

MINUTES OF THE STATE ETHICS COMMISSION MEETING
July 16, 2014

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:09 a.m. Also in attendance were Commissioners Martin F. Murphy, William J. Trach and Regina L. Quinlan. Commissioner Paula Finley Mangum was absent.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Quinlan, seconded by Commissioner Trach, the Commission voted 4-0 to waive the reading and approve the minutes of the June 19, 2014 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Fiscal Year 2013 Annual Report

Executive Director Karen L. Nober reported that the FY 2013 Annual Report was in the Commissioners' packets for their review. Ms. Nober stated that the publication of the report was delayed because this year we changed the format completely. Ms. Nober said the new format is much less repetitive and provides a better presentation of the work the Commission does, and that she is very happy with it. Public Education and Communications Division Deputy Chief Marisa Donelan did the bulk of the work, with input from Ms. Nober and Public Education and Communications Division Chief David Giannotti. Ms. Nober stated that Ms. Donelan did a great job. Ms. Nober stated that we should be back on schedule for the FY 2014 Annual Report, and she expects to have that completed by the end of September. Commissioner Murphy said the new format is very readable.

Personnel

Ms. Nober reported that the assistant general counsel position has been posted for several weeks, and that the first round of interviews will be completed this week. The Commission received about 90 applications and 14 candidates were selected for interviews, which began on Monday. Ms. Nober stated that she is pleased with the caliber of the candidates who have been

interviewed so far. Commissioner Trach asked what the format is for the interview process, and Ms. Nober stated that the candidates are meeting with her, General Counsel Deirdre Roney and Chief Financial Officer Michael Memmolo. During the second round of interviews, other staff from the Legal Division will be involved.

Ms. Nober reported that the performance evaluation process for staff is going well, and that she will review the evaluations for consistency in rating across the divisions. She stated that she is planning to provide her self-review to Commissioners later this month.

Budget

Ms. Nober reported that the FY 2015 budget was approved by the Legislature and signed by the Governor, and that it reflects a 2% increase over the FY 2014 budget. She stated that the small difference between the Commission's appropriation in the House and Senate versions was resolved in favor of the higher amount.

Ms. Nober also reported that the Commission's application for ITD bond monies to replace the SFI electronic filing system is in good shape. ITD has recommended that the project be approved and the state has included the project in its 5-year capital investment plan. Ms. Nober said that we should know whether the funding is available by the end of this legislative session on July 31. If approved, the project will cost approximately \$850,000, and there will be a 2-year plan for its completion. Ms. Nober stated that ITD will be very hands-on with the development of the new system, and she said that SFI Administrator and Analyst Robert Milt and Mr. Memmolo have done the lion's share of the work in preparing the application for bond monies. Chairman Dortch-Okara asked whether Ms. Nober is confident the bond bill will pass, and Ms. Nober stated that she is cautiously optimistic. Mr. Memmolo stated that if the funding is approved, ITD will determine the start date for the project, but he is hoping to begin early this fall.

Committee Meetings and Schedule

Ms. Nober stated that she plans to schedule an Audit, Finance and Human Resources Committee meeting in August to discuss sick time use and proposed personnel policies. In addition, she would like to schedule a Legal Committee meeting to discuss a draft advisory on job searches once an initial draft is ready to be reviewed. Commissioner Trach noted that scheduling may be difficult during the month of August.

Ms. Nober stated there will be no Commission meeting in August. The next meeting will be held on Thursday, September 18, 2014 at 9:00 a.m.

PUBLIC EDUCATION DIVISION MATTERS

FY 2014 Activities

Public Education and Communications Division Chief David Giannotti presented a report concerning Public Education and Communications Division activities during FY 2014. Mr. Giannotti reported that the division's numbers seem to be consistent with previous years. The division began offering seminars by webinar this year, and he hopes to conduct more webinars in FY 2015. Mr. Giannotti stated that some public agencies seem to be resistant to hosting webinars, as they prefer the dynamic of an in-person seminar. He thanked Ms. Donelan for hosting the Commission's first two webinar-only seminars in FY 2014.

Mr. Giannotti also reported that the division is gearing up for the next compliance cycle for the training and education requirements, and that this year all public employees will be required to take the online training as well as acknowledge receipt of the conflict of interest law summary. He stated that he hopes to work with the Department of Revenue to make some minor improvements to the online training program and to change some of the questions.

Mr. Giannotti noted that since the Commission began listing online the conflict of interest law disclosures filed with the Commission, it has been a well-used section of the website, particularly from reporters who regularly request copies of disclosures. Mr. Giannotti stated that he hopes to use analytics to determine which sections of the website are the most visited, and to make ongoing improvements to the website.

Mr. Giannotti stated that he expects the FY 2014 report to be completed by the end of September. He stated that Ms. Donelan did a great job with the FY 2013 report.

Mr. Giannotti also reported that IT Specialist Tony Webb recently oversaw the second part of the three-phased approach to replacing the Commission's six servers. Mr. Webb worked with a vendor to replace two servers that support the Commission's network, and did so with minimal interruption to Commission operations. Mr. Giannotti thanked Mr. Webb for his hard work.

June 2014 Activities

Mr. Giannotti presented his report of Public Education and Communications Division activities for the month of June 2014. The Commission had no questions.

LEGAL DIVISION MATTERS

2013 SFI Filing System

Legal Division Deputy Chief/SFI Lauren Duca presented a report concerning the SFI filing season for calendar year 2013. Ms. Duca reported that the filing season ended June 11, and every reporting metric showed significant improvement this year. Ms. Duca stated that she and Mr. Milt started by developing a new system for updating the SFI designation lists, and opened the filing season earlier this year, giving filers more time to submit their SFIs. Ninety-seven percent of all filers filed on time this year, up from 86% last year. This is notable because this is an election year, so we had 250 candidate filers, who tend to be unfamiliar with the form and need additional assistance. Because of the extra work and additional efforts reaching out to agency liaisons and individual filers, Ms. Duca reported that there was a 90% decrease in the number of Formal Notices of Lateness issued, from 589 last year to 56 this year. Ms. Duca stated that the number of referrals of late filers to the Enforcement Division also decreased significantly, from 40 last year to 4 this year. Chairman Dortch-Okara commended the SFI Unit for its work in achieving such an improvement this year.

Advisory 14-1

Ms. Roney presented draft Advisory 14-1, Public Employees' Private Business Relationships And Other Dealings With Those Over Whom They Have Official Authority Or With Whom They Have Official Dealings, and stated that the draft, as preliminarily approved by the Commission at its May 22, 2014 meeting, has been on the Commission's website since that time. Ms. Roney said that she did not receive any comments that presented persuasive reasons to amend the draft. Although a request was received asking for more examples of what employees are permitted to do, Ms. Roney said that the existing examples seem sufficient, and that she did not want to make the Advisory any longer. Ms. Roney stated that the Advisory reflects a lot of work by the Legal Division, and that it deals with issues frequently raised by people who call the Legal Division asking for advice. She said that the new Advisory will be a helpful reference for callers going forward.

After discussion by the Commission, upon a motion by Commissioner Quinlan, seconded by Chairman Dortch-Okara, the Commission voted 4-0 to approve Advisory 14-1.

Legal Division FY 2014 Report

Ms. Roney presented a report of projects and metrics for the Legal Division for FY 2014. Ms. Roney stated that there was an increase in the number of requests for advice. Ms. Roney said the backlog for requests for written advice was higher due to a reduced staffing level for much of the year, but that the division has worked hard to reduce the number of requests more than 30 days old to three as of this morning. Chairman Dortch-Okara thanked the division for its work.

Legal Division Metrics

Ms. Roney presented the following Legal Division metrics for June 2014:

- **Written advice.** In June 2014, the Legal Division answered by letter or email 42 written requests for advisory opinions under G.L. c. 268A and c. 268B.

For comparison:	2008 monthly average (pre-Ethics Reform):	31
	2010 monthly average (post-Ethics Reform):	52
	June 2013 (same month last year):	38
	May 2014 (previous month):	37

- **Oral advice.** During this same period, Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 386 state, county and municipal officials.

For comparison:	2008 monthly average (pre-Ethics Reform):	280
	2010 monthly average (post-Ethics Reform):	450
	June 2013 (same month last year):	445
	May 2014 (previous month):	581

- **Review of municipal letters.** The Legal Division reviewed 3 letters issued by city solicitors/town counsel pursuant to G.L. c. 268A, § 22 and 930 CMR 1.03.

For comparison:	2008 monthly average (pre-Ethics Reform):	6
	2010 monthly average (post-Ethics Reform):	8
	June 2013 (same month last year):	12
	May 2014 (previous month):	5

- **Backlog.** As of today, there are 4 pending requests for written advice that are more than 30 days old: two from May 2014, and two from June 2014. We have a total of 20 pending requests for advice.

Legal Division Special Projects

Ms. Roney provided the Commission with a list of the special projects currently being worked on by members of the Legal Division.

Adjudicatory Matters

Ms. Roney presented the calendar of hearing dates and pre-hearing conferences in pending Commission adjudicatory proceedings. She stated that the Enforcement Division recently issued an Order to Show Cause to Agawam Police Lieutenant Edward McGovern, and asked the Commission to assign a presiding officer for the adjudicatory hearing. Chairman Dortch-Okara

stated that she will serve as the hearing officer. Legal Division Staff Counsel Norah Mallam will serve as the legal advisor.

Litigation Matters

Ms. Roney stated that the Commission's answer to the complaint filed by Richard McClure, who is seeking judicial review of the Commission's August 2, 2013 finding that he violated c. 268A, § 17, was filed on March 21, 2014. She stated that Mr. McClure has yet to file a motion for judgment on the pleadings.

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics and Attorney Metrics

Enforcement Division Chief Kelly Downes presented reports of the Investigations Unit activities and attorney metrics for June 2014. Ms. Downes stated that there is a slight discrepancy between the number of complaints received and the number of cases completed, and that she is working with Enforcement Division Deputy Chief/Investigations Katherine Gallant and Enforcement Division Administrative Assistant Mary Murphy to identify the reason for the difference. Ms. Gallant stated that since the division reorganized last year, it is time to revisit the ways Enforcement reports its metrics, and ensure that the metrics presented are accurate and consistent.

EXECUTIVE SESSION

At 9:42 a.m., on the motion of Chairman Dortch-Okara, seconded by Commissioner Quinlan, the Commission voted 4-0 to enter into executive session to discuss matters subject to the provisions of G.L. c. 30A, § 21, subparagraph (a)(7) and G.L. c. 268B, §§ 3 and 4. Chairman Dortch-Okara stated that these matters will include investigatory matters, cases deferred, preliminary inquiry recommendations and reports, summons authorization requests, disposition agreements, public and private education letters, advisory opinions and deliberations.

VOTE:	Chairman Dortch-Okara	<u>yes</u>
	Commissioner Murphy	<u>yes</u>
	Commissioner Trach	<u>yes</u>
	Commissioner Quinlan	<u>yes</u>

Chairman Dortch-Okara stated that the Commission would not reconvene in public session following the executive session.

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of July 16, 2014.
2. Minutes of the State Ethics Commission Meeting for the June 19, 2014 Public and Executive Session.
3. Fiscal Year 2013 Annual Report.
4. Memorandum dated July 9, 2014 from David Giannotti to the Commission concerning Public Education and Communications Division activities for June 2014.
5. Memorandum dated July 9, 2014 from David Giannotti to the Commission concerning FY 2014 Public Education/Communications Division and Information Technology Accomplishments.
6. Memorandum dated July 11, 2014 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
7. Memorandum dated July 11, 2014 from Lauren Duca to the Commission concerning a Summary of the SFI Filing Season for Calendar Year 2013.
8. Draft Advisory 14-1: Public Employees' Private Business Relationships And Other Private Dealings With Those Over Whom They Have Official Authority Or With Whom They Have Official Dealings.
9. Legal Division Report for Fiscal Year 2014, dated July 8, 2014.
10. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
11. Report of Enforcement Division Investigations Unit Metrics, dated July 7, 2014.
12. Report of Enforcement Division Attorney Metrics, dated July 3, 2014.

Respectfully submitted,

Marisa Donelan
Public Education and Communications
Division Deputy Chief