

COMMONWEALTH OF KENTUCKY

**EXECUTIVE BRANCH
ETHICS COMMISSION**



BIENNIAL REPORT

JULY 1, 2015 - JUNE 30, 2017

**25 YEAR STATISTICS
JULY 1, 1992 – JUNE 30, 2017**

Printed with State Funds
2019

EXECUTIVE BRANCH ETHICS COMMISSION
BIENNIAL REPORT
FISCAL YEARS ENDING JUNE 30, 2016 AND 2017
25 YEAR STATISTICS
JULY 1, 1992 – JUNE 30, 2017

COMMISSION MEMBERS

W. David Denton Chair, January 28, 2015 (member through July 14, 2017)	Richard L. Masters (member through July 14, 2016)
William G. Francis Vice-Chair, January 28, 2015 (member through July 14, 2018)	Justice Martin E. Johnstone (Ret.) (member through July 14, 2016)
Judge Sheila Isaac (Ret.) (member through July 14, 2019)	Christopher L. Thacker (member through July 14, 2020)
	Theresa F. Camoriano (member through July 14, 2020)

STAFF

John R. Steffen, Executive Director
(resigned May 15, 2015)

Kathryn H. Gabhart, Executive Director
(General Counsel through November 1, 2015; Interim Executive Director through May 15, 2015;
Executive Director November 1, 2015 to present)

Misty Judy Dugger, General Counsel
(November 1, 2015 – August 15, 2017)

Debbie Briscoe, Executive Assistant

Bill Trigg, Staff Assistant

Jenny May, Administrative Assistant

Jeffrey M. Jett, Investigator (resigned December 16, 2017)

Gregory Motley, Investigator (March 2, 2017 – February 1, 2018)

Drew Watkins, Law Clerk (May 23, 2016 – August 24, 2016)

James Yoder, Law Clerk (May 15, 2017 – February 1, 2018)

Anna Reynolds, Paralegal (September 26, 2016 – February 24, 2017)

* Capital Complex East
1025 Capital Center Drive, Suite 104
Frankfort, Kentucky 40601
(502) 564-7954
FAX (502) 695-5939
<http://ethics.ky.gov/>

*Offices previously located at 3 Fountain Place, Frankfort, Kentucky 40601 during the period of this Biennial Report.

The Executive Branch Ethics Commission's goal is to promote the ethical conduct of state officials and employees and to ensure proper regulation of executive agency lobbyists and their employers. This report covers the activities of the Ethics Commission during the fiscal years ended June 30, 2016, and June 30, 2017 as required by KRS 11A.110(13). It is intended to serve as a guide to the responsibilities of the Commission and as a record of its major activities and decisions during the biennium.



COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
<http://ethics.ky.gov/>

CHRISTOPHER L. THACKER
CHAIR

CHRISTOPHER W. BROOKER
VICE CHAIR

APRIL A. WIMBERG
HOLLY R. IACCARINO
KYLE M. WINSLOW

KATHRYN H. GABHART
EXECUTIVE DIRECTOR

MICHAEL W. BOARD
GENERAL COUNSEL

CAPITAL COMPLEX EAST
1025 CAPITAL CENTER DRIVE, SUITE #104
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(502) 564-7954
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February 5, 2019

To the Legislative Research Commission
Governor Matthew Bevin
Citizens of the Commonwealth of Kentucky

On behalf of the Kentucky Executive Branch Ethics Commission and its staff, I am pleased to submit the Commission's Biennial Report for the fiscal years ending June 30, 2016, and June 30, 2017. The purpose of the Biennial Report is to summarize the work of the Commission during this two-year period. In addition to the biennial data, the Commission has also compiled data for the first 25 years of the Commission.

The Legislature has charged the Commission, an independent body of five citizen members from various regions throughout the Commonwealth, with promoting ethical conduct within the Executive Branch of Kentucky's government. During the 2015-2017 Biennium, an experienced and dedicated staff consisting of an Executive Director, General Counsel, Investigator (part-time), Executive Assistant, Administrative Assistant, and Staff Assistant (part-time) supported the Commission. In fulfilling its mission, the Commission promotes and enforces the Executive Branch Ethics Code, KRS Chapter 11A. It does so in various ways including the provision of ethics training to Executive Branch officials, departments and divisions; issuance of ethics opinions for guidance to Executive Branch employees and citizens who deal with Executive Branch agencies; review of financial disclosure statements filed pursuant to the requirements of the Code; and administrative proceedings. In addition, in each legislative session since 1993, the Commission has teamed with legislators to propose amendments, which would strengthen and clarify the existing Ethics Code.

As you can see from the report that follows, the Commission has a proven record of successfully carrying out its charge. The Commission is committed to continuing to promote the highest ethical standards among members of the Executive Branch as it has every year since its creation. We respectfully request the continued support of the Commonwealth of Kentucky, its elected officials, and its citizens, for it is only with this support that the Commission can continue its important work.

Respectfully submitted,

Christopher Thacker
Chair

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INTRODUCTION TO THE COMMISSION

AUTHORITY

The Executive Branch Code of Ethics (code of ethics) created by Kentucky Revised Statutes (KRS) Chapter 11A, effective July 14, 1992, established the ethical standards that govern the conduct of all executive branch employees. The code of ethics was enacted to restore and promote public trust in the administration of the government of the Commonwealth and its employees. It has been amended numerous times in an attempt to improve its application. The Executive Branch Ethics Commission, authorized by KRS 11A.060, is an independent agency of the Commonwealth that is responsible for administering and enforcing the provisions of the code of ethics.

VISION

Our vision for the future is one in which the leaders of the Commonwealth have integrity and honesty, and serve the people of the Commonwealth in an independent and impartial manner while upholding the public trust in all areas of their public service and private lives.

MISSION STATEMENT

The mission of the Executive Branch Ethics Commission is to promote the ethical conduct of elected officials, officers and other employees in the executive branch of state government, thereby increasing the public trust in the administration of state government.

The Commission seeks to fulfill its mission through:

- ◆ Education of state employees and lobbyists;
- ◆ Guidance to state employees concerning their ethical conduct, including the issuance of advisory opinions;
- ◆ Investigation of possible violations and enforcement of the provisions of the code of ethics;
- ◆ Financial disclosure by state officers and elected constitutional officials;
- ◆ Regulation of executive agency lobbyists; and
- ◆ Improvements to the code of ethics.

CODE OF ETHICS

KRS Chapter 11A requires that public servants work for the benefit of the people of the Commonwealth. The code of ethics recognizes that public office is a public trust where government is based upon the consent of its citizens. Citizens are entitled to have complete confidence in the integrity of their government.

- Employees must be independent and impartial;
- Decisions and policies must not be made outside the established processes of government;
- Employees should not use public office to obtain private benefits;
- Employees' actions should promote public confidence in the integrity of government;
- Employees should not engage or be involved in any activity that has the potential to become a conflict of interest with their state employment.

COMMISSION MEMBERS

The Commission is composed of five members appointed by the Governor to serve four-year terms. Beginning in May 2008, pursuant to Executive Order 2008-454, the Governor, on a rotating basis, appointed one commissioner directly, then appointed one from a list of three names submitted to him by the Attorney General, then appointed one from a list of three names submitted to him by the Auditor of Public Accounts, after which the process repeated itself. The following individuals served on the Commission during the 2015-2017 biennium. In 2016, through Executive Order 2016-377, the Governor returned the appointed process as enacted in KRS 11A.060.

WILLIAM DAVID DENTON



Governor Steven L. Beshear appointed Mr. Denton on October 29, 2009, to replace Nick Cambron, who resigned on September 10, 2009. Mr. Denton served the remainder of the unexpired term ending July 14, 2011 at which time he was re-appointed. He was elected Vice Chair of the Commission on May 14, 2015, and Chairman January 28, 2017.

Mr. Denton is the former managing partner of the Paducah, Kentucky law firm, Denton & Keuler, LLP, and is currently the managing partner of The Denton Law Firm, also located in Paducah, Kentucky. He is a graduate of Murray State University and University of Kentucky, College of Law.

WILLIAM G. FRANCIS



Governor Steven L. Beshear appointed Mr. Francis to replace Gwen Pinson, whose term expired July 14, 2010. Mr. Francis was re-appointed on July 15, 2016, to serve a term ending on July 14, 2018. He was elected Vice Chair of the Commission on January 28, 2017.

Mr. Francis was a partner in the Prestonsburg law firm of Francis, Kendrick, & Francis before joining Fowler Bell in Lexington, Kentucky. He earned a bachelor's degree in political science at the University of Kentucky, a master's degree in public administration at Eastern Kentucky University, and his law degree at the University of Kentucky College of Law.

LEWIS G. PAISLEY



Governor Steven L. Beshear appointed Judge Paisley on March 29, 2012, to replace Ron Green, whose term expired July 14, 2011 but continued to serve until March 30, 2012. Judge Paisley's term expired July 24, 2015. He was appointed to the Commission under the provisions of Executive Order 2008-454 from a list of three nominees submitted to the Governor by the Attorney General.

Judge Paisley is Of Counsel to the Lexington law firm of Stoll Keenon Ogden PLLC. He served for 25 years as Fayette District Judge, Fayette Circuit Judge, Judge of the Kentucky Court of Appeals, and as a Senior Judge. Judge Paisley is a graduate of Georgetown College and the University of Kentucky College of Law.



RICHARD L. MASTERS

Governor Steven L. Beshear appointed Mr. Masters on November 1, 2015, to replace William L. Knopf, whose term expired July 14, 2015. Mr. Master's term expired on July 14, 2016.

Mr. Masters is a partner in the Louisville law firm of Masters, Mullins, & Arrington. He earned a bachelor's degree in history and biology from Asbury University and a law degree from the Brandeis School of Law at the University of Louisville.



MARTIN E. JOHNSTONE

Governor Steven L. Beshear appointed Justice Johnstone on November 1, 2015, to replace Angela L. Edwards, whose term expired July 14, 2015. Justice Johnstone's term will expire July 14, 2016. He was appointed to the Commission under the provisions of Executive Order 2008-454 from a list of three nominees submitted to the Governor by the Auditor of Public Accounts.

Justice Johnstone served on the bench for 30 years, first in the capacity of Magistrate Judge, then as District Court Judge, Circuit Court Judge, Kentucky Court of Appeals Judge, and Kentucky Supreme Court Justice. He was the first jurist in Kentucky to serve at all four levels of the Kentucky Court of Justice. Prior to the bench, he served in private practice. Justice Johnstone earned a bachelor's degree in history and government from Western Kentucky University and a law degree from the Brandeis School of Law at the University of Louisville.

JUDGE SHEILA ISAAC (Ret.)



Governor Steven L. Beshear appointed Judge Isaac on October 14, 2015, to replace Judge Lewis G. Paisley, whose term expired July 14, 2015. Judge Isaac's term was to expire July 14, 2019. However, Ms. Isaac resigned her appointment effective March 30, 2018. She was appointed to the Commission under the provisions of Executive Order 2015-742 from a list of three nominees submitted to the Governor by the Auditor of Public Accounts.

Judge Isaac is Phi Beta Kappa graduate of the University of Kentucky and a 1977 graduate of the UK College of Law. She was legal counsel and a founding member of the Domestic Violence Prevention Board. She was in private practice and served as an Assistant Fayette County Attorney and a Domestic Relations Commissioner before service for nine years as a Fayette District Judge. She then served for 11 years as a Fayette Circuit Judge and was selected and served as Chief Judge of the Court from 2004-2008 and presided over the Drug Court Docket for many years. From 2008-2013, she served as Senior Judge and during that time was assigned for nine months to the Kentucky Court of Appeals. She is presently the Director of the Fayette County Bar Association.

CHRISTOPHER L. THACKER



Governor Matthew G. Bevin appointed Mr. Thacker on July 15, 2016. Mr. Thacker's term will expire July 14, 2020.

Mr. Thacker is an attorney from Winchester, Kentucky. He is working with the Billings Law Firm in Lexington, Kentucky. He earned his Bachelor's degree in religious studies from Yale and his law degree from the University of Kentucky.

THERESA F. CAMORIANO



Governor Matthew G. Bevin appointed Ms. Camoriano on July 15, 2016. Ms. Camoriano's term was to expire July 14, 2020. However, Ms. Camoriano resigned her appointment on May 2, 2018.

Ms. Camoriano is a registered patent attorney from Louisville, Kentucky. She earned her Bachelor's degrees in Russian language and engineering science from the University of Notre Dame and her law degree from the University of Virginia.

STAFF

The Commission employs a full-time staff who may be contacted by anyone seeking information or advice relating to the code of ethics, or wishing to provide information regarding an alleged violation of the Executive Branch Code of Ethics. The staff provides state employees, executive agency lobbyists, and the public with information, guidance, and training aimed at promoting ethical conduct of executive branch employees. The following individuals served as staff to the Commission during the 2015-2017 biennium.

EXECUTIVE DIRECTOR

The Executive Director is responsible for all administrative, investigative, and enforcement activity of the Commission, education and training of public servants, audits of disclosure statements, development of all publications, as well as the supervision of the staff.

JOHN R. STEFFEN
(RESIGNED MAY 15, 2015)



KATHRYN H. GABHART
(FROM NOVEMBER 1, 2015)



GENERAL COUNSEL

The General Counsel advises the Executive Director on legal issues, assists in training and in the administration of the agency, coordinates investigations, handles administrative proceedings and civil litigation, and, in the absence of the Executive Director, assumes the Executive Director's responsibilities.

KATHRYN H. GABHART
(THROUGH NOVEMBER 1, 2015)



MISTY JUDY DUGGER
(Beginning November 1, 2015)



INVESTIGATOR

The Investigator is a part-time position and is responsible for conducting all preliminary investigations initiated by the Commission and reporting to the Commission the results of those investigations.

JEFF JETT



GREGORY MOTLEY



SUPPORT STAFF

The support staff manages daily operations of the office and safeguards documents on file with the Commission. They facilitate coordination of the many requests for information and advice that are presented to the staff.

The **Executive Assistant** manages advisory opinion requests as well as processes all personnel matters for the Commission staff and its members. This position acts as Clerk of the Administrative Proceedings process and maintains all legal records related to the Commission. The Executive Assistant serves as Secretary for Commission meetings, which includes preparation of the agenda, the minutes following the meetings, and any correspondence relative to the actions of the Commission. The Executive Assistant coordinates the training component of the Commission by registering participants, preparing training materials, and maintaining the training participant database.

DEBBIE BRISCOE



The **Administrative Assistant** manages the process for registration and reporting for executive agency lobbying which includes maintaining the database for executive agency lobbyists and their employers. This position prepares statistical information and oversees the publication of the Commission's Biennial Report. Other duties include handling purchases and billings for the agency, serving as records retention liaison, updating the agency's website and publications, and responding to open records requests, orders for printed materials and general inquiries regarding the Commission and its work.

JENNY MAY



The **Staff Assistant** is a part-time position and administers the statement of financial disclosure filing process and related database for constitutional officers and other government officials. He also assists the Executive Assistant and Administrative Assistant as needed.

WILLIAM TRIGG



The **Law Clerk** is part-time position and assists the Executive Director and General Counsel with various duties relating to the functions of the Commission, including assisting with trial preparation for administrative hearings, compiling filing data, participating in investigative matters and drafting memoranda regarding various research topics.

DREW WATKINS

(May, 2016 – August, 2016)



JAMES YODER

(May, 2017 – February, 2018)



The **Paralegal** is part-time position and assists the Executive Director and General Counsel with various duties relating to the function of the and General Counsel with various duties relating to the functions of the Commission, including researching, analyzing, and drafting legal documents, case investigation, file maintenance and reports, litigation preparation, memoranda on various research topics, data compilation and auditing of filings and general office support.

ANNA REYNOLDS

(September, 2016 – February, 2017)

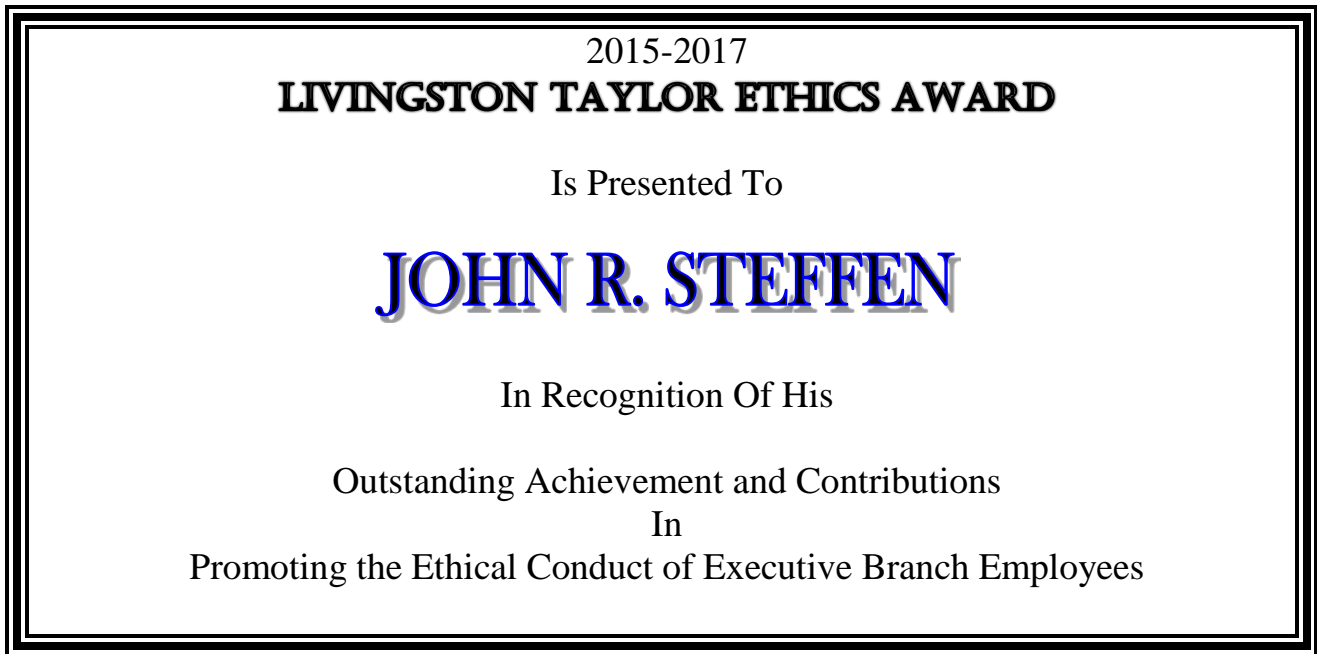


LIVINGSTON TAYLOR ETHICS AWARD

Livingston Taylor, a former investigative reporter for the Courier-Journal, served as the Commission’s first chairman from 1992-1995. Mr. Taylor was responsible for the early direction of the Commission and donated a considerable amount of time and effort in leading the Commission. Mr. Taylor declined any compensation for his efforts. He set the tone for the Commission with his concern that the Commission be politically independent and show no favoritism. His substantial contribution to promoting the ethical conduct of executive branch employees will long be remembered. The Executive Branch Ethics Commission and the Commonwealth of Kentucky are better off because of his volunteer service.

The Commission established this biennial award program to recognize individuals, programs, or agencies within the executive branch of state government for their outstanding achievement and contributions in promoting the ethical conduct of executive branch employees.

State employees are often only recognized for inappropriate behavior. Thus, the Commission wishes to offer some positive reinforcement through this award by recognizing those who work hard and ethically for the taxpayers of Kentucky.





Mr. Steffen, who served the Ethics Commission as General Counsel and then Executive Director for eleven years, for the improvements to the Commission's process and his particular achievements in steering the Commission's activities to be more proactive rather than reactive during his decade with the Commission. Mr. Steffen increased the effectiveness of the Commission through his efforts to spread the presence and relevance of the Ethics Commission throughout state government. One of the primary ways he did so was through the establishment of the Inspector General/Ethics Workgroup (IGEW). IGEW is a group of state agency divisions including Offices of Inspector Generals and Internal Affairs divisions that meet on a quarterly basis with the staff of the Ethics Commission. These meetings have proven to be very beneficial to the Ethics Commission's mission as these agencies are now more routinely referring matters to the Commission. These meetings have also been used to share best and worst practices, to commiserate about investigation techniques, and discuss reforms to agencies policies and procedures. The Commission has continued to reap the benefits of Mr. Steffen's efforts in this regard long after his departure in 2015.

Mr. Steffen presently serves as the Executive Director of the Kentucky Registry of Election Finance where he has continued to serve and aid the Ethics Commission staff in matters that involve potential campaign solicitation issues. Furthermore, in his new role for this watchdog agency, he continues to serve as a model for high ethical standards and impartiality.

BUDGET

TWO-YEAR BUDGET ANALYSIS

The Commission's budget and expenditures for fiscal years 2015-16 and 2016-17 in detail below.

	FISCAL YEAR		TOTAL FOR
	2015-16	2016-17	BIENNIUM
ALLOTMENTS			
General Fund	\$463,200.00	\$441,200.00	\$904,400.00
Agency Fund	81,204.20	277,268	358,472.20
Balance Forward	182.65	20,412.19	20,594.84
TOTAL	<u>\$544,586.85</u>	<u>\$738,880.19</u>	<u>\$1,283,467.04</u>
EXPENDITURES			
Personnel Costs	\$445,141.76	\$598,788.90	\$1,043,930.66
Operating Expenses	79,032.90	87,180.02	166,212.92
Grants, Loans & Benefits	0	0	0
Capital Outlay	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	<u>\$524,174.66</u>	<u>\$685,968.92</u>	<u>\$1,210,143.58</u>
ALLOTMENT OVER EXPENDITURES			
Reverted to general fund	\$ 0	\$ 0	\$ 0
Retained in agency fund	<u>20,412.19</u>	<u>52,911.27</u>	<u>73,323.46</u>
TOTAL	<u>\$20,412.19</u>	<u>\$52,911.27</u>	<u>\$73,323.46</u>

ADMINISTRATIVE HEARING EXPENSES*	\$0.00	\$3,636.50	\$3,636.50
TOTAL	<u>\$0.00</u>	<u>\$3,636.50</u>	<u>\$3,636.50</u>

*Administrative Hearing Expenses added to report starting with the 2016-2017 Fiscal Year.

REVENUE FROM LOBBYING ACTIVITIES			TOTALS
	2015-2016	2016-2017	All Years
*REGISTRATION FEES (AGENCY FUND REVENUE)	\$76,691	\$281,780	\$358,471
LOBBYISTS FINES	\$0	\$0	\$0
TOTAL COLLECTED	\$76,691	\$281,780	\$358,471
REVENUE FROM CIVIL PENALTIES ISSUED			TOTALS
	2015-2016	2016-2017	All Years
FINES (GENERAL FUND)**	\$35,500	\$250,500	\$286,000
TOTAL COLLECTED	\$30,500***	\$32,000****	\$62,500

*Registration fee increased from \$125.00 to \$500.00 in 2017 for biennium by HB 80.

** Beginning in 2016-2017 Fiscal Year, the Budget Bill allowed the Commission to deposit the fines collected in the Commission's Restricted Fund account to fund administrative hearings.

***2015-2016 Fiscal Year uncollected amount resulted from the Thurman default.

****2016-2017 Fiscal Year offset by \$203,500.00 in Longmeyer Settlement and \$15,000 uncollected fines from Tackett default.

EDUCATION

The Commission continues to believe that its primary goal is to educate employees in an effort to improve honesty and integrity in state government. Through education, the Commission seeks to prevent, rather than punish, ethics violations. Employee education is a multi-faceted effort consisting of responses to inquiries, live and on-line training classes, a website, agency designated ethics officers, publications, and newsletter articles.

INQUIRIES

The Commission considers and responds to all inquiries from persons requesting information or advice on any aspect of the code of ethics. Such inquiries are made in person, by mail, through e-mail, or by telephone. Commission staff resolves the majority of these requests after reviewing the statutes and advisory opinions. In some instances, the staff recommends that advice be sought from the Commission through its advisory opinion process (see page 12).

The staff of the Commission meets individually with state officials, employees, and lobbyists to provide information or explanation concerning the code of ethics. The staff also provides guidance by telephone and e-mail on a daily basis in response to state official, employee, and citizen inquiries.

During fiscal year 2015-2016, the staff provided advice to approximately 942 individuals and to approximately 725 persons during fiscal year 2016-2017. The following table shows, by subject matter, the approximate number of recorded inquiries received during the biennium.

SUBJECT MATTER	NUMBER OF INQUIRIES	
	2015-16	2016-17
Advisory Opinions	8	7
Boards and Commissions	11	14
Campaign Activity	2	4
Complaints	16	10
Conflict of Interest	34	67
Executive Agency Lobbying	564	276
Financial Disclosure	54	63
General Information	139	121
Gifts	24	41
Investigations	4	7
Jurisdiction	10	5
Legislation	1	10
Litigation	0	0
Open Records	13	18
Outside Employment	7	20
Post-employment	31	47
Request for Material	16	12
Training	<u>8</u>	<u>3</u>
TOTAL	942	725

TRAINING CLASSES

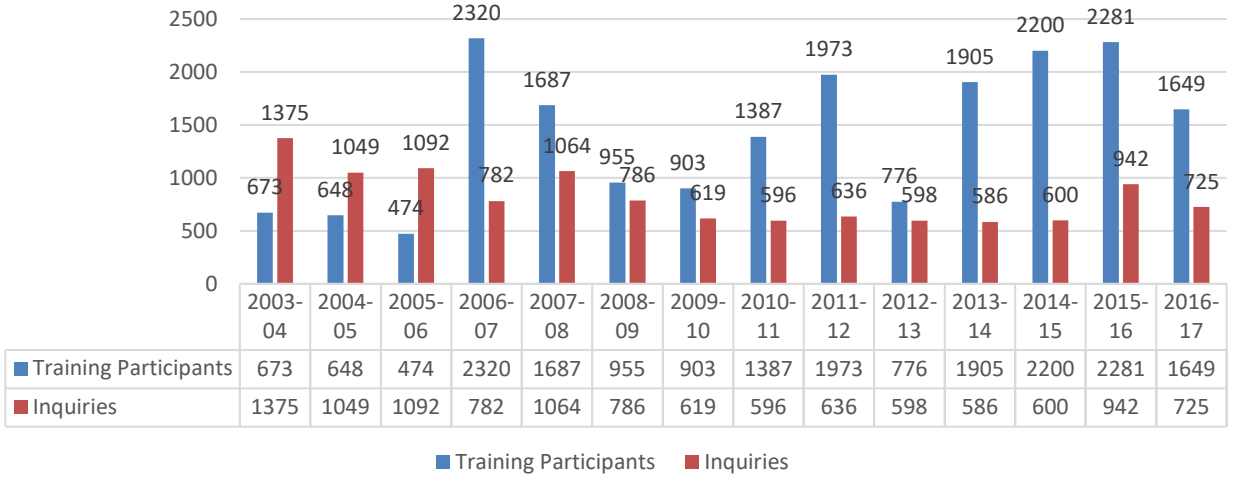
The Executive Branch Ethics Commission offers ethics classes on a monthly basis to executive branch employees, and also provides ethics classes to individual state agencies, executive agency lobbyists, and members of executive branch regulatory and policy-making boards and commissions upon request. In May of 2016, the Commission began offering government attorney training. Online training classes are also offered through the Governmental Services Center.

In 2016, the Personnel Cabinet required all public servants (approximately 32,000 employees) to complete a 30 minute online tutorial entitled “overview of the Executive Branch Code of Ethics” that was created by the staff of the Commission. This tutorial is now required to be taken by all new hires.

NUMBER OF:	2015-16	2016-17	TOTAL
Training Classes Provided for State Agencies	33	35	68
Training Classes Provided to Boards and Commissions	8	5	13
Training Classes Provided as ongoing on-line course	2	2	4
Training Classes Provided to Ethics Officers	3	4	7
Training Classes Provided for Lobbyist/Other Organizations	4	2	5
TOTAL TRAINING CLASSES	50	46	96

<u>Total Number of Participants Trained</u>	
2015-2016	2,281
2016-2017	1,649
Total	3,930

EDUCATION Comparison of Contacts 2003-2017



WEBSITE

The Commission's home page can be found at <http://ethics.ky.gov/>. The website provides information on Commission members and staff, advisory opinions, lobbying, training, post-employment laws, ethics officers, financial disclosure, and administrative actions. Many of the publications produced by the Commission are available to the general public from the website including the employee *Guide to the Executive Branch Code of Ethics*, as well as the text of the Executive Branch Code of Ethics, KRS Chapter 11A, Title 9 of the Administrative Regulations, and Executive Orders 2008-454 and 2009-882.

On September 19, 2016, the Commission voted to enter an agreement with Kentucky Interactive at a cost of \$24,000 to improve the Commission's website to allow for online submission of the executive agency lobbying registration documents as well as the Statements of Financial Disclosure submitted by public servants in "major management". The Commission staff began meeting with KI to review the processes and procedures for the filings of both the executive agency lobbying documents and the SFD form with the hope of having both projects completed by the 2017 filing year; however due to staff changes at KI and prioritization of other critical projects for the Commonwealth, both projects were delayed until the next biennium.

Additionally, KI installed a "virtual terminal" to allow Commission staff to accept credit card payments in house or via telephone for registration fees and penalties assessed for ethics violations through the website. Commission staff received training on the new NCI/TPE system which allows the agency to transfer funds collected from credit card or ACH payments to the Commission's restricted fund without relying on the State Treasurer's office to do so.

The screenshot shows the homepage of the Executive Branch Ethics Commission. At the top, there is a navigation bar with the text "Ethics Commission Home" and a search box. Below this is a large banner with the text "EXECUTIVE BRANCH ETHICS COMMISSION" and "COMMONWEALTH OF KENTUCKY". The main content area is divided into several sections: "Home" with a notice about the office's new location at the Capital Complex East; "Authority" with information about the commission's enabling statute; "Contact Information" for Kathryn M. Gabhart, Executive Director; "Request for Proposals - Hearing Officers"; and "Upcoming Ethics Training". A sidebar on the left contains a menu with items like "Commission Members and Staff", "Advisory Opinions", "Executive Agency Lobbying", "State Employee Resources", "Publications", "Ethical Guidelines for Boards and Commissioners", "Administrative Actions", and "Legal Resources".

PUBLICATIONS

As part of the Commission’s educational emphasis, several publications explaining the various components of the code of ethics have been produced and are regularly updated. These items have been distributed to each state agency and are available for distribution to each employee upon request and are provided during trainings or new employee orientation.

PUBLICATION	LATEST DATE OF PUBLICATION/REVISION	
<i>Acceptance of Gifts (brochure)</i>	July	2000
<i>Executive Agency Lobbying Handbook</i>	April	2016
<i>Leaving State Government? (brochure)</i>	February	2005
<i>Guide to the Executive Branch Code of Ethics (booklet)</i>	June	2016
<i>Advisory Opinions (1992 – 2017) (bound by year)</i>	May	2017
<i>Executive Branch Ethics Commission (General Information brochure)</i>	September	2016
<i>Ethical Guidelines for Members of Boards & Commissions (brochure)</i>	October	2016
<i>Ethics Officer Training Guide (booklet)</i>	June	2016

ETHICS OFFICERS

Ethics officers act as liaisons between their agency and the Commission. The Commission furnishes ethics officers with copies of all advisory opinions and publications of the Commission. The ethics officers are responsible for disseminating such information to their staffs. Additionally, the ethics officers coordinate approvals of outside employment for employees. Ethics officers further assist the staff of the Executive Branch Ethics Commission with ensuring officers and elected officials file the financial disclosure statements as required by law. During the biennium, 118 ethics officers received training in their role as ethics officers on behalf of their agencies. The Commission requests that all agencies designate an Ethics Officer to represent their agency before the Commission.

OUTSTANDING ETHICS OFFICER AWARD

The Commission established this annual award program in 2015 to recognize an individual serving as a designated Ethics Officer for an executive branch agency for his or her outstanding achievement and contributions in promoting the ethical conduct of executive branch employees.

2016

OUTSTANDING ETHICS OFFICER

Presented To

LEESA BAGGETT MOORMAN

**ETHICS OFFICER
ENERGY AND ENVIRONMENT CABINET**

In Recognition Of

**Outstanding Achievement and Contributions
In Promoting the Ethical Conduct of
Executive Branch Employees While Serving as a
Designated Ethics Officer**

*“Don’t worry when you are not recognized, but strive to be worthy of recognition.”
-Abraham Lincoln*

Ms. Moorman was awarded for her efforts to enforce the Executive Branch Code of Ethics while serving as an Ethics Officer for the Energy and Environment Cabinet. Ms. Moorman has served as an Ethics Officer intermittently since 1995. Ms. Moorman has a history of implementing policies and procedures for the effective enforcement of the Ethics Code within her agencies. Ms. Moorman has consistently come to the Commission staff for advice on various matters and has referred various matters to the Commission for investigation that have led to administrative actions against public servants. Ms. Moorman is an excellent Ethics Officer; therefore, she is exceptionally deserving of this award.

Ms. Moorman began her employment as a staff attorney in 1985 in the Executive Branch. She has served in both merit and non-merit positions in both Republican and Democratic administrations, including Principal Assistant to the Secretary in the Natural Resources Cabinet, Director of Licensing for the Kentucky Horse Racing Commission, and General Counsel for the Department of Charitable Gaming and the Office of Alcoholic Beverage Control. She is currently Personnel Counsel for the Energy and Environment Cabinet, and has served as that Cabinet's Ethics Officer since October 2015.

Ms. Moorman is a graduate of Murray State University and the University of Kentucky, College of Law.

2017
OUTSTANDING ETHICS OFFICER

Presented To

CARMINE G. IACCARINO

ETHICS OFFICER
PUBLIC PROTECTION CABINET

In Recognition Of

Outstanding Achievement and Contributions
In Promoting the Ethical Conduct of
Executive Branch Employees While Serving as a
Designated Ethics Officer

“Don’t worry when you are not recognized, but strive to be worthy of recognition.”

-Abraham Lincoln

Mr. Iaccarino was awarded for his efforts to enforce the Executive Branch Code of Ethics while serving as an Ethics Officer for the Public Protection Cabinet and implement policies and procedures for the effective enforcement of the Ethics Code. Mr. Iaccarino serves as Deputy Executive Director of the Office of Legal Services with the Public Protection Cabinet. Since Mr. Iaccarino became an Ethics Officer in 2016, he has demonstrated a remarkable concern for ensuring that his agency and its employees not only follow the Ethics Code, but operate beyond the dictates of the Code. He has been very conscientious to verify that his agency's established policies are above reproach and, if found to be deficient, he has taken on the painstaking task of reforming them. He has been a consistent seeker of advice from the Commission staff, often on a weekly to monthly basis. He is also first to ensure that his agency shines a light on errant public servants when they do stray from following the Ethics Code. He has referred several matters for the Commission's review as possible violations of the Ethics Code in the past two years. It is therefore only fitting that he receives this award.

ADVISORY OPINIONS

The Commission is directed by statute to issue written advisory opinions. If an employee, agency head, or member of the general public is unclear about a provision in the code of ethics, or if a situation is not specifically addressed in the code, an advisory opinion may be requested, in writing, from the Commission.

If the Commission determines that the matter has been addressed in a previous advisory opinion, it will issue advice in a staff opinion or informal reply. Informal replies are responses (advisory letter, e-mail, or telephone call) rendered by the Ethics Commission's Executive Director or General Counsel. Frequently, employees may have questions or situations that require a swift reply. An advisory letter is limited to issues previously addressed by the Commission by issuance of a formal advisory opinion or easily answered by a review of the statutes and Administrative Regulations. The Commission reviews the advice of its staff at its regular meetings.

If the Commission determines that the matter has not been addressed in a previous advisory opinion, it will issue a new opinion to the requestor. In addition, the Commission may issue advisory opinions upon its own motion. Advisory opinions issued by the Commission are based on the code of ethics, agency regulations, and past Commission decisions. Because the Executive Branch Ethics Commission is the regulatory body authorized to interpret the code of ethics, the advisory opinions issued by the Commission are enforceable. Such opinions are public record and provide guidance to other employees with similar questions. Copies of written advisory opinions are distributed electronically and by paper copy to state agencies via ethics officers, employees and members of the general public who request them. Advisory opinions are also available on the Commission's website <http://ethics.ky.gov/>. The Commission provides a searchable database of its opinions on its website.

ADVISORY OPINIONS ISSUED JULY 1, 2015- JUNE 30, 2017

The Commission issued seven (7) advisory opinions during the **2015-2016** fiscal year, and eleven (11) during the **2016-2017** fiscal year. Additionally, the Commission issued eight (8) advisory

letters during fiscal year **2015-2016** and six (6) during fiscal year **2016- 2017**. See below the advisory opinions and letters issued by primary topic. Following are the summaries of the advisory opinions issued. Any inquiries handled through the internal staff opinion process are included in the data under “Inquiries”.

ADVISORY OPINIONS AND LETTERS, BY PRIMARY TOPIC

<u>Topic</u>	<u>Number Issued</u>
General Conflicts of Interest.....	4
Gifts/Travel Expenses.....	1
Outside Employment/Post Employment.....	10
Lobbying.....	1
Endorsement.....	1
 TOTAL	 17

SUMMARY OF OPINIONS

July 1, 2015 - June 30, 2017

July 1, 2015- June 30, 2016

Advisory Opinion 15-02 An Executive Branch Agency may, in accordance with its policy of developing viable programs to be used in the private sector, assign a non-profit entity a program and marketing collateral that were developed by the Agency and expanded for use by a non-profit entity.

Categories: Conflicts of Interest; Endorsement/Partnership;

Advisory Opinion 15-04 A conflict of interest will exist if an Environmental Scientist I, employed by the Division of Oil and Gas, Department for Natural Resources, Energy and Environment Cabinet, is allowed to create a research-focused company involved in researching and developing a process for treating a waste product of the environmental industry of which the environmental scientist is a regulator; The Commission found that the appointing authority properly denied the same employee’s request for outside employment to work for his research-focused company because the employee’s involvement with the created company posed a direct conflict of interest with the employee’s duties for the Cabinet by operation of KRS 11A.040(10) and 9 KAR 1:050; The Commission did not find a valid reason to overrule the appointing authority’s decision.

Categories: Outside Employment; Conflicts of Interest;

Advisory Opinion AO 15-03 With certain limitations, a public servant who is not an officer, may within a year after leaving state employment, provide sign language interpreter services to his former state agency while working for his new employer on a contract with his former state agency in which he was directly involved during his last thirty-six months of employment.

Categories: Conflicts of Interest; Post Employment; Contracts;

July 1, 2016 - June 30, 2017

Advisory Opinion 16-02, Gift Exception 2016-2 A public servant may accept a customary gift provided through Leadership Kentucky from another participant who provided the gift to all participants of the event even though the other participant is a representative of an entity that is regulated by the public servant's agency.

Categories: Gifts; Exceptions

Advisory Opinion 16-03 Employees of the Personnel Cabinet may participate in a 52 week weight loss pilot project being managed by the Personnel Cabinet's Department of Employee Insurance provided the department fairly and consistently administers the project.

Categories: Conflicts of Interest;

Advisory Opinion 16-04 Because a public health department is not considered a "person"; or "business"; as defined by the Executive Branch Code of Ethics, a public servant and officer working for the Cabinet for Health and Family Services may immediately go to work for a local public health department without violating the post-employment provisions applicable to officers and is therefore not required to abstain from matters involving the Cabinet for Health and Family Services for any amount of time after beginning employment with the local public health department.

Categories: Post Employment;

Advisory Opinion 16-05 A conflict of interest will not be attributed to a staff member of the Personnel Board if the same staff member serves as a Hearing Officer on an administrative proceeding in which one of the Personnel Board members has a conflict of interest because the Personnel Board member's spouse serves as the agency representative or a witness in the administrative hearing.

Categories: Conflicts of Interest; Family Members

Advisory Opinion 16-06 A conflict of interest does not exist for the staff of the Personnel Board when the staff member serves as a Hearing Officer on an administrative proceeding involving an agency for which one of the elected Personnel Board members works.

Categories: Conflicts of Interest;

Advisory Opinion 16-07 Gift Exception 2016-3 The Office of the Secretary of State may accept a donation of 120 refurbished Surface Pro Tablets from the Microsoft Corporation; for a one time limited purpose as long as the tablets are used only for the Go Vote Kentucky program and as such the donation provides a greater good, service, and benefit to the people of the Commonwealth.

Categories: Gifts; Exceptions;

Advisory Opinion 16-08 The Transportation Cabinet may solicit sponsorships for its Safety Assistance for Freeway Emergencies (SAFE) Patrol and acknowledge the sponsor through placement of a plaque on its SAFE Patrol vehicles, provided that the Cabinet makes no effort to endorse or recognize the recipient of the sponsorship other than through a small plaque no larger than 12" x 18" and rejects sponsors from whom it cannot accept a gift pursuant to KRS 11A.045.

Categories: Solicitation/Fundraising; Endorsement/Partnership;

Advisory Opinion 16-09 Guidance for executive branch agencies in relation to fundraising activities conducted in accordance with KRS 11A.055 for charitable non-profit organizations established, created, and controlled by these agencies in anticipation of the effective date of the amendment to 9 KAR 1:060.

Categories: Conflicts of Interest; Endorsement/Partnership; Solicitation/Fundraising; Gifts; Exceptions;

Advisory Opinion 16-10, Gift Exception 2016-4 The Governor may accept the use of six (6) box seats for the Keeneland meets as long as the seats are only used for official purposes for the Office of the Governor.

Categories: Gifts; Exceptions;

Advisory Opinion 17-02 - Gift Exception 2017-2 Within limitations, the Kentucky Center for the Arts Corporation (“KCAC”) may accept gifts as dictated by KRS 153.420(8) without violating KRS 11A.045. Advisory Opinion 16-09 and the provisions of the amendment to 9 KAR 1:090, once enacted, do not apply to the KCAC when accepting gifts on behalf of the public corporation.

Categories: Conflicts of Interest; Endorsement/Partnership; Gifts; Solicitation/Fundraising; Exceptions;

Advisory Opinion 17-03 Gift Exception 2017-3 Within limitations, the Department of Parks (the “Department”) may accept gifts as dictated by KRS 148.021 without violating KRS 11A.045. Advisory Opinion 16-09 and the provisions of the amendment to 9 KAR 1:090, once enacted, do not apply to the Department when accepting gifts on behalf of the state agency.

Categories: Gifts; Solicitation/Fundraising; Conflicts of Interest; Endorsement/Partnership; Exceptions;

Advisory Opinion 17-04 An attorney representing the Justice and Public Safety Cabinet in appeals brought before the Kentucky Personnel Board (the “Board”) may continue with such representation before the Board even though the individual has been offered a position as a member of the Board, but has not yet been sworn into the position, as long as the attorney abstains from participating as a member of the Board in adjudicating the matter before the Board. Going forward, said attorney representing the Justice and Public Safety Cabinet in appeals brought before the Board may serve as a member of the Board if that attorney abstains from adjudicating matters in which she has been involved.

Categories: Conflicts of Interest;

Advisory Opinion 17-05 Public servants in the position of Policy Research Consultant at the Public Service Commission are not considered officers as that term is defined in KRS 11A.010(7).

Categories: Statements of Financial Disclosure; Post Employment;

SUMMARY OF EXCEPTIONS TO KRS 11A.045

July 1, 2015-June 30, 2017

July 1, 2015-June 30, 2016

Advisory Opinion 16-02, Gift Exception 2016-2 A public servant may accept a customary gift provided through Leadership Kentucky from another participant who provided the gift to all participants of the event even though the other participant is a representative of an entity that is regulated by the public servant's agency.

Categories: Gifts; Exceptions

July 1, 2016-June 30, 2017

Advisory Opinion 16-07 Gift Exception 2016-3 The Office of the Secretary of State may accept a donation of 120 refurbished Surface Pro Tablets from the Microsoft Corporation; for a one time limited purpose as long as the tablets are used only for the Go Vote Kentucky program and as such the donation provides a greater good, service, and benefit to the people of the Commonwealth.

Categories: Gifts; Exceptions;

Advisory Opinion 16-10, Gift Exception 2016-4 The Governor may accept the use of six (6) box seats for the Keeneland meets as long as the seats are only used for official purposes for the Office of the Governor.

Categories: Gifts; Exceptions;

Advisory Opinion 17-02 - Gift Exception 2017-2 Within limitations, the Kentucky Center for the Arts Corporation ("KCAC") may accept gifts as dictated by KRS 153.420(8) without violating KRS 11A.045. Advisory Opinion 16-09 and the provisions of the amendment to 9 KAR 1:090, once enacted, do not apply to the KCAC when accepting gifts on behalf of the public corporation.

Categories: Conflicts of Interest; Endorsement/Partnership; Gifts; Solicitation/Fundraising; Exceptions;

Advisory Opinion 17-03 Gift Exception 2017-3 Within limitations, the Department of Parks (the "Department") may accept gifts as dictated by KRS 148.021 without violating KRS 11A.045. Advisory Opinion 16-09 and the provisions of the amendment to 9 KAR 1:090, once enacted, do not apply to the Department when accepting gifts on behalf of the state agency.

Categories: Gifts; Solicitation/Fundraising; Conflicts of Interest; Endorsement/Partnership; Exceptions;

These summaries are designed to provide examples of decisions of actual inquiries of the Commission. Key points may have been deleted in the interest of brevity. Each opinion is available in its entirety upon request from the Executive Branch Ethics Commission, Capital Complex East, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky, 40601, (502) 564-7954, or on the Commission's website at <http://ethics.ky.gov/>.

FINANCIAL DISCLOSURE

One of the Commission's principal responsibilities is to administer the financial disclosure provisions of the statute. State elected officials and appointed officers, as defined by KRS 11A.010(7), in the executive branch of state government are required by statute to file a statement of financial disclosure with the Commission no later than April 15 for the previous calendar year or within 30 days of termination of employment. Candidates for executive branch state offices are required to file a disclosure statement no later than February 15 of an election year. Statements of Financial Disclosure are open to the public for inspection.

Failure to file a disclosure statement in a timely manner is punishable by withholding of the employee's salary until the statement is filed. The following information is required to be disclosed on the statement:

- ◆ Name and address, both residential and business;
- ◆ Title of position or office in state government;
- ◆ Other occupations of filer or spouse;
- ◆ Positions held by filer or spouse in any business, partnership, or corporation for profit;
- ◆ Names and addresses of all businesses in which the filer, spouse, or dependent children had an interest of \$10,000 or 5% ownership interest or more;
- ◆ Sources of gross income exceeding \$1,000 of the filer or spouse including the nature of the business;
- ◆ Sources of retainers received by the filer or spouse relating to matters of the state agency for which the filer works or serves in a decision-making capacity;
- ◆ Any representation or intervention for compensation by the filer or spouse before a state agency for which the filer works or serves in a decision making capacity;
- ◆ All positions of a fiduciary nature in a business;
- ◆ Real property in which the filer, spouse or dependent children has an interest of \$10,000 or more;
- ◆ Sources of gifts or gratuities with a retail value of more than \$200 to the filer, spouse or dependent children; and
- ◆ Creditors owed more than \$10,000.

ELECTRONIC FORMS

Employees may download a blank Statement of Financial Disclosure form from the Commission's website at <http://ethics.ky.gov/> and complete the blank Statement of Financial Disclosure form electronically, print a paper copy and forward it with an original signature to the Commission. Paper forms are provided upon request.

The following statistics compare the disclosure statement filings for calendar years 2015, 2016 and 2017.

FINANCIAL DISCLOSURE STATEMENTS

CALENDAR YEAR 2015	CALENDAR YEAR 2016	CALENDAR YEAR 2017
<u>#</u> <u>% of Total</u>	<u>#</u> <u>% of Total</u>	<u>#</u> <u>% of Total</u>
Statements Filed Timely		
1049 75.2%	1261 82.1%	1233 88.8%
Active Officers Filed Late/ Salary Withheld*		
101 8.55%	71 6.5%	90 7%
no salary withheld	no salary withheld	no salary withheld
Former Officers Filed Late**		
114 53.3%	188 60%	65 56%
(of formers)	(of formers)	(of formers)
Former Officers Investigated for Failure to File Timely		
0	0	0
Former Officers Investigated for Failure to File Complete		
0	0	0
TOTAL REQUIRED FILINGS		
1395	1503	1388

*Officers who file late ARE subject to salary withholding; however, because of the two-week delay in processing payrolls, the officers were able to file prior to any actual withholding taking place.

**These were filed before Commission action was recommended.

AUDITS

Upon receipt of the Statements of Financial Disclosure, each is reviewed to determine whether it is complete and the instructions have been followed. The Commission is required by statute to audit the Statements to detect information that might suggest a conflict of interest or other impropriety. If such is detected, staff may refer Statements to the Commission and investigations may be initiated. This is accomplished by staff review of the forms.

MONTHLY NOTICES

The Commission has worked with the Personnel Cabinet to initiate a process whereby the Personnel Cabinet notifies the Commission on a monthly basis of officers who have left their positions during the previous month. This enables the Commission staff to remind the former officers of the 30-day filing requirement for those leaving during the calendar year. This process has proven very helpful in reducing the number of former officers who file late, thereby reducing the need for further action by the Commission. The process was instrumental in producing 121 filings during or shortly after CY 2015 and 87 filings during or shortly after CY 2016.

INVESTIGATIONS, ADMINISTRATIVE PROCEEDINGS, AND LITIGATION

COMPLAINTS

A citizen of the Commonwealth may submit a complaint signed under penalty of perjury alleging a violation of KRS Chapter 11A. The provisions of KRS 11A.080 require the Commission to investigate such a complaint. In addition, the Commission may initiate a preliminary investigation of an alleged violation upon its own motion based on information obtained from various sources such as information received by Commission staff from a private citizen, a whistleblower under the protection of KRS 61.102, a referral from another state agency, or a media story.

INVESTIGATIONS

Pursuant to KRS 11A.080, the Commission conducts confidential investigations of possible violations of the Ethics Code. Oftentimes, the Commission receives referrals from appointing authorities or Ethics Officers concerning possible violations of the Ethics Code by their employees or former employees. If so, pursuant to KRS 11A.080(2)(c), the Commission staff is at liberty to keep the agency updated as to the status of these investigations.

During the course of the Commission's investigations of matters that are referred by other agencies, the Commission staff may ask Ethics Officers to assist us in gathering documents or tracking down witnesses to be interviewed.

Due to 2016 legislation, pursuant to KRS 11A.080(2)(a), the Commission is now at liberty to refer evidence to other agencies “with jurisdiction to review, audit, or investigate the alleged offense, evidence which may be used by those agencies for investigative purposes.”

Ethics Officers are encouraged to contact the Commission staff any time a public servant may be violating the Ethics Code or may be entering into a course of conduct that could potentially violate the Ethics Code. Commission staff may provide the employee with guidance or investigate the matter further. Any time that the Commission and Ethics Officers can work together to prevent a violation before it happens is in the best interest of the Commonwealth.

The Complaint or Information:

The Executive Branch Ethics Commission must investigate an alleged violation of KRS Chapter 11A upon receiving a complaint signed under penalty of perjury. The Ethics Commission may also investigate an alleged violation upon its own motion. The Ethics Commission considers information received by the Ethics Commission staff in person, by telephone, by letter, or through the media. Commission staff will take complaints from anonymous complainants, if the alleged conduct is specifically defined. If the information Commission staff receives indicates that a public servant may have violated the Ethics Code, the Ethics Commission will determine whether to initiate a preliminary investigation upon its own motion at its next regularly scheduled meeting.

The complaint, whether under penalty of perjury, informal, or anonymous, remains confidential. All records relating to the Ethics Commission’s investigations, unless used as part of an administrative hearing, remain confidential. See 97-ORD-70, 02-ORD-44, 07-ORD-201, 07-ORD-202.

Source: KRS 11A.080(1) and 9 KAR 1:015

The Preliminary Investigation:

Within ten days of the initiation of the preliminary investigation, the Ethics Commission must forward to the alleged violator a copy of the complaint (if applicable) and a general statement of the law violated. Thus, the Ethics Commission will notify a public servant by certified letter if he or she is under investigation.

Unless an alleged violator publicly discloses the existence of the preliminary investigation, the Ethics Commission is required to keep confidential the fact of the preliminary investigation. This confidentiality remains until the Ethics Commission determines probable cause of a violation and initiates an administrative proceeding to determine whether there has been a violation. However, the Ethics Commission may inform a referring state agency of the status of, or any action taken on, an investigative matter referred to the Ethics Commission by the agency. It may also, for investigative purposes, share evidence, at its discretion, with the Auditor of Public Accounts and the Personnel Board. These entities are covered by the confidentiality requirement of KRS 11A.080 when working with the Commission on a preliminary investigation. 94-ORD-81.

The Ethics Commission has the power to subpoena witnesses and evidence, as well as use the facilities of other agencies in carrying out its investigations. The Ethics Commission views its investigations as fact-finding missions. The Ethics Commission does not desire to bring charges without sufficient evidence. If the Ethics Commission determines that evidence is not sufficient to show probable cause of a violation during the preliminary investigation, the public servant is confidentially informed that the investigation is terminated and such notification remains confidential. This confidentiality is designed to protect the reputation of an employee who is falsely accused of a violation or against whom there is insufficient evidence to warrant further action.

Source: KRS 11A.080(2) and (3), 11A.070, and 11A.090

The Confidential Reprimand:

The Ethics Commission may find probable cause of a violation during a preliminary investigation, but find mitigating circumstances, such as lack of financial gain to the employee, lack of loss to the state, and lack of impact on public confidence. In such situations, the Ethics Commission may confidentially reprimand the alleged violator rather than initiate an administrative proceeding. A confidential reprimand is merely a letter from the Ethics Commission sent to the public servant by certified mail. A copy is also sent to the appointing authority with instructions that the letter remain confidential.

Source: KRS 11A.080(4)(a)

Charges of the Commission:

If the Ethics Commission finds probable cause that a public servant may have violated the Ethics Code, and no mitigating factors exist that would justify a confidential reprimand, the Ethics Commission will vote to issue charges against the violator. These charges come in the form of a document called the Initiating Order. This is the first public document in the Ethics Commission's record. This document begins the administrative proceedings process. The Ethics Commission's charges are civil in nature, but can lead to criminal prosecution.

After charging an alleged violator with a violation of the Ethics Code, the Ethics Commission must prove by clear and convincing evidence during an administrative hearing that the public servant has actually violated the Ethics Code. This is a high standard and requires the Ethics Commission to ensure that it has good, solid evidence to bring charges against a violator.

The Ethics Commission's administrative hearings follow the KRS Chapter 13B process. During the administrative hearing, the alleged violator has due process rights to be represented by counsel, call witnesses, introduce exhibits, and cross-examine witnesses. The Ethics Commission's General Counsel serves as the "prosecutor" of these actions. The Hearing Officer will hear all evidence and issue a recommended order to the Ethics Commission. A final determination whether a violation occurred is ultimately made by the Ethics Commission. A public servant may appeal a final order to the Franklin Circuit Court for judicial review and appeal these decisions all the way to the Supreme Court.

The Ethics Commission will settle matters with an individual if the individual will admit to the conduct and pay a reduced penalty.

Source: KRS 11A.080(4)(b), KRS 11A.100(1), (2), and (3).

Penalties

The Ethics Commission, upon clear and convincing proof of a violation of the Ethics Code, may:

- Issue a cease and desist order;
- Require a public servant to file a report, statement, or other information;
- Issue a written, public reprimand which will be forwarded to the public servant's appointing authority;
- Recommend to the appointing authority that the public servant be removed from office or his or her position; and
- Order the public servant to pay a civil penalty of not more than **\$5,000** for **each** violation.

In addition:

- If the violation has substantially influenced the action taken by any state agency in any particular matter, such shall be grounds for voiding, rescinding, or canceling the action on such terms as the interest of the state and innocent third persons require.
- The Ethics Commission **shall** refer to the Attorney General all evidence of violations of KRS 11A.040 for prosecution – violations are Class D felonies punishable by one to five years in jail and additional fines.
- An employee who fails to file with the Ethics Commission his statement of financial disclosure by the due date will have his salary withheld until the statement is filed.

Source: KRS 11A.100(3), (4), and (5), and KRS 11A.990

Statute Of Limitations

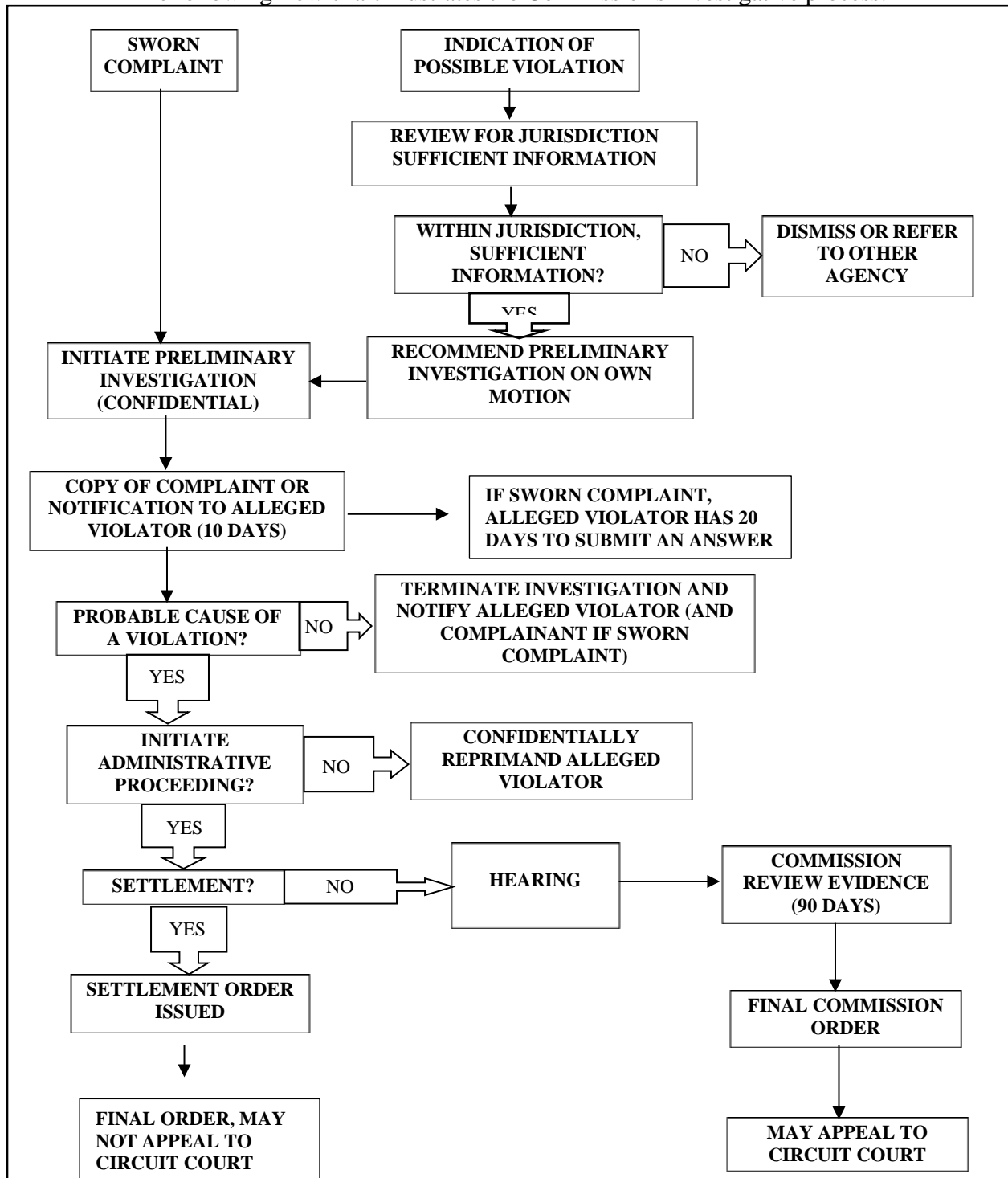
For civil penalties, the Commission does NOT have a statute of limitations, and can review conduct, no matter when it occurred; however, the older the evidence, the shorter the memories, the harder a matter is to prove. KRS 11A.990 follows 4-year statute of limitations for felony convictions.

Appeals

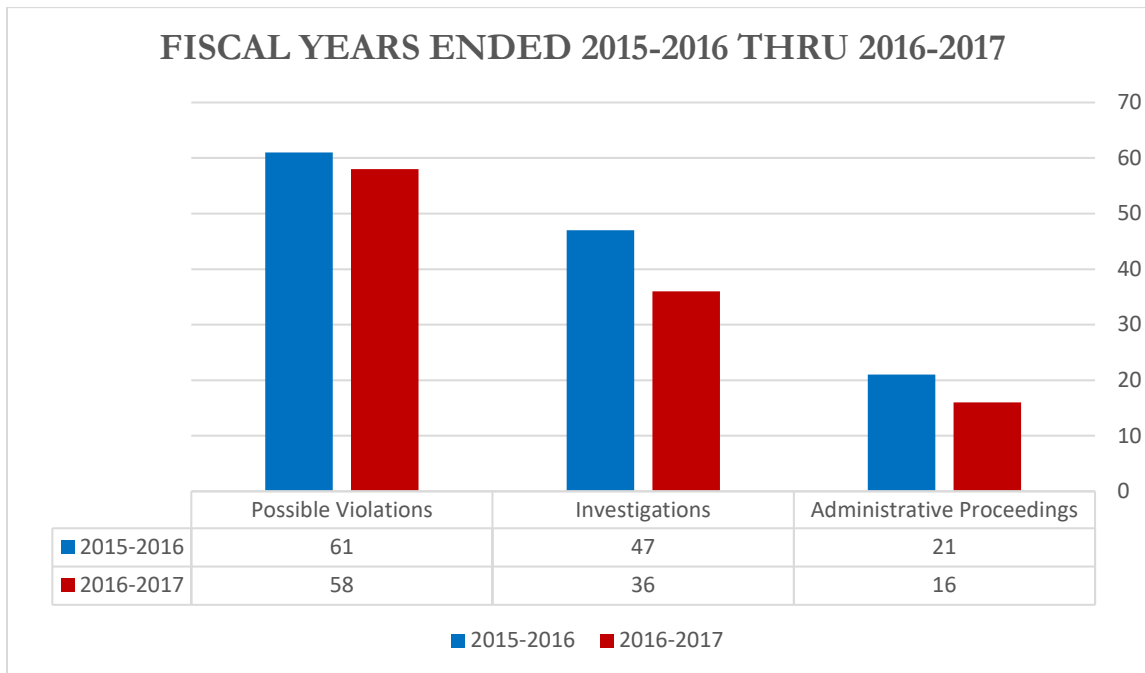
The Commission's final orders may be appealed primarily to the Franklin Circuit Court pursuant KRS 13B.140.

INVESTIGATIVE FLOW CHART

The following flow chart illustrates the Commission's investigative process.



If the Commission finds, during a preliminary investigation, that probable cause of a violation has occurred, the Commission may pursuant to KRS 11A.080(4): 1) due to mitigating circumstances such as no significant loss to the state, lack of significant economic gain to the alleged violator, or lack of significant impact on public confidence in government, issue to the alleged violator a confidential reprimand and provide a copy of the reprimand to the alleged violator's appointing authority; or, 2) initiate an administrative proceeding to determine whether there has been a violation.



ADMINISTRATIVE PROCEEDINGS

The provisions of KRS Chapter 13B apply to all Commission administrative hearings. If, during an administrative hearing, the Commission finds clear and convincing proof of a violation of the code of ethics, it may require the violator to cease and desist the violation, require the violator to file any required report or statement, publicly reprimand the violator, recommend the appointing authority suspend or remove the violator from office or employment, and/or impose a civil penalty of not more than \$5,000 per each violation. (Collected civil penalties are deposited into the General Fund.) In addition, any violation that has substantially influenced action taken by any state agency in a matter shall be grounds for voiding, rescinding or canceling the action based on the interests of the state and innocent third persons. The Commission must refer to the Attorney General for prosecution any violations of KRS 11A.040. Final action by the Commission may be appealed to the Circuit Court upon petition of any party in interest.

STATISTICS

	<u>2015--2016</u>	<u>2016—2017</u>	<u>Total</u>
Possible Violations Reviewed	60	96	156
Investigations Initiated	44	72	116
Investigations Terminated	15	36	51
Confidential Reprimands	1	10	11
Administrative Proceedings Initiated	20	24	44
Cases Referred To Other Agencies	3	1	4
Employees Penalized	13	11	24
Investigations Active at Fiscal Year End	29	20	49

DISPOSITION OF INVESTIGATIONS

Informal complaints received by the staff were researched and either brought to the Commission, referred to another agency, or dismissed for lack of jurisdiction. Of the preliminary investigations initiated, either during this biennium or the previous one, 42 did not have sufficient facts to constitute a violation of the code of ethics; however, many alleged violators were sent information to ensure future compliance with the code of ethics. Twenty (20) investigations showed probable cause of a violation; however, due to mitigating circumstances, the alleged violators were confidentially reprimanded during the biennium. Fifteen (15) investigations remained active as of June 30, 2016, and eleven (11) investigations remained active as of June 30, 2017. In thirty-seven (37) other investigations, the Commission found probable cause of violations and issued initiating orders for administrative proceedings during the biennium. These proceedings, along with proceedings that were still active at the beginning of the biennium, are detailed as follows:

Executive Branch Ethics Commission v. Kelly Shortridge

14-025

Allegation: That Mr. Shortridge used or attempted to use his position to obtain money from a coal mine operator in exchange for preferential treatment by Mr. Shortridge, whose job duties included, at one time, inspecting mines owned by that operator. Further, Mr. Shortridge has admitted that he accepted unsolicited donations from this coal mine operator in the past to a little league basketball program with which Mr. Shortridge was involved.

Conclusion: In a Settlement Agreement, approved by the Commission, Shortridge agreed to pay a \$4,000.00 civil penalty, offset on a dollar-for-dollar basis by the restitution paid by Shortridge

to the U.S. District Court Clerk, resulting in a remaining \$2,000.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing and Agreed Final Order. Shortridge is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Shanion Thurman

15-002/15-EBEC-0078

Allegation: That Thurman used her official position to obtain a copy of a confidential cooperation agreement which she then provided to her live-in boyfriend who was close friends with the criminal defendant against whom the subject of the confidential cooperation agreement had agreed to testify in exchange for an early release from prison.

Conclusion: In Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order of Default, Notice of Exception and Appeal Rights, approved by the Commission, Thurman shall pay a \$5,000.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded this matter issuing a Final Order of Default Judgment. Thurman is no longer employed by the Commonwealth. This matter is pending.

Executive Branch Ethics Commission v. Jason Driskell

15-003

Allegation: That Mr. Driskell, while working for the Cabinet for Health and Family Services, falsified his timesheets to varying degrees for 253 days between January 2013 and March 2014, with the value of such time falsely claimed being in excess of \$11,000.

Conclusion: In a Settlement Agreement, approved by the Commission, Driskell agreed to pay a \$3,000.00 civil penalty, offset on a dollar-for-dollar basis by the amount of restitution paid by Driskell to the Cabinet for Health and Family Services unless Driskell misses two (2) or more payments then full restitution will be due, to not seek employment with the Commonwealth for a period of eight (8) years, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Driskell is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Debra Vahle

15-004

Allegation: That Ms. Vahle recorded false information on a document called the "Worksheet for Medicaid Eligibility Quality Control (QC) Reviews" in multiple clients' records. The worksheet is used by the adult Medicaid assistance program to collect and analyze eligibility for Medicaid benefits and to comply with state and federal Medicaid quality control standards.

Conclusion: In a Settlement Agreement, approved by the Commission, Vahle agreed to pay a \$2,000.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Vahle is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. William Harris

15-005

Allegation: That Mr. Harris has a full-time job at a detective agency, at which he was working 80 hours plus a week, while maintaining full-time employment with the Department of Juvenile Justice, thereby presenting a strong likelihood that he was falsifying his timesheets for the Department of Juvenile Justice. Further, he was injured on the job while working for the detective agency, but later feigned an injury while on the job for the Department of Juvenile Justice and is now off work from the Department and receiving benefits while continuing to work full-time for the detective agency. Mr. Harris also claimed voting leave in order to vote in the recent primary election, but he failed to vote.

Conclusion: In a Settlement Agreement, approved by the Commission, Harris agreed to pay a \$1,000.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Harris is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Courtney Smith

15-006

Allegation: That Ms. Smith falsified official client records in the Kentucky Guardianship Financial Information System in an apparent attempt to conceal the fact that she was not performing her job duties, and that Ms. Smith falsified her official timesheets and sign-in/out logs on a regular basis between February 1 and May 31, 2014, in order to conceal her absence from work.

Conclusion: In a Settlement Agreement, approved by the Commission, Smith agreed to pay a \$1,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Smith is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Chad Albert Buckley

15-007

Allegation: That Mr. Buckley used his position to trade a home visit with a child, along with \$30 cash and a \$25 gift card, to the child's parents in exchange for four Oxycontin pills.

Conclusion: In a Settlement Agreement, approved by the Commission, Buckley agreed to pay a \$1,250.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Buckley is no longer employed by the Commonwealth. Mr. Buckley was referred to the appropriate authorities for criminal investigation.

Executive Branch Ethics Commission v. Chad Hayes

15-008

Allegation: That Mr. Hayes used his position to obtain cash in exchange for scrap metal he sold that belonged to the Luther Luckett Correctional Complex. The amount of cash he received was \$706.01, of which he returned \$189.49 after being caught by his agency.

Conclusion: In a Settlement Agreement, approved by the Commission, Hackworth agreed to pay a \$1,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Hayes is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. James Johnson

15-009

Allegation: That Johnson used his position to sexually abuse female inmates and traffic narcotics within the correctional facility to which he was assigned.

Conclusion: In a Settlement Agreement, approved by the Commission, Johnson agreed to pay a \$2,500.00 civil penalty, to abstain from seeking employment with the executive branch of state government for a period of ten (10) years, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Johnson is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Michael Schiesser

15-010

Allegation: That Mr. Schiesser used his position as a corrections officer at the Kentucky State Reformatory to smuggle contraband to an inmate at the facility in exchange for cash or other form of financial payment.

Conclusion: In a Settlement Agreement, approved by the Commission, Schiesser agreed to pay a \$3,000.00 civil penalty, to not seek employment for a period of ten (10) years with the Commonwealth, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Schiesser is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Joseph Casey Hackworth

15-011

Allegation: That Hackworth used his official position to falsify official records and to retain licensing fees for his own personal use and enjoyment.

Conclusion: In a Settlement Agreement, approved by the Commission, Hackworth agreed to pay a \$1,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Hackworth is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Dana Terhune

15-012

Allegation: That Ms. Terhune used her position as a Department of Corrections employee to conduct an illicit relationship with an inmate and to facilitate the smuggling of contraband to that inmate, Robert Flanders, who was housed in the Kentucky State Reformatory.

Conclusion: In a Settlement Agreement, approved by the Commission, Terhune agreed to pay a \$4,000.00 civil penalty which was offset on a dollar-for-dollar basis by restitution paid to the Oldham Circuit Court in the amount of \$2,500.00, leaving a balance of \$1,500.00, to not seek employment for a period of five (5) years with the Commonwealth, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Terhune is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Lewis Young

15-013

Allegation: That Mr. Young routinely borrowed money from employees of a contractor whose work it was Young's responsibility to inspect, and that he would become angry and/or retaliate if his request was denied; that Young routinely slept on the job site during work hours, possibly on a daily basis, for an average of 30-60 minutes at a time, during which time he would miss work being completed and at least twice asked for the work to be redone so he could inspect it; that Young worked part-time for a business that was a sub-contractor to companies with which his agency had contracts, without the prior approval of his agency; and that Young intentionally used his position to extend or delay the project he was assigned to.

Conclusion: In a Settlement Agreement, approved by the Commission, Young agreed to pay a \$3,000.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Young is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. James Bland

15-014

Allegation: That Mr. Bland submitted 25 altered jury duty forms to his immediate supervisor along with 26 falsified timesheets totaling 191.5 hours of falsified time for jury duty leave during which time he did not have jury duty; that Bland spent approximately 10.5 hours stopped in a state vehicle at non-work related locations during a three month time period in 2014; and that Bland had secondary employment with a private business with which his agency had a contract, and for which he did not have outside employment approval, and that he worked for this secondary employer on state time.

Conclusion: In a Settlement Agreement, approved by the Commission, Bland agreed to pay a \$4,000.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Bland is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. George Smithers

15-015

Allegation: That Mr. Smithers has a photography business and is using the state facilities at Hazelwood as a location to take pictures for this private, for profit business. He has also been seen handing out his business cards to subordinate employees, on state time, at the facility.

Conclusion: In a Settlement Agreement, approved by the Commission, Smithers, while not admitting that he committed any violations, agreed to pay a \$3,500.00 civil penalty, received a public reprimand, to abstain from seeking employment with the executive branch of state government for a period of five (5) years, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Hendricks is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. John Sumner

015-016

Allegation: That Johnson used his position to sexually abuse female inmates and traffic narcotics within the correctional facility to which he was assigned.

Conclusion: In a Settlement Agreement, approved by the Commission, Sumner agreed to pay a \$1,000.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Sumner is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Joseph Benjamin Phillips

15-017

Allegation: That Mr. Phillips, during the four month period that was reviewed, misrepresented his time and attendance on his timesheets, at least fifty-four (54) times, to such a degree that it affected the daily operations of his agency.

Conclusion: In a Settlement Agreement, approved by the Commission, Phillips agreed to pay a \$2,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Phillips is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Phillip Haney

15-018

Allegation: That Mr. Haney used his position to friend on Facebook over one hundred and forty (140) offenders, some of whom he provided services to as a social services clinician. Mr. Haney used the Facebook account to interface with some offenders on a personal level. Mr. Haney further used the Facebook account to attempt to start up a business selling supplements soliciting his “friends” to enter into a business relationship with him to sell his supplements. Mr. Haney approached two offenders in his office, in person, to participate in his personal for-profit business.

Conclusion: In a Settlement Agreement, approved by the Commission, Haney agreed to pay a \$1,250.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Haney is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Gerri Mesmer

16-001

Allegation: That Ms. Mesmer used her official position to have sexual relations with a youth that was assigned to the facility at which she worked.

Conclusion: In a Settlement Agreement, approved by the Commission, Mesmer agreed to pay a \$3,500.00 civil penalty offset on a dollar-for-dollar basis by the Mesmer's donation to Kosair Charities in the amount of \$1,000.00, and amount paid for probation supervision and drug testing fees totaling \$2,100.00, resulting in a remaining civil penalty of \$400.00, to abstain from seeking employment with the executive branch of the state for a period of five (5) years, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Mesmer is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Billy Buckley

16-002

Allegation: That Ms. Buckley, while engaging in a sexual relationship with her subordinate, Kevin Booker [with whom the Commission charged and settled another matter in January of 2015], upon Mr. Booker's request, supplied interview questions to an interviewee, who was a close, personal friend of Mr. Booker's, prior to the interview for a position with the Department.

Conclusion: In a Settlement Agreement, approved by the Commission, Buckley agreed to pay a \$1,000.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Buckley is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Patrick Hoover

16-003

Allegation: That Mr. Hoover engaged in sending and soliciting sexually explicit text messages with two individuals that he was assigned to monitor as a probation and parole officer. During the time in which Mr. Hoover was engaging in this conduct, he made decisions concerning the progress of these two individuals' probation and parole.

Conclusion: In a Settlement Agreement, approved by the Commission, Hoover agreed to pay a \$1,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Hoover is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Mike Martindale

16-004

Allegation: That Mr. Martindale used his position as an HVAC inspector and his access to Department information for personal gain. Mr. Martindale accessed a Department database to gain personal contact information of regulated HVAC licensees and gave the personal information to a private entity named Tradetech, which is owned by Martindale's wife. Mr. Martindale is associated with Tradetech and has a personal stake in the company. Tradetech used the information to solicit HVAC licensees.

Conclusion: This case is pending.

Executive Branch Ethics Commission v. Jeremy Tackett

16-005

Allegation: That Mr. Tackett used a state-issued fleet credit card to purchase fuel for non-government owned vehicles, transported unauthorized passengers in his state vehicle, and used his state vehicle after hours for his personal use. Furthermore, Tackett was using state resources to act as a Ginseng dealer, which was also in conflict with his duties for the state and had not been approved as outside employment by his Division.

Conclusion: In a Settlement Agreement, approved by the Commission, Tackett agreed to pay a \$3,750.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Tackett is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Galena Joy Bailey

16-006

Allegation: That Ms. Bailey used her position to help a friend by threatening the boyfriend of her friend's daughter with retribution in the court system if he did not return the daughter's dog to her family. Ms. Bailey left a voicemail on the cell phone of the mother of the boyfriend indicating that the family was going to file assault charges, which would affect his visitation with his daughter, if he did not return the dog. Ms. Bailey also used her access to the CourtNet system to do a criminal background check on the boyfriend with no work-related reason to do so.

Conclusion: In a Settlement Agreement, approved by the Commission, Bailey agreed to pay a \$1,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Bailey is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Vincent Gross

16-007

Allegation: That Mr. Gross used state resources for non-work related purposes and for his personal prurient interests by engaging in sexually explicit texts, emails and phone calls on state

time and/or using state equipment, and engaging in at least one act of sexual activity while claiming work time, with Ms. Clara Lunsford; That Mr. Gross violated Agency policy and shared confidential case information with Ms. Lunsford about two of her children who were or had been in DJJ custody; That Mr. Gross violated Agency policy by engaging in a personal relationship with Ms. Lunsford, the parent of a former juvenile client he supervised.

Conclusion: In a Settlement Agreement, approved by the Commission, Gross agreed to pay a \$1,500.00 civil penalty. Received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Gross is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Timothy Longmeyer

16-008

Allegation: That Mr. Longmeyer used his position as Cabinet Secretary to steer contracts to MC Squared Consulting LLC, and that in exchange MC Squared Consulting kicked back cash payments and checks for political contributions to Longmeyer.

Conclusion: In a Settlement Agreement, approved by the Commission, Longmeyer agreed to pay a \$208,500.00 civil penalty offset on a dollar-for-dollar basis by the restitution paid by Longmeyer to the U.S. District Court, resulting in a remaining civil penalty of \$5000.00, to abstain from seeking employment with the executive branch of the state for a period of ten (10) years, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Longmeyer is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Ryan Green

16-009

Allegation: That Ryan Green engaged in decision-making that caused the transfer of \$20 million from the unemployment insurance surcharge fund account into a trust fund to pay unemployment benefits in violation of KRS Chapter 341 so that Kentucky employers would get a refund from interest paid and the account would appear solvent rather than in a deficit in violation of the Social Security Act and Federal Unemployment Tax Act. Such allegations, if true, could represent possible violations of KRS 11A.020(1) and (2). It is further alleged that Mr. Green attempted to influence employees to cover up these activities to make agency records appear that the money was maintained in multiple accounts for the purposes of the budget submission. Furthermore, Mr. Green threatened retribution to one employee for failing to assist him in covering up the activity.

During the September 19, 2016 meeting, the Commission was satisfied with the investigation related to the \$20 million transfer, but requested staff to further investigate the allegations that Mr. Green used his position to direct subordinates to cover up activities and to threaten subordinates with retaliation.

There is no evidence to support the initial allegations that staff were threatened or forced to perform unethical or illegal job tasks. It appears this part of the initial complaint was exaggerated and failed to acknowledge the yelling and bad behavior of both parties. The alleged victim named in the complaint denied feeling like a victim or feeling forced to do any actions she felt were

improper.

Conclusion: This case is pending.

Executive Branch Ethics Commission v. Manoj Shanker

16-010

Allegation: That Manoj Shanker engaged in decision-making that caused the transfer of \$20 million from the unemployment insurance surcharge fund account into a trust fund to pay unemployment benefits in violation of KRS Chapter 341 so that Kentucky employers would get a refund from interest paid and the account would appear solvent rather than in a deficit in violation of the Social Security Act and Federal Unemployment Tax Act. Such allegations, if true, could represent possible violations of KRS 11A.020(1) and (2). It is further alleged that Mr. Shanker attempted to influence employees to cover up these activities to make agency records appear that the money was maintained in multiple accounts for the purposes of the budget submission. Furthermore, Mr. Shanker threatened retribution to one employee for failing to assist him in covering up the activity.

During the September 19, 2016 meeting, the Commission was satisfied with the investigation related to the \$20 million transfer, but requested staff to further investigate the allegations that Mr. Shanker used his position to direct subordinates to cover up activities and to threaten subordinates with retaliation.

There is no evidence to support the initial allegations that staff were threatened or forced to perform unethical or illegal job tasks. It appears this part of the initial complaint was exaggerated and failed to acknowledge the yelling and bad behavior of both parties. The alleged victim named in the complaint denied feeling like a victim or feeling forced to do any actions she felt were improper.

Conclusion: This case is pending.

Executive Branch Ethics Commission v. Joshua Mattingly

17-001

Allegation: That Joshua Mattingly used his position and access to a Department of Corrections (DOC) confidential inmate database to look up information concerning Sarah Reed, a former inmate of DOC, and her ex-fiancé Anthony Casey, a current inmate of DOC, on at least 248 occasions. Mr. Mattingly had no official work related reason for accessing this information. Mr. Mattingly had a conflict of interest due to the fact that he had reported Ms. Reed for transporting Suboxone into the facility to provide to Mr. Casey, but had then begun a romantic relationship with Reed, knowing that she was indicted for this conduct.

Conclusion: In a Settlement Agreement, approved by the Commission, Mattingly agreed to pay a \$1,000.00 civil penalty, to not seek employment for a period of five (5) years with the Commonwealth, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Mattingly is no longer employed by the

Commonwealth.

Executive Branch Ethics Commission v. Scott Nevitt

17-002

Allegation: That Mr. Nevitt used state time and resources to inappropriately contact a 10 year old child for his own prurient interests.

Conclusion: In a Settlement Agreement, approved by the Commission, Nevitt agreed to pay a \$1,250.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Nevitt is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Mark Arnold

17-003

Allegation: That Mr. Arnold used state time and resources for his personal, for-profit EBay business.

Conclusion: In a Settlement Agreement, approved by the Commission, Arnold agreed to pay a \$2,000.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Arnold is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Walt Gaffield

17-004

Allegation: That Mr. Gaffield used his official position to solicit campaign contributions from non-merit employees who were under his supervision.

Conclusion: In a Settlement Agreement, approved by the Commission, Gaffield agreed to pay a \$6,000.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Gaffield is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Gary Kitchen

17-005

Allegation: That Mr. Kitchen stole items from a contractor of the Cabinet, stole items from the Cabinet, and resold some of those items for a profit. Mr. Kitchen also used a Cabinet credit card to attempt to have an item fixed that he had stolen from the Cabinet.

Conclusion: In a Settlement Agreement, approved by the Commission, Kitchen agreed to pay a \$1,500.00 civil penalty, to not seek employment for a period of ten (10) years with the Commonwealth, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Kitchen is no longer employed by the

Commonwealth.

Executive Branch Ethics Commission v. Lisa Tucker

17-006

Allegation: That Ms. Tucker used her position to influence the state merit hiring system for the benefit of Troy Evans, with whom she was having an intimate relationship. Tucker also supervised and conducted Mr. Evans' evaluations.

Conclusion: In a Settlement Agreement, approved by the Commission, Tucker agreed to pay a \$2,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Tucker is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Stacy Skinner

17-007

Allegation: That on or about October 27, 2016, Mr. Skinner used a state vehicle and trailer to remove up to fifteen pieces of guardrail from the Scott County Maintenance Facility to take to a friend's farm for his friend's personal use.

Conclusion: In a Settlement Agreement, approved by the Commission, Skinner agreed to pay a \$1,500.00 civil penalty, received a public reprimand, and waived any right to an appeal. The Commission concluded the matter by issuing an Agreed Final Order. Skinner is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Rhonda Bingham

17-008

Allegation: That Ms. Bingham used her state issued email account to operate private business matters as a Pure Romance Consultant. Ms. Bingham sent and received at least 60 emails regarding her outside business on her state email in addition to many other non-work related emails.

Conclusion: In a Settlement Agreement, approved by the Commission, Bingham agreed to pay a \$1,250.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Craig Price

17-011

Allegation: That Mr. Price abused state time and resources by committing numerous attendance violations and by driving his state issued vehicle for personal benefit.

Conclusion: This case is pending.

Executive Branch Ethics Commission v. Brandon Hendricks

17-012

Allegation: That CO Brandon Hendricks engaged in sexual acts with a female inmate in a state facility.

Conclusion: In a Settlement Agreement, approved by the Commission, Hendricks agreed to pay a \$1,500.00 civil penalty, received a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order. Hendricks is no longer employed by the Commonwealth.

LITIGATION

INTRODUCTION

All final orders of the Commission issued pursuant to an administrative hearing are appealable to circuit court. The Commission also may initiate court actions to collect unpaid fines and may initiate court actions where judicial intervention is necessary to enforce the orders of the Commission.

COURT REVIEW OF ETHICS VIOLATIONS

COMMISSION-INITIATED ACTION

Executive Branch Ethics Commission v. Stephanie Sandmann nka Hiser, Franklin Circuit Court, Case No. 15-CI-00219:

On September 21, 2016, the Franklin Circuit Court issued an Opinion and Order affirming the Commission’s Final Order. On October 21, 2016, Ms. Sandmann’s time in which to file an appeal expired. The Executive Director sent a letter to Mr. Shouse giving his client until December 15, 2016, to pay the \$5000 civil penalty that was owing. Ms. Sandmann paid her fine in full, which the Commission accepted, and the matter has closed.

Executive Branch Ethics Commission v. William Harris, Franklin Circuit Court, Case No. 17-CI-00562:

On August 18, 2017, the Franklin Circuit Court issued a Default Judgement in favor of the Commission. On October 4, 2017, the Franklin Circuit Court issued a Wage Garnishment Mr. Harris. Mr. Harris paid his fine in full, which the Commission accepted, and the matter has closed.

Executive Branch Ethics Commission v. Michael Martindale, Franklin Circuit Court, Case No. 17-CI-00092

The Commission issued an Initiating Order on July 18, 2016 and Mr. Martindale filed an Answer on his own behalf on August 10, 2016. The Honorable James Dickinson was designated as the Hearing Officer. Telephonic prehearing conferences occurred on August 26 and September 30, 2016. The administrative hearing was set for January 18-19, 2017 and continued until February 28 – March 2, 2017. Following several motions and a third telephonic prehearing conference on

January 6, 2017, the deposition of a witness was ordered for January 13, 2017. Settlement attempts have failed. The Evidentiary Hearing was held on August 30 and 31. The parties elected to submit written closings. The Hearing Officer set a briefing schedule. The transcript was due by October 3, 2017. The Commission's written closing and brief was due by November 3. Martindale's responsive closing was due by December 4, 2017. The Commission's reply is due by December 15. Pursuant to KRS 13B.110, the Hearing Officer will have sixty days from December 15 to submit the Recommended Order to the Commission. The parties will then have fifteen days to file exceptions. This matter is ongoing and currently pending in Franklin Circuit Court.

Executive Branch Ethics Commission v. Lewis Young, Franklin Circuit Court, Case No. 17-CI-00563,

The Commission issued an Initiating Order on July 24, 2015. Mr. Young received the Initiating Order by certified mail on August 7, 2015. The Commission entered a Settlement Agreement and Agreed Final Order with Mr. Lewis on January 11, 2016, giving Mr. Lewis until December 1, 2016, to pay a civil penalty of \$3,000. Mr. Lewis failed to pay his civil penalty and the Commission proceeded to file a Petition on May 19, 2017. Mr. Lewis is currently making payments to the Commission.

Executive Branch Ethics Commission v. Farmer, Terry, Franklin Circuit Court, Case No. 17-CI-00561, surviving Franklin Circuit Court, Case No.: 13-CI-010105 after merger, Kentucky Court of Appeals, Case No.: 2017-CA-001170

The Commission filed a Petition to enforce the Final Order in Franklin Circuit Court on May 19, 2017. Farmer filed a response *pro*. The Commission filed a Motion for Judgment on the Pleadings on June 8, 2017 and an Amended Memorandum of law in Support of Motion for Judgment on the Pleadings on June 12, 2017. These were noticed to be heard for June 19, 2017. Farmer failed to appear for the June 19 hearing; however, Judge Shepherd *sua sponte* advised that he was transferring the case to Division II to be heard by Judge Wingate entered such Order on June 22, 2017. The Court also requested the Commission re-notice the case for motion hour in Division II. The Commission complied with the request and the case was re-noticed for June 26, 2017. Farmer again failed to appear. On July 3, 2017, the Court entered an Order Granting Judgment on the Pleadings and ordering Farmer to pay the full \$10,000 by July 14, 2017, which he failed to do. Mr. Farmer filed a new Notice of Appeal. This matter is ongoing and currently pending in the Kentucky Court of Appeals.

EXECUTIVE AGENCY LOBBYING

REGISTRATION

Any person engaged for compensation to influence, on a substantial basis, a decision to be made by an executive branch official or staff member concerning a state expenditure, grant, or budgetary allocation of state funds must register with the Commission, along with his employer, and real party in interest, if applicable, as an Executive Agency Lobbyist (“EAL”) within ten days of the engagement. Thus, if a person attempts to secure business with the state by communicating and attempting to influence a state employee's decision, the person must register as an executive agency lobbyist if attempts are made involving state funds of over \$5000. Upon registration, an executive agency lobbyist is issued a registration card.

House Bill 80 as passed by the 2016 Kentucky General Assembly and signed by Governor Matt Bevin on April 27, 2016, raised the Executive Agency Lobbyist registration fee provided in KRS 11A.211(5) from \$125.00 to \$5000.00 beginning July 1, 2016, through June 30, 2018. In April of 2016, the staff was successful in changing administrative regulation 9 KAR 1:040 to allow all completed and signed forms related to executive agency lobbying to be submitted via facsimile or electronic mail as opposed to requiring original signatures.

Registration as an executive agency lobbyist is not required if:

- ✓ Decisions involve no state funds or state funds of less than \$5000;
- ✓ Merely responding to a request for proposal or submitting a bid;
- ✓ Contacts with state officials are for information gathering only;
- ✓ Lobbying is conducted only during appearances before public meetings of executive branch agencies;
- ✓ Lobbyist is an employee of a federal, state, or local government, of a state college or university, or of a political subdivision, and is acting within his official duty; or
- ✓ Exercising the constitutional right to assemble with others for the common good and petition executive branch agencies for the redress of grievances.

EALs, employers, and real parties in interest registered with the Commission must update their registration and report to the Commission annually any expenditures made to or on behalf of an executive branch employee between July 1-31 of each year for activities during the previous fiscal year. In addition, executive agency lobbyists, employers and real parties in interest are required to report any financial transactions with or for the benefit of an executive branch employee. A copy of the required expenditure or financial transaction statement must be sent to the official or employee who is named by the executive agency lobbyist at least ten days prior to the date it is filed with the Commission.

Information explaining the requirements for executive agency lobbyists has been published in an *Executive Agency Lobbying Handbook* that is available free of charge to lobbyists, their employers, or other interested persons. Included in the *Handbook* are the registration forms required to be filed. The *Handbook* is also available on the Commission’s website at <http://ethics.ky.gov/>.

The Commission conducts one-on-one training with new EALs upon request. The Commission appears on the Agenda for the Kentucky Bar Association Annual Conference as well as the Louisville Bar Association periodically providing training called “The Lobbying Lawyer”.

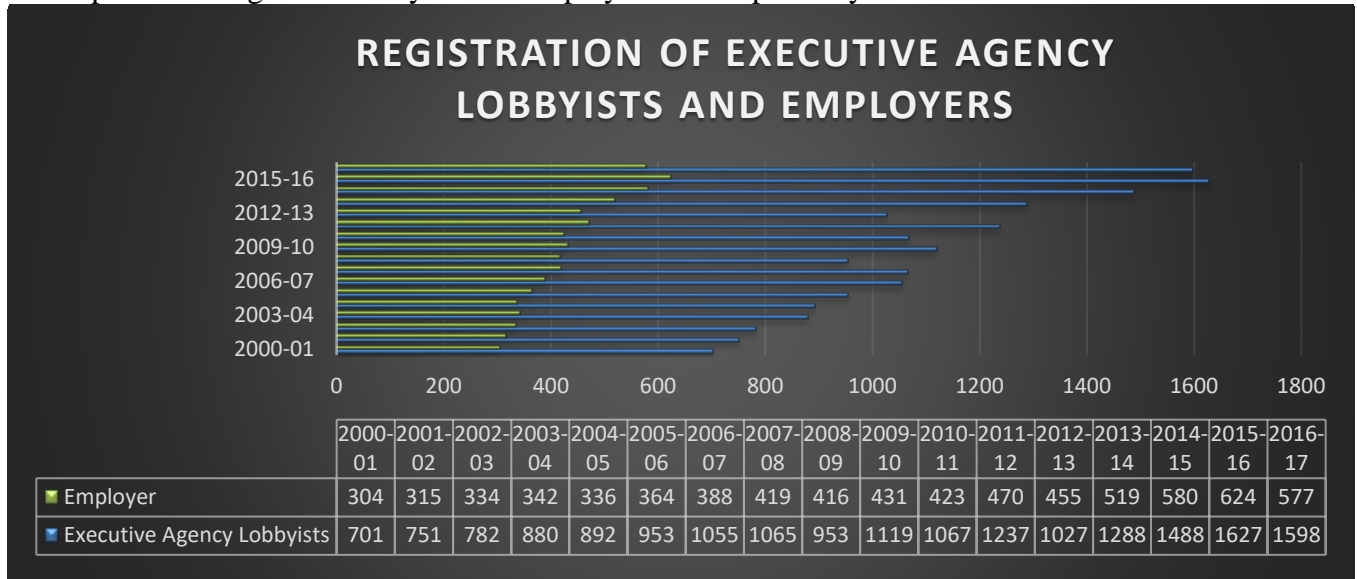
EALs are required to identify on their registration statements the type of industry that they represent. The table below shows the type of industries represented as of June 30, 2015 and June 30, 2017.

TYPE OF INDUSTRY	2015-2016		2016-2017	
	NUMBER OF LOBBYISTS	NUMBER OF EMPLOYERS	NUMBER OF LOBBYISTS	NUMBER OF EMPLOYERS
Advocacy/ Non-Profit/Social Services	83	33	110	33
Agriculture/Equine/Tobacco	22	12	18	9
Architects/Construction/Engineers	173	44	162	40
Arts/Tourism	36	7	28	5
Computer Hardware/Data/Technology	103	38	135	48
Communications/Telecom	65	13	61	12
Criminal Justice/Corrections/Public Safety	39	15	39	15
Education/Workforce Training	108	34	85	27
Entertainment/Gaming /Hospitality/Alcohol	60	24	55	21
Environmental Services/Energy Efficiency	23	13	14	12
Financial Services/Investments/Insurance	358	178	333	153
Health Care/Hospital/Pharmaceuticals/ Bio Tech	311	125	298	116
Legal/Law Firm/Consulting	23	8	30	8
Local Government/Economic Development	56	23	62	23
Manufacturing/Retail	44	17	38	18
Media/Public Relations	6	5	14	5
Minerals/Petroleum/Utilities/Energy	65	17	60	17
Transportation/Shipping	52	18	56	15
TOTAL	1627	624	1598	577

The Commission maintains all registration statements filed by EALs, employers, and real parties in interest. The statements are open records subject to inspection by the public. In addition, all statement information is maintained on a database so that such information may be cross-referenced between

EALs, employer, and real party in interest and is readily accessible to the general public. As of June 30, 2016, 1627 EALs representing 624 employers were registered with the Commission; on June 30, 2017, 1598 EALs representing 577 employers were registered.

A comparison of registered lobbyists and employers for the past 17 years is shown below.



ENFORCEMENT ACTION

Any EALs, employer or real party in interest who fails to file an initial or updated registration statement or, in the case of an employer or real party in interest, fails to pay the \$500 as required by the lobbying laws may be fined by the Commission an amount not to exceed \$100 per day, up to a maximum fine of \$1,000. During fiscal year 2015-16 and 2016-17, the Commission levied no fines for the failure to file timely statements or pay the \$500 registration fee.

LEGISLATIVE HISTORY

On December 10, 1991, shortly after taking office, Governor Brereton C. Jones issued Executive Order 91-2, pertaining to standards of ethical conduct for executive branch employees. The executive order detailed prohibitions of employees, required financial disclosure by certain employees, and directed the Governor's general counsel to prepare ethics legislation for the 1992 General Assembly. This was the beginning of the code of ethics. On April 12, 1992, Senate Bill 63 was passed by the General Assembly, creating the "Executive Branch Code of Ethics," codified as KRS Chapter 11A. The code became effective in July 1992. During the 1993 Special Session of the General Assembly, held to enact a legislative code of ethics, the Executive Branch Code of Ethics was amended to include a new section pertaining to executive agency lobbying, effective September 1993. Numerous amendments have been made to the code of ethics during subsequent sessions of the General Assembly.

The Commission recommended certain necessary amendments and housekeeping measures for KRS Chapter 11A by recommending legislation to the legislature during the 2016 and 2017 legislative sessions. During the 2016 General Assembly, the Commission garnered the support of Reps. S. Overly, B. Yonts, and C. Tackett who filed HB 608 on the Commission's behalf. HB 608 would have enacted expansive clean-up and organizational changes to KRS Chapter 11A; however, it was ultimately unsuccessful.

During the 2017 General Assembly, through HB 387, sponsored with the bi-partisan efforts of Reps. D. Hale and J. Richards, the Commission was able to successfully amend KRS 11A.080 to allow the Executive Branch Ethics Commission to turn over evidence that may be used in a preliminary investigation to any other agency with jurisdiction to review, audit, or investigate an alleged offense. HB 387 also permanently amended KRS 11A.211 to change the registration fee from \$125 to \$500 for executive agency employers of lobbyists and each real party in interest. [HB 80 from the 2016 General Assembly Session temporarily raised the registration fee to \$500 for the 2016-2018 Biennium].

Furthermore, during the 2017 General Assembly, the Finance and Administration Cabinet successfully recommended legislation, which was sponsored by Rep. S. Riley through HB 484, which amended KRS 11A.045(1) to no longer prohibit state agencies from receiving gifts. The bill also allows activities involving sponsorships, naming rights, or similar honoraria granted under the newly enacted provisions of KRS 45A.097 and allows individuals to accept gifts when they traveling while involved in activities related to KRS 45A.097.









PUBLIC INFORMATION

MEETINGS






The Commission holds bi-monthly meetings to consider advisory opinion requests, conduct business, and issue orders related to administrative proceedings. Investigations and litigation reviews are conducted in closed, executive session. Notice of open meetings is sent to the press pursuant to Kentucky's Open Records Law, KRS 61.810. The public is welcome to attend open meetings.

PUBLIC RECORDS

The Commission keeps on file many documents that are public record and are available for public inspection during normal business hours (8:00 a.m. to 4:30 p.m.) on regular state workdays.

-  Financial Disclosure Statements
Filed by elected officials, officers, and candidates for office within the executive branch
-  Administrative Proceedings Case Files
Maintained on all administrative actions taken by the Commission
-  Commission Meeting Minutes (open session only)
-  Executive Agency Lobbyist, Employer, and Real Party in Interest Registrations
-  Executive Agency Lobbyist Listings
-  Economic Development Incentive Disclosure Statements
-  Gift Disclosure Statements
-  Outside Employment Reports

EDUCATIONAL MATERIALS

-  *Biennial Reports*
-  *Guide to the Executive Branch Code of Ethics*
-  *Advisory Opinions*
-  *Executive Agency Lobbying Handbook*
-  Brochures:
 - *Acceptance of Gifts*
 - *Leaving State Government?*
 - *Ethical Guidelines for Boards and Commission Members*
 - *Executive Branch Ethics Commission (general information)*

25 YEAR STATISTICS APPENDIX

- i. EDUCATION AND TRAINING INQUIRIES 1993-2017
- ii. TRAINING PARTICIPANTS 2003-2017
- iii. 25 YEARS STATEMENT OF FINANCIAL DISCLOSURE FILINGS
- iv. 25 YEARS OF TIMELY FILED STATEMENTS AND TOTAL REQUIRED FILINGS
- v. 25 YEARS AT A GLANCE
- vi. 25 YEARS OF REGISTRATION OF EXECUTIVE AGENCY LOBBYISTS AND EMPLOYERS

COMMONWEALTH OF KENTUCKY

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