



Commonwealth of Massachusetts **STATE ETHICS COMMISSION**

One Ashburton Place - Room 619
Boston, Massachusetts 02108

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

Karen L. Nober
Executive Director

MINUTES OF THE STATE ETHICS COMMISSION MEETING **February 19, 2015**

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 Martin F. Murphy, William J. Trach and David A. Mills. Commissioner Regina L. Quinlan was absent.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Trach, seconded by Commissioner Mills, the Commission voted 4-0 to waive the reading and approve the minutes of the December 18, 2014 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Budget

Executive Director Karen L. Nober reported that since the Commission's December meeting, when she reported that former Governor Patrick had filed legislation that called for a 1.5% budget cut, the Legislature had put the matter on hold until Governor Baker took office. The Baker administration has determined that there is a \$768 million deficit, which is a much larger number than previously estimated. Ms. Nober stated that at the end of January, she received a call from the Governor's Chief Legal Counsel, who informed her that the cut being recommended by the Governor was 1.79%, which was an across-the-board cut imposed on all independent agencies. She said this amounts to about \$35,000 that the Commission will have to give back. Ms. Nober stated that she met with the Commission staff the next day to update employees on her plan, which includes leaving the Enforcement Division administrative assistant position unfilled for the rest of FY 2015, and requiring 3 ½ furlough days in March and April for

the 13 Commission employees subject to the Unit 6 salary chart. She stated that those employees recently received a raise in accordance with the collective bargaining agreement, and that, while the furloughed employees will continue to earn at their new rate of pay, the days off will allow her to take back for the agency the cost of the raise. Ms. Nober stated that managers have not received a pay increase since July 1, 2013, and that she felt that this approach was fair to staff. Additionally, the Commission will use a cost-savings of approximately \$8,000 due to employees taking unpaid time off the payroll for various reasons to address the budget cut. Ms. Nober stated that leaving the Enforcement Division position open will save \$10,000; the furloughs will save \$11,000; the Commission will not spend any money on advertising, a savings of \$1,000; and she has frozen all in-state travel, which will save \$850. She noted that this would affect seminars. Ms. Nober stated that that still leaves about \$4,000 that she will need to identify, but that she will wait to make any further decisions that would affect personnel.

Ms. Nober also reported that for the second year, we are trying to get language in our statute that would authorize the Commission to accept, and, therefore, solicit gifts, statutory language that many other agencies have. Ms. Nober stated that the addition of such language would allow us to ask for reimbursement for travel expenses, particularly in relation to travel for seminars.

Chairman Dortch-Okara asked for clarification on the furlough timeframe, and Ms. Nober stated that she plans to implement this over the course of four pay periods in March and April. Commissioner Murphy asked how furloughs were handled in the past, and Enforcement Division Deputy Chief Karen Gray stated that, in the past, employees volunteered to take furloughs. Ms. Nober stated that she would not want people to volunteer for furloughs, nor would she want them to work if they were not getting paid. Commissioner Mills stated that his past experience with asking for voluntary furloughs was unsettling, and stated that Ms. Nober is handling the budget situation well.

Temporary Adjustment to Work Schedules

Ms. Nober noted that the Commission in November 2014 made changes to the Personnel Manual, including establishing standard work hours between 8:00 a.m. and 6:00 p.m. However, in light of the commuting issues as a result of the recent snow and problems with public transportation, she is allowing staff to extend their work day until 7:00 p.m. Ms. Nober stated that this will allow employees to make up time from late arrivals resulting from commuting delays. This change is temporary and became effective today through the end of next week, and Ms. Nober said she will reevaluate the commuting issues at the end of next week to see whether to continue to extend the work day.

COGEL

Ms. Nober stated that a program planning committee meeting for this year's Council on Governmental Ethics Laws conference will be held in Boston on March 6 and 7, in order for the committee to put together the agenda for the December 2015 COGEL meeting in Boston. Ms. Nober stated that she has had initial conversations with staff and will be scheduling a working session in the next couple of weeks to come up with final proposals for panel discussions and speakers. Ms. Nober stated that she will send the Commission ideas for panels in which the

Commissioners could participate, and she would welcome any ideas the Commission may have for panel topics or speakers.

New Administration Training

Ms. Nober stated that the Baker administration has been very proactive in reaching out to us for training sessions on the conflict of interest law. She stated that she and General Counsel Deirdre Roney met with Governor Baker and his cabinet, and that she and Ms. Roney will be meeting with Governor's Office staff in the near future. Additionally, Mr. Giannotti conducted two seminars for the Executive Office for Administration and Finance as well.

Reminders

Ms. Nober reminded the Commission members that their Statements of Financial Interests for CY 2014 are due on May 1, 2015. She also noted that the Commissioners need to complete the Conflict of Interest Law Online Training Program by April 10, 2015, and that Ms. Roney will email the summary of the conflict law to them for their acknowledgment within 30 days of receipt. Ms. Nober stated that Commissioner Mills has already taken the training and acknowledged receipt of the summary in connection with his appointment to the Commission. Commissioner Mills stated that he thought the training program was very well done, and Ms. Nober stated that Mr. Giannotti, along with Enforcement and Legal staff, put a lot of work into developing the program and its content.

Next Meeting

Ms. Nober stated that the next Commission meeting will be held on Thursday, March 19, 2015 at 9:00 a.m. There will be a meeting of the Legal Committee on the same day at 8:00 a.m. to discuss the draft advisory on seeking and negotiating employment.

PUBLIC EDUCATION DIVISION MATTERS

Public Education and Communications Division Chief David Giannotti presented a report on Public Education and Communications Division activities for the months of December 2014 and January 2015. Mr. Giannotti stated that work to migrate the Commission's email system to the MassMail email system is ongoing.

Mr. Giannotti also said that due to budget restrictions, the Division is making greater use of webinars, which saves the Commission any costs associated with traveling to and from off-site seminars. The Division will continue to invite people to join its monthly in-house seminars via webinar. Mr. Giannotti stated that feedback from webinar attendees has been mostly positive.

LEGAL DIVISION MATTERS

SFI Status Report and Current Projects

Legal Division Deputy Chief/SFI Lauren Duca presented a report on the status of the SFI filing season and the ongoing project to replace the Commission's SFI electronic filing system. Ms. Duca reported that, despite days off due to repeated snowstorms, the SFI filing season began early this year, opening on February 13. Ms. Duca stated that the SFI Team has noted the usual glitches with the program and is working on answering technical assistance calls from filers. She stated that reminder notices will be sent to all filers beginning three weeks before the due date.

Ms. Duca reported that the RFQ for a vendor to develop a new SFI filing and management system was posted on January 23, 2015, and the deadline for responses was extended to February 27, 2015. Chairman Dortch-Okara asked whether there has been a lot of interest in the RFQ, and Ms. Duca responded that we have received questions from two different vendors. Ms. Roney stated that there is a process to extend the bidder pool if we do not receive a good bid at this time. In response to a question from Commissioner Murphy, Ms. Duca stated that an "off-the-shelf" program makes more sense for the Commission than a custom-designed system, which would be much more expensive to develop and maintain.

New Policy Prohibiting Weapons in the Commission Office

Ms. Roney presented a new policy which makes clear that no weapons are permitted in the Commission's offices, whether carried by visitors or staff. Ms. Roney stated that there was no official policy in place to address weapons, and that the policy states that people may not bring weapons into the office, as the Commission does not have the capacity to store any weapons. A notice related to the policy has already been going out with summonses and scheduling orders. Previously, if a law enforcement officer or anyone carrying a weapon were to come into the building, building security would call the agency and ask that agency to vouch for them, which we will not do, Ms. Nober stated. The Commission had no questions.

Legal Division Metrics

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

- **Written advice.** The Legal Division answered by letter or email 43 written requests for advisory opinions under G.L. c. 268A and c. 268B during December 2014.

For comparison:	2008 monthly average (pre Ethics Reform):	31
	2010 monthly average (post Ethics Reform):	52
	December 2013 (same month last year):	29
	November 2014 (previous month):	43

- **Oral advice.** The Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 375 requests for advice from state, county and municipal officials.

For comparison:	2008 monthly average (pre Ethics Reform):	280
	2010 monthly average (post Ethics Reform):	450
	December 2013 (same month last year):	352
	November 2014 (previous month):	323

- **Review of municipal letters.** We reviewed 2 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 2013 (same month last year):	4
	November 2014 (previous month):	3

Ms. Roney also presented the following Legal Division metrics for January 2015:

- **Written advice.** The Legal Division answered by letter or email 40 written requests for advisory opinions under G.L. c. 268A and c. 268B during January 2015.

For comparison:	2008 monthly average (pre Ethics Reform):	31
	2010 monthly average (post Ethics Reform):	52
	January 2014 (same month last year):	22
	December 2014 (previous month):	43

- **Oral advice.** The Legal Division attorneys provided legal advice by telephone or on a walk-in basis to 378 requests for advice from state, county and municipal officials.

For comparison:	2008 monthly average (pre Ethics Reform):	280
	2010 monthly average (post Ethics Reform):	450
	January 2014 (same month last year):	472
	December 2014 (previous month):	375

- **Review of municipal letters.** We reviewed 0 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
	January 2014 (same month last year):	6
	December 2014 (previous month):	2

- **Backlog.** As of today, there are 5 pending requests for written advice that are more than 30 days old, of which the oldest was received on December 10, 2014. We have a total of 20 pending requests for written advice.

The Commission had no questions. Ms. Roney stated that having a sixth attorney in the Division continues to be a very big help.

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. Ms. Roney thanked Legal Division Staff Counsel Amy Nee for her work compiling two tables of statutes which refer to the conflict of interest or financial

disclosure laws, organized by statute number, and alphabetically by subject. The tables were included in the Commissioners' packets for their review.

Adjudicatory Matters

Ms. Roney presented the calendar of hearing dates and pre-hearing conferences in pending Commission adjudicatory proceedings. Ms. Roney asked the Chair to assign a Commissioner to serve as Presiding Officer in *In Re Robert Nichols*. Chairman Dortch-Okara assigned Commissioner Mills to the case.

Litigation Matters

Ms. Roney reported the Commission's cross-motion for judgment on the pleadings with respect to Richard McClure's complaint seeking judicial review of the Commission's August 2, 2013 decision that he violated c. 268A, § 17 was served on February 12, 2015.

ENFORCEMENT DIVISION MATTERS

Attorney Metrics and Investigations Unit Metrics

Enforcement Division Chief Kelly Downes presented the monthly report of Investigations Unit activities for December 2014 and January 2015. Ms. Downes congratulated the investigators on bringing down the number of pending complaints to 193, from a high of over 250. Enforcement Division Deputy Chief/Investigations Katherine Gallant stated that the investigators have worked very hard to address pending complaints.

Ms. Downes presented the quarterly report of attorney metrics. The Commission had no questions.

EXECUTIVE SESSION

At 9:42 a.m., on the motion of Chairman Dortch-Okara, seconded by Commissioner Trach, 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 and advisory opinions.

VOTE:	Chairman Dortch-Okara	<u>yes</u>
	Commissioner Murphy	<u>yes</u>
	Commissioner Trach	<u>yes</u>
	Commissioner Mills	<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 February 19, 2015.
2. Minutes of the State Ethics Commission Meeting for the December 18, 2014 Public and Executive Session.
3. Memorandum dated February 13, 2015 from David Giannotti to the Commission concerning Public Education and Communications Division activities for December 2014 and January 2015.
4. Memorandum dated February 13, 2015 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
5. State Ethics Commission Weapons Policy, dated January 23, 2015.
6. List of Statutes Referring to G.L. c. 268A or 268B.
7. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
8. Report of Enforcement Division Investigations Unit Metrics, dated February 4, 2015.
9. Report of Enforcement Division Attorney Metrics, dated January 1, 2015.

Respectfully submitted,

Marisa Donelan
Public Education and Communications
Division Deputy Chief