

COMMONWEALTH OF KENTUCKY

**EXECUTIVE BRANCH
ETHICS COMMISSION**



BIENNIAL REPORT

JULY 1, 2017 - JUNE 30, 2019

**27 YEARS OF STATISTICS
JULY 1, 1992 – JUNE 30, 2019**

Printed with State Funds
2019

EXECUTIVE BRANCH ETHICS COMMISSION

BIENNIAL REPORT

FISCAL YEARS ENDING JUNE 30, 2018, AND JUNE 30, 2019

27 YEARS OF STATISTICS

JULY 1, 1992 – JUNE 30, 2019

COMMISSION CHAIRS & VICE CHAIRS

W. David Denton

Chair, January 28, 2015 – July 14, 2017
(Member, October 29, 2009 – July 14, 2017)

William G. Francis

Chair, July 17, 2017 – July 14, 2018
Vice-Chair, January 28, 2015 – July 17, 2017
(Member, July 14, 2010 – July 14, 2018)

Christopher L. Thacker

Chair, September 17, 2018 - Present
Vice Chair, July 17, 2017 – September 17, 2018
(Member, July 15, 2016 – Present)

K. Timothy Kline

Vice Chair, September 17, 2018 – October 3, 2018
(Member, July 14, 2017 – October 3, 2018)

Christopher W. Brooker

Vice Chair, November 8, 2018 - Present
(Member, April 5, 2018 – Present)

COMMISSION MEMBERS

Judge Sheila Isaac (Ret.)

(Member, October 14, 2015, through resignation on March 30, 2018)

Theresa F. Camoriano

(Member, July 15, 2016, through resignation on May 2, 2018)

April A. Wimberg

(Member, May 2, 2018 – Present)

Holly R. Iaccarino

(Member, July 31, 2018 – Present)

Kyle M. Winslow

(Member, October 18, 2018 – Present)

CURRENT STAFF

Kathryn H. Gabhart, Executive Director

(November 1, 2015 to present)
(General Counsel April 1, 2011 – October 31, 2015)

Michael W. Board, General Counsel

(October 1, 2017, to present)

S. Meena Mohanty, Assistant General Counsel

(January 16, 2019, to present)

Debbie Briscoe, Executive Assistant

(August 8, 2008, to present)

Jenny May, Administrative Assistant

(October 16, 1994, to present)

Bella Wells, Investigator

(June 1, 2018, to present)

Alison Chavies, Paralegal

(June 17, 2019, to present)

FORMER STAFF

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

Jeffrey Fogg, Investigator (February 1, 2018 – March 31, 2019)

Jeffrey M. Jett, Investigator (October 1, 2003 - December 15, 2017)

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

Julie Thomas, Paralegal (February 16, 2018- May 20, 2019)

Bill Trigg, Staff Assistant (September 16, 2007 – August 15, 2019)

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

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

*Offices located at #3 Fountain Place, Frankfort, Kentucky 40601 until January 10, 2018, 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, 2018, and June 30, 2019, 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

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KATHRYN H. GABHART
EXECUTIVE DIRECTOR

MICHAEL W. BOARD
GENERAL COUNSEL

SUCHETA MEENA MOHANTY
DEPUTY GENERAL COUNSEL

CHRISTOPHER L. THACKER
CHAIR

CHRISTOPHER W. BROOKER
VICE CHAIR

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

November 19, 2019

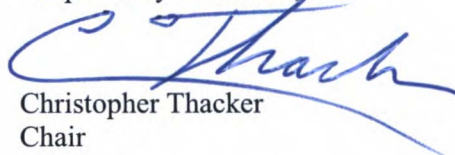
To the Legislative Research Commission
Governor Matthew Bevin
Governor-Elect Andrew Beshear
Citizens of the Commonwealth of Kentucky

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, 2018, and June 30, 2019. 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 27 years of the Commission.

The Legislature has charged the Commission, an independent body of five citizen members from various regions throughout the state, with promoting ethical conduct within the Executive Branch of the Commonwealth. During the 2017-2019 Biennium, an experienced and dedicated staff 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 following: 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; the regulation of lobbyists, their employers, and real parties in interest; and enforcement 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, 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

TABLE OF CONTENTS

INTRODUCTION TO THE COMMISSION.....	1
CODE OF ETHICS.....	2
COMMISSION MEMBERS.....	3
COMMISSION STAFF.....	9
LIVINGSTON TAYLOR ETHICS AWARD	15
BUDGET	17
EDUCATION	18
OUTSTANDING ETHICS OFFICER AWARD	24
ADVISORY OPINIONS	29
FINANCIAL DISCLOSURE.....	34
INVESTIGATIONS, ADMINISTRATIVE PROCEEDINGS, AND LITIGATION.....	36
EXECUTIVE AGENCY LOBBYING.....	62
LEGISLATIVE HISTORY AND RECOMMENDATIONS	69
PUBLIC INFORMATION.....	72
27 YEAR STATISTICS	73

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, provides the ethical standards that govern the conduct of executive branch public servants, elected officials, and professional executive branch lobbyists and their employers and real parties in interest. The mission of the Ethics Commission is to provide for open government through the disclosures of lobbyists and public servants and to promote the ethical conduct of elected officials, officers, and other employees in the Executive Branch of state government, thereby increasing public trust in the administration of state government through the Executive Branch. 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.

The importance of having state officials and public servants who hold high ethical standards, and who promote confidence in government, cannot be overstated. Public servants who follow the Ethics Code are less likely to abuse state time and resources, mismanage government funds and resources, or engage in conduct that could damage the public trust. Without a robust and active Ethics Commission with sufficient resources allocated to it to support the full enforcement of the Ethics Code, public servants would not be deterred from the conduct that resulted in the creation of the Ethics Code and the Ethics Commission in 1992.

MISSION STATEMENT

The mission of the Executive Branch Ethics Commission is to promote the ethical conduct of elected officials, officers, public servants, and executive agency lobbyists, as well as their employers and real parties in interest, 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 and training of executive branch agencies, elected officials, public servants, and lobbyists;
- ◆ Guidance to public servants and lobbyists concerning their ethical conduct, including the issuance of advisory opinions, manuals, pamphlets, staff opinions, letters, emails, phone calls, and in-person guidance;

- ◆ Investigation of possible violations and enforcement of the provisions of the Ethics Code;
- ◆ Administrative Proceedings, conducted pursuant to KRS 13B, providing due process for all those charged with violations of the Ethics Code;
- ◆ Litigation in defense of the Ethics Commission’s final actions and the Ethics Code;
- ◆ Reviewing and auditing financial disclosure statements filed by state officers, candidates for constitutional office, and elected constitutional officers;
- ◆ Receipt and Review of executive agency lobbyists’ registration statements and creation and maintenance of a database of lobbyist filings; and
- ◆ Improvements to the Ethics Code through recommendations for legislation and the issuance of administrative regulations.

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.

WHO IS COVERED BY THE ETHICS CODE:

All state officers and employees in the executive branch of state government are subject to the Ethics Code unless otherwise provided by law. The full Ethics Code also covers members of certain board and commissions. The Ethics Code refers to these employees as “Public Servants.”

WHO IS A PUBLIC SERVANT?

Every employee of every executive branch agency is a public servant covered by the ethics code unless covered under a separate statutory code of ethics. Each public servant is responsible for knowing and complying with these laws.

Some of the provisions of the Ethics Code *only* apply to officers.

WHO IS AN OFFICER?

- Constitutional Officers
- “Major Management” Personnel: This term is not defined by statute, but guidance was provided in Advisory Opinion 17-05. Any employee who can step into the role of a named position in the absence of that officer or any employee with the authority to set policy,

determine the award of contracts or business relationships, hire and fire employees, or establish the budget for an agency may be considered to be an officer.

- Property Valuation Administrators: *EBEC v. Atkinson*, Ky. App., 339 S.W.3d 472 (2010).
- Specifically Named Positions:
 - Cabinet Secretaries and Deputy Secretaries
 - General Counsels
 - Commissioners and Deputy Commissioners
 - Executive Directors
 - Executive Assistants
 - Policy Advisors
 - Special Assistants
 - Administrative Coordinators
 - Executive Advisors
 - Staff Assistants
 - Division Directors

CONTRACT EMPLOYEES: Anyone holding a position by contract that would otherwise be considered a full-time position for any of the above positions is also considered an “officer.”

CERTAIN MEMBERS OF BOARDS AND COMMISSIONS: Members of the following are considered to be officers: the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems Board of Directors, Kentucky Teachers’ Retirement System Board of Trustees, Public Service Commission, Worker’s Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education and the Council on Postsecondary Education and members of salaried boards and commissions. *Source: KRS 11A.010(7) and (9) and Advisory Opinion 17-05.*

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. In 2016, through Executive Order 2016-377, the Governor returned the appointed process as enacted in KRS 11A.060. The following individuals served on the Commission during the 2017-2019 biennium.

2017-2018 MEMBERS OF THE COMMISSION:



PICTURED (from left to right): Timothy Kline, William Francis (Chair), Judge Sheila Isaac (ret.), Theresa Camoriano, and Christopher Thacker (Vice Chair).

2018-2019 MEMBERS OF THE COMMISSION:



PICTURED (from left to right): Kyle Winslow, Holly Iaccarino, Christopher Thacker (Chair), Christopher Brooker (Vice Chair), and April Wimberg.

COMMISSION CHAIRS & VICE CHAIRS DURING THE BIENNIUM

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 served the Commission through July 14, 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, and Chairman of the Commission on July 17, 2017. Mr. Francis served the Commission through July 14, 2018.

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.

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 was elected Vice Chair of the Commission on July 17, 2017, and elected Chairman on September 17, 2019.

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



K. TIMOTHY KLINE

Governor Matt Bevin appointed Mr. Kline on July 15, 2017. Mr. Kline's term was to expire on July 14, 2021; however, he resigned on October 3, 2018, before the end of his term. Mr. Kline was elected Vice Chair on September 17, 2018.

Mr. Kline is a shareholder with the law firm Sullivan, Mountjoy, Stainback, and Miller, P.S.C., in Owensboro, Kentucky. He received a Bachelor of Science, Distinguished Graduate, in 1999 from the U.S. Air Force Academy. Mr. Kline received a Master of Arts from the University of Kentucky Patterson School of Diplomacy and International Commerce in 2000 and a Juris Doctor, Magna Cum Laude, Order of the Coif, from the University of Kentucky College of Law in 2007.



CHRISTOPHER W. BROOKER

Governor Matthew G. Bevin appointed Mr. Brooker on April 5, 2018. Mr. Brooker was appointed to replace Judge Sheila Isaac who resigned her position. Mr. Brooker served the remainder of Judge Isaac's unexpired term ending July 14, 2019, and was reappointed by Governor Bevin to serve a term ending on July 14, 2023. Mr. Brooker was elected Vice Chair on November 8, 2018.

Mr. Brooker is a partner in the Louisville office of Wyatt, Tarrant & Combs, LLP. He earned his bachelor's degree in 1998 from the University of North Carolina at Asheville, and earned his law degree, with honors, in 2001 from the University of North Carolina at Chapel Hill.

COMMISSION MEMBERS DURING THE BIENNIUM



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 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.



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.



APRIL A. WIMBERG

Governor Matthew G. Bevin appointed Mrs. Wimberg on May 2, 2018 to replace Theresa Camoriano who resigned her position. Mrs. Wimberg will serve the remainder of the unexpired term ending July 14, 2020.

Mrs. Wimberg is an attorney from Louisville, Kentucky and practices with the law firm of Bingham Greenbaum Doll, LLP. She earned her Bachelor's degree from the University of Kentucky and her law degree from the University of Louisville.



HOLLY R. IACCARINO

Governor Matthew G. Bevin appointed Ms. Iaccarino on July 31, 2018 to replace William Francis whose term expired July 14, 2018. Mrs. Iaccarino's term will expire July 14, 2022.

Mrs. Iaccarino is an attorney and practices with the law firm of Barnett, Benvenuti & Butler, PLLC, in Lexington, Kentucky. She earned her bachelor's degree in 2005 from Asbury University; her law degree in 2010 from The Catholic University of America, Columbus School of Law in Washington, D.C.; and, her master's degree in 2011 from George Mason University.



KYLE M. WINSLOW

Governor Matthew G. Bevin appointed Mr. Winslow on October 18, 2018 to replace K. Timothy Kline who resigned his position. Mr. Winslow will serve the remainder of the unexpired term ending July 14, 2021.

Mr. Winslow is an attorney and practices with the law firm of Hemmer DeFrank Wessels, PLLC in Ft. Mitchell, Kentucky. He earned his bachelor's degree in 2009 from the University of Louisville and his law degree in 2012 from the University of Cincinnati College of Law.

COMMISSION 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 2017-2019 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

The Executive Director oversees the daily operation of the Commission through:

- Directing, planning, and overseeing all administrative, legal, investigative, lobbyist registration, and financial disclosure functions and statutory requirements of the Commission.
- Sets up, prepares, and conducts ethics training classes for state agencies and/or lobbyist organizations to educate executive branch employees and/or lobbyists on their responsibilities under the Executive Branch Code of Ethics.
- Provides daily advice in response to questions by state employees, executive agency lobbyists, and the public via the telephone, e-mail, and face-to-face communications.
- Drafts staff notes and supervises production and assembly of meeting agenda and meeting packet for bi-monthly commission meetings.
- Drafts advisory opinions, letters, biennial reports, educational materials, articles for professional and state newsletters, proposed legislation, proposed administrative regulations, indexes, and other required materials.
- Prepares and monitors the Commission's biennial budget, records retention requirements, inventory process, website information, and various other administrative functions.
- Works to enact legislation to improve the Executive Branch Code of Ethics.

KATHRYN H. GABHART (NOVEMBER 1, 2015 - PRESENT)



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.

The General Counsel of the Commission serves as legal counsel to the agency. Some of the duties required of the General Counsel are:

- Oversees the conduct of investigations, adjudication, and resolution of alleged violations of the Ethics Code, including serving in a prosecutorial role during administrative hearings;
- Makes court appearances and drafts appellate briefs related to the appeal of administrative proceedings and otherwise defends the final orders of the Commission;
- Responds to various types of inquires (telephone, mail, e-mail, personal) concerning the application of the Ethics Code;
- Assists with drafting administrative regulations and legislative proposals and may represent the Commission at legislative meetings;
- Assists with drafting and reviewing advisory opinions for presentation to the Commission; and
- Provides guidance to the Executive Director and the Commission.

MICHAEL W. BOARD
(OCTOBER 1, 2017 – PRESENT)



MISTY JUDY DUGGER
(NOVEMBER 1, 2015 – AUGUST 15, 2017)



DEPUTY GENERAL COUNSEL

The Deputy General Counsel was newly created in June of 2019. The Deputy General Counsel serves a dual role in acting as support legal advisory to the Executive Director and General Counsel and works partly as an investigator.

Some of the duties required of the Deputy General Counsel include:

- Investigates alleged violations of the Ethics Code, including serving in a prosecutorial role during administrative hearings that are not handled by the General Counsel;
- Makes court appearances and drafts appellate briefs related to the appeal of administrative proceedings and otherwise defends the final orders of the Commission;
- Responds to various types of inquiries (telephone, mail, e-mail, personal) concerning the application of the Ethics Code; and
- Provides guidance to the Executive Director and the Commission.

SUCHETA MEENA MOHANTY (JANUARY 16, 2019 – PRESENT)



INVESTIGATORS

The Investigator positions are part-time and are typically comprised of individuals with law enforcement experience.

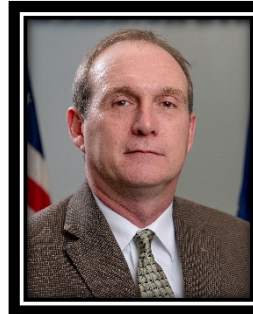
The Investigators are responsible for conducting preliminary confidential investigations initiated by the Commission. The Investigators arrange and conduct interviews of the subjects of the investigations and all potential witnesses related to the investigation. The Investigators ensure that the Commission’s preliminary investigations remain confidential pursuant to KRS 11A.080(2). The Investigators are responsible for serving or arranging the service of subpoenas issued by the Commission. The Investigators collect and review all evidence and data related to the investigation. Finally, the Investigators provide reports to the Commission recounting the results of those investigations.

Furthermore, the Investigators assist in the collection of delinquent Statements of Financial Disclosure and Executive Agency Lobbyist filing forms.

BELLA WELLS
(JUNE 1, 2018 – PRESENT)



JEFF FOGG
(FEBRUARY 1, 2018 – MARCH 31, 2019)



GREGORY MOTLEY
(MARCH 2, 2017 – FEBRUARY 1, 2018)



JEFFREY M. JETT
(OCTOBER 1, 2003 – DECEMBER 15, 2017)



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
(AUGUST 8, 2008 - PRESENT)



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
(OCTOBER 16, 1994 - PRESENT)



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
(SEPTEMBER 16, 2007 - AUGUST 15, 2019)



The **Paralegal** is part-time position and assists the Executive Director and General Counsel with various duties relating to the function 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

ALISON CHAVIES
(JUNE 17, 2019 - PRESENT)

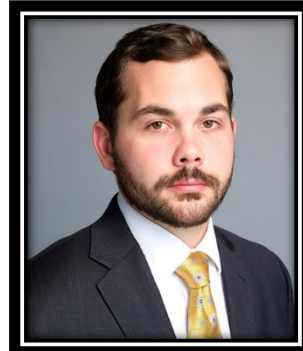


JULIE THOMAS
(February 16, 2018 - May 20, 2019)



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.

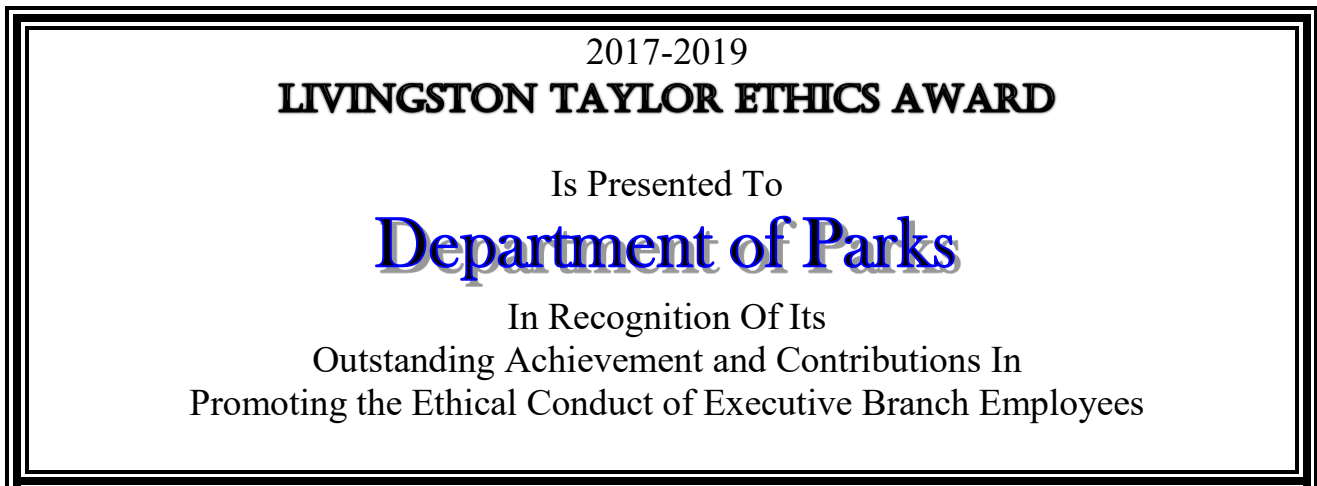
JAMES YODER
(MAY 15, 2017 – FEBRUARY 1, 2018)



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.



Over the last two years, the Department of Parks has dealt with many serious issues, some of which have been referred to the Executive Branch Ethics Commission for further investigation. The Ethics Commission staff recommended that the Executive Branch Ethics Commission issue this award to the Department of Parks for its dedication to pursuing those matters to be referred to the Ethics Commission. The Department of Parks has demonstrated perseverance for the ethical values that underpin the Executive Branch Code of Ethics.

Those at the Department involved in the investigation and referral process include Shawn Estep, Acting Division, Director Division of Human Resources, who acts as a liaison between the Department and the Ethics Commission. Mr. Estep is responsible for making recommendations to Commissioner Donnie Holland and Ms. Judy to refer matters to the Ethics Commission. Deputy Commissioner Rob Richards and Special Assistant to the Commissioner John Kington are

involved in this process as well and provide guidance and support to Mr. Estep on institutional knowledge.



PICTURED (from left to right): Back Row - Chuck Curd, Milea Butler, Deb Barlow, John Kington, Shawn Estep, Kevin Shipp, and Wayne Stover. Front Row - Barbara Shepherd, Laurie Spalding, and Teresa Miner.

Notably, this process involves the assistance and guidance of the Office of Legal Affairs at the Cabinet level, including General Counsel Leigh Powers, and attorneys in Legal Affairs Jean Bird, Evan Jones, and Will Adams. Becky Cottongim and Cindy Brown provide litigation support and general assistance in investigations to the Department of Parks. Auditors Debra Barlow and Wayne Stover make up part of Mr. Estep's team and conduct investigative audits, gather and review evidence, compose audit reports, and draft disciplinary letters. Another part of the team, Program Investigative Officers Laurie Spalding and Kevin Shipp conduct investigations, interviews, gather evidence and documents, compose reports, and draft disciplinary actions. Acting Assistant Director Teresa Miner assists in interviews, drafts letters and actions, conducts research, and assists in investigations. Acting HR Branch Manager John Shouse assists with research and drafting reports. HR Administrators Freda Harris, Tanya Bradshaw, and Milea Butler assist in conducting interviews, drafting, researching, gathering documentation, and conducting investigations. Finally, Executive Assistant Dale Clemons conducts interviews with Mr. Estep and assists in investigations. All of these individuals have worked together to warrant the Department of Parks to receive this recognition by the Executive Branch Ethics Commission.

BUDGET

TWO-YEAR BUDGET ANALYSIS

The Commission's budget and expenditures for fiscal years 2017-18 and 2018-19 in detail below.

	FISCAL YEAR		TOTAL FOR
	2017-18	2018-19	BIENNIUM
ALLOTMENTS			
General Fund	\$450,200	\$548,900	\$999,100
Agency Fund	\$323,867	\$386,100	\$709,967
Balance Forward	\$76,425	\$123,849	\$200,274
TOTAL	\$850,492	\$1,058,849	\$1,909,341
EXPENDITURES			
Personnel Costs	\$611,166	\$769,184	\$1,380,350
Operating Expenses	\$115,477	\$95,309	\$210,786
Grants, Loans & Benefits	0	0	0
Capital Outlay	0	0	0
TOTAL	\$726,643	\$864,493	\$1,591,136
ALLOTMENT OVER EXPENDITURES			
Reverted to general fund	0	0	0
Retained in agency fund	\$123,849	\$194,356	\$318,205
TOTAL	\$123,849	\$194,356	\$318,205

ADMINISTRATIVE HEARING EXPENSES*	2017-18	2018-19	TOTAL
PENALTIES COLLECTED**	\$26,867.21	\$93,600.00	\$120,467.21
BALANCE FORWARD	\$23,513.50	\$25,960.21	\$49,473.71
ADMINISTRATIVE HEARINGS COSTS	\$24,420.50	\$31,354.75	\$55,775.25
REMAINDER	\$55,960.21	\$88,205.46	\$144,165.67

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

** 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.

REVENUE FROM LOBBYING ACTIVITIES			TOTALS
	2017-2018	2018-2019	All Years
*REGISTRATION FEES (AGENCY FUND REVENUE)	\$294,500	\$296,500	\$591,000
LOBBYISTS FINES	\$0	\$0	\$0
TOTAL COLLECTED	\$294,500	\$296,500	\$591,000

EDUCATION

The Commission continues to believe that its primary goal is to educate employees in an effort to improve honesty and integrity in the Executive Branch. 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, online resources, 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 29).

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 2017-2018, the staff provided advice to approximately 866 individuals and to approximately 1024 persons during fiscal year 2018-2019. The following table shows, by subject matter, the approximate number of recorded inquiries received during the biennium.

SUBJECT MATTER	NUMBER OF INQUIRIES	
	2017-18	2018-19
Advisory Opinions	3	4
Boards and Commissions	0	6
Campaign Activity	8	12
Complaints	10	12
Conflict of Interest	46	72
Executive Agency Lobbying	308	426
Financial Disclosure	306	215
General Information	48	86
Gifts	37	42
Investigations	5	12
Jurisdiction	2	15
Legislation	1	11
Litigation	1	0
Open Records	24	23
Outside Employment	15	18
Post-employment	32	39
Request for Material	11	15
Training	9	16
TOTAL	866	1024

TRAINING CLASSES

The Executive Branch Ethics Commission offers ethics classes on a monthly basis to executive branch employees, and 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:	2017-18	2018-19	TOTAL
Training Classes Provided for State Agencies	32	35	67
Training Classes Provided to Boards and Commissions	3	4	7
Training Classes Provided as ongoing on-line course	2	2	4
Training Classes Provided to Ethics Officers	3	3	6
Training Classes Provided for Lobbyist/Other Organizations	2	4	6
TOTAL TRAINING CLASSES	42	48	90

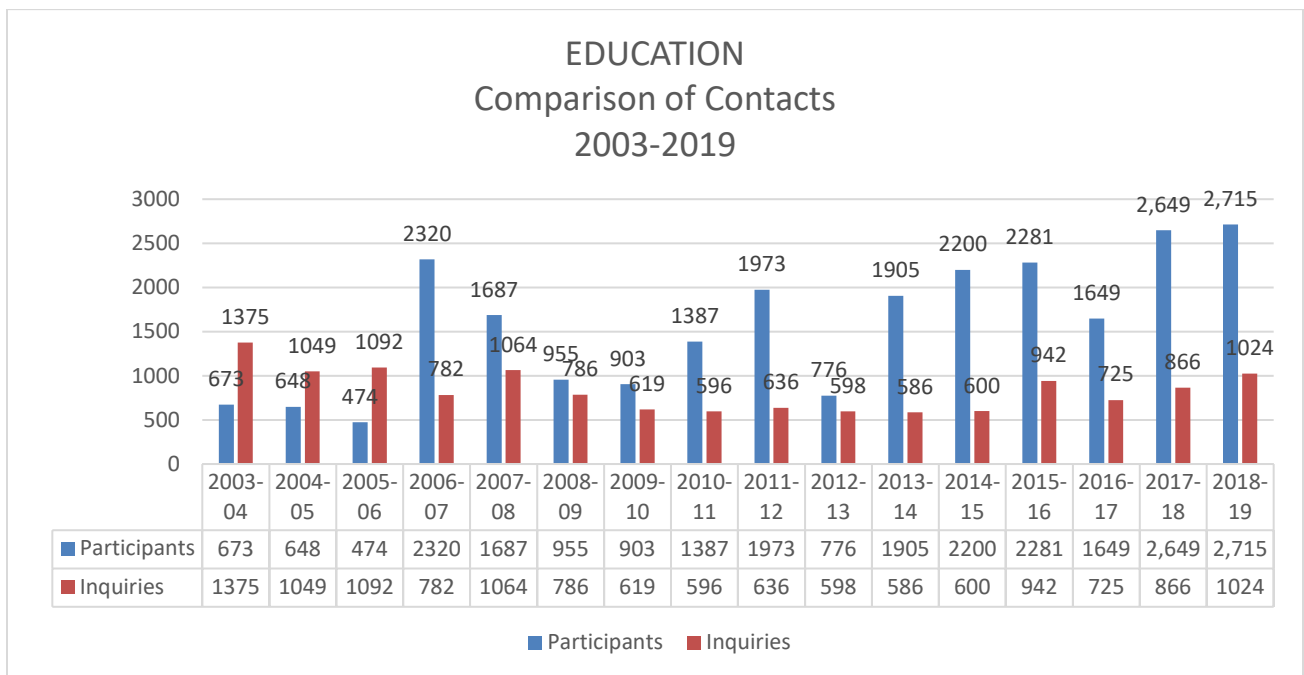
<u>Total Number of Participants Trained</u>	
2017-2018	2,649
2018-2019	2,715
Total	5,364

CONTINUING LEGAL EDUCATION

The Commission staff offers a number of continuing legal education (CLE) courses approved for CLE credit by the Kentucky Bar Association (KBA) CLE Commission. They include

- **Ethics Officer Training:** (2 hours of CLE) The Commission began offering this course in 2008, and it is offered three or four times per year. This training is an in-depth ethics training for individuals designated to serve as Ethics Officer for Executive Branch agencies, agency heads, appointing authorities and upper management.
- **Government Attorney Training:** (2 hours of Ethics CLE) This training compares the Executive Branch Code of Ethics with the Kentucky Rules of Professional Conduct. The Commission began offering this training in 2015 and currently provides it at least four times per year.

- The Lobbying Lawyer: (1 hour CLE) This session has been presented at the KBA convention on three occasions and for the Louisville Bar Association. The Commission has offered this session twice as a standalone event for executive agency lobbyists, employers of lobbyists, and real parties in interest.
- Annual Legislative Research Commission-CLE Presentations: (1 hour Ethics CLE) Commission staff has presented this session on comparing the Executive Branch Ethics Code with the Rules of Professional Conduct since 2011.
- Annual Equal Employment Opportunity Conference: (1 hour CLE) Commission staff has presented on two occasions during the biennium, once on a panel concerning investigations best practices and once concerning the Ethics Code and Whistleblower laws.
- State Government Bar Association (SGBA) Monthly Luncheon: (1 hour CLE) Commission staff presented three times during the biennium for the SGBA concerning the Executive Branch Code of Ethics and sessions entitled *Public Service v. Private Practice* and *Ethical Implications & Professional Responsibility*.
- Kentucky Association of Administrative Adjudicators presentations:
 - *Ethical Considerations for Admin Law Judiciary* (1 hour Ethics CLE)
 - *Ethical Abyss: A Case Study for Hearing Officers* (1 Hour Ethics CLE)
 - *Real Life Conflicts of Interest for Hearing Officers: A Case Study* (1.5 hours Ethics CLE)



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.

The screenshot shows the homepage of the Executive Branch Ethics Commission website. At the top, there is a navigation bar with the Ky.gov logo and a search box. Below this is a large banner with the text "EXECUTIVE BRANCH ETHICS COMMISSION" and "COMMONWEALTH OF KENTUCKY". A navigation menu on the left lists various sections: Commission Members and Staff, Advisory Opinions, Executive Agency Lobbying, State Employee Resources, Publications, Ethical Guidelines for Boards and Commissions, Administrative Actions, Legal Resources, and Press Releases. The main content area features a "Home" section with the commission's address: "Executive Branch Ethics Commission, Capital Complex East, 1025 Capital Center Drive, Ste 104, Frankfort, Kentucky, 502-564-7954, Fax Number: 502-695-5939". There is also an "Authority" section explaining the commission's enabling statute. On the right side, there are two call-to-action buttons: "Click HERE to File Your SFD" and "*Next Meeting*" which lists the date "Tuesday November 19, 2019 9:00 a.m." and the location "Shared Board Room, 1025 Capital Center Dr. Suite 104". Below the meeting information, it states "Cut off date to submit Advisory Opinion Requests is November 5, 2019". At the bottom right, there is a link for "Upcoming Ethics Training".

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 2017-2019 biennium. The Commission launched the SFD online filing portal in March of 2018. The portal was again available for the Spring of 2019 filing period. Commission staff and KI continue to work on the online filing portal for lobbyist filing forms; however, due to legislative changes in 2019, the portal will not be available until 2020.

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 top navigation bar with "Kentucky.gov" on the left and "KY Agencies | KY Services" on the right. Below this is a header banner for the "EXECUTIVE BRANCH ETHICS COMMISSION" of the "COMMONWEALTH OF KENTUCKY". The banner features a golden scale of justice logo on the left and a circular seal on the right with the text "UNITED WE STAND". Below the banner is a dark blue section with the title "Executive Ethics Employer / Real Party Payment".

Welcome to the 2019 Online Registration Fee Payment Application. Each year Employers and Real Parties in Interest of one or more lobbyists must pay a **registration fee of \$500** upon the filing of an **Updated Registration Statement, Employer or Real Party In Interest due July 31** of each year. The registration fee may be paid by Credit Card or Electronic Check and will include a 2.75% processing fee.

* Choose Employer

[NEXT](#)

Footer navigation: [Policies](#) | [Security](#) | [Disclaimer](#) | [Accessibility](#)

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>Guide to the Executive Branch Code of Ethics (booklet)</i>	June	2019
<i>Acceptance of Gifts (brochure)</i>	June	2019
<i>Post-Employment (brochure)</i>	June	2019
<i>Political Activities (Brochure)</i>	June	2019
<i>Advisory Opinions (1992 – 2017) (bound by year)</i>	May	2017
<i>Executive Branch Ethics Commission (brochure)</i>	June	2019
<i>Ethical Guidelines for Members of Boards & Commissions (brochure)</i>	June	2019
<i>Ethics Officer Training Guide (bound volume)</i>	June	2019
<i>Executive Agency Lobbying Handbook (bound volume)</i>	June	2019
<i>Training for Government Attorneys (Handout)</i>	Updated periodically	
<i>Biennial Reports (bound volume)</i>	Updated every 2 years	

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.



2018
OUTSTANDING ETHICS OFFICER

Presented To

DEIADRE DOUGLAS

ETHICS OFFICER
DEPARTMENT OF CRIMINAL JUSTICE TRAINING

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



PICTURED (from left to right): Christopher Thacker (Chair), Deidra Douglas, and Kathryn Gabhart (Executive Director).

Ms. Douglas was awarded for her efforts to enforce the Executive Branch Code of Ethics while serving as an Ethics Officer for the Department of Criminal Justice Training and implement policies and procedures for the effective enforcement of the Ethics Code. Ms. Douglas has served as Staff Attorney Manager/Assistant General Counsel in the Office of Legal Services for the Justice and Public Safety Cabinet assigned to the Department for Criminal Justice Training since August 1, 2016. Ms. Douglas also became the Ethics Officer for the Department in 2016. Since her designation, she has demonstrated a remarkable concern for ensuring that her agency and its employees not only follow the Ethics Code, but also operate beyond the dictates of the Code. She has been very conscientious to verify that her agency's established policies are above reproach, has been a consistent seeker of advice from the Commission staff, and painstakingly ensures that her agency implements policy to put that advice in action. It is therefore only fitting that she receives this award.

Ms. Douglas has over 17 years of experience in the practice of law. After earning her JD from the University of Kentucky, College of Law in 2001, Ms. Douglas served as a law clerk to the Bourbon County Circuit Court judge before opening a private practice in Paris, Ky. There, she practiced in the areas of criminal defense; family/divorce; dependency, neglect and abuse; real estate; social security disability; and juvenile law. She also served as the Bourbon County Teen Court coordinator and as secretary/treasurer of the Bourbon County Bar Association from 2005 to 2006.

Three years later, Ms. Douglas joined the Department of Public Advocacy (DPA) where she served a 10-county area in central and eastern Kentucky. In 2009, she was promoted to Directing Attorney for the London DPA office. During this time, she attended the National Criminal Defense College Trial Practice Institute in Macon, Georgia.

While serving as Directing Attorney, Ms. Douglas managed circuit, district and family court coverages in five counties, practiced death penalty cases, acted as the Defense Bar FAIR Team representative, and Laurel County Teen Court coordinator.

Ms. Douglas also holds a bachelor's degree in English Education from Eastern Kentucky University.

2019
OUTSTANDING ETHICS OFFICER

Presented To

MISTY DUGGER JUDY

ETHICS OFFICER
TOURISM, ARTS & HERITAGE 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

EXECUTIVE BRANCH ETHICS COMMISSION



PICTURED (from left to right): Kathryn Gabhart (Executive Director), Don Parkinson (Cabinet Secretary of Tourism, Arts & Heritage Cabinet), Misty Dugger Judy, and Christopher Brooker (Vice Chair).

Ms. Dugger was awarded for her efforts to enforce the Executive Branch Code of Ethics while serving as an Ethics Officer for the Tourism, Arts & Heritage Cabinet and implement policies and procedures for the effective enforcement of the Ethics Code. Ms. Judy serves as Executive Director for Human Resources in the Office of the Secretary with the Tourism, Arts & Heritage Cabinet. Ms. Judy has served as an Ethics Officer since 2007. During that time, she has demonstrated a remarkable concern for ensuring that her agency and its employees not only follow the Ethics Code, but also operate beyond the dictates of the Code. She has made a concerted effort to ensure that the thirteen agencies attached to the Tourism, Arts & Heritage Cabinet are also instituting policies that are in line with the Code of Ethics. She has been a consistent seeker of advice from the Commission staff as well as being the first to ensure that her agency shines a light on errant public servants when they do stray from following the Ethics Code. She has referred several matters for the Commission's review as possible violations of the Ethics Code over the years. It is therefore only fitting that she receive this award. Ms. Judy has also sought to follow the proper procedures to request exemptions from the gift provisions of the Code of Ethics in an effort to recognize and reward employees of her agency that go above and beyond the call of duty for the agency.

Misty Dugger Judy is a graduate of University of Kentucky where she received her Juris Doctorate and her Bachelor's Degree in Natural Resource Conservation and Management. Ms. Judy is a member of the Kentucky Bar Association, and is admitted to practice before the Kentucky Supreme Court, the United States Supreme Court, and the U.S. District Court for the Western District of Kentucky.

Ms. Judy has served the Commonwealth for almost twenty years. Her legal career with the state includes serving as an Assistant Public Advocate for the Department of Public Advocacy Appeals Branch, as a staff attorney for the Cabinet for Health and Family Services and the Tourism, Arts & Heritage Cabinet, and as General Counsel for the Executive Branch Ethics Commission.

Most recently, Ms. Judy has taken a break from practicing law to serve as the Executive Director of Office of Human Resources for the Tourism, Arts & Heritage Cabinet. She and her staff oversee all HR functions and processes for ten different state agencies. She serves as the Ethics Officer for the Cabinet, and temporarily served as Deputy Commissioner for the Department of Fish and Wildlife Resources.

Ms. Judy is a KRS 13B certified Hearing Officer by the Attorney General's Office and a certified mediator with the Kentucky Employee Mediation Program.

She is active in her church and with numerous school activities. She lives in Frankfort with her two children and one large dog.

ADVISORY OPINIONS

The Executive Branch Ethics Commission is authorized to interpret the provisions in KRS Chapter 11A and issue advisory opinions. If an employee, agency head, or member of the public is unclear about a provision in the code of ethics, or if a situation is not specifically addressed in the code, a staff opinion or formal advisory opinion may be requested, in writing, from the Commission.

STAFF OPINIONS: Many questions can be answered informally through a verbal or written staff opinion from the Ethics Commission Staff. Staff opinions are advice given by the staff of the Ethics Commission based on a review of past advisory opinions. If the issue is unique, a formal advisory opinion may be required.

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 and 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 during open meetings unless the advice is related to an investigation pursuant to KRS 11A.080.

ADVISORY OPINIONS: Formal advisory opinions are issued by the Commission at its regularly scheduled meetings every other month. Opinions can be issued under the following authority:

- Conflict of Interest Opinions, pursuant to KRS 11A.030(5);
- Gift Exception Opinions, pursuant to KRS 11A.045(1). Agencies and public servants may request an exception from the application of the gifts prohibition under circumstances in which it would not create an "appearance of impropriety";
- Additional Compensation Exemption Opinions, pursuant to KRS 11A.040(5). The Commission has granted exemptions to the additional compensation rule in instances when agencies would like to offer a form of economic incentive for employees who go above and beyond their job duties; and
- General Advisory Opinions, KRS 11A.110(1).

To request a formal Advisory Opinion, the Commission must receive a written request for an advisory opinion at least two weeks prior to a scheduled meeting for the request to appear on the agenda for the following meeting. Advisory opinions are the highest level of guidance available from the Commission regarding the requirements of the Executive Branch Code of Ethics.

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, 2017- JUNE 30, 2019

The Commission issued six (6) advisory opinions during the 2017-2018 fiscal year, and four (4) during the 2018-2019 fiscal year. Additionally, the Commission issued seven (7) advisory letters during fiscal year 2017-2018 and none during fiscal year 2018- 2019. 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.....	6
Gifts/Travel Expenses.....	3
Outside Employment	1
Lobbying.....	1
Post Employment.....	4
Jurisdiction.....	3
Statements of Financial Disclosure.....	1

TOTAL TOPICS 19

SUMMARY OF OPINIONS

July 1, 2017 - June 30, 2019

July 1, 2017- June 30, 2018

Advisory Opinion 17-06 (May 15, 2017, not included in previous Biennial Report):

A public servant in a non-officer position may accept employment as a manager of a property owned by a company that has a contract with his former agency immediately after retiring from the executive branch of state government without violating the post-employment provisions contained in KRS 11A.040(6)-(9). However, that same public servant must abide by the post-employment provisions that apply to all public servants contained in KRS 11A.040(8) and (9) for one year post-employment.

Categories: Post Employment

Advisory Opinion 17-07 (July 17, 2017):

- (1) Does the Commission still view Advisory Opinions 03-05 and 06-16 as valid?
- (2) May the Attorney General, who has not ruled out a run for the office of Governor, undertake an investigation, either by himself or through employees of the Attorney General’s Office, of a potential political opponent?
- (3) If the answer to (2) is yes, then will a recusal by the Attorney General from the investigation cure any conflict of the staff of office of Attorney General to conduct the investigation if sufficient “firewalls” are in place to shield the Attorney General from the investigation of his potential political opponent?
- (4) If the answer to (3) is no, then may the Attorney General contract with a third party to perform the investigation if that contractor ultimately answers to an official with the Attorney General’s Office?
- (5) Is it a conflict of interest for a Constitutional Officer to—directly, or through a department, cabinet, or agency run by his appointees and ultimately answerable to him – investigate a likely or potential political opponent? In other words, is it also the case that a conflict of interest exists if a sitting Governor considering seeking re-election initiates an investigation – involving himself personally or any employee, agency, or contractor at his direction – that could further his private interest (possible candidacy) to the detriment of a known or likely political adversary?

DECISION:

- (1) Yes
- (2) Maybe, depending on the Attorney General’s intended course of action.
- (3) No
- (4) Qualified Yes, as long as the report of the third-party investigator is given to an individual with no conflict of interests in the matter.

Categories: Conflicts of Interest; Jurisdiction

Advisory Opinion 17-09 (September 18, 2017):

The newly created non-voting advisors to the Kentucky Board of Education (“KBE”), established by Executive Order 2017-364, are not covered by the full Executive Branch Code of Ethics as are the members of the Kentucky Board of Education pursuant to KRS 11A.010(7). However, because of the language in Paragraph XIII of E.O. 2017-364, which states the advisors will be engaging in influencing the decision-makers on the KBE, said advisors should agree to follow the dictates of Executive Orders 2008-454 and 2016-377 applying three provisions of the Executive Branch Code of Ethics, which are voluntary and not enforceable by the Executive Branch Code of Ethics.

Categories: Jurisdiction

Advisory Opinion 18-01 (January 16, 2018):

The publications prepared by the staff of the Institute of Justice fall within the statutory definition of “gift” in KRS 11A.010(5). The publications may be disseminated to and accepted by executive branch agency officials because the present market value of the publications is less than \$25. The cost of the Institute of Justice staff to prepare the documents does not count toward the value of the gift if the cost is included in the market price nor does the gift fit within any of the exemptions to the definition of a gift in KRS 11A.010(5).

Categories: Gifts; Conflicts of Interest

Advisory Opinion 18-02 (May 14, 2018):

A public servant does not violate the Executive Branch Code of Ethics by bidding on items offered for sale by his or her agency as long as the bidding by the public servant is conducted during the public servant's approved, personal leave time; the public servant was not involved in setting up the auction on behalf of the agency holding the auction; and the public servant does not have knowledge that is generally unavailable to the public. Any proposed policy prepared and adopted by the agency to address these concerns should reflect the qualifiers outlined in Advisory Opinion 18-02.

Categories: Conflicts of Interest

July 1, 2018- June 30, 2019

Advisory Opinion 18-03 (September 17, 2018):

Even though the Executive Branch Ethics Commission reaffirms Advisory Opinion 10-01, the advice provided in Advisory Opinion 10-01 would change in light of the State Board of Election's recent actions to grant the Secretary of State access to the personal information of all of the Commonwealth's registered voters, access to the personal information for all of the Commonwealth's precinct election officers, and day-to-day oversight and control of the regular operations and the staff of the State Board of Elections.

Categories: Conflicts of Interest

Advisory Opinion 19-01 (February 5, 2019):

A Property Valuation Administrator may engage in practice as a certified public accountant in his or her home county as long as he or she is granted permission by his or her appointing authority to engage in outside employment pursuant to KRS 11A.040(10) and 9 KAR 1:050 as well as ensure that he or she abides by the conflict of interest provisions of KRS 11A.020 and KRS 11A.030.

Categories: Outside Employment; Conflicts of Interest

Advisory Opinion 19-02 (February 5, 2019):

Companies or businesses that apply for, receive, or have received economic incentives are considered to be "doing business with or being regulated by" the Kentucky Cabinet for Economic Development as long as the agreements between the Kentucky Cabinet for Economic Development and the companies or businesses are still active.

Categories: Jurisdiction; Conflicts of Interest; Executive Agency Lobbying

SUMMARY OF EXCEPTIONS TO KRS 11A.045
July 1, 2017-June 30, 2019

July 1, 2017-June 30, 2018

Advisory Opinion 17-08, Gift Exception 2017-04 (July 17, 2017):

Within limitations, the Executive Branch Ethics Commission will grant an exception to KRS 11A.040(5) to all employees of nursing facilities of the Kentucky Department of Veterans Affairs (“KDVA”) to accept monetary rewards for demonstrating exceptional safety awareness from the KDVA Safety Committee’s at those facilities.

Categories: Gifts; Exceptions

July 1, 2018-June 30, 2019

Advisory Opinion 19-03 Exception 2019-1 (May 14, 2019):

Within limits, the Tourism, Arts, and Heritage Cabinet (“Cabinet”) may be granted an exception to KRS 11A.045 to provide lunch and a voucher for overnight stay at one of the state parks to Cabinet employees who are selected to participate in the Cabinet’s Core Values Awards Programs. Selected employees of the cabinet are nominated by agency leaders for providing exceptional customer service that goes beyond their official duties.

Categories: Gifts; Exceptions

FINANCIAL DISCLOSURE OF ELECTED OFFICIALS AND OFFICERS

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. The statements must be filed with the Commission no later than April 15 for the previous calendar year, within 30 days of termination of employment, and, as of June 27, 2019, newly hired or appointed officers must file an initial statement within thirty (30) days of their start date. 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

The Ethics Commission's website at <http://ethics.ky.gov/> has an online portal through which "officers" may complete their annual Statement of Financial Disclosure, with an electronic submission of the form. Officers may also download a blank Statement of Financial Disclosure form from the Commission's website 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.

STATEMENTS OF FINANCIAL DISCLOSURE

	2017 SFD Filers	2018 SFD Filers	*2019 SFD Filers
Statements filed on time	1,225 (86%)	1,444 (94%)	65
Statements filed after April 15th	205 (14%)	88 (6%)	NA
Officers filed after 30 day separation	93 (6%)	140 (9%)	47 (72%)
**Officers/Candidates investigated	0	10 (.006%)	2 (.03%)
**Officers/Candidates charged	0	3(.002%)	0
SFD's via E-file	583 (41%)	1,007 (66%)	56 (86%)
Total SFD's filed	1,430	1,532	65*

*Indicates Officers who filed their 2019 SFD form between 01/01/2019 – 06/30/2019

**indicated Officers/Candidates who failed to file SFD in a timely manner or failed to complete SFD

% number indicates the % from the total SFD's filed during the respective year

AUDITS

Upon receipt of the Statements of Financial Disclosure, each are 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. Recently, July 1, 2019, the Personnel Cabinet has provided the Commission with a list of monthly new hires. This process has allowed The Commission to contact the newly hired officers and remind them of the 30-day hire filing requirement.

INVESTIGATIONS, ADMINISTRATIVE PROCEEDINGS, AND LITIGATION

COMPLAINTS OR INFORMATION (KRS 11A.080(1) AND 9 KAR 1:015)

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.

PRELIMINARY INVESTIGATIONS (KRS 11A.080(2) AND (3), KRS 11A.070, AND KRS 11A.990)

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, the Personnel Board, and other agencies with the authority to review, audit, or investigate the conduct. 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

THE CONFIDENTIAL REPRIMAND (KRS 11A.080(4)(A))

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.

CHARGES OF THE COMMISSION (KRS 11A.080(4)(B), KRS 11A.100(1), (2), AND (3))

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 for violations of KRS 11A.040.

The person charged in the Initiating Order has twenty (20) days in which to file an answer to the charges. If they fail to do so, the Commission may enter a default judgement pursuant to KRS 11A.080(4)(b), KRS 11A.100, and 13B.050(5).

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, except the Commission is not required to use the Attorney General's Administrative Hearings Branch for hearing officer services. KRS 13B.020(7). The Commission maintains a roster of qualified hearing officers pursuant to 9 KAR 1:030, Section 6. 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. The Ethics Commission ultimately makes a final determination whether a violation occurred.

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

PENALTIES
(KRS 11A.100(3), (4), AND (5), AND KRS 11A.990)

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.
- If the Commission determines that a violation of this chapter has occurred in a case involving a contract with state government, the secretary of the Finance and Administration Cabinet may void any contract related to that case.
- If the Commission determines that a violation of the provisions of KRS 11A.001 to 11A.130 has occurred, an employer of a former officer or public servant may be subject to a fine of up to \$1,000 for each offense.
- 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.
- Any person who maliciously files with the Commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed \$5000, or imprisoned in a county jail for a term not to exceed one year or both.

STATUTE OF LIMITATIONS
(KRS 11A.990)

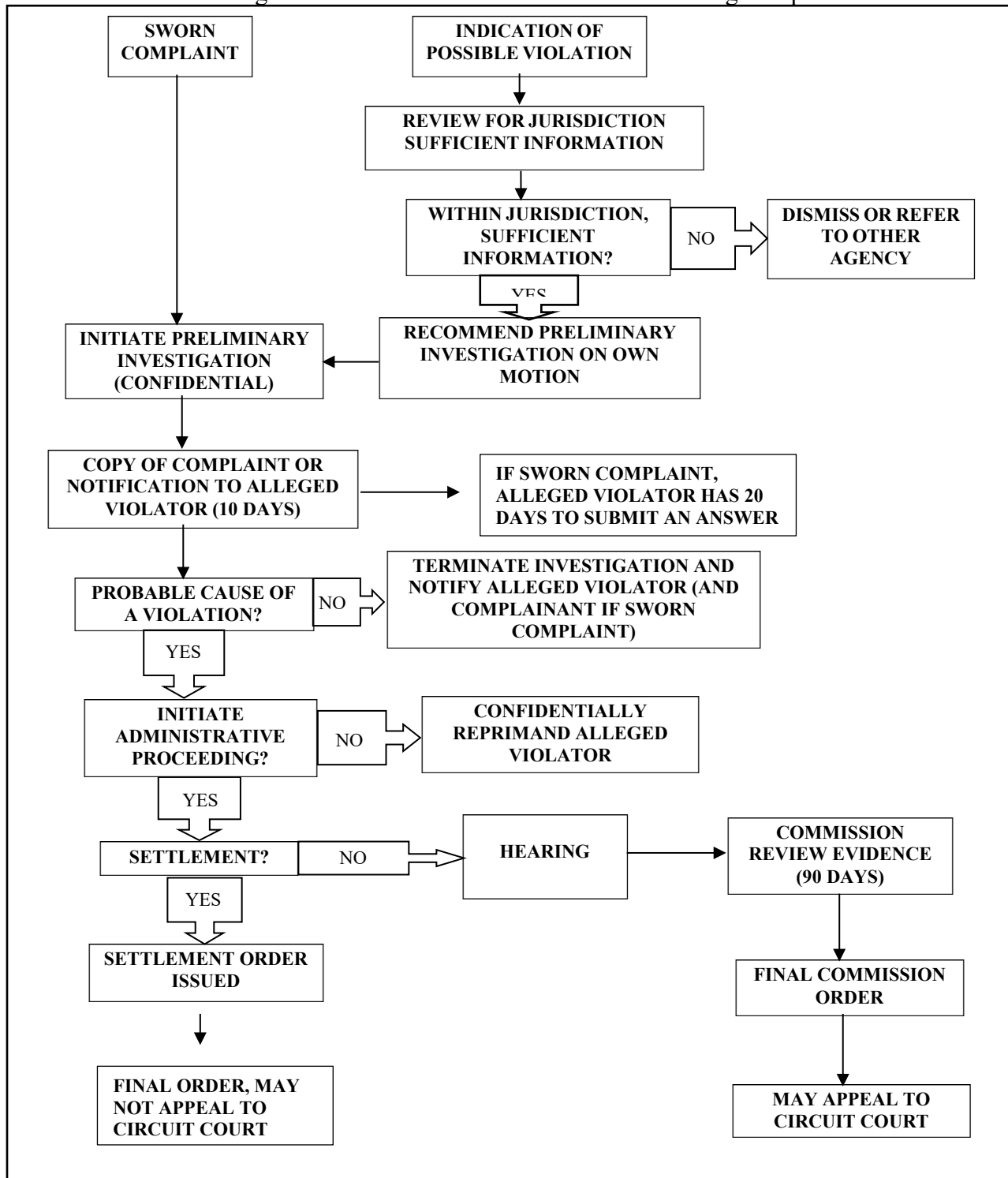
For civil penalties, the Commission does NOT have a statute of limitations, and can review conduct, no matter when it occurred; however, the older the evidence, the shorter the memories, the harder a matter is to prove. KRS 11A.990 follows 4-year statute of limitations for felony convictions.

APPEALS
(KRS 13B.140)

The Commission's final orders may be appealed to the circuit court pursuant to KRS 13B.140.

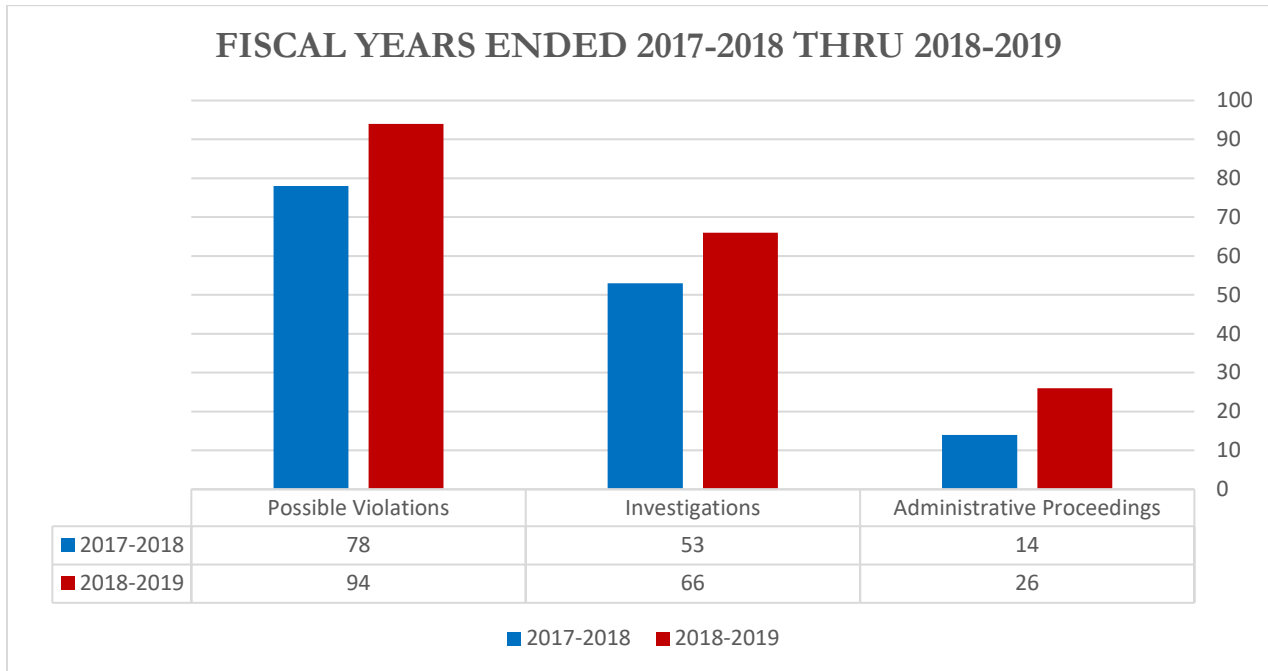
INVESTIGATIVE FLOW CHART

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, except the Commission may designate its own administrative hearing officers through contract.. 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.

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 for possible criminal prosecution. Final action by the Commission may be appealed to the Circuit Court upon petition of any party in interest.

STATISTICS

	<u>2017--2018</u>	<u>2018—2019</u>	<u>Total</u>
Possible Violations Reviewed	78	94	172
Investigations Initiated	53	66	119
Investigations Active at Fiscal Year End	18	38	56
Terminated Without Charges	14	16	30
Confidential Reprimands	5	8	13
Administrative Proceedings Initiated	14	26	40
Cases Referred To Other Agencies	3	1	4
Employees Penalized	17	17	34
Administrative Hearings	1	3	4
Investigations Active at Fiscal Year End	10	5	15
Penalty Fines Collected	\$26,867.21	\$93,600	\$120,467.21

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, thirty (30) 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. Thirteen (13) investigations showed probable cause of a violation; however, due to mitigating circumstances, the alleged violators were confidentially reprimanded during the biennium. Eighteen (18) investigations remained active as of June 30, 2018, and thirty-eight (38) investigations remained active as of June 30, 2019. In forty (40) other investigations, the Commission found probable cause of violations and issued initiating orders for administrative proceedings during the biennium. The following details proceedings that were final either through a full administrative hearing or a settlement agreement during the biennium. Matters appear in the order in which they were finalized:

2017 ADMINISTRATIVE PROCEEDINGS

Executive Branch Ethics Commission v. Vincent Gross

Case Number: 16-007

Allegation: Gross admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(d) and KRS 11A.020(2), that occurred during the course of his employment as a Social Service Clinician, Department of Juvenile Justice, Justice and Public Safety Cabinet. Specifically, between May 2015 and February 2016, on multiple occasions, Gross used or attempted to use his official position to

obtain and provide information from a secured database and case records, about a client of DJJ who was not under his assigned supervision, to the client's incarcerated mother, with whom he was engaged in a personal relationship. Furthermore, Gross used his official position in derogation of and in conflict with the public interest by abusing state resources and access to information systems to engage in a personal relationship with the incarcerated mother. Gross did so to fulfill his own prurient interests, which conflicted with his duties in the public interest.

Conclusion: Pursuant to a Settlement Agreement, Gross agrees to pay a \$1,500.00 civil penalty, receives a public reprimand, and waives 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. Joshua Mattingly

Case Number: 17-001

Allegation: Mattingly admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2), that occurred during the course of his employment as a Corrections Officer, Department of Corrections (DOC), Justice and Public Safety Cabinet. Specifically, beginning April of 2016, Mattingly used his official position to access a DOC confidential inmate database over 200 times to look up information concerning a former female offender of DOC, and her ex-fiancé, a current male inmate of DOC. Mattingly had no official work related reason for accessing this information. Mattingly further had a conflict of interest due to the fact that he had reported the female for transporting Suboxone into the facility to provide to the male inmate resulting in criminal charges against the female. Mattingly then began a romantic relationship with the female, knowing that she was being investigated for the conduct for which he had reported her, creating a conflict of interest between his personal and private interest and his duties in the public interest.

Conclusion: In a Settlement Agreement, approved by the Commission, Mattingly agreed to pay a \$1,000.00 civil penalty, abstain from seeking future employment with the executive branch of state government 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. Mattingly is no longer employed by the Commonwealth and has already faced criminal penalties.

Executive Branch Ethics Commission v. Scott Nevitt

Case Number: 17-002

Allegation: Nevitt admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a) and (d), and KRS 11A.020(2), that occurred during the course of his employment as a Highway Safety Patrol Operator, Kentucky Transportation Cabinet. Specifically, beginning on or around October 1, 2015, Nevitt used his official position, state issued vehicle, and state issued cell phone to engage in inappropriate communication and contact with a minor child. Nevitt visited the school of the minor child or the vicinity of the school on multiple occasions using his state vehicle and misused his state-issued cellphone to engage in texting with the minor child for no work related reason and in derogation of the state interest.

Conclusion: Pursuant to the Settlement Agreement, Nevitt agreed to pay a \$1,250.00 civil penalty, to never seek future employment in the executive branch of state government, 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. Mark Arnold

Case Number: 17-003

Allegation: Arnold admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (c), and (d), and KRS 11A.020(2), that occurred during the course of his employment as an Administrative Branch Manager, with the Administrative Services Branch of the Department of Housing, Buildings, and Construction, Public Protection Cabinet. Specifically, beginning on or around late 2015 through August 2016, Arnold used his official position and access to state resources and facilities to further his personal and financial interests by shipping personal items and for-profit items he sold via Ebay using the state office mail system. In doing so, Arnold was securing free postage, free UPS service, and free packaging materials for his personal and for profit use at a cost to the state and in derogation of the state interest. Mr. Arnold also misused his state issued computer and office space to store, catalog, research and otherwise further his Ebay business enterprise.

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.

Executive Branch Ethics Commission v. Lisa Tucker

Case Number: 17-006

Allegation: Tucker admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), KRS 11A.020(2) and (3), and KRS 11A.030, that occurred during the course of her employment with the Department of Juvenile Justice, Justice and Public Safety Cabinet. Specifically, from approximately 2009 through 2011, Tucker participated in an intimate relationship with a subordinate employee. During the same time, Tucker served at varying times as the subordinate employee's first line and second line supervisor, and she conducted evaluations and made management decisions regarding this subordinate employee. In 2009 and 2010, she signed evaluations as a second-line supervisor to the subordinate employee. In 2001, she signed his interim evaluations as a first-line supervisor, and then signed his year-end evaluation and special detail temporary work assignment paperwork as his second-line supervisor. Despite Tucker's ongoing intimate relationship with this employee, Tucker failed to inform anyone in her chain of command of this conflict and she failed to abstain from participation in this employee's evaluations and supervision.

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 appeal. The Commission concluded the matter by issuing a Final Order.

Executive Branch Ethics Commission v. Walter Gaffield

Case Number: 17-004

Allegation: Gaffield admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(a) and (d), and KRS 11A.020(2), that occurred during the course of his employment as Executive Director of the Office of Administrative Services, Personnel Cabinet (“Cabinet”). Specifically, Gaffield used his position to solicit campaign contributions from Cabinet employees at various times between 2010 and 2016. Gaffield solicited financial contributions for a Jefferson County judicial campaign and two gubernatorial campaigns from other non-merit Cabinet employees. These requests for contributions were made in the workplace, made reference to the employee’s supervisor or Appointing Authority, made during working hours, and a portion of the contributions were collected in the workplace.

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 a Final Order. Gaffield is no longer employed by the Commonwealth.

Executive Branch Ethics Commission v. Stacy Skinner

Case Number: 17-007

Allegation: Skinner admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(d), that occurred during the course of his employment as a Highway Superintendent II, Department of Highways, Kentucky Transportation Cabinet (“Cabinet”). Specifically, on or about October 27, 2016, during the evening hours, Skinner used a state-owned vehicle to take and haul approximately fifteen (15) pieces of guardrail, valued at approximately \$451.95, owned by the Cabinet that was located at a state facility in Scott County, Kentucky, to his own property in Bourbon County and then moved it to a property owned by his friend in Harrison County. Skinner intended to use the guardrail for the personal use of his friend.

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 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

Case Number: 17-008

Allegation: Bingham admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(c) and (d), that occurred during the course of her employment as a Public Assistance Program Specialist, Department for Community Based Services, Cabinet for Health and Family Services (“Cabinet”). Specifically, from approximately February 2016 through May 2016, Bingham used state time and resources to engage in her for-profit business. Bingham used her state office, state electronic mail account, and state time to engage in a for-profit enterprise as a Pure Romance intimacy products consultant. Bingham used her state-issued electronic mail while on state time to

arrange team building events for her Pure Romance team, schedule “thank you” and VIP events for her team and costumers, and arrange tables at crafts shows and bridal events, which resulted in her expanding her business and profits for her business.

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. Michael Schiesser

Case Number: 15-010

Allegation: Schiesser admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.040(1) that occurred during the course of his employment as a Correctional Officer, Department of Corrections (“Department”), Justice and Public Safety Cabinet. Specifically, on or about September 19, 2014, Schiesser used his access to inmates, to bring at least one inmate contraband in the form of a cell phone, tobacco, SD cards, and gum in exchange for monetary payment. On or about September 19, 2014, Schiesser brought at least one inmate narcotics in exchange for monetary payment. Furthermore, during September of 2014, Schiesser used his knowledge of the facility along with his access to inmates, to participate in a scheme along with a certain inmate to distribute contraband within the facility in exchange for payment.

Conclusion: Pursuant to the Settlement Agreement, Schiesser agrees to pay a \$3,000.00 civil penalty, receives a public reprimand, agrees to refrain from seeking state employment for 10 years and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Gary Kitchen

Case Number: 17-005

Allegation: Kitchen admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(c) and (d), and KRS 11A.020(2) that occurred during the course of his employment as a Maintenance Superintendent I, District 9, Transportation Cabinet. Specifically, on numerous occasions during 2015 and 2016, Kitchen used his position and access to state-owned supplies and supply inventories of a state subcontractor as well as his access to a state-issued credit card to convert these items and services for his own personal use and enjoyment or financial gain.

Conclusion: Pursuant to the Settlement Agreement, Kitchen agrees to pay a \$1,500.00 civil penalty, receives a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Brandon Hendricks

Case Number: 17-012

Allegation: Hendricks admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), that occurred during the course of his employment as Correctional Officer, Department of Corrections (“Department”), Justice and Public Safety Cabinet. Specifically, during December 2014, Hendricks used his position as a Correctional Officer, and his access to female inmates, to engage in sexual activity with a female inmate under his supervision. Hendricks did so to fulfill his own prurient interests, which conflicted with his duties in the public interest. Hendricks used his position and access to the inmate to violate the Department’s policies.

Conclusion: Pursuant to the Settlement Agreement, Hendricks agrees to pay a \$1,500.00 civil penalty, receives a public reprimand, agrees to abstain from state employment for five years, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission vs. Jennifer Mitchell

Case Number: 17-010

Allegation: Mitchell admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2), that occurred during the course of her employment as a Correctional Officer, with the Department of Corrections, Justice and Public Safety Cabinet. Specifically, Ms. Mitchell used her position as a Correctional Officer, and her access to male inmates, to engage in sexual contact with an inmate under her supervision. Mitchell did so to fulfill her own prurient interests, which conflicted with her duties in the public interest. Mitchell used her position and access to the inmate to violate the Department’s policies. By engaging in such conduct, Ms. Mitchell failed to avoid conduct that would lead the general public to conclude that she was using her official position to further her private interest.

Conclusion: In a Settlement Agreement approved by the Commission, Mitchell agrees to pay a \$1,000.00 civil penalty, receive a public reprimand, abstain from ever seeking any future employment with the executive branch of state government, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission vs. William "Bill" Ryan

Case Number: 17-013

Allegation: Ryan admitted to two counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.020(2), that occurred during the course of his employment as a Special Assistant of the Office of Secretary, Personnel Cabinet. Specifically, during the course of his employment as a Staff Assistant, Ryan used his position with the Cabinet to solicit campaign contributions from Cabinet employees. Ryan admitted to soliciting financial contributions for a gubernatorial campaign from two other non-merit Personnel Cabinet employees between 2010 and 2011. Ryan solicited contributions from Employee A by phone seeking a donation to the campaign for the re-election of then Governor Steve Beshear. Ryan instructed Employee A that she was

required to donate \$250 to the campaign based on her salary; thus, determining that the donation was related to her state employment and was required of her. Ryan contacted Employee B on two separate occasions seeking donations for the Primary and General elections for the Beshear re-election campaign. The first time Ryan contacted Employee B, he called on her personal cell phone before the Primary. Ryan stated that he was contacting her to solicit her “required” donation. She responded that she had already donated. Prior to the General election, Ryan contacted her by phone again, indicating that she was “required to donate \$250.” He then approached Employee B in person at the Cabinet. Ryan instructed her to accompany him to the cafeteria at the Transportation Cabinet before taking the donation from her. Furthermore, for some pay periods in 2014 and 2015, Ryan admitted to submitting timesheets claiming to have worked at the Cabinet during times that he did not appear at any of the Cabinet’s offices. In doing so, Ryan collected pay for time he falsely reported on his timesheets and, further, failed to create little to any discernible work product while receiving compensation. Other Cabinet employees witnessed Ryan only appearing at the Cabinet on the days required for him to submit his timesheets.

Conclusion: Pursuant to the Settlement Agreement, Ryan agreed to pay a \$4,000.00 civil penalty, receive a public reprimand, and waived any right to appeal. The Commission concluded the matter by issuing a Final Order.

Executive Branch Ethics Commission v. David Wilson

Case Number: 17-014

Allegation: Wilson admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(c) and (d), that occurred during the course of his employment as an Administrative Specialist III, Office of Special Prosecutions, Office of the Attorney General. Specifically, Mr. Wilson, from approximately April through June 2017, used state time and resources for personal reasons and did not complete his work for the state. Wilson used approximately 19 hours of state time for personal reasons. Wilson also used state resources to engage in personal communications.

Conclusion: Pursuant to the Settlement Agreement approved by the Commission, Wilson agrees to pay a \$1,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Elizabeth Calton

Case Number: 17-015

Allegation: Calton admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2), that occurred during the course of her employment as a Correctional Officer, with the Department of Corrections, Justice and Public Safety Cabinet. Specifically, Ms. Calton used her position as a Correctional Officer, to access the Department’s inmate pay system to engage in sexually explicit text messaging with an inmate. Calton did so to fulfill her own prurient interests, which conflicted with her duties in the public interest. Calton used her position and access to inmates to violate the Department’s policies. By engaging in such conduct, Ms. Calton failed to avoid conduct that would lead the general public to conclude that she was using her official position to further her own private interest.

Conclusion: In a Settlement Agreement approved by the Commission, Calton agrees to pay a \$1,500.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

2018 ADMINISTRATIVE PROCEEDINGS

Executive Branch Ethics Commission v. Kathy Hopkins

Case Number: 18-001

Allegation: Hopkins admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.020(2) and (3), that occurred during the course of her employment as the Division Director of Equine Operations, Kentucky Horse Park, Tourism, Arts & Heritage Cabinet. Specifically, during 2010, Ms. Hopkins used her position to influence her agency into believing erroneously that a foal that was bred at the Park was lame and “of no further use” to the Park and was suitable “for retirement” so that the horse would become surplus property. Then, Ms. Hopkins used her influence at her agency to allow her to take the foal home for her personal use and enjoyment so that she could take care of the horse in its “retirement” in exchange for her making a donation of up to \$2000 to the Kentucky Horse Park Foundation. However, Ms. Hopkins never made the donation to the Foundation. Furthermore, from August through September 2010, Ms. Hopkins allowed the horse to continue to be treated for veterinary services that were paid for by the Park in the amount of approximately \$230 on her behalf until September 22, 2010.

Conclusion: In a Settlement Agreement approved by the Commission, Ms. Hopkins agrees to pay a \$2,000.00 civil penalty, receive a public reprimand, agrees to abstain from ever seeking any future employment with state government, agrees to safely return the horse to the Kentucky Horse Park at her own expense by January 31, 2018, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Erik Dunnigan

Case Number: 18-006

Allegation: Dunnigan agreed not to contest one count of violating the Code of Ethics, KRS 11A.040(9), that occurred in his post-employment as an Executive Director at the Cabinet for Economic Development. Specifically, Dunnigan was directly involved in the Not Practical or Feasibly to Bid contract that was ultimately awarded to Coastal Cloud in November 2015. Then, after resigning from his position with the Cabinet for Economic Development effective November 15, 2016, Dunnigan, on behalf of Coastal Cloud, communicated with employees of Economic Development, within one (1) year after the termination of his employment, concerning work that was the subject of the original contract, a matter in which he was directly involved during the last thirty-six (36) months of his tenure. This conduct violated the post-employment provisions of the Executive Branch Code of Ethics.

Conclusion: In a Settlement Agreement agreed to by the Commission, Mr. Dunnigan 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 a Final Order.

Executive Branch Ethics Commission v. Kimberly Kelley (Sowders)

Case Number: 18-002

Allegation: Ms. Kelley (Sowders) admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2), that occurred during the course of her employment as Corrections Officer at the Kentucky State Reformatory, Department of Corrections, Justice and Public Safety Cabinet. Specifically, Kelley (Sowders) used her position to access the Department's inmate pay system to engage in sexually explicit messaging with an inmate. Kelley (Sowders) also engaged in sexually explicit text messaging with this inmate using a personal cell phone. Kelley (Sowders) did so to fulfill her own prurient interests, which conflicted with her duties in the public interest. Kelley (Sowders) used her position and access to inmates to violate the Department's policies. By engaging in such conduct, Kelley (Sowders) failed to avoid conduct that would lead the general public to conclude that she was using her official position to further her own private interests.

Conclusion: In a Settlement Agreement approved by the Commission, Ms. Kelley (Sowders) agrees to pay a \$500.00 civil penalty, receive a public reprimand, agrees to abstain from ever seeking future employment with state government, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Debbie Talady

Case Number: 18-008

Allegation: Ms. Talady admitted to two counts of violating the Code of Ethics, KRS 11A.020(1) and (2), that occurred during the course of her employment as a Quality Control Branch with Department of Community Based Services, Cabinet for Health and Family Services. Specifically, Talady aided her significant other in receiving inappropriate Supplemental Nutritional Assistance Food Program (SNAP) and Child Care Assistance Program (CCAP) benefits by preparing false property owner/landlord documents. The inappropriate SNAP and CCAP benefits totaled \$43,611.00 and were used to pay for childcare for the children Talady shared with her significant other and food purchased for their home. Furthermore, Talady accessed a government database to track her significant other's account and provide him status information regarding documents he recently filed with the Department of Community Based Services.

Conclusion: Pursuant to a Settlement Agreement agreed to by the Commission, Ms. Talady agrees to pay a \$2000.00 civil penalty, receive a public reprimand, and waives any right to appeal. Ms. Talady also faced criminal penalties in addition to the matter before the Commission. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Logan Burks

Case Number: 18-003

Allegation: Mr. Burks admitted to six counts of violating the Code of Ethics, KRS 11A.020(1)(c) and (d), that occurred during the course of his employment as a Trooper, Kentucky State Police,

Justice and Public Safety Cabinet. Specifically, during April of 2016 through April 2017, Burks used a state-issued credit card to obtain fuel for his personal vehicle(s) on twenty-five (25) occasions at a total cost of \$834.87.

Conclusion: Pursuant to a Settlement Agreement agreed to by the Commission, Mr. Burks agrees to pay a \$6000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Michael Martindale

Case Number: 16-004

Allegation: In a Final Order issued by the Commission, Mr. Martindale was found by clear and convincing evidence to have committed one count in violation of the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.020(2), and KRS 11A.040(1), that occurred during the course of his employment as an HVAC Inspector with the Department of Housing (Department), Building, and Construction, Public Protection Cabinet. Specifically, on or about September 11, 2015, Martindale was found to have used his official position to access confidential and personal contact information of HVAC licensee's regulated by the Department. Martindale accessed this information by running a report of all licensees in the Department's internal Jurisdiction Online System. Martindale subsequently passed this information on to his wife who was starting an online HVAC Education Service called TRADETECH. The confidential contact information was used by TRADETECH to solicit licensees for the business. As of April 27, 2016, Department records reflected that TRADETECH'S online classes had been used over 800 times by licensees regulated by the Department.

Conclusion: Pursuant to the Final Order, Mr. Martindale is ordered to pay a \$5000.00 civil penalty and receive a public reprimand. Mr. Martindale has a right to appeal to the Franklin Circuit Court

Executive Branch Ethics Commission v. Christine Kurilec

Case Number: 18-011

Allegation: Ms. Kurilec admitted to one count of violating the Code of Ethics, KRS 11A.020(1) (b), and KRS 11A.020(2), that occurred during the course of her employment as a Classification and Treatment Officer with the Department of Corrections, Justice and Public Safety Cabinet. Specifically, Kurilec falsified a government document by altering the date on a Kentucky Department of Corrections Fitness for Duty Assessment and forging her physician's initials on this alteration.

Conclusion: In a Settlement Agreement approved by the Commission, Ms. Kurilec agrees to pay a \$1,500.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing a Final Order.

Executive Branch Ethics Commission v. Scott Hoffman

Case Number: 18-010

Allegation: In a Settlement Agreement approved by the Commission, Mr. Hoffman admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(b), that occurred during the course of his employment as a Correctional Sergeant with the Department of Corrections, Justice and Public Safety Cabinet. Specifically, Hoffman accessed a state database to divulge confidential information to one inmate about another inmate with whom the first inmate was involved in a conflict.

Conclusion: Pursuant to the Settlement Agreement, Mr. Hoffman agrees to pay a \$1,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Theresia Logan

Case Number: 18-009

Allegation: In a Settlement Agreement approved by the Commission, Ms. Logan admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(b), (c), and (d), that occurred during the course of her employment as a Consumer Complaint Investigator with Office of the Attorney General. Specifically, Logan used her official government accounts to access investigative databases containing protected or otherwise confidential information to conduct multiple searches on various family members without any work related reason to do so. Logan could not have conducted these searches without the use and access of her official government credentials. Furthermore, Logan used her official position to contact the Mayor of Lexington, Kentucky, and request assistance for her son who hit a pothole. The email estimated damages to her son’s vehicle of \$1,000. Logan also used her official position to contact the Administrative Section Supervisor at the Department of Professional Licensing regarding her mother. Logan contacted the Administrative Section Supervisor via telephone, left a voicemail, and identified herself as being “with the Kentucky Attorney General’s Office.” No work related reason existed to justify Logan to make either of these calls, as the Attorney General’s Office has no jurisdiction over either the City of Lexington or the Department of Professional Licensing in this context, nor did the Attorney General’s Office have an open matter related to these offices or Logan’s family members.

Conclusion: Pursuant to the Settlement Agreement, Ms. Logan agrees to pay a \$3,500.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing a Final Order.

Executive Branch Ethics Commission v. Michael Antosh

Case Number: 17-009

Allegation: In a Settlement Agreement approved by the Commission, Mr. Antosh admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(a), (c), and (d), KRS 11A.020(2), and KRS 11A.040(2) and (5), that occurred during the course of his employment as a Corrections Recreations Program Supervisor with the Department of Corrections, Justice and Public Safety

Cabinet. Specifically, Antosh used his position and access to the Kentucky State Penitentiary's Sam's Club account, and access to funds provided by the Kentucky State Penitentiary intended to be used for the purchase of items for agency purposes, to instead purchase items for his personal use and benefit. Furthermore, Antosh used his position and access to the Kentucky State Penitentiary's Sam's Club account to acquire and redeem approximately \$610 in "rewards cash" that had accrued on the State Penitentiary's Sam's Club account for his personal use and benefit. He used this "rewards cash" to obtain items at Sam's Club including grocery items, clothing, and alcoholic beverage purchases for use by himself and his family. Finally, Antosh used his position as a Corrections Recreations Programs Supervisor to sell items directly to inmates with an approximately 30% markup upon specified agreement with management that profits were to be turned over to the penitentiary's recreations department accounts. Antosh intentionally dealt with this profit as his own property and failed to make required payment or disposition to the penitentiary by selling these items without properly turning over the earned profit to the penitentiary. Antosh sold items to inmates, such as boots and watches, for his own financial benefit and in violation of prison policies and procedures since these items were prohibited.

Conclusion: Pursuant to the Settlement Agreement, Mr. Antosh agrees to pay a \$6,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Ron Turner

Case Number: 18-012

Allegation: In a Settlement Agreement approved by the Commission, Mr. Turner admitted to two counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), that occurred during the course of his employment as a Fiscal Manager with the Department of Juvenile Justice, Justice and Public Safety Cabinet. Specifically, from 2014 through 2018, Turner approved and submitted expense and travel reimbursement vouchers without appropriate and required documentation or supervisor approval using two other employee's EMARS account for travel, that he did not actually take, in the amount of \$4751.02. Furthermore, during November 2017, Turner took cash deposits of approximately \$2000 from moneys secured by the Education Branch meant to be deposited into the Kentucky State Treasury and kept those deposits for his own personal use and enjoyment.

Conclusion: Pursuant to the Settlement Agreement, Mr. Turner agrees to pay a \$4,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Christopher Hodge

Case Number: 18-013

Allegation: In a Settlement Agreement approved by the Commission, Mr. Hodge admitted to two counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), that occurred during the course of his employment as a Transportation Engineering Technologist II, with the Department of Highways, Kentucky Transportation Cabinet. Specifically, from December 2017

through January 2018, Hodge used his state-assigned vehicle on four dates to travel outside of his assigned district for personal reasons on state time. Furthermore, from December 2017 through January 2018, Hodge used his state-assigned vehicle on three dates within his assigned district for personal reasons on state time.

Conclusion: Pursuant to the Settlement Agreement, Mr. Hodge agrees to pay a \$3,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Sherry Collins

Case Number: 18-018

Allegation: Ms. Collins admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.020(2), that occurred during the course of her employment as an Environmental Scientist III, Division of Mine Reclamation and Enforcement, Energy and Environment Cabinet. Specifically, during December 2016 through February 2017, Collins falsified mine inspections reports to reflect work that she did not perform and falsified timesheets regarding her regular work hours resulting in her falsely claiming hours she did not work.

Conclusion: Pursuant to the Settlement Agreement, Ms. Collins agrees to pay a \$4,500.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Mary Turner

Case Number: 18-015

Allegation: Ms. Turner admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.020(2), that occurred during the course of her employment as a Human Services Program Compliance Analyst, Office of Inspector General, Cabinet for Health and Family Services. Specifically, during 2017 and 2018, Turner falsified her timesheets regarding her work hours relating to her lunch breaks, regular work hours, and additional work hours resulting in her falsely claiming hours she did not work.

Conclusion: Pursuant to the Settlement Agreement, Ms. Turner agrees to pay a \$3,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Jackie Wright

Case Number: 18-014

Allegation: Mr. Wright admitted to two counts of violating the Code of Ethics, KRS 11A.020(1)(d) and KRS 11A.020(2), that occurred during the course of his employment as a Superintendent I, Scott County Unit, Department of Highways (“Department”), Kentucky Transportation Cabinet.

Specifically, Wright took a deep freeze that was surplus property of the Department for his personal use and enjoyment in violation of the Cabinet's policies prohibiting such conduct. Furthermore, Wright took a loaded .22 rifle that he found on the side of the highway while performing his official duties for his personal use and enjoyment without informing his supervisors or otherwise informing law enforcement in violation of the Cabinet's policies.

Conclusion: Pursuant to the Settlement Agreement, Mr. Wright paid a \$2,000.00 civil penalty, will receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing a Final Order.

Executive Branch Ethics Commission v. Patrick Mefford

Case Number: 18-016

Allegation: In a Settlement Agreement approved by the Commission, Mr. Mefford admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(c), KRS 11A.020(2), and KRS 11A.040(2), that occurred during the course of his employment as a Highway Maintenance Technician II, Department of Highways, Kentucky Transportation Cabinet. Specifically, during May 2018, Mr. Mefford used a state-issued credit card to obtain fuel for his personal vehicle for a total cost of \$30.77.

Conclusion: Pursuant to the Settlement Agreement, Mr. Mefford agrees to abstain from seeking employment in service for the Commonwealth of Kentucky for a period of ten (10) years. If Mr. Mefford seeks employment with the Commonwealth, then he agrees to be responsible for the full civil penalty \$5,000. Mr. Mefford will also receive a public reprimand and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Angela Rogers

Case Number: 18-017

Allegation: Ms. Rogers admitted to two counts of violating the Code of Ethics, KRS 11A.020(2) that occurred during the course of her employment as an Offender Information Specialist, in the Department of Corrections, Justice & Public Safety Cabinet. Specifically, Ms. Rogers used her official government account to access the Kentucky Offender Management System or KOMS database containing protected or otherwise confidential information to conduct multiple searches on her son for personal reasons. Furthermore, Ms. Rogers used her official government account to access the CourtNet database to conduct multiple searches on her son for personal reasons. Ms. Rogers could not have conducted these searches without the use and access of her official government credentials. Ms. Rogers' conduct resulted in her receiving a benefit and a financial gain from the personal use of government time and resources for her personal use and enjoyment.

Conclusion: Pursuant to the Settlement Agreement, Ms. Rogers agrees to pay a \$3,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Troy Koon

Case Number: 18-021

Allegation: Mr. Koon admitted to one count of violating the Code of Ethics , KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2), that occurred during the course of his employment as a Park Manager, Department of Parks, Tourism, Arts and Heritage Cabinet. Specifically, Mr. Koon purchased firewood on behalf of the Commonwealth from an individual operating a “cash only” business and who would not supply Koon with a receipt. Mr. Koon attempted to get reimbursement from the Department of Parks but could not receive reimbursement without a receipt. Mr. Koon, unable to obtain a receipt from the seller, created false receipts and forged the name of the seller on the invoices. Mr. Koon then submitted the forged receipts to the Department of Parks.

Conclusion: Pursuant to the Settlement Agreement, Mr. Koon agrees to pay a \$1,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Shonda Adonis

Case Number: 18-020

Allegation: Ms. Adonis admitted to three counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2), that occurred during the course of her employment as a Correctional Officer, in the Department of Corrections, Justice & Public Safety Cabinet. Specifically, Ms. Adonis used her position as a Correctional Officer, to access the Department’s inmate pay system to engage in text messaging with an inmate. Furthermore, Ms. Adonis used her official government account to access the Kentucky Offender Management System or KOMS database containing protected or otherwise confidential information to conduct multiple searches regarding this same inmate. Finally, Ms. Adonis used her position as a Correctional Officer, to allow this same inmate time out of his cell during the time the inmate should have been sleeping. Ms. Adonis could not have conducted the KOMS searches without the use and access of her official government credentials.

Conclusion: Pursuant to the Settlement Agreement, Ms. Adonis agrees to pay a \$4,500.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Nathaniel Bebe

Case Number: 18-023

Allegation: Mr. Bebe admitted to six counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.020(2), that occurred during the course of his employment as a Disability Adjudicator II, Department of Income Support, Cabinet for Health and Family Services. Specifically, Mr. Bebe falsified six timesheets regarding his regular and additional work hours resulting in him falsely claiming hours he did not work and improperly earning and receiving compensatory leave time.

Conclusion: Pursuant to the Settlement Agreement, Mr. Bebe agrees to pay a \$3,000.00 civil penalty, refrain from ever again seeking employment with the executive branch of the Commonwealth, receive a public reprimand, and waives any right to appeal. The \$3,000.00 penalty was completely offset by the amount of restitution Mr. Bebe paid to his former agency. The Commission concluded the matter by issuing an Agreed Final Order.

2019 ADMINISTRATIVE PROCEEDINGS

Executive Branch Ethics Commission v. Manoj Shanker

Case Number: 16-010

Allegation: On November 14, 2016, the Executive Branch Ethics Commission issued an Initiating Order charging Mr. Shanker with one count in violation of KRS 11A.020(1)(b). Today

Conclusion: On February 5, 2019 the Commission issued a Final Order of Dismissal resolving the matter.

Executive Branch Ethics Commission V. Melinda Mayeur

Case Number: 19-001

Allegation: Ms. Mayeur admitted to one count in violation the Code of Ethics, KRS 11A.020(1)(a), (b), (c), and (d), and KRS 11A.020(2), that occurred during the course of her employment as a Deputy in the Office of the Simpson County Property Valuation Administrator. Specifically, Ms. Mayeur, during a two-year timeframe, charged a \$5.00 fee to notarize documents while on duty at the PVA Office and kept the money for herself.

Conclusion: In a Settlement Agreement approved by the Commission, Ms. Mayeur agreed to pay a \$1,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Final Order.

Executive Branch Ethics Commission v. Courtney Kubik

Case Number: 19-002

Allegation: Ms. Kubik admitted to two counts of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2), that occurred during the course of her employment as a Corrections Officer, Department of Corrections, Justice and Public Safety Cabinet. Specifically, Ms. Kubik used her position to access the Department's inmate JPay system to engage in text messaging with an inmate and gave him a monetary benefit by paying for his use of the system. Furthermore, on two occasions, Ms. Kubik allowed the inmate to engage with her in intimate, physical contact in the form of kissing and protected the inmate by failing to report the inmate for such conduct.

Conclusion: In a Settlement Agreement approved by the Commission, Ms. Kubik agrees to pay a \$3,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The

Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Ryan Green

Case Number: 16-009

Allegation: On November 14, 2016, the Executive Branch Ethics Commission issued an Initiating Order charging Mr. Green with one count in violation of KRS 11A.020(1)(b).

Conclusion: After a full administrative hearing, the Commission issued a Final Order determining that Mr. Green did not violate the Ethics Code.

Executive Branch Ethics Commission v. Matthew Mohalley

Case Number: 19-005

Allegation: Mr. Mohalley admitted to one count of violating the Code of Ethics, KRS 11A.020(1)(a), (b), and (d), and KRS 11A.020(2) and (3), that occurred during the course of his employment as a Corrections Officer, Roederer Correctional Complex, Department of Corrections, Justice and Public Safety Cabinet. Specifically, Mr. Mohalley tampered with evidence by claiming to find a Bic cigarette lighter in an inmate's belongings upon transporting the inmate to the prison from the hospital. In fact, the lighter belonged to Mohalley and he feared disciplinary action for forgetting to leave it in his vehicle and smoking while driving the prison van. The inmate received a disciplinary report and was placed in segregation as a result of Mohalley's actions.

Conclusion: Pursuant to the Settlement Agreement, Mr. Mohalley agrees to pay a \$1,500.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Kurt Godshall

Case Number: 19-006

Allegation: In a Settlement Agreement approved by the Commission, Mr. Godshall agreed to not contest one count of violating the Code of Ethics, KRS 11A.040(9), that occurred within one year of the termination of his state employment of various positions in the Cabinet for Health and Family Services. Specifically, Mr. Godshall began employment with and represented private business before a state agency in a matter in which he was directly involved during the last thirty-six (36) months of his tenure.

Conclusion: Pursuant to the Settlement Agreement, Mr. Godshall agreed to pay a \$1,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing a Final Order.

Executive Branch Ethics Commission v. James Sullivan

Case Number: 19-007

Allegation: In a Settlement Agreement approved by the Commission, Mr. Sullivan admitted to 20 counts of violating the Code of Ethics, KRS 11A.206, KRS 11A.211, and KRS 11A.216, that occurred during his role as an executive agency lobbyist. Specifically, in Counts I through X, Mr. Sullivan failed to file an initial registration statement or an updated registration statement for the years 2005-2014, inclusive. In Counts XI through XX, Mr. Sullivan accepted an engagement for compensation that was contingent on the outcome of an executive agency decision for the years 2005-2014, inclusive.

Conclusion: Pursuant to the Settlement Agreement, Mr. Sullivan agrees to pay a \$15,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. CCMSI

Case Number: 19-008

Allegation: CANNON COCOCHRAN MANAGEMENT SERVICES, INC., (“CCMSI”) a Delaware corporation agreed to settle 14 counts of violating the Code of Ethics , KRS 11A.206, KRS 11A.211, and KRS 11A.216, that occurred during its role as a real party in interest, it engaged an individual pursuant to KRS 11A.201(4) by retaining him for compensation to act for or on behalf of CCMSI to influence executive agency decisions or to conduct executive agency lobbying activity. Specifically, in Counts I through X, CCMSI failed to file an initial registration statement or an updated registration statement for the years 2005-2014, inclusive. In Counts XI through XIV, CCMSI accepted an engagement for compensation that was contingent on the outcome of an executive agency decision for the years 2005-2008, inclusive.

Conclusion: Pursuant to the Settlement Agreement, CCMSI agrees to pay a \$50,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. Jeremy Riggs

Case Number: 19-012

Allegation: Jeremy Riggs agreed not to contest two counts of violating the Code of Ethics, KRS 11A.040(4). Specifically, on two separate occasions, Mr. Riggs entered into an agreement, through his personal, for-profit business Back 9 Productions, to provide videography services to the Department of Parks, an agency of the Cabinet where Riggs currently works. Mr. Riggs entered these agreements after being expressly directed in writing to “not have any contracts between your private business and any agency of the Tourism, Arts and Heritage Cabinet.”

Conclusion: In a Settlement Agreement approved by the Commission, Mr. Riggs agreed to pay a \$2,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

Executive Branch Ethics Commission v. John Mello

Case Number: 18-019

Allegation: Mr. Mello admitted to two counts of violating the Code of Ethics, KRS 11A.020(1) and (2). Specifically, during the course of his employment as a Disability Adjudicator II Department of Income Support Cabinet for Health and Family Services, Mello falsified his timesheets and overtime action sheets regarding his additional work hours resulting in him improperly earning and receiving compensatory leave time. Additionally, Mello falsified an agency specific database regarding work performed during the additional work hours he claimed.

Conclusion: Pursuant to the Settlement Agreement, Mr. Mello agreed to pay a \$4,000.00 civil penalty, receive a public reprimand, and waives any right to appeal. The Commission concluded the matter by issuing an Agreed Final Order.

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. Michael Martindale, Woodford Circuit Court, Division II, Case No. 18-CI-101

Mr. Martindale filed an appeal of the Commission's final Order entered on March 19, 2018. The Commission filed its answer on May 8, 2018. Woodford Circuit Court set a briefing schedule at the Commission's request. Mr. Martindale filed a motion to have the briefing scheduled set aside and asked for a hearing to re-argue the facts of the case in Circuit Court. He claimed he did not receive the motion scheduling the hearing that set the briefing schedule. The Circuit Court would not allow him to re-argue the case, but did give him an additional 30 days to file his brief. The Commission filed its brief on January 9, 2019. Commission staff filed a motion for oral arguments set for July 24, 2019. Mr. Martindale filed a motion asking the Court to reschedule the oral arguments for September 11, 2019 due to his unavailability. Oral arguments took place on September 11, 2019. The matter stands submitted.

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 is attempting collection efforts for the \$10,000 penalty that Mr. Farmer owes the Commission as a result of the Commission's Final Order entered July 30, 2013. 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.

Court of Appeals issued its ruling on August 2, 2019. The Court ruled in favor of the Commission on all issues, remanding the matter to Franklin Circuit Court only for entry of a new order regarding application of post-judgment interest. Originally, Franklin Circuit Court ordered prejudgment and post-judgment interest at 12% per annum. However, the Circuit Court issued their Order four (4) days after a newly enacted law took effect lowering interest rates on judgments from 12% to 6%. The Commission conceded application of the lower interest rate and, rather than calculating the prejudgment and post-judgment interest at differing rates, only sought application of post judgment interest.

Following the Court of Appeals Order of August 2, 2019 denying Mr. Farmer's appeal, Mr. Farmer filed a Petition for Discretionary Review on August 23, 2019. The Commission filed its Response to the Petition on September 11, 2019. On October 24, 2019, the Supreme Court denied discretionary review.

Buster Chandler v. Chairman, Executive Branch Ethics Commission, et al., Court of Appeals, Case No. 19-CA-858, appeal from Franklin Circuit Court, Case No. 18-CI-00944

Mr. Chandler appealed the Franklin Circuit Court's grant of the Commission's motion to dismiss his petition. Mr. Chandler, a private citizen, filed a petition arguing that the Commission failed to investigate his claims that the members of the Kentucky Personnel Board had conflicts of interest. Prior to the Commission filing a motion to dismiss the appeal, the Court of Appeals did so *sua sponte*. Mr. Chandler missed the deadline to request discretionary review. This matter is now closed.

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.

During the 2019 legislative session, Senate Bill 6 made sweeping changes to the definition of who is required to register as a lobbyist. . In September of 2019, the Commission staff was successful in changing administrative regulation 9 KAR 1:040 to update the lobbyist filing forms and filing process in compliance with the legislation.

Provisions relating to Lobbying:

- KRS 11A.201 through KRS 11A.246
- 9 KAR 1:040
- Penalties: KRS 11A.990

What is Professional Lobbying?

Any person who receives compensation for his or her efforts to influence legislators, elected officials, or executive agency decision-makers on behalf of a client or employer is a professional lobbyist. A lobbyist of executive branch agencies is called an Executive Agency Lobbyist or EAL.

What is Executive Agency Lobbying?

Anyone attempting to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation or otherwise influence the outcome of an executive agency decision if the decision will result in the expenditure of state funds of \$5000 or more or would financially impact the person’s client. The person does this by engaging in direct communication with:

1. An elected executive official;
2. The secretary of any cabinet listed in KRS 12.250;
3. Any executive agency official whether in the classified service or not; or
4. A member of the staff of any one of the officials listed in this paragraph.

What is an Executive Agency Decision?

An *executive agency decision* means a decision of an executive agency regarding the expenditure of state funds or funds of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which such funds are distributed or allocated. This shall also include decisions made concerning:

- (a) The parameters of requests for information and requests for proposal;
- (b) Drafting, adopting, or implementing a budget provision;

- (c) Administrative regulations or rules;
- (d) An executive order;
- (e) Legislation or amendments thereto; or
- (f) Other public policy decisions.

However, Executive Agency Decisions must result in the expenditure of state funds of \$5000 or more or would financially impact the person's client.

What does financial impact mean?

The term "financial impact" is not defined by statute or regulation. As such, we must use the ordinary definitions of those terms. Therefore, an executive agency decision that financially impacts the EAL's client would be a decision that would have an effect on the financial position of the client.

Who should register as an EAL?

An EAL is any individual who is engaged by an employer *on a substantial issue*, as one of his or her main purposes, to influence executive agency decisions or to conduct executive agency activity by direct communication. This includes representing public interest entities formed for the purpose of promoting or otherwise influencing executive agency decisions.

Definition of "on a substantial issue": Any lobbying activity which includes direct contacts with an executive agency during a calendar year for the purpose of influencing an executive agency decision involving state funds of at least \$5,000 per year or any budget provision, administrative regulation or rule, legislative matter or other public policy matter that financially impacts the executive agency lobbyist or his or her employer.

Definition of "engaged" or "engagement": *Engage* means to make any arrangement, and *engagement* means any arrangement made, whereby an individual is employed or retained for *compensation* to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity.

Contingency Arrangements

Pursuant to KRS 11A.236, no person shall engage any person to influence executive agency decisions or conduct executive agency lobbying activity for compensation that is contingent in any way on the outcome of an executive agency decision, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded. No person shall accept any engagement to influence executive agency decisions or conduct executive agency lobbying activity for compensation that is contingent in any way on the outcome of an executive agency decision, except for certain sales commissions, including payment based on the awarding of a contract or payment of a percentage of a government contract awarded. An employer who pays an executive agency lobbyist based on the awarding of a contract or payment of a percentage of a government contract awarded shall be barred from doing business with the Commonwealth for a period of five (5) years from the date on which such a payment is revealed to the Executive Branch Ethics Commission. Violation is a Class D felony.

Who is an Employer of an EAL?

An *employer* means any *person* who employs or engages an executive agency lobbyist.

- A “person” is defined as an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

What is a Real Party in Interest?

A *Real Party in Interest* is the person or organization on whose behalf the EAL is acting, if that person is not the employer.

- For example, if the ABC Corporation engages XYZ Consulting Company which, in turn, hires John Smith to influence decisions or conduct executive agency lobbying on behalf of ABC Corporation: (a) John Smith is the EAL; (b) XYZ Consulting Company is the “employer;” and (c) ABC Corporation is the “real party in interest.”

Who is exempt from filing?

- 1) Unpaid lobbyists.
- 2) A person who is attempting to influence a decision of an executive agency **that does not involve** the expenditure of state funds or the award of a contract, grant, lease, or other financial arrangement under which such funds are distributed or allocated.
- 3) A person whose job does not include lobbying as a “main purpose.” Example: An engineer for a public utility who sometimes is in contact with state highway officials about moving utility lines, but whose main duties do not include lobbying.
- 4) A person whose state contacts do not involve “substantial” state spending. Decisions involving state spending of less than \$5,000 per year are not considered “substantial.”
- 5) A firm or individual merely submitting a bid or responding to a Request for Proposal for a contract.
- 6) A person whose contacts with state officials are for the sole purpose of gathering information contained in a public record. Example: A businessman who seeks a fuller explanation of bidding specifications, but makes no effort to change or otherwise influence a state decision on the bids.
- 7) News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;
- 8) The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media;
- 9) Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;
- 10) Professional services in preparing executive agency decisions, preparing arguments regarding executive agency decisions, or in advising clients and rendering opinions regarding proposed or pending executive agency decisions, if the services are not otherwise connected to lobbying; or
- 11) Public comments submitted to an executive agency during the public comment period on administrative regulations or rules;
- 12) A person whose lobbying is done only during appearances before public meetings of executive agencies.
- 13) A person whose contacts are limited to those employees whose official duties do not include policy formulation, administrative or supervisory authority, or expenditure

authorization. To be considered lobbying, contacts must be with: an elected official; a cabinet secretary; officials whose principal duties are to make policy or participate in the preparation or award of state contracts or other financial arrangements, or the staff of any of the above officials. (See KRS 11A.201(9), (10) and (14) for complete details.)

- 14) Officers or employees of federal, state or local governments or of state colleges and universities when acting within their official duties.
- 15) Persons exercising their constitutional right to assemble with others for their common good and petition state executive branch agencies for redress of grievances.
- 16) Persons acting to promote, oppose or otherwise influence the outcome of a decision of the Cabinet for Economic Development or any board or authority within or attached to the Cabinet relating to the issuance or award of a bond, grant, lease, loan, assessment, incentive inducement, or tax credit pursuant to KRS 42.4588, 103.210, Chapter 154 or Chapter 224A, or otherwise relating to another component of an economic incentive package.

Registration Fee

Each Employer of one or more lobbyists, and each Real Party in Interest, must pay a registration fee of **\$500** upon the filing of an **Updated Registration Statement** due by **July 31** each year.

When should the EAL register?

Each EAL, employer, and, if applicable, real party in interest, is required to file, jointly, an Initial Registration Statement **within ten (10) days** of the engagement of the EAL.

How to register?

File an Initial Registration Statement with the Commission. The Initial Registration Statement can file electronically or can be downloaded from the Commission's website and completed and **delivered by email, fax, mail or hand-delivery** to the Commission's office. Do not send fee payment at this time.

How long is a registration valid?

After the Statement is processed, the EAL will be issued a registration card by the Commission effective from the date of its issuance until the proceeding July 31. Until an EAL files a Termination Notification with the Commission, the lobbyist and his/her employer and real party interest are considered "active" and are required to file Updated Registration Statements between July 1 through July 31 of each year.

A reporting year runs from July 1 through June 30. Updated Registration Statements are due between July 1 and July 31 for the previous reporting period. Updated Registration Statements filed before July 1 will be rejected.

Are the Forms Audited?

The lobbyist filing forms are audited and compared with the Statements of Financial Disclosures filed by Executive Branch Officers. If there are discrepancies between the filings, for instance the officer indicated a gift valuing over \$200 from a lobbyist and the lobbyist did not disclose the expenditure on his or her update filed with the Commission, the Commission may open an

investigation pursuant to KRS 11A.080 and any penalties may apply under KRS 11A.100 and KRS 11A.990.

What are the Penalties?

- Any executive agency lobbyist, employer, or real party in interest who violates any provision in KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed \$5,000. For the second and each subsequent violation, he shall be guilty of a Class D felony.
- Any executive agency lobbyist, employer, or real party in interest who fails to file the initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed \$100 per day, up to a maximum total fine of \$1,000.
- Any executive agency lobbyist, employer, or real party in interest who intentionally fails to register, or who intentionally files an initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216 which he knows to contain false information or to omit required information shall be guilty of a Class D felony.
- An executive agency lobbyist, employer, or real party in interest who files a false statement of expenditures or details of a financial transaction under KRS 11A.221 or 11A.226 is liable in a civil action to any official or employee who sustains damage as a result of the filing or publication of the statement.

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".

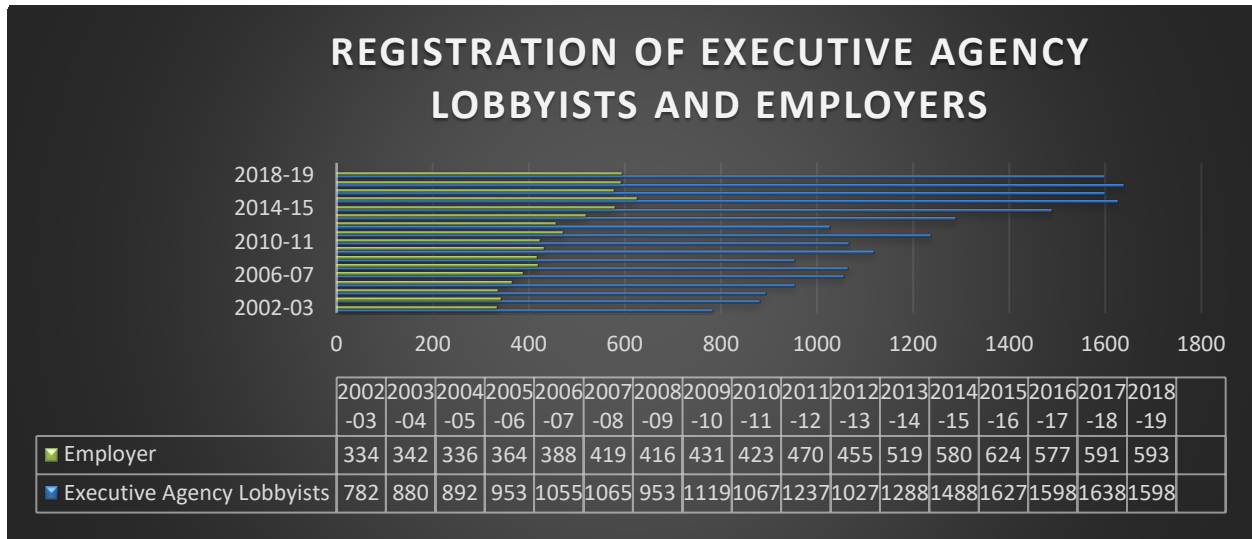
EALs are required to identify on their registration statements the type of industry that they represent.

The table below shows the type of industries represented as of June 30, 2018, and June 30, 2019.

TYPE OF INDUSTRY	2017-2018		2018-2019	
	NUMBER OF LOBBYISTS	NUMBER OF EMPLOYERS	NUMBER OF LOBBYISTS	NUMBER OF EMPLOYERS
Advocacy/ Non-Profit/Social Services	126	39	143	37
Agriculture/Equine/Tobacco	18	9	25	11
Architects/Construction/Engineers	156	39	167	37
Arts/Tourism	32	7	34	7
Computer Hardware/Data/Technology	147	47	154	45
Communications/Telecom	75	13	63	11
Criminal Justice/Corrections/Public Safety	53	18	40	15
Economic Development/Manufacturing/Retail	96	33	102	35
Education/Workforce Training	82	26	83	27
Entertainment/Gaming /Hospitality/Alcohol Industry	72	24	96	28
Environmental Services/Energy Efficiency	9	8	16	10
Financial Services/Insurance/ Investments	292	173	353	166
Health Care/Pharmaceuticals/Bio Tech	348	116	357	126
Legal/Law Firm/Consulting	12	3	16	4
Local Government	3	2	16	6
Media/Public Relations	13	3	10	3
Minerals/Petroleum/Utilities/Energy	59	18	45	13
Transportation/Shipping	45	13	48	12
TOTAL	1638	591	1598	593

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 available to the public. As of June 30, 2018, 1638 EALs representing 591 employers/real parties were registered with the Commission; on June 30, 2019, 1598 EALs representing 593 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 registration fee 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 2017-18 and 2018-19, 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.

2017 LEGISLATIVE SESSION

HB 387

KRS 11A.080

KRS 11A.211

HB 484

Created a new section of KRS Chapter 45A, codified as KRS 45A.096 and 45A.097

KRS 45A.095(1) and (2)

KRS 45A.810(2)

KRS 11A.010(5)

KRS 11A.045(1)

KRS 11A.055(2) and added new paragraph (3)

During the 2017 General Assembly, through HB 387, sponsored with the bi-partisan efforts of Reps. David Hale and Jody 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].

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.

2018 LEGISLATIVE SESSION

SB 150

KRS 11A.100(1)

KRS 13B.020(7) relating to KRS 11A.100

KRS 13B.050 relating to KRS 11A.080(4)(b)

KRS 13B.090(7) in reference to clear and convincing evidence standards

During the 2018 General Assembly Session, Senate Bill 150, which was sponsored by Sen. Rick Girdler and co-sponsored by Sen. Wil Schroder and carried by Rep. Jerry Miller in the House, was successfully enacted to amend KRS 11A.100 to exempt the Executive Branch Ethics Commission hearings from certain provisions of KRS Chapter 13B; amended KRS 13B.020 to exempt Executive Branch Ethics Commission hearings from KRS 13B.030(2)(b); amended KRS 13B.050 to remove the notice requirements for notices issued under KRS 11A.080(4)(b) when a party fails to file an answer or otherwise fails to participate; and amends KRS 13B.090 to specify a higher burden of proof if required elsewhere by law. Senate Bill 150 was signed by Governor Matt Bevin on April 2, 2018, and enacted on July 14, 2018.

2019 LEGISLATIVE SESSION

HB 81:

KRS 11A.010(7) & (9). Added new paragraph (21).

SB 6:

KRS 11A.040(6) & (7)

KRS 11A.050(1) & (3)

KRS 11A.080 by adding new paragraphs (5) & (6)

KRS 11A.110(3)

KRS 11A.201(7), (8), (9), and (16)

KRS 11A.211(1), (2), and (3)

KRS 11A.236(1)

During the 2019 General Assembly Session, House Bill 81, sponsored by Rep. Jerry Miller, was signed by Governor Matt Bevin on April 19, 2019 to be enacted on June 27, 2019. HB 81 amended KRS 11A.010 to expand and update the definitions of "officer" and "public servant"; define "salaried"; clarify that employment arrangements referenced in the definitions of "officer" and "public servant" are those made with an agency.

During that session, Senate Bill 6 was sponsored by Senate President Robert Stivers and Sen. Damon Thayer. It was signed by Governor Bevin on March 25, 2019, and enacted on June 27, 2019. SB 6 made sweeping changes to the lobbyist filing process as well as made changes to the Executive Branch Code of Ethics.

SB 6 expands the definitions of “Executive Agency Decision,” “Executive Agency Lobbyist,” “Executive Agency Lobbyist Activity,” and “Substantial Issue.” Executive Agency Decision was expanded to include decisions made by an Executive Branch state agency to: (1) decide the parameters of contracts or agreements with the state, (2) request future or existing budget provisions, (3) issue administrative regulations or rules, (4) issue an executive order, (5) influence legislation, and (6) make other public policy decisions. SB 6 also requires Executive Agency Lobbyists to list the compensation they receive from each employer and certify that they have not received a contingency fee.

RECOMMENDATIONS FOR THE 2020 LEGISLATIVE SESSION

The Commission recommends to improve the efficacy of the changes enacted in Senate Bill 6 (2019), that the following amendments be made to the lobbyist filing process:

Amend the definitions sections in KRS 11A.201 as follows:

1. Include a definition for “financial impact” to state “**means to have an effect on the financial position of the employer of the executive agency lobbyist or the real party in interest whether or not the impact is positive or negative**”.
2. Add language to the definition of “executive agency decision” to clarify that any solicitation under KRS Chapter 45A is included; and
3. Remove the term “other policy decisions” from the definition of “executive agency decision” as it is overly broad and would be difficult to enforce.

Amend KRS 11A.211 as follows:

1. Apply the disclosure of compensation to employers and real parties in interest instead of just lobbyists by amending KRS 11A.211(3) as follows:

If an executive agency lobbyist is engaged by more than one (1) employer, the executive agency lobbyist shall file a separate initial and updated registration statement for each engagement and list compensation paid to **or received by each**~~[the]~~ executive agency lobbyist,~~[by each]~~ employer, **and real party in interest as part of the engagement**.

2. Explain what disclosure is required for listing compensation by amending KRS 11A.211 (1) as follows:

(f) Compensation paid to **or received by** each executive agency lobbyist, ~~[by each]~~ employer, **and real party in interest as a part of the engagement**;

(g) Compensation shall be reported after it is received by or paid to each executive agency lobbyist, employer, and real party in interest as determined by the terms of the engagement, and shall be listed by the dollar amount or percentages paid or received, the intervals on which the payment is paid or received, and any other compensation received or paid as part of the engagement.









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

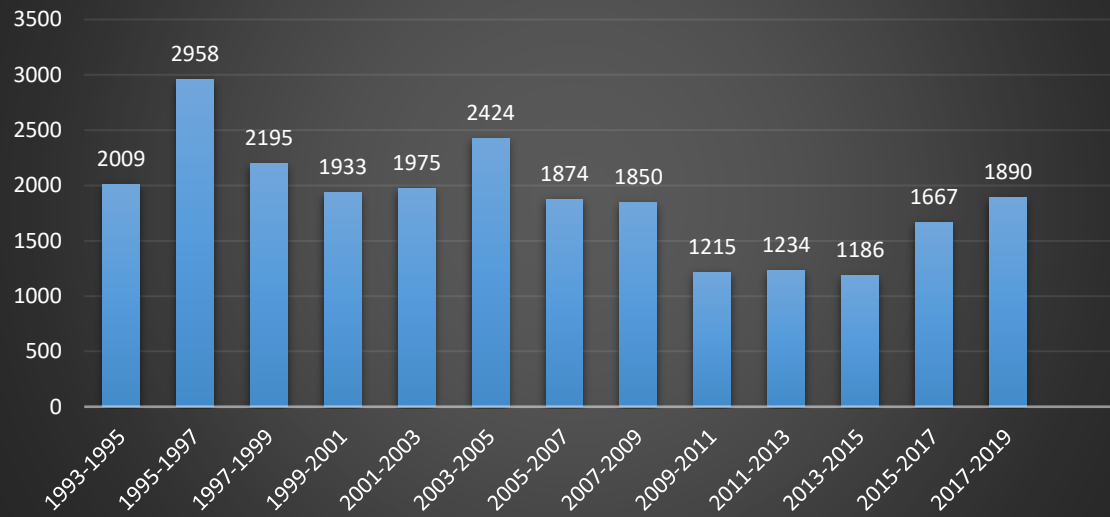
EDUCATIONAL MATERIALS

-  *Biennial Reports*
-  *Guide to the Executive Branch Code of Ethics*
-  *Advisory Opinions*
-  *Executive Agency Lobbying Handbook*
-  *Ethics Officer Guide*
-  Brochures:
 - *Acceptance of Gifts*
 - *Post-Employment*
 - *Political Activities*
 - *Ethical Guidelines for Boards and Commission Members*
 - *Executive Branch Ethics Commission (general information)*

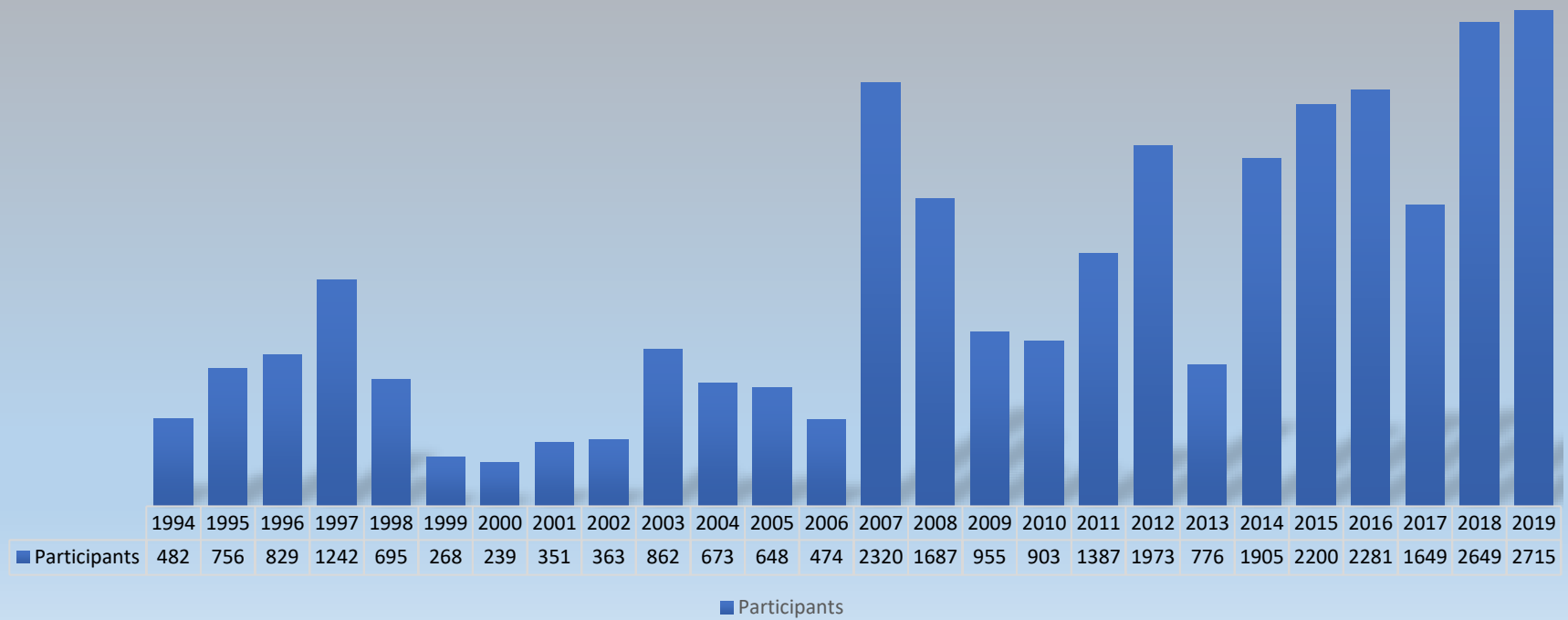
27 YEARS OF STATISTICS APPENDIX

- i. EDUCATION AND TRAINING INQUIRIES 1993-2019
- ii. TRAINING PARTICIPANTS 2003-2019
- iii. 27 YEARS STATEMENT OF FINANCIAL DISCLOSURE FILINGS
- iv. 27 YEARS OF TIMELY FILED STATEMENTS AND TOTAL REQUIRED FILINGS
- v. 27 YEARS AT A GLANCE
- vi. 27 YEARS OF REGISTRATION OF EXECUTIVE AGENCY LOBBYISTS AND EMPLOYERS

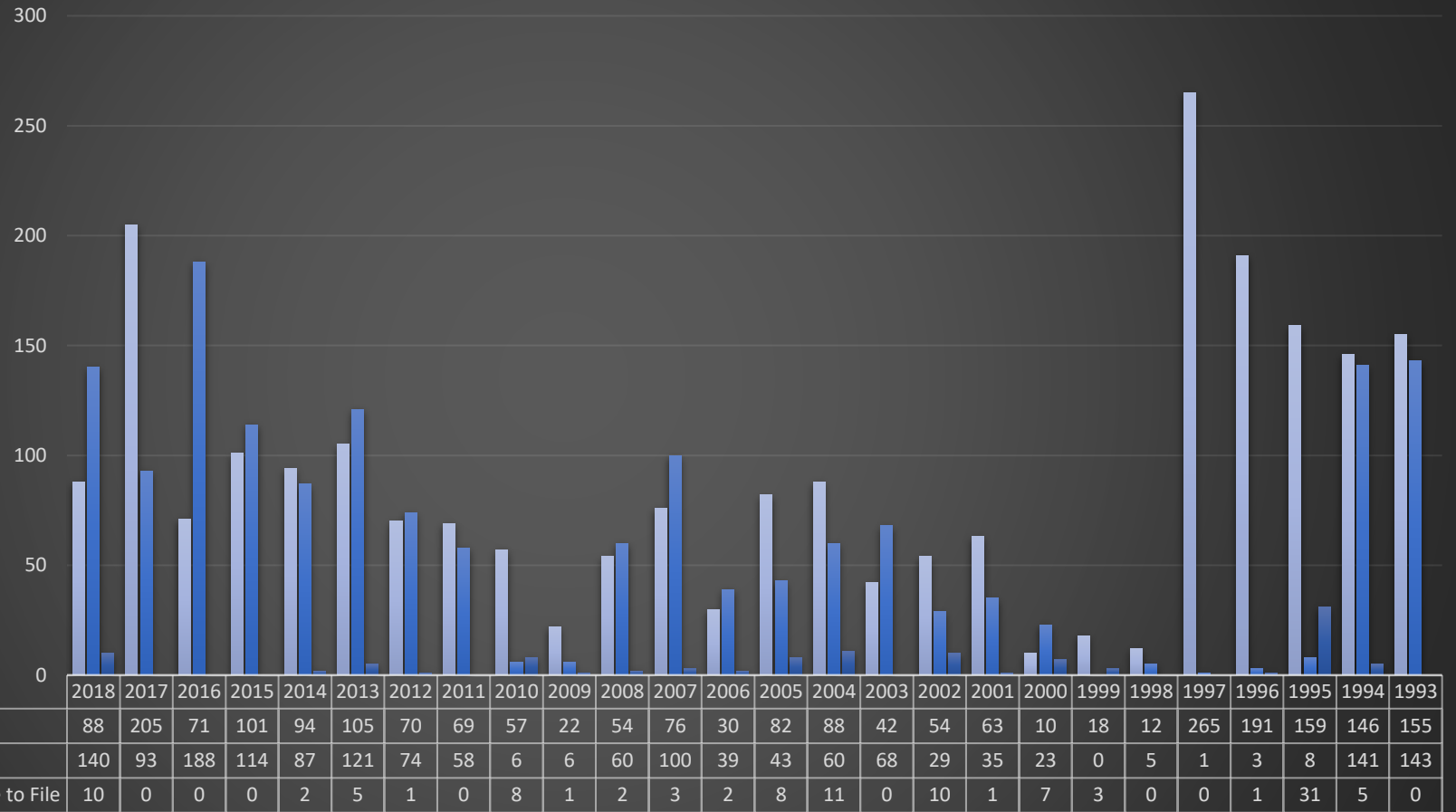
Education and Training Inquiries 1993-2017



TRAINING PARTICIPANTS 2003-2017

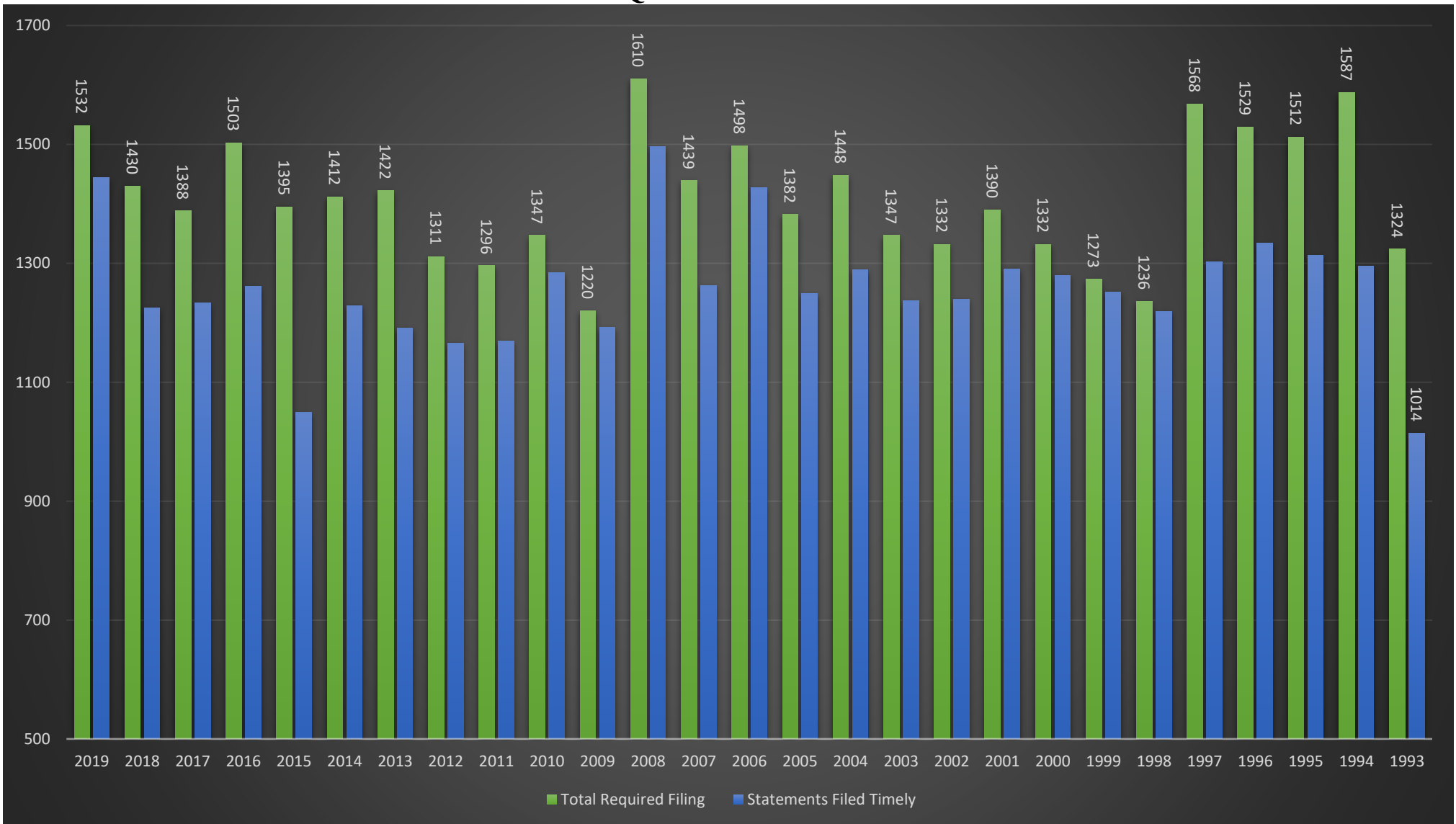


27 YEARS STATEMENT OF FINANCIAL DISCLOSURE FILINGS

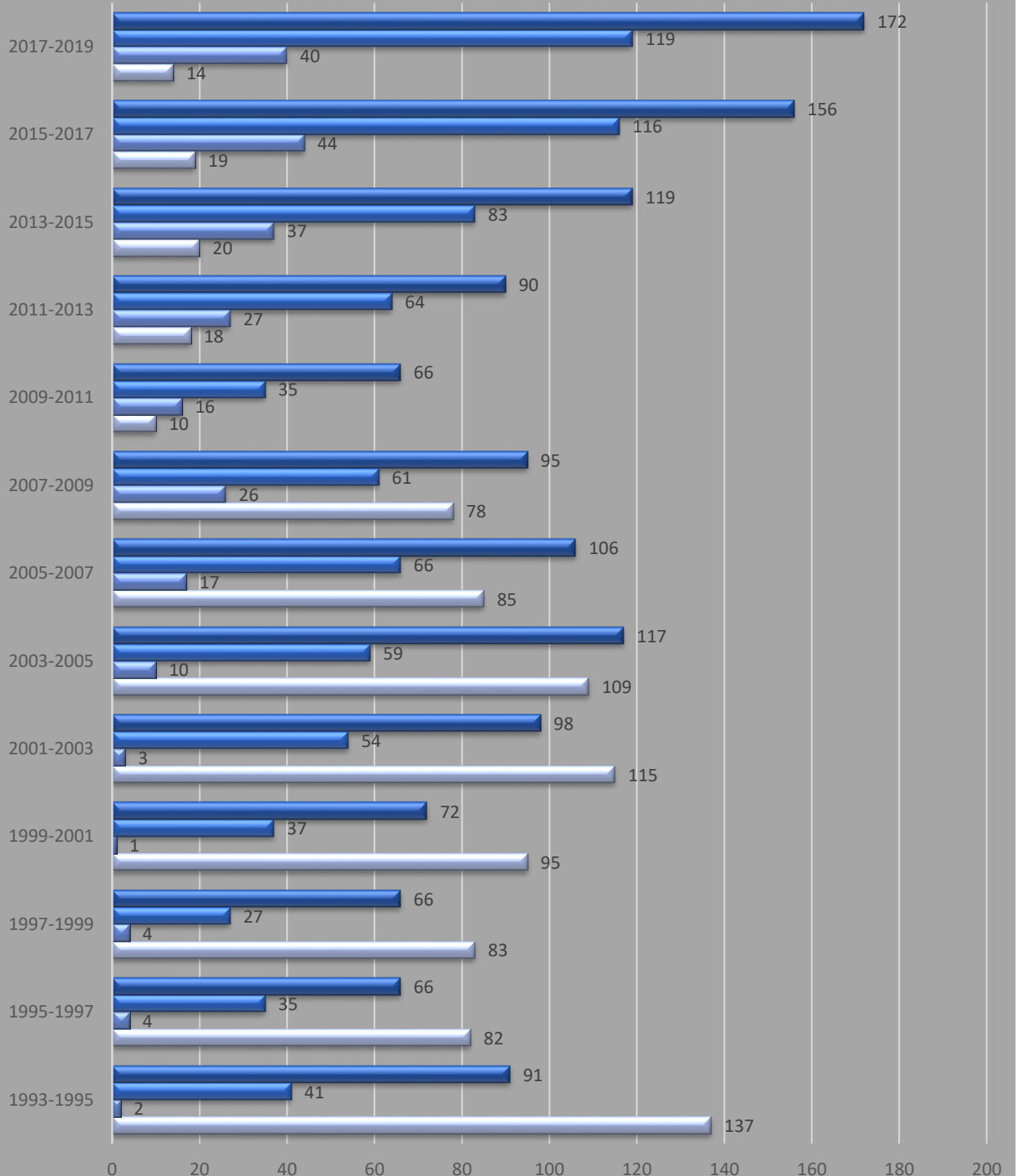


■ Active Officers Filed Late
 ■ Former Officers Filed Late
 ■ Officers Investigated for Failure to File

27 YEARS OF TIMELY FILED STATEMENTS AND TOTAL REQUIRED FILINGS



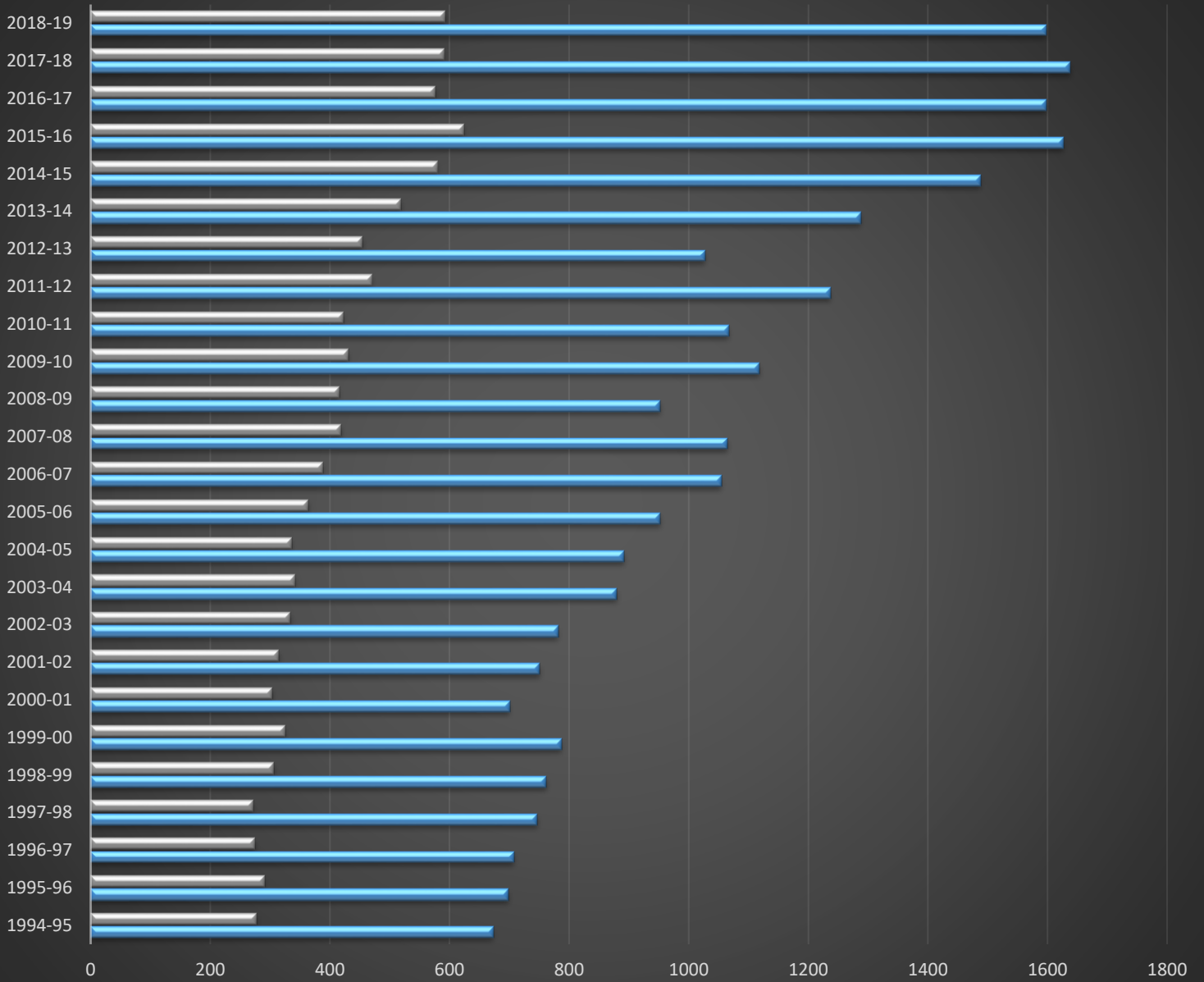
27 YEARS AT A GLANCE



	1993-1995	1995-1997	1997-1999	1999-2001	2001-2003	2003-2005	2005-2007	2007-2009	2009-2011	2011-2013	2013-2015	2015-2017	2017-2019
■ Possible Violations	91	66	66	72	98	117	106	95	66	90	119	156	172
■ Investigations	41	35	27	37	54	59	66	61	35	64	83	116	119
■ Administrative Proceedings	2	4	4	1	3	10	17	26	16	27	37	44	40
■ Advisory Opinions Issued	137	82	83	95	115	109	85	78	10	18	20	19	14

■ Possible Violations
 ■ Investigations
 ■ Administrative Proceedings
 ■ Advisory Opinions Issued

27 YEARS OF REGISTRATION OF EXECUTIVE AGENCY LOBBYISTS AND EMPLOYERS



COMMONWEALTH OF KENTUCKY

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