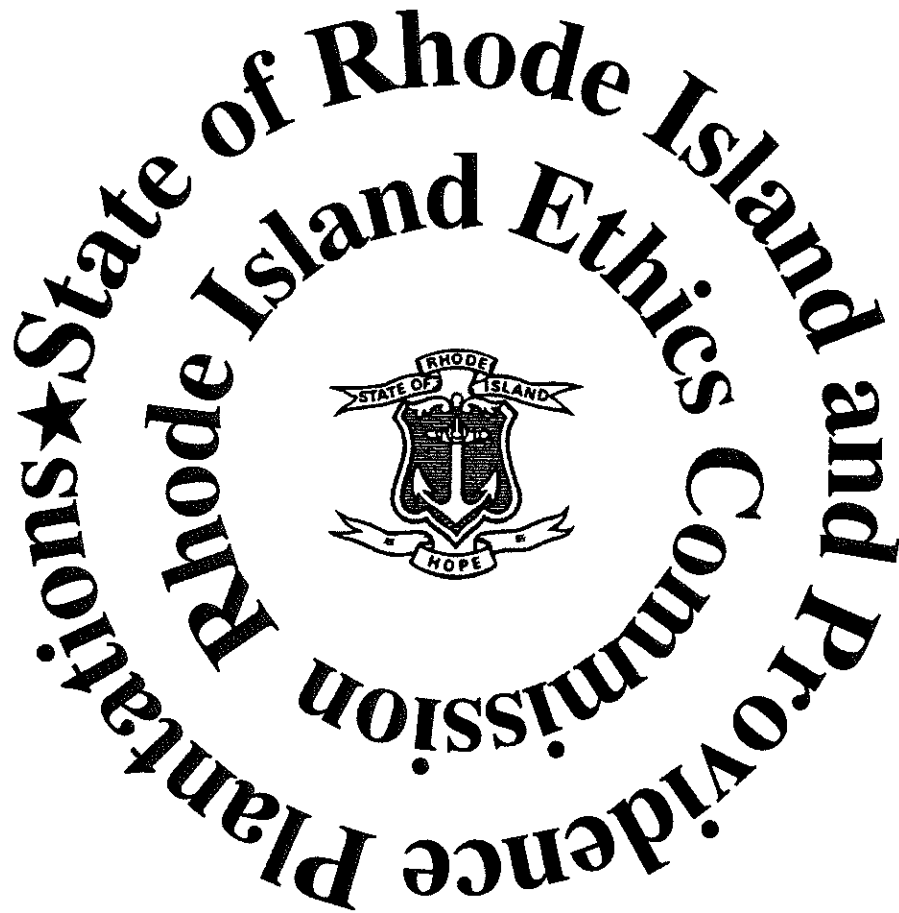


RHODE ISLAND ETHICS COMMISSION



FISCAL YEAR 2018
ANNUAL REPORT

This Annual Report summarizes the activities of the Ethics Commission for State Fiscal Year 2018 (FY2018), the time period covering July 1, 2017, to June 30, 2018. The separate sections of this Annual Report describe FY2018 activities relating to regulatory and policy changes, declaratory rulings, advisory opinions, investigations and enforcement proceedings, litigation, financial disclosure, education, and public access.

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I. INTRODUCTION TO THE COMMISSION

The Rhode Island Ethics Commission (Commission) is a constitutionally mandated body authorized to adopt, administer, and enforce the State of Rhode Island's Code of Ethics in Government (Code or Code of Ethics). R.I. Const. art. III, sec. 8. The Code of Ethics is embodied in Rhode Island General Laws §§ 36-14-4 to -7 and Commission Regulations 520-RICR-00-00-1 to -4. The Code sets forth standards of conduct for all of Rhode Island's public officials and employees.

The Commission educates and advises public officials and employees about the standards of conduct set forth in the Code of Ethics. The education program offers seminars and workshops, and disseminates publications about the Code of Ethics and Commission procedures. Advisory opinions respond to specific questions about the Code posed by public officials and employees facing potential conflicts of interest.

The Commission facilitates transparency in government through its administration of the filing of annual financial disclosure statements. This is an ongoing process in which a database of required filers is maintained and updated by Commission staff. Once filed, financial disclosure statements are public and often requested pursuant to the Access to Public Records Act.

The Commission enforces the Code of Ethics through a combination of executive session investigative proceedings, open hearings, and public adjudications. Enforcement powers include civil penalties and, in some instances, the power to remove an official from office.

All of the Commission's educational publications, advisory opinions, complaints, and final dispositions are available to the public as public records. Investigative reports, related pleadings, and Commission orders become public at specific junctures in the enforcement process.

HISTORY

In 1976, the Rhode Island General Assembly enacted the State's first Code of Ethics and created the Conflict of Interest Commission. That Code governed the activities of state and municipal elected and appointed officials and required all such officials to meet newly imposed financial disclosure requirements.

In November of 1986, Rhode Island voters adopted a constitutional amendment mandating that the General Assembly “establish an independent non-partisan ethics commission” R.I. Const. art. III, sec. 8. In 1987, the General Assembly replaced the Conflict of Interest Commission with a fifteen (15) member Ethics Commission. In 1992, the General Assembly reduced the size of the Ethics Commission to its current nine (9) members.

The Rhode Island Constitution empowers the Ethics Commission to adopt and enforce a Code of Ethics, to investigate violations of the Code, and to impose penalties, including removal from office. R.I. Const. art. III, sec. 8. Legislation enacted by the General Assembly also grants the Ethics Commission the power to issue advisory opinions to public officials and employees and to offer educational programs. R.I. Gen. Laws §§ 36-14-10 & -11. The process by which Commissioners are appointed, quorum requirements, and the administrative powers of the Commission are governed by R.I. Gen. Laws §§ 36-14-8 & -9.

POWERS

The fundamental powers of the Ethics Commission are to:

- Adopt, amend, and enforce the Code of Ethics.
- Advise public officials and employees about the Code of Ethics through the issuance of advisory opinions, as requested.
- Administer and enforce financial disclosure requirements.
- Maintain financial disclosure records.
- Educate public officials, government employees, and citizens.

RHODE ISLAND CODE OF ETHICS IN GOVERNMENT

The Rhode Island Constitution sets forth an expectation that public officials and employees “adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable and responsive, avoid the appearance of impropriety and not use their position for private gain or advantage.”¹ The Constitution further provides that all Rhode Island elected and appointed officials and employees of state and local government, of boards, commissions and agencies are subject to the Code of Ethics.²

The Code of Ethics regulates conflicts of interest, which occur when a public official’s public duties intersect with his or her private interests. Public officials

¹ R.I. Const. art. III, sec. 7.

² R.I. Const. art. III, sec. 8.

and employees may not have financial interests that are in substantial conflict with the proper discharge of their public duties.³ Conflicts of interest include the financial interests of the public official or employee as well as those of his or her family members, private employers, business associates, or any business the official or employee may represent.⁴ When conflicts of interest arise, public officials and employees are required to disclose the nature of the conflict.⁵ They are further required to recuse themselves from taking any official government action or participating in deliberations concerning a matter in which they have a conflict of interest.⁶

The Code of Ethics consists of statutory provisions enacted by the General Assembly and regulations adopted by the Commission.⁷ Commission procedures are also set forth in the statutes and Commission regulations.⁸ Complete copies of the Code are available at the Commission offices and may be viewed on the Commission's website at <http://www.ethics.ri.gov>.

Furthermore, the Ethics Commission has regulatory authority relating to certain financial disclosure requirements for gambling interests,⁹ and has enforcement authority relating to goods or services provided to public officials and employees by state vendors.¹⁰ The Ethics Commission also works with the Board of Governors for Higher Education in the review of applications for exceptions to the Code made by state university inventors and researchers.¹¹

THE COMMISSION

The Commission is comprised of nine (9) Rhode Island citizens. Four (4) are appointed directly by the Governor; the other five (5) are appointed by the Governor from lists of nominees submitted by the President and the Minority Leader of the Rhode Island Senate, as well as the Speaker, the Majority Leader, and the Minority Leader of the Rhode Island House of Representatives, respectively. R.I. Gen. Laws § 36-14-8(a). No Commission member shall be appointed for more than one full five-year term, provided, however, that a member may continue to serve until a successor is appointed. R.I. Gen. Laws §

³ R.I. Gen. Laws § 36-14-5(a).

⁴ R.I. Gen. Laws § 36-14-7(a).

⁵ R.I. Gen. Laws § 36-14-6.

⁶ R.I. Gen. Laws §§ 36-14-5 & -6; Regulations 520-RICR-00-00-1.1.4; -1.2.1; -1.2.2; -1.3.1; -1.3.2; -1.4.1 to -1.4.4; -1.5.1 to -1.5.7.

⁷ R.I. Gen. Laws §§ 36-14-1 to -7; Regulations 520-RICR-00-00-1.1.4 to -2.1.

⁸ R.I. Gen. Laws §§ 36-14-12 to -14; Regulations 520-RICR-00-00-2.2; -2.7 to -2.10; -3; -4.1.

⁹ R.I. Gen. Laws §§ 41-9-1 to -6.

¹⁰ R.I. Gen. Laws §§ 36-14.1-1 to -4.

¹¹ R.I. Gen. Laws § 16-59-26.

36-14-8(c). While serving on the Commission, members are prohibited from holding or campaigning for public office, holding office in any political party or political committee, and participating in or contributing to any political campaign. R.I. Gen. Laws § 36-14-8(f). Additionally, Commissioners may neither directly nor indirectly attempt to influence any decision by a governmental body. R.I. Gen. Laws § 36-14-8(f).

Commission members serve as volunteers and receive no compensation whatsoever. During FY2018, the Commission conducted nineteen (19) meetings.

COMMISSION MEMBERS DURING FY2018

Ross Cheit (Chair) was nominated by the Senate Minority Leader and appointed by the Governor in 2004. The Commission elected him Secretary on February 12, 2008, Vice Chair on June 17, 2008, and Chair on April 19, 2011. He graduated from Williams College in 1977 and subsequently received a law degree from the University of California, Berkeley. After clerking for a judge on the Oregon Supreme Court, he returned to the University of California, Berkeley for a doctorate in Public Policy. He has been affiliated with Brown University since 1986 and is currently a Professor of Political Science and International & Public Affairs. Professor Cheit was a Fellow in the Ethics and Professions Program at Harvard University from 1990-1991. He was later a Faculty Fellow in the Ethics and Public Administration Program at the University of Rhode Island.

Marisa A. Quinn (Vice Chair) was appointed by Governor Gina M. Raimondo in March 2015. She serves as Chief of Staff in the Office of the Provost at Brown University, where she has worked in a variety of capacities since 1999, including as assistant to president for President Ruth J. Simmons, and Vice President for Public Affairs and University Relations. She began her career as a legislative aide to US Senator Claiborne Pell on the Subcommittee on Education, Arts and the Humanities. She subsequently served as policy advisor to New Jersey Governor James J. Florio; public affairs specialist at the Port Authority of New York and New Jersey; and chief of communications and public information at the Rhode Island Department of Elementary and Secondary Education. She graduated from the University of Rhode Island with a bachelor's degree in political science and earned a master's degree from the Eagleton Institute of Politics at Rutgers University. Ms. Quinn is currently a board member of RI Kids Count.

Robert A. Salk, DO, FACOG (Secretary) was directly appointed by the Governor in December 2012. The Commission elected him to serve as Secretary on November 18, 2014. Dr. Salk graduated from Boston University in 1979 and the University of New England (UNE), College of Osteopathic Medicine in 1983. He served as a Major in the United States Army from 1983 to 1991, during which time he completed his medical training with an internship at the William Beaumont Army Medical Center in El Paso, Texas, and a residency in Obstetrics/Gynecology at the Tripler Army Medical Center in Honolulu, Hawaii. During his military service, he served in Desert Storm and received a medal of distinction. He is board certified by the American College of Obstetrics and Gynecology. Dr. Salk previously served as the Director of Medical Education for the UNE medical student rotations at Kent County Memorial Hospital. In addition to treating patients at Caring for Women, Inc., in Warwick, Dr. Salk is also a Clinical Assistant Professor at Brown University and he participates in various committees at Women & Infants Hospital and Kent County Memorial Hospital.

James V. Murray was nominated by the House Majority Leader and appointed by the Governor in 1998. A resident of Warwick, Mr. Murray has served as Managing Attorney for Amica Mutual Insurance Company since 1993. Prior to joining Amica, he served as Managing Attorney to Cigna Corporation and Aetna Life & Casualty and as senior trial attorney for Travelers Insurance Company. He holds a B.A. in Government, *cum laude*, from Harvard University, and a J.D. from Suffolk Law School.

John D. Lynch, Jr. was nominated by the Speaker of the House and appointed by the Governor in 2009. The Commission elected him Secretary on October 16, 2012, and Vice Chair on November 18, 2014. Mr. Lynch, a sole practitioner in the Law Office of John Lynch, has achieved extensive experience in civil and criminal practice before the Rhode Island Family, District, Superior and Supreme Courts, as well as the United States District Court for the District of Rhode Island. Mr. Lynch was a member of the Rhode Island Trial Lawyers Association and the American Trial Lawyers Association, and is a member of the Kent County Bar Association, where he currently serves as a member of the Executive Committee. Mr. Lynch is a graduate of Boston College and received his J.D. from Nova Southeastern University School of Law.

M. Therese Antone, RSM was directly appointed by the Governor in February 2015. Sister Therese was appointed to serve as Chancellor of Salve Regina University in 2009, having previously served as President of Salve Regina from 1994 to 2009. A member of the Institute of the Sisters of Mercy of the Americas, she has had teaching and leadership experience at all educational levels. Her career at Salve Regina included tenure as a professor of mathematics and management and executive vice president for corporate affairs and advancement. She has also served as treasurer for the Sisters of Mercy, serving in Rhode Island, Massachusetts and Central America. Sister Therese has extensive governance experience, including service on the Diocesan Finance Council and the boards of the University of Detroit Mercy, Misericordia University, AAA New England, BankNewport, Lifespan Health Corporation and Beacon Mutual Insurance Company. She currently serves on the boards of the Newport Hospital Foundation, the Sisters of Mercy Investment Services and the Davis Educational Foundation. Sister Therese holds a doctorate from Harvard University in Education with emphasis in administration, planning and social policy, and a master's degree in mathematics from Villanova University. She completed the international senior executive program at MIT's Sloan School of Management. She has been the recipient of many honors and awards including the John E. Fogarty Achievement Award and the Mercy Higher Education Leadership Award, and she has been inducted into the Rhode Island Heritage Hall of Fame. Sister Therese was a Fulbright senior specialist at Krasnoyarsk University in Russia, and the state of Kentucky commissioned her as a Kentucky Colonel in 2008.

Timothy Murphy, MD was appointed directly by the Governor in February 2015. Dr. Murphy graduated from the six-year Medical Education Program at Boston University in 1987. His medical training included an internship at Cambridge Hospital in Cambridge, Massachusetts, and a residency in Diagnostic Imaging followed by a fellowship in Vascular and Interventional Radiology at Rhode Island Hospital/Warren Alpert Medical School of Brown University (Brown Medical School). In addition to his work at Rhode Island Medical Imaging, Dr. Murphy is the Director of the Vascular Disease Research Center at Rhode Island Hospital, is on the staff at Roger Williams Medical Center, Our Lady of Fatima Hospital and The Miriam Hospital, and is also a full professor, research track, in diagnostic imaging at Brown Medical School. He is a fellow in the Society of Interventional Radiology, the American College of Radiology, the American Heart Association, and the Society for Vascular Biology and Medicine.

J. Douglas Bennett was nominated by the House Minority Leader and appointed by Governor Gina M. Raimondo in December 2016. Mr. Bennett served on the Board of the Rhode Island State Council for the Arts, the Governors Health Care Advisory Council, as well as on the North Smithfield Town Council and the North Smithfield Board of Canvassers. Currently, Mr. Bennett is a Real Estate Broker and Partner with The Salzberg Real Estate Agency, a firm conducting residential and commercial business throughout Rhode Island and Southern Massachusetts. He was previously employed by Dow Reichhold Specialty Latex for 26 years, before retiring as a North American Business Manager responsible for several markets in the area of Construction Products, Heavy Highway Products, and North American Distribution. Mr. Bennett is a graduate of Fairfield University with a B.S. in Marketing.

Arianne Corrente was nominated by the Senate President and appointed by the Governor in June 2017. She currently serves as Director of Communications at the Rhode Island Foundation. Previously, Ms. Corrente was district director for U.S. Representative David Cicilline (RI-1). She has also worked in public affairs for Harvard University, served as deputy chief of staff for former Providence Mayor Angel Taveras, and partnered with many community clients in consulting roles at Advocacy Solutions and the Clarendon Group. She earned a B.A. in political science at the University of Connecticut. Ms. Corrente has also served in volunteer capacities on the boards of directors of the Women's Fund of R.I., Sophia Academy and on the Public Affairs Committee for the March of Dimes.

COMMISSION STAFF

The staff of the Ethics Commission is responsible for the daily operations of the agency. The Executive Director/Chief Prosecutor is the chief administrative officer. He directs all investigative and enforcement activities, prosecutes complaints before the Commission, litigates matters before the Superior and Supreme Courts of Rhode Island, and coordinates policy decisions of the Commission. The Education Coordinator designs, develops, and directs all educational programs, including seminars and publications; acts as a liaison to the public and the media; and coordinates the Commission's advisory opinion and public access programs. The Staff Attorneys oversee investigative matters, conduct prosecutions, represent the Commission in court litigation, and draft legal recommendations for the Commission regarding advisory opinions, legislation, and policy matters. The Investigators investigate complaints filed by the public and by the Commission, oversee preliminary investigations, and

process and review non-complaint information received by and/or referred to the Commission. The Office Manager and administrative staff maintain all financial disclosure and complaint records and provide administrative support to all Commission programs and activities. Considerable staff time is devoted to creating and maintaining accessible records for public inspection. The staff responds to hundreds of requests for information and for access to Commission public records.

In FY2018, the Commission staff was as follows:

Executive Director/Chief Prosecutor ¹²	Kent A. Willever, Esq./ Jason Gramitt, Esq.
Senior Staff Attorney	Katherine D'Arezzo, Esq.
Education Coordinator/Staff Attorney	Jason Gramitt, Esq.
Staff Attorney	Teodora Popova Papa, Esq.
Staff Attorney	Teresa Giusti, Esq.
Chief of Investigations	Steven T. Cross
Deputy Chief Investigator	Peter J. Mancini
Investigator	Gary V. Petrarca
Office Manager	Tracy Teixeira
Financial Disclosure Officer	Michelle R. Berg
Administrative Assistant	Alice Aieskoll/ Christine Andreozzi
Research Aide	Sherilyn Gutierrez

LEGAL COUNSEL

The services of the Commission's Legal Counsel are retained independently of the Executive Director and other Commission employees. Commission Legal Counsel responds to questions of law posed by Commission members and advises the Commission regarding advisory opinions and all other legal matters. The Commission's Legal Counsel in FY2018 was Herbert F. DeSimone, Jr., Esq.

BUDGET

The Commission's expenditures for FY2018 totaled \$1,637,934. This reflects an increase of \$33,701 from FY2017.

¹² Kent A. Willever, Esq. served as the Ethics Commission's Executive Director/Chief Prosecutor from August 2001 until his retirement on March 30, 2018. Mr. Willever was succeeded by Jason Gramitt, Esq., who had previously served as the Ethics Commission's Staff Attorney and Education Coordinator.

II. ADVISORY OPINIONS

Rhode Island General Laws § 36-14-11 authorizes the Ethics Commission to issue advisory opinions to public officials and employees, both at the state and municipal levels. Any public official or employee may request or petition that the Commission interpret the Code of Ethics and recommend specific actions in keeping with the requirements of the Code. Advisory opinions require an affirmative vote of five (5) of the nine (9) members of the Commission. Requests for advisory opinions must be made in writing and include the petitioner's position, the jurisdiction and powers of the department, agency, or public body on or for which he or she serves, and the nature of the potential conflict or other inquiry. Advisory opinions are issued in open session and are public records. Copies of advisory opinions are available at the Commission offices and advisory opinions issued since 1995 can be found on the Commission's website.

Advisory Opinion Process Flowchart	
The Commission receives a request for an advisory opinion.	
Does the request meet all of the following criteria: <ul style="list-style-type: none"> • Is it requested by the person affected or a representative thereof? • Does it concern prospective conduct? • Is it within the Commission's jurisdiction? 	
YES: An acknowledgement letter will be sent to the petitioner.	NO: A rejection letter will be sent to the petitioner.
NEXT: A staff attorney will draft a recommendation and, after review, the Executive Director will send it to the petitioner.	
The Commission reviews the draft at an open meeting and votes to approve, reject or amend the draft. Approval requires 5 affirmative votes.	
IF APPROVED: An advisory opinion is issued as a public record and a copy is sent to the petitioner.	IF REJECTED: No advisory opinion issues. The petitioner is so notified.

ADVISORY OPINION REQUESTS IN FY2018

The Commission received eighty-four (84) requests for advisory opinions in FY2018. Each request is assigned to a staff attorney, who contacts the petitioner to discuss the facts and obtain further information, conducts legal research, meets with the petitioner as necessary, and provides informal guidance. The staff attorney ascertains whether the Commission has jurisdiction and explains advisory opinion procedures to the petitioner. In FY2018, after an initial review, twenty-four (24) advisory opinion requests were withdrawn for some of the following reasons: the conduct was most likely prohibited and the petitioner decided to recuse rather than seek the opinion; the opinion was not requested by the person who had the potential conflict; the request was based on a set of hypothetical facts; the petitioner did not have specific information necessary to issue an advisory opinion or the request became moot.

Sixty-Two (62) advisory opinions were issued in FY2018: eleven (11) were issued to state employees; three (3) were issued to state appointed officials; four (4) were issued to state elected officials; twelve (12) were issued to municipal appointed officials; four (4) were issued to municipal employees; twenty-eight (28) were issued to municipal elected officials.

The advisory opinions issued in FY2018 encompassed a variety of issues, including: business associates, nepotism, recusals, budget, bias, financial interests, property interests, potential conflicts arising from a public official or employee's private employment, lobbying, service in dual public roles, the post-employment revolving door provision, and matters involving the hardship or class exceptions, which allow a public official to participate in a matter which would otherwise constitute a conflict of interest.

ADVISORY OPINION KEYWORD INDEX

Advisory opinions issued in FY2018 addressed a variety of keyword topics. Because requests often raise multiple issues, the number of topics addressed in advisory opinions exceeds the total number of advisory opinions issued.

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Budget.....1	Lobbying1
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Candidate.....1	Post-Employment..... 4
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Family: Private Employment.....1	Revolving Door.....7
Family: Public Employment.....4	Secondary Employment.....1
Family: Supervision3	Unions.....1
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III. EDUCATION

The statutory provisions of the Rhode Island Code of Ethics authorize the Ethics Commission to establish an education program. R.I. Gen. Laws §§ 36-14-9(a)(14) & -10. The program's purpose is to educate public officials, public employees, and all Rhode Island citizens regarding the Code of Ethics and Commission procedures. The program includes seminars and workshops, as well as the production and dissemination of handouts and other publications explaining the Code of Ethics.

The Commission employs an Education Coordinator to conduct outreach and training for public officials and employees at all levels of government, crafting objectives and content for presentations that best meet the needs of a specific agency or department. Seminars and workshops incorporate issues that arise under the Code of Ethics in both the advisory opinion and complaint contexts. The educational sessions are provided in an interactive presentation format and vary in duration, depending on the needs and goals of the agency or department. Commission publications are provided during these presentations and are also available at the Commission offices and on its website.

The seminar program is designed to be easily tailored to the unique governmental roles and responsibilities of its participants. Each class is built around a core curriculum. In addition, the governing statutes, policies, and procedures of the sponsoring agency and the job descriptions, powers, and duties of the participants are taken into account so as to focus the discussion on the most relevant sections of the Code of Ethics. The Education Coordinator enriches the program with real-world examples of Code applications. Whenever possible, seminars are provided at the worksites or meeting places of the participants. Most programs are provided at no cost to the sponsoring agency, although occasionally agencies are asked to assist the Ethics Commission with the costs of duplicating handouts used in the program.

EDUCATIONAL WORKSHOPS PROVIDED IN FY2018

In FY2018, the staff provided fifty-five (55) workshops, seminars and presentations to over 1,900 individuals across the state. Among the municipal entities receiving training were the Towns of Portsmouth, Barrington, Johnston, New Shoreham, the West Warwick Housing Authority, the Department Heads of the City of Cranston, as well as the Providence Public Safety Department and Providence Parks and Recreation.

Additionally, at the state level training was provided to various departments of state government including: the Rhode Island House of Representatives, Rhode Island Senate, the Office of the Secretary of State, the Office of the General Treasurer, Department of Transportation, Department of Labor and Training, Office of Secretary of State Lobbyist, Department of Elderly Affairs-Volunteers, New State Employees, Department of Environmental Management-Water Resource Boot Camp, Rhode Island Student Loan Authority, Rhode Island State House Restoration Society, Rhode Island Council on the Arts, University of Rhode Island-Purchasing Department, Coastal Resources Management Council, Executive Office of Health and Human Services-Attorneys, and William M. Davies, Jr. Career and Technical High School Board of Directors.

Seminars were also provided to several professional organizations whose membership is primarily comprised of public officials, including the Rhode Island Accountants and Auditors Institute, the Rhode Island League of Cities and Towns, the Rhode Island Association of Tax Collectors, the Rhode Island Association of Assessing Officers, the League of Women Voters of Rhode Island, the Rhode Island Association of School Principals and the Workforce Partnership of Greater Rhode Island.

The Commission's Education Coordinator also presented a guest lecture to a class of students in the University of Rhode Island Masters of Public Administration program. Other workshops were given to various international delegations including the Defense Institute of International Legal Studies group from the Czech Republic – Anti Corruption and the American Bar Association World Delegates-Peru judges and prosecutors.

TELEPHONE AND WALK-IN INQUIRIES

In FY2018, the Commission continued its efforts in responding to telephone inquiries from government officials, public employees, and the public at large. Each business day, a Commission staff attorney or investigator was assigned as the public contact to respond to numerous phone calls, emails and walk-in visitors in need of information or guidance. While not offering legal advice, the staff provided information, copies of past advisory opinions, and educational publications. Although many of the calls involved questions about advisory opinions or complaints, other matters included questions about financial disclosure, recusal, whether a particular matter fell within the Commission's jurisdiction, gifts, dual public roles, revolving door, private employment, nepotism, and other requests for information.

IV. FINANCIAL DISCLOSURE

The Ethics Commission is empowered by the Rhode Island Constitution to adopt provisions of the Code of Ethics governing financial disclosure by public officials. The purpose of requiring financial disclosure is to help ensure that those public officials and employees acting in their public interest do not use their public positions to further their private financial interests. The financial disclosure statement also provides evidence that there are no conflicts between an official's financial interests and his or her public duties. All financial disclosure statements are public records.

By statute, financial disclosure to the Ethics Commission is required of: (a) all state and municipal elected officials; (b) candidates for state or municipal elective office; (c) most state and municipal appointed officials; and (d) some state employees who serve in major decision-making positions.

Financial disclosure statements are filed annually. Officials are required to disclose major assets and sources of occupational income, including those of a spouse and any dependent children. Officials must also disclose whether they, their spouses, or any dependent children hold an interest in any business regulated by the Rhode Island government or in any enterprise which engages in business transactions with the government. Additionally, officials must disclose the name and address of any person, business, or organization which is owed more than one thousand dollars (\$1,000) by the official, a spouse, or a dependent child.

Most officials are not required to disclose the dollar amount or value of any income, asset, or debt. However, the five General Officers (Governor, Lieutenant Governor, Attorney General, Secretary of State, and Treasurer) and any candidates for a general office must disclose both the source and amount of any income, occupational or otherwise, that is greater than two hundred dollars (\$200).

FINANCIAL DISCLOSURE PROCESS

In FY2018, Commission staff processed the filing of calendar year 2017 financial disclosure statements for approximately 3,758 officials. Databases are used to create and maintain lists of officials subject to financial disclosure requirements. Commission staff continuously update these databases when people declare as

candidates, elections are held, appointments are made, terms end, officials resign, new positions are created, and former agencies and commissions are disbanded. Accordingly, the statistics relative to the 2017 financial disclosure filings continue to change even after the close of the fiscal year.

Public officials and employees who are required to file financial disclosure statements are identified by the city and town clerks, fire districts, and leaders of state departments and agencies. Lists containing the names of such filers are transmitted to Commission staff. Thereafter, financial disclosure forms and instructions are mailed to required filers in March of each year. Financial disclosure forms and instructions are also mailed throughout the year to newly installed officials and employees upon receipt by the Commission of official written notice of their election, appointment or hiring.

Financial disclosure statements for each calendar year must be filed by incumbent filers no later than the last Friday in April of the following year. For example, the 2017 financial disclosure statement was due to be filed by the last Friday of April 2018. Some filers request and are granted a sixty (60) day extension for filing, extending the due date until late June.

The Commission staff dedicates significant attention and resources to encouraging compliance with the financial disclosure requirement. Although not required by statute or regulation, the Ethics Commission has developed and implemented a series of procedures referred to as "Operation Compliance," which are aimed at improving the financial disclosure compliance rate. Pursuant to Operation Compliance, which extends beyond the end of each fiscal year, public officials who have not filed by the April deadline, or by the June extension if applicable, are mailed a reminder letter that contains a clear warning that non-filing may result in a formal complaint and the imposition of a civil penalty. This letter generally provides a short amnesty period during which no complaint will be initiated by Commission staff if the required filing is made.

Another Operation Compliance procedure involves the Commission staff personally contacting Rhode Island city and town solicitors, clerks and state officials to provide them with lists of non-filers in their municipalities or departments. The Commission staff requests that these non-filers be contacted by their own staff and encouraged to comply with the filing requirement, in an effort to further reduce the need to initiate prosecutions or impose monetary penalties.

The final phase of Operation Compliance involves the initiation of the complaint process. Officials who still have not complied at this point are subject to having complaints filed against them. Each year, the Commission staff initiates non-filing complaints against elected officials who have failed to file, and depending upon Commission resources, against appointed officials. Care is taken to ensure fairness in the complaint process so that, for instance, complaints are always filed against all non-filers in the same category (e.g. Town Council or School Committee members).

These policies and procedures, including Operation Compliance, are repeated in each successive filing year. It is the goal of the Commission to improve financial disclosure compliance each year in an effort to achieve a rate of 100% compliance.

COMPLIANCE IN FILING THE 2017 FINANCIAL DISCLOSURE STATEMENT

Calendar year 2017 financial disclosure statements for incumbent officials and employees were required to be filed on or before April 27, 2018. There was a timely compliance rate as of that date of 80%, which reflects an increase of 5% from the previous year. At the close of the fiscal year the compliance rate had reached 93%. Compliance for the 2017 filing year ultimately reached 99% during FY2019.

ONLINE FILING STATISTICS

	2011 FDS	2012 FDS	2013 FDS	2014 FDS	2015 FDS	2016 FDS	2017 FDS
Total Number of Statements filed to date	3,996	3,881	4,085	4,242	4,418	4,174	4,554
Number of Statements filed online	2,280	2,572	2,788	3,136	3,480	3,419	3,831
Percentage of Statements filed online	57%	66%	68%	74%	79%	82%	84%

V. INVESTIGATIONS AND ENFORCEMENT

THE COMPLAINT PROCESS

The Ethics Commission is constitutionally and statutorily empowered to enforce the Code of Ethics. R.I. Const. art. III, sec. 8; R.I. Gen. Laws §§ 36-14-12 to -14. The Commission's enforcement powers include the authority to accept or initiate complaints alleging Code violations, investigate and adjudicate those complaints, and impose civil penalties.

Filing a Complaint

Prior to filing a complaint, potential complainants are encouraged to contact the Commission by telephone to speak with a member of the Investigative staff during Commission business hours. Those contemplating filing a complaint may also arrange to come in during office hours to discuss with Investigative staff the procedure, the substance of a potential complaint, or any other questions they might have before actually filing a complaint. While those considering filing a complaint are encouraged to contact Commission staff first, it is not mandatory to do so prior to the actual filing of a complaint. Complaints must be filed on a proper complaint form, available at the Commission's office, allege conduct that is prohibited by the Code of Ethics, and be signed and notarized.

Within three (3) working days of receiving a complaint, the Executive Director will either accept it for filing or reject it based on jurisdictional, statutory or regulatory defects. In the event that a complaint is accepted for filing, the Commission mails copies of the complaint, notification of receipt of complaint the Code of Ethics, and Commission Regulations to the complainant and to the respondent. The Commission thereafter sends timely notices of subsequent Commission actions to the complainant and respondent as required by the Code. All complaints are public records after being accepted for filing.

Limitations Period on Filing of Complaint

"Any Complaint shall be filed with the Ethics Commission no later than six (6) years from the date of the alleged violation of the Rhode Island Code of Ethics." Regulation 520-RICR-00-00-3.1 Limitations Period on Filing of Complaint (1001.1).

Initial Determination

At this first stage of review, the Commission determines whether the complaint properly alleges facts sufficient to constitute a violation of the law. Meeting during a closed executive session, the Commission either decides to dismiss the complaint or to initiate an investigation. The decision to investigate does not address the validity of the complaint; rather, it merely indicates that the allegations properly fall under the provisions of the Code of Ethics. Neither the complainant nor the respondent participates in the Initial Determination.

Informal Resolution & Settlement

At any time subsequent to the Initial Determination of a complaint, the Prosecution and the respondent may seek an informal disposition through an agreed-upon settlement, consent order, or other informal resolution of the pending complaint. This may entail an informal conference between the parties in an effort to reach an agreeable disposition. The information learned during an informal conference shall not be used as evidence in any subsequent proceeding. Any informal disposition of a pending complaint shall be subject to the approval of the Commission during a closed executive session. Once approved by the Commission, the Informal Resolution & Settlement Agreement and any Orders issued regarding the complaint become public documents.

Investigation

The investigation may involve the gathering of documentary evidence as well as oral and written statements taken under oath or affirmation. The Commission may also issue subpoenas to compel the production of evidence or the sworn testimony of witnesses. The time for investigation is limited to 180 days after the complaint is filed, unless the Commission approves an extension for good cause, with a maximum of two such 60-day extensions. All pleadings and orders relating to the investigative phase become public after a probable cause hearing.

Probable Cause Hearing

The purpose of a probable cause hearing is to determine whether sufficient evidence exists to support that a violation of the Code has or is being committed. An Investigative Report is prepared by the staff prior to a probable cause hearing. The respondent is mailed a copy of the Investigative Report at least 14 days prior to a scheduled hearing. The probable cause hearing is held during a closed executive session, but the respondent and/or the respondent's counsel may be present. At the hearing, the Prosecution presents the results of the investigation.

The Commission reviews the Investigative Report of the Prosecution as well as any response or other written information submitted by the respondent. The Commission may then vote to dismiss the complaint for lack of evidence, find that probable cause exists to support the allegations, and/or amend the complaint if the investigation reveals probable cause exists to believe that other violations of the Code of Ethics have occurred. The Investigative Report becomes a public record after the completion of a probable cause hearing. All pleadings and Commission orders filed after a probable cause hearing are immediately public.

Adjudicative Hearing

If the Commission finds that probable cause exists to support the allegations, an adjudicative hearing is scheduled, providing at least 15 days prior notice to the respondent. This is an adversarial hearing. Pursuant to Commission Regulations, the Prosecutor and the respondent may conduct discovery, present evidence and examine witnesses. Additionally, Commissioners may also question witnesses. All procedures are governed by the rules of evidence and the principles of due process. The Prosecutor must prove by a preponderance of the evidence that the respondent committed a knowing and willful violation of the Code. A stenographic record is kept, and the hearing is conducted during an open and public session.

Final Disposition

Following adjudicative matters, the Commission may meet in closed session, whenever deliberations are in order, to deliberate and determine whether there has been a knowing and willful violation of the Code of Ethics. Upon a finding of a violation, the Commission may: (a) issue a cease and desist order; (b) require the respondent to file any statement mandated by the Ethics Code; (c) impose a civil fine of up to \$25,000 per violation and the return of any unjust enrichment; (d) refer the entire record of its proceedings to the attorney general; and/or (f) for more egregious violations, remove from office any official not subject to impeachment.

Judicial Review

All final orders of the Commission are subject to review by the Rhode Island Superior and Supreme Courts pursuant to the Administrative Procedures Act. R.I. Gen. Laws § 36-14-15 and Commission Regulation 520-RICR-00-00-3.29 Judicial Review (1022).

Whistleblower Protection

Complainants and witnesses have rights under the Rhode Island Whistleblower Act (R.I. Gen. Laws §§ 28-50-1 to -9) and may also bring a civil action in Superior Court within three years after being threatened or intimidated in any proceeding before the Ethics Commission.

Frivolous Complaints

The Code of Ethics provides that “no person shall knowingly and willfully make a false or frivolous complaint under this chapter.” R.I. Gen. Laws § 36-14-5(k).

PENDING COMPLAINTS AND ENFORCEMENT ACTIONS

The Commission prosecutes two types of complaints: conflict of interest complaints for alleged substantive violations of the Code of Ethics, and non-filing complaints for the failure to timely file financial disclosure statements.

Conflict of Interest Complaints

As FY2018 began, there were two (2) outstanding conflict of interest complaints pending before the Ethics Commission. During FY2018, fourteen (14) conflict of interest complaints were filed. The Commission issued final orders in eight (8) cases during FY2018:

- 3 cases settled with imposition of civil penalties totaling \$2,000, of which \$2,000 were collected.
- 5 cases were dismissed at various stages of the investigation.

At the close of FY2018, 8 conflict of interest complaints were pending.

Non-Filing Complaints

At the start of FY2018, there were no outstanding non-filing complaints. During FY2018, twenty-three (23) non-filing complaints were filed for the failure to timely file calendar year 2016 financial disclosure statements. The Commission issued final orders in all 23 cases during FY2018:

- 22 cases were settled. All of the cases carried a \$100 civil penalty each, which were all collected;
- 1 case was adjudicated with the imposition of \$750 civil penalty.

At the close of FY2018, there were no outstanding non-filing complaints.

COLLECTION OF OUTSTANDING CIVIL PENALTIES

Civil penalties imposed by the Ethics Commission are paid to the state's general fund. Most respondents pay the civil penalty imposed by the Commission shortly after the penalty is imposed. If payment in full cannot be made immediately, the Commission will frequently enter into payment agreements with a respondent to collect the outstanding balance over time. If such an agreement cannot be reached, the Executive Director forwards outstanding balances to a debt collection agency that has entered into a master price agreement with the State of Rhode Island.

In FY2015, the Executive Director entered into a memorandum of understanding with the Rhode Island Division of Taxation for collection of outstanding civil penalties through the Rhode Island Division of Taxation Income Tax Refund Offset Program (R.I. Gen. Laws § 42-142-7). If a debtor is owed a state tax refund, their refund will be offset up to the amount owed to the Ethics Commission. This service is provided by the Division of Taxation at no cost to the Ethics Commission.

In FY2018, the Commission collected the total amount of \$4,958.64 toward outstanding balances as follows:

- Payments directly from Respondents totaling \$3,050.00;
- Collections by Rossi Law Offices totaling \$780.00;
- Division of Taxation Income Tax Refund Offset totaling \$1,128.64.

PRELIMINARY INVESTIGATIONS

Preliminary investigations may be initiated upon a determination by the Executive Director that information provided to or in the possession of the Commission and/or Commission staff establishes a reasonable basis to believe that a state or municipal official or employee has violated the Code. Commission Regulation 520-RICR-00-00-3.4 Preliminary Investigations (36-14-12001). The Executive Director is required to notify the Commission whenever such an investigation is initiated. All materials relating to the investigation shall remain confidential, except that access may be granted to any federal, state, or municipal law enforcement agency, or disclosed in a complaint, or after a finding of probable cause, in accordance with R.I. Gen. Laws § 36-14-12(c)(4). Following the Preliminary Investigation, the Executive Director may choose to file a formal complaint beginning an enforcement action.

The Executive Director initiated one Preliminary Investigation in FY2018, PI No. 2018-1. The Preliminary Investigation resulted in the filing of a complaint and an informal resolution and settlement for a civil fine of \$250.00.

VI. TECHNOLOGICAL ADVANCES

THE ONLINE FILING INITIATIVE

In FY2011, the Ethics Commission and the Rhode Island Department of Administration entered into a contract with Rhode Island Interactive, LLC (RI.gov) for the development, hosting and maintenance of an online filing system for financial disclosure. Development continued into FY2012 for a roll-out on March 30, 2012, when the system began accepting the filing of calendar year 2011 financial disclosure statements.

RI.gov was paid on a per filing basis at a rate of \$2.50 per filing for the 2011, 2012, 2013, 2014 and 2015 financial disclosure statements. This rate was reduced to \$0.50 per filing for the 2016 financial disclosure statements and for the financial disclosure statements for the calendar years thereafter. As part of the initial contract, the Department of Administration agreed to pay all costs associated with the first year of filing the 2011 forms.

ONLINE FILING PROCESS AND PROCEDURES

The Commission generates a unique PIN number and Person ID number, which are distributed along with online filing instructions in a letter that accompanies the hard copy form and instructions mailed to each filer in March of each year. Filers access the online filing system through the Commission's website. Once logged in, filers can begin answering questions and log out at any time, and any answers that have been inputted will be saved for later filing. The online statement cannot be submitted until all questions have been answered. At submission, the filer is asked to provide an email address so that a confirmation and a PDF copy of the form can be sent. Email addresses do not appear on the printed form.

PHASE II OF ONLINE FILING

After the successful launch of the online filing system during FY2012, the Commission worked with its partners to develop and implement Phase II of the online filing project. This involved adding functionality to the system to allow

for the filing of multiple years' forms and for the migration of the content entered on the 2011 form to the filer's 2012 form. This migration of information was intended to help filings maintain consistency year to year and to increase the ease and speed of filing.

Phase II also created the ability for filers to amend their previous online filings at any time by logging into the online filing system. Amendments can only add to a previously filed form; no submitted answers may ever be deleted. All amendments carry their own date/time stamps. Amended forms are processed in the same way as original forms, and the amended form replaces the original in the database. There is no additional cost to the Commission for amendments pursuant to the contract with RI.gov.

VII. PUBLIC RECORDS

The Rhode Island Ethics Commission is a public agency, subject to the requirements of the Access to Public Records Act (APRA). R.I. Gen. Laws §§ 38-2-1 to -15. All persons are welcome to inspect public records during regular business hours, 8:30 a.m. to 4:30 p.m., Monday through Friday, except on state holidays.

Copies of public records may be obtained in person, requested via email at ethics.email@ethics.ri.gov, by fax at (401) 222-3382, by calling the Commission at (401) 222-3790 (voice/TT), or via Rhode Island Relay, a telecommunications service for persons with hearing or speech disabilities, at 711. A fee of \$0.15 per page may be charged for copies; however, many records may be provided free of charge via email.

PUBLIC RECORDS REQUEST GUIDELINES & PROCEDURES

The Commission's Public Records Request Guidelines and an accompanying Public Records Request Form can both be found on the Commission's website and at the Commission offices.

Most public records requests result from a phone call or email communication with a Commission staff member. A written request is not required to inspect Commission public records. However, a person may be asked to submit a written request where it involves: search and retrieval; multiple categories of records; voluminous documents; redaction; documents in storage; or other such circumstance. A copy of the Commission's Public Records Request Form may

be completed or a request may otherwise be submitted in writing. APRA allows a public body ten (10) business days to respond, which can be extended an additional twenty (20) business days for “good cause.”

Commission staff members are trained in APRA procedures and work together to promptly respond to requests for public records. Public records requests are primarily completed by administrative staff, but investigators and staff attorneys will also complete requests. Staff attorneys assist all other staff members in complying with the statutory requirements of APRA.

PUBLIC RECORDS REQUEST STATISTICS

APRA Requests	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Percentage Completed within 1 Business Day	75%	85%	98%	94%	96%	95%	95%
Percentage Completed within 10 Business Days	98%	100%	100%	100%	100%	100%	100%
Percentage Completed via email	88%	85%	87%	90%	90%	90%	81%
Percentage Involving Financial Disclosure Statements	60%	65%	62%	77%	74%	73%	66%

PUBLIC RECORDS AVAILABLE ON THE WEBSITE

The public can access the following types of public records on the Commission’s website: the full-text of all individual advisory opinions from 1995 to the present; Decisions & Orders following adjudications and Settlements & Orders issued by the Commission regarding complaint matters from 1998 to the present; the entire Code of Ethics in Government and Regulations; Commission meeting schedules and agendas; open session minutes from 2007 to the present; updated educational materials; downloadable forms; and the most recent annual report.

PUBLIC RECORDS NOT AVAILABLE ON THE WEBSITE

Commission records not available on the website can be easily requested by contacting the Commission in person, or by phone, email or fax. Many documents can be promptly provided to the requester via email, free of charge. Additionally, all of the public records available on the Commission’s website are also available at the Commission offices for anyone who prefers to contact the Commission directly.

Financial Disclosure Statements

Financial disclosure statements are the most commonly requested public records at the Commission. All financial disclosure statements filed since 2005 have been scanned and can be quickly provided to the public via email and free of charge. Records dating prior to 2005 are held at an off-site storage facility but can be ordered and provided to the public within a few business days.

Records within the Public Complaint File

Complaints are public records from the date they are accepted for filing. Other public records relating to a complaint include: any written response filed by the respondent, all orders issued by the Commission, notices of meetings and hearings, any motions filed, and a docket of Commission actions. After a probable cause hearing or dismissal, the investigative report and all pleadings and Commission orders relating to the investigative phase become public records. All pleadings and Commission orders filed after a probable cause hearing are public records.

All Other Commission Public Records

In addition, the Commission maintains many other public records which may not be on the website but are still available to the public after making a request in person or by email, phone or fax. These public records include, but are not limited to: advisory opinions; advisory opinion request letters; minutes of open session meetings; recusal statements; correspondence; regulations and much more.

VIII. PUBLIC ACCESS

INTRODUCTION

The Rhode Island Ethics Commission is a public agency, subject to the requirements of the Open Meetings Act (R.I. Gen. Laws §§ 42-46-1 to -14); the Access to Public Records Act (R.I. Gen. Laws §§ 38-2-1 to -15); the Administrative Procedures Act (R.I. Gen. Laws §§ 42-35-1 to -18); and the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 to 12213).

OPEN MEETINGS

The public is welcome to attend all open meetings. Advisory opinion requests, declaratory rulings, adjudicative hearings, public hearings on proposed regulations, and staff and committee reports are conducted during open meetings. However, initial determination reviews, informal resolution and settlement reviews and probable cause hearings are conducted during executive sessions, which are closed to the public. Notices of all meetings are posted at the State House, at the Commission offices, on the Commission's website and with the Rhode Island Secretary of State.

WEBSITE

The Commission's website is located at <http://www.ethics.ri.gov>. It contains basic information about the Commission's history and powers, its members, the Code of Ethics, advisory opinions, education, investigations, and financial disclosure. A search page allows users to search the entire website. The website also provides staff contact information. There is an RSS feed with continuously updated media happenings and news briefs after each Commission meeting.

FORMS

All Ethics Commission forms are available at the Commission offices. Additionally, PDFs of the recusal form, financial disclosure statement and the Public Records Request Form may be downloaded from the Commission's website.

EDUCATIONAL MATERIALS

All educational materials are available to the public. Materials include the Code of Ethics, summaries of advisory opinions, brochures explaining Commission procedures, and Annual Reports.

ACCESS FOR PERSONS WITH DISABILITIES

The Ethics Commission has a strong commitment to ensuring and improving access for persons with disabilities. Reasonable accommodations are made to afford public officials and the general public access to the Commission's meetings and documents. Any person requesting a reasonable accommodation because of a disability may contact the Commission's A.D.A. coordinator by

calling the Commission during regular business hours or writing to its office address.

RHODE ISLAND GOVERNMENT OWNER'S MANUAL

Information about the Ethics Commission is also listed in the Rhode Island Government Owner's Manual, which is published annually by the Rhode Island Office of the Secretary of State.

IX. STATUTORY, REGULATORY AND POLICY CHANGES

INTRODUCTION

The Rhode Island Constitution empowers the Commission to “adopt a code of ethics.” R.I. Const. art. III, sec. 8. Statutory provisions authorize the Commission to prescribe and publish, after notice and public hearings, rules and regulations to carry out the provisions of R.I. Gen. Laws §§ 36-14-1 to -21. The Commission’s authority to enact a code of ethics is concurrent with that of the General Assembly. Due to this concurrent authority of the Commission and the General Assembly in the area of ethics, the Code contains both regulations adopted by the Commission and statutes passed by the General Assembly. Accordingly, changes in the Code may come from either body.

CURRENT VERSION OF CODE OF ETHICS

Due to the fact that the Code of Ethics is comprised of statutory and regulatory provisions, the complete Code of Ethics cannot be found solely within either the Rhode Island Code of Regulations (RICR) or the Rhode Island General Laws. Instead, the Commission publishes a complete Code of Ethics, with regulatory and statutory provisions combined, on its website at <http://www.ethics.ri.gov> and in hard copy available at the Ethics Commission’s office at 40 Fountain Street, 8th Floor, Providence, Rhode Island 02903. New copies of the Code are printed after there has been a statutory or regulatory change.

CHANGES TO THE CODE OF ETHICS IN FY2018

In May 2018, the Ethics Commission codified the Code of Ethics into the Rhode Island Code of Regulations (RICR), an online, uniform code of all proposed and final regulations filed by state agencies, boards and commissions under the state's Administrative Procedures Act.¹³ As a result, the regulatory provisions of the Code of Ethics were renumbered in accordance with the new uniform format. In order to minimize any inconvenience and to assure a smooth transition, the Commission preserved the "old" regulation numbers in parenthesis with in the title of each regulation.

In February 2018, the Commission held a public workshop to obtain public input on potential changes to Regulation 520-RICR-00-00-3.11 Finding of Probable Cause (1006) (formerly, Commission Regulation 1006). The Commission asked the public: 1) whether the Commission should issue a publicly-available, written decision any time it dismisses a complaint at the Probable Cause Hearing, providing the Commission's rationale and basis for the dismissal; and 2) whether the Commission should continue to make public the Prosecutor's Investigative Report after the Probable Cause Hearing, including in cases where the complaint is dismissed because there is not enough evidence to prove violation of the Code of Ethics. Subsequently, at the close of FY2018, the Commission posted a Public Notice of Proposed Rulemaking inviting public comment on the proposed change of Regulation 520-RICR-00-00-3.11(A) & (C)(1). The Rulemaking Process continue into and concluded in FY2019 with the amendment of Regulation 520-RICR-00-00-3.11(C)(1) by adding a language requiring that when the Ethics Commission dismisses a complaint following a probable cause hearing, it must prepare and issue a public, written Decision and Order explaining the basis for the dismissal.

GENERAL COMMISSION ADVISORY OPINIONS IN FY2018

General Commission Advisory (GCA) Opinions are intended to provide the public with a general overview of the Commission's interpretation of specific subject areas with examples and a list of previously issued relevant advisory opinions. The GCAs issued from 2009 to the present are available on the Commission's website or by contacting the Commission directly and making an APRA request. The Commission did not adopt any GCAs in FY2018.

¹³ RICR can be found at <http://sos.ri.gov/divisions/Open-Government/State/rules-and-regulations>.

X. LITIGATION

All final orders of the Ethics Commission in contested cases may be appealed to the Rhode Island Superior Court, pursuant to the Administrative Procedures Act, R.I. Gen. Laws § 42-35-15. Parties may also petition the Rhode Island Supreme Court for review. The Commission may initiate District Court actions to collect unpaid fines and may initiate Superior Court actions where judicial intervention is necessary to enforce the orders of the Ethics Commission.

LITIGATION IN FY2018

During FY2017, Mr. Luis Aponte (Mr. Aponte), filed a Complaint for Declaratory Judgment in the Rhode Island Superior Court, C.A. No. PC-2017-1557, Luis Aponte v. The Rhode Island Ethics Commission, arguing that he was entitled to common-law legislative immunity from prosecution for alleged violations of the Code of Ethics. This litigation was in response to an ethics complaint filed by a member of the public, Complaint No. 2016-13, against Mr. Aponte, alleging that he had violated the Code of Ethics by voting, as a member of the Providence City Council, on two separate occasions on a zoning amendment financially benefiting his landlord and business associate. The Superior Court litigation continued and concluded in FY2018. In December 2017, the Superior Court found that Mr. Aponte was not immune from the Commission's enforcement of the Rhode Island Code of Ethics based upon the Commission's express grant of authority over local legislators under Article III, Sections 7 and 8, of the Rhode Island Constitution. Therefore, the Court dismissed Mr. Aponte's Complaint for Declaratory Judgment.

During FY2018, Mr. Antonio S. Fonseca (Mr. Fonseca), filed a three-count Complaint in the Rhode Island Superior Court against the Commission, C.A. No. PC-2017-3591, Antonio S. Fonseca v. Rhode Island Ethics Commission et al., for Declaratory Judgment, Injunctive Relief, and Invasion of Privacy, relative to the Commission's previous release of the Prosecution's Investigative Report issued in Complaint No. 2015-9, filed with the Commission against Mr. Fonseca. Mr. Fonseca sought a jury trial and compensatory damages up to \$100,000. Mr. Fonseca's declaratory judgment count sought a ruling by the Court that Commission Regulation 36-14-1006(a) (now, Regulation 520-RICR-00-00-3.11(A) Finding of Probable Cause (1006)) was an invalid exercise of the Commission's authority, and his claim for injunctive relief sought to enjoin the Commission from further distribution of the Investigative Report. The case was

dismissed under a Settlement Agreement which terms provided that the Commission would not pay damages or attorney's fees, but it agreed not to further release the Investigative Report and to initiate a rulemaking process to consider amending Regulation 36-14-1006(a).

XI. DECLARATORY RULINGS

The Ethics Commission, under Commission Regulation 36-14-1025, accepts petitions from any interested person seeking a "declaratory ruling" clarifying the applicability of the Code of Ethics. Such rulings have the same status as Commission orders in contested cases and may be challenged in Superior Court.

All declaratory rulings are public records. Declaratory rulings are issued in open session following a public hearing. Notices of all hearings and open meetings are posted and the public may attend.

The Commission received no requests for declaratory rulings in FY2018.

For additional information, contact:

Rhode Island Ethics Commission
40 Fountain St., 8th Floor
Providence, RI 02903

Tel.: (401) 222-3790
TTY/TDD: 711
Fax: (401) 222-3382

E-mail: ethics.email@ethics.ri.gov
Website: <http://www.ethics.ri.gov>