construction on the project and his construction company's receipt of pecuniary benefits from the project.

Seropian v. State Ethics Commission, 20 A.3d 534 (Pa. Cmwlth. 2011). A school district business manager did not violate Section 1103(a) of the Ethics Act when he used his work computer for non-work-related activities because the amount of compensation that he received for work time spent on non-work-related activities, \$640.11, fell within the exclusion in the Ethics Act's definition of the term "conflict of interest" for actions having a de minimis economic impact. A bright-line determination has not been set by the courts as to what constitutes a de minimis amount in every case for purposes of the de minimis exclusion. The application of the de minimis exclusion is highly specific and must be considered on a case by case basis.

Commonwealth v. Feese, 79 A.3d 1101 (Pa. Super. 2013). A state legislator violated Section 1103(a) of the Ethics Act when he used public funds and manpower for campaign-related activities for the benefit of his political party. The state legislator exercised the power of his office to use taxpayer-funded resources to support a cause of his own choosing that was outside of the legislative process, namely his political party, and he incurred a private pecuniary benefit because he did not have to spend his own money in support of his political party.

Commonwealth v. Ori, 88 A.3d 983 (Pa. Super. 2014). A state legislator was convicted of two counts of conflict of interest under Section 1103(a) of the Ethics Act in relation to the misuse of public resources for campaign-related activities.

Commonwealth v. Veon, 637 Pa. 442, 150 A.3d 435 (2016). For purposes of establishing that a “private pecuniary benefit” was obtained in contravention of Section 1103(a) of the Ethics Act, it must be shown that there was some private financial gain received as a result of the official action of the public official/public employee. A “private pecuniary benefit” does not include intangible political gain, and as such, a conflict of interest does not exist when the only benefit received as a result of the official action of the public official/public employee is political in nature.

Bloom v. State Ethics Commission (Pa. Cmwlth., No. 1539 C.D. 2017, filed December 19, 2019) (unpublished memorandum). A chief executive officer of a charter school violated Section 1103(a) of the Ethics Act when he submitted a memorandum to the charter school board of trustees that requested a raise in pay for his wife, who was the assistant chief executive officer of the charter school.

Commonwealth v. Como, 1687 EDA 2018 (Pa. Super. Unpub. 2020). A school district superintendent violated Section 1103(a) of the Ethics Act when he used of the authority of his office to transfer funds raised by students to a special account to purchase commemorative rings costing a total of \$19,935 for him to distribute to the school district high school football players and their coaches, school district administrators, and other individuals whom he selected, including himself. The school district superintendent’s receipt of the rings constituted a private pecuniary benefit to him because he alone received the rings through the use of the authority of his office and he alone decided to whom they would be awarded. The school district superintendent also violated Section 1103(a) of the Ethics Act as a result of using the authority of his office to ensure the hiring of his son by the school district. Whether the school district superintendent’s actions were in accordance with the school district’s nepotism policy was irrelevant because pursuant to Section 1112 of the Ethics Act (the conflict of law provision of the Ethics Act), the Ethics Act “trumped” the nepotism policy, and the critical question was whether the school district superintendent complied with the Ethics Act, not with the nepotism policy.

Sivick v. State Ethics Commission, 662 Pa. 283, 238 A.3d 1250 (2020). A township supervisor, whose son was employed with the township, did not violate Section 1103(a) of the Ethics Act when he verified and approved his son’s payroll records, as his action of verifying the township employees’ work hours and approving their compensation was an administrative or ministerial act entailing little or no discretion that applied collectively and equally to the subclass of township employees, and not to just his son.

Sivick v. State Ethics Commission (Pa. Cmwlth., No. 307 C.D. 2021, filed December 22, 2021) (unpublished memorandum). A township supervisor violated Section 1103(a) of the Ethics Act by using the authority of his office as a township supervisor to effectuate the elimination of the township’s nepotism policy and influence his fellow township supervisors to hire his son. The township supervisor used the authority of his office in that his access to and influence over the other township supervisors was rooted in the power provided by law to his position as a township supervisor.

Conflict of Interest – Class/Subclass Exclusion

Kraines v. State Ethics Commission, 805 A.2d 677 (Pa. Cmwlth. 2002). A county controller, whose husband was a pathologist performing autopsies and other pathology services for the county under a contract with the county, did not violate Section 1103(a) of the Ethics Act when she participated in the approval process of payments to her husband for autopsy fees in excess of the amounts set forth in the contract between her husband and the county, because: (1) the contract was in place before the county controller’s election to office; (2) the autopsy fee was renegotiated by the county coroner; (3) the county controller’s husband performed the autopsies for the county and was entitled to the payments he received for the autopsies; (4) her husband was a member of a subclass of pathologists who performed autopsies for the county and who all received the same autopsy fee; and (5) the county suffered no adverse economic consequences as a result of the payments to her husband, and as such, any economic impact was de minimis.

Russell v. State Ethics Commission, 987 A.2d 835 (Pa. Cmwlth. 2009). A member of the board of an authority established by a township violated Section 1103(a) of the Ethics Act when she participated in votes that authorized payment of compensation to the authority board members which exceeded the compensation set for them by the township supervisors pursuant to the Municipality Authorities Act. Although the authority board member’s action of voting to approve the excess compensation affected all of the authority board members to the same degree, the class/subclass exclusion to the definition of “conflict of interest” did not apply to her action. In order for the class/subclass exclusion to apply, the underlying action taken by the public official/public employee must be legal, and the authority board member’s action of voting to approve excess compensation for herself and the other authority board members was not a legal action under the Municipality Authorities Act.

Sivick v. State Ethics Commission, 662 Pa. 283, 238 A.3d 1250 (2020). A township supervisor, whose son was employed with the township, did not violate Section 1103(a) of the Ethics Act when he verified and approved his son’s payroll records, as his action of verifying the township employees’ work hours and approving their compensation was an administrative or ministerial act entailing little or no discretion that applied collectively and equally to the subclass of township employees, and not to just his son.

Conflict of Interest – De Minimis Exclusion

Bixler v. State Ethics Commission, 847 A.2d 785 (Pa. Cmwlth. 2004). A township supervisor who was employed as a truck mechanic with a business did not violate Section 1103(a) of the Ethics Act when he suggested that the township’s vehicles could be taken to the business that employed him for service, participated in a unanimous vote to take the township’s vehicles there for service, and participated in approving payments to the business. The \$561.77 net profit received by the business as a result of the township supervisor’s actions had an insignificant economic impact on both the business and the township and was therefore de minimis in nature. Although the business received contracts with the township in excess of \$500 that were not awarded through an open and public process, the township supervisor did not violate Section 1103(f) of the Ethics Act (requiring an open and public process as to contracting between certain parties and a public official’s/public employee’s governmental body) because he was not a party to the contract nor even a principal of the business.

Seropian v. State Ethics Commission, 20 A.3d 534 (Pa. Cmwlth. 2011). A school district business manager did not violate Section 1103(a) of the Ethics Act when he used his work computer for non-work-related activities because the amount of compensation that he received for work time spent on non-work-related activities, \$640.11, fell within the exclusion in the Ethics Act's definition of the term "conflict of interest" for actions having a de minimis economic impact. A bright-line determination has not been set by the courts as to what constitutes a de minimis amount in every case for purposes of the de minimis exclusion. The application of the de minimis exclusion is highly specific and must be considered on a case by case basis.

Constitutional Considerations

Snider v. Shapp, 405 A.2d 602 (Pa. Cmwlth. 1979). The financial disclosure requirements of the Ethics Act do not unconstitutionally infringe on the right of privacy, in view of the fact that such provisions are reasonably aimed at the Ethics Act's purpose of assuring the people that the financial interests of holders of or candidates for public office do not conflict with the public trust. See, Section 1101.1(a) of the Ethics Act.

Kremer v. State Ethics Commission, 503 Pa. 358, 469 A.2d 593 (1983). The financial disclosure provisions of the Ethics Act infringe on the power of the Pennsylvania Supreme Court to supervise courts and are therefore unconstitutional as applied to judges.

Corbett v. Desiderio, 698 A.2d 134 (Pa. Cmwlth. 1997). A borough council member's conviction of a violation of the Ethics Act for accepting a pecuniary benefit in return for his influence as a public official was an "infamous crime" that could disqualify him from holding office under Article II, Section 7 of the Pennsylvania Constitution.

Commonwealth v. Habay, 934 A.2d 732 (Pa. Super. 2007). The conflict of interest provision of the Ethics Act is not void for vagueness. Although the Ethics Act does not define the phrases "use . . . of the authority of his office or employment" and "for the private pecuniary benefit of himself," the the phrases use commonly understood words in readily comprehensible ways such that an ordinary person could understand and predict what conduct is prohibited.

Commonwealth v. Feese, 79 A.3d 1101 (Pa. Super. 2013). The conflict of interest provision of the Ethics Act is neither so vague as to encourage arbitrary or discriminatory enforcement nor does it lack sufficient definiteness that an ordinary person could not understand and predict what conduct is prohibited, and as such, the conflict of interest provision is not unconstitutionally vague.

Commonwealth v. Ori, 88 A.3d 983 (Pa. Super. 2014). The conflict of interest provision of the Ethics Act is not unconstitutionally vague and overbroad as it places no restrictions on a public official's federal or state protected rights of free speech and association but rather only prohibits public officials from using state-funded resources for private pecuniary gain that is not de minimis.

Stilp v. Contino, 613 F.3d 405 (3d Cir. Pa. 2010), on remand, 743 F. Supp. 2d 460 (M.D. Pa. 2010). Section 1108(k) of the Ethics Act is unconstitutional insofar as it prohibits public disclosure by a complainant of the fact that a complaint has been filed with the Commission.

Contracting and an Open and Public Process

Bixler v. State Ethics Commission, 847 A.2d 785 (Pa. Cmwlth. 2004). A township supervisor who was employed as a truck mechanic with a business did not violate Section 1103(a) of the Ethics Act when he suggested that the township's vehicles could be taken to the business that employed him for service, participated in a unanimous vote to take the township's vehicles there for service, and participated in approving payments to the business. The \$561.77 net profit received by the business as a result of the township supervisor's actions had an insignificant economic impact on both the business and the township and was therefore de minimis in nature. Although the business received contracts with the township in excess of \$500 that were not awarded through an open and public process, the township supervisor did not violate Section 1103(f) of the Ethics Act (requiring an open and public process as to contracting between certain parties and a public official's/public employee's governmental body) because he was not a party to the contract nor even a principal of the business.

Kistler v. State Ethics Commission, 610 Pa. 516, 22 A.3d 223 (2011). Section 1103(f) of the Ethics Act, with its requirement of an "open and public process" with respect to certain contracts involving public officials, public employees, and other parties, does not mandate a competitive bidding process.

Definition of "Business"

Rendell v. State Ethics Commission, 603 Pa. 292, 983 A.2d 708 (2009). The term "business" as defined in the Ethics Act includes non-profit corporations and other non-profit entities.

Definition of "Immediate Family"

Pulice v. State Ethics Commission, 713 A.2d 161 (Pa. Cmwlth. 1998). A school director did not violate Section 1103(a) of the Ethics Act when he participated in personnel committee actions to create a new position of assistant principal/athletic director and when he voted to appoint his son-in-law to the newly created administrative position at a salary higher than his son-in-law was making in his then-current position with the school district. There was no financial impact upon a member of the school director's immediate family because the Ethics Act's definition of the term "immediate family" does not include in-laws.

Improper Understanding – Section 1103(c)

Commonwealth v. Cherpes, 520 A.2d 439 (Pa. Super. 1987). A township commissioner who had an insurance agency violated Section 1103(c) of the Ethics Act (which provides, in pertinent part, that no public official shall solicit or accept anything of value based on the understanding that his vote would be influenced thereby) when he solicited business for his insurance agency and received a \$66,000 insurance premium from a developer who required the township board of commissioners' approval of ordinances and other matters necessary for a proposed development. The Court concluded that the jury could find

beyond a reasonable doubt that the township commissioner used his public position to gain the insurance premium from the developer with the understanding that his vote would be influenced thereby.

Penalties

Salem Twp. Mun. Auth. v. Twp. of Salem, 820 A.2d 888 (Pa. Cmwlth. 2003). Although the Ethics Act provides specific penalties that may be imposed upon a public official/public employee who engages in conduct that constitutes a conflict of interest, the Ethics Act does not authorize the Commission or a court to void the vote of a public official as a penalty for failing to abstain from voting in the case of a conflict of interest. See also, Yaracs v. Summit Academy, 845 A.2d 203 (Pa. Cmwlth. 2004); T. H. Properties, L.P. v. Upper Salford Twp. Bd. of Supervisors, 970 A.2d 495 (Pa. Cmwlth. 2009).

State Ethics Commission v. Honore, 150 A.3d 521 (Pa. Cmwlth. 2016). An Income Maintenance Caseworker with the Pennsylvania Department of Human Services was adjudicated in contempt of a Court order for failing to pay civil penalties that had been levied against her by the Commission as a result of her failure to file a Statement of Financial Interests as required by the Ethics Act.

Sivick v. State Ethics Commission, 662 Pa. 283, 238 A.3d 1250 (2020). Based upon the plain language of Section 1107(13) of the Ethics Act, restitution may be imposed only upon public officials and public employees who themselves obtain a pecuniary benefit as a result of violating the Ethics Act, not upon those who divert improperly obtained monies to members of their immediate family.

Revolving Door Restriction – Section 1103(g)

Wajert v. State Ethics Commission, 491 Pa. 255, 420 A.2d 439 (1980). The application of Section 1103(g) of the Ethics Act (which prohibits a former public official/public employee from representing a person before their former governmental body for one year following termination of their public service/employment) to restrict a retired judge of a court of common pleas from appearing before that court within the first year following his retirement was found to be unconstitutional and an infringement on the Pennsylvania Supreme Court's exclusive power to govern the conduct of an attorney.

Stephens v. State Ethics Commission, 571 A.2d 1120 (Pa. Cmwlth. 1990). A former public employee with the Pennsylvania Department of Environmental Protection ("DEP") did not violate Section 1103(g) of the Ethics Act, which prohibits a former public official/public employee from representing a person on any matter before their former governmental body within one year after leaving that body, when his new employer filed a permit application that included his name, without his knowledge, with DEP. In order to be found in violation of the post-employment restrictions of the Ethics Act, a former public official/public employee must act, or at least do something.

Shaulis v. State Ethics Commission, 574 Pa. 680, 833 A.2d 123 (2003). Section 1103(g) of the Ethics Act, which prohibits a former public official/public employee from "representing" a person, with promised or actual compensation, on any matter before their former governmental body for one year after leaving that body, is unconstitutional as applied to former public officials/public employees who are also attorneys. This is because the Section 1103(g) prohibition against "representing" a person specifically targets the

practice of law, and the Pennsylvania Supreme Court has the exclusive authority to regulate the conduct of an attorney insofar as it constitutes the practice of law.

Separation of Powers – Conduct of Attorneys and Judicial Officers

Wajert v. State Ethics Commission, 491 Pa. 255, 420 A.2d 439 (1980). The application of Section 1103(g) of the Ethics Act (which prohibits a former public official/public employee from representing a person before their former governmental body for one year following termination of their public service/employment) to restrict a retired judge of a court of common pleas from appearing before that court within the first year following his retirement was found to be unconstitutional and an infringement on the Pennsylvania Supreme Court’s exclusive power to govern the conduct of an attorney.

Maunus v. State Ethics Commission, 518 Pa. 592, 544 A.2d 1324 (1988). The Pennsylvania Supreme Court held that attorneys employed by the Pennsylvania Liquor Control Board were not exempt from the financial disclosure provisions of the Ethics Act simply because of their status as attorneys. Pursuant to the Pennsylvania Constitution, the Pennsylvania Supreme Court is the only governmental body entitled to impose professional and ethical standards applicable to every attorney admitted to practice law in the Commonwealth. However, public and private employers are not constitutionally precluded from imposing professional and ethical requirements on their employees, some or all of whom may be attorneys, as long as those requirements do not infringe on the Pennsylvania Supreme Court’s exclusive authority to regulate and supervise the professional and ethical conduct of attorneys. Because the financial disclosure requirements imposed by the Ethics Act are not incompatible with any of the rules applicable to attorneys in the Commonwealth, those financial disclosure requirements are not unconstitutional as applied to attorneys who are employed by the Commonwealth or a political subdivision thereof.

Shaulis v. State Ethics Commission, 574 Pa. 680, 833 A.2d 123 (2003). Section 1103(g) of the Ethics Act, which prohibits a former public official/public employee from “representing” a person, with promised or actual compensation, on any matter before their former governmental body for one year after leaving that body, is unconstitutional as applied to former public officials/public employees who are also attorneys. This is because the Section 1103(g) prohibition against “representing” a person specifically targets the practice of law, and the Pennsylvania Supreme Court has the exclusive authority to regulate the conduct of an attorney insofar as it constitutes the practice of law.

Standing

Pilchesky v. Mellow, 19 A.3d 570 (Pa. Cmwlt. 2011). A taxpayer does not have standing to sue a public official in a county court of common pleas for allegedly violating the Ethics Act.

Statement of Financial Interests

Snider v. Shapp, 405 A.2d 602 (Pa. Cmwlt. 1979). The financial disclosure requirements of the Ethics Act do not unconstitutionally infringe on the right of privacy, in view of the fact that such provisions are reasonably aimed at the Ethics Act’s purpose of assuring the people that the financial interests of holders

of or candidates for public office do not conflict with the public trust. See, Section 1101.1(a) of the Ethics Act.

Kremer v. State Ethics Commission, 503 Pa. 358, 469 A.2d 593 (1983). The financial disclosure provisions of the Ethics Act infringe on the power of the Pennsylvania Supreme Court to supervise courts and are therefore unconstitutional as applied to judges.

In re Benninghoff, 578 Pa. 402, 852 A.2d 1182 (2004). Construing items such as workers' compensation benefits, unemployment compensation benefits, public assistance, and the like as "governmentally mandated benefits" not subject to reporting as income on the Statement of Financial Interests would fulfill the purpose of the Ethics Act.

In re Nomination Petition of Littlepage, 589 Pa. 455, 909 A.2d 1235 (2006). A candidate who owned rental property that provided him with income was required to disclose this income on his Statement of Financial Interests. (This case was overruled on other grounds by In re Nomination Petition of Paulmier, 594 Pa. 433, 937 A.2d 364 (2007)).

In re Nomination Petition of Paulmier, 594 Pa. 433, 937 A.2d 364 (2007). Section 1105(b)(5) of the Ethics Act requires the filer of a Statement of Financial Interests to disclose the name and address of any direct or indirect source of income totaling \$1,300 or more. In some cases, such as where a filer receives rental income from tenants or is self-employed as a doctor, lawyer, or plumber, the filer may receive income totaling \$1,300 or more that can be attributed to two distinct sources, one an individual (such as a tenant, patient, client, or customer) and the other a business or sole proprietorship. In such circumstances, the filer may list either the name and address of each individual or the name and address of the business or sole proprietorship.

In re Williams, 972 A.2d 32 (Pa. Cmwlth. 2009). A candidate who received reimbursement from his campaign committee for campaign-related expenditures that he made was not required to report the reimbursed campaign expenses as income on his Statement of Financial Interests because in receiving such reimbursement, the candidate did not realize an increase in wealth but rather was returned to his original financial state.

Statement of Financial Interests – Elections

In re Petition of Granat, 590 A.2d 849 (Pa. Cmwlth. 1991). A school district did not have standing to challenge the nomination petitions of a candidate for election as a school director who failed to file a Statement of Financial Interests as required by the Ethics Act because the legislature has not granted any authority to school districts to challenge, for any reason, the nomination petitions of candidates for the office of school director.

In re Cioppa, 533 Pa. 564, 626 A.2d 146 (1993). Pursuant to Section 1104(b)(3) of the Ethics Act, the failure to timely file a Statement of Financial Interests with the Commission or the local governing authority as required by the Ethics Act is a fatal defect to a nomination petition to appear on the ballot, and an untimely filed Statement of Financial Interests cannot cure by amendment the failure to timely file the required form, regardless of the circumstances which may have contributed to the untimely filing.

In re Olshefski, 692 A.2d 1168 (Pa. Cmwlth. 1997). Because the Ethics Act requires Statements of Financial Interests to be available for public inspection and copying during regular office hours, the legislature, in directing that candidates for county-level or local office file their Statements of Financial Interests with “the governing authority of the political subdivision,” intended that their Statements of Financial Interests be filed in an area that has regular office hours accessible by the public for filing, reviewing, inspecting, or copying Statements of Financial Interests, such as a municipal office building if one actually exists. Six candidates for a borough council did not timely file their Statements of Financial Interests with the “governing authority” of the borough as required by Section 1104(b)(2) of the Ethics Act when they informally handed their Statements of Financial Interests to incumbent borough council members instead of filing them at the borough municipal building.

In re Benninghoff, 578 Pa. 402, 852 A.2d 1182 (2004). Where a candidate for election to public office timely files a Statement of Financial Interests that substantially complies with the disclosure requirements of the Ethics Act, a technical defect appearing on the face of the Statement of Financial Interests is subject to amendment by the candidate.

In re Nomination Petition of deYoung, 588 Pa. 194, 903 A.2d 1164 (2006). The Commission is not the only party that may challenge the Statement of Financial Interests attached to a candidate’s nomination petitions. A qualified private party has standing to object to a Statement of Financial Interests filed by a candidate for public office.

In re Nomination Petition of Littlepage, 589 Pa. 455, 909 A.2d 1235 (2006). A candidate who owned rental property that provided him with income was required to disclose this income on his Statement of Financial Interests. (This case was overruled on other grounds by In re Nomination Petition of Paulmier, 594 Pa. 433, 937 A.2d 364 (2007)).

In re Nomination Petition of Paulmier, 594 Pa. 433, 937 A.2d 364 (2007). The legislature intended the fatal defect rule of Section 1104(b)(3) of the Ethics Act, which provides that “Failure to file the [Statement of Financial Interests] in accordance with the provisions of this act . . . shall be a fatal defect to a petition to appear on the ballot,” to bar from the ballot only those candidates who failed to file Statements of Financial Interests or who filed untimely Statements of Financial Interests. The fatal defect rule does not bar from the ballot a candidate who files a timely Statement of Financial Interests in good faith, even if the content of the form is defective, as long as the candidate amends the form to correct any defects in a timely manner.

In re Williams, 972 A.2d 32 (Pa. Cmwlth. 2009). A candidate who received reimbursement from his campaign committee for campaign-related expenditures that he made was not required to report the reimbursed campaign expenses as income on his Statement of Financial Interests because in receiving such reimbursement, the candidate did not realize an increase in wealth but rather was returned to his original financial state.

In re Guzzardi, 627 Pa. 1, 99 A.3d 381 (2014). Pursuant to Section 1104(b)(3) of the Ethics Act, the failure of a candidate to file a Statement of Financial Interests prior to the statutory deadline set forth in Section 1104(b)(1) of the Ethics Act is a fatal defect to his petition to appear on the ballot, and even if a candidate would be able to demonstrate ostensible non-negligent reasons for failing to meet the statutory deadline, principles of equity cannot be invoked to override the Legislature’s express statutory pronouncement of a bright-line fatal defect rule.

In re Nomination Petitions of Kosko, 293 A.3d 779 (Pa. Cmwlth. 2023). There is nothing in the Ethics Act or the Regulations of the Commission to prohibit the governing authority of a county from designating a particular county office or entity as the location where candidates for county-level elections shall file their Statements of Financial Interests.

Status as a Public Official or a Public Employee

Phillips v. State Ethics Commission, 470 A.2d 659 (Pa. Cmwlth. 1984). The Ethics Act, being remedial legislation, is to be broadly construed, and as such, coverage under the Ethics Act should be construed broadly and exceptions under the Ethics Act should be construed narrowly. In determining whether an individual employed with the Commonwealth was a “public employee” as that term is defined in the Ethics Act, the Ethics Commission properly utilized an objective test that considered the duties and responsibilities of the individual’s job as set forth in his job description and the class specifications for his job rather than his actual job duties as he represented them in his testimony.

Rogers v. State Ethics Commission, 470 A.2d 1120 (Pa. Cmwlth. 1984). A certified public accountant who was appointed to serve as auditor of a municipality in lieu of the elected auditor was not a public official or a public employee under the Ethics Act, as a certified public accountant performing an independent audit for a municipality provides only the very limited services for which he is engaged, the field work for the audit is usually performed in a few days, and there is no ongoing relationship with the municipality.

Maunus v. State Ethics Commission, 518 Pa. 592, 544 A.2d 1324 (1988). The Pennsylvania Supreme Court held that attorneys employed by the Pennsylvania Liquor Control Board were not exempt from the financial disclosure provisions of the Ethics Act simply because of their status as attorneys. Pursuant to the Pennsylvania Constitution, the Pennsylvania Supreme Court is the only governmental body entitled to impose professional and ethical standards applicable to every attorney admitted to practice law in the Commonwealth. However, public and private employers are not constitutionally precluded from imposing professional and ethical requirements on their employees, some or all of whom may be attorneys, as long as those requirements do not infringe on the Pennsylvania Supreme Court’s exclusive authority to regulate and supervise the professional and ethical conduct of attorneys. Because the financial disclosure requirements imposed by the Ethics Act are not incompatible with any of the rules applicable to attorneys in the Commonwealth, those financial disclosure requirements are not unconstitutional as applied to attorneys who are employed by the Commonwealth or a political subdivision thereof.

Delaware River Port Authority v. State Ethics Commission, 585 A.2d 587 (Pa. Cmwlth. 1991). The Ethics Act does not apply to the Delaware River Port Authority or its officers, commissioners, or employees, because the Delaware River Port Authority is a public corporate instrumentality of Pennsylvania and New Jersey rather than an agency of a single state.

Hitchings v. State Ethics Commission, 607 A.2d 866 (Pa. Cmwlth. 1992). A fire captain assigned as an investigator with the Arson Strike Team of the City of Pittsburgh was not a public employee subject to the Ethics Act as the Commission’s regulations state that detectives are not public employees and the fire captain’s duties were those of a detective.

L.J.S. v. State Ethics Commission, 744 A.2d 798 (Pa. Cmwlth. 2000). A county chief adult probation officer is a judicial officer as a result of being appointed to that position by the president judge of the county court of common pleas. Because the Pennsylvania Supreme Court has exclusive jurisdiction over judicial officers and judicial employees, the Commission lacks jurisdiction to enforce the Ethics Act as to judicial officers and judicial employees.

Quaglia v. State Ethics Commission, 986 A.2d 974 (Pa. Cmwlth. 2010). Individuals employed by the Pennsylvania Department of Public Welfare (now the Pennsylvania Department of Human Services) as Income maintenance Caseworkers are public employees subject to the Ethics Act.

Status of Solicitors Under the Ethics Act

Ballou v. State Ethics Commission, 496 Pa. 127, 436 A.2d 186 (1981). An attorney who is retained as a legal advisor to a municipal client (such as a municipal solicitor) is neither a “public official” nor a “public employee” within the scope of the Ethics Act and therefore is not subject to the financial disclosure provisions of the Ethics Act.

C.P.C. v. State Ethics Commission, 698 A.2d 155 (Pa. Cmwlth. 1997). A solicitor who is retained by – as opposed to being an employee of – a municipality is neither a “public official” nor a “public employee” as those terms are defined in the Ethics Act and therefore is not subject to the conflict of interest provision of the Ethics Act.

P.J.S. v. State Ethics Commission, 555 Pa. 149, 723 A.2d 174 (1997). Because an attorney employed full-time as a city solicitor received a salary, benefits, and other emoluments of employment from the city, the attorney was a “public employee” as that term is defined in the Ethics Act, and he was therefore subject to the jurisdiction of the Commission for purposes of investigating allegations that he violated the conflict of interest provision of the Ethics Act in his capacity as the city solicitor.

Use of Authority of Office

McGuire v. State Ethics Commission, 657 A.2d 1346 (Pa. Cmwlth. 1995). Two members of a township sanitary authority board did not violate Section 1103(a) of the Ethics Act when, as a result of an erroneous practice of the authority that began before they took office, they accepted monthly meeting pay that was greater than the amount authorized by the township board of commissioners. Because Section 1103(a) of the Ethics Act requires action by a public official/public employee that facilitates his receipt of compensation to which he is not entitled, and the two authority board members merely accepted what was given to them, they did not use their office to obtain personal financial gain in violation of the Ethics Act.

Gallen v. State Ethics Commission (Pa. Cmwlth., No. 1497 C.D. 2001, filed August 9, 2002) (unpublished memorandum). A township commissioner, whose father owned an insurance company that employed the township commissioner’s sister and brothers, used the authority of his office when he participated in deliberations of the township board of commissioners with regard to a proposal from the insurance company for new insurance coverage for the township. The fact that the township commissioner

ultimately abstained from voting on the insurance company's proposal was of no moment and did not remove the taint of his involvement in the deliberations regarding the proposal.

G.L. v. State Ethics Commission, 17 A.3d 445 (Pa. Cmwlth. 2011). A borough council president violated Section 1103(a) of the Ethics Act when he signed an agreement and final plan drawings for a project with which his construction company was involved. Although the project had been approved by borough council at a time when the borough council president's construction company was not yet involved with the project, the borough council president's signing of the agreement and final plan drawings was not an obligatory ministerial duty under the law but rather was a use of the authority of his office that facilitated the commencement of construction on the project and his construction company's receipt of pecuniary benefits from the project.

Kistler v. State Ethics Commission, 610 Pa. 516, 22 A.3d 223 (2011). In order to violate Section 1103(a) of the Ethics Act, a public official/public employee:

. . . must act in such a way as to put his [office/public position] to the purpose of obtaining for himself a private pecuniary benefit. Such directed action implies awareness on the part of the [public official/public employee] of the potential pecuniary benefit as well as the motivation to obtain that benefit for himself.

610 Pa. at 523, 22 A.3d at 227. To violate Section 1103(a) of the Ethics Act, a public official/public employee "must be consciously aware of a private pecuniary benefit for himself, his family, or his business, and then must take action in the form of one or more specific steps to attain that benefit." Id., 610 Pa. at 528, 22 A.3d at 231.

Sivick v. State Ethics Commission (Pa. Cmwlth., No. 307 C.D. 2021, filed December 22, 2021) (unpublished memorandum). A township supervisor violated Section 1103(a) of the Ethics Act by using the authority of his office as a township supervisor to effectuate the elimination of the township's nepotism policy and influence his fellow township supervisors to hire his son. The township supervisor used the authority of his office in that his access to and influence over the other township supervisors was rooted in the power provided by law to his position as a township supervisor.