

MINUTES OF THE STATE ETHICS COMMISSION MEETING

January 16, 2014

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:02 a.m. Also in attendance were Commissioners Paula Finley Mangum, Martin F. Murphy, William J. Trach and Regina L. Quinlan.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Murphy, seconded by Commissioner Quinlan, the Commission voted 5-0 to waive the reading and approve the minutes of the December 19, 2013 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Draft Regulation

Executive Director Karen L. Nober stated that the Commissioners received a revised draft of a proposed regulatory exemption. Ms. Nober said that she and General Counsel Deirdre Roney spent a great deal of time on the regulation over the past several months, and she believes it is in good shape. Ms. Nober stated the new language includes information on the issues raised by the Commission during the December meeting, and said the Commission will need to make some decisions on those issues.

Budget

Ms. Nober reported that Governor Patrick is expected to release his budget for FY 2015 next Wednesday. Ms. Nober said that she and Chief Financial Officer Michael Memmolo had productive meetings regarding the Commission's budget with budget analysts from the Executive Office for Administration and Finance and from the House of Representatives. Ms. Nober said she also had other discussions, and she is cautiously optimistic about the Commission's FY 2015 budget. She expects to reschedule a meeting with the Commission's budget analyst from the Senate, and she believes that the Commission's budget hearing will be scheduled near the end of February.

Enforcement Procedures

Ms. Nober reported that the staff is in the process of revising the Enforcement Division Enforcement Procedures to accurately reflect the reorganization that became effective on July 1, 2013. Any revisions to the procedures will be brought before the Commission for approval. The Enforcement Procedures are posted on the Commission's website.

New Advisory

Ms. Nober reported that the Legal Division is working on an advisory on the conflict of interest law restrictions that apply to public employees seeking new employment, including the restrictions that apply once public employees leave public service. Ms. Nober stated that with the 2014 elections, there will be a significant transition of staff within state government, and the Legal Division has been receiving requests for advice from public employees regarding their job searches. Ms. Nober said she hopes to present a draft of the advisory to the Commission at the next meeting.

Chairman Swartwood Event

Ms. Nober reported that a farewell event for former Chairman Charles B. Swartwood, III, will be held this evening.

Next Meeting

Ms. Nober reported that the next Commission meeting will be held on February 20, 2014 at 9:00 a.m.

PUBLIC EDUCATION DIVISION MATTERS

Public Education and Communications Division Chief David Giannotti presented his report of Public Education and Communications Division activities for the month of December 2013. Mr. Giannotti also reported about a new webinar application acquired by the Commission which will now allow for seminars to be conducted via webinar. Mr. Giannotti explained that this will allow for municipalities outside of the Boston area to participate in public education seminars even if they cannot meet the required attendance of 30 or more participants in order to justify the travel costs associated with traveling to the municipalities. Mr. Giannotti also reported that a recent seminar in Provincetown drew about 70 attendees, and that the new mayor of Lawrence has contacted the Commission about a seminar for City of Lawrence employees.

The Commission had no questions.

LEGAL DIVISION MATTERS

At 9:12 a.m., Chairman Dortch-Okara informed those in attendance that members of the news media would be recording the meeting.

Regulatory Exemption 930 CMR 6.26

Ms. Roney presented a memorandum concerning issues with respect to draft regulation 930 CMR 6.26 discussed by the Commission at its meeting on December 19, 2013, and a revised draft of the regulation.

After discussion by the Commission, on the motion of Commissioner Mangum, seconded by Commissioner Trach, the Commission voted 5-0 to approve and adopt 930 CMR 6.26, as presented to the Commission at its meeting on January 16, 2014, and as revised by the Commission at that meeting; and to authorize staff to conclude procedures required by the Administrative Procedure Act, G.L. c. 30A, and related regulations and procedures for such adoption.

Legal Division Metrics

Ms. Roney presented the following Legal Division metrics for December 2013.

- **Written advice.** In December 2013, the Legal Division answered by letter or email 29 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
	December 2012 (same month last year):	30
	November 2013 (previous month):	39

- **Oral advice.** During this same period, Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 352 state, county and municipal officials.

For comparison:	2008 monthly average (pre-Ethics Reform):	280
	2010 monthly average (post-Ethics Reform):	450
	December 2012 (same month last year):	308
	November 2013 (previous month):	369

- **Review of municipal letters.** The Legal Division reviewed 4 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
	December 2012 (same month last year):	5
	November 2013 (previous month):	4

- **Backlog.** As of today, there are 16 pending requests for written advice that are more than 30 days old: one from August 2013, three from September 2013, five from October 2013, four from November 2013, and three from December 2013. The Legal Division has a total of 31 pending requests for written 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. There were no questions.

Adjudicatory Matters

Ms. Roney presented the calendar of hearing dates and pre-hearing conferences in pending Commission adjudicatory proceedings.

Litigation Matters

Ms. Roney stated that the Commission's answer to the complaint filed by Richard McClure seeking judicial review of the Commission's August 2, 2013 finding that he violated c. 268A, § 17, is due to be filed on March 24, 2014.

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics

Enforcement Division Deputy Chief/Investigations Katherine Gallant presented a report of the Investigations Unit activities for December 2013. She stated that the number of pending complaints has decreased to 246 as of today. Enforcement Division Chief Stephen P. Fauteux said there were 328 pending complaints in the division's inventory in July, when the reorganization took effect. The Commission had no questions.

Attorney Metrics

Mr. Fauteux presented a report of attorney metrics for the Enforcement Division. Ms. Nober stated that the division is looking to consolidate the number of reports it produces. Commissioner Mangum stated the new reports are easier to understand. The Commission had no questions.

EXECUTIVE SESSION

At 10:17 a.m., on the motion of Chairman Dortch-Okara, seconded by Commissioner Quinlan, 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. 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 and advisory opinions.

VOTE:	Chairman Dortch-Okara	<u>yes</u>
	Commissioner Mangum	<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 January 16, 2014.
2. Minutes of the State Ethics Commission Meeting for the December 19, 2013 Public and Executive Session.
3. Memorandum dated January 9, 2014 from David Giannotti to the Commission concerning Public Education and Communications Division activities for December 2013.
4. Memorandum dated January 9, 2014 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
5. Memorandum dated January 9, 2014 from Deirdre Roney to the Commission concerning the revised draft of proposed regulatory exemption 930 CMR 6.26.
6. Draft Ethics Commission Regulation – 930 CMR 9.26, dated January 15, 2014, redlined and highlighted.
7. Draft Ethics Commission Regulation – 930 CMR 9.26, dated December 19, 2013, redlined.
8. Draft Ethics Commission Regulation – 930 CMR 9.26, dated January 9, 2014, redlined.

9. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
10. Report of Enforcement Division Investigations Metrics, dated January 8, 2014, and Attorney Metrics, dated January 7, 2014.

Respectfully submitted,

Marisa Donelan
Public Education and Communications
Division Deputy Chief