



Commonwealth of Massachusetts **STATE ETHICS COMMISSION**

One Ashburton Place - Room 619
Boston, Massachusetts 02108

Hon. Barbara A. Dortch-Okara (ret.)
Chair

David A. Wilson
Acting Executive Director

MINUTES OF THE STATE ETHICS COMMISSION MEETING **December 15, 2016**

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:00 a.m. Also in attendance were Vice-Chairman Regina L. Quinlan, Commissioner David A. Mills, Commissioner Thomas J. Sartory, and Commissioner Maria J. Krokidas.

APPROVAL OF MEETING MINUTES

On the motion of Vice-Chairman Quinlan seconded by Commissioner Sartory, the Commission voted 5-0 to waive the reading and approve the minutes of the November 17, 2016 public and executive sessions, with the correction of a typographical error on page 7 of the public session minutes.

ACTING EXECUTIVE DIRECTOR'S REPORT

Personnel

Acting Executive Director David A. Wilson reported that three semi-finalists were interviewed for the Enforcement Division Counsel position and two candidates have been selected as finalists. Mr. Wilson noted that reference checks have been completed for the two finalists and a hiring decision for this position will be made soon.

Mr. Wilson reported that four semi-finalists were interviewed for the Enforcement Division Chief of Investigations position. Mr. Wilson noted that reference checks have been completed for the four finalists and he expects to have additional information to report on the hiring status for this position in January.

Mr. Wilson reported that he is in the process of drafting job descriptions for a part-time Receptionist and for a Communications Director.

Budget

Mr. Wilson reported that the Commission's Administration & Finance (A&F) Fiscal Policy Analyst, Robert Oliver, contacted the staff concerning the fact that the Commission is currently on track to spend significantly less money for FY2017 than budgeted. Mr. Oliver asked the staff to provide him with the Commission's actual spending for FY2017. The staff advised Mr. Oliver that the lower level of spending is due to vacancies in several key positions, which are in the process of being filled. The staff also advised Mr. Oliver that the Commission will need additional funding in FY2018 to maintain a full staff; and the temporary excess funds for FY2017 will be used for office improvements and to replace ageing technology.

Mr. Wilson reported that he, along with CFO Alice Wu and Financial Analyst Robert Milt, will meet with MassIT personnel later today to discuss obtaining capital funding to replace the Commission's current case management system which is eleven (11) years old.

Mr. Wilson reported that he, Ms. Wu and Mr. Milt met recently with the Commission's budget analyst from the House Ways and Means Committee, Natalie Beauparlant, to discuss the Commission's budgetary needs.

Ethics Task Force

Mr. Wilson reported that he, General Counsel Deirdre Roney and Mr. Milt recently met with Chief Legal Counsel to the Governor Lon Povich and Deputy Counsel Cathy Judd-Stein to discuss the Ethics Task Force. Mr. Wilson further reported that he has also been in contact with Senate Counsel concerning the Task Force. Governor's Counsel, House Counsel, and Senate Counsel are all members of the Task Force. The Task Force will likely hold its first organizational meeting in early January 2017. The Senate President has appointed Former Ethics Commission Executive Director Stephanie Lovell to the Task Force. A letter from Chair Dortch-Okara will be sent today to the four apparent co-chairs of the Task Force.

Mr. Wilson reported that in preparation for Task Force, the staff, led by Ms. Roney, has been examining the conflict of interest law and financial disclosure law. The Commission's Legal Committee met yesterday and created a list of potential changes to the laws that are not controversial among either the staff or the Legal Committee members. The Committee also identified a list of potential changes to the laws that will require further discussion among the Committee members. The next Legal Committee has been scheduled for January 12, 2017.

New Legislators Academy

Mr. Wilson reported that he participated last week in the Academy for New Legislators at UMass-Amherst to help educate newly elected Legislators about the conflict of interest law. Mr. Wilson noted that his presentation was well received and he welcomed the opportunity to further develop relationships with the legislators.

PUBLIC EDUCATION DIVISION REPORT

Public Education and Communications Division Chief David Giannotti presented the division's report for the month of December 2016. Mr. Giannotti reported that he is in the process of updating distribution lists to notify public agencies and municipalities to distribute the Summary of the Conflict of Interest Law and to advise them to notify their employees to complete the online ethics training program. Mr. Giannotti reported that he will participate in a panel discussion with the House and Senate Counsel in January to educate public employees about the mandatory ethics training requirements.

LEGAL DIVISION MATTERS

Personnel Manual

General Counsel Deirdre Roney presented the revised draft Personnel Manual and a memorandum regarding legal research concerning termination of employees. Ms. Roney reviewed the revisions she made to the draft Personnel Manual since the November Commission meeting. The Commission directed Ms. Roney to make specific changes to the language on page 2, § 1.4, of the draft Personnel Manual.

After discussion, on the motion of Vice-Chairman Quinlan, seconded by Commissioner Krokidas, the Commission voted 5-0 to approve the revised Commission Personnel Manual, in the form presented to the Commission at its December 15, 2016 meeting, with additional changes made to page 2, § 1.4, effective immediately.

SFI Status Report

Ms. Roney reported that the online SFI system is now open for state agencies to provide their Designation Lists to the Commission and for employers to notify their employees to file. Ms. Roney also reported that Deputy Chief/SFI Lauren Duca and Financial Disclosure Administrator and Analyst/SFI Robert Milt have been meeting with agency liaisons to educate them regarding their Designation Lists. Ms. Roney commended Mr. Milt, Ms. Duca and Information Technology Specialist Tony Webb for their work on the SFI system.

Legal Division Metrics for November 2016

Ms. Roney presented the following Legal Division metrics for November 2016. The Commission had no questions.

- **Written advice.** The Legal Division answered by letter or email 30 written requests for advisory opinions under G.L. c. 268A and c. 268B.

For comparison:	November 2015 (same month last year):	28
	October 2016 (previous month):	33

- **Oral advice.** The Legal Division attorneys provided advice by telephone or on a walk-in basis in response to 321 requests for advice from state, county and municipal officials.

For comparison:	November 2015 (same month last year):	353
	October 2016 (previous month):	373

- **Review of municipal letters.** Division staff reviewed 2 letters issued by city solicitors/town counsel pursuant to G.L. c. 268A, § 22 and 930 CMR 1.03.

For comparison:	November 2015 (same month last year):	0
	October 2016 (previous month):	6

- **Backlog.** As of today, the Division has 8 pending requests for written advice that are more than 30 days old. There are a total of 10 pending requests for written advice.

Adjudicatory Matters

Ms. Roney presented the calendar of hearing dates in pending Commission adjudicatory proceedings. The Commission had no questions.

Litigation Matters

Ms. Roney noted regarding McGovern v. State Ethics Commission: Hampden Superior Court Civil Action No. 1679CV00082, in which Edward McGovern seeks judicial review pursuant to G.L. c. 30A of the Commission's finding of violation against him, that we are waiting for McGovern to move for judgement on the pleadings.

Ms. Roney reported that an impounded litigation matter is likely to be heard in the Appeals Court in February 2017.

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics Report

Enforcement Division Chief Monica Brookman presented the monthly report of Investigations Unit activities for November 2016.

Ms. Brookman noted that the number of complaints and cases zeroed in November as stated in her report was incorrect and the Enforcement Division actually received 38 complaints and zeroed 25 cases in November.

UPDATE ON EXECUTIVE DIRECTOR HIRING PROCESS

[At 10:03 a.m. Mr. Wilson recused himself and left the room.]

Ms. Roney reported that a panel of staff members interviewed four (4) finalists for the Executive Director position. The staff subsequently met with Vice-Chairman Quinlan and Commissioner Sartory to discuss their interviews with the four (4) finalists.

After discussion, the Commission decided that four (4) finalists for the Executive Director position will be interviewed by the full Commission on January 24, 2017 beginning at 2:00 p.m.

EXECUTIVE SESSION

At 10:18 a.m., on the motion of Chairman Dortch-Okara seconded by Commissioner Mills, the Commission voted 5-0 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. These matters will include investigatory matters, cases deferred, a preliminary inquiry report, preliminary inquiry recommendations and summons authorization requests and advisory opinions.

VOTE:	Chairman Dortch-Okara	<u>yes</u>
	Vice-Chairman Quinlan	<u>yes</u>
	Commissioner Mills	<u>yes</u>
	Commissioner Sartory	<u>yes</u>
	Commissioner Krokidas	<u>yes</u>

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

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of December 15, 2016.
2. Minutes of the State Ethics Commission Meeting for the November 17, 2016 Public and Executive Sessions.
3. Memorandum dated December 9, 2016 from David Giannotti to the Commission concerning Public Education and Communications Division activities for November 2016.
4. Memorandum dated December 9, 2016 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
5. Draft revised Commission Personnel Manual dated December 9, 2016.
6. Memorandum dated December 9, 2016 from Deirdre Roney to the Commission re legal research concerning termination of employees.
7. Calendar of Hearing Dates in pending Commission Adjudicatory Proceedings.
8. Report of Enforcement Division Investigations Unit metrics.

9. Letter to David Giannotti dated November 4, 2016 from Mickey Fredericks, Chairman of the Massachusetts Council of School Committee Administrative Personnel Executive Board.

Respectfully submitted,

Norah K. Mallam
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Staff Attorney