



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 **April 20, 2016**

One Ashburton Place, Room 619
Boston, MA 02108

PUBLIC SESSION

MEETING CONVENED

Chairman Barbara Dortch-Okara called the meeting to order at 9:03 a.m. Also in attendance were Vice-Chairman William J. Trach, Regina L. Quinlan, David A. Mills and Thomas J. Sartory.

APPROVAL OF MEETING MINUTES

On the motion of Commissioner Quinlan, seconded by Vice-Chairman Trach, the Commission voted 5-0 to waive the reading and approve the minutes of the March 23, 2015 public and executive sessions.

EXECUTIVE DIRECTOR'S REPORT

Budget

Executive Director Karen L. Nober reported that the House Committee on Ways and Means released its budget recommendation last week, and that we were level-funded, which is what we asked for. Ms. Nober said that Representative Kocot filed an amendment for the Commission for an additional \$50,000. She also said that she spoke with Representative Markey, the Chair of the House Committee on Ethics, regarding funding for the Commission to replace its case management system. Ms. Nober stated that she would like to request this funding through a supplemental budget, because we do not currently know the amount we need to replace the system, and she would prefer to wait to request additional funds until she knows how much we will actually need. Ms. Nober further reported that the House will debate the budget next week and vote on its budget recommendation. She said the Senate will release its budget recommendations in May.

Personnel

Ms. Nober reported that she is considering hiring a temporary employee to fill in for an administration assistant who is out on sick leave. Ms. Nober also updated the Commission on the hiring process for the Enforcement Division Chief, stating that we have received 29 applications. She said that, although that number is on the low side, there are some very good candidates who have applied. Ms. Nober stated that she has asked both Enforcement Division Deputy Chief of Investigations, Kathy Gallant, and Enforcement Division Interim Chief, Candies Pruitt-Doncaster, to participate in the interview process; so they have filed the necessary Section 6 disclosures and she has made the necessary determinations to allow them to participate in the selection of their supervisor. Ms. Nober stated that she will begin the interview process soon, and that if we need to re-post the position, we will do that. Chairman Dortch-Okara inquired about the closing date. Ms. Nober explained that she did not specify a closing date in order to maximize the number of responses. Commissioner Mills suggested that we might want to post the job opening at the District Attorney's Office and the Attorney General's Office or associations related. Ms. Nober responded that contacting the associations might be a good idea.

Vice-Chairman Trach asked whether we have a new hire training, as the Commission will soon have multiple new hires, and asked whether we should also have a training for new Commissioners. Ms. Nober explained that the Legal Division does an extensive training for the new attorneys we hire. She stated that she has spoken to the Ms. Pruitt-Doncaster about materials with which would be helpful resources for new hires; and that we have not provided a training for new Commissioners, but could do that. Chairman Dortch-Okara added that while receiving the book of information is helpful, it would also be helpful to have an actual training. She suggested that the Commissioners be invited to the training for new hires. Ms. Nober noted that she has asked General Counsel Deirdre Roney to think about changes that can be made to the training the Legal Division provides to new employees to make it more effective. She also said she thought it made sense to provide training to new Commissioners and that Commissioners are also welcome to attend the in-house seminars that are conducted at our office by Public Education Chief David Giannotti.

Ethics Reform Task Force

Ms. Nober updated the Commission on the internal working group that is looking at both c. 268A and c. 268B to come up with improvements to discuss with the Commission. She reported that there have been several productive meetings and last week, the task force met with Commissioner Trach to discuss possible changes to c. 268A. She said that it was very helpful to have him join us for that discussion. Ms. Nober added that we intend to do a similar process for c. 268B.

Ms. Nober reported that so far, there has been no announcement with respect to the Joint Task Force proposed by House Speaker DeLeo, and that she has not heard anything further about it. She stated that this gives us more time to review our statutes in a more in-depth and thoughtful manner. Ms. Nober stated that she is looking to schedule a Legal Committee meeting at some point to discuss our recommendations before bringing them to the full Commission.

Next Commission Meeting

Ms. Nober stated that the next Commission meeting will be on Wednesday, May 18 at 9 am.

PUBLIC EDUCATION DIVISION REPORT

Public Education and Communications Division Chief David Giannotti presented the Public Education and Communication Division's report for the month of March 2016. He reported that there have been 13 seminars conducted in March, and that by the year's end we will have completed about 75 seminars. With respect to the education requirements, Mr. Giannotti stated that almost 100% of elected county and state officials, who are required to submit acknowledgments to the Commission, are in compliance. Mr. Giannotti stated that we are working on cleaning up the website and loading opinions that are not on the website, with the goal of having all opinions on the website that are also searchable. Ms. Nober added that we are doing this in response to concerns that have been expressed by our customers and stakeholders regarding their inability to access all of our opinions, which she thinks are valid concerns. She stated that generally the Legal Division will send the opinions if related to the advice they are giving, but this raises questions as to why callers cannot access the opinions themselves on the website. The Commission had no questions.

LEGAL DIVISION MATTERS

Development of New SFI Filing and Management Application (Lauren Duca)

General Counsel Deirdre Roney thanked Project Manager Susan Laniewski, Assistant General Counsel Pauline Nguyen, SFI Administrator and Analyst Robert Milt and IT Specialist Tony Webb for their hard work on the new SFI application.

Legal Division Deputy Chief/SFI Lauren Duca reported the following with respect to the current status of the new SFI Filing and Management Application: she, Mr. Milt and Mr. Webb worked with agency liaisons and general counsels to obtain the CY 2015 Designation Lists of required filers which were outstanding after the March 22, 2016 submission deadline; Ms. Roney and Ms. Nguyen are almost done completing the SFI form for manual filers; that Mr. Milt is working on creating instructions for electronic filers; that the application will not open today as planned, due to an issue with the SFI report generated after a filer files an SFI, because it was discovered that the SFI Report does not capture all of the data that is collected on the form. Ms. Duca stated that the team is working as quickly as possible, and currently, the developers are unable to give an estimate as to how long it will take to address this issue. She added that however, the Manual Form will be ready today for those who want to file now.

Vice-Chairman Trach asked whether the designation list can be done electronically moving forward. Ms. Duca explained that the designation lists are being done electronically, but that there will always be agencies that do not get the list completed on time. She stated that she called the general counsel of those agencies in order to get the lists. Vice-Chairman Trach suggested that we alert the general counsel of each agency at the beginning of the process. Vice-

Chairman Trach stated that the enormous knowledge gained about this process could be beneficial to other agencies doing similar projects, and suggested capturing this knowledge in a way that can be shared either with other agencies or at a COGEL conference – such as in a lessons learned memo. Ms. Roney added that she spoke to the Supervisor of Public Records, who is anticipating changes to the Public Records law; and he seemed to like the idea of our system, so she offered Commission staff to talk to him. Ms. Nober stated that MassIT also seemed pleased with the SFI project.

Commissioner Quinlan inquired about how the delayed opening of the SFI application would impact filing deadlines. Ms. Duca responded that we will extend the Commission's filing deadlines, but that we cannot change the deadline for candidates, including elected officials running for re-election or another office, who need to produce filing receipts in order to meet election deadlines set by the Secretary of State. Chairman Dortch-Okara stated that we should give filers at least a month to file. Ms. Duca responded that this would be the case. Ms. Nober stated that this year we will have to be more flexible for people who are filing late and that we may want to extend the grace period.

Legal Division Metrics

General Counsel Deirdre Roney presented the following Legal Division metrics for March 2016. She noted that backlogs have been slightly up due to the Legal Division's involvement in large projects and assistance with the Enforcement Division. She anticipates that the backlog will be a bit higher for next few months. The Commission had no questions.

- **Written advice.** The Legal Division answered by letter or email 28 written requests for advisory opinions under G.L. c. 268A and c. 268B.

For comparison:	March 2015 (same month last year):	44
	February 2016 (previous month):	55

- **Oral advice.** The Legal Division attorneys provided advice by telephone or on a walk-in basis in response to 513 requests for advice from state, county and municipal officials.

For comparison:	March 2015 (same month last year):	579
	February 2016 (previous month):	441

- **Review of municipal letters.** Division staff review 7 letters issued by city solicitors/town counsel pursuant to G.L. c. 268A, § 22 and 930 CMR 1.03.

For comparison:	March 2015 (same month last year):	6
	February 2016 (previous month):	5

- **Backlog.** As of today, the Division has 34 pending requests for written advice that are more than 30 days old. There are a total of 55 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. The Commission had no questions.

Adjudicatory Matters

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

Litigation Matters

McClure v. State Ethics Commission: Middlesex Superior Court Civil Action No. MICV2013-04186-L. Awaiting entry of judgment for the Commission.

McGovern v. State Ethics Commission: Hampden Superior Court Civil Action No. 1679CV00082. Edward McGovern seeks judicial review pursuant to G.L. c. 30A of the Commission's finding of violation against him. We have compiled the record and will file it within the next week or so. We expect respondent to make motion on the pleadings in next couple of months. Vice-Chairman Trach asked whether there has been any action taken against McGovern. Staff Attorney Mallam responded that she did not know.

ENFORCEMENT DIVISION MATTERS

Investigations Unit Metrics report

Enforcement Division Chief Candies Pruitt-Doncaster presented the monthly report of Investigations Unit activities for March 2016. She noted that there is an increase of 30 complaints in March, due to Town Meetings and upcoming municipal elections. The Commission had no questions.

Attorney Metrics

Enforcement Division Chief Candies Pruitt-Doncaster presented the report of Attorney Metrics. The Commission had no questions.

EXECUTIVE SESSION

At 9:39 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. Chairman Dortch-Okara stated that such matters will include investigatory matters, cases deferred, preliminary inquiry reports, a disposition agreement, advisory opinions, and deliberations.

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

Commissioner Mills	<u>yes</u>
Commissioner Sartory	<u>yes</u>

Chairman Dortch-Okara stated that the Commission will reconvene in public session following the executive session.

PUBLIC SESSION

At 11:05 a.m., the Commission resumed the meeting in public session. Present were Chairman Dortch-Okara, Vice-Chairman Trach, Commissioner Quinlan, Commissioner Mills and Commissioner Sartory.

A. LEGAL DIVISION MATTERS

After discussion by the Commission, on the motion of Chairman Dortch-Okara, seconded by Commissioner Quinlan, the Commission voted 5-0 to delegate to the Chair of the Legal Committee the authority to act on behalf of the Commission to discuss and determine in conjunction with the General Counsel the Commission's response to specific law enforcement requests and subpoenas for Commission records.

ADJOURN

At 11:08 a.m., on the motion of Vice-Chairman Trach, seconded by Chairman Dortch-Okara, the Commission voted 5-0 to adjourn the meeting.

LIST OF DOCUMENTS USED AT THIS MEETING

1. Agenda for the Commission Meeting of April 20, 2016.
2. Minutes of the State Ethics Commission Meeting for the March 23, 2016 Public and Executive Sessions.
3. Memorandum dated April 14, 2016 from David Giannotti to the Commission concerning Public Education and Communications Division activities for March 2016.
4. Memorandum dated April 15, 2016 from Deirdre Roney to the Commission setting forth Legal Division matters for the meeting.
5. Calendar of Hearing Dates and Pre-Hearing Conferences in pending Commission Adjudicatory Proceedings.
6. Report of Enforcement Division Investigations Unit metrics.
7. Report of Enforcement Division Attorney metrics.

Respectfully submitted,

A handwritten signature in blue ink, reading "Pauline H. Nguyen". The signature is written in a cursive style with a large, stylized "P" and a long, sweeping underline.

Pauline Nguyen
Assistant General Counsel