

State Public Integrity Commission

2024 Full Review Cycle

152nd General Assembly



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
May 12, 2023*

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ABOUT JLOSC AND THE REVIEW PROCESS

The Joint Legislative Oversight and Sunset Committee (“JLOSC” or “Joint Committee”) is a bipartisan body comprised of 5 members of the Senate appointed by the President Pro Tempore and 5 members of the House of Representatives appointed by the Speaker of the House.

JLOSC completes periodic reviews of state supported entities such as agencies, commissions, and boards following statutory criteria under [29 Del. Code, Chapter 102](#). The review’s purpose is to determine the public need for the entity and whether the entity is effectively performing to meet the need. The goal of the review is to provide strength and support to entities that are providing a state recognized need.

JLOSC performs its duties with support provided by the Division of Research’s dedicated and nonpartisan staff. JLOSC staff completes a performance evaluation of the entity under review and submits a Staff Report to JLOSC which includes analysis, key findings, and recommendations. Recommendations are not finalized until reviewed, discussed, and adopted by JLOSC with an affirmative vote of 7 members. Beginning in February 2024, JLOSC staff will schedule a presentation meeting for each entity under review to present to JLOSC. For additional review information, please visit the Committee’s website at <https://legis.delaware.gov/Committee/Sunset>.

ABOUT THIS SELF-REPORT

The JLOSC statute requires the entity under review to supply information and materials to facilitate a legislative oversight and sunset review. Additionally, the entity under review has the burden of showing, through the statutory review criteria, that there is a genuine public need and that the entity is meeting that need.

JLOSC staff supplies each entity under review with a Self-Report template and instructions. All questions appearing in this Self-Report are from the JLOSC staff created *JLOSC Performance Review Questionnaire* (“questionnaire”) and are the similar for each entity under review. All questions appearing in the questionnaire use statutory review criteria. Throughout the questionnaire, the use of the broad term “entity” refers to the entity under review, which may be a board, committee, commission, or council. The entity under review supplies review information by submitting all requested review documents and completing this Self-Report. The entity under review is responsible for the contents of the Self-Report and for forwarding all updates, corrections, and requested documents to JLOSC staff in a timely manner during the entire review period.

JLOSC staff will not edit or modify the information received in this Self-Report and only checks for completeness and adherence to instructions. JLOSC members will receive completed Self-Reports and updates directly from their staff. The Committee’s website will include electronic copies of all Self-Reports and any updates received from entities under review. JLOSC analysts are the point of contact throughout all reviews. All questions and comments regarding JLOSC, and reviews should be submitted to Sunset@Delaware.gov.

JLOSC PERFORMANCE REVIEW QUESTIONNAIRE

SECTION 1: ENTITY HISTORY, PURPOSE, AND FUNCTIONS

Section 1-A. Please provide a summary of the entity's history. Highlight any key events.

History

- 1990—State Ethics Commission created by statute.
- 1991--State Ethics Commission jurisdiction--Executive Branch officers and employees, including casual/seasonal; (over 30,000); non-legislative elected officials; State board and commission appointees (in 2022, over 300 Boards and Commissions with approximately 2200 appointees).
- 1993—State Public Integrity Commission created by statute. Added jurisdiction over 57 local governments' employees, officers, elected officials, and board and commission appointees, unless the local government submits a Code for the Commission's approval. (As of 2022, only 9 had an approved Code, leaving PIC with 48 local jurisdictions).
- 1994--Dual Compensation—added jurisdiction over State and local employees and officials with a second elected or paid appointed job in government.
- 1995—added administration and implementation of the financial disclosure provisions of the Delaware Code.
- 1996—added administration and implementation of the lobbyist registration provisions of the Delaware Code.
- 2000--Ethics--added oversight of School Districts and Boards of Education.
- 2001--Ethics--added oversight of Charter School Boards of Education.
- 2010--Organizational Disclosures--State elected officials & candidates must disclose private organizations if they are Board or Council members.
- 2012—Lobbyists must report within 5 business days the legislative bill number or administrative action number or title on which they are lobbying. Report sent weekly on lobbyists' legislative/administrative actions to members of the General Assembly.
- 2013—Veasey Report issued.
- 2015-- In 2014, the PIC successfully introduced legislation to impose a financial penalty on lobbyists for failure to file expense reports in a timely manner. Beginning in 2015, delinquent lobbyists were required to pay a \$25 fine for the first day of their delinquency. Thereafter, an additional \$10 per day accumulated to a maximum fee of \$100. Lobbyists may not resume lobbying until all fees have been paid and all delinquent reports have been filed.

Section 1-B. What are the main functions of this entity? Does this entity issue any advisory or policy opinions? If so, where can they be found?

Functions:

Subchapter I, Code of Conduct—enforcement, administration and training regarding the ethics laws applicable to the executive branch of State government, as well as most county and municipal governments in Delaware.

Subchapter II, Financial and Organization Disclosures—administration and training regarding the State’s financial disclosure laws that are applicable to public officers in the executive, legislative and judicial branches of State government. Reports include a public officer’s financial interests such as assets, creditors, income, and gifts. All State elected officials and candidates for State office must also disclose private organizations of which they are a board or council member.

Subchapter III, Compensation Policy--State and local government employees or officials holding dual government jobs with procedures to monitor and prevent “double-dipping”.

Subchapter IV, Lobbying-- Lobbyists’ registration, authorization, expense reports, and specific legislative or administrative actions on which they are lobbying State officials or employees.

Functions set forth in 29 *Del. C.* § 5809

- To recommend to the General Assembly from time to time such rules of conduct for public employees and officials as it shall deem appropriate.
- To issue written advisory opinions upon the request of any state employee, state officer, honorary state official or state agency as to the applicability of the Code of Conduct to any particular fact situation.
- To refer to Commission Counsel to investigate any alleged violation of this chapter and, after notice and hearing, to recommend by resolution, such disciplinary action as it may deem appropriate to such appropriate official or agency as the Commission shall determine or to take such other disciplinary action as is authorized by § 5810(d) of this title or other provisions of this Code. The Commission may also dismiss any complaint that it determines is frivolous or fails to state a violation.
- To report to the appropriate federal or state authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding whether advisory or disciplinary.
- To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of § 5807(b) and (d), and § 5810(h).
- To follow the procedural rules specified in § 5810 of this title and to establish such other procedural rules as shall not be inconsistent with the rules prescribed therein.
- To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of

books, papers, records or other evidence needed for the performance of the Commission's duties or exercise of its powers.

- To prescribe forms for reports, statements, notices and other documents required by law. The Commission may permit the filing of reports, statements, notices, and other documents by electronic means and may specify the form and content of such filings.
- To prepare and publish manuals and guides explaining the duties of individuals covered by this chapter; and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.
- To provide assistance to state agencies, employees and officials in administering the provisions of this law.
- To prepare an annual report by March 1st of each year describing its activities for the previous year and to prepare such other reports and studies as may advance the purposes of this chapter.
- To appoint a lawyer admitted to practice in the State to serve as Commission Counsel.
- To request appropriate state agencies to provide such professional assistance as it may require in the discharge of its duties.
- To contract for any services which cannot satisfactorily be performed by the Commission Counsel or other Commission staff.
- To administer and implement the financial disclosure provisions of subchapter II of this chapter and to maintain the records filed pursuant thereto.
- To administer and implement the lobbyist registration provisions of this Code and to maintain the records filed pursuant thereto.
- To perform such other responsibilities as may be assigned to it by law.

Yes, the Commission issues advisory opinions. (See Appendix A). Pursuant to statute, the Commission's advisory opinions are confidential. (29 *Del. C.* §§ 5807(a) & (b); 5810). A redacted version of each opinion is available on the PIC's website.

- ❖ <https://depic.delaware.gov/code-of-conduct/opinion-synopsis/> (opinions broken down by topic—total 1132 pages)
- ❖ <https://depic.delaware.gov/financial-disclosure/opinion-synopses/>
- ❖ <https://depic.delaware.gov/compensation-policy/synopses-opinions/>
- ❖ <https://depic.delaware.gov/lobbying/lobbying-opinion-synopses/>

Section 1-C. What condition(s), situation(s), and/or problem(s) existed prior to the creation of this entity that directly led to its creation? Please provide specific examples.

The PIC does not have records documenting the conditions or problems that spurred ethics oversight in Delaware. However, a review of Delaware newspapers from 1988 and 1989 revealed that the creation of Delaware's first ethics commission was a direct consequence of a Senate Select Committee's investigation into the conduct of the Delaware Secretary of Transportation. (See Appendix B). Upon completion of the investigation and hearing, members of the General Assembly made a bipartisan request to the Delaware State Bar Association for assistance in drafting (1) a code of conduct for state employees and officials and (2) legislation which would create a commission to

oversee the ethics laws. The Bar Association responded with a comprehensive report in June 1990. (See Appendix C).

At the time of the GA's request in 1989, State employees were subject to little-known rules of conduct that were enforced by a piecemeal assortment of State agencies. The disjointed administration of the laws led to uneven and inconsistent enforcement due to differing agency policies and procedures.

In 1992, the FBI investigated the conduct of the Secretary of Transportation, resulting in the Secretary's resignation. (See Appendix D). In 1994, the State Ethics Commission asked Governor Thomas Carper for full-time staff due to the increasing workload. (Appendix D). Around the same time, the Governor decided to strengthen Delaware's ethics laws. Consequently, those changes were incorporated into a new ethics code and the commission was renamed the State Public Integrity Commission. Those laws were enacted in 1994 (Appendix D).

Section 1-D. To what extent has the existence and functioning of this entity alleviated each of these condition(s), situation(s), and/or problem(s) described in question "1-C" above? Please provide specific examples.

The PIC is a 'one-stop' resource for state and local government employees and officials. The ethics and financial disclosure laws are now consolidated under the purview of one agency, resulting in consistent enforcement across a multitude of State agencies, boards and commissions. That consistency extends to the 47 county and municipal entities over which the PIC has jurisdiction. Recently, the Sussex County Council considered whether to create their own ethics board or to remain under the PIC's jurisdiction. In deciding to remain with the PIC, the County Solicitor stated "[t]here is an established process and the commission works in a timely manner." (Appendix E). Further pointing out that "the commission's website contains all rulings and cases dating back to 1991 which provides a valuable resource to Sussex County staff." The Council President opined that the state system is well established and well protected. For local governments with their own ethics code, the PIC continues to provide assistance by reviewing and approving code changes and updates before implementation.

The PIC has provided ethics trainings to thousands of state and local government employees as far back as 1995. (See Appendix F). Originally, ethics training began as an in-person class, with Commission Counsel as the instructor. In 2015, the PIC explored the cost of an online training module and was quoted costs over \$100k. Unable to afford the expense, the PIC developed its own 30-minute online training module by using PowerPoint and the voice-over talents of a dulcet-voiced employee from the Delaware Learning Center. In the months between July 2015 and December 2015, the new PIC training module was completed by 496 State employees. The module does not take the place of the more in-depth, in-person training class but it makes employees aware of the Code of Conduct and the PIC's role in training and enforcement. During the COVID pandemic, the PIC switched to training via videoconferencing. In FY 2023, the General Assembly set aside \$100,000 for the PIC to purchase a professional, online training module. That module is currently in development and will be made available on the DLC's website in late June or early July 2023. While working with the DLC, they suggested that all 'new hires' could be

assigned to the training. That will lead to an additional 2,000 or 3,000 employees receiving ethics training on an annual basis.

To some extent, the PIC's effect on state and local compliance with ethics laws is unable to be measured. The PIC's advisory opinions and training efforts are geared towards prevention. How many ethics violations have been prevented? How much would each have cost the State?

Section 1-E. Would the condition(s), situation(s), and/or problem(s) described in question "1-C" above recur or worsen, in the absence of the entity?

Yes, training, education and reliable oversight are key factors in reducing the occurrence of ethics violations among state and local government employees and officials. There is no other agency responsible for ethics training or providing ethical advice to government employees and officials. Without the PIC, the State would likely revert to a piecemeal construction of ethics rules that would vary significantly between agencies. As a result, there may be more ethics violations and there would be fewer resources for state and local governments to rely upon. As for local jurisdictions, 47 of them would need to immediately enact an ethics code and create an ethics board.

Section 1-F. Are there any recent condition(s), situation(s), and/or problem(s) that further justify the need for the entity's existence?

Ethics compliance is not something that is ever 'complete'. There will always be employees and officials with questions that require the advice of an entity that is well-versed in the state's ethics laws. The public will always require an entity to whom they may refer complaints about state and local officials.

Recent news coverage in Delaware indicates that public officials are failing to equate the colloquial term 'nepotism' with the legal definition of 'conflict of interest'. This resulted in the hiring of family members, a conflict of interest under the Code of Conduct. Although that case was prosecuted by the Office of Civil Rights and Public Trust ("OCRPT"), within the Office of the State Attorney General, Commission Counsel testified, in court, about the Code of Conduct and the role of training in complying with the ethics laws.

State employees are feeling the economic crunch. More employees are requesting permission to (1) obtain outside employment in addition to their state job or (2) leave state employment to work for an agency vendor. There are circumstances under which both are possible, and both are prohibited. However, each request must be evaluated by applying the specific facts of each matter to the law, there is no one-size-fits-all approach to administering the Code of Conduct.

Section 1-G. Are there any functions of this entity that are outdated and no longer needed? If so, please explain and provide examples.

Yes, jurisdiction over the Dual Compensation law. The PIC has not received a Dual Compensation Report from the State Auditor's Office since February 2020. Previous reports have found that the State does not have adequate rules and procedures in place to allow for adequate oversight of the Dual Compensation law. Most significantly, the

population of individuals who received dual compensation from government entities was unable to be determined from data available to the PIC. While the PIC does collect financial information from the State's Public Officers, it does not have jurisdiction to collect that information from individuals employed by towns, municipalities or counties within the State who may collect dual government income. Substantial changes to the Dual Compensation law are necessary to allow the PIC to gather the information necessary to properly administer this portion of the code. To that end, HB 252 was introduced in the General Assembly in January 2016 to remedy some of the problems identified in the State Auditors CY 2014 report. The Bill was never released from committee. A similar Bill was introduced in March 2017, HB 73, which was released from committee in March 2018 but was never brought to the floor for a vote. The PIC supports any effort to strengthen and improve its ability to oversee the Dual Compensation law. That includes collecting and analyzing Financial Disclosures from municipal and county employees, as long as it receives additional manpower and resources to ensure the additional responsibilities are properly administered. In the absence of such enabling legislation, the PIC will continue to be unable to meet its statutory obligation regarding oversight of the Dual Compensation law.

SECTION 2: MISSION, GOALS, OBJECTIVES, & AUTHORITY

Section 2-A. What is the mission of this entity? Does the enabling legislation accurately reflect the mission?

"The State Public Integrity Commission's mission is to ensure the public's confidence in the integrity of its government by administering and implementing the State's laws on: ethics for State employees, officers and officials in the Executive Branch; ethics for Local Government employees, officers & officials, unless they adopt a Code as stringent as the State's Code; financial disclosure for Senior Level Executive Branch officials, all State elected officials and all judges; lobbying the General Assembly & State agencies; dual compensation requirements."

With the exception of the Dual Compensation law (see above), the mission adequately addresses all areas of the PIC's jurisdiction while also making clear that the jurisdiction extends to both local and state employees and officials.

Section 2-B. Please identify and explain the entity's goals and objectives, in order of priority.

1. Upholding and supporting the legislative findings of the General Assembly that:
 - a. state employees and officers should hold the confidence of the people.
 - b. conduct that violates the public trust, or creates the impression of a violation, should be avoided.
 - c. employees and officials need standards by which to measure their conduct.
 - d. not unduly circumscribing the conduct of state employees and officials. 29 *Del. C. § 5802*
2. Providing ethics and financial disclosure advice to state and local government employees and officials.
3. Providing training to state and local government employees and officials.
4. Administering the state's lobbying laws.

Section 2-C. Please describe the internal performance evaluation system that the entity uses to measure the attainment of its goals and objectives.

The PIC compiles performance measurements for budgetary reporting purposes. That data includes the number of advisory opinions issued (ethics issues averted), the number of employees and officials participating in ethics training (gauge of reach) and the percent of opinions issued within 45 days of the request (efficiency).

20-01-08	Public Integrity Commission	FY 2022 Actual	FY 2023 Actual	FY 2024 Rec.
	# of advisory opinions, waivers and complaints	42	60	60
	# of people receiving training	764	1100	1200
	% of opinions issued within 45 days	88	98	98

Section 2-D. Does the entity collect any data sets? If so, please identify and explain.

Yes. Members of the public may download and/or review a list of Delaware’s registered lobbyists, the entity’s that hire them and the bills on which they lobby. From the lobbyist list, the public can access the lobbyist’s contact information and reported expenses.

List of lobbyist employers-- <https://pirs.delaware.gov/#/employer/list>

List of lobbyists--<https://pirs.delaware.gov/#/lobbyist/list>

List of lobbying activity by bill number--<https://pirs.delaware.gov/#/lobbyingactivity/list>

Section 2-E. Does the entity conduct any research? If so, please explain and provide the location of research reports (if produced).

Yes, legal research is conducted on an almost daily basis and is incorporated into the legal advice given to state, county and municipal employees and officials. The research is confidential legal work product and not available to the public.

Section 2-F. Has the State Auditor or any other external organization recently audited or evaluated the entity or any of its programs? Please identify some of the major conclusions and/or recommendations. Provide links to all reports.

No. The last time the State Auditor’s Office evaluated the PIC’s administration of the Dual Compensation law was in February 2020 for calendar years [2017 and 2018](#). The report pointed out that the State made no changes to the Dual Compensation law and as a consequence, auditing the PIC’s administration of the law was not possible.

Section 2-G. In general, how do other states carry out similar functions?

43 states have some form of ethics oversight. The states without an ethics board or commission: Maine, Minnesota, New Hampshire, Utah, Idaho, Arizona and Wyoming. The administration of ethics laws varies greatly from jurisdiction to jurisdiction.

Section 2-H. Are the entity’s functions similar or overlapping of other state or federal entities? If so, discuss how the entity coordinates its services with other state or federal bodies sharing similar objectives. Please explain why the functions are best placed within this entity or why they should be placed elsewhere.

We work closely with the Office of Civil Rights and Public Trust (“OCRPT”) within the Office of the State Attorney General. In fact, working cooperatively with the PIC is one of the reasons the OCRPT was created. (See Appendix G). There is some overlap between the civil violation of the conflict-of-interest law (29 *Del. C.* § 5805) and the criminal offense of Official Misconduct (11 *Del. C.* § 1211). In some circumstances, the PIC will handle the matter and in other situations, the OCRPT will accept the case. The issue of jurisdiction is usually resolved by reviewing the nature and intent of the violation and whether criminal sanctions are warranted. Similarly, the OCRPT will refer matters to the PIC when they receive complaints that are not under their jurisdiction.

Additionally, our statutes require us to refer matters to the Attorney General for criminal prosecution when necessary.

29 *Del. C.* § 5805(f):

Criminal sanctions. — (1) Any person who knowingly or willfully violates any provision of this section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than 1 year and by a fine not to exceed \$10,000.

(2) A prosecution for a violation of this section shall be subject to the time limitations of § 205 of Title 11.

(3) The Superior Court shall have exclusive jurisdiction over prosecution for all criminal violations of this section.

29 *Del. C.* § 5807(b): Any application for a waiver, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that:

(3) The Commission shall report to appropriate federal and state authorities substantial evidence of any criminal violation which may come to its attention;

29 *Del. C.* § 5807(d): Any application for an advisory opinion, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that:

(3) The Commission shall report to appropriate federal and state authorities substantial evidence of any criminal violation which may come to its attention

The Attorney General has exclusive jurisdiction over criminal offenses in Delaware and this function cannot be performed by the PIC.

SECTION 3: ACCOMPLISHMENTS

Section 3-A. List and briefly explain the entity's most significant accomplishments.

Accomplishments, like sins, can be of commission and omission. The most significant accomplishments of the PIC may be the ethical violations in State government that haven't taken place, simply because the PIC exists, and Executive Branch employees are aware that there is an organization that will hold them accountable.

To preserve confidentiality, we can only refer to our advisory opinions generally and also highlight our administrative accomplishments.

1. Providing services to state and local employees and officials (over 32,000 people) for less than \$200k per year.
2. Instituting a late filing fee for lobbyist expense reports. Enactment drastically reduced the number of delinquent filers each quarter and gave the PIC its first independent revenue source.
3. Creating and producing an online training module for \$0.
4. Successfully arguing against an appeal of a PIC decision in the Delaware Superior Court and the Delaware Supreme Court.
5. The Governor's proclamation encouraging all state employees and officials to re-dedicate themselves to ethics training. News article encouraging Delaware's citizens to celebrate Global Ethics Day, October 20, 2022. (See Appendix H).
6. Investigated and issued findings for two local governments. One finding caused the local government to terminate one employee and an elected official to step down for violations of the Code of Conduct.
7. Investigated and issued findings regarding a charter school. The school was placed on probation for three years and a conflict of interest was removed.
8. Investigated and issued findings regarding candidates for a local government. The actions by the PIC significantly restored confidence in the local government. Following these actions, the body rejected calls from constituents to establish an ethics board, because of the effectiveness and efficiency of the PIC.

SECTION 4: CHALLENGES

Section 4-A. List and briefly explain 3 to 4 challenges the entity is currently facing.

1. Timely filing of the annual financial disclosure. Each year the number of candidates and public officers required to complete the form grows and compliance with the law declines. The PIC is spending more and more time

tracking down candidates and public officers that are required to complete the disclosure.

2. People failing to report ethics violations until the beginning of election season. The filing of a complaint with the PIC has been used as an election and media gimmick for the past two election cycles. Ethics violations should be reported as they occur, not brought to light at the most opportune moment.
3. The penalties for a violation of the Code of Conduct are not commensurate with the seriousness of the violation and have little deterrent effect.
4. The public perception that 'confidential' means something nefarious is taking place.

SECTION 5: OPPORTUNITIES FOR IMPROVEMENT

Section 5-A. List and briefly explain several opportunities for improvements. Please prioritize.

1. Mandatory ethics training for all state employees (all branches) establishes an ethical baseline that should reduce infractions. Continued, additional funding for State employee ethics training reduces preparation time.
2. Part time / on call / per diem / outsourced investigator(s) could enable enhanced ability to seek facts and information pertinent to improving ethical oversight.
3. Provide media expense funding to raise our profile. Recent events have demonstrated how little the government and its citizens know about the PIC and what we do. Fund ad campaigns, radio spots, bus wraps, newsletter. etc.

Section 5-B. In the past 5 years, has the entity recommended any changes to the Legislature, Governor's Office, or agency to improve the entity's operations? If so, please explain and provide the outcome or status.

2023—The PIC reached out to the Senate regarding the PIC's availability to answer questions that may arise in the context of reviewing Bills for the creation of the Inspector General's Office. Status unknown. (See Appendix I).

2022—Commission Counsel participated in a working group to update the definition of 'close relative' as defined in 29 *Del. C.* § 5804, highlight the fact that nepotism is a conflict of interest and require public officers to identify close relatives that are also working for the State on their annual financial disclosure. (See Appendix J). The primary sponsor of the Bill dropped out in early 2023 and there are currently no plans to move forward with the legislation.

2021—The PIC sent a letter to the General Assembly asking them to vote 'no' on SB 130. (See Appendix K). SB 130 was reported out of committee on 5/19/21 but was never brought to the floor for a vote. Instead of the proposed statutory changes, the PIC was able to work with the DIAA by reviewing proposed changes to their regulatory

scheme for potential violations of the Code of Conduct. The full Commission met with the DIAA on four separate occasions before approving the final regulation.

2019—Proposed ID badges for lobbyists. Wasn't able to get the Bill into committee in the House. (See Appendix L).

2019—Proposed a moratorium on filing complaints within 90 days of an election. The PIC has found that some complaints submitted during election season are submitted solely for the purpose of embarrassing or harassing their opponent. Wasn't able to get the Bill into committee in the House. (See Appendix M).

2018—Wrote letter of support for HB 73 regarding administration of the dual compensation law. (See Appendix N).

2018—Wrote letter asking the General Assembly to delay enactment of HB 92 until January 2019. (See Appendix O).

SECTION 6: COMPOSITION & STAFFING

Membership:

Section 6-A. How is entity membership defined? Please explain and provide the section(s). Examples include statute, regulations, or by-laws.

"The Commission shall consist of 7 members appointed by the Governor with the concurrence of the Senate." 29 Del. C. § 5808(b).

Section 6-B. Are there special qualifications for membership?

- Not more than 4 members from the same political party.
- Cannot hold any elected or appointed office under the State or federal government, nor be a candidate for such office.
- May not be an officer of a political party.
- May not be an officer of a political campaign.

Section 6-C. Who has member appointment authority? Where is this defined?

The Governor. 29 Del. C. § 5808(b).

Section 6-D. What is the designated term of office for entity members? Where is this defined?

7 years and they may only serve one term. There is a provision for holding over if the Commissioner's replacement has not yet been appointed. 29 Del. C. § 5808(c).

Section 6-E. How many members currently serve on this entity? Are there any vacancies? If so, indicate the length of time each vacancy has existed and the

reason(s) why. Has the entity or support staff advised the Governor's Office or appointing authority of the vacancies?

Seven members. No vacancies.

Section 6-F. Can this entity create subcommittees or task forces? If "yes" please address the following questions:

Yes.

- 1. Describe the process and cite the entity document (statute, regulations, or by-laws) that permit this.**

Permitted by PIC Rules II(D)--8 DE Reg. 710 (11/01/04). (See Appendix Q).

- 2. Provide a brief history on how many have been created in the past 5 years and indicate where meeting documents can be found.**

One, a Budget Committee. Created in 2022 to meet with leadership in the Senate to discuss the PIC's future needs and direction. No meeting documents were created.

- 3. Were meetings open and noticed to the public? If so, indicate where notices were published.**

No. Under the Freedom of Information Act (29 *Del. C.* § 10002), "meeting" is defined as "a formal or informal gathering of a quorum of the members of any public body for the purpose of discussing or taking action on public business." The Budget Committee consisted of three Commissioners, less than a quorum of the Public Integrity Commission. As a consequence, the PIC did not notice the meeting, nor produce minutes of those discussions.

The Committee met one time with each other to discuss needs and strategy. The Committee met one time with Senator Bryan Townsend.

- 4. If final reports were issued, please provide their location.**

N/A

- 5. If there are current subcommittees or task forces currently meeting and conducting business; include information on membership, duties, and where meeting notices and documents can be found.**

N/A

Section 6-G. Include a current membership roster with this Self-Report. This is a separate request from the list of supporting documents included in the Self-Report instructions. This current membership roster must indicate the following for each member:

- **First and last name, and their city and state of residence.**
- **Position held (i.e., Chair, President, Co-Chair, Secretary, etc.).**
- **Professional or public member.**
- **Their profession or occupation.**
- **Original appointment date, expiration date, and number of terms served.**

To satisfy this current membership roster request, please complete one of the following:

- **Complete the included table below.**
- **Delete the included table below, build a new table, and place in this section.**
- **Delete the included table below and attach a document to the Self-Report and label in the appendices section.**

Member's Name and City and State of residence.	Position Held	Professional or Public Member	Profession or Occupation	Original Appointment Date	Appointment Expiration Date	Number of Terms Served
Andrew Manus Clayton, DE	N/A	Public	Former state employee, former director of conservation TNC	5/28/18	5/28/25	current
Hon. Rourke Moore Wilmington, DE	Vice-Chair Admin	Public	Retired teacher, prior DE Representative, community volunteer	6/26/19	6/26/26	current
Hon. Gary Simpson Middletown, DE	Chair	Public	Retired Senator	6/19/19	6/19/26	current
Hon. Alex Smalls Wilmington, DE	N/A	Public	Retired judge, lawyer	3/9/22	4/25/25	current
Michele Whetzel Newark, DE	N/A	Public	Community volunteer, business owner	6/30/16	6/30/23	current
Marjorie Biles Rehoboth, DE	N/A	Public	Retired banking, retired government, community volunteer	6/11/21	6/11/28	current

Ron Chaney Rehoboth, DE	Vice- Chair Personnel	Public	Retired Army	3/9/22	3/9/29	current
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Meeting Frequency:

Section 6-H. How frequent are meetings held? Is meeting frequency defined anywhere such as the statute or by-laws? If so, provide document name and section information.

Once a month. No, the frequency of meetings is not set forth in statute or regulation.

Section 6-I. Can the entity hold special or emergency meetings? If so, describe the protocol involved in requesting and holding a special or emergency meeting.

Yes, if an applicant has a matter that must be decided before the next scheduled meeting, the Commission may call an emergency meeting. Commission Counsel contacts the members of the commission to determine availability of at least four commissioners for a specific date & time. Once four responses have been received, the emergency applicant is given a date and time to appear. The agenda is posted on the Public Meeting Calendar. Depending on the nature of the request, it may not always be possible to post the agenda 7 days prior to the meeting.

Meeting Order and Quorum:

Section 6-J. For meeting order, does the entity follow Mason’s Manual of Legislative Procedure or Roberts’ Rules of Order? Is this defined in statute, regulation, or by-laws?

Roberts’ Rule of Order. No, it is not defined in statute.

Section 6-K. How is meeting quorum defined and where is the definition located?

“Four members of the Commission shall constitute a quorum.” 29 *Del. C.* § 5808(d) and PIC Rules II(A)(3), 8 DE Reg. 710 (11/01/04) (Appendix P).

Member Removal:

Section 6-L. Is there a mechanism for member removal? If so, how are members removed and who has the authority to remove a member? Using the process described, has there ever been an instance of member removal, and if so, briefly describe the nature of events that led to the member removal.

Yes, “[m]embers of the Commission may be removed by the Governor, with the concurrence of the Senate, for substantial neglect of duty, gross misconduct in office or violation of this chapter.” 29 *Del. C.* § 5808(b). No member has ever been removed.

Member Compensation:

Section 6-M. Are members compensated? If so, how are they compensated?

Yes, \$100/meeting paid by the State through First State Financial (“FSF”) accounting system. May also claim mileage for Commission business at the IRS-approved rate per mile. “Each member of the Commission shall be compensated at the rate of \$100 for each day devoted to the performance of official duties. Each member of the Commission shall be reimbursed for reasonable and necessary expenses incurred in the performance of official duties.” 29 *Del. C.* § 5808(e).

Member Training and Handling Conflicts of Interest:

Section 6-N. Are members offered any special training opportunities? Is training required or voluntary?

Members take turns attending the annual Council on Governmental Ethics Laws (COGEL) training. The training is expensive so we can’t afford to send everyone each year (approx. \$2600/person). We usually send two or three Commissioners and Commission Counsel to the training each year. It is also recommended that each Commissioner attend an “Ethics in Government” training presented by Commission Counsel to various state, county and municipal employees and officials. All training is voluntary.

Section 6-O. Has a Deputy Attorney General (“DAG”) reviewed the provisions of the Public Integrity Act with entity members to ensure that they are in compliance with the provisions in the law? If so, what is the frequency of this review?

No. Commission Counsel was hired to replace the need for a DAG and to remove the conflict of interest created when a Commission employee works for a state agency subject to the Commission’s jurisdiction. As a result, at least a portion of the provisions of the Public Integrity Act are reviewed and discussed at every meeting.

Section 6-P. Please explain how entity members avoid conflicts of interest.

The meeting agenda is sent to the Commissioners one week prior to the meeting. Each Commissioner is asked to identify any possible conflicts of interest based on the names and occupations of the applicants. If a Commissioner has a conflict of interest, they notify Commission Counsel that they will be recusing themselves from the matter. Commission Counsel then determines whether there are enough ‘un-conflicted’ Commissioners to constitute a quorum. During the meeting, the Commissioner leaves the room during the discussion of the matter causing the conflict of interest and they do not vote on the matter.

Section 6-Q. Has the Public Integrity Commission (“PIC”) provided training or clarification to members or issued any advisory opinions on entity activities? If so, please explain the details. Provide a link to the information or attach relevant information to this report.

This question is about the PIC. By law, we are not permitted to reveal who has received advisory opinions from the Commission. 29 *Del. C.* § 5807(d). Instead, the PIC is

providing a list of the agencies that have received in-person training from the PIC over the past 5 years.

Department of Health & Social Services
Department of Human Resources
Delaware Department of Transportation
DNREC
Department of Labor
Department of State
City of Dover
Municipal Clerk Institute
Delaware Auditor's Office
Town of Georgetown
Town of Milton
Town of Millsboro
City of Milford
Sussex County
Office of the State Treasurer—Plans Management Board
Delaware League of Local Governments
Delaware Healthcare Commission--Health Care Provider Loan Repayment Program
Delaware State Bar Association
Delaware Thoroughbred Association
Town of Seaford
City of Harrington
Public Service Commission
Authority on Radiation Protection Board
Justice of the Peace Courts (all 3 counties) (financial disclosure law)
Delaware Family Court (all 3 counties) (financial disclosure law)
Delaware Court of Common Pleas (all 3 counties) (financial disclosure law)
Delaware Superior Court (all 3 counties) (financial disclosure law)
Delaware Court of Chancery (financial disclosure law)
Delaware Supreme Court (financial disclosure law)

The PIC training module that is available through the DHR Learning Center greatly extends the PIC's reach to lesser-known entities or those entities who may not easily accommodate in-person training. A complete list of the agencies whose employees completed the online training in CY 2022 is included in Appendix Q (the names of employees were deleted to protect their privacy).

Support Staff:

Section 6-R. Is there dedicated support staff *directly* assisting the entity? If so, what state agency, office, or department supplies the support staff?

- **If this question is applicable answer all questions in this section.**
- **If not applicable, state that no support staff exists for question Section 6-R and explain how duties are divided among entity members, skip to questions Section 6-Y, Section 6-Z, and Section 6-AB below.**

Section 6-S. How many employees are employed by the state agency, office, or department supplying support staff? (skip if not applicable)

The PIC has 2 budgeted FT positions. One is Commission Counsel and the other is for an Administrative Assistant III. The person who was occupying the Admin III job retired from State employment in August 2017. Commission Counsel did not replace the Admin because most of the office work is electronic, eliminating the need to build and maintain paper files, Commission Counsel drafts and types her own opinions and most callers have a legal question that cannot be answered by the Admin. In essence, the PIC was paying an employee \$30k+ per year to answer the phone. Instead of replacing the Admin, Commission Counsel was able to consolidate the Admin duties into her existing duties. The PIC was unable to otherwise use the monies set aside for the Admin's personnel costs because under the budget rules, personnel money must be used for personnel.

During the COVID pandemic many agencies were finding it difficult to hire and retain casual/seasonal employees. In August 2020, Commission Counsel was contacted about the vacant position. The Delaware Office of Unclaimed Property (also housed under the umbrella of the DOS, Secretary's Office) was having a hard time retaining employees because the spot was casual/seasonal. The DOS was aware that the PIC was not using its Admin spot so the PIC was asked if the Division of Unclaimed Property could "borrow" the position so that they could offer a candidate a permanent full-time position. Commission Counsel agreed with the caveat that if circumstances changed and the PIC needed the assistance of an Admin, the spot would be relinquished to the PIC and they would make other arrangements for their employee. To date, the PIC has not asked for the return of the FT position.

Section 6-T. Does the state agency, office, or department supplying support staff offer internships? If so, do interns provide support services to the entity? (skip if not applicable)

N/A

Section 6-U. What is the size of the support staff *directly* assisting the entity? How many are merit, appointed, exempt, temporary, casual seasonal, or contract employees? For contract employees indicate who holds the employment contract. Highlight support staff responsibilities, indicate who performs each and the percent of staff time spent on each responsibility. (skip if not applicable)

The vacant position is FT merit.

Section 6-V. Who supervises the support staff *directly* assisting the entity? (skip if not applicable)

N/A

Section 6-W. How is the support staff *directly* assisting the entity recruited and hired? Is there an orientation session for new hires? (skip if not applicable)

N/A

Section 6-X. What training opportunities are available to support staff *directly* assisting the entity? (skip if not applicable)

N/A

Section 6-Y. Is the effectiveness of the entity hindered by a lack of staff assistance or dedicated support staff? Please explain. What steps, if any, have been taken to address any staffing issues? (all entities under review answer this question)

No, the majority of phone calls and email must be answered by Commission Counsel and the Admin's purpose was solely to answer the phone and forward the call to Commission Counsel. The only drawback is that callers may reach voicemail when Commission Counsel is conducting a training or performing other functions of that position.

Section 6-Z. Please identify, list, and briefly describe any executive orders, interagency agreements, management directives, administrative circulars, or like documents that directly impact the functioning of the entity. (all entities under review answer this question)

None, the PIC is an independent State agency.

Section 6-AB. Does the entity have legal counsel? If so, provide attorney's name and firm if not a state supplied DAG.

Yes, Deborah J. Moreau, Esq., Public Integrity Commission.

SECTION 7: FREEDOM OF INFORMATION ACT ("FOIA") & OPEN MEETING LAW COMPLIANCE

Section 7-A. How does the entity respond to FOIA requests?

FOIA requests are forwarded via email notification to Commission Counsel directly. Commission Counsel reviews the request and responds with either copies of the requested information or an explanation of why the request was denied (i.e., no such records exist; the information is confidential, etc.).

Section 7-B. When and where are the meeting notices and agendas posted?

State Public Meeting Calendar—7 days prior to the meeting
Outside the PIC's offices in the public hallway—7 days prior to the meeting

Section 7-C. Are meeting minutes regularly transcribed? When and where can the public obtain copies of meeting minutes?

Meeting minutes are taken during the meeting and posted on the [State Public Meeting Calendar](#) within 7 days of the Commission's *approval*. Please note that because the

Commission only meets once a month, there will always be a lag time between the month the minutes were taken and the month they are posted.

Section 7-D. Are meetings recorded? If so, indicate whether it's an audio or video recording and is the recording posted online for the public? If the recordings are not posted online, are instructions provided to the public on how to request recordings?

No. The majority of each meeting is conducted in executive session due to statutory confidentiality laws. Even if the meeting were recorded, no one outside of the PIC has the statutory authority to review the material. In addition, video recordings use up a huge amount of computer memory. In the past, the PIC had to purchase additional "terabytes" to store audio recordings. When the Commission conducts a formal hearing, it is transcribed in real time, by a court reporter.

Section 7-E. Within the past 3 calendar years, has the entity conducted executive sessions or other closed meetings? If yes, please indicate the date of each and the nature of the meeting. Are minutes of executive sessions or other closed meetings available to the public?

Yes. Executive session was conducted during each of the following meetings convened by the Commission to hear requests for advisory opinions and waivers; review complaints:

Public Integrity Commission Meeting 2023-04-18 10:00 AM
Public Integrity Commission Meeting 2023-03-21 10:00 AM
Public Integrity Commission meeting 2023-02-21 10:00 AM
Public Integrity Commission Meeting 2023-01-17 10:00 AM
Public Integrity Commission Meeting 2022-12-20 10:00 AM
Public Integrity Commission Meeting 2022-11-15 10:00 AM
Public Integrity Commission Meeting 2022-10-18 10:00 AM
Public Integrity Commission Meeting 2022-09-21 09:30 AM
Public Integrity Commission Meeting 2022-09-20 10:00 AM
Public Integrity Commission meeting 2022-08-16 10:00 AM
Public Integrity Commission Meeting 2022-06-21 10:00 AM
Public Integrity Commission Meeting 2022-05-17 10:00 AM
Public Integrity Commission Meeting 2022-04-19 10:00 AM
Public Integrity Commission meeting 2022-03-15 10:00 AM
Public Integrity Commission Meeting 2022-02-15 10:00 AM
Public Integrity Commission Meeting 2022-01-18 10:00 AM
Public Integrity Commission Meeting 2021-12-21 10:00 AM
Public Integrity Commission Meeting 2021-10-19 10:00 AM
Public Integrity Commission Meeting 2021-09-21 10:00 AM
Public Integrity Commission Meeting 2021-08-17 10:00 AM
Public Integrity Commission Meeting 2021-07-20 10:00 AM
Public Integrity Commission Meeting 2021-06-15 10:00 AM
Public Integrity Commission Meeting 2021-05-18 10:00 AM
Public Integrity Commission Meeting 2021-04-20 10:00 AM
Public Integrity Commission Meeting 2021-04-19 10:00 AM
Public Integrity Commission Meeting 2021-02-16 10:00 AM

Public Integrity Commission Meeting 2021-01-19 10:00 AM
Public Integrity Commission Meeting 2020-12-15 10:00 AM
Public Integrity Commission Meeting 2020-10-20 10:00 AM
Public Integrity Commission Meeting 2020-08-18 10:00 AM
Public Integrity Commission Meeting 2020-07-21 10:00 AM
Public Integrity Commission Meeting 2020-06-16 10:00 AM
Public Integrity Commission Meeting--Emergency Session 2020-04-29 09:30 AM
Public Integrity Commission Meeting 2020-04-21 10:00 AM
Public Integrity Commission Meeting 2020-03-17 10:00 AM
Public Integrity Commission Meeting 2020-02-18 10:30 AM
Public Integrity Commission Meeting 2020-01-21 10:00 AM
Public Integrity Commission Meeting 2019-12-17 10:00 AM
Public Integrity Commission Meeting 2019-11-19 10:00 AM
Public Integrity Commission Meeting 2019-10-15 10:00 AM
Public Integrity Commission Meeting 2019-09-17 11:15 AM
Public Integrity Commission Meeting 2019-07-16 10:30 AM
Public Integrity Commission Meeting 2019-06-18 10:00 AM
Public Integrity Commission Meeting 2019-05-21 10:15 AM
Public Integrity Commission Meeting 2019-04-16 10:00 AM
Public Integrity Commission Meeting 2019-03-19 10:00 AM
Public Integrity Commission Meeting 2019-02-19 10:00 AM
Public Integrity Commission Meeting 2019-01-15 10:00 AM

Yes, minutes of the meeting, including executive session, are posted on the Public Meeting Calendar within 7 days of the meeting in which they were approved. There are rare occasions where the PIC has missed the 7-day deadline.

Section 7-F. Has the entity ever received any complaints that it was violating FOIA? If so, please list and include the result of the hearing or the review.

Yes, Jack Guerin. Filed a complaint with the Attorney General's office stating that the PIC did not respond to his FOIA request within the 15-day period. Mr. Guerin did not receive confirmation from the system that his FOIA request was successfully submitted and consequently, the request was not forwarded to the PIC's offices. The PIC only found out about the request when Mr. Guerin filed a complaint with the AG's office. The AG's office dismissed Mr. Guerin's complaint because he had not waited the statutory 15 business days to allow the PIC to respond. (See Appendix R).

SECTION 8: ADMINISTRATIVE PROCEDURES ACT COMPLIANCE

Section 8-A. Does the entity promulgate rules and regulations in accordance with the Administrative Procedures Act?

Yes, occasionally. The last time PIC's rules were revised was 2005. (Appendix P).

Section 8-B. Has a DAG assigned to this entity or other legal counsel reviewed the current rules and regulations for compliance with the governing statute?

Commission Counsel has reviewed the current rules and regulations.

Section 8-C. Is the entity considering any changes to its current rules and regulations? If "yes" please address the following questions:

Yes

1. What is the status and nature of the planned changes?

The Commissioners are contemplating adding guidelines limiting the number of times a commissioner may attend the monthly meeting virtually, as opposed to attending in-person.

Remove any reference of the PIC's Commission Counsel acting as a prosecutor before the Commission. This is not permitted by the Delaware Lawyer's Rules of Profession Conduct.

Update and modernize administrative procedures to include receiving documents electronically.

2. Have the proposed changes been reviewed and approved by the entity's DAG or other legal counsel?

Yes. The proposed changes are in the discussion stage pending the outcome of the JSLOC review.

3. Have the proposed changes and the public hearing date been published in the Register of Regulations?

No.

SECTION 9: COMPLAINT AND DISCIPLINARY PROCESS

Section 9-A. Does the entity receive and review complaints from the public? If so, please describe in detail the complaint process used. Include how complaints are filed, who investigates complaints, and how long investigations proceed.

Yes, the PIC receives complaints from the public. A member of the public must submit a complaint in writing, and it must be notarized. "Upon the sworn complaint of any person or on its own initiative, the Commission may refer to the Commission Counsel for investigation any alleged violations of this chapter.... In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross-examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of subsection (h) of this section." 29 Del. C. § 5810(a).

A complaint can be filed by forwarding a letter which includes the allegations, the facts that support the allegations and a notarized signature. The PIC receives

significantly less complaints than it does requests for advisory opinions. That is likely because the complainant's identity will be revealed through the hearing process. If investigation is necessary, Commission Counsel fulfills that function. Investigations can last as long as a day or a few months. The longest investigation the PIC conducted took place over the course of 18 months.

1. The Complaint is received and logged.
2. Commission Counsel reviews the complaint for compliance with the law (i.e., it must allege a violation of the Code of Conduct, it must have sufficient facts to support the allegation and it must be notarized).
3. Counsel then confirms personal and subject matter jurisdiction. If the Commission does not have either personal or subject matter jurisdiction, the complaint is dismissed or referred to another agency, if possible.
4. Counsel reviews the facts of the complaint to determine if the information can be independently verified. If possible, collect documents tending to prove or disprove the allegations in the complaint.
5. Present the complaint to the Commission at the next meeting. The Commission reviews the complaint and any accompanying material gathered by Commission Counsel. A majority (4) must find "reasonable grounds to believe" a violation may have occurred. 29 *Del. C.* § 5808(A)(a)(4). If probable cause is found, the Commission may conduct a disciplinary hearing. 29 *Del. C.* § 5810.
6. If the complaint is set for a hearing, the subject of the complaint is sent 'Notice of a Hearing' which sets forth the date, time and place.
7. Commission Counsel hires a private attorney to act as the prosecutor in the matter. Commission Counsel cannot be the impartial advisor to the Commission and prosecute the matter before the same Commission. Such conduct would violate the Delaware Rules of Professional Conduct and is fundamentally unfair.
8. Commission Counsel hires a court reporter to attend the hearing and transcribe the testimony of witnesses in real time.
9. The subject of the complaint appears with or without an attorney at the appropriate place and time.
10. After hearing all the evidence, the Commission decides whether the prosecution has proved their case. If so, the Commission formally rules on the hearing finding a violation. If not, the complaint is dismissed.
11. Allowable sanctions.

Section 9-B. What are some of the most common complaints received by the entity? Please identify where the complaints originate (i.e., public, media, Attorney General's Office, consumer groups, etc.).

The most common complaints allege a conflict of interest (usually involving a friend or relative) or an appearance of impropriety. Complaints are most often submitted by citizen 'watchdog' groups, political opponents and co-workers.

Section 9-C. Have any complaints been filed with the Attorney General's Office? If so, have they been resolved?

The PIC does not file complaints with the Attorney General's Office. We do refer matters to the AG's office when the matter calls for criminal penalties. The PIC does not always receive notice that the AG's office is moving forward with a prosecution or if they have taken other steps to resolve the matter.

Section 9-D. Are there any Delaware Attorney General's Opinions that affect the functioning of the entity? If so, please provide the date and number.

Yes, all of the FOIA opinions. In addition, prior to the PIC's establishment, the AG's office had jurisdiction over the Dual Compensation law. During the time they had jurisdiction over the topic, they issued several opinion's that have precedential value to the PIC.

Att'y Gen. Op. Nos. 78-016, 80-I018, 80-F008, 88-1008, 87-1016, 87-I024, 88-I008.

Section 9-E. Are there any recent judicial decisions (state or federal) that directly affect the functioning of the entity?

Yes, *Abbott v. Delaware State Public Integrity Commission*, Delaware Supreme Court, February 25, 2019. (See Appendix S). The opinion affirms the PIC's discretion regarding the exercise of its jurisdiction.

Section 9-F. What specific disciplinary actions are taken by the entity as a result of complaint investigations? (i.e., license revocation, license suspension, formal reprimand, penalty, etc.).

29 Del. C. § 5810

(d) With respect to any violation with which a person has been charged and which the Commission has determined as proved, the Commission may take any 1 or more of the following actions:

- (1) Issue a written reprimand or censure of that person's conduct.
- (2) With respect to a state employee or state officer, other than an elected official, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by Chapter 59 of this title but within the limits of the Constitution and other laws of the State.
- (3) With respect to an honorary state official, recommend that appropriate action be taken to remove the official from office.

It depends on the nature of the violation. For serious matters which deserve criminal penalties, the PIC refers the matter to the AG's office for prosecution.

Section 9-G. Please describe in detail the process used for determining appropriate disciplinary actions taken against individuals licensed, employed, or monitored by the entity. Include the appeals process, if applicable.

The PIC is only permitted to impose the three sanctions listed above. The only sanction available for elected officials is a written reprimand of their conduct. For an honorary state official (board member) only the Governor can remove the individual from their appointed seat.

Appeals Process:

5810A. Judicial review.

In the event that the Commission finds that any person has violated any provision of this chapter, said person shall have a right of appeal to Superior Court of any such finding and of any sanctions imposed with respect thereto by filing a notice of appeal with the Superior Court within 30 days of the final action by the Commission in a particular case. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Commission for further proceedings on the record. The Court’s review, in the absence of actual fraud, shall be limited to a determination of whether the Commission’s decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

Section 9-H. If applicable, provide the following complaint data for calendar years 2020, 2021, 2022, 2023 (to date):

	Calendar Year 2020	Calendar Year 2021	Calendar Year 2022	Current Calendar Year 2023
Total Number of Complaints Received by the Entity	3	4	5	2
Total Number of Complaints Investigated	2	4	5	1
Total Number of Complaints Found Valid	0	1	1	Pending
Total Number of Complaints Forwarded to the Attorney General	0	1 (outside entity)	1 (Del. Div. of Revenue)	0
Total Number of Complaints Resulting in Disciplinary Action	0	0	0	0

SECTION 10: PRIOR JLOSC REVIEW

Section 10-A. Has JLOSC previously reviewed this entity? If so, provide the year(s) of review and list all JLOSC final recommendations, indicate whether the entity is complying or non-compliant with each recommendation, and explain all areas of non-compliance.

No.

SECTION 11: PUBLIC INFORMATION

Section 11-A. How does the entity communicate information with the public? Does the entity use a website and/or social media platform(s)? If so, please list each method of communication and supply the applicable web address, handle, or username.

<https://depic.delaware.gov/> (website)

<https://publicmeetings.delaware.gov/#/> (agendas & minutes)

<https://depic.delaware.gov/annual-reports/> (annual reports)

Section 11-B. What information or educational resources are made available to the public relating to the entity's activities? Examples include newsletters, guidelines, rules and regulations, policy briefs, or other similar documents. Please indicate the method and frequency of distribution for each and identify the target group(s).

A comprehensive website with:

- Opinion synopses of every opinion issued since 1991, over 1,000 pages
- Searchable database of lobbyists, lobbyist employers and lobbying activity.
- Instructions to register as a lobbyist
- Instruction for filing a lobbyist expense report.
- Instructions for filing a lobbyist activity report.
- Instructions to register as a public officer.

In the PIC's offices, a brochure and a copy of the Code of Conduct are available.

Section 11-C. Does the entity actively engage with the public and solicit feedback? If so, please explain. If the entity has conducted surveys, please list all surveys conducted within the past 5 years and indicate where the public can find survey results.

The PIC does not engage with the public to solicit feedback because almost all the Commission's activities are confidential. Furthermore, the Commission's work requires independence and impartiality. Pre-exposure to issues that may later be the subject of a complaint before the Commission will result in recusal by all the affected Commissioners. Some members of the public have complained about the confidential nature of the PIC's work. However, the PIC firmly believes that the confidentiality requirements are the *primary* reason state and local employees and officials are willing to ask the Commission for advice.

Example: Joe wants to leave a state agency and work for a state vendor. Joe submits a request to the PIC to see if his new employment would violate the State Code of Conduct. The PIC advises Joe that he may not accept the position working for the vendor. Joe continues working at this State job. If the PIC had notified Joe's supervisor about Joe's request, Joe may have been subjected to retaliatory conduct by his supervisor because Joe wanted to leave State employment.

The PIC surveyed lobbyists in 2018 on the topic of lobbyist ID badges. (Appendix T).

Section 11-D. Does the entity have by-laws? If so, are they available for the public (include location) and what was the last date of revision?

No.

Section 11-E. Please complete the following 3 charts (add or delete cells as needed) with the most current information regarding interest groups, national organizations, and industry or trade publications as described in each chart heading.

N/A. The PIC is an independent, a-political agency. In our small State, partnerships with outside interest groups often create conflicts of interest for the Commissioners and/or Commission Counsel, limiting the PIC's ability to serve the citizens of Delaware.

Interest Groups (Groups affected by entity actions or represent others served by or affected by entity actions)		
Group or Association Name/Contact Person	Internet Address	Phone Number
Name of group	N/A	

National Organizations or other State Agencies (Serve as an information clearinghouse or regularly interact with the entity)		
Group or Association Name/Contact Person	Internet Address	Phone Number
Name of group		
	N/A	

Industry or Trade Publications		
Group or Association Name/Contact Person	Internet Address	Phone Number
Name of group		

	N/A	

SECTION 12: ENACTED LEGISLATION IMPACTING THE ENTITY

Section 12-A. Did legislation establish the entity? If so, what year and by what legislative bill was the entity established?

1991--Established the State Ethics Commission (PIC predecessor).
 1994--SS 1 to SB 198 as Amended by HA 1 & 2. Established the State Public Integrity Commission.

Section 12-B. Please list all legislation and other acts that have made substantive amendments to the entity’s enabling legislation. Please indicate the bill number and date of enactment for each.

1992--SB 406--July 22, 1992. Clarified municipal and county jurisdiction. Set guidelines for municipal codes of conduct.
 2000—HB 540 as Amended by HA 1 & 2 and SA 1. Allowed State employees to become foster parents.
 2001—HB 54 HA 1. Added school board members to the PIC’s jurisdiction.
 2005—HB 104 as Amended by Senate Amendment No. 2. Adjustments to the financial disclosure law.
 2010—HB 172 HA 1 & 2. Requires public officers to disclose council or board memberships.
 2012—SB 184 SA 1. Requires lobbyists to report the Bill numbers on which they lobby.
 2014—HB 303. Authorizes the electronic confirmation of a lobbyist’s engagement.
 2014—HB 304. Requires financial disclosures to be filed electronically.
 2014—HB 307. Gave the PIC the power to make public the names of candidates who have not filed their financial disclosure in advance of an election.
 2014—HB 13 HA2. Prohibits former members of the GA from lobbying for one year.
 2016—SB 125. Gave Commission Counsel the power to issue binding advisory opinions if the Commission has not met for over 60 days.

Section 12-C. Please identify, list, and briefly describe any federal laws or regulations that guide or otherwise directly affect the functions, responsibilities, and operations of the entity.

N/A

SECTION 13: PENDING & PROPOSED LEGISLATION

Section 13-A. Please list any currently proposed legislation (state and federal) that, if passed, will directly impact the functions or operations of the entity. Please indicate any bills that the entity is supporting or opposed.

The PIC does not support or oppose legislation unless it directly affects the Commission's ability to meet its statutory duties. The PIC is not aware of any legislation pending during the General Assembly's current session (152nd) that would directly impact the PIC's functions or operations. During the past session (151st) there was an Inspector General Bill that the PIC had concerns would overlap with the PIC's jurisdiction.

SECTION 14: FISCAL INFORMATION

Section 14-A. Complete the following chart to provide the entity's actual revenue for fiscal years 2021 and 2022 and budgeted revenue for fiscal year 2023. Also indicate the source of funds (i.e., general fund, federal funds, special funds, etc.).

Revenue:

Fiscal Year	Source of Funds	Amount
FY2023 (budgeted)		
	General Funds	\$ 190,600.00
	Federal Funds	\$ 0.00
	Special Funds	\$ 6000.00
	TOTAL:	\$ 196,600.00
FY2022 (actual)		
	General Funds	\$ 188,800.00
	Federal Funds	\$ 0.00
	Special Funds	\$ 6,000.00
	TOTAL:	\$ 194,800.00
FY2021 (actual)		
	General Funds	\$188,700.00
	Federal Funds	\$0.00
	Special Funds	\$6,000.00
	TOTAL:	\$194,700.00

Section 14-B. If the entity receives federal funds, including grants, please indicate the following:

- **Total amount of federal funds.**
- **Type of federal fund.**
- **State/Federal Match Ratio.**
- **State Share of Dollars.**
- **Federal Share of Dollars.**

N/A

Section 14-C. Does the entity collect any fees or fines? Provide information on any fines or fees collected by the entity. Modify chart rows as needed.

Description of Fine or Fee	Current Fine or Fee \$\$	Number of Persons or Entities Paying Fine or Fee	Fine or Fee Revenue \$\$	Where is the Fine or Fee Revenue Deposited? (i.e., general fund, special fund)
Lobbyist late fees	\$25-\$100	Varies greatly-around 20	Est. \$6k per year	Special fund
CY 2023	2760.00			Special fund
CY 2022	4610.00			Special fund
CY 2021	1265.00			Special fund

Yes. 29 Del. C. 5839

(c) Any person who fails to file an authorization or report, as required by this subchapter shall be deemed to have voluntarily cancelled registration as a lobbyist and shall be prohibited from reregistering or acting as a lobbyist until all delinquent authorizations and/or reports have been filed. Any person who fails to timely file a report pursuant to § 5835 of this title shall pay a late fee of \$25 for the first day and \$10 for each subsequent day the report is delinquent. The maximum late filing fee shall be \$100. The Commission may waive the late filing fee if the Commission determines that the circumstances make imposition of the fee inappropriate. The fee(s) is payable through the Public Integrity Reporting System database maintained by the Commission. All revenue generated by the late filing fees shall be deposited in an appropriated special fund account for the Commission. These funds shall be used to fund all costs necessary to defray the expenses of administration of § 5835 of this title.

Section 14-D. Has the entity conducted a financial analysis to determine if the current fees are sufficient to cover the cost of the administrative activity related to each? Do the current fees or fines need to be updated or revised? Please explain, indicating whether the fees or charges can be changed directly by the entity or if legislative approval is required.

Yes, the amount of the late fee is commensurate with the amount of administrative effort required to administer delinquent lobbyist accounts. Legislative approval would be needed to change the amount of the late fee because it the amount is written into the statute.

Section 14-E. Complete the following chart to provide the entity’s actual expenditures for fiscal years 2021 and 2022 and budgeted expenditures for fiscal year 2023. Also indicate the source of expenditures (i.e., general fund, federal fund, special fund, etc.).

Expenditures:

Fiscal Year	Source of Funds	Amount
FY2023 (budgeted)		
	General Funds	\$190,600.00
	Federal Funds	\$0.00
	Special Funds	\$6,000.00
	TOTAL:	\$196,600.00
FY2022 (actual)		
	General Funds	\$156,193.10
	Federal Funds	\$0.00
	Special Funds	\$5,290.00
	TOTAL:	\$161,483.10
FY2021 (actual)		
	General Funds	\$166,134.98
	Federal Funds	\$0.00
	Special Funds	\$3,660.00
	TOTAL:	\$169,794.98

Section 14-F. Provide a detailed breakdown of fiscal year 2023 budgeted expenses. Modify chart rows as needed.

Breakdown of fiscal year 2023 budgeted expenses:

Line Item	Source(s)	Amount of Expenditures
Personnel	General	172,200.00
Travel	General	2,600.00
Contractual	General	9,300.00
Supplies	General	6,500.00
	Total:	\$190,600.00

Section 14-G. Within the last three fiscal years, have there been any external factors that have positively or negatively impacted the entity’s revenue or expenditures?

COVID for fiscal years 2020 and 2021. Resulted in a drop of incoming lobbyist late fee revenue of about 50%.

SECTION 15: LICENSING PROCESS

Section 15 of the Self-Report may not be applicable. This section will apply if the entity reviews applications and/or issues licenses. If unsure, please contact JLOSC staff.

- If this section is applicable, answer all questions in Section 15.
- If this section is not applicable, write below that the entity does not review applications or issue licenses, and skip to Section 16.

We do not issue licenses.

Section 15-A. Please list each of the licenses, certificates, or approval notices issued by the entity and include the following information:

- Indicate how many are currently licensed, and whether an individual or institution receives the license.
- Standard date of and requirements for renewal.
- Criteria for determining qualifications for licensure.
- Period for which a license is valid.

Section 15-B. Please provide the following data for each license, certificate, or approval notice issued by the entity during calendar years 2020, 2021, 2022, and 2023 (to date). Include additional charts, if necessary:

Name of license issued by the entity: _____

	# of License Applications Received	# of License Applications Approved	# of Licenses Issued	# of Licenses Rejected	# of Licenses Revoked
Calendar Year 2020	0	0	0	0	0
Calendar Year 2021	0	0	0	0	0
Calendar Year 2022	0	0	0	0	0
Current Calendar Year 2023 (to date)	0	0	0	0	0

Name of license issued by the entity: _____

	# of License Applications Received	# of License Applications Approved	# of Licenses Issued	# of Licenses Rejected	# of Licenses Revoked
Calendar Year 2020	0	0	0	0	0
Calendar Year 2021	0	0	0	0	0
Calendar Year 2022	0	0	0	0	0
Current Calendar Year 2023 (to date)	0	0	0	0	0

Section 15-C. Do licenses issued by the entity have reciprocity or endorsement agreements with Delaware? If so, provide a list of all states and jurisdictions that have licensing reciprocity or endorsement agreements with Delaware. Indicate if the entity requires a signed agreement or endorsement from another state or jurisdiction before a Delaware license is issued?

Application Fees:

Section 15-D. Are any application fees collected by the entity? If so, complete the chart below. Modify chart rows as needed.

Fee Type	Application Fee

Section 15-E. If application fees are collected, when are fees due? Where are fees deposited? What happens if the fee is not paid? Are there any reduced fee options?

Section 15-F. If application fees are collected, has the entity conducted a financial analysis to determine if the current application fees are sufficient to cover the cost of processing applications? Do the current application fees need to be updated or revised? Please explain, indicating whether the application fees can be changed directly by the entity or if legislative approval is required.

Application Process:

Section 15-G: Describe the application review process. Include where applications are obtained. Who reviews applications? How are applicants informed of decisions?

Examinations:

Section 15-H. If there is an examination requirement to obtain a license, address the following questions:

- 1. Is the examination written, oral, or both?**
- 2. Is a standardized national examination used?**
- 3. Who develops and scores the exam?**
- 4. Are all aspects of the examination validated?**
- 5. Who administers the exam, where is it administered, and how often is the exam given?**
- 6. During each of the previous three calendar years, how many persons sat for an exam, and of those, how many successfully passed?**

SECTION 16: RECONSIDERATION, APPEAL, SANCTIONS, REVOCATION

Reconsideration:

Section 16-A: Is there a process for application or entity decision reconsideration (a process prior to a formal appeal, sometimes referred to as an administrative reconsideration)? This could also apply to reconsidering budget decisions made by the entity. If so, please explain.

Yes, if the applicant disagrees with the advice given in an advisory opinion, they may ask for a reconsideration. A reconsideration allows the applicant to explain why they disagree with the decision and also for the Commission to elicit additional facts that may, or may not, change the decision. There is no statutory authority, it is a consideration that the PIC extends with the knowledge that it is possible for people to misunderstand one another.

If a respondent to a complaint has been found in violation after a hearing, they may request a reconsideration. *PIC Rules IV(P)—8 DE Reg. 710 (11/1/04)*.

Appeal:

Section 16-B: Can an applicant, group, or individual appeal an entity decision? If so, explain the process for appeal.

29 *Del. C.* § 5810A. Judicial review.

In the event that the Commission finds that any person has violated any provision of this chapter, said person shall have a right of appeal to Superior Court of any such finding and of any sanctions imposed with respect thereto by filing a notice of appeal with the Superior Court within 30 days of the final action by the Commission in a particular case. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the

Commission for further proceedings on the record. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the Commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

Sanctions:

Section 16-C: Can the entity issue sanctions? If so, explain the sanction process.

Yes, they may only be issued after a formal finding of a violation of the Code of Conduct after a hearing. Sanctions are decided upon by the Commission. They range from an administrative sanction (i.e., a letter in a personnel file) to termination. When advised that the PIC will pursue termination, most applicants resign. When called for, 29 *Del. C.* § 5805 allows for criminal sanctions which must be pursued by the AG's office.

Revocation:

Section 16-D: Does the entity have a revocation process? If so, explain the process.

No.

SECTION 17: SELF-REPORT AUTHOR(S)

Section 17-A: Include all Self-Report author(s) and contact information below.

- **All Self-Report author(s) listed below certify the information supplied in this Self-Report is correct to the best of their ability.**
 - **Reminder to entity under review: Any updates or corrections to Self-Report contents and entity information must be submitted to JLOSC staff in a timely manner during the entire period of review.**

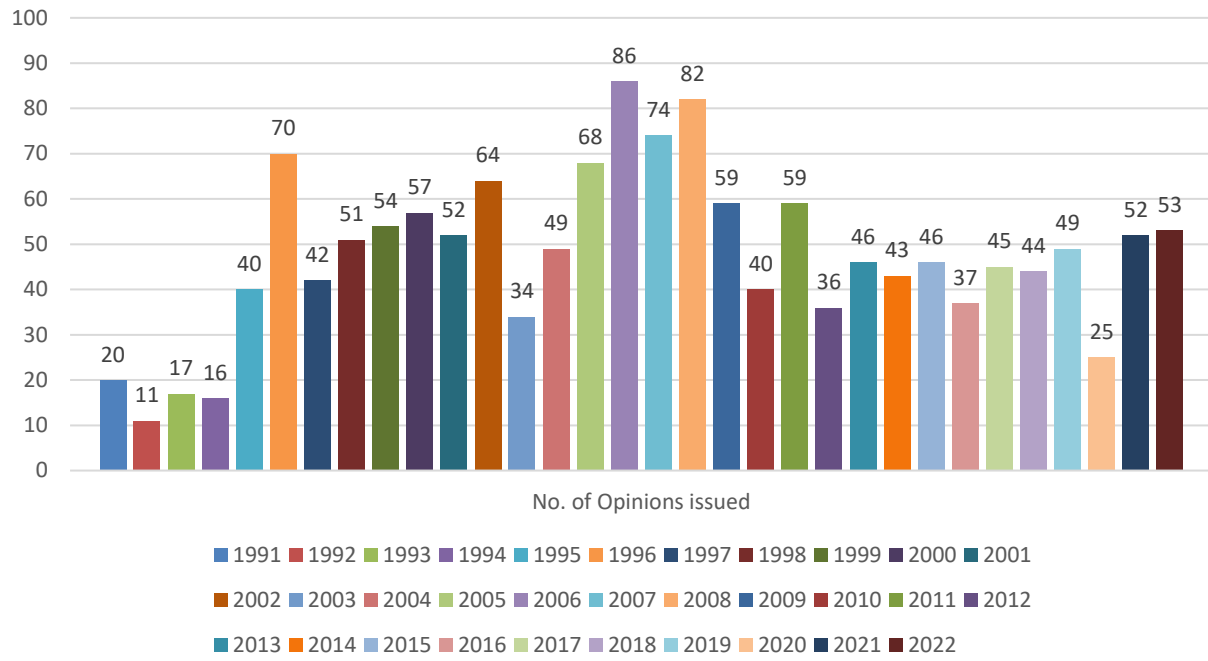
Section 17-B: This Self-Report was submitted to JLOSC staff on: May 12, 2023.

Deborah J. Moreau, Esq.
Commission Counsel

APPENDICES

APPENDIX A

Advisory Opinions 1992 to 2022



APPENDIX B

Sunday News Journal

A Garnett newspaper Wilmington, Delaware • June 12, 1988 Volume 13, No. 23 \$1.25

Weather sunny

Very hot and sunny. High in the mid-80s. Clear tonight. Low in the lower 60s.

Influence rides the fast lane on road to riches

State's biggest highway project raises big questions

By MERRITT WALKER and Bob Scales

Personal and political bonds of state Transportation Secretary Karen H. Hunter tie the fate of those likely to profit from Delaware's superwide highway project.

They are fellow Republicans Frank Dillmore, the county state GOP chairman, and Frank Kaiser, longtime friend of the Hunter family.

The two most elaborate interchanges ever planned for the state's highway system will bring traffic to two major commercial properties owned by Kaiser—the Mercedes Super shopping center just north of Wilmington, and several other acres in a major highway and 400-acre tract known as Christmas Hill. And the bigger Kent County interchange on the new road will take traffic directly to the four lots of Dillmore's Shennett Inc. because of that interchange. The two businesses need to locate a proposed commercial convention center on Dillmore's property along the highway.

But Kaiser himself owns a business at one of the new interchanges as the state and to Dillmore's. Kaiser acknowledges the property will run in value when

the Kent Road interchange is planned to be completed.

All three interchanges were conceived and approved by DOT during the years since Kaiser was appointed transportation secretary in 1982.

But Kaiser said he would not be involved in projects unless he was to influence the department's decisions through his

relationship with the state's transportation secretary. "I have a decision-making position with regard to where we would put interchanges on the north-south toll route (Delaware and Dover roads) because I made an early position statement that the project would make those decisions. And we need to be that," Kaiser said.

Regarding the Kent Road interchange, Kaiser said, "No one person, I don't know what their position, from the governor on down, could get that interchange done if there wasn't a very good case to be made."

An secretary of transportation, Kaiser revealed that he had reviewed the details of all major highway projects under way in Delaware. He said Kaiser's work on DOT's side has included the Kent Road interchange at Interstate 95 and the Kent Road interchange.

See INFLUENCE — A14

A16 • • • Sunday News Journal, Wilmington, Del., June 12, 1988

Influence

Edgewood, the 800 million Delaware 7 highway, and the 800 million Delaware 7 relief route. The state's new north-south limited-access highway will be together Delaware's entire superhighway system. U.S. 13, Interstate 96 and Interstates 495. The system will consist of a new 3,000-mile, 40-mile "relief route," which will parallel, cross-cross and intersect with the present U.S. 13 from Tybouts Corner to south of Dover. The toll road will be built in three toll lanes: one for 75 cents east of Dover near Dover Downs, one for 50 cents southeast of the Smyrna rest stop, and one for 75 cents north of the Chesapeake & Delaware Canal near Dragon Run Creek. The north-south toll road, which will be 35 percent financed with federal money, will lie in 11 counties with

Road to riches

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a redesigned, five-mile, limited-access Delaware 7, which will intersect with I-96 at Christians. The new Delaware 7 will cost approximately \$68 million, 75 percent of which will be federally funded. The first sections are scheduled for completion around 1992. The entire 51-mile route will be completed some time after 2000. State officials say they will call the finished highway from I-96 to south of Dover "Delaware 7." Although it took a variety of forms, the idea of a relief route has been kicked around since the 1960s. The blow-up maps indicate key properties along the relief route.



1. Merchants Square (former Merchants Mall) Site: 210 acres. 18 acres owned by FRAC. Date purchased: 1971 and 1972. Price: \$1 million. Owner: FRAC. Note: The new interchange parcel is open. The property is for sale at \$24 million. Date purchased: Nov. '81. Price: \$2 million. Note: The property will increase in value, but there is a liability because will be subject.
2. General Square Site: 120 acres. Date purchased: 1971 and 1972. Price: \$1 million. Note: The largest interchange in Delaware, which will connect the parcel in the new Del. 7 and I-96, has been \$10 million and one of the largest commercial prospects in the state. Estimate of the present value is \$25 million.
3. Purchased from Dr. Antonio Alvarez-Collado. Site: 120 acres. Date purchased: 1971 and 1972. Price: \$1 million. Note: The largest interchange in Delaware, which will connect the parcel in the new Del. 7 and I-96, has been \$10 million and one of the largest commercial prospects in the state. Estimate of the present value is \$25 million.
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Del. 7 is the one at the Road and I-96, where Justice, himself, and his collection of the thing was there was a hope of getting on interchanges.

Justice and Antonio bought adjacent parcels of Gen. Fritz (General) and the Road Interstate Road, respectively, in September and November of 1981, but Justice calls "interchange." He said he and Antonio never discussed their respective deals with each other.

As the deal was to be done to Justice, Justice's attorney, retired to the Federal Highway Administration for approval and funds to build a toll road.

The FEA approved the project in September 1981. Of the toll road, Justice said the federal government will pay for 30 percent of the toll road, with the remainder on the state's account. The remainder of the cost will be for design, construction and right-of-way acquisition.

Justice said \$1 million in 1981 for the Delaware Highway Center, an 11-acre, and another 10 acres across the back-

The 425 acres are for sale now for \$14 million, said Nicholas M. Valente, director of operations for Allied Property Co., Justice's real estate firm.

"I can show the interchange on three 20 percent lots," Valente said. "The three interchanges are going to be built out to be a gold mine. You can't see the land, but you can see the traffic. It's a road getting people coming south from Philadelphia."

Justice said he would have been from State Building Center, an five-acre, in Smith's Crossing, near the site. New Castle County Executive Jim Justice bought the building after spending \$250,000 after having the site built near a new interchange near I-96.

Asked why he bought the property, Justice said "I never had the building at home another location. It was a dream to have the building as part of an interchange near the land did not influence his decision to buy."

He acknowledged that the value of the property would rise with completion of the interchange, but said the interchange would not reduce his building income.

Shortly after Justice bought transportation secretary in 1975 State Rep. Donald H. Evans, Richmond, Va., began pushing the idea of a toll road interchange to boost development of the area. Evans said he gave residents a link to the interstate highway.

Justice said he had considered a toll road interchange a road since until "valuable" area down. The interchange had been pushed earlier by federal highway officials in favor of the nearby 1200 street interchange.

Originally, interchange officials planned only to build the toll road bridge over the Chesapeake Bay and Interstate 96. They also considered building the toll road on the east side of the toll road to provide a better connection with the 1200 Street interchange as well as some access to the south of the toll road.

The bridge interchange and the toll road interchanges would have involved work in an interchange with the toll road. In 1977, Justice said he had considered a toll road interchange a road since until "valuable" area down. The interchange had been pushed earlier by federal highway officials in favor of the nearby 1200 street interchange.

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1. Proposed retail office and multifamily complex Site: 400 acres. Date purchased: 1971 and 1972. Price: \$1 million. Note: The largest interchange in Delaware, which will connect the parcel in the new Del. 7 and I-96, has been \$10 million and one of the largest commercial prospects in the state. Estimate of the present value is \$25 million.
2. Purchased from Dr. Antonio Alvarez-Collado. Site: 120 acres. Date purchased: 1971 and 1972. Price: \$1 million. Note: The largest interchange in Delaware, which will connect the parcel in the new Del. 7 and I-96, has been \$10 million and one of the largest commercial prospects in the state. Estimate of the present value is \$25 million.
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1. Site: 60 acres, just south of Smyrna. Date purchased: 1976. Price: \$200,000. Note: The largest interchange in Delaware, which will connect the parcel in the new Del. 7 and I-96, has been \$10 million and one of the largest commercial prospects in the state. Estimate of the present value is \$25 million.
2. Site: 100 acres, just north of Dover. Date purchased: 1976. Price: \$200,000. Note: The largest interchange in Delaware, which will connect the parcel in the new Del. 7 and I-96, has been \$10 million and one of the largest commercial prospects in the state. Estimate of the present value is \$25 million.
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NEW INFLUENCE — A17

Sunday News Journal, Wilmington, Del., June 12, 1988 • A17

Shouldering the profits on the new relief route

BY MELVYN WALTON
Staff Writer

For most Delawareans, the new highway system will mean a road to freedom. For the state, it will mean a road to profits. The state Department of Transportation officials believe they have struck a deal with the state's largest highway contractor, the Interstate Construction Co., to build the new highway system. The state will own the highway, but the contractor will own the right to build it. The state will own the highway, but the contractor will own the right to build it. The state will own the highway, but the contractor will own the right to build it.

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The state doesn't have 'dickering rights' on land acquisition procedures, officials say, it must pay for the highest and best use of the land.

last related may enable a developer to profit. The state does not have "dickering rights" in acquisition procedures, they say. ICDOT may not be able to pay as little as possible for the highest and best use of the land. The state has not yet begun negotiations with Interstate.

interchange one of the best in the state's new highway system. Among the other major land holdings along the route are the Interstate 95 interchange in Dover, the Interstate 95 interchange in Newark, and the Interstate 95 interchange in Wilmington.

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Influence is riding the fast lane on Delaware's road to riches

Continued from A16

ACIEMO led by Interstate Construction Co. (ICC) is the largest contractor in the state. The company has been building highways in Delaware since 1960. The company has been building highways in Delaware since 1960. The company has been building highways in Delaware since 1960.

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"From time to time Frank (Acicemo) has talked about the interchange in a general way... not in the sense of asking me to do anything or hurry."

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Pressure mounting for state to tighten lagging ethics code

BY JEFF MONTGOMERY
Dover Bureau reporter

Delaware trails its neighbors and much of the nation in tightening ethics rules for public officials, but a push is on to enact a new state ethics code by June 30.

Senate leaders from both parties have already asked the Delaware State Bar Association to draft the overhaul. Bar association members said they are waiting for a similar request from the House before starting the effort.

Shortcomings in Delaware's ethics code came into sharp focus last week, when a Senate panel wrapped up a long and sometimes wrenching probe into allegations

● Text of Senate panel's report on transportation probe, **A10**

● Editorial, **K2**

of conflicts of interest and influence-peddling in the Department of Transportation.

Common Cause of Delaware has meanwhile already prepared its own detailed bill, which covers ethics, conflicts of interest, financial disclosures and gifts or campaign contributions from lobby-

See ETHICS — A13

Ethics

• Continued from A1

ists. The public interest group's proposal would apply to all levels of governments, including state and local agencies and school boards.

Both efforts could lead to formation of a separate commission to oversee and enforce the state's ethics laws. Most states, including Maryland, Pennsylvania and New Jersey, already rely on independent panels, as does the federal government.

"You could go back to any of the [ethics] problems we've had in the last few years, and all of us said the same thing: The code is not clear," said Sen. Ruth Ann Minner, D-Milford, who is leading the current effort and who sponsored an ethics bill for legislators in 1987.

"There are no precise definitions, and the provisions are spread all through the code," Minner said. "It needs to be cohesive, so everybody knows what the standards are, and there won't be any question."

Last week, the Senate Select Committee on Transportation announced that its probe found "nothing illegal or unethical" in Transportation Secretary Kermit H. Justice's conduct. The committee nevertheless said Justice "may have exercised poor judgment," in dealings with a family friend who stood to benefit from state highway projects.

Clearer and better-administered rules for state officials may have settled questions about Justice's relations with a developer friend long ago, committee members said later. The panel made an overhaul of the state's ethics code its first recommendation in a report on the investigation.

"I think the feeling was there are some areas of the code that are a little vague," Sen. Richard A. Hauge, R-Gordon Heights, a member of the investigative com-

mittee, said. He pointed out that some public officials are now permitted, but not required, to seek rulings on potential conflicts.

"We found, in trying to look at the current apparatus, that the guidance in the code is kind of sketchy," said Ralph K. Durstein III, a former chairman of Common Cause of Delaware and a current member of the group's steering committee. "There are a lot of situations, to be fair to the people involved, where you have to rely on seat-of-the-pants guidance."

The state's generally worded ethics and conflict of interest rules take up fewer than three pages in the Delaware Code. Interpretation and enforcement was largely left to the state Personnel Commission, which mainly serves as a referee and policy-making body for the statewide merit system.

Many states and the federal government rely on more-detailed standards for official conduct, and statewide ethics boards or commissions for enforcement. Maryland, Pennsylvania and New Jersey each maintain permanent ethics agencies. The laws in Maryland and Pennsylvania extend to local government officials.

The federal government maintains its own Office of Government Ethics to supervise executive branch employees and enforce federal ethics rules. Federal judges and members of Congress are subject to oversight by separate ethics panels.

"I'd say Delaware is certainly in the minority, as far as ethics is concerned," said Joyce A. Bullcock, a research assistant for the Council of State Governments in Lexington, Ky., and the editor of an annual report on state ethics programs. "It's become the exception for a state not to have a board or commission in the area of ethics and financial disclosure."

The Senate Select Committee report recommended that all public officials seek a Personnel Com-

mission ruling when "presented with a situation involving dealings or negotiations with personal friends that could raise an appearance of impropriety." They also recommended requiring all cabinet officials to read the state's ethics laws, and sign a document confirming the review.

Gov. Castle last week said he was untroubled by the recommendation for Personnel Commission review. But he disagreed with the committee's finding that Justice "may" have used poor judgment.

"I've read the code before, and

Senate leaders have asked the state Bar Association to draft an overhaul of the new ethics code by June 30.

from my reading of it, it would appear pretty straightforward," Castle said, adding later: "I think the report just made general suggestions that apply to anybody in public life, and it certainly applies to my cabinet officers, in that they should be familiar with any existing ethics code, and frankly I expect my cabinet officers to adhere to an even higher standard than that."

Legislators have also pointed out that Delaware, a small state where official, social and private lives overlap, has unique problems.

"If you make it too stringent, you really hamstring your cabinet officials and your employees, and you can't get anything done," Hauge said. "It makes it very difficult, because you have to deal with that very practical situation. It's a small state, and everybody knows everybody else's business."

Minner said she hopes to win support for separate ethics legisla-

tion for lawmakers and other public officials by June 30, pointing out that she has been involved in the effort for about two years. But she said she opposes attempts to extend the rules to "every little board and commission."

House Majority Leader Joseph R. Petrilli, R-Pike Creek Valley, said he expects lawmakers will use the Common Cause bill as a starting point, and may ask the bar association to develop a bill. He declined to predict final passage before the General Assembly ends the first half of the current two-year legislative session on June 30.

"I haven't been overwhelmed, frankly, with ethics issues," Petrilli said. "It's been very minimal, as compared to other issues. I'm not so sure there's an outcry for this. I don't think it's raised its head above any of the other issues, at this point."

Minner said her proposal would use as a springboard legislation developed by the Delaware State Bar Association in 1987. That measure included a detailed definition of circumstances that create a conflict of interest, and would have permanently established legislative ethics committees.

The Common Cause plan would establish a permanent State Ethics Review Commission, with members subject to Senate confirmation. Staffing, investigations and enforcement would be managed through the Attorney General's office; members would have a range of sanctions available for violations.

The group's proposal spells out in minute detail relationships and activities that create conflicts of interest, and includes restrictions on employment of relatives and movement of government employees from public to some private jobs.

Public officials would be required to issue more-detailed financial disclosures under the bill.

Report Of The Senate Select Committee on Transportation

Last Tuesday, the state Senate Select Committee on Transportation submitted its report on an ongoing highway Secretary...

INTRODUCTION

On June 12, 1989, the Senate Select Committee on Transportation published its report on the progress of the public...

Influence of the Fast Lane

The issue of the Fast Lane Highway project is a complex one. It involves not only the construction of a new highway...

Shedding The Profits On The New State House

The issue of the Fast Lane Highway project is a complex one. It involves not only the construction of a new highway...

Members of the House and Senate Transportation Committee

On Monday afternoon the Senate Transportation Committee held a public hearing on the proposed route of the new Delaware 7 and 8 highway...

It is not clear if the Secretary

of Transportation Robert Justice secured the legislation for the highway project...

Who is our legislative or judicial

opponent? The issue of the Fast Lane Highway project is a complex one...

ACKNOWLEDGEMENT

The Committee gratefully acknowledges the contributions of former Senator Will...

I. THE FAST LANE INTERCHANGE

The Delaware State Department of Transportation (DOT) has been working on the...

The DOT's report would support the 1400 interchange. The Secretary has been advised...

A. THE COMMITTEE'S FINDINGS

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It is possible that a conclusion

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Report Of The Senate Select Committee on Transportation

•Continued from A12

then, the State is able to reach an agreement with landowners on acquisitions.

VI. SPENDING FOR RIGHT-OF-WAY ACQUISITIONS

According to figures supplied by DELDOT, while the number of parcels acquired by the State has varied somewhat from year to year, the amount of federal and State funds spent on property acquisitions in Delaware has increased dramatically since 1986. Thus, in the combined State and Federal fiscal years for 1986, 691 parcels were acquired at a cost of \$4,051,417. In federal fiscal year 1987 (October 1 to September 30), 290 parcels were acquired at a cost of \$5,034,059. In federal fiscal year 1988, 322 parcels were acquired at a cost of \$14,245,859. In the first six months of federal fiscal year 1989 (October 1, 1988 to March 31, 1989), 193 parcels were acquired at a cost of \$14,042,787. Of those acquisitions, 193 were made with State funds only, at a cost of \$12,549,945.

As the acquisition of parcels for the Route 13 Relief Route proceeds, the level of State spending is expected to continue at the level experienced in the first six months of fiscal year 1989 for at least the next five years.

The complexity of the acquisitions for which the Right-of-Way Section of DELDOT is responsible has increased, particularly with respect to the acquisition of commercial properties for the Relief Route. At the same time, the number of staff persons employed to deal with the work has decreased. For example, the number of staff review appraisers has declined over the last 10 years or so from a high of about 1215, to the current number, 4.

DELDOT is having difficulty attracting competent people who are prepared to make a career with the Department, particularly because it cannot compete with the salaries offered in the private sector. The FHWA requires assurance that DELDOT's appraisal staff is capable of performing its right-of-way acquisition function, and, at a minimum, efforts need to be made to keep personnel skills and staffing at their current levels.

VII. SUMMARY

After reviewing the records and procedures of the Department of Transportation, holding hearings in each County for the express purpose of inviting public comment and input on the issues raised,

interviewing and taking depositions of interested persons, obtaining relevant documents, and examining a number of key witnesses publicly, the Committee is satisfied that there has been no illegal or unethical conduct on the part of Secretary Justice or any member of the DELDOT staff.

As is more fully set forth in the foregoing report, the Committee did find, in the course of its study, instances where the conduct of the Secretary raised questions worthy of inquiry. With regard to many of these instances, the Committee feels that in light of his acknowledged friendships with the principals involved, the Secretary may have exercised poor judgment in taking an active role in these matters. Nevertheless, the Committee has found no evidence that any exclusive private benefit was gained by any individual as a result of the Secretary's actions.

With respect to the original aims of the Committee set forth in the introduction to this report, the Committee concludes that:

1) State tax dollars have not been spent to provide roadways for favored developers. And, after reviewing the acquisition process with its numerous audit points, the Committee is satisfied that the process has not been manipulated by the Secretary or anyone else for the benefit of private interests.

2) DELDOT has not been paying inflated prices for land acquisitions. On the contrary, the most frequent complaints heard by the Committee stemmed from the "zero offers" made by DELDOT in connection with the Route 7 and Relief Route projects.

3) DELDOT practices and procedures were in conformity with existing State Law.

4) There were concerns heard by the Committee that the Secretary was not equally responsive to all citizen complaints received by his office. The Secretary and other DELDOT officials testified with respect to each of these complaints that these calls were referred by the Secretary to the "appropriate" official for response and further that responses were made at that level. Nevertheless, it does appear from the record that persons with personal ties to the Secretary were able to meet with him. That issue will be addressed more fully below. However, the Committee reiterates that there is no evidence that such persons unduly benefited from their relationship with the Secretary.

5) The Committee believes that

changes are needed in State law as a result of its study. The Committee's recommendations are set forth below.

The Appearance Of Impropriety And Access To The Secretary

Section 5805 of the State Code of Ethics, provides in part:

(a) Employees shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust and which will not reflect unfavorably upon the State and its government.

(d) No employer (sic) shall by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is improperly affected by the kinship, rank, position or influence of any person.

Based on the facts set forth in the body of this report, the Committee has concluded that Secretary Kermit H. Justice was not improperly influenced by his friendship with Frank E. Acerno or any other person. The Committee believes, however, that Mr. Acerno on one or more occasions has sought to take advantage of that relationship in his frequent dealings with the Department of Transportation. One small example will suffice to demonstrate the conduct to which the Committee is referring. In connection with his acquisition of the half-acre tract of land along Route 273, one finds in the history of the correspondence that Mr. Acerno, in dealing with DELDOT officials, will send copies of his correspondence to the Secretary. In the Committee's view, that practice is an apparent effort to exert pressure on the officials with whom he is dealing directly. His conduct, then, unnecessarily involved the Secretary in matters properly left to the Secretary's subordinates.

Another concern for the Committee was the relative access to the Secretary enjoyed by his friends as compared to other members of the public. At public hearings held last summer, the Committee heard several complaints, from the owner of W&K Furniture and other business in New Castle County that they could not get satisfactory responses from the office of the Secretary. Yet, others

seem to be able to arrange meetings with the Secretary when their interests are affected. Admittedly, a developer like Mr. Acerno has more transactions with DELDOT involving significant roadway projects than the average citizen. However, in the Committee's view that does not justify the disparity in personal access to the Secretary.

In questioning the Secretary, the Committee found that, until last year, the Secretary was not familiar with all of the particulars of the State Code of Ethics. Section 5805(c) of the Code provides in relevant part:

(c) The State Personnel Commission shall have the following powers and duties:

(2) It shall render advisory opinions upon the request of any employee as to whether the facts and circumstances of a particular case constitute or will constitute a violation or probable violation of the code of ethics. If no advisory opinion is rendered within 60 days after such request and a complete statement of such facts and circumstances is filed with the Commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the code of ethics. Such an opinion rendered or deemed rendered, until amended or revoked by the Commission, shall be binding upon it on any subsequent complaint concerning any employee who sought the opinion and acted in reliance upon it in good faith, unless material facts were omitted for misstatement by the employee in the request for the advisory opinion.

The purpose of this provision is obvious. Public officials, when faced with a possible conflict of interest that could raise an appearance of impropriety, should not attempt to resolve that conflict for themselves, but rather should seek guidance from an impartial, independent source. That avenue is available to the Secretary and other public officials pursuant to §5805 (c).

The Committee recommends that the Secretary refrain from any direct or indirect negotiations with Mr. Acerno on State business unless such actions are

approved by the State Personnel Commission pursuant to §5805(c). Further, the Committee recommends that if the Secretary, or any public official, is presented with a situation involving dealings or negotiations with personal friends that could raise an appearance of impropriety, such individuals should first obtain an independent opinion from the State Personnel Commission, rather than make a personal decision on the propriety of his or her own conduct.

The Committee's Recommendation

After its inquiry was under way the Committee found that much of its time was spent examining the conduct of the Secretary in light of news articles that had been written about him. The work of the Committee was not advanced by these articles which, upon examination, were found either to be without substantial basis in fact, or lacking in relevant information that was readily available. Nevertheless, the Committee was able to complete its assignment and came to agreement on the following recommendations:

1. The State Code of Ethics is in serious need of revision. In the view of the Committee, the public interest would be best served if legislation revising 29 Del. C. Chapter 58 is introduced in the General Assembly before the close of the session this June.

2. At the very least, Cabinet-level officials should be required to sign a sworn statement that they have read the State Code of Ethics and are familiar with its provisions.

3. The General Assembly should request that the Delaware State Bar of Association assist the appropriate Committees in the House and the Senate in an examination of the State's condemnation laws, and suggest revisions, where advisable.

4. The Committee intends to study legislation relating to the form of notice to be given to landowners prior to their involvement in the right-of-way acquisition process. The Committee further intends to study permissible amendments relating to the disparate treatment of owners of single parcels versus owners of multiple adjacent parcels with respect to "special benefits" determinations.

5. DELDOT should promulgate regulations to govern its procedures for responding to citizen complaints.

APPENDIX C

DELAWARE STATE BAR ASSOCIATION

RODMAN WARD, JR.
President

MICHAEL J. RICH
President-Elect

HARVEY B. RUBENSTEIN
Vice President-at-Large

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Vice President, New Castle County

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ANNE L. NACZI
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Assistant Treasurer

C. STEPHEN BIGLER
Assistant to the President

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Immediate Past President

THE HONORABLE
RANDY J. HOLLAND

R. FRANKLIN BALOTTI
BARBARA D. CROWELL

JOHN F. SCHMUTZ
MARY E. SHERLOCK

*Executive Committee
Members-at-Large*

WILLIAM E. WIGGIN
Executive Director

June 7, 1990

TO: Honorable Richard S. Cordrey Honorable Terry R. Spence
Honorable Thomas B. Sharp Honorable Joseph R. Petrilli
Honorable Myrna L. Bair Honorable Orlando J. George, Jr.

FROM: Special Committee on Public Officials' Code of Conduct

This report is in response to a request from the leadership of the 135th General Assembly for assistance in drafting ethics legislation that would cover policy decision making public officials.

The Delaware State Bar Association's Special Committee on Public Officials' Code of Conduct has been established by the President with the concurrence of the Executive Committee of the Bar Association and has been authorized to respond to requests from governmental bodies for assistance in drafting ethics legislation. Neither the President, the Executive Committee nor any other members of the Bar Association review the reports of the Special Committee. Accordingly, this report of the Special Committee constitutes the views of the Special Committee only and does not necessarily reflect the views of the President, the Executive Committee or the Bar Association as a whole.

Your request indicated an intent that our proposed legislation should provide rules for the Executive branch of State government and for local government officials similar to the rules we proposed in 1986 for the members of the General Assembly.

Accompanying this report are the following:

Exhibit A. Memorandum entitled "Delaware Laws Affecting the Conduct of State and Local Officials and Employees" dated March 12, 1990, prepared by Ronald D. Smith, Esquire, which describes the ethics laws currently existing which apply to the Executive branch and to local government officials.

Exhibit B. Proposed legislation which would replace existing Subchapter I of Chapter 58, Title 29 Delaware Code. This legislation would rewrite the existing conflict of interest laws and code of conduct which now apply to the Executive branch to make these rules as consistent as practicable with the rules we proposed in 1986 for the General Assembly. As under current law, this legislation would not apply to members of the General Assembly or the judiciary. This legislation would also declare the desire of the General Assembly that all local governments adopt similar laws within two years. At the end of that period, a newly created State Ethics Commission would report to the General Assembly as to action taken by local governments in this regard and would make recommendations to the General Assembly as to further action required. Exhibit B includes detailed commentary on the proposed legislation.

Exhibit C. Clean copy of the proposed legislation contained in Exhibit B without the commentary integrated therein.

Exhibit D. Proposed procedural rules for the State Ethics Commission. These rules are preliminary in that they do not purport to be comprehensive. They do, however, contain the fundamental framework of Commission procedures which are as similar as practicable to the procedural rules recommended for the House and the Senate.

Exhibit E. Copy of this Committee's June 17, 1986 Report regarding proposed Rules of Legislative Conduct.

Exhibit F. Proposed amendment to Title 29 concerning Legislative conflicts of interest and establishing House and Senate Ethics Committees

Exhibit G. Proposed amendment to the financial disclosure law

Exhibit H. Proposed Rules of the Senate

Exhibit I. Proposed Rules of the House

Exhibits F - I are the same as our 1986 proposals with minor revisions made to harmonize with the proposed legislation applicable to the Executive branch. These Exhibits are marked up to highlight these revisions.

As indicated in Mr. Smith's attached Memorandum, currently existing Sections 5801-5808 of Title 29 include a code of conduct and conflict of interest laws which are applicable to the Executive branch and which cover matters similar to those covered by our 1986 proposal for the General Assembly. Accordingly, our proposal involves a revision of Sections 5801-5808. These provisions apply to all employees and officials in the Executive branch and not just to policy making officials.

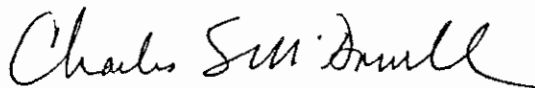
The code of conduct in existing state law is administered by the State Personnel Commission. The Personnel Commission also administers grievances for merit system employees under Chapter 59 of Title 29. The Personnel Commission, however, has no jurisdiction over violations of the conflict of interest laws; this is left to prosecution by the Attorney General. Our proposal would create a new State Ethics Commission which would have responsibility to administer both the conflict of interest laws and the code of conduct. The Ethics Commission could render advisory opinions, grant waivers, determine violations and impose or recommend sanctions. More serious violations would still be subject to criminal prosecution by the Attorney General.

Detailed commentary on the proposed revision of Sections 5801-5808 is integrated into one copy of the text of the proposed legislation which is appended as Exhibit B. Commentary on the 1986 proposal for the General Assembly is contained in our June 17, 1986 Report (Exhibit E).

We would be happy to provide you with additional copies of this Report in the event you wish to make it available to other members of the General Assembly.

The Special Committee wishes to express its appreciation for the invaluable assistance of the following persons in developing this proposal: Mathias J. Fallis, State Personnel Director; Donald J. Whitely, Chairman, State Personnel Commission; Ronald D. Smith, Esquire; Keith R. Brady, Esquire, Assistant Counsel to the Governor; Douglass Lee Mowrey, Deputy Attorney General assigned to the State Personnel Commission; and Marsha Kramarck, Esquire, Assistant Attorney General.

Respectfully submitted,



Charles S. McDowell, Chairman
Robert T. Aulgur, Jr.
O. Francis Biondi
Richard R. Cooch
Craig B. Smith
W. Laird Stabler, Jr.

Following is legislation proposed by the Delaware State Bar Association's Special Committee on Public Officials' Code of Conduct in response to a request from the leadership of the 135th General Assembly. The proposed legislation consists of conflict of interest and code of conduct laws for all state employees and officials except for members of the General Assembly and the judiciary and is largely a rewrite of existing §§ 5801-5808 of Chapter 58, Title 29 which deals with the same subject matter. The rewrite involves primarily a harmonizing of the existing laws with the Special Committee's rules of conduct proposed for the members of the General Assembly in 1986. References in the "Comments" which follow are to the existing provisions of Chapter 58, Title 29 and to the Special Committee's 1986 Report to the General Assembly. In some cases, in order to harmonize the proposed laws for the legislative and executive branches of government the Special Committee is also recommending certain revisions to the rules proposed in 1986.

Sponsor: _____

_____ BILL NO. _____

AN ACT TO AMEND CHAPTER 58, TITLE 29, DELAWARE CODE RELATING TO A CODE OF CONDUCT FOR STATE EMPLOYEES, STATE OFFICIALS AND CERTAIN LOCAL GOVERNMENTAL OFFICIALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. State Employees, Officers and Officials' Code of Conduct. Amend Subchapter I, Chapter 58, Title 29, Delaware Code, by striking Subchapter I in its entirety and substituting in lieu thereof the following:

"Subchapter I. State Employees, Officers and Officials' Code of Conduct.

§5801. Short Title.

This Subchapter shall be known and may be cited as the State Employees, Officers and Officials' Code of Conduct.

§5802. Legislative Findings and Statement of Policy.

The General Assembly finds and declares:

(1) In our democratic form of government, the conduct of officers and employees of the State must hold the respect and confidence of the people. They must, therefore, avoid conduct which is in violation of their public trust or which creates a

justifiable impression among the public that such trust is being violated.

(2) To ensure propriety and to preserve public confidence, officers and employees of the State must have the benefit of specific standards to guide their conduct and of some disciplinary mechanisms to guarantee uniform maintenance of those standards. Some standards of this type are so vital to government that violation thereof should subject the violator to criminal penalties.

(3) In our democratic form of government, it is both necessary and desirable that all citizens should be encouraged to assume public office and employment, and that, therefore, the activities of officers and employees of the State should not be unduly circumscribed.

§5803. Construction.

This subchapter shall be construed to promote high standards of ethical conduct in state government.

§5804. Definitions.

For the purposes of this subchapter:

"Close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

"Commission" or "Ethics Commission" means the State Ethics Commission established by this subchapter.

"Compensation" means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by himself or another.

A person has a "financial interest" in a private enterprise if (i) he has a legal or equitable ownership interest in the enterprise of more than 10% (1% or more in the case of a corporation whose stock is regularly traded on an established securities market) (ii) he is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as an employee, officer, director, trustee or independent contractor; or (iii) he is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

"Matter" means any application, petition, request, business dealing or transaction of any sort.

"Person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

"Private enterprise" means any activity conducted by any person, whether conducted for profit or not for profit and includes the ownership of real or personal property; provided that private enterprise does not include any activity of the State or of any political subdivision or of any agency, authority or instrumentality thereof.

"State" means the State of Delaware and includes any state agency.

"State agency" means any office, department, board, commission, committee, court, school district, board of education and all public bodies existing by virtue of an act of the General Assembly or of the Constitution of the State, excepting only political subdivisions of the State, their agencies and other public agencies not specifically included in this definition which exist by virtue of state law, and whose jurisdiction (i) is limited to a political subdivision of the State or to a portion thereof, or (ii) extends beyond the boundaries of the State.

"State employee" means any person (A) who receives compensation as an employee of a state agency or (B) who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive more than \$5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses); provided that "state employee" does not include (i) members of the General Assembly; (ii) the Chief Justice and Associate Justices of the Supreme Court, (iii) the Chancellor and Vice-Chancellors of the Court of Chancery, (iv) the President Judge and Associate Judges of Superior Court, (v) the Chief Judge and Associate Judges of Family Court, (vi) the Chief Judge and Resident Judges of the Court of Common Pleas, (vii) the Chief Judge and Associate Judges of Municipal Court, (viii) the Chief Magistrate and Justices of the Peace, (ix) state officers, or (x) honorary state officials.

"State officer" means any person who is required by Subchapter II of this Chapter to file a financial disclosure statement but does not include (i) members of the General Assembly, (ii) the Chief Justice and Associate Justices of the Supreme Court, (iii) the Chancellor and Vice-Chancellors of the Court of Chancery, (iv) the President Judge and Associate Judges of Superior Court, (v) the Chief Judge and Associate Judges of Family Court, (vi) the Chief Judge and Resident Judges of the Court of Common Pleas, (vii) the Chief Judge and Associate Judges of Municipal Court or (viii) the Chief Magistrate and Justices of the Peace.

"Honorary state official" means a person who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive not more than \$5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses).

Comment: The definitions of "close relative," "financial interest," "person" and "private enterprise" are the same as those proposed in the rules for the General Assembly. The definitions of "compensation" and "state agency" are the same as existing §§5803(2) and (7). For the purposes of this legislation, all state employees and officials (except for members of the General Assembly and the judiciary who are excluded) are divided into three categories: "honorary state officials" means appointed officials who receive no more than \$5,000 in annual compensation; "state officers" means those high level employees and officials who are required to file financial disclosure statements under §5813 of Title 29; and "state employees" means all other covered employees who are not either "state officers" or "honorary state officials." Most of the proposed laws apply equally to all covered employees and officials. However, in certain cases there are more restrictions on the activities of "state officers" and fewer restrictions on the activities of "honorary state officials."

§5805. Prohibitions Relating To Conflicts Of Interest.

(a) Restrictions on exercise of official authority.

(i) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter pending before the State in which he has a personal or private interest provided that, upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his duties with respect to that matter.

(ii) A person has an interest which tends to impair his independence of judgment in the performance of his duties with respect to any matter when:

(a) any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, or

(b) the person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

(iii) In any case where a person has a statutory responsibility with respect to action or non-action on any matter where he has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter provided that, promptly after becoming aware of such conflict of interest, he files a written statement with the Ethics Commission fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

Comment: This provision deals with a subject matter similar to that now dealt with in existing §§5804(e), 5805(b) and (c). The proposed provision adopts definitions and concepts similar to those in our proposal with respect to the General Assembly and restrictions relating to a "personal or private interest."

(b) Restrictions On Representing Another's Interest Before The State.

(i) No state employee, state officer or honorary state official may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer or official is associated by employment or appointment.

Comment: This provision is essentially the same as existing §5804(b).

(ii) No state officer may represent or otherwise assist any private enterprise with respect to any matter before the State.

Comment: This clause (ii) deals with conduct similar to that described in existing §§5804(a) and (c) except that this clause (ii) would apply only to "state officers."

(iii) This subsection shall not preclude any state employee, state officer or honorary state official from appearing before the State or otherwise assisting any private enterprise with respect to any matter in the exercise of his official duties.

(c) Restrictions On Contracting With The State. No state employee, no state officer and no private enterprise in which a state employee or state officer has a legal or equitable ownership of more than 10% (more than 1% in the case of a corporation whose stock is regularly traded on an established securities market) shall enter into any contract with the State (other than an employment contract) unless such contract was made or let after public notice and competitive bidding; provided that such notice and bidding requirements shall not apply to contracts not involving more than \$2,000 per year if the terms of such contract reflect arms' length negotiations.

Comment: This provision is similar to existing §5804(d) except for the addition of the arms' length requirement to the exception from public bidding.

(d) Post Employment Restrictions. No person who has served as a state employee, state officer or honorary state official shall represent or otherwise assist any private enterprise on any matter involving the State, for a period of two years after termination of his employment or appointed status with the State, if he gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of his official duties as a state employee, officer or official.

Comment: This provision is substantially the same as existing §5804(f). The literal application of this provision could be quite broad and could impose unintended and unnecessary restrictions. The waiver provisions of Section 5807 could be employed to resolve any such unnecessary restrictions.

(e) Unauthorized Disclosure Of Confidential Information. No person shall disclose any information required to be maintained confidential by the Commission under Sections 5806(d), 5807(b) or (d) or 5810(h).

Comment: This provision is similar to existing §5808(e) except that a violation of this provision would be subject to criminal penalties.

(f) Criminal Sanctions.

(i) Any person who knowingly or willfully violates any provision of this Section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than one year and by a fine not to exceed \$10,000.

(ii) A prosecution for a violation of this Section shall be subject to the time limitations of Title 11 Delaware Code Section 205.

(iii) The Superior Court shall have exclusive jurisdiction over prosecution for all criminal violations of this Section.

Comment: Subsection (f) replaces existing §5804(h) which gives a court discretion to impose any fine or penalty. The proposal specifies limits on fines and sentences, provides a statute of limitations on prosecutions and confers exclusive jurisdiction for criminal prosecutions on the Superior Court.

(g) Contracts Voidable By Court Action. In addition to any other penalty provided by law, any contract entered into by any state agency in violation of this subchapter shall be voidable by the state agency; provided that in determining whether any court action should be taken to void such a contract pursuant to this subsection, the state agency shall consider the interests of innocent third parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the state agency involved has, or should have, knowledge of such violation.

Comment: Same as existing §5807.

§5806. Code of Conduct.

(a) Each state employee, state officer and honorary state official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is engaging in acts which are in violation of his public trust and which will not reflect unfavorably upon the State and its government.

Comment: Same as existing §5805(a).

(b) No state employee, state officer or honorary state official shall have any interest in any private enterprise nor shall he incur any obligation of any nature which is in substantial conflict with the proper performance of his duties in the public interest. No state employee, state officer or honorary state official shall accept other employment, any compensation, gift, payment of expenses or any other thing of

monetary value under circumstances in which such acceptance may result in any of the following:

(i) impairment of independence of judgment in the exercise of official duties;

(ii) an undertaking to give preferential treatment to any person;

(iii) the making of a governmental decision outside official channels; or

(iv) any adverse effect on the confidence of the public in the integrity of the government of the State.

Comment: Substantially the same as existing §5805(b).

(c) No state employee, state officer, or honorary state official shall acquire a financial interest in any private enterprise which he has reason to believe may be directly involved in decisions to be made by him in an official capacity on behalf of the State.

Comment: Similar to existing §5805(e).

(d) Any state employee or state officer who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, any state agency (and any honorary state official who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, the state agency on which he serves as an appointee) shall file with the Ethics Commission a written statement fully disclosing the same. Such disclosure shall be confidential and the Ethics Commission shall not release such disclosed information, except as may be necessary for the enforcement of this subchapter. The filing of such disclosure statement shall be a condition of commencing and continuing employment or appointed status with the State.

Comment: Similar to existing §5806(f) except more limited disclosure by honorary state officials.

(e) No state employee, state officer or honorary state official shall use his public office to secure unwarranted privileges, private advancement or gain.

Comment: Similar to existing §5805(g).

(f) No state employee, state officer or honorary state official shall engage in any activity beyond the scope of his public position which might reasonably be expected to require or

induce him to disclose confidential information acquired by him by reason of his public position.

Comment: Same as existing §5805(h).

(g) No state employee, state officer or honorary state official shall, beyond the scope of his public position, disclose confidential information gained by reason of his public position nor shall he otherwise use such information for personal gain or benefit.

Comment: Same as existing §5805(i).

(h) No state employee, state officer or honorary state official, in the course of his public responsibilities, shall use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a state agency.

Comment: Same as existing §5805(l).

§5807. Waivers of Restrictions and Advisory Opinions.

(a) Notwithstanding the provisions of Sections 5805 and 5806 of this Title, upon the written request of any state agency or of any individual who is or was a state employee, state officer or honorary state official, the Ethics Commission may grant a waiver to the specific prohibitions contained therein if the Ethics Commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this chapter or would result in an undue hardship on any employee, officer, official or state agency. Any such waiver may be granted only by written decision of the Ethics Commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision provided there was a full disclosure to the Ethics Commission of all material facts necessary for the waiver decision.

(b) Any application for a waiver, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that (i) public disclosure shall be made by the Commission upon the written request of the applicant, (ii) the Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this subchapter (iii) the Commission shall report to appropriate federal and State authorities substantial evidence of any criminal violation which may come to its attention, and (iv) in the event that a waiver is granted, the waiver decision and the record of all proceedings relating thereto shall be open to public inspection.

DELAWARE LAWS AFFECTING
THE CONDUCT OF STATE AND
LOCAL OFFICIALS AND EMPLOYEES

Prepared by:

Ronald D. Smith

Date: March 12, 1990

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INTRODUCTION

This memorandum discusses the laws which affect the conduct of public officials and employees in Delaware. This memorandum also discusses laws which regulate the conduct of the Legislative and Judicial branches of State government. Incorporated into this document is the memorandum of Robert T. Aulgur, Jr., Esquire, dated June 9, 1989 by Lewis C. Ledyard, III.

*dated June 17, 1986
as revised and supplemented by
Memorandum*

PART I

LAWS AFFECTING STATE EMPLOYEES

The conduct of state employees who are neither judges nor legislators is governed by the Delaware Code. The legislature has enacted 29 Del.C. §5804 which prohibits state employees from engaging in certain activities which would produce conflicts of his official duties. The legislature has also adopted 29 Del.C. §5805 which establishes a code of ethics that governs the conduct of state employees. These statutes are designed to promote ethical behavior by state employees and to increase public confidence and trust in the state government.

A. Conduct of State Employees

For the purposes of these statutes 29 Del.C. §5803(4) defines "employee" to be:

Any person who has been elected or appointed to any state agency or who received compensation for services to the same but does not include members of the General Assembly, Justices of the Supreme Court, the judges of any court, the Chancellor, Vice Chancellors, justices of the peace and the Directors of the Delaware Solid Waste Authority.

These laws specifically exempt the Legislature and the Judiciary from their application. The members of the General Assembly are governed by the rules of each house. The members of the Judiciary are governed by The Delaware Judge's Code of Judicial Conduct.

1. Conflicts of Interest

Regarding conflicts of interest, 29 Del.C. §5804, in brief, provides:

a. No employee nor any business in which he has a financial interest may render services to anyone other than the state regarding the negotiations for the acquisition of real property by a state agency.

b. No employee nor any business in which he has a financial interest shall render any services to anyone other than the state in connection with any matter before a state agency in which such employee holds employment.

c. No employee shall receive compensation for services rendered to anyone other than the state in matters concerning:

(1) Any proceeding before any state agency in the disposition of which the state has a financial interest and which disposition is contested by the state; or

(2) Any appeal from a ruling made by a state agency.

d. No employee or any business in which he has more than a 10% interest shall enter into an agreement exceeding the value of \$2,000.00 per year awarded by any state agency, unless such agreement was made after public notice and competitive bidding.

e. No employee shall act as an agent of the state in the transaction of business with himself or his business.

f. No employee shall render services to anyone other than the state, within two years after the termination of his employment with the state, in connection with any proceeding with which he was directly involved in the course of his duties.

g. No employee who was responsible for the expenditure of funds under the state medicaid plan shall, within two years of his termination of employment, seek to influence the administration of such plan.

Any employee who violates any provisions of this section shall be fined in such amount or imprisoned for such term or both as the court in its discretion may determine.

2. Code of Ethics

The code of ethics, 29 Del.C. §5805, lays down broad rules which govern the conduct of state employees. In brief it provides:

a. An employee should pursue a course of conduct that will not raise public suspicion that he is acting improperly and that will not reflect unfavorably upon the state and its government.

b. An employee shall not purposely involve himself in any matter which is in substantial conflict with the performance of his official duties. An employee shall not engage in any transaction which would:

(1) Impair the employee's independence of judgment in the exercise of his official duties; or

(2) Cause preferential treatment to be given to any individual; or

(3) Impede government efficiency or economy; or

(4) Cause the circumventing of officials channels in the making of a government decision; or

(5) Have an adverse effect on the confidence of the public in the integrity of the government of the state.

c. No employee shall act as an agent of the state in any transaction with any business in which he has a financial interest if that transaction might tend to conflict with the discharge of his official duties.

d. No employee shall, by his conduct, give the impression that he may be improperly influenced in the performance of his duties.

e. No employee shall invest in any business which he reasonably believes may be directly involved in decisions to be made by him or which would otherwise create a substantial conflict between his public duty and private investment.

f. No employee shall;

(1) have a financial interest of \$1,000.00 or more in, or

(2) be an officer or director of, or

(3) have an unsecured loan exceeding \$5,000.00

from,

any business which is regulated by or does business with the state agency in which he holds employment.

g. An employee may not use his official position to secure unwarranted preferential treatment for himself or others.

h. An employee may not participate in an activity which would require or induce him to disclose confidential information acquired by him due to his status as an employee.

i. An employee is not permitted to disclose confidential information or use such information for personal gain.

j. No employee or an employee's business may sell goods or services to the state agency by which he is employed.

k. No employee who is responsible for the expenditure of funds from the state medicaid plan may seek to influence the administration of such plan within two years after the date of his termination of employment.

l. No employee may condition preferential treatment of an individual upon the granting of sexual favors.

However, 29 Del.C. §5806, states that the code of ethics shall not be construed to:

a. Prohibit a business in which an employee is engaged from transacting business with a state agency if the employee does not share in the profits, either directly or indirectly, which result from such transaction;

b. Prohibit any transaction by an employee merely by reason of his ownership of corporate bonds or stocks which are bought or sold through a nationally register securities exchange;

c. Prohibit participation in charitable, religious, nonprofit, educational, public service or civic organizations or the activities of national or state political parties;

d. Prohibit the acceptance of awards for meritorious public contribution given by public service or civic organizations.

B. Enforcement of the Laws Affecting State Employees

1. Conflicts of Interest

Any employee who violates any provision of the Conflicts of Interest Statute (29 Del.C. §5804) shall be fined and/or imprisoned for such term as the court in its discretion may determine. 29 Del.C. §5804.

2. Code of Ethics

According to 29 Del.C. §5808, the Personnel Commission, established under 29 Del.C. §5906, is charged with the enforcement of the code of ethics. The Attorney General is the legal representative of the Personnel Commission in connection with its enforcement of the code.

The Personnel Commission shall render advisory opinions, upon the request of an employee, as to whether the facts and circumstances of a particular situation constitute or will constitute a violation or probable violation of the code of ethics. The Commission is bound by such advisory opinion in any subsequent complaint issued against an employee who sought and relied in good faith upon such opinion. In other words an

employee cannot later be found guilty of violating the code of ethics on a matter upon which the Commission has rendered an advisory opinion if the employee acted in accordance with such opinion. The employee is not entitled to rely upon the opinion if there were material misstatements or omissions of facts in the request for the advisory opinion.

In addition to rendering advisory opinions, the Personnel Commission is empowered to initiate, receive, and consider complaints concerning alleged violations of the code of ethics. It may initiate and/or make investigations and hold hearings concerning such complaints. The Commission may, in its discretion, take any disciplinary action within the limits of the Constitution and other laws of the State of Delaware.

If the Commission decides that a person shall be dismissed, discharged, demoted, or suspended for more than 30 days in any one year, that person has the right of appeal to the Superior Court on the question of whether the Commission acted in accordance with the law.

All state agencies are obligated to cooperate with, and provide assistance to the Commission in order to facilitate the enforcement of decisions rendered by the Commission.

It shall be a violation of the code of ethics for any person, including the individual making the charge of a violation of the code of ethics, to divulge any information regarding the charge prior to the issuance of the complaint by the Personnel Commission.



SPONSOR Reps. Meconi and Soles

STATE OF DELAWARE
HOUSE OF REPRESENTATIVES
132ND GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 1
TO
HOUSE SUBSTITUTE 1
FOR
HOUSE BILL NO. 83

JUN 7 1983

1 AMEND H.S. 1 for H.B. No. 83, line 11, page 2, by
2 inserting the word "State", between the words "elective" and
3 "office".

4 FURTHER AMEND H.S. 1 for H.B. No. 83, by striking lines
5 14 through 19, page 3, and substituting in lieu thereof the
6 following:

7 "(r) the Adjutant General of the Delaware
8 National Guard.

9 Elected and appointed officials of political
10 subdivisions of the State, public school districts of
11 the State, and State institutions of higher learning
12 shall not be deemed to be public officers within the
13 meaning of this Act."

14 FURTHER AMEND H.S. 1 for H.B. No. 83, by striking lines
15 20 through 29, page 3, and substituting in lieu thereof the
16 following:

17 "(2) 'Constructively controlled' means:

18 (a) a financial interest in the name of
19 another which is controlled by a public officer by
20 virtue of any relationship of the public officer to

STATE OF DELAWARE



EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER ONE HUNDRED TWENTY-NINE

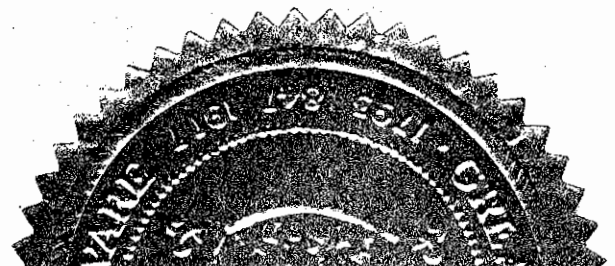
TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES
RE: REVISION OF EXECUTIVE ORDERS NUMBER ONE AND TEN
REQUIRING FINANCIAL DISCLOSURE FOR CERTAIN STATE
OFFICIALS

WHEREAS, immediately upon being sworn into office in
January 1977 I issued Executive Order Number One which required
certain public officials to file annual reports disclosing the
source of directly and constructively controlled financial
interests;

WHEREAS, Executive Order Number One, as subsequent
amended by Executive Order Number 10, has continued in force and
effect throughout my administration; and

WHEREAS, numerous employees of the executive branch have
faithfully and timely filed disclosure forms during the past six

Secretary of State



NOW THEREFORE, I, Pierre S. du Pont IV by the authority vested in me as Governor of the State of Delaware, do hereby declare and order that:

1. Executive Order Number One, dated January 18, 1977, as amended by Executive Order Number Ten, dated March 12, 1977, are hereby rescinded effective February 15, 1984.

2. All members of the Executive Branch of government who are covered by the provisions of House Substitute 1 for House Bill 83, as amended, are directed to comply fully with the requirements of that legislation.

3. Members of my executive staff, other than secretarial and clerical staff, are hereby directed and required to file annual disclosure forms as though they were covered by the terms of House Substitute 1 for House Bill 83, as amended.

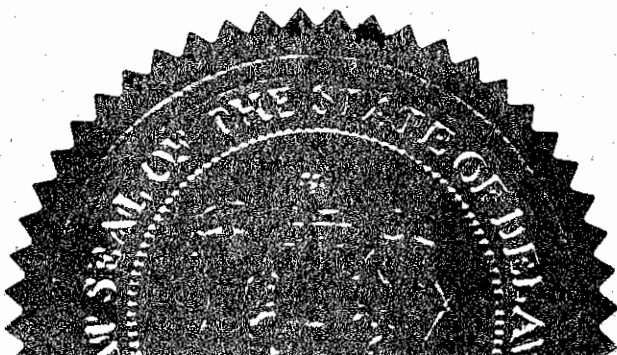
4. All individuals nominated by me to boards and commissions of the State who require Senate confirmation continue to be required furnish to me financial disclosure forms which will be submitted to the Senate with their nominations.

5. Finally, those employees of the Executive Branch who have voluntarily filed annual disclosure forms pursuant to Executive Orders One and Ten are hereby commended for their compliance with the Orders.

Approved this 4th day of July,
1983.


Governor

ATTEST:



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
FINANCIAL DISCLOSURE REPORT

Reference: Executive Order Number 1
Executive Order Number 10

INSTRUCTIONS

1. Each public officer as defined in Executive Order No. 1, dated January 18, 1977, and Executive Order No. 10, dated March 10, must complete and return this form to the Secretary of State on or before April 30, 1977, and each year thereafter on the same date.
2. By the terms of Executive Orders Nos. 1 and 10, members of the Delaware National Guard, excepting the Adjutant General, and employees of the various public school districts and institutions of higher learning are exempt from the filing requirements.
3. The purpose of this filing requirement is to disclose the source and nature of financial interests held by those reporting. Accordingly, it is not necessary for any public employee to specify the dollar value of any income received or financial interest held.
4. Each person shall include any interest or income source which is constructively controlled by the person reporting. Any interest or income source of a spouse or child of the person reporting shall be presumed to be constructively controlled.

DISCLOSURE

1. List the name, instrument and nature of ownership, and any position of management held in any business entity in which the ownership is in excess of \$1,000 fair market value as of December 31, 1976 or from which income of \$1,000 or more was derived during the preceding calendar year, or which might reasonably be expected to be derived during the current calendar year. Do not list any time or demand deposit in a financial institution, or any debt instrument having a fixed yield unless it is convertible to an equity instrument.

2. List the name, address, and type of practice of any professional organization, in which the person reporting, or anyone whose interest is constructively controlled by the person reporting, is an officer, director, or partner, or serves in any advisory capacity, from which income of \$1,000 or more was derived during the preceding calendar year, or which might reasonably be expected to be derived during the current calendar year. Individual clients of the professional organization need not be listed.

3. List the source of each of the following items received during the preceding calendar year, or which might reasonably be expected to be derived during the current calendar year:

(a) Any income for services rendered (other than from the State of Delaware) exceeding \$1,000.

(b) Any capital gain from a single source exceeding \$1,000 other than from the sale of a residence occupied by the person reporting.

(c) Reimbursement for expenditures (other than from the State of Delaware) exceeding \$1,000 in each instance.

(d) Honorariums from a single source aggregating \$300 or more.

4. List each creditor to whom the person reporting was indebted for a period of ninety consecutive days or more during the preceding calendar year in an aggregate amount in excess of \$5,000.

I HEREBY CERTIFY that I have read the foregoing report, and that, to the best of my knowledge and belief, it is true, correct, and complete. I further certify that I have not and will not hereafter transfer any assets, interests or property while retaining an equitable interest therein for the purpose of concealing said assets, interest or property from disclosure.

C. Executive Order

The only Executive Order relative to A Guide on Ethical Standards was issued by Governor Carvel on September 25, 1963. A copy is attached hereto as Exhibit "A". Since the various code provisions were enacted subsequent to this Order, it now has little applicability.

D. Departmental Regulations

Keith Brady, Counsel to the Governor, is currently compiling the various departmental regulations relating to ethical standards and procedures in each department. He advises the regulations are very detailed for some departments while other departments may only have minimal regulations. For purposes of this memorandum said regulations have not been reviewed.

E. State Constitution

Article III of the State Constitution addresses to the Executive Branch powers and duties. Sections 10, 11, and 13 address certain offices or removal of officers but a standard of conduct is not specified.

Article VI of the State Constitution, Section 2 specifies the ground for impeachment:

The Governor and all other civil officers under this State shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office. Judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust or profit, under this State; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment and punishment according to law.

PART II

LAWS AFFECTING ALL PUBLIC SERVANTS

A. Criminal Code

1. Definition of Public Servant

does this apply to subdivisions?

The Delaware Criminal Code contains laws regarding the conduct of public servants. "Public servants" are defined by 11 Del.C. §1209(4) to be "any officer or employee of the State or any political subdivision thereof, including legislators and judges, and any person participating as juror, advisor, or consultant in performing a governmental function but the term does not include witnesses. This definition includes persons who are candidates for office or who have been elected to office but who have not yet assumed office." Many provisions are directed at misconduct resulting from the improper use of the power of a public office.

2. Laws Governing the Conduct of Public Servants

Public servants are subject to the following provisions:

a. It is both a violation of the Delaware Constitution (Article II, §22) and the Delaware Criminal Code (11 Del.C. §1201) to offer a bribe to a public servant. Similarly, it is a class D felony for a public servant to accept a bribe. 11 Del.C. §1203.

b. A public servant is guilty of receiving a bribe when he solicits, accepts or agrees to accept a personal benefit from another person.

(1) Upon an agreement or understanding that his vote, opinion, judgment, action, decision or exercise of discretion as a public servant will be influenced; or

(2) Upon an agreement or understanding that some person will or may be appointed to public office or designated or nominated as a candidate for public office; or

(3) For having violated his duty as a public servant.

"Personal benefit" is defined broadly by 11 Del.C. §1209 to be:

[Any] gain or advantage to the recipient personally or anything regarded by him as such gain or advantage, including gain or advantage conferred on his behalf or at his request upon another person in whose welfare he is interested but not a gain or advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose.

c. The crime of receiving unlawful gratuities, a class A misdemeanor, occurs when a public servant solicits, accepts or agrees to accept any personal benefit for performing his legislative job, and for which he is not entitled to any special or additional compensation. 11 Del.C. §1206.

d. According to 11 Del.C. §1211, a public servant is guilty of official misconduct, a class A misdemeanor, when, intending to obtain a personal benefit or cause harm to another person:

(1) He knowingly engages in an authorized exercise of his official duties; or

(2) He knowingly fails to perform a duty imposed upon him by law or clearly inherent in the office; or

(3) He performs his official functions in a manner intended to benefit his own property or financial interest where his actions would not have been reasonably justified; or

(4) He knowingly performs his official functions in a way intended to practice discrimination.

e. Under 11 Del.C. §1212 profiteering by a public servant is a class A misdemeanor. Profiteering occurs when the public servant, in contemplation of action by himself or the governmental entity with which he is associated, or in reliance on information acquired in his official capacity which has not been made public:

(1) He acquires a pecuniary interest in any property, transaction or enterprise which may be affected by the official action or information; or

(2) He speculates or wagers on the basis of the official action or information; or

(3) He aids another person to do any of the foregoing acts, intending to gain personal benefit.

B. Financial Disclosures

1. Persons Required to Disclose

Every public officer is required by 29 Del.C. §5813 to file a report disclosing his or her financial interests.

A "public officer" is defined by 29 Del.C. §5812(a) to be:

a. Any person elected to any state office; and

- b. Any person appointed to fill a vacancy in an elective state office; and
- c. Any candidate who has filed for any state office; and
- d. The Research Director and Controller General of the Legislative Council; and
- e. The Chief Justice and Associate Justices of the Supreme Court; and
- f. The Chancellor and Vice-Chancellors of the Court of Chancery; and
- g. The President Judge and Associate Judges of the Superior Court; and
- h. The Chief Judge and Associate Judges of the Family Court; and
- i. The Chief Judge and Resident Judges of the Court of Common Pleas; and
- j. The Chief Judge and Associate Judges of the Municipal Court; and
- k. The Chief Magistrate and justices of the peace; and
- l. The Director of Administrative Office of the Courts and the administrators of Superior Court, Family Court, the Court of Common Pleas, and the Justice of the Peace Court; and
- m. The Public Guardian, the Executive Secretary of the Violent Crimes Compensation Board, the Administrative Coordinator of the Foster Care Review Board; and
- n. All Cabinet Secretaries and persons of equivalent rank within the Executive Branch; and
- o. All division directors and persons of equivalent rank within the Executive Branch; and
- p. The State Election Commissioner and the Administrative Directors and Assistant Administrative Directors of the Department of Elections; and
- q. The State Fire Marshall and the Director of the State Fire School; and
- r. The Adjutant General of the Delaware National Guard.

Elected and appointed officials of political subdivisions of the State, public school districts of the State and state institutions of higher learning shall not be deemed to be public officers within the meaning of [the financial disclosure law].

2. Requirements of Disclosure

In brief, the financial disclosure law requires that all public officers, within 15 days of becoming public officers, disclose information regarding:

(1) Ownership or control of any business enterprise worth more than \$5,000.00 or from which income of more than \$5,000.00 is derived per year; and

(2) The nature of any professional organization in which the public officer holds a management position from which he derives more than \$5,000.00 of income per year; and

(3) Sources of income exceeding \$1,000.00 per year; and

(4) Each creditor to whom a public officer was indebted for ninety or more consecutive days in an aggregate amount more than \$1,000.00.

3. Penalties for Failure to Disclose

Criminal penalties for violating the financial disclosure law are provided by 29 Del.C. §5815. A public officer who willfully fails to file a financial report in violation of 29 Del.C. §5813 shall be guilty of a class B misdemeanor. Any public officer who knowingly files any report required by 29 Del.C. §5813 that is false in any material respect shall be guilty of a class A misdemeanor.

PART III

LAWS AFFECTING LOCAL OFFICIALS AND EMPLOYEES

The conduct of local officials and employees is regulated by State law to the extent they are "Public Servants" as defined by 11 Del.C. §1209(4).

Elected and appointed officials of political subdivisions of the State, public school districts of the State and state institutions of higher learning are not deemed public officers within the meaning of the financial disclosure law. See Subchapter II, Chapter 58, Title 29 of the Delaware Code.

Generally, each local political subdivision of the State could enact its own ordinance relating to its Code of Conduct. Kent County Levy Court has adopted a general Ethics Code. New Castle County government is currently drafting a new code relating to conduct of officials and employees.

A review of local ordinances has not been undertaken for purposes of this memorandum.

Additionally, certain municipal charters may have provisions relative to allowable and/or not allowable conduct of officials and/or employees. See Newark Charter and limitations upon political activity by City Police Officers.

PART IV

LAWS AFFECTING THE OFFICE OF DELAWARE LEGISLATOR

A. Conduct of a Legislator

The conduct of a Legislator is governed by the Delaware Constitution, various statutes and Senate and House Rules. The

following presents a brief summary of these laws and rules.

1. Delaware Constitution

Article II, Section 9 provides:

"Every person who shall give, offer or promise, directly or indirectly, any money, testimonial, privilege, personal advantage or thing of value to any executive or judicial officer of this State or to any member of either House of the General Assembly for the purpose of influencing him in the performance of any of his official or public duties shall be deemed guilty of bribery, and shall be punished in such manner as shall be provided by law."

Upon conviction of the statutory crime of bribery, an individual would be prohibited by this Constitutional provision from holding public office. King v. State, Del.Supr., 203 A.2d 74 (1964).

Article XIV, Section 1, the oath for members of the General Assembly and other public officers, requires a Legislator to swear or affirm, that:

I, (name), do proudly swear (or affirm) to carry out the responsibilities of the office of (name of office) to the best of my ability, freely acknowledging that the powers of this office flow from the people I am privileged to represent. I further swear (or affirm) always to place the public interests above any special or personal interests, and to respect the right of future generations to share the rich historic and natural heritage of Delaware. In doing so I will always uphold and defend the Constitution of my Country and my State, so help me God."

2. Elections Law

Under statutes regulating elections and the conduct of persons involved in elections:

a. A Legislator as candidate for State Senator or Representative may not make any written pledge to give or

withhold his vote on any proposed law or legislation. Likewise, no person may seek to influence a candidate upon any proposed law or legislation by offer or promise of a vote or votes or support at any primary election or general election. Criminal penalties are provided of imprisonment for not less than one month or more than two years and a fine of between \$50.00 and \$1,000.00. 15 Del.C. §5143.

b. A Legislator has the responsibility as a candidate to keep full and complete records of all contributions received and all expenditures made by, or on behalf of him. Such records must be retained for one full year following the election. It is the candidate's duty to file the contribution and expenditure reports required by 15 Del.C. Chapter 80, and to report immediately to the State Election Commissioner any attempt to make a contribution or demand an expenditure prohibited by said Chapter.

c. A Legislator as a candidate for office is subject to prohibitions concerning amounts of money accepted as contributions from individuals and is subject to various provisions concerning lawful expenditures and campaign literature. 15 Del.C., §8004 and 8005.

Violation of the provisions described in Items b. and c. above carry a prison term not to exceed six months, a fine not to exceed \$500.00 and such other conditions as a Court may order.

3. House and Senate Rules

Each House of the Legislature is empowered to determine the rules of its own proceedings. Del.Const. Art. II, §9. Pursuant to this constitutional authority, both Houses have adopted rules which govern the conduct of their members in various legislative proceedings.

In the House, the Speaker presides and is responsible for preserving order and decorum. House Rule 4(a). In the Senate, the Presiding Officer or any Senator may call to order a Senator who transgresses the rules of the Senate in speaking or otherwise. Senate Rule 17(d).

The House of Representatives has adopted Rule 16(a)(1)(A) which provides that:

A member who has a personal or private interest in any measure or Bill pending before the House shall disclose the fact and shall not participate nor vote thereon... A Bill is an interest which tends to impair a member's independence of judgment in the performance of his or her duties with respect to that measure or Bill.

House Rule 16(a)(1)(B) states:

A member has an interest which tends to impair his or her independence of judgment in the performance of his or her legislative duties with regard to any Bill or measure when, (i) the enactment or defeat of the measure or Bill would result in a financial benefit or detriment to accrue to the member or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, (ii) the member or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure or Bill to a greater extent than like enterprises or other interest in the same

enterprise, or (iii) a person required to register as a legislative agent pursuant to Chapter 16 of Title 29 of the Delaware Code is a close relative of the legislator and that person acts to promote, advocate, influence or oppose the measure or Bill.

House Rule 32(a) establishes the House Ethics Committee.

House Rule 32(b) delineates the powers and duties of the Ethics Committee:

a. To recommend to the House from time to time such rules of conduct for members of the House as it shall deem appropriate.

b. To issue written advisory opinions upon the request of any member as to the applicability of any Rule of Legislative Conduct to any particular fact situation;

c. To investigate any alleged violation by a member of any Rule of Legislative Conduct and, after notice and hearing, to recommend to the House by Resolution such disciplinary action as it may deem appropriate;

d. To report to the appropriate federal or State authorities any substantial evidence of a violation by any member of any law involving a Rule of Legislative Conduct which may come to its attention in connection with any proceeding whether advisory or investigative;

e. To maintain a file of its proceedings and advisory opinions with a view toward achieving consistency of opinions and recommendations. Upon the request of a legislator involved in an advisory opinion, to publish that advisory opinion;

f. To follow the procedural rules specified in Rule 59 and to establish such other procedural rules as shall not be inconsistent with the rules prescribed by the House;

g. To act only upon a majority vote of its members;

h. Such other duties and responsibilities as may be assigned by the House from time to time.

B. Conflicts of Interest Affecting Legislators

This Part discusses existing constitutional provisions relating to conflicts of interest by members of the General Assembly. Title 29 of the Delaware Code, Chapter 58, Subchapter 1, provides a code of ethics and prohibitions against certain conflicts of interest for State employees but exempts from its provisions members of the General Assembly, Justices of the Supreme Court, and judges of any court, the Chancellor, Vice Chancellors, justices of the peace and the Directors of the Solid Waste Authority. There are no statutory provisions in the Delaware Code applicable to the members of the General Assembly regarding conflicts of interest.

Article II, Section 20, of the Delaware Constitution provides that:

Any member of the General Assembly who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to the House of which he is a member and shall not vote thereon.

On June 19, 1986, the House approved H.B. 741 which would define "a personal or private interest." Additionally H.B. 741 would direct the establishment of an Ethics Committee in the

House and Senate which would give advisory opinions concerning potential violations of this Act. The Senate did not approve H.B. 741. Both bills died upon the end of the 133rd General Assembly and to date similar bills have not been enacted.

Article II, Section 14, prohibits holding dual office or having an interest in any Army or Navy contracts:

No Senator or Representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased during such time. No member of Congress, nor any person holding any office under this State, or the United States, except officer usually appointed by the courts of justice respectively, attorneys-at-law and officers of the militia, holding no disqualifying office, shall during his continuance in Congress or in office be a Senator or Representative; nor shall any person while concerned in any army or navy contract be a Senator or Representative.

C. Registration of Legislative Agents

Delaware law concerning registration of legislative agents is found in 29 Del.C. Chapter 16. The law is administered by Legislative Council.

1. Under the law, a "Legislative Agent" must register with Legislative Council and file an authorization from his employer's Legislative Agent.

2. No employer may hire a Legislative Agent under a Compensation Agreement which permits more than one-half of the compensation to be dependent upon the outcome of any legislative action of the General Assembly.

3. Each calendar quarter, a Legislative Agent must file a written report containing the total expenditures during the reporting period or all direct expenditures, costs or values, whichever is greater for members of the General Assembly.

4. Failing to register as Legislative Agent, or knowingly filing false information in any registration authorization or report is a class C misdemeanor.

PART V

LAWS AFFECTING THE JUDICIARY

The conduct of members of the Judiciary is governed by the Delaware Constitution, the Rules of the Supreme Court, The Delaware Judge's Code of Judicial Conduct, and various statutes. The following is a brief summary of those rules and regulations, and the procedures which exist for their enforcement.

A. Delaware Constitution

Article IV, Section 37 of the Delaware Constitution creates the Court on the Judiciary which is empowered to censure, suspend or remove a judicial officer for, "willful misconduct in office, willful and persistent failure to perform his duties, the commission after appointment of an offense involving moral turpitude, or other persistent misconduct in violation of the Canons of Judicial Ethics as adopted by the Delaware Supreme Court from time to time." Del.Const. Art. IV, §37.

B. Rules of the Courts

The Canons of Judicial Ethics were replaced in 1974 by The Code of Judicial Conduct. Supreme Court Rule 84 states, The

conduct of all judges of the courts of this State...shall be governed by The Delaware Judge's Code of Judicial Conduct promulgated by order of the Court date January 16, 1974, and as thereafter amended." Additionally, The Code of Judicial Conduct is made applicable to the Chancellor and Vice-Chancellors by Chancery Court Rule 169.

C. The Delaware Judge's Code of Judicial Conduct

1. Canon 1 of The Code of Judicial Conduct states that the purpose of the Code is to preserve the integrity and independence of the Judiciary, and that all provisions of the Code should be construed and applied to further that objective. Canon 1 requires that judges maintain, enforce, establish and themselves observe high standards of conduct.

2. Canon 2 requires that a judge avoid all impropriety or appearances of impropriety since public confidence in the Judiciary is quickly eroded by a judge's irresponsible or improper conduct. Because a judge is the subject of constant public scrutiny, he must freely and willingly accept restrictions on his conduct that might be viewed a burdensome by the ordinary citizen. A judge must conduct himself in a manner which promotes public confidence in the integrity and impartiality of th judiciary. He should obey all laws and not convey or permit others to convey that they are in a special position to influence him. Additionally Canon 2 states that a judge should not voluntarily testify as a character witness since this may be misunderstood to be an official testimony.

3. Canon 3 states that a judge should perform his duties of office impartially and diligently. The judicial duties of a judge should take precedence over all his other activities. A judge should always maintain decorum and order in the proceedings before him. In performing his adjudicative duties a judge should remain unswayed by partisan interests, public clamor and fear of criticism. Additionally, a judge should not make unnecessary appointments. He should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism. A judge should neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. A judge should abstain from public comment about a pending or impending proceeding.

In order to preserve the public confidence in the integrity of the judicial system, a judge should disqualify himself in any proceeding in which his impartiality might reasonably be questioned. An illustrative, and by no means exhaustive, list of situations which might reasonably cast doubt on a judge's ability to render an impartial decision would include matters in which the judge had a financial interest, matters which involve family members or former colleagues, and matters which are to be litigated by family members or former colleagues.

In order to avoid potential appearances of conflicting interests a judge has a duty to inform himself about his personal and fiduciary financial interests. He must also make

reasonable efforts to inform himself of the financial interest of his spouse and minor children.

4. Canon 4 states that a judge is allowed to participate in quasi-judicial activities so long as his participation in such activities casts no doubt on his capacity to decide impartially any issue that may come before him. He may serve as a member, officer or director of an organization or governmental agency devoted to the improvement of the law, the legal system and the administration of justice. However he should not personally participate in the fund-raising activities of such organization.

5. Canon 5 allows a judge to participate in extra judicial activities, but only if such avocational activities do not detract from the dignity of his office or interfere with his judicial duties. A judge may participate in civic or charitable organizations only if it is not likely that such organization could be engaged in proceedings which would ordinarily come before him. A judge should neither solicit funds for, nor give investment advice to such organization.

Regarding a judge's financial activities, Canon 5 prohibits a judge from entering into business dealings which may reflect adversely on his impartiality, interfere with the proper performance of his judicial duties or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves. A judge should not serve as an officer, director, manager or employee of any business. A judge should manage his financial interests in such a way as to

minimize the number of cases in which he must disqualify himself. Neither a judge nor a member of his family should accept a gift or a loan from anyone other than a relative, unless such gift has a value of less than \$100.00 and the donor is not a party to a proceeding before him. A judge may receive books supplied by publishers on complimentary bases for official use. A judge may not use information acquired in his official capacity in any financial dealing.

6. Canon 6 provides for the acceptance, by a judge, of compensation and reimbursement of expenses for quasi-judicial and extra-judicial activities permitted by the Code. A judge may not accept such payments if such acceptance would give the appearance of influencing the judge or otherwise give the appearance of impropriety. Such payments are subject to the following restrictions:

a. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity. Moneys received by a judge for his investments are not compensation and are therefore not subject to this limitation;

b. Expense reimbursement must be limited to the amount of the actual expense incurred, any payment in excess is consideration;

c. Each year a judge must file a report disclosing the amount, source and date of compensation received each year. Such report must be filed with the clerk of the Supreme Court on

or before April 15 of each year.

7. Canon 7 requires that a judge refrain from political activity inappropriate to his judicial office. A judge should not:

- a. hold any office with any political organization;
- b. endorse a candidate for public office;
- c. solicit funds for a political organization;
- d. contribute to a political party (a contribution by a judge's spouse shall be deemed an indirect contribution by the judge, unless such spouse is individually active in political affairs.)

Canon 7 requires that a judge resign his office if he becomes a candidate for public office. A judge may only engage in political activity on behalf of measures to improve the law, the legal system, or the administration of justice.

D. Enforcement of Laws Regulating the Conduct of Judges

As stated in the Delaware Constitution, Article IV, Section 37, the Court on the Judiciary is empowered to take appropriate disciplinary actions against judges for inappropriate behavior in office. Briefly, the procedure for taking disciplinary action against a judge is as follows:

1. A complaint alleging misconduct by a judge must be filed with the Clerk of the Supreme Court;
2. A Preliminary Investigation Committee, made up of members of the bar chosen by the Chief Justice, investigates the complaint. If the Committee finds that the complaint alleges no

misconduct the complaint is dismissed;

3. If it finds that misconduct is alleged, the judge shall be notified of the allegation and be afforded a reasonable opportunity to be heard by the Committee. At this time an attorney will not be provided. The Committee shall then file a report with the Clerk with its recommendations as to the disposition of the case. If the Committee concludes that no misconduct has been alleged there shall be no further action on the complaint;

4. If the Committee finds that there is probable cause to believe that misconduct has occurred or a hearing shall be held before a Board of Examiners. An accused judge is to be afforded all rights required by due process, including the right to an attorney and the right to cross examine witnesses. If the Board finds that no misconduct has occurred an order shall be entered dismissing the complaint;

5. If the Board finds that misconduct did indeed occur there will be a hearing before the Court on the Judiciary. In this hearing the procedures and practice generally prevailing in the Delaware Supreme Court shall be followed. After the hearing the Court shall render its opinion either dismissing the charges or ordering the appropriate disciplinary measures.

NOTATION: References to felony or misdemeanor classifications are based on those applicable as of the date of this memorandum and do not reflect the changes made by the Truth in Sentencing Legislation that becomes effective June 30, 1990.

§5808. State Ethics Commission; Establishment, Membership, Offices.

(a) There is hereby established the State Ethics Commission to administer and implement this subchapter. The Commission shall consist of seven members appointed by the Governor with the concurrence of the Senate. Not more than four members shall be registered with the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for any such office. No member shall hold any political party office or an office in any political campaign. Members of the Commission may be removed by the Governor, with the concurrence of the Senate, for substantial neglect of duty, gross misconduct in office or violation of this law.

(b) A member of the Commission shall be appointed for a term of office of seven years and until his successor has been appointed and has qualified, except that the members first appointed shall be appointed for terms of office of one, two, three, four, five, six and seven years, respectively, and until their successors have been appointed and have qualified. No member shall serve for more than one full seven-year term. When a vacancy occurs in the membership of the Commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as original appointments.

(c) The Commission shall elect a chairman from among its membership. Four members of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least four members. Otherwise the Commission may delegate authority to the chairman to act for the Commission between meetings.

(d) Each member of the Commission shall be compensated at the rate of \$100.00 for each day devoted to the performance of his official duties. Each member of the Commission shall be reimbursed for reasonable and necessary expenses incurred in the performance of official duties.

(e) The Attorney General shall provide legal counsel to the Commission and shall be the legal representative of the Commission in connection with its duties hereunder.

(f) The Attorney General shall investigate complaints referred by the Commission and shall prosecute all complaints before the Commission. The investigatory and prosecutorial functions of the Attorney General shall be performed by personnel who are not serving as legal counsel to the Commission.

(g) The principal office of the Commission shall be in Dover but it may meet, and exercise its power, at any other place in the state.

§5809. State Ethics Commission; Power and Duties.

(a) The powers and duties of the Ethics Commission shall be as follows:

(1) To recommend to the General Assembly from time to time such rules of conduct for public employees and officials as it shall deem appropriate.

(2) To issue written advisory opinions upon the request of any state employee, state officer, honorary state official or state agency as to the applicability of this subchapter to any particular fact situation.

(3) To refer to the Attorney General to investigate any alleged violation of this subchapter and, after notice and hearing, to recommend by resolution, such disciplinary action as it may deem appropriate, to the state agency employing the state employee or state officer, the state agency with which the honorary state official is associated, the agency or official who appointed such officer or official, or other appropriate official or agency as the Commission shall determine. The Commission may also dismiss, without reference to the Attorney General, any complaint which the Commission determines is frivolous or fails to state a violation.

(4) To report to the appropriate federal or State authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding whether advisory or disciplinary.

(5) To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of Sections 5807(b) and (d) and 5810(h).

(6) To follow the procedural rules specified in Section 5810 of this Title and to establish such other procedural rules as shall not be inconsistent with the rules prescribed therein.

(7) To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Commission's duties or exercise of its powers.

(8) To prescribe forms for reports, statements, notices and other documents required by law.

(9) To prepare and publish manuals and guides explaining the duties of individuals covered by this subchapter; and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(10) To provide assistance to state agencies, employees and officials in administering the provisions of this law.

(11) To prepare reports and studies to advance the purposes of this subchapter.

(12) To contract for any services which cannot satisfactorily be performed by the office of the Attorney General.

(13) To request appropriate state agencies to provide such professional assistance as it may require in the discharge of its duties.

§5810. State Ethics Commission; Complaints; Hearings; Dispositions.

(a) Upon the sworn complaint of any person or on its own initiative, the Commission may refer to the Attorney General for investigation any alleged violations of this subchapter. The Attorney General shall be the prosecuting attorney in all disciplinary proceedings before the Commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of Section 5810(h).

(b) A member of the Commission shall be ineligible to participate, as a member of the Commission, in any commission proceeding relating to his or her conduct. A member of the Commission who has been found by the Commission to have violated this subchapter shall be ineligible to serve again as a member of the Commission.

(c) A member of the Commission may disqualify himself from participating in any investigation of the conduct of any person upon submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself.

(d) With respect to any violation with which a person has been charged and which the Commission has determined as

proved, the Commission may take any one or more of the following actions:

(1) Issue a written reprimand or censure of that person's conduct.

(2) With respect to a state employee or state officer, other than an elected official, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by Chapter 59 of this Title but within the limits of the Constitution and other laws of the State.

(3) With respect to an honorary state official, recommend that appropriate action be taken to remove the official from office.

Comment: These penalty provisions are substantially the same as those currently available to the State Personnel Commission under §5808(c)(4).

(e) In any proceeding before the Commission, upon the request of any person charged with a violation of this subchapter, such person shall be permitted to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of his defense.

(f) In any proceeding before the Commission, if the Attorney General or the Commission at any time receives any exculpatory information respecting an alleged violation against any person, it shall forthwith make such information available to such person.

(g) Any person charged with a violation of this subchapter may apply to the Commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on his behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant (or is reasonably calculated to lead to the discovery of relevant evidence) and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(h) (i) All proceedings before the Commission relating to a violation of this subchapter by a state employee, including the disposition thereof, shall be maintained confidential by the Commission unless public disclosure is requested in writing by the state employee.

(ii) All proceedings before the Commission relating to a violation of this subchapter by a state officer shall be maintained confidential by the Commission unless public disclosure is requested in writing by the state officer or unless the Commission, based on a preliminary inquiry, determines that there is reason to believe that a violation has occurred, and serves upon the alleged violator a statement of the alleged facts of such violation. After the service of such a statement on such person, all proceedings relating thereto shall be open to the public and the statement and any other paper filed thereafter respecting such violation shall be made available for public inspection at reasonable hours.

(iii) All proceedings relating to a violation of this subchapter by an honorary state official shall be maintained confidential by the Commission unless public disclosure is requested in writing by the honorary state official or unless the Commission determines that a violation has occurred and so informs the official. At and after the time of so informing the official, the Commission shall make the record of all proceedings relating thereto available for public inspection at reasonable hours and all subsequent proceedings relating thereto, if any, shall be open to the public.

(iv) Notwithstanding the confidentiality requirements of clauses (i)-(iii) above, the Commission shall make available for public inspection the record of all proceedings relating to any decision of the Commission which is appealed to Superior Court and the Commission shall report to appropriate federal or State authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this subchapter.

(v) The Chairman of the Commission shall, with the approval of the Commission, establish such procedures as in the Chairman's judgment may be necessary to prevent the disclosure of any record of any proceedings or other information received by the Commission or its staff except as permitted by this subchapter.

Comment: Under existing §5808(e) any information concerning an alleged violation of the code of conduct must be maintained confidential until the State Personnel Commission files a complaint. Under this proposed subsection (h), proceedings involving "state employees" must be maintained confidential at all times (just as personnel disciplinary proceedings are exempt from public disclosure under the Freedom of Information Act). Proceedings involving "honorary state officials" would remain confidential unless the Commission finds that a violation has occurred. As under current law, proceedings

involving "state officers" would become public only if the Commission determines that there is reason to believe that a violation has occurred and files a statement of alleged violation with the state officer. Under any circumstances, an affected employee or officer could request public disclosure of any proceedings before the Commission and the Commission would be required to report any substantial evidence of any criminal violation to appropriate federal or state authorities.

§5811. Judicial Review. In the event that the Commission finds that any person has violated any provision of this subchapter, said person shall have a right of appeal to Superior Court of any such finding and of any sanctions imposed with respect thereto by filing a notice of appeal with the Superior Court within 30 days of the final action by the Commission in a particular case. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Commission for further proceedings on the record. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the Commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

Comment: This provision is similar to existing §5808(f) except that it permits judicial review of the finding of any violation by the Commission and it clarifies the scope of judicial review.

Section 2. Code of Conduct Legislation for Local Government Officials. It is the desire of the General Assembly that all local governmental units adopt code of conduct legislation similar to this Act to apply to their public officials. Within two years after the effective date of this Act, the Ethics Commission established hereunder shall report to the General Assembly as to the existence of such legislation and shall make a recommendation to the General Assembly with respect to legislation to be adopted to cover such officials not then covered by legislation similar to this Act.

Section 3. Effective Date. This Act shall become effective six months after it is enacted in accordance with law.

SYNOPSIS: This Act rewrites Subchapter I of Chapter 58 of Title 29 which provides a code of conduct and conflict of interest laws applicable to all state employees and officials except for members of the General Assembly and the judiciary. Detailed

description of this Act is contained in the June 7, 1990 Report to the legislative leadership of the General Assembly from the Delaware State Bar Association's Special Committee on Public Officials' Code of Conduct.

Sponsor: _____

_____ BILL NO. _____

AN ACT TO AMEND CHAPTER 58, TITLE 29, DELAWARE CODE RELATING TO A CODE OF CONDUCT FOR STATE EMPLOYEES, STATE OFFICIALS AND CERTAIN LOCAL GOVERNMENTAL OFFICIALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. State Employees, Officers and Officials' Code of Conduct. Amend Subchapter I, Chapter 58, Title 29, Delaware Code, by striking Subchapter I in its entirety and substituting in lieu thereof the following:

"Subchapter I. State Employees, Officers and Officials' Code of Conduct.

§5801. Short Title.

This Subchapter shall be known and may be cited as the State Employees, Officers and Officials' Code of Conduct.

§5802. Legislative Findings and Statement of Policy.

The General Assembly finds and declares:

(1) In our democratic form of government, the conduct of officers and employees of the State must hold the respect and confidence of the people. They must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

(2) To ensure propriety and to preserve public confidence, officers and employees of the State must have the benefit of specific standards to guide their conduct and of some disciplinary mechanisms to guarantee uniform maintenance of those standards. Some standards of this type are so vital to government that violation thereof should subject the violator to criminal penalties.

(3) In our democratic form of government, it is both necessary and desirable that all citizens should be encouraged to assume public office and employment, and that, therefore, the activities of officers and employees of the State should not be unduly circumscribed.

§5803. Construction.

This subchapter shall be construed to promote high standards of ethical conduct in state government.

§5804. Definitions.

For the purposes of this subchapter:

"Close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

"Commission" or "Ethics Commission" means the State Ethics Commission established by this subchapter.

"Compensation" means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by himself or another.

A person has a "financial interest" in a private enterprise if (i) he has a legal or equitable ownership interest in the enterprise of more than 10% (1% or more in the case of a corporation whose stock is regularly traded on an established securities market) (ii) he is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as an employee, officer, director, trustee or independent contractor; or (iii) he is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

"Matter" means any application, petition, request, business dealing or transaction of any sort.

"Person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

"Private enterprise" means any activity conducted by any person, whether conducted for profit or not for profit and includes the ownership of real or personal property; provided that private enterprise does not include any activity of the State or of any political subdivision or of any agency, authority or instrumentality thereof.

"State" means the State of Delaware and includes any state agency.

"State agency" means any office, department, board, commission, committee, court, school district, board of education and all public bodies existing by virtue of an act of the General Assembly or of the Constitution of the State, excepting only political subdivisions of the State, their agencies and other public agencies not specifically included in this definition which exist by virtue of state law, and whose jurisdiction (i) is limited to a political subdivision of the State or to a portion thereof, or (ii) extends beyond the boundaries of the State.

"State employee" means any person (A) who receives compensation as an employee of a state agency or (B) who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive more than \$5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses); provided that "state employee" does not include (i) members of the General Assembly; (ii) the Chief Justice and Associate Justices of the Supreme Court, (iii) the Chancellor and Vice-Chancellors of the Court of Chancery, (iv) the President Judge and Associate Judges of Superior Court, (v) the Chief Judge and Associate Judges of Family Court, (vi) the Chief Judge and Resident Judges of the Court of Common Pleas, (vii) the Chief Judge and Associate Judges of Municipal Court, (viii) the Chief Magistrate and Justices of the Peace, (ix) state officers, or (x) honorary state officials.

"State officer" means any person who is required by Subchapter II of this Chapter to file a financial disclosure statement but does not include (i) members of the General Assembly, (ii) the Chief Justice and Associate Justices of the Supreme Court, (iii) the Chancellor and Vice-Chancellors of the Court of Chancery, (iv) the President Judge and Associate Judges of Superior Court, (v) the Chief Judge and Associate Judges of Family Court, (vi) the Chief Judge and Resident Judges of the Court of Common Pleas, (vii) the Chief Judge and Associate Judges of Municipal Court or (viii) the Chief Magistrate and Justices of the Peace.

"Honorary state official" means a person who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive not more than \$5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses).

§5805. Prohibitions Relating To Conflicts Of Interest.

(a) Restrictions on exercise of official authority.

(i) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter pending before the State in which he has a personal or private interest provided that, upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private

interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his duties with respect to that matter.

(ii) A person has an interest which tends to impair his independence of judgment in the performance of his duties with respect to any matter when:

(a) any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, or

(b) the person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

(iii) In any case where a person has a statutory responsibility with respect to action or non-action on any matter where he has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter provided that, promptly after becoming aware of such conflict of interest, he files a written statement with the Ethics Commission fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(b) Restrictions On Representing Another's Interest Before The State.

(i) No state employee, state officer or honorary state official may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer or official is associated by employment or appointment.

(ii) No state officer may represent or otherwise assist any private enterprise with respect to any matter before the State.

(iii) This subsection shall not preclude any state employee, state officer or honorary state official from appearing before the State or otherwise assisting any private enterprise with respect to any matter in the exercise of his official duties.

(c) Restrictions On Contracting With The State. No state employee, no state officer and no private enterprise in

which a state employee or state officer has a legal or equitable ownership of more than 10% (more than 1% in the case of a corporation whose stock is regularly traded on an established securities market) shall enter into any contract with the State (other than an employment contract) unless such contract was made or let after public notice and competitive bidding; provided that such notice and bidding requirements shall not apply to contracts not involving more than \$2,000 per year if the terms of such contract reflect arms' length negotiations.

(d) Post Employment Restrictions. No person who has served as a state employee, state officer or honorary state official shall represent or otherwise assist any private enterprise on any matter involving the State, for a period of two years after termination of his employment or appointed status with the State, if he gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of his official duties as a state employee, officer or official.

(e) Unauthorized Disclosure Of Confidential Information. No person shall disclose any information required to be maintained confidential by the Commission under Sections 5806(d), 5807(b) or (d) or 5810(h).

(f) Criminal Sanctions.

(i) Any person who knowingly or willfully violates any provision of this Section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than one year and by a fine not to exceed \$10,000.

(ii) A prosecution for a violation of this Section shall be subject to the time limitations of Title 11 Delaware Code Section 205.

(iii) The Superior Court shall have exclusive jurisdiction over prosecution for all criminal violations of this Section.

(g) Contracts Voidable By Court Action. In addition to any other penalty provided by law, any contract entered into by any state agency in violation of this subchapter shall be voidable by the state agency; provided that in determining whether any court action should be taken to void such a contract pursuant to this subsection, the state agency shall consider the interests of innocent third parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the state agency involved has, or should have, knowledge of such violation.

§5806. Code of Conduct.

(a) Each state employee, state officer and honorary state official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is engaging in acts which are in violation of his public trust and which will not reflect unfavorably upon the State and its government.

(b) No state employee, state officer or honorary state official shall have any interest in any private enterprise nor shall he incur any obligation of any nature which is in substantial conflict with the proper performance of his duties in the public interest. No state employee, state officer or honorary state official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

(i) impairment of independence of judgment in the exercise of official duties;

(ii) an undertaking to give preferential treatment to any person;

(iii) the making of a governmental decision outside official channels; or

(iv) any adverse effect on the confidence of the public in the integrity of the government of the State.

(c) No state employee, state officer, or honorary state official shall acquire a financial interest in any private enterprise which he has reason to believe may be directly involved in decisions to be made by him in an official capacity on behalf of the State.

(d) Any state employee or state officer who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, any state agency (and any honorary state official who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, the state agency on which he serves as an appointee) shall file with the Ethics Commission a written statement fully disclosing the same. Such disclosure shall be confidential and the Ethics Commission shall not release such disclosed information, except as may be necessary for the enforcement of this subchapter. The filing of such disclosure statement shall be a condition of commencing and continuing employment or appointed status with the State.

(e) No state employee, state officer or honorary state official shall use his public office to secure unwarranted privileges, private advancement or gain.

(f) No state employee, state officer or honorary state official shall engage in any activity beyond the scope of his public position which might reasonably be expected to require or induce him to disclose confidential information acquired by him by reason of his public position.

(g) No state employee, state officer or honorary state official shall, beyond the scope of his public position, disclose confidential information gained by reason of his public position nor shall he otherwise use such information for personal gain or benefit.

(h) No state employee, state officer or honorary state official, in the course of his public responsibilities, shall use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a state agency.

§5807. Waivers of Restrictions and Advisory Opinions.

(a) Notwithstanding the provisions of Sections 5805 and 5806 of this Title, upon the written request of any state agency or of any individual who is or was a state employee, state officer or honorary state official, the Ethics Commission may grant a waiver to the specific prohibitions contained therein if the Ethics Commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this chapter or would result in an undue hardship on any employee, officer, official or state agency. Any such waiver may be granted only by written decision of the Ethics Commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision provided there was a full disclosure to the Ethics Commission of all material facts necessary for the waiver decision.

(b) Any application for a waiver, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that (i) public disclosure shall be made by the Commission upon the written request of the applicant, (ii) the Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this subchapter (iii) the Commission shall report to appropriate federal and State authorities substantial evidence of any criminal violation which may come to its attention, and (iv) in the event that a waiver is granted, the waiver decision and the record of all proceedings relating thereto shall be open to public inspection.

(c) Upon the written request of any state employee, state officer, honorary state official or state agency, the Commission may issue an advisory opinion as to the applicability

of this subchapter to any particular fact situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Ethics Commission of all material facts necessary for the advisory opinion.

(d) Any application for an advisory opinion, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that (i) public disclosure shall be made by the Commission upon the written request of the applicant, (ii) the Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this subchapter and (iii) the Commission shall report to appropriate federal and state authorities substantial evidence of any criminal violation which may come to its attention.

§5808. State Ethics Commission; Establishment, Membership, Offices.

(a) There is hereby established the State Ethics Commission to administer and implement this subchapter. The Commission shall consist of seven members appointed by the Governor with the concurrence of the Senate. Not more than four members shall be registered with the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for any such office. No member shall hold any political party office or an office in any political campaign. Members of the Commission may be removed by the Governor, with the concurrence of the Senate, for substantial neglect of duty, gross misconduct in office or violation of this law.

(b) A member of the Commission shall be appointed for a term of office of seven years and until his successor has been appointed and has qualified, except that the members first appointed shall be appointed for terms of office of one, two, three, four, five, six and seven years, respectively, and until their successors have been appointed and have qualified. No member shall serve for more than one full seven-year term. When a vacancy occurs in the membership of the Commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as original appointments.

(c) The Commission shall elect a chairman from among its membership. Four members of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least four members. Otherwise the Commission may delegate authority to the chairman to act for the Commission between meetings.

(d) Each member of the Commission shall be compensated at the rate of \$100.00 for each day devoted to the performance of his official duties. Each member of the Commission shall be reimbursed for reasonable and necessary expenses incurred in the performance of official duties.

(e) The Attorney General shall provide legal counsel to the Commission and shall be the legal representative of the Commission in connection with its duties hereunder.

(f) The Attorney General shall investigate complaints referred by the Commission and shall prosecute all complaints before the Commission. The investigatory and prosecutorial functions of the Attorney General shall be performed by personnel who are not serving as legal counsel to the Commission.

(g) The principal office of the Commission shall be in Dover but it may meet, and exercise its power, at any other place in the state.

§5809. State Ethics Commission; Power and Duties.

(a) The powers and duties of the Ethics Commission shall be as follows:

(1) To recommend to the General Assembly from time to time such rules of conduct for public employees and officials as it shall deem appropriate.

(2) To issue written advisory opinions upon the request of any state employee, state officer, honorary state official or state agency as to the applicability of this subchapter to any particular fact situation.

(3) To refer to the Attorney General to investigate any alleged violation of this subchapter and, after notice and hearing, to recommend by resolution, such disciplinary action as it may deem appropriate, to the state agency employing the state employee or state officer, the state agency with which the honorary state official is associated, the agency or official who appointed such officer or official, or other appropriate official or agency as the Commission shall determine. The Commission may also dismiss, without reference to the Attorney General, any complaint which the Commission determines is frivolous or fails to state a violation.

(4) To report to the appropriate federal or State authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding whether advisory or disciplinary.

(5) To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of Sections 5807(b) and (d) and 5810(h).

(6) To follow the procedural rules specified in Section 5810 of this Title and to establish such other procedural rules as shall not be inconsistent with the rules prescribed therein.

(7) To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Commission's duties or exercise of its powers.

(8) To prescribe forms for reports, statements, notices and other documents required by law.

(9) To prepare and publish manuals and guides explaining the duties of individuals covered by this subchapter; and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(10) To provide assistance to state agencies, employees and officials in administering the provisions of this law.

(11) To prepare reports and studies to advance the purposes of this subchapter.

(12) To contract for any services which cannot satisfactorily be performed by the office of the Attorney General.

(13) To request appropriate state agencies to provide such professional assistance as it may require in the discharge of its duties.

§5810. State Ethics Commission; Complaints; Hearings; Dispositions.

(a) Upon the sworn complaint of any person or on its own initiative, the Commission may refer to the Attorney General for investigation any alleged violations of this subchapter. The Attorney General shall be the prosecuting attorney in all disciplinary proceedings before the Commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of Section 5810(h).

(b) A member of the Commission shall be ineligible to participate, as a member of the Commission, in any commission proceeding relating to his or her conduct. A member of the Commission who has been found by the Commission to have violated this subchapter shall be ineligible to serve again as a member of the Commission.

(c) A member of the Commission may disqualify himself from participating in any investigation of the conduct of any person upon submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself.

(d) With respect to any violation with which a person has been charged and which the Commission has determined as proved, the Commission may take any one or more of the following actions:

(1) Issue a written reprimand or censure of that person's conduct.

(2) With respect to a state employee or state officer, other than an elected official, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by Chapter 59 of this Title but within the limits of the Constitution and other laws of the State.

(3) With respect to an honorary state official, recommend that appropriate action be taken to remove the official from office.

(e) In any proceeding before the Commission, upon the request of any person charged with a violation of this subchapter, such person shall be permitted to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of his defense.

(f) In any proceeding before the Commission, if the Attorney General or the Commission at any time receives any exculpatory information respecting an alleged violation against any person, it shall forthwith make such information available to such person.

(g) Any person charged with a violation of this subchapter may apply to the Commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on his behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant (or is reasonably calculated to lead to

the discovery of relevant evidence) and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(h) (i) All proceedings before the Commission relating to a violation of this subchapter by a state employee, including the disposition thereof, shall be maintained confidential by the Commission unless public disclosure is requested in writing by the state employee.

(ii) All proceedings before the Commission relating to a violation of this subchapter by a state officer shall be maintained confidential by the Commission unless public disclosure is requested in writing by the state officer or unless the Commission, based on a preliminary inquiry, determines that there is reason to believe that a violation has occurred, and serves upon the alleged violator a statement of the alleged facts of such violation. After the service of such a statement on such person, all proceedings relating thereto shall be open to the public and the statement and any other paper filed thereafter respecting such violation shall be made available for public inspection at reasonable hours.

(iii) All proceedings relating to a violation of this subchapter by an honorary state official shall be maintained confidential by the Commission unless public disclosure is requested in writing by the honorary state official or unless the Commission determines that a violation has occurred and so informs the official. At and after the time of so informing the official, the Commission shall make the record of all proceedings relating thereto available for public inspection at reasonable hours and all subsequent proceedings relating thereto, if any, shall be open to the public.

(iv) Notwithstanding the confidentiality requirements of clauses (i)-(iii) above, the Commission shall make available for public inspection the record of all proceedings relating to any decision of the Commission which is appealed to Superior Court and the Commission shall report to appropriate federal or State authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this subchapter.

(v) The Chairman of the Commission shall, with the approval of the Commission, establish such procedures as in the Chairman's judgment may be necessary to prevent the disclosure of any record of any proceedings or other information received by the Commission or its staff except as permitted by this subchapter.

§5811. Judicial Review. In the event that the Commission finds that any person has violated any provision of this subchapter, said person shall have a right of appeal to Superior Court of any

such finding and of any sanctions imposed with respect thereto by filing a notice of appeal with the Superior Court within 30 days of the final action by the Commission in a particular case. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Commission for further proceedings on the record. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the Commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

Section 2. Code of Conduct Legislation for Local Government Officials. It is the desire of the General Assembly that all local governmental units adopt code of conduct legislation similar to this Act to apply to their public officials. Within two years after the effective date of this Act, the Ethics Commission established hereunder shall report to the General Assembly as to the existence of such legislation and shall make a recommendation to the General Assembly with respect to legislation to be adopted to cover such officials not then covered by legislation similar to this Act.

Section 3. Effective Date. This Act shall become effective six months after it is enacted in accordance with law.

SYNOPSIS: This Act rewrites Subchapter I of Chapter 58 of Title 29 which provides a code of conduct and conflict of interest laws applicable to all state employees and officials except for members of the General Assembly and the judiciary. Detailed description of this Act is contained in the June 7, 1990 Report to the legislative leadership of the General Assembly from the Delaware State Bar Association's Special Committee on Public Officials' Code of Conduct.

[PRELIMINARY]

RULES OF THE STATE ETHICS COMMISSION

Rule 1. Complaints.

(a) A Complaint submitted to the Commission must set forth in simple, concise, and direct statements the following:

(1) the name and address of the party filing the complaint (hereinafter referred to as the "Complainant");

(2) the name of the person alleged to be in violation of the State Employees and Officials' Code of Conduct (hereinafter referred to as the "Respondent");

(3) a statement of each violation, identifying the specific provision alleged to have been violated, divided into counts with each violation representing a separate count; and

(4) the facts alleged to give rise to the violation. The facts supporting the Complaint may be sworn to by any person. When facts are alleged upon the information and belief of the Complainant, the Complaint shall so state and set forth the basis for such information and belief.

All documents in the possession of the Complainant that are relevant to and in support of the allegations shall be appended to the Complaint.

Rule 2. Processing Complaints.

(a) (1) The staff of the Commission shall examine each Complaint submitted to the Commission for compliance with these rules and any other applicable Commission rules.

(2) If the staff determines that a Complaint does not comply with the Commission's Rules, the Complaint shall be returned to the Complainant with a general statement that the Complaint is not in compliance with such rules and a copy of such rules. A Complainant may resubmit a Complaint.

(3) If the staff determines that a Complaint is in compliance with the Commission's rules, the Complaint shall be filed with the Commission and a copy shall be transmitted to each member of the Commission.

(4) The Chairman shall place the Complaint on the Commission agenda for consideration and shall schedule a Commission meeting as soon as practical thereafter.

(A) The Commission shall consider the Complaint and determine if the Complaint should be dismissed because it fails to allege facts which constitute a violation of the State Employees, Officers and Officials' Code of Conduct or if the Complaint merits further inquiry.

(B) The decision under subparagraph (A) of this paragraph shall be transmitted, in writing, to the Complainant and Respondent.

(b) If the Commission determines that the Complaint fails to allege facts which constitute a violation of this subchapter, the Commission shall issue a report of the action taken and a brief statement of the reasons therefor; the Complaint shall be considered dismissed and the Commission shall not take any further action with respect thereto.

Rule 3. Preliminary Inquiry and Statement of Alleged Violation.

(a) (1) If the Commission determines that the allegation of a violation in a Complaint filed with the Commission merits further inquiry, the Commission shall refer the Complaint to the Attorney General for investigation. After such investigation the Attorney General shall present the matter to the Commission with a recommendation either that the Complaint should be dismissed or that the Commission should conduct a preliminary inquiry to determine whether such violation occurred.

(2) If the Commission determines on the basis of the Attorney General's report that the Complaint should be dismissed, the Commission shall issue a report of the action taken together with a statement of the reasons therefor; the Complaint shall be considered dismissed and the Commission shall take no further action with respect thereto. Notice of such action shall be given to both the Complainant and the Respondent.

(3) If the Commission determines on the basis of the Attorney General's report to conduct a preliminary inquiry, in the conduct thereof--

(A) the Respondent shall have an opportunity to present to the Commission, orally or in writing, a statement respecting the allegations with respect to which the inquiry is being held,

(B) the prosecuting attorney may interview witnesses and examine documents and other evidentiary matter,

(C) the Commission may order the testimony of witnesses to be taken under oath, in which event the oath may be administered by a member of the Commission or by any person authorized by a member of the Commission or by any person authorized by law to administer oaths,

(D) the Commission may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other things as it deems necessary to the conduct of the inquiry, and

(E) any probative evidence may be used.

(b) Upon the completion of the preliminary inquiry, the prosecuting attorney shall prepare and transmit to the Commission a report containing a comprehensive summary of the information received in the inquiry and may include in the report a recommendation for action by the Commission respecting the alleged violation which was the subject of the inquiry.

(c) If the Commission determines on the basis of the report of the prosecuting attorney on the preliminary inquiry respecting an alleged violation that there is reason to believe that the violation occurred, the Commission shall direct the prosecuting attorney to transmit to the Respondent a Statement of Alleged Violation. A Statement shall be divided into counts and each count shall relate to a separate violation and shall contain a plain and concise statement of the alleged facts of such violation and include a reference to the provision of this subchapter alleged to have been violated.

(d) If the Commission determines on the basis of the report of the prosecuting attorney on the preliminary inquiry that there is no reason to believe that the violation occurred, the Commission shall issue a report of the action taken together with a statement of the reasons therefor; the Complaint shall be considered dismissed and the Commission shall not take further action with respect thereto. Notice of such action shall be given to both the Complainant and the Respondent.

Rule 4. Answers, Motions and Commission Action.

(a) If a Statement of Alleged Violation is transmitted under Rule 3 above, the Respondent shall have 20 calendar days in which to respond. The response shall be by way of answer or motion, shall be in writing and signed by the Respondent or his counsel, and shall be limited to the following:

(1) An admission or denial of, under oath, each count set forth in the statement plus any supportive evidence and any other relevant information which the Respondent may desire to submit.

(2) An objection to any count in the Statement on the grounds that it fails to state a fact which constitutes a violation of this subchapter.

(3) An objection to the jurisdiction of the Commission to consider the allegations contained in the statement.

(4) A motion for a bill of particulars.

(5) An objection to the participation of any member of the Commission in the consideration of the allegations contained in the statement on the grounds that the member cannot render an impartial or unbiased decision. The Commission member against whom the objection is made shall be the sole judge of his qualifications. A motion under this paragraph is not in lieu of an answer.

Any motion submitted pursuant to this Rule shall be accompanied by a memorandum of points and authorities. Except for good cause shown, no pleading or motion not described in paragraphs (1) through (5) will be considered by the Commission and the Commission will not consider any answer or motion in such paragraphs which is submitted under this Rule after the expiration of such 20 calendar days.

(b) Within 10 calendar days after the receipt of any motion under this Rule, the Commission shall consider such motion. Notice of the decision of the Commission respecting such motion shall be furnished the Respondent. When the Commission has acted on all motions submitted under paragraphs (2), (3) and (4) of subsection (a), the Respondent shall in accordance with paragraph (a)(1), submit, within 10 calendar days of the date of the last Commission action, an answer to each count in the Statement not dismissed by the Commission.

(c) Failure to submit, within the applicable time period an answer to a count of a Statement which has not been dismissed by the Commission shall constitute an admission to the violation alleged in the count.

(d) The Chairman, in his discretion, may extend or shorten any time limitations imposed by this Rule if he determines that the extension would facilitate a fair and complete inquiry or the shorter time is required because of special circumstances.

(e) (1) As soon as practical after the expiration of all applicable time limitations for action under subsections (a) and (b) of this Rule, the Commission shall act, by the vote of a majority of the members of the Commission, to-

(A) hold a disciplinary hearing on the violation charged in the Statement, or

(B) defer action on the Statement but only if there is a grand jury or judicial proceeding pending; or

(C) dismiss the Statement.

(2) The Respondent shall be notified in writing of action taken under paragraph (1) of this subsection.

(f) If the Commission votes to dismiss the Statement, the Commission shall issue a report of the action taken together with a statement of the reasons therefor, the Statement shall be considered dismissed and the Commission shall not take any further action with respect thereto.

Rule 5. Disciplinary Hearings.

(a) A disciplinary hearing respecting a violation charged in a Statement of Alleged Violation shall be held by the Commission to receive evidence upon which to base findings of fact respecting such alleged violation. A disciplinary hearing shall consist of two phases. The first phase shall be for the purpose of determining whether or not the counts in the Statement have been proved. The second phase shall be for the purpose of determining what action to take with respect to any count found to have been proved.

(b) At a disciplinary hearing the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and any other sworn statements taken under Commission direction may be accepted into the Commission record.

(c) Prior to setting a date for a disciplinary hearing and issuing subpoenas for witnesses, the Commission shall resolve the scope and purpose of the hearing. A copy of this statement of scope and purpose shall be furnished to all witnesses. During the course of the hearing the Commission may expand or contract the scope in light of evidence received.

(d) (1) The order of phase one of a disciplinary hearing shall be as follows:

(A) the Chairman shall open the hearing by stating the Commission's authority to conduct the hearing, the purpose of the hearing, and its scope.

(B) Testimony from witnesses and other evidence pertinent to the subject of the hearing shall be received in the following order whenever possible: (i) witnesses and other evidence offered by the prosecuting attorney, (ii) witnesses and other evidence offered by the Respondent, and (iii) rebuttal witnesses.

(C) Witnesses at a hearing shall be examined first by the prosecuting attorney. The Commission members may then question the witnesses. The Respondent or his counsel may

then cross examine the witnesses. Redirect and recross may be permitted in the Chairman's discretion. With respect to witnesses offered by the Respondent, a witness shall be examined first by the Respondent or his counsel, and then may be cross-examined by the prosecuting attorney. Commission members may then question the witness. Redirect and recross may be permitted in the Chairman's discretion.

(2) Testimony of all witnesses shall be taken under oath. The oath shall be administered by the Chairman or Commission member designated by him to administer oaths.

(e) At a disciplinary hearing the burden of proof rests on the prosecuting attorney with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that it introduces.

(f) Phase two of a disciplinary hearing shall consist of oral and/or written submission by the prosecuting attorney and counsel for the Respondent as to the sanction the Commission should impose with respect to any count of the Statement of Alleged Violation which has been proved. Testimony by witnesses will not be heard at phase two except by a vote of a majority of the Commission.

Rule 6. Commission Recommendations.

(a) (1) As soon as practical after the completion of the first phase of a disciplinary hearing respecting a Statement of Alleged Violation, the Commission shall consider each count contained in the Statement and with respect to each count as originally drawn or as amended shall vote either to find that the count has been proved or to dismiss the count. A count shall not be proved unless at least a majority of the Commission vote for a motion that the count has been proved.

(2) If the Commission votes that a count has been proved, the Commission may upon completion of the second phase of the disciplinary hearing, by a majority vote of the Commission, consider and vote on a motion regarding a sanction respecting the violation charged in such count.

(b) With respect to any violation with which a person was charged in a count which the Commission has voted as proved, the Commission may take any one or more of the following actions:

(1) Issue a written reprimand or censure of the person's conduct.

(2) With respect to a state employee or public officer, other than an elected official, remove, suspend, demote or take other appropriate disciplinary action with respect to that person.

(3) With respect to an honorary state official, recommend that appropriate action be taken to remove the official from office.

(c) The Commission report adopted by the Commission under clause (a)(2) of this Rule respecting a violation charged in a count shall contain a statement of the evidence which supported the finding as to that count and a statement of the Commission's reasons for the recommendation as well as a statement of the Commission's reasons for finding that any count was not proved. The Commission shall cause a copy of the Commission's report and the Statement of Alleged Violation to be served upon the Respondent.

(d) If the Commission votes to dismiss all counts of a Statement the Commission shall not take any further action with respect thereto.

Rule 7. Disclosure of Evidence.

Upon the request of a Respondent, the Attorney General and the Commission shall permit the Respondent to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which will be used as evidence against the Respondent in a disciplinary hearing and which are material to the preparation of the defense of the Respondent.

Rule 8. Exculpatory Information.

If the Attorney General or the Commission at any time receive any exculpatory information respecting a Statement of Alleged Violation against a public official, it shall forthwith make such information available to such official.

Rule 9. Admissibility of Evidence.

Any evidence that is relevant and probative shall be admissible in any hearing of the Commission, unless the evidence is privileged or unless the Constitution otherwise requires its exclusion. Objections going only to the weight that should be given to evidence will not justify its exclusion. The Chairman or other member presiding at a hearing shall rule upon any question of admissibility at the hearing of testimony or evidence presented to the Commission. The Chairman or other member presiding may limit the presentation of repetitious evidence. Rulings shall be final unless reversed or modified by a majority vote of the Commission members present.

Rule 10. Witnesses.

(a) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of his scheduled appearance to allow him a reasonable period of time, as

determined by the Commission, to prepare for the hearing and to employ counsel should he so desire.

(b) Except as otherwise specifically authorized by the Chairman, no member of the Commission or staff shall make public the name of any witness subpoenaed by the Commission before the date of his scheduled appearance.

(c) Witnesses at hearings may be accompanied by their counsel for the purpose of advising them concerning their constitutional rights and to raise objections to the admissibility of testimony and evidence. Counsel for a witness other than the Respondent shall not be permitted to engage in oral argument with the Commission. After a witness has testified, his counsel may submit to the Commission, in writing, any questions he wishes propounded to his client and any request for additional witnesses or other evidence. Such request may be granted at the Commission's discretion.

(d) The Respondent may apply to the Commission for the issuance of subpoenas for the appearance of witnesses for the production of documents on his behalf. The application shall be granted upon a concise showing by the Respondent that the proposed testimony or evidence is relevant and not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(e) Each witness appearing before the Commission shall be furnished a printed copy of the rules of the Commission.

Report of Delaware State Bar Association
Special Committee on Legislative Code of Conduct

June 17, 1986

This report accompanies the following proposed legislation and legislative rules which were prepared in response to the request of the leadership of the 133rd General Assembly for assistance from the Delaware State Bar Association in preparing an ethics bill for State legislators:

. An Act amending Title 29 defining "personal or private interest" and establishing an Ethics Committee in the House and Senate to issue advisory opinions, to investigate allegations of violations and to make recommendations with respect thereto. (the "Conflicts Act")

. An Act amending the financial disclosure law (Title 29, Chapter 58) to require the disclosure of certain gifts. (the "Financial Disclosure Act").

. Resolutions amending the Rules of the House and the Senate to (i) prescribe certain Rules of Legislative Conduct; (ii) authorize an Ethics Committee to administer the rules by issuing advisory opinions, investigating allegations of violations and prosecuting violations before the respective House; and (iii) prescribe the rules of procedure that would apply in the Ethics Committee and in the House or Senate in connection with any proceeding involving an alleged violation. (the "House and Senate Rules")

There has also been prepared in connection with this Report a memorandum entitled "Laws Affecting the Office of Delaware Legislator" which describes the currently existing laws that apply to legislators' conduct. This latter memorandum reveals that much of the conduct that the House or Senate might want to prohibit in a Code of Legislative Conduct is already prohibited by criminal laws.

The proposed legislation and rules generally are applicable only to legislators and not to all public officials. In the relatively short time available to the Committee it did not consider any modifications to the existing laws which apply generally to other public officers, e.g. the Conflicts of Interest Law, 29 Del.C. Ch. 58, Subch I, Election and Campaign Finance Law, 15 Del.C. §5143 and Ch. 80 and the Financial Disclosure Law, 29 Del.C. Ch 58, Subch. II. (One exception is a proposed addition to the Financial Disclosure Law). It might be appropriate to review all of these laws to develop a standard code of ethics that would apply to all public officials in the State.

In developing its proposals the Committee reviewed ethics legislation applicable to state legislators in 8 other states as well as the Common Cause model bill. The proposals are tailored to fit within the framework of existing Delaware Constitutional restrictions and have been designed with the existing criminal law provisions in mind.

The general thrust of the Committee's proposals is to recommend the adoption of Rules by the House and Senate pursuant to their authority to regulate the conduct of their respective members. Del.Const. Art II, §9. These rules involve (i) the establishment of certain Rules of Legislative Conduct, (ii) the establishment and authorization of an Ethics Committee in each House with responsibilities for interpretation and enforcement; and (iii) the establishment of procedural rules for the Ethics Committees and the respective House to follow in connection with advisory opinions and enforcement actions. In general the proposed Rules of Legislative Conduct involve restrictions that currently exist in the Constitution or in criminal statutes. Certain additional rules of conduct are proposed. A separate Ethics Committee is proposed for the House and the Senate because each body has the ultimate responsibility to regulate the conduct of its members.

Discussion of Specific Rules of Legislative Conduct

The rules are set out in proposed new House Rule 16A and proposed new Senate Rule 17A. A violation of any of these rules is stated to constitute "disorderly behavior" as defined in Article II, Section 9 of the Constitution, which would provide the basis for expulsion or some lesser sanction.

(1) The first rule concerns the Constitutional restrictions involving "personal or private interest." The rule restates the restriction of Art. II, §20 of the Constitution

that if a legislator has a "personal or private interest" in a bill or measure he must disclose that interest and abstain from voting. The rule also specifies that the conflict must be disclosed (i) in any Committee of which the legislator is a member and which is considering the bill and (ii) in the respective House, in either case before the vote is taken, and the legislator may not participate in the debate on the matter. However, upon the request of any other member of the House or Senate, as the case may be, a legislator who has such a conflict may nevertheless respond to questions concerning the bill or measure. If a legislator answers as "not voting" on account of a "personal or private interest", that fact is to be recorded in the records of the Committee and the respective House. The disclosure can be made orally in open session or it may be made by a written statement submitted to be read in open session, in either case to be reflected in the records of the official proceedings.

A "personal or private interest" is defined generally as an interest which tends to impair a legislator's independence of judgment in the performance of his duties with respect to the matter. This disqualifying situation is further stated to arise when the outcome of a bill or measure would result in a financial gain or loss to the legislator to a greater extent than it might result to others who are members of the same "class or group of persons" and it would also arise where a close relative of a legislator is a legislative agent who is lobbying on a particular bill or measure.

The prohibition may apply not only where the measure or bill would directly affect the legislator but also where it would affect certain persons and entities closely related to the legislator, e.g., the "close relative"-parents, spouse, children and siblings--and any "private enterprise" in which the legislator has a "financial interest"--(i) an ownership interest of more than \$5,000; (ii) receives annual compensation of more than \$5,000 as an employee, officer, director, trustee or independent contractor; or (iii) a creditor of an insolvent enterprise in an amount in excess of \$5,000.

The rule should be easily applied to most fact situations. For example, a legislator who is a teacher or other employee of the State would not be disqualified from voting on budget bills affecting salaries of teachers generally or State employees generally because the financial impact of the bill on the legislator would be similar to its impact on many other people in the same class. On the other hand, a legislator who is an employee of a State agency would be prohibited from voting on a budget bill appropriating funds for his or her salary if he or she were not in a "class or group," all members of which were being similarly treated.

A legislator who is employed in a certain type of business (of which there are many such businesses in the State) would not be disqualified from voting on a bill affecting just that type of business because the financial impact of the bill on the legislator's business would be similar to its impact on

many other similar businesses. On the other hand, if a legislator is an employee, officer, director, trustee or independent contractor receiving more than \$5,000 per year from the only business in the State which manufactures widgets and a bill would affect only manufacturers of widgets, he would be disqualified from voting on that bill.

A legislator whose close relative is afflicted with a particular disease, e.g. Alzheimer's or Down's Syndrome, would not be disqualified from voting on a measure involving state aid to victims of such disease since the close relative is a part of a class or group that will be similarly affected by the legislation.

A legislator who is an employee of a Delaware municipality would not be disqualified from voting on a bond bill appropriating funds for a capital asset or improvement for the municipality because the municipality is not a "private" enterprise.

A legislator who is an employee, officer, director, trustee or independent contractor of a non-profit organization but who receives not more than \$5,000 per year in such capacity would not be disqualified from voting on a grants in aid bill appropriating funds for a capital asset or improvement for that organization because his compensation does not exceed the \$5,000 threshold amount specified in the rule defining a "financial interest". If the legislator received more than \$5,000 a year in compensation from that organization, the legislator would be disqualified from voting on the bill.

Undoubtedly there will be some situations where it not be so easy to determine if there is a disqualifying interest. The most likely examples of this are where the legislator is one of only several people or is associated with one of only several businesses which will be affected by a measure or bill. The question will be whether or not the affected persons or businesses are sufficient in number to constitute a "class or group". To assist in resolving questions like this the Ethics Committee of each House is authorized to issue written advisory opinions on which the legislator may rely. In rendering its opinions it is expected that the Ethics Committee would be guided by the statement in Mason's Legislative Manual, §522 (1962 Ed.) of the fundamental principle that "The right of a member to represent his constituency, however, is of such major importance that a member should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal." Thus, the primary inquiry by the Ethics Committee in close cases would be whether or not the persons or businesses affected are so few in number that the matter would be viewed as "particularly personal" so that the legislator's independence of judgment would be clearly affected.

If the legislator acts in good faith reliance on a written advisory opinion he cannot later be disciplined on account of any action covered by the opinion so long as there was a full disclosure of all the facts necessary for the opinion.

In addition, there may also be situations where, although not specifically disqualified by the rule, a legislator may determine it is appropriate for him not to participate in the debate or vote on a particular measure or bill.

(2)-(6) Rules 2-6 incorporate existing criminal statutes applying to official conduct of legislators:

Receiving unlawful gratuities. 11 Del.C. §1206.

Receiving a bribe. 11 Del.C. §1203.

Profiteering. 11 Del.C. §1212.

Official misconduct. 11 Del.C. §1211.

Financial disclosure. 29 Del.C. ch. 58.

(7) Rule 7 prohibits a legislator from receiving compensation for representing or assisting another with respect to a matter before the General Assembly.

(8) Rule 8 prohibits the unauthorized release of any matter received by the Ethics Committee on a confidential basis.

(9) Rule 9 prohibits the willful filing of a false statement in connection with an ethics proceeding.

(10) Rule 10 reflects the Legislature's authority to regulate the conduct of its members by making subject to disciplinary proceedings any conduct which (i) brings the House into disrepute or (ii) reflects adversely on the member's fitness to hold public office.

Time Limits

There is no time limit with respect to when the prohibited conduct occurred and when the disciplinary proceeding

must be instituted. A legislator is subject to sanction for any prohibited conduct occurring subsequent to being elected to the State Legislature. A legislator is also subject to sanction for any prohibited conduct occurring prior to being elected to office provided that the conduct bears a reasonable relationship to the legislator's fitness to hold legislative office.

Administration and Enforcement

Advisory Opinions

An Ethics Committee may give written advisory opinions to a legislator as to the applicability of any Rule of Legislative Conduct to any particular fact situation. A legislator who acts in good faith reliance on a written advisory opinion may not be disciplined with respect to any action covered by the opinion provided that there was a full disclosure of all the facts necessary for the opinion.

All proceedings before an Ethics Committee in connection with an advisory opinion will be confidential provided that: (i) the legislator may waive the privilege of confidentiality; (ii) the proceedings may be made public in any subsequent disciplinary proceeding if the legislator acts in disregard of an advisory opinion and (iii) the Ethics Committee shall maintain records of its proceedings and advisory opinions which shall be available for reference by the Committee, subsequent Committees and their staff.

Enforcement Actions

The Committee may only investigate an alleged violation of a Rule of Legislative Conduct if a written complaint is filed by a legislator accompanied by a sworn statement setting out the facts supporting the allegations. In any such investigation or proceeding, either by the Committee or in the House or Senate, a legislator shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence and to cross examine witnesses. The details of the rules of procedure are spelled out in proposed House Rule 55 and proposed Senate Rule 30.

In general, the Ethics Committee investigates allegations of violations and makes recommendations to the House or Senate as to the disposition of the matter. If the Committee votes without dissent to dismiss a complaint then the matter would not be further considered by the House or Senate. If the Committee votes to dismiss a complaint but there are dissenting votes then the House or Senate will consider the matter if a majority of the House or Senate vote to do so.

The House or Senate may impose any sanction it deems appropriate for a violation of any rule provided that a Member may not be suspended or expelled except with the concurrence of 2/3 of the House or Senate, as the case may be.

The Conflicts Act

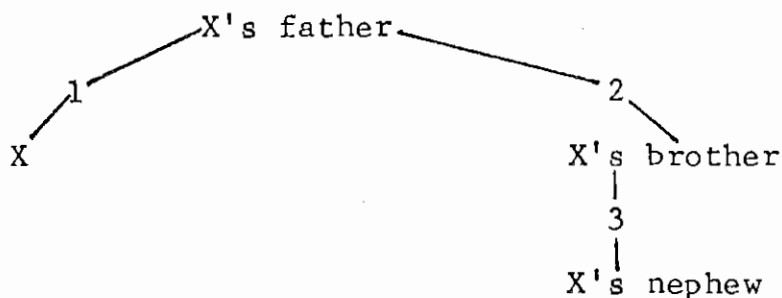
In addition to adopting Rules of Legislative Conduct, rules of the House and the Senate, it is recommended that certain provisions concerning "personal or private interests" and the Ethics Committees also be adopted as a part of the Delaware Code in order to make them a more permanent part of the law. Since it may not be possible for one General Assembly to adopt a law regarding House or Senate Rules which will be binding on a subsequent General Assembly it is also recommended that the proposed rules of the House and Senate be readopted at the beginning of each new General Assembly.

The Financial Disclosure Act

While the Committee did not review the code of ethics and conflicts laws that apply to all public officials, it did note one area that is not regulated that the Committee believes should be subject to some regulation. That is the area of gifts to legislators and other public officials. Some jurisdictions prohibit gifts to public officials, some exempt out some dollar amount or certain types of gifts, e.g. meals. Some do not prohibit gifts but rather just require disclosure. The Committee recommends the latter alternative and the proposed amendment to the Financial Disclosure Act would impose this requirement.

For the purposes of the financial disclosure requirement, gifts from persons who are related within the third degree of consanguinity are not considered "gifts".

Consanguinity is relationship by blood through at least one common ancestor. To determine the degree of consanguinity count up from the person to the common ancestor then count down to the relative concerned. For example, X is related to his nephew to the third degree of consanguinity:



The financial disclosure requirement has been placed in a separate bill because it would apply to all public officials who must file the financial disclosure statement.

The Committee wishes to express its appreciation for the invaluable assistance of the following House and Senate attorneys in the preparation of the proposed legislation and legislative rules: Robert T. Aulgar, Jr., Richard T. Dillard, Ronald D. Smith and William J. Walls, Jr.

Respectfully submitted,

Charles S. McDowell, Chairman
O. Francis Biondi
Richard R. Cooch
Bruce L. Hudson
W. Laird Stabler, Jr.

6/17/86

Revised 6/7/90

Sponsor:

Delaware _____
133rd General Assembly
Bill No. _____

AN ACT AMENDING TITLE 29, DELAWARE CODE,
CONCERNING LEGISLATIVE CONFLICTS OF INTEREST
AND ESTABLISHING HOUSE AND SENATE ETHICS COMMITTEES

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend Title 29, Delaware Code, by adding a
new Chapter 10 thereto to read as follows:

"Chapter 10

LEGISLATIVE CONFLICTS OF INTEREST

§1001 Findings.

(a) The General Assembly hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In serving the public interest, it is a legislator's right and responsibility to vote upon all questions before the House of which he or she is a member and to participate in the business of the House and its Committees, and in doing so, he or she is presumed to be acting in good faith and in the public interest.

(b) The General Assembly also acknowledges that the exercise of legislative rights is subject to limitations provided in Article II, Section 20 of the Delaware Constitution when personal or private interests conflict with the public interest.

(c) The purpose of this chapter is to define the limitations of Article II, Section 20 of the Delaware Constitution and to provide for its implementation and enforcement.

§1002. Restrictions Relating to Personal or Private
Interests

(a) A legislator who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to the House of which he or she is a member and shall not participate in the debate nor vote thereon; provided that, upon the request of any other member of the House or

Senate, as the case may be, a legislator who has such a personal or private interest may nevertheless respond to questions concerning any such measure or bill. A personal or private interest in a measure or bill is an interest which tends to impair a legislator's independence of judgment in the performance of his or her legislative duties with respect to that measure or bill.

(b) A legislator has an interest which tends to impair his or her independence of judgment in the performance of his or her legislative duties with regard to any bill or measure when:

- (1) the enactment or defeat of the measure or bill would result in a financial benefit or detriment to accrue to the legislator or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, or
- (2) the legislator or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure or bill to a lesser or greater extent than like enterprises or other interests in the same enterprise, or
- (3) a person required to register as a legislative agent pursuant to Chapter 16 of Title 29 of the Delaware Code is a close relative of the legislator and that person acts to promote, advocate, influence or oppose the measure or bill.

(c) Disclosure required under subsection (a) shall be made in open session (i) prior to the vote on the measure or bill by any Committee of which the legislator is a member and (ii) prior to the vote on the measure or bill in the House of which the legislator is a member.

(d) A legislator who violates the provisions of this section shall be subject to such sanction as shall be prescribed by the House of which he or she is a member pursuant to rules adopted under Article II, Section 9 of the Delaware Constitution.

§1003. Legislative Ethics Committees.

The House and the Senate shall each establish an Ethics Committee which shall have the responsibilities assigned in this section with respect to the enforcement of this chapter and such other responsibilities as may be assigned by the House or the Senate as the case may be. Each Ethics Committee may, upon the request of a member, provide a written advisory opinion as to the

application of this chapter to a particular situation. Any member who acts in good faith in reliance upon any such written advisory opinion shall not be subject to any disciplinary proceeding by the respective House with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Ethics Committee of all facts necessary for the opinion. All proceedings before an Ethics Committee in connection with an advisory opinion shall be confidential, subject to the following: (i) the legislator involved may waive the privilege of confidentiality; (ii) the proceedings shall no longer be confidential and may be made public in any subsequent disciplinary proceeding if the legislator acts in disregard of an advisory opinion; and (iii) each Ethics Committee shall maintain records of its proceedings and advisory opinions which shall be available for reference by the Committee, subsequent Committees and their staff. Each Committee shall investigate allegations of violations of this chapter by the members of the respective House and shall make recommendations to the respective House with respect thereto. If in the course of any proceeding, advisory or investigative, the Committee shall become aware of any substantial evidence of a violation of any law involving legislative conduct subject to its jurisdiction it shall report the same to the appropriate federal or state authorities.

§1004. Definitions

For the purposes of this Chapter:

(a) A "close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

(b) A "private enterprise" means any activity whether conducted for profit or not for profit and includes the ownership of real or personal property; provided that "private enterprise" does not include any activity of the State of Delaware, any political subdivision or any agency, authority or instrumentality thereof.

(c) A person has a "financial interest" in a private enterprise if he or she:

(1) has a legal or equitable ownership interest in the enterprise of more than 10% (1% in the case of a corporation whose stock is regularly traded on an established securities market);
or

(2) is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in

excess of \$5,000 for services as an employee, officer, director, trustee or independent contractor; or

(3) is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

(d) A "person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities."

Section 2. This Act shall become effective upon enactment.

SYNOPSIS

This bill defines the limitations of Article II, Section 20 of the Delaware Constitution which requires a legislator who has a personal or private interest in any measure or bill to disclose the conflict and to abstain from voting on the matter. This bill would direct the establishment of an Ethics Committee in the House and Senate which would give advisory opinions concerning potential violations of this Act.

CSM/amend29 - 5/31/90

6/17/86

Sponsor :

Delaware
133rd General Assembly
Bill No. _____

AN ACT TO AMEND CHAPTER 58, TITLE 29 OF THE
DELAWARE CODE RELATING TO FINANCIAL DISCLOSURE
REQUIREMENTS OF PUBLIC OFFICIALS

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
DELAWARE:

Section 1. Amend §5812, Title 29 of the Delaware Code
to add the following new clause "(o)" at the end thereof:

"(o) "Gift" means a payment, subscription, advance,
forbearance, rendering or deposit of money, services or anything
of value unless consideration of equal or greater value is
received. "Gift" shall not include a political contribution
otherwise reported as required by law, a commercially reasonable
loan made in the ordinary course of business, or a gift received
from a spouse or any relative within the third degree of
consanguinity of the person or person's spouse or from the
spouse of any such relative."

Section 2. Amend §5813(a)(4) of Title 29, Delaware
Code, by adding "or" at the end of clause "d" and by adding the
following new clause "e":

"(e) Any gift with a value in excess of \$250 received
from any person, identifying also in each case the amount of
each such gift."

Section 3. This Act shall apply to financial
disclosure statements filed after the date of enactment.

SYNOPSIS

This bill requires public officials to disclose on
their annual financial disclosure statement gifts with a value
in excess of \$250.

6/17/86
Revised 6/7/90

Sponsor:

DELAWARE STATE SENATE
133rd General Assembly
Senate Resolution No. _____

AMENDING THE TEMPORARY RULES OF THE DELAWARE
STATE SENATE OF THE 133RD GENERAL ASSEMBLY
RELATING TO RULES OF LEGISLATIVE CONDUCT

BE IT RESOLVED by the Senate of the 133rd General Assembly of the State of Delaware that Senate Resolution No. 4 pertaining to the Temporary Rules of the Senate shall be amended as follows:

Section 1. The following new Rule 17A shall be added following Rule 17:

"Rule 17A - Rules of Legislative Conduct.

(a) A member of the Senate shall be subject to discipline by the Senate for violation of any of the following Rules of Legislative Conduct which shall be deemed to constitute "disorderly behavior" within the meaning of Article II, Section 9 of the Delaware Constitution:

(1) Restrictions relating to "personal or private interests" within the meaning of Article II, Section 20 of the Delaware Constitution and Chapter 10, Title 29 of the Delaware Code--

(A) A member who has a personal or private interest in any measure or bill pending before the Senate shall disclose the fact and shall not participate in the debate nor vote thereon; provided that, upon the request of any other member of the Senate, a member who has such a personal or private interest may nevertheless respond to questions concerning any such measure or bill. A personal or private interest in a measure or bill is an interest which tends to impair a member's independence of judgment in the performance of his or her duties with respect to that measure or bill.

(B) A member has an interest which tends to impair his or her independence of judgment in the performance of his or her legislative duties with regard to any bill or measure when:

(i) the enactment or defeat of the measure or bill would result in a financial benefit or

detriment to accrue to the member or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, or

(ii) the member or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure or bill to a lesser or greater extent than like enterprises or other interests in the same enterprise, or

(iii) a person required to register as a legislative agent pursuant to Chapter 16 of Title 29 of the Delaware Code is a close relative of the legislator and that person acts to promote, advocate, influence or oppose the measure or bill.

(C) Disclosure required under subsection (A) shall be made in open session (i) prior to the vote on the measure or the bill by any Committee of which the member is a member and (ii) prior to the vote on the measure or bill in the Senate. Disclosure may be made by written statement submitted to the Chairman of a Committee or the Presiding Officer and read in open session in the Committee or the Senate as the case may be.

(D) For the purposes of this Rule:

(I) A "close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

(II) A "private enterprise" means any activity whether conducted for profit or not for profit and includes the ownership of real or personal property; provided that "private enterprise" does not include any activity of the State of Delaware, any political subdivision or any agency, authority or instrumentality thereof.

(III) A person has a "financial interest" in a private enterprise if he or she

(i) has a legal or equitable ownership interest in the enterprise of more than 10% (1% in the case of a corporation whose stock is regularly traded on an established securities market); or

(ii) is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as

an employee; officer, director, trustee or independent contractor; or

(iii) is a creditor of private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

(IV) A "person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

(2) Receiving unlawful gratuities in violation of Section 1206, Title 11, Delaware Code.

(3) Receiving a bribe in violation of Section 1203, Title 11, Delaware Code.

(4) Profiteering in violation of Section 1212, Title 11, Delaware Code.

(5) Engaging in conduct constituting official misconduct in violation of Section 1211, Title 11, Delaware Code.

(6) Failure to comply with the financial disclosure requirements of Chapter 58, Title 29, Delaware Code.

(7) Appearing for, representing or assisting another in respect to a matter before the General Assembly or one of its committees for compensation other than that provided by law.

(8) Releasing without authorization of the Ethics Committee any confidential matter pertaining to proceedings of the Ethics Committee.

(9) Knowingly filing a false statement with the Ethics Committee or the Senate in connection with any proceeding involving a Rule of Legislative Conduct.

(10) Engaging in conduct which the Senate determines (i) brings the Senate into disrepute or (ii) reflects adversely on the member's fitness to hold legislative office.

(b) A member shall be subject to sanction for any prohibited conduct occurring subsequent to being elected to the Senate. A member shall also be subject to sanction for any prohibited conduct occurring prior to being elected to the Senate provided that the conduct bears a reasonable relationship to the member's fitness to hold legislative office.

(c) A complaint alleging a violation of a Rule of Legislative Conduct shall be filed in writing by a member with the Ethics Committee for investigation and recommendation to the Senate as to disposition. A complaint must be accompanied by a written statement signed by any person, sworn under oath, setting forth the facts supporting the complaint. No such complaint shall be considered by the Senate prior to its consideration and recommendation by the Ethics Committee.

(d) If the Ethics Committee recommends some disciplinary action with respect to a complaint, a resolution shall be presented to the Senate that the Senate conduct a proceeding to consider the matter. If the Ethics Committee votes to dismiss a complaint and there are no dissenting votes in the Committee, the Senate shall take no action with respect thereto. If the Ethics Committee votes to dismiss a complaint but there are dissenting votes in the Committee, the Senate may consider the matter upon the petition of any member approved by a majority vote of the Senate. In any proceeding before the Senate involving an alleged violation of a Rule of Legislative Conduct, the accused member shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine any witnesses; a transcript of any such proceeding shall be made and retained; and the procedural rules of Rule 30 shall apply.

(e) If the Senate finds by a majority vote that a member has violated a Rule of Legislative Conduct, it may impose such disciplinary action as it deems appropriate provided that no member may be suspended or expelled without the vote of 2/3 of the Senate concurring therein.

Section 2. The following shall be added at the end of Rule 11: "Whenever any member answers "not voting" because of a "personal or private interest" as defined in Article II, Section 20 of the Delaware Constitution, the record shall so reflect."

Section 3. The following new Rule 19A shall be added following Rule 19:

"Rule 19A." Ethics Committee.

(a) The Ethics Committee shall be a standing committee consisting of five members, three appointed by the President Pro Tempore and two appointed by the Minority Leader at the beginning of each General Assembly.

(b) The powers and duties of the Ethics Committee shall be as follows:

(1) To recommend to the Senate from time to time such rules of conduct for members of the Senate as it shall deem appropriate.

(2) To issue written advisory opinions upon the request of any member as to the applicability of any Rule of Legislative Conduct to any particular fact situation.

(3) To investigate any alleged violation by a member of any Rule of Legislative Conduct and, after notice and hearing, to recommend to the Senate by resolution such disciplinary action as it may deem appropriate.

(4) To report to the appropriate federal or State authorities any substantial evidence of a violation by any member of any law involving a Rule of Legislative Conduct which may come to its attention in connection with any proceeding whether advisory or investigative.

(5) To maintain a file of its proceedings and advisory opinions with a view toward achieving consistency of opinions and recommendations. Upon the request of a legislator involved in an advisory opinion, to publish that advisory opinion.

(6) To follow the procedural rules specified in Rule 30 and to establish such other procedural rules as shall not be inconsistent with the rules prescribed by the Senate.

(7) To act only upon a majority vote of its members.

(8) Such other duties and responsibilities as may be assigned by the Senate from time to time.

(c) All proceedings before the Ethics Committee in connection with an advisory opinion shall be confidential subject to the following: (i) the member involved may waive the privilege of confidentiality; (ii) the proceedings shall no longer be confidential and may be made public in any subsequent disciplinary proceeding if the member acts in disregard of an advisory opinion; and (iii) the Ethics Committee shall maintain records of its proceedings and advisory opinions which shall be available for reference by the Committee, subsequent Committees and their staff.

(d) The Committee may undertake an investigation of an alleged violation by a member of any Rule of Legislative Conduct only upon a written complaint submitted by a member of the Senate. The complaint must be accompanied by a written statement signed by any person, sworn under oath, setting forth the facts supporting the complaint. In any such investigation or proceeding, a member shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine witnesses. A transcript of any such proceeding shall be made and retained. In any such proceeding the procedural rules of Rule 30 shall apply.

(e) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her legislative conduct. In any such case, the person appointing that member (either the President Pro Tempore or the Minority Leader) shall designate a member of the Senate to act as a member of the committee in any committee proceeding relating to the legislative conduct of such ineligible member. A member of the committee who has been found by the Senate to have violated a Rule of Legislative Conduct shall be ineligible to serve again as a member of the committee.

(f) A member of the committee may disqualify himself from participating in any investigation of the conduct of a member of the Senate upon submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the person appointing that member (either the President Pro Tempore or the Minority Leader) and request that person to designate a member of the Senate to act as a member of the committee in any committee proceeding relating to such investigation.

(g) Any member who acts in good faith reliance upon any written advisory opinion of the Ethics Committee shall not be subject to any discipline by the Senate with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Ethics Committee of all facts necessary for the opinion.

(h) The committee may function without regard to recess periods or adjournment.

Section 4. Subsection (c) of Rule 20 shall be amended to add the following at the end thereof:

"In any case where a member is recorded as "not voting" on account of a "personal or private interest" as defined in Article II, Section 20 of the Delaware Constitution, that fact shall be noted in the Committee records and on the backer of the bill concerned where applicable."

Section 5. The following new Rule 30 shall be added following Rule 29:

"Rule 30. Ethics Violations; Rules of Procedure.

Rule 30.1. Scope and Authority.

These rules govern the procedures to be followed by the Ethics Committee and the Senate in proceedings involving allegations of violations of Rules of Legislative Conduct. So far as applicable, these rules and the Rules of the Senate shall

be the rules of the Ethics Committee which may prescribe additional rules not inconsistent therewith.

PROCEEDINGS BEFORE THE ETHICS COMMITTEE

Rule 30.2. Meetings and Quorum.

(a) The Committee shall meet at the call of the Chairman. Notice of a committee meeting shall be given pursuant to the Rules of the Senate.

(b) A quorum of the Committee consists of a majority of the members of the Committee.

Rule 30.3. Committee Records.

(a) The Chairman of the Committee shall, with the approval of the Committee, establish such procedures as in the Chairman's judgment may be necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

(b) (1) Unless otherwise authorized by the Committee, no information received by the Committee respecting any alleged violation by a member of the Senate of any Rule of Legislative Conduct shall be disclosed to the public before the transmittal under Rule 30.8 to such member of a Statement of Alleged Violation in connection with such violation. After the service of such a Statement on the member--

(2) the Statement and any other paper filed pursuant to Rule 30.9 respecting such violation shall be made available for public inspection at reasonable hours, and

(3) any other paper filed with the Committee respecting such violation shall be made available as authorized by the Committee, except that no paper shall be made available if its disclosure would violate any law or regulation.

Rule 30.4. Special Procedures.

The Committee may adopt by resolution any special procedures deemed necessary to a particular matter before the Committee. Copies of such special procedures shall be furnished to all parties and witnesses in the matter.

Rule 30.5. Changes in Committee Rules.

The rules of the Committee other than these rules may be modified, amended, or repealed by a vote of a majority of the Committee.

COMMITTEE INVESTIGATIVE AUTHORITY

Rule 30.6. Complaints.

(a) A Complaint may be submitted to the Committee pursuant to subsection (c) of this rule and shall be in writing and under oath, setting forth in simple, concise, and direct Statements the following:

(1) the name and address of the party filing the complaint (hereinafter referred to as the "Complainant");

(2) the name of the member of the Senate alleged to be in violation of a Rule of Legislative Conduct (hereinafter referred to as the "Respondent");

(3) a statement of each violation, identifying the Rule of Legislative Conduct alleged to have been violated, divided into counts with each violation representing a separate count; and

(4) the facts alleged to give rise to the violation. The facts supporting the Complaint may be sworn to by any person. When facts are alleged upon the information and belief of the Complainant, the Complaint shall so state and set forth the basis for such information and belief.

(b) All documents in the possession of the Complainant that are relevant to and in support of the allegations shall be appended to the Complaint.

(c) A Complaint may be filed only by a member of the Senate (including a member of the Committee) and shall be transmitted directly to the Committee.

Rule 30.7. Processing Complaints.

(a) (1) The staff of the Committee shall examine each Complaint submitted to the Committee for compliance with the Rules of the Senate and any other applicable Committee rules.

(2) If the staff determines that a Complaint does not comply with Senate and Committee Rules, the Complaint shall be returned to the Complainant with a general statement that the Complaint is not in compliance with such rules and a copy of such rules. A Complainant may resubmit a complaint.

(3) If the staff determines that a Complaint is in compliance with Senate and Committee rules, the Complaint shall be filed with the Committee and a copy shall be transmitted to each member of the Committee.

(4) The Chairman shall place the Complaint on the Committee agenda for consideration and shall schedule a Committee meeting as soon as practical thereafter.

(A) The Committee shall consider the Complaint and determine if the Complaint should be dismissed because it fails to allege facts which constitute a violation of a Rule of Legislative Conduct or if the Complaint merits further inquiry.

(B) The decision under subparagraph (A) of this paragraph shall be transmitted, in writing, to the Complainant and Respondent.

(b) (1) If the Committee determines that the Complaint fails to allege facts which constitute a violation of a Rule of Legislative Conduct, the Committee shall deliver to the Senate a report of the action taken and a brief statement of the reasons therefor.

(2) If there are no dissenting votes to the determination in subparagraph (b)(1) the Complaint shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect thereto.

(3) If there are any dissenting votes to the determination in subparagraph (b)(1), the Complaint shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect thereto provided that the Committee's determination shall be considered reversed and the investigation shall be pursued by the Committee upon the written petition of any member of the Senate filed with the Presiding Officer and approved by the majority vote of the members of the Senate.

Rule 30.8. Preliminary Inquiry and Statement of Alleged Violation.

(a) (1) If the Committee determines under Rule 30.7 that the allegation of a violation in a Complaint filed with the Committee merits further inquiry, or if the Committee's determination in that regard is reversed by the Senate, the Committee shall conduct a preliminary inquiry to determine whether such violation occurred.

(2) In the preliminary inquiry--

(A) the Respondent shall have an opportunity to present to the Committee, orally or in writing, a statement respecting the allegations with respect to which the inquiry is being held,

(B) the staff may interview witnesses and examine documents and other evidentiary matter,

(C) the Committee may order the testimony of witness to be taken under oath, in which event the oath may be administered by a member of the Committee or by any person authorized by a member of the Committee or by any person authorized by law to administer oaths,

(D) the Committee may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other things as it deems necessary to the conduct of the inquiry, and

(E) any probative evidence may be used.

Upon the completion of the preliminary inquiry, the staff of the Committee shall prepare and transmit to the Committee a report containing a comprehensive summary of the information received in the inquiry and may include in the report a recommendation for action by the Committee respecting the alleged violations which was the subject of the inquiry.

(b) If the Committee determines on the basis of the report of the Committee staff on the preliminary inquiry respecting an alleged violation that there is reason to believe that the violation occurred, the Committee shall direct the staff to transmit to the respondent a statement of Alleged Violation. A statement shall be divided into counts and each count shall relate to a separate violation and shall contain a plain and concise statement of the alleged facts of such violation and include a reference to the provision of the Rule of Legislative Conduct alleged to have been violated.

(c)(1) If the Committee determines on the basis of the report of the Committee staff on the preliminary inquiry that there is no reason to believe that the violation occurred, the Committee shall deliver to the Senate a report of the action taken together with a statement of the reasons therefore.

(2) If there are no dissenting votes to the determination in subparagraph (c)(1), the Complaint shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect thereto.

(3) If there are any dissenting votes to the determination in subparagraph (c)(1), the Complaint shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect to the matter provided that the Senate shall consider the matter upon the written petition of any member of the Senate filed with the Presiding Officer and approved by the majority vote of the members of the Senate. If any such proceeding is initiated in the Senate, the matter shall be prosecuted by the members of the Committee who dissented from the vote to dismiss the Complaint. In such case

the dissenting members shall direct the Committee staff to transmit to the Senate and to the Respondent a Statement of Alleged Violation as described in subsection (b) which shall be the basis of the Senate's consideration of the matter.

Rule 30.9. Answers and Motions and Committee Action.

(a) If a statement of Alleged Violation is transmitted under rule 30.8(b), the Respondent shall have 20 calendar days in which to respond. The response shall be by way of answer or motion, shall be in writing and signed by the Respondent or his counsel, and shall be limited to the following:

(1) An admission or denial of, under oath, each count set forth in the statement plus any supportive evidence and any other relevant information which the Respondent may desire to submit.

(2) An objection to any count in the statement on the grounds that it fails to state a fact which constitutes a violation of a Rule of Legislative Conduct.

(3) An objection to the jurisdiction of the Committee to consider the allegations contained in the statement.

(4) A motion for a bill of particulars.

(5) An objection to the participation of any member of the Committee in the consideration of the allegations contained in the statement on the grounds that the member cannot render an impartial or unbiased decision. The Committee member against whom the objection is made shall be the sole judge of his qualifications. A motion under this paragraph is not in lieu of an answer.

Any motion submitted pursuant to this rule shall be accompanied by a memorandum of points and authorities. Except for good cause shown, no pleading or motion not described in paragraphs (1) through (5) will be considered by the Committee and the Committee will not consider any answer or motion in such paragraphs which is submitted under this rule after the expiration of such 20 calendar days.

(b) Within 10 calendar days after the receipt of any motion under subsection (a) of this rule, the Committee shall consider such motion. Notice of the decision of the Committee respecting such motion shall be furnished the Respondent. When the Committee has acted on all motions submitted under paragraphs (2), (3) and (4) of subsection (a) of this rule, the Respondent shall in accordance with paragraph (a)(1) of this rule, submit, within 10 calendar days of the date of the last Committee action, an answer to each count in the Statement not dismissed by the Committee.

(c) Failure to submit, within the applicable time period an answer to a count of a Statement which has not been dismissed by the Committee shall constitute an admission to the violation alleged in the count.

(d) The Chairman, in his discretion, may extend or shorten any time limitations imposed by this rule if he determines that the extension would facilitate a fair and complete inquiry or the shorter time is required because of special circumstances.

(e) (1) As soon as practical after the expiration of all applicable time limitations for action under subsections (a) and (b) of this rule, the Committee shall act, by the vote of a majority of the members of the Committee, to-

(A) hold a disciplinary hearing on the violation charged in the Statement, or

(B) defer action on the Statement but only if there is a grand jury or judicial proceeding pending; or

(C) dismiss the Statement.

(2) The Respondent shall be notified in writing of action taken under paragraph (1) of this subsection.

(f) (1) If the Committee votes to dismiss the Statement, the Committee shall deliver to the Senate a report of the action taken together with a statement of the reasons therefor.

(2) If there are no dissenting votes to the decision in subparagraph (f)(1), the Statement shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect thereto.

(3) If there are any dissenting votes to the decision in subparagraph (f)(1), the Statement shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect to the matter provided that the Senate shall consider the matter upon the written petition of any member of the Senate filed with the Presiding Officer and approved by a majority vote of the members of the Senate. If any such proceeding is initiated in the Senate, the matter shall be prosecuted by the members of the Committee who dissented from the vote to dismiss the Statement. The Statement shall be the basis of the Senate's consideration of the matter and the dissenting members shall cause a copy of the Statement to be delivered to the Senate and served upon the Respondent.

Rule 30.10. Disciplinary Hearings Before the Committee.

(a) A disciplinary hearing respecting a violation charged in a Statement of Alleged Violation shall be held by the Committee to receive evidence upon which to base findings of fact and recommendations, if any, to the Senate respecting such violation. A disciplinary hearing shall consist of two phases. The first phase shall be for the purpose of determining whether or not the counts in the Statement have been proved. The second phase shall be for the purpose of determining what action to recommend to the Senate with respect to any count found to have been proved.

(b) At a disciplinary hearing the Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and any other things as it deems necessary. Depositions, interrogatories, and sworn statements taken under Committee direction may be accepted into the Committee record.

(c) Prior to setting a date for a disciplinary hearing and issuing subpoenas for witnesses, the Committee shall resolve the scope and purpose of the hearing. A copy of this statement of scope and purpose shall be furnished to all witnesses. During the course of the hearing the Committee may expand or contract the scope in light of evidence received.

(d) (1) The order of phase one of a disciplinary hearing shall be as follows:

(A) The Chairman shall open the hearing by stating the Committee's authority to conduct the hearing, the purpose of the hearing, and its scope.

(B) Testimony from witnesses and other evidence pertinent to the subject of the hearing shall be received in the following order whenever possible: (i) witnesses and other evidence offered by the Committee staff, (ii) witnesses and other evidence offered by the Respondent, and (iii) rebuttal witnesses.

(C) Witnesses at a hearing shall be examined first by the Committee counsel or authorized staff member. The Committee members may then question the witnesses. The Respondent or his counsel may then cross examine the witnesses. Redirect and recross may be permitted in the Chairman's discretion. With respect to witnesses offered by the respondent, a witness shall be examined first by the Respondent or his counsel, and then may be cross-examined by Committee counsel or authorized staff member. Committee members may then question the witness. Redirect and recross may be permitted in the Chairman's discretion.

(2) Testimony of all witnesses shall be taken under oath. The oath shall be administered by the Chairman or Committee member designated by him to administer oaths.

(e) At a disciplinary hearing the burden of proof rests on the staff with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that it introduces.

(f) Phase two of a disciplinary hearing shall consist of oral and/or written submission by counsel for the Committee and counsel for the Respondent as to the sanction the Committee should recommend to the Senate with respect to any count of the Statement of Alleged Violation which has been proved. Testimony by witnesses will not be heard at phase two except by a vote of a majority of the Committee.

Rule 30.11. Committee Recommendations.

(a) (1) As soon as practicable after the completion of the first phase of a disciplinary hearing respecting a Statement of Alleged Violation, the Committee shall consider each count contained in the Statement and with respect to each count as originally drawn or as amended shall vote either to find that the count has been proved or to dismiss the count. A count shall not be proved unless at least a majority of the Committee vote for a motion that the count has been proved.

(2) If the Committee votes that a count has been proved, the Committee may upon completion of the second phase of the disciplinary hearing, by a majority vote of the Committee, consider and vote on a motion that a recommendation be made to the Senate for appropriate action respecting the violation charged in such count.

(b) With respect to any violation with which a member of the Senate was charged in a count which the Committee has voted as proved, the Committee may include in its recommendation to the Senate one or more of the following sanctions:

- (1) Suspension or expulsion from the Senate.
- (2) Censure.
- (3) Reprimand.
- (4) Fine.

(5) Any other sanction determined by the Committee to be appropriate.

(c) The Committee report accompanying a recommendation to the Senate adopted by the Committee under

clause (a)(2) respecting a violation charged in a count shall contain a statement of the evidence which supported the finding as to that count and a statement of the Committee's reasons for the recommendation as well as a statement of the Committee's reasons for finding that any count was not proved. The Committee shall cause a copy of the Committee's report and the Statement of Alleged Violation to be served upon the Respondent. The Statement shall be the basis of the Senate's consideration of the matter.

(d) (1) If the Committee votes to dismiss all counts of a Statement and there are no dissenting votes, the Statement shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect thereto.

(2) If there are any dissenting votes to the determination in subparagraph (d)(1), the Statement shall be considered dismissed and neither the Committee nor the Senate shall take any further action with respect thereto provided that the Senate shall consider the matter upon the written petition of any member of the Senate filed with the Presiding Officer and approved by a majority vote of all members of the Senate. If any such proceeding is initiated in the Senate, the matter shall be prosecuted by the members of the Committee who dissented from the vote to dismiss. The Statement shall be the basis of the Senate's consideration of the matter and the dissenting members of the Committee shall cause a copy of the Statement to be delivered to the Senate and served upon the Respondent.

Rule 30.12. Disclosure of Evidence.

Upon the request of a Respondent, the Committee may permit the Respondent to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which the Committee intends to use as evidence against the Respondent in a disciplinary hearing and which are material to the preparation of the defense of the Respondent.

Rule 30.13. Exculpatory Information.

If the Committee at any time receives any exculpatory information respecting a Statement of Alleged Violation against a member of the Senate of any law, rule, regulation, or other standard of conduct, it shall forthwith make such information available to such member.

Rule 30.14. Admissibility of Evidence.

(a) Any evidence that is relevant and probative shall be admissible in any hearing of the Committee, unless the evidence is privileged or unless the Constitution otherwise requires its exclusion. Objections going only to the weight that should be given to evidence will not justify its exclusion.

(b) The Chairman or other member presiding at a hearing shall rule upon any question of admissibility at the hearing of testimony or evidence presented to the Committee. The Chairman or other member presiding may limit the presentation of repetitious evidence. Rulings shall be final unless reversed or modified by a majority vote of the Committee members present.

Rule 30.15. Witnesses.

(a) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of his scheduled appearance to allow him a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel should he so desire.

(b) Except as otherwise specifically authorized by the Chairman, no member of the Committee or staff shall make public the name of any witness subpoenaed by the Committee before the date of his scheduled appearance.

(c) Witnesses at hearings may be accompanied by their counsel for the purpose of advising them concerning their constitutional rights and to raise objections to the admissibility of testimony and evidence. Counsel for a witness other than the Respondent shall not be permitted to engage in oral argument with the Committee. After a witness has testified, his counsel may submit to the Committee, in writing, any questions he wishes propounded to his client and any request for additional witnesses or other evidence. Such request may be granted at the Committee's discretion.

(d) The Respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his behalf. The application shall be granted upon a concise showing by the Respondent that the proposed testimony or evidence is relevant and not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(e) Each witness appearing before the Committee shall be furnished a printed copy of the rules of the Committee.

PROCEEDINGS BEFORE THE SENATE

30.16 Records of Senate Proceedings.

All papers filed in the Senate with respect to a proceeding involving an allegation of a violation of a Rule of Legislative Conduct shall be made available for public inspection at reasonable hours except that no paper shall be made available if its disclosure would violate any law or regulation.

30.17 Special Procedures.

The Senate may adopt by resolution any special procedures deemed necessary to a particular matter before the Senate. Copies of such special procedures shall be furnished to all parties and witnesses in the matter.

Rule 30.18 Consideration of Complaints by the Senate.

If a Statement of Alleged Violation is served upon a Respondent pursuant to Rule 30.8(c)(3), 30.9(f)(3), 30.11(c) or 30.11(d)(2), the Respondent shall have 20 calendar days in which to respond. The response shall be by way of answer or motion, shall be in writing and signed by the Respondent or his counsel, and shall be limited to the following:

(1) An admission or denial of, under oath, each count set forth in the Statement plus any supportive evidence and any other relevant information which the Respondent may desire to submit.

(2) An objection to any count in the Statement on the grounds that it fails to state a fact which constitutes a violation of a Rule of Legislative Conduct.

(3) An objection to the jurisdiction of the Senate to consider the allegations contained in the Statement.

(4) A motion for a bill of particulars.

(5) An objection to the participation of any member of the Senate in the consideration of the allegations contained in the Statement on the grounds that the member cannot render an impartial or unbiased decision. The member of the Senate against whom the objection is made shall be the sole judge of his qualifications. A motion under this paragraph is not in lieu of an answer.

Any motion submitted pursuant to this rule shall be accompanied by a memorandum of points and authorities. Except for good cause shown, no pleading or motion not described in paragraphs (1) through (5) will be considered by the Senate and the Senate will not consider any answer or motion in such paragraphs which is submitted under this rule after the expiration of such 20 calendar days.

(b) As soon as practical after the receipt of any motion under subsection (a) of this rule, the Senate shall consider such motion. Notice of the decision of the Senate respecting such motion shall be furnished the Respondent. When the Senate has acted on all motions submitted under paragraphs (2), (3) and (4) of subsection (a) of this rule, the Respondent shall in accordance with paragraph (a)(1) of this rule, submit, within 10 calendar days of the date of the last Senate action, an

answer to each count in the Statement not dismissed by the Senate.

(c) Failure to submit, within the applicable time period an answer to a count of a Statement which has not been dismissed by the Senate shall constitute an admission to the violation alleged in the count.

(d) The Presiding Officer, in his discretion, may extend or shorten any time limitations imposed by this rule if he determines that the extension would facilitate a fair and complete inquiry or the shorter time is required because of special circumstances.

(e) (1) As soon as practical after the expiration of all applicable time limitations for action under subsections (a) and (b) of this rule, the Senate shall act, by the vote of a majority of the members, to-

(A) hold a disciplinary hearing on the violation charged in the Statement, or

(B) defer action on the Statement but only if there is a grand jury or judicial proceeding pending, or

(C) dismiss the Statement, or any counts thereof.

(2) The Respondent shall be notified in writing of action taken under paragraph (1) of this subsection.

Rule 30.20. Disciplinary Hearings.

(a) A disciplinary hearing respecting a violation charged in a Statement of Alleged Violation shall be held by the Senate to receive evidence respecting such violation. A disciplinary hearing shall consist of two phases. The first phase shall be for the purpose of determining whether or not the counts in the Statement have been proved. The second phase shall be for the purpose of determining what disciplinary action to take with respect to any count found to have been proved.

(b) At a disciplinary hearing the Senate may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and any other things as it deems necessary. Depositions, interrogatories, and sworn statements taken under Senate direction may be accepted into the Senate record.

(c) Prior to setting a date for a disciplinary hearing and issuing subpoenas for witnesses, the Senate shall resolve the scope and purpose of the hearing. A copy of this statement of scope and purpose shall be furnished to all

witnesses. During the course of the hearing the Senate may expand or contract the scope in light of evidence received.

(d) (1) The order of phase one of a disciplinary hearing shall be as follows:

(A) The Presiding Officer shall open the hearing by stating the Senate's authority to conduct the hearing, the purpose of the hearing, and its scope.

(B) Testimony from witnesses and other evidence pertinent to the subject of the hearing shall be received in the following order whenever possible: (i) witnesses and other evidence offered by the Committee staff, (ii) witnesses and other evidence offered by the Respondent, and (iii) rebuttal witnesses.

(C) Witnesses at a hearing shall be examined first by the Committee counsel or authorized staff member. members of the Committee may then question the witnesses. The Respondent or his counsel may then cross examine the witnesses. Redirect and recross may be permitted in the Presiding Officer discretion. With respect to witnesses offered by the Respondent, a witness shall be examined first by the Respondent or his counsel, and then may be cross-examined by Committee counsel, or authorized staff member. Committee members may then question the witness. Redirect and recross may be permitted in the Presiding Officer's discretion.

(2) Testimony of all witnesses shall be taken under oath. The oath shall be administered by the Committee member designated by the Presiding Officer to administer oaths.

(e) At a disciplinary hearing the burden of proof rests on the Committee with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that it introduces.

(f) Phase two of a disciplinary hearing shall consist of oral and/or written submission by counsel for the Committee and counsel for the Respondent as to the sanction the Senate should impose with respect to any count of the Statement which has been proved. Testimony by witnesses will not be heard at phase two except by a vote of a majority of the Senate.

(g) The Senate by resolution may establish rules by which members of the Senate other than members of the Ethics Committee may participate in a disciplinary proceeding before the Senate.

Rule 30.21. Findings; Sanctions.

(a) (1) As soon as practicable after the completion of the first phase of a disciplinary hearing

respecting a Statement, the Senate shall consider each count contained in the Statement and with respect to each count as originally drawn or as amended shall vote on a motion that the count has been proved. A count shall not be proved unless at least a majority of the Senate vote for a motion that the count has been proved. A count which is not proved shall be considered as dismissed by the Senate.

(2) If the Senate votes that a count has been proved, the Senate may upon completion of the second phase of the disciplinary hearing, by a majority vote consider and vote on a motion that any of the following sanctions be imposed respecting the violation charged in such count:

- (1) Suspension or expulsion from the Senate.
- (2) Censure.
- (3) Reprimand.
- (4) Fine.

(5) Any other sanction determined by the Committee to be appropriate.

A member of the Senate may not be suspended or expelled from the Senate unless by a vote concurred in by two-thirds of the members.

Rule 30.22. Disclosure of Evidence.

Upon the request of a Respondent, the Committee may permit the Respondent to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which the Committee intends to use as evidence against the Respondent in a disciplinary hearing before the Senate and which are material to the preparation of the defense of the Respondent.

Rule 30.23 Exculpatory Information.

If the Committee at any time receives any exculpatory information respecting a Statement of Alleged Violation against a member of the Senate of any law, rule, regulation, or other standard of conduct, it shall forthwith make such information available to such member.

Rule 30.24. Admissibility of Evidence.

(a) Any evidence that is relevant and probative shall be admissible in any hearing before the Senate, unless the evidence is privileged or unless the Constitution otherwise requires its exclusion. Objections going only to the weight that should be given to evidence will not justify its exclusion.

(b) The Presiding Officer or other member presiding at a hearing shall rule upon any question of admissibility at the hearing of testimony or evidence presented to the Senate. The Presiding Officer or other member presiding may limit the presentation of repetitious evidence.

Rule 30.25. Witnesses.

(a) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of his scheduled appearance to allow him a reasonable period of time, as determined by the Presiding Officer, to prepare for the hearing and to employ counsel should he so desire.

(b) Except as otherwise specifically authorized by the Presiding Officer, no member of the Committee or staff shall make public the name of any witness subpoenaed by the Committee before the date of his scheduled appearance.

(c) Witnesses at hearings may be accompanied by their counsel for the purpose of advising them concerning their constitutional rights and to raise objections to the admissibility of testimony and evidence. Counsel for a witness other than the Respondent shall not be permitted to engage in oral argument before the Senate. After a witness has testified, his counsel may submit to the Presiding Officer in writing, any questions he wishes propounded to his client and any request for additional witnesses or other evidence. Such request may be granted at the Presiding Officer's discretion.

(d) The Respondent may apply to the Presiding Officer for the issuance of subpoenas for the appearance of witnesses or the production of documents on his behalf. The application shall be granted upon a concise showing by the Respondent that the proposed testimony or evidence is relevant and not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(e) Each witness appearing before the Senate shall be furnished a printed copy of the rules of the Senate.

CSM/133rd - 5/31/90

6/17/86

Revised 6/7/90

5/30/90

Sponsor:

House of Representatives
133rd General Assembly
House Resolution No. _____

AMENDING THE PERMANENT RULES OF THE HOUSE OF
REPRESENTATIVES OF THE 133RD GENERAL ASSEMBLY
RELATING TO RULES OF LEGISLATIVE CONDUCT

BE IT RESOLVED by the House of Representatives of the
133rd General Assembly of the State of Delaware that House
Resolution No. 5 pertaining to the permanent Rules of the House
of Representatives shall be amended as follows:

Section 1. The following new Rule 16A shall be added
following Rule 16:

"Rule 16A - Rules of Legislative Conduct.

(a) A member of the House shall be subject to
discipline by the House for violation of any of the following
Rules of Legislative Conduct which shall be deemed to constitute
"disorderly behavior" within the meaning of Article II, Section 9
of the Delaware Constitution:

(1) Restrictions relating to "personal or private
interests" within the meaning of Article II, Section 20 of the
Delaware Constitution and Chapter 10, Title 29 of the Delaware
Code--

(A) A member who has a personal or private
interest in any measure or bill pending before the House
shall disclose the fact and shall not participate in the
debate nor vote thereon; provided that, upon the request
of any other member of the House, a member who has such
a personal or private interest may nevertheless
respond to questions concerning any such measure or
bill. A personal or private interest in a measure or
bill is an interest which tends to impair a member's
independence of judgment in the performance of his or
her duties with respect to that measure or bill.

(B) A member has an interest which tends to
impair his or her independence of judgment in the
performance of his or her legislative duties with regard
to any bill or measure when:

(i) the enactment or defeat of the measure or
bill would result in a financial benefit or detriment to

accrue to the member or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons, or

(ii) the member or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure or bill to a lesser or greater extent than like enterprises or other interests in the same enterprise, or

(iii) a person required to register as a legislative agent pursuant to Chapter 16 of Title 29 of the Delaware Code is a close relative of the legislator and that person acts to promote, advocate, influence or oppose the measure or bill.

(C) Disclosure required under subsection (A) shall be made in open session (i) prior to the vote on the measure or the bill by any Committee of which the member is a member and (ii) prior to the vote on the measure or bill in the House. Disclosure may be made by written statement submitted to the Chairman of a Committee or the Speaker of the House and read in open session in the Committee or the House as the case may be.

(D) For the purposes of this Rule:

(I) A "close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

(II) A "private enterprise" means any activity whether conducted for profit or not for profit and includes the ownership of real or personal property; provided that "private enterprise" does not include any activity of the State of Delaware, any political subdivision or any agency, authority or instrumentality thereof.

(III) A person has a "financial interest" in a private enterprise if he or she

(i) has a legal or equitable ownership interest in the enterprise of more than 10% (1% in the case of a corporation whose stock is regularly traded on an established securities market); or

(ii) is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as

an employee, officer, director, trustee or independent contractor; or

(iii) is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

(IV) A "person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

(2) Receiving unlawful gratuities in violation of Section 1206, Title 11, Delaware Code.

(3) Receiving a bribe in violation of Section 1203, Title 11, Delaware Code.

(4) Profiteering in violation of Section 1212, Title 11, Delaware Code.

(5) Engaging in conduct constituting official misconduct in violation of Section 1211, Title 11, Delaware Code.

(6) Failure to comply with the financial disclosure requirements of Chapter 58, Title 29, Delaware Code.

(7) Appearing for, representing or assisting another in respect to a matter before the General Assembly or one of its committees for compensation other than that provided by law.

(8) Releasing without authorization of the Ethics Committee any confidential matter pertaining to proceedings of the Ethics Committee.

(9) Knowingly filing a false statement with the Ethics Committee or the House in connection with any proceeding involving a Rule of Legislative Conduct.

(10) Engaging in conduct which the House determines (i) brings the House into disrepute or (ii) reflects adversely on the member's fitness to hold legislative office.

(b) A member shall be subject to sanction for any prohibited conduct occurring subsequent to being elected to the House. A member shall also be subject to sanction for any prohibited conduct occurring prior to being elected to the House provided that the conduct bears a reasonable relationship to the member's fitness to hold legislative office.

(c) A complaint alleging a violation of a Rule of Legislative Conduct shall be filed in writing by a member with

the Ethics Committee for investigation and recommendation to the House as to disposition. A complaint must be accompanied by a written statement signed by any person, sworn under oath, setting forth the facts supporting the complaint. No such complaint shall be considered by the House prior to its consideration and recommendation by the Ethics Committee.

(d) If the Ethics Committee recommends some disciplinary action with respect to a complaint, a resolution shall be presented to the House that the House conduct a proceeding to consider the matter. If the Ethics Committee votes to dismiss a complaint and there are no dissenting votes in the Committee, the House shall take no action with respect thereto. If the Ethics Committee votes to dismiss a complaint but there are dissenting votes in the Committee, the House may consider the matter upon the petition of any member approved by a majority vote of the House. In any proceeding before the House involving an alleged violation of a Rule of Legislative Conduct, the accused member shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine any witnesses; a transcript of any such proceeding shall be made and retained; and the procedural rules of Rule 55 shall apply.

(e) If the House finds by a majority vote that a member has violated a Rule of Legislative Conduct, it may impose such disciplinary action as it deems appropriate provided that no member may be suspended or expelled without the vote of 2/3 of the House concurring therein.

Section 2. Rule 26 shall be amended to delete subsections (b) and (c), to relabel subsections "(d)", "(e)" and "(f)" as "(b)", "(c)" and "(d)" and to add the following new subsection (e):

"(e) Whenever any member answers "not voting" because of a "personal or private interest" as defined in Article II, Section 20 of the Delaware Constitution, the record shall so reflect."

Section 3. The following new Rule 29A shall be added following Rule 29:

"Rule 29A." Ethics Committee.

(a) The Ethics Committee shall be a standing committee consisting of five members, three appointed by the Speaker and two appointed by the Minority Leader at the beginning of each General Assembly.

(b) The powers and duties of the Ethics Committee shall be as follows:

(1) To recommend to the House from time to time such rules of conduct for members of the House as it shall deem appropriate.

(2) To issue written advisory opinions upon the request of any member as to the applicability of any Rule of Legislative Conduct to any particular fact situation.

(3) To investigate any alleged violation by a member of any Rule of Legislative Conduct and, after notice and hearing, to recommend to the House by resolution such disciplinary action as it may deem appropriate.

(4) To report to the appropriate federal or State authorities any substantial evidence of a violation by any member of any law involving a Rule of Legislative Conduct which may come to its attention in connection with any proceeding whether advisory or investigative.

(5) To maintain a file of its proceedings and advisory opinions with a view toward achieving consistency of opinions and recommendations. Upon the request of a legislator involved in an advisory opinion, to publish that advisory opinion.

(6) To follow the procedural rules specified in Rule 55 and to establish such other procedural rules as shall not be inconsistent with the rules prescribed by the House.

(7) To act only upon a majority vote of its members.

(8) Such other duties and responsibilities as may be assigned by the House from time to time.

(c) All proceedings before the Ethics Committee in connection with an advisory opinion shall be confidential subject to the following: (i) the member involved may waive the privilege of confidentiality; (ii) the proceedings shall no longer be confidential and may be made public in any subsequent disciplinary proceeding if the member acts in disregard of an advisory opinion; and (iii) the Ethics Committee shall maintain records of its proceedings and advisory opinions which shall be available for reference by the Committee, subsequent Committees and their staff.

(d) The Committee may undertake an investigation of an alleged violation by a member of any Rule of Legislative Conduct only upon a written complaint submitted by a member of the House. The complaint must be accompanied by a written statement signed by any person, sworn under oath, setting forth the facts supporting the complaint. In any such investigation or proceeding, a member shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to

produce witnesses and offer evidence, and to cross examine witnesses. A transcript of any such proceeding shall be made and retained. In any such proceeding the procedural rules of Rule 55 shall apply.

(e) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her legislative conduct. In any such case, the person appointing that member (either the Speaker or the Minority Leader) shall designate a member of the House to act as a member of the committee in any committee proceeding relating to the legislative conduct of such ineligible member. A member of the committee who has been found by the House to have violated a Rule of Legislative Conduct shall be ineligible to serve again as a member of the committee.

(f) A member of the committee may disqualify himself from participating in any investigation of the conduct of a member of the House upon submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the person appointing that member (either the Speaker or the Minority Leader) and request that person to designate a member of the House to act as a member of the committee in any committee proceeding relating to such investigation.

(g) Any member who acts in good faith reliance upon any written advisory opinion of the Ethics Committee shall not be subject to any discipline by the House with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Ethics Committee of all facts necessary for the opinion.

(h) The committee may function without regard to recess periods or adjournment.

Section 4. Rule 33(d) shall be amended to add the following at the end thereof:

"In any case where a member is recorded as "not voting" on account of a "personal or private interest" as defined in Article II, Section 20 of the Delaware Constitution, that fact shall be noted in the Committee records and on the backer of the bill concerned where applicable."

Section 5. The following new Rule 55 shall be added following Rule 54:

"Rule 55. Ethics Violations; Rules of Procedure.

Rule 55.1. Scope and Authority.

These rules govern the procedures to be followed by the Ethics Committee and the House in proceedings involving allegations of violations of Rules of Legislative Conduct. So far as applicable, these rules and the Rules of the House of Representatives shall be the rules of the Ethics Committee which may prescribe additional rules not inconsistent therewith.

PROCEEDINGS BEFORE THE ETHICS COMMITTEE

Rule 55.2. Meetings and Quorum.

(a) The Committee shall meet at the call of the Chairman. Notice of a committee meeting shall be given pursuant to the Rules of the House of Representatives.

(b) A quorum of the Committee consists of a majority of the members of the Committee.

Rule 55.3. Committee Records.

(a) The Chairman of the Committee shall, with the approval of the Committee, establish such procedures as in the Chairman's judgment may be necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

(b) (1) Unless otherwise authorized by the Committee, no information received by the Committee respecting any alleged violation by a member of the House of Representatives of any Rule of Legislative Conduct shall be disclosed to the public before the transmittal under Rule 55.8 to such member of a Statement of Alleged Violation in connection with such violation. After the service of such a Statement on the member--

(2) the Statement and any other paper filed pursuant to Rule 55.9 respecting such violation shall be made available for public inspection at reasonable hours, and

(3) any other paper filed with the Committee respecting such violation shall be made available as authorized by the Committee, except that no paper shall be made available if its disclosure would violate any law or regulation.

Rule 55.4. Special Procedures.

The Committee may adopt by resolution any special procedures deemed necessary to a particular matter before the Committee. Copies of such special procedures shall be furnished to all parties and witnesses in the matter.

Rule 55.5. Changes in Committee Rules.

The rules of the Committee other than these rules may be modified, amended, or repealed by a vote of a majority of the Committee.

COMMITTEE INVESTIGATIVE AUTHORITY

Rule 55.6. Complaints.

(a) A Complaint may be submitted to the Committee pursuant to subsection (c) of this rule and shall be in writing and under oath, setting forth in simple, concise, and direct Statements the following:

(1) the name and address of the party filing the complaint (hereinafter referred to as the "Complainant");

(2) the name of the member of the House of Representatives alleged to be in violation of a Rule of Legislative Conduct (hereinafter referred to as the "Respondent");

(3) a statement of each violation, identifying the Rule of Legislative Conduct alleged to have been violated, divided into counts with each violation representing a separate count; and

(4) the facts alleged to give rise to the violation. The facts supporting the Complaint may be sworn to by any person. When facts are alleged upon the information and belief of the Complainant, the Complaint shall so state and set forth the basis for such information and belief.

(b) All documents in the possession of the Complainant that are relevant to and in support of the allegations shall be appended to the Complaint.

(c) A Complaint may be filed only by a member of the House of Representatives (including a member of the Committee) and shall be transmitted directly to the Committee.

Rule 55.7. Processing Complaints.

(a) (1) The staff of the Committee shall examine each Complaint submitted to the Committee for compliance with the Rules of the House of Representatives and any other applicable Committee rules.

(2) If the staff determines that a Complaint does not comply with House and Committee Rules, the Complaint shall be returned to the Complainant with a general statement that the Complaint is not in compliance with such rules and a copy of such rules. A Complainant may resubmit a complaint.

(3) If the staff determines that a Complaint is in compliance with House and Committee rules, the Complaint shall be filed with the Committee and a copy shall be transmitted to each member of the Committee.

(4) The Chairman shall place the Complaint on the Committee agenda for consideration and shall schedule a Committee meeting as soon as practical thereafter.

(A) The Committee shall consider the Complaint and determine if the Complaint should be dismissed because it fails to allege facts which constitute a violation of a Rule of Legislative Conduct or if the Complaint merits further inquiry.

(B) The decision under subparagraph (A) of this paragraph shall be transmitted, in writing, to the Complainant and Respondent.

(b) (1) If the Committee determines that the Complaint fails to allege facts which constitute a violation of a Rule of Legislative Conduct, the Committee shall deliver to the House a report of the action taken and a brief statement of the reasons therefor.

(2) If there are no dissenting votes to the determination in subparagraph (b)(1) the Complaint shall be considered dismissed and neither the Committee nor the House shall take any further action with respect thereto.

(3) If there are any dissenting votes to the determination in subparagraph (b)(1), the Complaint shall be considered dismissed and neither the Committee nor the House shall take any further action with respect thereto provided that the Committee's determination shall be considered reversed and the investigation shall be pursued by the Committee upon the written petition of any member of the House filed with the Speaker and approved by the majority vote of the members of the House.

Rule 55.8. Preliminary Inquiry and Statement of Alleged Violation.

(a) (1) If the Committee determines under Rule 55.7 that the allegation of a violation in a Complaint filed with the Committee merits further inquiry, or if the Committee's determination in that regard is reversed by the House, the Committee shall conduct a preliminary inquiry to determine whether such violation occurred.

(2) In the preliminary inquiry--

(A) the Respondent shall have an opportunity to present to the Committee, orally or in writing, a statement respecting the allegations with respect to which the inquiry is being held,

(B) the staff may interview witnesses and examine documents and other evidentiary matter,

(C) the Committee may order the testimony of witness to be taken under oath, in which event the oath may be administered by a member of the Committee or by any person authorized by a member of the Committee or by any person authorized by law to administer oaths,

(D) the Committee may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other things as it deems necessary to the conduct of the inquiry, and

(E) any probative evidence may be used.

Upon the completion of the preliminary inquiry, the staff of the Committee shall prepare and transmit to the Committee a report containing a comprehensive summary of the information received in the inquiry and may include in the report a recommendation for action by the Committee respecting the alleged violations which was the subject of the inquiry.

(b) If the Committee determines on the basis of the report of the Committee staff on the preliminary inquiry respecting an alleged violation that there is reason to believe that the violation occurred, the Committee shall direct the staff to transmit to the respondent a statement of Alleged Violation. A statement shall be divided into counts and each count shall relate to a separate violation and shall contain a plain and concise statement of the alleged facts of such violation and include a reference to the provision of the Rule of Legislative Conduct alleged to have been violated.

(c)(1) If the Committee determines on the basis of the report of the Committee staff on the preliminary inquiry that there is no reason to believe that the violation occurred, the Committee shall deliver to the House a report of the action taken together with a statement of the reasons therefore.

(2) If there are no dissenting votes to the determination in subparagraph (c)(1), the Complaint shall be considered dismissed and neither the Committee nor the House shall take any further action with respect thereto.

(3) If there are any dissenting votes to the determination in subparagraph (c)(1), the Complaint shall be considered dismissed and neither the Committee nor the House shall take any further action with respect to the matter provided that the House shall consider the matter upon the written petition of any member of the House filed with the Speaker and approved by the majority vote of the members of the House. If any such proceeding is initiated in the House, the matter shall be prosecuted by the members of the Committee who dissented from the vote to dismiss the Complaint. In such case the dissenting members shall direct the Committee staff to transmit to the House and to the Respondent a Statement of Alleged Violation as described in subsection (b) which shall be the basis of the House's consideration of the matter.

Rule 55.9. Answers and Motions and Committee Action.

(a) If a statement of Alleged Violation is transmitted under rule 55.8(b), the Respondent shall have 20 calendar days in which to respond. The response shall be by way of answer or motion, shall be in writing and signed by the Respondent or his counsel, and shall be limited to the following:

(1) An admission or denial of, under oath, each count set forth in the statement plus any supportive evidence and any other relevant information which the Respondent may desire to submit.

(2) An objection to any count in the statement on the grounds that it fails to state a fact which constitutes a violation of a Rule of Legislative Conduct.

(3) An objection to the jurisdiction of the Committee to consider the allegations contained in the statement.

(4) A motion for a bill of particulars.

(5) An objection to the participation of any member of the Committee in the consideration of the allegations contained in the statement on the grounds that the member cannot render an impartial or unbiased decision. The Committee member against whom the objection is made shall be the sole judge of his qualifications. A motion under this paragraph is not in lieu of an answer.

Any motion submitted pursuant to this rule shall be accompanied by a memorandum of points and authorities. Except for good cause shown, no pleading or motion not described in paragraphs (1) through (5) will be considered by the Committee and the Committee will not consider any answer or motion in such paragraphs which is submitted under this rule after the expiration of such 20 calendar days.

(b) Within 10 calendar days after the receipt of any motion under subsection (a) of this rule, the Committee shall consider such motion. Notice of the decision of the Committee respecting such motion shall be furnished the Respondent. When the Committee has acted on all motions submitted under paragraphs (2), (3) and (4) of subsection (a) of this rule, the Respondent shall in accordance with paragraph (a)(1) of this rule, submit, within 10 calendar days of the date of the last Committee action, an answer to each count in the Statement not dismissed by the Committee.

(c) Failure to submit, within the applicable time period an answer to a count of a Statement which has not been dismissed by the Committee shall constitute an admission to the violation alleged in the count.

(d) The Chairman, in his discretion, may extend or shorten any time limitations imposed by this rule if he determines that the extension would facilitate a fair and complete inquiry or the shorter time is required because of special circumstances.

(e) (1) As soon as practical after the expiration of all applicable time limitations for action under subsections (a) and (b) of this rule, the Committee shall act, by the vote of a majority of the members of the Committee, to-

(A) hold a disciplinary hearing on the violation charged in the Statement, or

(B) defer action on the Statement but only if there is a grand jury or judicial proceeding pending; or

(C) dismiss the Statement.

(2) The Respondent shall be notified in writing of action taken under paragraph (1) of this subsection.

(f) (1) If the Committee votes to dismiss the Statement, the Committee shall deliver to the House a report of the action taken together with a statement of the reasons therefor.

(2) If there are no dissenting votes to the decision in subparagraph (f)(1), the Statement shall be considered dismissed and neither the Committee nor the House shall take any further action with respect thereto.

(3) If there are any dissenting votes to the decision in subparagraph (f)(1), the Statement shall be considered dismissed and neither the Committee nor the House

shall take any further action with respect to the matter provided that the House shall consider the matter upon the written petition of any member of the House filed with the Speaker and approved by a majority vote of the members of the House. If any such proceeding is initiated in the House, the matter shall be prosecuted by the members of the Committee who dissented from the vote to dismiss the Statement. The Statement shall be the basis of the House's consideration of the matter and the dissenting members shall cause a copy of the Statement to be delivered to the House and served upon the Respondent.

Rule 55.10. Disciplinary Hearings Before the Committee.

(a) A disciplinary hearing respecting a violation charged in a Statement of Alleged Violation shall be held by the Committee to receive evidence upon which to base findings of fact and recommendations, if any, to the House respecting such violation. A disciplinary hearing shall consist of two phases. The first phase shall be for the purpose of determining whether or not the counts in the Statement have been proved. The second phase shall be for the purpose of determining what action to recommend to the House with respect to any count found to have been proved.

(b) At a disciplinary hearing the Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and any other things as it deems necessary. Depositions, interrogatories, and sworn statements taken under Committee direction may be accepted into the Committee record.

(c) Prior to setting a date for a disciplinary hearing and issuing subpoenas for witnesses, the Committee shall resolve the scope and purpose of the hearing. A copy of this statement of scope and purpose shall be furnished to all witnesses. During the course of the hearing the Committee may expand or contract the scope in light of evidence received.

(d) (1) The order of phase one of a disciplinary hearing shall be as follows:

(A) The Chairman shall open the hearing by stating the Committee's authority to conduct the hearing, the purpose of the hearing, and its scope.

(B) Testimony from witnesses and other evidence pertinent to the subject of the hearing shall be received in the following order whenever possible: (i) witnesses and other evidence offered by the Committee staff, (ii) witnesses and other evidence offered by the Respondent, and (iii) rebuttal witnesses.

(C) Witnesses at a hearing shall be examined first by the Committee counsel or authorized staff member. The Committee members may then question the witnesses. The Respondent or his counsel may then cross examine the witnesses. Redirect and recross may be permitted in the Chairman's discretion. With respect to witnesses offered by the respondent, a witness shall be examined first by the Respondent or his counsel, and then may be cross-examined by Committee counsel or authorized staff member. Committee members may then question the witness. Redirect and recross may be permitted in the Chairman's discretion.

(2) Testimony of all witnesses shall be taken under oath. The oath shall be administered by the Chairman or Committee member designated by him to administer oaths.

(e) At a disciplinary hearing the burden of proof rests on the staff with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that it introduces.

(f) Phase two of a disciplinary hearing shall consist of oral and/or written submission by counsel for the Committee and counsel for the Respondent as to the sanction the Committee should recommend to the House with respect to any count of the Statement of Alleged Violation which has been proved. Testimony by witnesses will not be heard at phase two except by a vote of a majority of the Committee.

Rule 55.11. Committee Recommendations.

(a) (1) As soon as practicable after the completion of the first phase of a disciplinary hearing respecting a Statement of Alleged Violation, the Committee shall consider each count contained in the Statement and with respect to each count as originally drawn or as amended shall vote either to find that the count has been proved or to dismiss the count. A count shall not be proved unless at least a majority of the Committee vote for a motion that the count has been proved.

(2) If the Committee votes that a count has been proved, the Committee may upon completion of the second phase of the disciplinary hearing, by a majority vote of the Committee, consider and vote on a motion that a recommendation be made to the House for appropriate action respecting the violation charged in such count.

(b) With respect to any violation with which a member of the House was charged in a count which the Committee

has voted as proved, the Committee may include in its recommendation to the House one or more of the following sanctions:

- (1) Suspension or expulsion from the House.
- (2) Censure.
- (3) Reprimand.
- (4) Fine.
- (5) Any other sanction determined by the Committee to be appropriate.

(c) The Committee report accompanying a recommendation to the House adopted by the Committee under clause (a)(2) respecting a violation charged in a count shall contain a statement of the evidence which supported the finding as to that count and a statement of the Committee's reasons for the recommendation as well as a statement of the Committee's reasons for finding that any count was not proved. The Committee shall cause a copy of the Committee's report and the Statement of Alleged Violation to be served upon the Respondent. The Statement shall be the basis of the House's consideration of the matter.

(d) (1) If the Committee votes to dismiss all counts of a Statement and there are no dissenting votes, the Statement shall be considered dismissed and neither the Committee nor the House shall take any further action with respect thereto.

(2) If there are any dissenting votes to the determination in subparagraph (d)(1), the Statement shall be considered dismissed and neither the Committee nor the House shall take any further action with respect thereto provided that the House shall consider the matter upon the written petition of any member of the House filed with the Speaker and approved by a majority vote of all members of the House. If any such proceeding is initiated in the House, the matter shall be prosecuted by the members of the Committee who dissented from the vote to dismiss. The Statement shall be the basis of the House's consideration of the matter and the dissenting members of the Committee shall cause a copy of the Statement to be delivered to the House and served upon the Respondent.

Rule 55.12. Disclosure of Evidence.

Upon the request of a Respondent, the Committee may permit the Respondent to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which the Committee intends to use as evidence against the Respondent

in a disciplinary hearing and which are material to the preparation of the defense of the Respondent.

Rule 55.13. Exculpatory Information.

If the Committee at any time receives any exculpatory information respecting a Statement of Alleged Violation against a member of the House of any law, rule, regulation, or other standard of conduct, it shall forthwith make such information available to such member.

Rule 55.14. Admissibility of Evidence.

(a) Any evidence that is relevant and probative shall be admissible in any hearing of the Committee, unless the evidence is privileged or unless the Constitution otherwise requires its exclusion. Objections going only to the weight that should be given to evidence will not justify its exclusion.

(b) The Chairman or other member presiding at a hearing shall rule upon any question of admissibility at the hearing of testimony or evidence presented to the Committee. The Chairman or other member presiding may limit the presentation of repetitious evidence. Rulings shall be final unless reversed or modified by a majority vote of the Committee members present.

Rule 55.15. Witnesses.

(a) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of his scheduled appearance to allow him a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel should he so desire.

(b) Except as otherwise specifically authorized by the Chairman, no member of the Committee or staff shall make public the name of any witness subpoenaed by the Committee before the date of his scheduled appearance.

(c) Witnesses at hearings may be accompanied by their counsel for the purpose of advising them concerning their constitutional rights and to raise objections to the admissibility of testimony and evidence. Counsel for a witness other than the Respondent shall not be permitted to engage in oral argument with the Committee. After a witness has testified, his counsel may submit to the Committee, in writing, any questions he wishes propounded to his client and any request for additional witnesses or other evidence. Such request may be granted at the Committee's discretion.

(d) The Respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his behalf. The application shall be granted upon a concise showing by the Respondent that the proposed testimony or evidence is relevant and not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(e) Each witness appearing before the Committee shall be furnished a printed copy of the rules of the Committee.

PROCEEDINGS BEFORE THE HOUSE

55.16 Records of House Proceedings.

All papers filed in the House with respect to a proceeding involving an allegation of a violation of a Rule of Legislative Conduct shall be made available for public inspection at reasonable hours except that no paper shall be made available if its disclosure would violate any law or regulation.

55.17 Special Procedures.

The House may adopt by resolution any special procedures deemed necessary to a particular matter before the House. Copies of such special procedures shall be furnished to all parties and witnesses in the matter.

Rule 55.18 Consideration of Complaints by the House.

If a Statement of Alleged Violation is served upon a Respondent pursuant to Rule 55.8(c)(3), 55.9(f)(3), 55.11(c) or 55.11(d)(2), the Respondent shall have 20 calendar days in which to respond. The response shall be by way of answer or motion, shall be in writing and signed by the Respondent or his counsel, and shall be limited to the following:

(1) An admission or denial of, under oath, each count set forth in the Statement plus any supportive evidence and any other relevant information which the Respondent may desire to submit.

(2) An objection to any count in the Statement on the grounds that it fails to state a fact which constitutes a violation of a Rule of Legislative Conduct.

(3) An objection to the jurisdiction of the House to consider the allegations contained in the Statement.

(4) A motion for a bill of particulars.

(5) An objection to the participation of any member of the House in the consideration of the allegations contained in the Statement on the grounds that the member cannot render an impartial or unbiased decision. The member of the House against whom the objection is made shall be the sole judge of his qualifications. A motion under this paragraph is not in lieu of an answer.

Any motion submitted pursuant to this rule shall be accompanied by a memorandum of points and authorities. Except for good cause shown, no pleading or motion not described in paragraphs (1) through (5) will be considered by the House and the House will not consider any answer or motion in such paragraphs which is submitted under this rule after the expiration of such 20 calendar days.

(b) As soon as practical after the receipt of any motion under subsection (a) of this rule, the House shall consider such motion. Notice of the decision of the House respecting such motion shall be furnished the Respondent. When the House has acted on all motions submitted under paragraphs (2), (3) and (4) of subsection (a) of this rule, the Respondent shall in accordance with paragraph (a)(1) of this rule, submit, within 10 calendar days of the date of the last House action, an answer to each count in the Statement not dismissed by the House.

(c) Failure to submit, within the applicable time period an answer to a count of a Statement which has not been dismissed by the House shall constitute an admission to the violation alleged in the count.

(d) The Speaker, in his discretion, may extend or shorten any time limitations imposed by this rule if he determines that the extension would facilitate a fair and complete inquiry or the shorter time is required because of special circumstances.

(e) (1) As soon as practical after the expiration of all applicable time limitations for action under subsections (a) and (b) of this rule, the House shall act, by the vote of a majority of the members, to-

(A) hold a disciplinary hearing on the violation charged in the Statement, or

(B) defer action on the Statement but only if there is a grand jury or judicial proceeding pending, or

(C) dismiss the Statement, or any counts thereof.

(2) The Respondent shall be notified in writing of action taken under paragraph (1) of this subsection.

Rule 55.20. Disciplinary Hearings.

(a) A disciplinary hearing respecting a violation charged in a Statement of Alleged Violation shall be held by the House to receive evidence respecting such violation. A disciplinary hearing shall consist of two phases. The first phase shall be for the purpose of determining whether or not the counts in the Statement have been proved. The second phase shall be for the purpose of determining what disciplinary action to take with respect to any count found to have been proved.

(b) At a disciplinary hearing the House may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and any other things as it deems necessary. Depositions, interrogatories, and sworn statements taken under House direction may be accepted into the House record.

(c) Prior to setting a date for a disciplinary hearing and issuing subpoenas for witnesses, the House shall resolve the scope and purpose of the hearing. A copy of this statement of scope and purpose shall be furnished to all witnesses. During the course of the hearing the House may expand or contract the scope in light of evidence received.

(d) (1) The order of phase one of a disciplinary hearing shall be as follows:

(A) The Speaker shall open the hearing by stating the House's authority to conduct the hearing, the purpose of the hearing, and its scope.

(B) Testimony from witnesses and other evidence pertinent to the subject of the hearing shall be received in the following order whenever possible: (i) witnesses and other evidence offered by the Committee staff, (ii) witnesses and other evidence offered by the Respondent, and (iii) rebuttal witnesses.

(C) Witnesses at a hearing shall be examined first by the Committee counsel or authorized staff member. Members of the Committee may then question the witnesses. The Respondent or his counsel may then cross examine the witnesses. Redirect and recross may be permitted in the Speaker's discretion. With respect to witnesses offered by the Respondent, a witness shall be examined first by the Respondent or his counsel, and then may be cross-examined by Committee counsel, or authorized staff member. Committee

members may then question the witness. Redirect and recross may be permitted in the Speaker's discretion.

(2) Testimony of all witnesses shall be taken under oath. The oath shall be administered by the Committee member designated by the Speaker to administer oaths.

(e) At a disciplinary hearing the burden of proof rests on the Committee with respect to each count to establish the facts alleged therein clearly and convincingly by the evidence that it introduces.

(f) Phase two of a disciplinary hearing shall consist of oral and/or written submission by counsel for the Committee and counsel for the Respondent as to the sanction the House should impose with respect to any count of the Statement which has been proved. Testimony by witnesses will not be heard at phase two except by a vote of a majority of the House.

(g) The House by resolution may establish rules by which members of the House other than members of the Ethics Committee may participate in a disciplinary proceeding before the House.

Rule 55.21. Findings; Sanctions.

(a) (1) As soon as practicable after the completion of the first phase of a disciplinary hearing respecting a Statement, the House shall consider each count contained in the Statement and with respect to each count as originally drawn or as amended shall vote on a motion that the count has been proved. A count shall not be proved unless at least a majority of the House vote for a motion that the count has been proved. A count which is not proved shall be considered as dismissed by the House.

(2) If the House votes that a count has been proved, the House may upon completion of the second phase of the disciplinary hearing, by a majority vote consider and vote on a motion that any of the following sanctions be imposed respecting the violation charged in such count:

(1) Suspension or expulsion from the House.

(2) Censure.

(3) Reprimand.

(4) Fine.

(5) Any other sanction determined by the Committee to be appropriate.

A member of the House may not be suspended or expelled from the House unless by a vote concurred in by two-thirds of the members.

Rule 55.22. Disclosure of Evidence.

Upon the request of a Respondent, the Committee may permit the Respondent to inspect, copy, or photograph books, papers, documents, photographs, or other tangible objects which the Committee intends to use as evidence against the Respondent in a disciplinary hearing before the House and which are material to the preparation of the defense of the Respondent.

Rule 55.23 Exculpatory Information.

If the Committee at any time receives any exculpatory information respecting a Statement of Alleged Violation against a member of the House of any law, rule, regulation, or other standard of conduct, it shall forthwith make such information available to such member.

Rule 55.24. Admissibility of Evidence.

(a) Any evidence that is relevant and probative shall be admissible in any hearing before the House, unless the evidence is privileged or unless the Constitution otherwise requires its exclusion. Objections going only to the weight that should be given to evidence will not justify its exclusion.

(b) The Speaker or other member presiding at a hearing shall rule upon any question of admissibility at the hearing of testimony or evidence presented to the House. The Speaker or other member presiding may limit the presentation of repetitious evidence.

Rule 55.25. Witnesses.

(a) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of his scheduled appearance to allow him a reasonable period of time, as determined by the Speaker, to prepare for the hearing and to employ counsel should he so desire.

(b) Except as otherwise specifically authorized by the Speaker, no member of the Committee or staff shall make public the name of any witness subpoenaed by the Committee before the date of his scheduled appearance.

(c) Witnesses at hearings may be accompanied by their counsel for the purpose of advising them concerning their constitutional rights and to raise objections to the admissibility of testimony and evidence. Counsel for a witness other than the Respondent shall not be permitted to engage in

oral argument before the House. After a witness has testified, his counsel may submit to the Speaker in writing, any questions he wishes propounded to his client and any request for additional witnesses or other evidence. Such request may be granted at the Speaker's discretion.

(d) The Respondent may apply to the Speaker for the issuance of subpoenas for the appearance of witnesses or the production of documents on his behalf. The application shall be granted upon a concise showing by the Respondent that the proposed testimony or evidence is relevant and not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(e) Each witness appearing before the House shall be furnished a printed copy of the rules of the House.

CSM\houserules



STATE OF DELAWARE
DELAWARE STATE ETHICS COMMISSION
P.O. BOX 1401 - TOWNSEND BUILDING
FEDERAL STREET
DOVER, DELAWARE 19903

TELEPHONE: (302) 739 - 41

December 16, 1992

The Honorable Thomas R. Carper
Governor-Elect, State of Delaware
P. O. Box 2882
Wilmington, DE 19805

Dear Governor-Elect Carper:

As Chairman of the State Ethics Commission, I am pleased to report on the interest which the Commission has shown with respect to your position paper on Ethics Reform issued during your recent campaign. We especially agree with your recommendations that a Commission charged with enforcing Delaware's ethics laws should be sufficiently funded to employ a full-time attorney/investigator and perhaps an accountant with experience in investigations. We assume that your reference to "...the weak State Ethics Commission..." deals with the fact that at the present time the Commission has no such permanent staff.

It is important to have a permanent staff in order to conduct the Commission's work in an expeditious manner and it is also important, as you note, that investigations be done directly by the Commission's staff rather than by the Attorney General's Office, because the Attorney General is an elected official who might be perceived as being partisan. We should note that the Attorney General has conducted investigations with complete integrity, but the public perception of having an elected official perform investigations for the Commission is an important consideration.

Despite the handicap of no permanent staff, the Commission has conducted a large number of hearings concerning which detailed opinions have been issued and extensive work has been done by the Commission itself in drafting rules of procedure, which are presently being reviewed by the Attorney General's Office.

You might also be interested in the Commission's response to a letter requesting guidance on the post-employment restrictions of 29 Del. C. §5805(d) because it deals with the transition between Governor Castle's administration and your incoming administration.

Given its lack of resources, we feel that the State Ethics Commission has operated in an extremely efficient and expeditious manner. Its members have each devoted hundreds of hours to this important public service. Nonetheless,

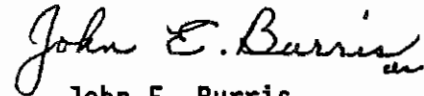
The Honorable Thomas R. Carper
December 16, 1992
Page Two.

an even more efficient and more productive job could be performed by the Commission if sufficiently funded to employ the personnel recommended in your position paper.

If there is anything we can do to provide assistance for your proposals for expanding ethics reform in Delaware State Government, please let us know.

We extend our best wishes to you as you undertake the important tasks of your new office of Governor.

Sincerely,

A handwritten signature in cursive script that reads "John E. Burris".

John E. Burris
Chairman

JEB/clc

signed by Sen
7/22/



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STATE ETHICS COMMISSION
DOVER

SPONSOR: Sen. Connor
Sens. Bair, Blevins,
McDowell, Minner, Sokola
Reps. Amick, Buckworth,
Davis, Schroeder, Soles

DELAWARE STATE SENATE

136TH GENERAL ASSEMBLY 206 JUN 9 1992

SENATE BILL NO. _____

AN ACT TO AMEND CHAPTER 417, VOLUME 67, LAWS OF DELAWARE AND CHAPTER 58, TITLE 29 OF THE DELAWARE CODE RELATING TO THE CODE OF CONDUCT FOR LOCAL GOVERNMENTAL UNITS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 417, Volume 67, Laws of Delaware by deleting
 2 Section 2 in its entirety and by inserting in lieu thereof the following:
 3 "Section 2. It is the desire of the General Assembly that all
 4 counties, municipalities and towns adopt code of conduct legislation at least
 5 as stringent as this act to apply to their employees and elected and appointed
 6 officials. Subchapter I, Chapter 58 of Title 29 shall apply to any county,
 7 municipality or town and the employees and elected and appointed officials
 8 thereof which has not enacted such legislation by January 23, 1993. No code
 9 of conduct legislation shall be deemed sufficient to exempt any county,
 10 municipality or town from the purview of Subchapter I, Chapter 58 of Title 29
 11 unless the code of conduct has been submitted to the State Ethics Commission
 12 and determined by a majority vote thereof to be at least as stringent as
 13 Subchapter I, Chapter 58, Title 29. Any change to an approved code of conduct
 14 must similarly be approved by the State Ethics Commission to continue the
 15 exemption from Subchapter I, Chapter 58, Title 29."

Synopsis

Section 2 of 67 Laws of Delaware Chapter 417 requests that local governments enact code of conduct legislation similar to Subchapter I of Chapter 58, Title 29 by January 23, 1993. The State Ethics Commission was to report to the General Assembly thereafter as to covering those then uncovered. This Bill gives these local governments a greater incentive to enact their own code of conduct by bringing them within the purview of the State Code of Conduct if they fail to enact their own by January 23, 1993. The State Ethics Commission is empowered to determine the efficacy of these codes of conduct.

AUTHOR: Sen. Connor

1 of 1

SR:RTC:TMC
496

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May 12, 1993

VIA TELEFAX

John E. Burris, Chairman
Delaware State Ethics Commission
P.O. Box 1401
Townsend Building
Federal Street
Dover, DE 19903

Dear Jack:

As I mentioned when we spoke yesterday, Leo Strine would appreciate receiving from the State Ethics Commission our suggestions for inclusion in the new legislation. I gather from Leo that the legislative package is on a fast track and Leo would be happy to meet with one or more of us in the near future. I am setting forth my suggestions below and if any Commission member has additional points, they should contact you or me within the next few days.

1. The Commission should have a full-time attorney/investigator and perhaps other full time staff.
2. Ethics legislation should also cover legislators, employees of the General Assembly and lobbying.
3. The efforts of the State Ethics Commission (or the State Public Integrity Commission, as it will be known) should not be diluted by requiring the Commission to become involved in issues dealing with municipalities.
4. Section 5804(4) dealing with when a person has a "financial interest" should be rewritten to include financial interests of close relatives. For instance, the Delaware Code of Judicial Conduct covers not only the Judge but the Judge's spouse and minor children residing in the Judge's household.

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Mr. John E. Burris
May 12, 1993
Page 2

5. The post employment restrictions contained in Section 5805(d) should be broadened to preclude former state employees from using or divulging confidential state information.

6. Section 5805(f) provides for criminal sanctions for violations of § 5805 which is titled "Prohibitions Relating to Conflicts of Interest", but there are no criminal sanctions for violations of § 5806 "Code of Conduct" which could be just as serious as violations of § 5805.

7. Section 5806(h) should not be limited to "sexual favors" but should be broadened to include other forms of sexual harassment.

8. Section 5809(3) authorizes the Commission "to recommend" disciplinary action to the state agency employing the state employee or state officer. Section 5810(d) authorizes the State Ethics Commission to "remove, suspend, demote or take other appropriate disciplinary action....". Are these sections inconsistent?

9. The provisions of § 5810(h) dealing with what the Commission should treat as confidential and what the Commission should open to the public should be clarified.

Best regards.

Sincerely,



Arthur G. Connolly, Jr.

AGC, JR/nb
cc: Commission Members
Loretta LeBar, Esquire
Ms. Connie Stultz
Leo E. Strine, Jr., Esquire

33538.doc

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MEMORANDUM

TO: State Ethics Commission Members
FROM: Art Connolly
RE: Ethics Legislation
DATE: May 27, 1993

I enclose the nearly final draft of the proposed Ethics legislation which Leo Strine sent to me yesterday. You will note that Leo's memo went to the "Ethics Group". It is my understanding that this Group consists of the people who have been advising Governor Carper concerning ethics reform. I am not a member of this Group and I assume I received a copy of the memorandum because Leo Strine has requested that I provide him with suggested changes to the statute from the perspective of the present State Ethics Commission. I have previously sent to you my two letters to Leo containing these suggestions. If any you have comments concerning the enclosures please let me know or contact Leo directly.

cc: Loretta LeBar, Esquire
Connie Stultz, Secretary

AGC, JR/nb
Encl.



STATE OF DELAWARE
OFFICE OF THE GOVERNOR

THOMAS R. CARPER
GOVERNOR

MEMORANDUM

May 26, 1993

*Art,
Please
feel free
to distribute
to your
colleagues
on the
Commission.
Thanks for
your help.*

TO: Ethics Group
FROM: Leo E. Strine, Jr. *LES, L*
Counsel to the Governor
RE: Ethics Legislation

Enclosed is a nearly final draft of the ethics legislation I have drafted with your substantial -- and highly appreciated -- help.

If you would be willing to read it and give me specific comments as soon as possible (hopefully by June 1), that would facilitate its early introduction. A copy of chapters 16 and 58 of Title 29 is enclosed to make your review as easy as possible to accomplish.

The bill was designed to build on existing statutory provisions, which makes it less elegant than if chapter 58 were scrapped in its entirety and a new chapter inserted in lieu thereof. I have tried to give the new Public Integrity Commission appropriate authority regarding lobbying and financial disclosure restrictions, but this is somewhat complicated by the current structure of chapter 58. If you notice places where I slipped up in this regard, please let me know.

Again, thanks for your help and please call me at 577-3215 with your comments.

Enclosures

/cmh

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DRAFT

CARPER ADMINISTRATION PUBLIC INTEGRITY PACKAGE

PUBLIC INTEGRITY ACT OF 1993 - HIGHLIGHTS

- * Transforms the State Ethics Commission into a Public Integrity Commission ("Commission") with authority over all provisions in chapter 58.
- * Gives the Commission a full-time Commission Counsel and the authority to hire other staff.
- * Makes the Commission Counsel the prosecuting attorney in proceedings before the Commission.
- * Makes the Commission the filing site for public official financial disclosure filings.
- * Puts financial disclosure enforcement under the Commission.
- * Makes the Commission's advisory opinion function available to all public officers with questions regarding Chapter 58, including public officers making financial disclosure filings.
- * Makes it a Code of Ethics violation to disclose the identity of a citizen who requests to see a financial disclosure form.
- * Decreases the gift reporting limitation from \$250 to \$100.
- * Makes the Commission the filing site for all lobbying reports.
- * Puts lobbying filings and enforcement under the Commission.
- * Extends the Code's lobbying restrictions to persons who lobby the executive branch.
- * Provides for an effective date of November 15, 1993.

CAMPAIGN FINANCE LEGISLATION

- * Requires two more reports from statewide candidates in election years.
- * Requires contributors to identify the name and address of their employers, and candidate committees to report that information.

DRAFT

**PUBLIC INTEGRITY ACT OF 1993 --
SECTION BY SECTION ANALYSIS**

- Section 1: Provides that the Act may be referred to as the Public Integrity Act of 1993.
- Section 2: Changes the definition in 29 Del. C. §5804(2) from the State Ethics Commission to the Public Integrity Commission ("PIC").
- Section 3: Adds the definition of the Commission Counsel to §5804.
- Section 4: Extends the definition of "financial interest" in §5804(4) a., b. and c. to situations where close relatives of public officials have the requisite financial interest.
- Section 5: Amends §5805(d) by extending the prohibition on misuse of confidential state information to former state officials.
- Section 6: Extends the confidential information waiver provisions of §5806(d) to cover proceedings involving all violations of Chapter 58, not just subchapter I.
- Section 7: Enables public officers under §5812 to take advantage of the advisory opinion process and broadens this process to include all questions regarding chapter 58, not just those arising under subchapter I.
- Section 8: Extends the public disclosure provisions of §5807(d) to all prosecutions of violations of chapter 58, not just those under subchapter I, and by providing for the publication of summaries of advisory opinions where such summaries will not disclose the identity of the applicant.
- Section 9: (a) Replaces existing §5808 and creates the PIC; (b) sets membership, qualifications; (c) sets terms of office and vacancy filling provisions; (d) chairman, quorum and vote requirements; (e) compensation for PIC members; (f) office of PIC.
- Section 10: Adds a new section 29 Del. C. §5808A, which creates and empowers the Commission Counsel.
- Section 11: Extends the duties of the PIC under §§5809(2),(9) and (11) from subchapter I across all of Chapter 58.

- Section 12: Amends 29 Del. C. §5809(3). Authorizes the Commission to have the Commission Counsel investigate violations of chapter 58 of Title 29, and to give the Commission the authority to recommend, after notice and hearing, disciplinary action to the employee's employing agency or to take such action as is authorized by §5810(d).
- Section 13: Amends 29 Del. C. §5809(12) to empower the Commission to appoint the Commission Counsel.
- Section 14: Amends 29 Del. C. §5809 by adding new sections (14)-(17) thereto, empowering the PIC to: (14) contract for services the Commission Counsel and staff cannot perform; (15) to administer and implement the financial disclosure provisions of subchapter II of chapter 58; (16) to administer and implement the government agent registration provisions of subchapter IV of chapter 58, and (17) perform such other responsibilities assigned to it by law.
- Section 15: Amends 29 Del. C. §5810(a) making the Commission Counsel the prosecuting attorney before the PIC, and that empowers the PIC to investigate all violations of Chapter 58.
- Section 16: Amends §§5810(e),(g) and (h) to extend the complaint, hearings and dispositions provisions of §5810 to all violations of chapter 58, not just violations of subchapter I.
- Section 17: Eliminates confusing provision §5810(h) that provide for different confidentiality standards to apply to disciplinary proceedings involving State employees, State officer and honorary State officials by providing for one uniform standard covering all such proceedings.
- Section 18: Amends the judicial review provisions of §5810A to appeals from any decision finding a violation of chapter 58, not just subchapter I.
- Section 19: Amends §5812 by defining the PIC for purposes of subchapter II.
- Section 20: Amends 29 Del. C. §5813(a) to allow the PIC to prescribe the form used in financial disclosures by public officials.
- Section 21: Amends 29 Del. C. §5813(a)(4)e. by lowering the threshold for reportable gifts to public officials from \$250 to \$100.
- Section 22: Amends 29 Del. C. §5813(d) by making the PIC the filing site for all public official financial disclosure filings.
- Section 23: Amends 29 Del. C. §5814 to require the PIC to maintain the files for the requisite time period, and to make such reports available for inspection and copying.
- Section 24: Amends 29 Del. C. §5815(c) by empowering the PIC to investigate and refer any violation of the financial disclosure subchapter to the Attorney General.

- Section 25: Amends 29 Del. C. §5816 by adding a subsection (b) that prohibits state employees or officers from disclosing the identity of persons requesting to inspect, copy or obtain any report filed pursuant to 29 Del. C. §5814 except to other government employees aiding in fulfilling the request or persons approved by the PIC.
- Section 26: Amends §5823 by requiring the State Auditor to refer possible violations of §5823 to the PIC for investigation pursuant to 29 Del. C. §5810 and/or to the Attorney General.
- Section 27: Amends 29 Del. C. §5805(a), 5806(d), 5807(a) and (c) and the first sentence of 5809 to replace the words "Ethics Commission" with the word Commission.
- Section 28: Strikes chapter 16 in its entirety and adds a new subchapter IV to Chapter 58 called Registration of Government Agents.
- §5831: Sets forth key definitions. Extends lobbying restrictions to executive branch lobbying activity.
- §5832: Registration Provisions. Makes government agents register with the PIC.
- §5833: Employer's authorization to act. No substantive changes from current law.
- §5834: Compensation not to be substantially dependent on outcome. No substantive changes from current law.
- §5834: Reports by Government Agents.
- §5836: When registration report is considered as filed; public access. No substantive changes from current law.
- §5837: Violations and penalties. Gives the PIC the authority to refer suspected violations to the Attorney General.
- Section 29: Amends 29 Del. C. §2515 to make existing language subsection (a), and by creating a new subsection (b) to exempt the PIC from the usual provisions of 29 Del. C. §2507 dealing with outside legal counsel.
- Section 30: Provides that the bill becomes effective November 15, 1993.



SPONSOR: Senator Voshe11

DELAWARE STATE SENATE

137th GENERAL ASSEMBLY

SENATE AMENDMENT NO. 1 JUN 23 1993

TO

SENATE BILL NO. 198

1 AMEND Senate Bill No. 198 by striking the phrase "a new section" which
2 appears on line 19, page 3 of the Bill and substituting in lieu thereof the
3 phrase "two new sections".

4 FURTHER AMEND Senate Bill No. 198 by inserting the following language
5 after the period "." and before the quotation mark on the line 13, page 4 of
6 the Bill:

7 "§5808B. Commission Counsel's appointment contingent upon appropriations.

8 The Commission Counsel established by §5808A of this chapter shall
9 not be appointed by the Commission until adequate funds have been
10 appropriated for such purpose. In the absence of such appointment, the
11 Attorney General shall provide legal assistance to the Commission and
12 shall exercise any duties assigned to the Commission Counsel by this
13 chapter. Such duties may also be exercised by outside counsel chosen by
14 the Commission, if adequate funds are appropriated for such purpose."

15 FURTHER AMEND Senate Bill No. 198 by striking the phrase "November 15,
16 1993" which appears on line 23, page 6 of the Bill and substituting in lieu
17 thereof the phrase "September 15, 1994".

18 FURTHER AMEND Senate Bill No. 198 by striking the phrase "January 15,
19 1994" which appears on line 23, page 6 of the Bill and substituting in lieu
20 thereof the phrase "December 31, 1994".

21 FURTHER AMEND Senate Bill No. 198 by striking the first use of the word
22 "the" on line 14, page 11 of the Bill and substituting in lieu thereof the
23 word "this".

24 FURTHER AMEND Senate Bill No. 198 by inserting the phrase "; provided,

1 of 2

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1 however, that Sections 22, 23, and 27 of this Act shall take effect July 1,
2 1994" after the date "November 15, 1993" and before the period "." on line 16,
3 page 12 of the Bill.

4 FURTHER AMEND Senate Bill No. 198 by redesignating current Section 29 of
5 the Bill as new Section 30 of the Bill, and by inserting a new Section 29 to
6 read as follows:

7 "Section 29. Amend §1605(c), Chapter 16, Title 29 of the Delaware
8 Code by adding a new sentence after the first sentence of §1605(c) to read
9 as follows:

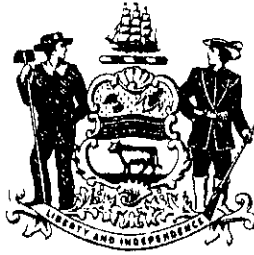
10 "The legislative agent shall also affirm that he or she has
11 provided the recipient of any gift in excess of \$50 with a
12 representation as to the value of the gift so as to facilitate the
13 recipient's compliance with §5813 of this title."

SYNOPSIS

This Amendment postpones the effective date of certain sections of Senate Bill No. 198. These sections include those that authorize the appointment of a Commission Counsel, that place lobbying law enforcement under the Commission, and that make the Commission the filing site for public officer financial disclosure reports. The provisions of the amendment provide for effective dates that will enable the General Assembly sufficient time to appropriate funds to the Public Integrity Commission for implementation of these sections.

This Amendment also corrects a typographical error in Senate Bill No. 198.

Author: Sen. Voshell



SPONSOR: Senators Vosheil and Knox,
Reps. Amick and Bradley;
Sens. Adams, Bair,
Blevins, Cook, Hauge,
Holloway, Marshall,
McBride, McDowell, Neal,
Sokola, Still and Torbert;
Reps. Buckworth, Bunting,
Davis, D. Ennis, Ewing,
Fallon, Mack, Maroney,
Petriilli, Plant, Reynolds,
Roy, Schroeder, Sorenson,
Spence, Taylor, Wagner,
and Wojewodski

DELAWARE STATE SENATE

137 GENERAL ASSEMBLY

198 JUN 16 1993

SENATE BILL NO. _____

AN ACT TO AMEND CHAPTERS 16, 25 AND 58, TITLE 29, DELAWARE CODE AND CHAPTER 417, VOLUME 67, LAWS OF DELAWARE BY ESTABLISHING THE STATE PUBLIC INTEGRITY COMMISSION AND DEFINING ITS AUTHORITY AND RESPONSIBILITIES, AND THE DUTIES OF PERSONS SUBJECT TO ITS AUTHORITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. This Act may be referred to as the "Public Integrity Act of
2 1993."

3 Section 2. Amend §5804(2), Title 29, Delaware Code by striking it in its
4 entirety and substituting in lieu thereof a new §5804(2) as follows:

5 "(2) "Commission" means the State Public Integrity Commission established
6 by this chapter."

7 Section 3. Amend §5804, Title 29, Delaware Code by adding thereto a new
8 §5804(3) to read as follows and by renumbering the remaining subparagraphs:

9 "(3) "Commission Counsel" means the legal counsel appointed by the
10 Commission pursuant to this chapter."

11 Section 4. Amend §5805(d), Title 29, Delaware Code by adding the following
12 words at the end thereof: "Nor shall any former state employee, state officer
13 or honorary state official disclose confidential information gained by reason
14 of his public position nor shall he otherwise use such information for
15 personal gain or benefit."

1 Section 5. Amend §5806(d), Title 29, Delaware Code by striking the word
2 "subchapter" as it appears in the second sentence and replacing it with the
3 word "chapter".

4 Section 6. Amend §5807(c), Title 29, Delaware Code by striking the word
5 "subchapter" in the first sentence and replacing it with the word "chapter"
6 and by adding the words "or a public officer as defined in §5812 of this
7 chapter" between the words "state agency" and "," in the same sentence.

8 Section 7. Amend §5807(d), Title 29, Delaware Code by striking the word
9 "subchapter" in subsection (d)(2) and replacing it with the word "chapter" and
10 by adding a new subsection (d)(4) to read as follows:

11 "(4) The Commission shall prepare a summary of its advisory opinion for
12 public distribution in any case where such summary may be distributed
13 without disclosing the identity of the applicant."

14 Section 8. Amend §5808, Title 29, Delaware Code by striking it in its
15 entirety and substituting in lieu thereof the following:

16 "§ 5808. State Public Integrity Commission;

17 establishment, membership, offices.

18 "(a) The State Ethics Commission is hereby abolished. There is hereby
19 established the State Public Integrity Commission to assume the functions of
20 the State Ethics Commission and to administer and implement this chapter, and
21 to perform such other responsibilities as may be entrusted to it by law.

22 (b) The Commission shall consist of 7 members appointed by the Governor
23 with the concurrence of the Senate. Not more than 4 members shall be
24 registered with the same political party. No member shall hold any elected or
25 appointed office under the government of the United States or the State or be
26 a candidate for any such office. No member shall hold any political party
27 office or an office in any political campaign. Members of the Commission may
28 be removed by the Governor, with the concurrence of the Senate, for
29 substantial neglect of duty, gross misconduct in office or violation of this
30 chapter.

31 (c) A member of the Commission shall be appointed for a term of office of
32 seven years and until his successor has been appointed and has qualified,
33 except that initially the Commission shall consist of the members of the
34 former State Ethics Commission as of the date of its abolition, and said
35 members shall serve the remaining portion of their terms and until their

1 successors have been appointed and have qualified. No member shall serve for
2 more than 1 full 7-year term. When a vacancy occurs in the membership of the
3 Commission, it shall be filled by appointment for the unexpired portion of the
4 term in the same manner as original appointments.

5 (d) The Commission shall elect a chairperson from among its membership.
6 Four members of the commission shall constitute a quorum and, if a quorum is
7 present, a vacancy on the Commission shall not impair the right of the
8 remaining members to exercise all the powers of the Commission. Disciplinary
9 hearings may be conducted and sanctions may be imposed only by the affirmative
10 action of at least 4 members. Otherwise the Commission may delegate authority
11 to the chairperson to act for the Commission between meetings.

12 (e) Each member of the Commission shall be compensated at the rate of \$100
13 for each day devoted to the performance of his or her official duties. Each
14 member of the Commission shall be reimbursed for reasonable and necessary
15 expenses incurred in the performance of official duties.

16 (f) The principal office of the Commission shall be in Dover but it may
17 meet, and exercise its power, at any other place in the State."

18 Section 9. Amend Subchapter I, Chapter 58, Title 29, Delaware Code by
19 adding a new section thereto to read as follows:

20 "§ 5808A. Commission Counsel; powers and duties.

21 (a) There shall be a Commission Counsel who shall have the following
22 powers and duties:

23 (1) To provide legal counsel to the Commission concerning
24 any matter arising in connection with the exercise of its official
25 powers or duties.

26 (2) To review information coming to the attention of the Commission
27 relating to potential violations of this chapter.

28 (3) To investigate information coming to the attention of the
29 Commission that, if true, would constitute a violation of any provision
30 of this chapter and/or to recommend that possible violations of these,
31 or other State and federal laws, be referred by the Commission to the
32 Attorney General or the United States Attorney for investigation and
33 prosecution.

34 (4) To prosecute disciplinary proceedings before the Commission and to
35 assist the Commission in drafting educational materials, waiver

1 decisions and advisory opinions.

2 (5) To employ and supervise staff necessary to perform his or her
3 investigatory and prosecutorial functions.

4 (6) To maintain permanent records of all advisory, waiver,
5 investigatory and prosecutorial matters.

6 (7) To perform any other tasks requested by the Commission concerning
7 any matter arising in connection with the exercise of its official
8 powers or duties.

9 (b) The Commission Counsel may recuse from a matter before the Commission
10 when, in the view of Commission Counsel or of the Commission, such recusal is
11 deemed necessary or appropriate. In situations where Commission Counsel
12 recuses, the duties of the Commission Counsel may be exercised by the Attorney
13 General or by outside counsel chosen by the Commission."

14 Section 10. Amend §5809, Title 29, Delaware Code by striking the word
15 "subchapter" wherever it appears in that section and replacing it with the
16 word "chapter".

17 Section 11. Amend §5809(3), Title 29, Delaware Code by striking it in its
18 entirety and substituting in lieu thereof a new subsection (3) to read as
19 follows:

20 "(3) To refer to Commission Counsel to investigate any alleged
21 violation of this chapter and, after notice and hearing, to recommend
22 by resolution, such disciplinary action as it may deem appropriate to
23 such appropriate official or agency as the Commission shall determine
24 or to take such other disciplinary action as is authorized by §5810(d)
25 of this chapter or other provisions of this Code. The Commission may
26 also dismiss any complaint that it determines is frivolous or fails to
27 state a violation.

28 Section 12. Amend §5809(12), Title 29, Delaware Code by striking it in its
29 entirety and substituting in lieu thereof a new subsection (12) as follows:

30 "(12) To appoint a lawyer admitted to practice in the State to serve as
31 Commission Counsel."

32 Section 13. Amend § 5809, Title 29, Delaware Code by adding thereto new
33 subsections (14),(15),(16) and (17) to read as follows:

34 "(14) To contract for any services which cannot satisfactorily be
35 performed by the Commission Counsel or other Commission staff.

1 (15) To administer and implement the financial disclosure provisions of
2 subchapter II of this chapter and to maintain the records filed pursuant
3 thereto.

4 (16) To administer and implement the government agent registration
5 provisions of subchapter IV of this chapter and to maintain the records filed
6 pursuant thereto.

7 (17) To perform such other responsibilities as may be assigned to it by
8 law."

9 Section 14. Amend the first two sentences of § 5810(a), Title 29, Delaware
10 Code by striking them in their entirety and substituting in lieu thereof the
11 following:

12 "Upon the sworn complaint of any person or on its own initiative, the
13 Commission may refer to the Commission Counsel for investigation any
14 alleged violations of this chapter. The Commission Counsel shall be the
15 prosecuting attorney in disciplinary proceedings before the Commission."

16 Section 15: Amend §§5810(e) and (g), Title 29, Delaware Code by striking
17 the word "subchapter" as it appears in those subsections and replacing it with
18 the word "chapter".

19 Section 16. Amend §5810(h), Title 29, Delaware Code by striking
20 §§5810(h)(1),(2) and (3) in their entirety and replacing them with a new
21 §5810(h)(1) to read as follows and by renumbering the remaining subparagraphs:

22 "(1) All proceedings relating to a charged violation of this Chapter shall
23 be maintained confidential by the Commission unless (i) public disclosure
24 is requested in writing by the person charged; (ii) after a sworn complaint
25 has been filed, the Commission determines that there is probable cause to
26 believe that a violation has occurred and the Commission determines, in its
27 discretion, that it would be in the public interest for the proceedings to
28 be open to the public; or (iii) the Commission determines after a hearing
29 that a violation has occurred."

30 Section 17. Amend current §5810(h)(4) by striking the words "paragraphs
31 (1)-(3)" and replacing them with the words "paragraph (1)" and amend
32 §§5810(h)(4) and (5) by replacing the word "subchapter" wherever it appears
33 with the word "chapter".

34 Section 18. Amend §5810A, Title 29, Delaware Code by striking the word
35 "subchapter" as it appears in the first sentence and replacing it with the

1 word "chapter".

2 Section 19. Amend §5812, Title 29, Delaware Code by adding thereto a new
3 subsection (p) to read as follows:

4 "(p) "Commission" means the State Public Integrity Commission.

5 Section 20. Amend the second sentence of § 5813(a), Title 29, Delaware
6 Code by striking the words "Controller General" and substituting in lieu
7 thereof the word "Commission".

8 Section 21. Amend §5813(a)(4)e., Title 29, Delaware Code by striking
9 "\$250" and substituting in lieu thereof "\$100", and by adding a second
10 sentence to §5813(a)(4)e. to read as follows:

11 "For purposes of compliance with this gift reporting obligation, the
12 recipient may rely in good faith upon the representation of the source
13 of the gift as to the gift's value."

14 Section 22. Amend §5813(d), Title 29, Delaware Code by striking it in its
15 entirety and substituting in lieu thereof a new subsection (d) as follows:

16 "(d) Each report required by this section shall be filed with the Commission."

17 Section 23. Amend §5814, Title 29, Delaware Code by striking it in its
18 entirety and substituting in lieu thereof a new section as follows:

19 "(a) The Commission shall keep the reports required by this subchapter on
20 file for so long as the person submitting such report is a public officer of
21 this State, as defined in § 5812 of this title, and for at least 5 years
22 thereafter. All reports on file with agencies other than the Commission as of
23 November 15, 1993 shall be transferred to the Commission by January 15, 1994.

24 (b) The reports filed pursuant to this subchapter shall be made available
25 at reasonable hours for public inspection and copying pursuant to Chapter 100
26 of this title."

27 Section 24. Amend §5815(c), Title 29, Delaware Code by striking it in its
28 entirety and substituting in lieu thereof a subsection (c) as follows:

29 "(c) The Commission may investigate and/or refer any suspected violation
30 of this subchapter to the Attorney General for investigation and prosecution."

31 Section 25. Amend §5823(b), Title 29, Delaware Code by inserting the words
32 "Public Integrity Commission for investigation pursuant to §5810 of this title
33 and/or to the" between the words "the" and "Office" as they appear therein.

34 Section 26. Amend §5806(d), §5807(a) and (c) and the first sentence of
35 §5809, Title 29, Delaware Code by striking the phrase "Ethics Commission"

1 whenever it appears in the existing language and substituting in its place the
2 word "Commission".

3 Section 27. Amend Title 29, Delaware Code by striking Chapter 16 in its
4 entirety and adding a new subchapter IV to Chapter 58 to read as follows:

5 "SUBCHAPTER IV. Registration of Government Agents

6 § 5831. Definitions.

7 (a) As used in this subchapter, the following terms shall have the
8 meanings indicated:

9 (1) "Government agent" means any individual who acts to promote,
10 advocate, influence or oppose any matter pending before the General
11 Assembly by direct communication with the General Assembly or any
12 matter pending before a state agency by direct communication with that
13 state agency, and who in connection therewith either:

14 a. Has received or is to receive compensation in whole or in part
15 from any person; or

16 b. Is authorized to act as a representative of any person who has
17 as a substantial purpose the influencing of legislative or
18 administrative action; or

19 c. Expends any funds during the calendar year for the type of
20 expenditures listed in subsection (b) of § 5835 of this title.

21 (2) "Compensation" means any money, service, facility, thing of value
22 or financial benefit which is received or to be received in return for
23 or in connection with services rendered or to be rendered, whether in
24 the form of a fee, salary, expense, forbearance, forgiveness or any
25 other form of compensation.

26 (3) "Employer" means any person on whose behalf a government agent
27 acts.

28 (4) "Person" means any individual or group of individuals, whether or
29 not formally organized or incorporated.

30 (5) "General Assembly" includes any member, committee or subcommittee
31 of either House of the General Assembly.

32 (6) "State agency" means any office, department, board, commission,
33 committee, school district, board of education and all public bodies
34 existing by virtue of an act of the General Assembly or of the
35 Constitution of the State, excepting only political subdivisions of the

1 State, their agencies and other public agencies not specifically
2 included in this definition that exist by virtue of State law and whose
3 jurisdiction:

4 a. Is limited to a political subdivision of the State or to a
5 portion thereof; or

6 b. Extends beyond the boundaries of the State.

7 (7) "Matter" means any application, petition, request, business
8 dealing, transaction or decision of any sort.

9 (8) "Commission" means the State Public Integrity Commission.

10 (b) Subparagraphs a. and b. of paragraph (1) of subsection

11 (a) of this section shall not apply to:

12 (1) Persons performing professional services in drafting bills or
13 regulations or in advising and rendering opinions to clients as to the
14 construction or effect of proposed, pending or enacted legislation or
15 regulations who do not otherwise act as government agents;

16 (2) Persons testifying in public before the General Assembly or a
17 state agency at the specific invitation or request of the General
18 Assembly or a state agency who do not otherwise act as government
19 agents;

20 (3) Persons appearing pursuant to their official duties as elected
21 officials of the State, or any political subdivision thereof, or of the
22 United States, and not as representatives of any other person;

23 (4) Persons who, in relation to the duties or interests of their
24 employment or at the request or suggestion of their employer,
25 communicate with the General Assembly or a state agency concerning any
26 legislation, regulation or other matter before the General Assembly or
27 such state agency, if such communication is an isolated, exceptional or
28 infrequent activity in relation to the usual duties of their employment;

29 (5) Persons communicating with the General Assembly or a state agency
30 if such communication is undertaken by them as a personal expression
31 and not as an agent of their employers as to matters of interest to a
32 person by whom or by which they are employed and if they receive no
33 additional compensation or reward, in money or otherwise, for or as a
34 result of such communication;

35 (6) Persons testifying at public hearings conducted by the General

1 Assembly or a state agency who do not otherwise act as government
2 agents;

3 (7) Persons appearing on behalf of any religious organization with
4 respect to subjects of legislation or regulation that directly relate
5 to the religious beliefs and practices of that organization who do not
6 otherwise act as government agents;

7 (8) Attorneys representing clients in administrative adjudications
8 governed by the provisions of subchapter III of Chapter 101 of this
9 title, representing clients before the Tax Appeals Board, or in other
10 administrative procedures where ex parte communications with the state
11 agency with authority over the matter are prohibited; or

12 (9) Attorneys representing clients with regard to criminal or civil
13 law enforcement proceedings, or in any judicial proceedings.

14 § 5832. Registration of government agents with the State Public Integrity
15 Commission.

16 (a) Every government agent shall register with the Commission in a
17 government agent docket and file, at that time, the authorization from his
18 employer as required by §5833 of this title. A person who qualifies as a
19 government agent in accordance with §5831(a)(1)a. and b. of this title shall
20 register prior to performing any acts as a government agent. A person who
21 qualifies as a government agent in accordance with §5831(a)(1)c. of this title
22 must register within 5 days after so qualifying, if not already registered as
23 a government agent.

24 (b) The information recorded in the Commission's government agent docket
25 shall include for each separate employer:

26 (1) The name, residence or business address and occupation of each
27 government agent;

28 (2) The name and business address of the employer of such government
29 agent;

30 (3) The date on which the employment as government agent commenced;

31 (4) The length of time the employment is to continue; and

32 (5) The subject matter of legislation, regulation or administrative
33 action as to which the employment relates at that time.

34 (c) Upon any change in the information recorded in the government agent
35 docket, the government agent shall within 10 business days report such changes

1 to the Commission, which shall record the change in the docket.

2 (d) The Commission shall promptly furnish copies of each entry in the
3 government agent docket to the Chief Clerk of the House of Representatives,
4 the Secretary of the Senate, the Governor and the head of any state agency
5 upon request of such persons.

6 § 5833. Employer's authorization to act.

7 Every employer of a government agent shall furnish to such agent a written and
8 signed authorization to act, which shall be filed with the Commission by the
9 government agent at the time of registration as soon as available and not
10 later than 15 business days after the government agent has registered with the
11 Commission. If the employer is a corporation, association or labor union, any
12 authorized officer or agent who is not the government agent shall furnish and
13 sign the written authorization. The authorization shall include the full and
14 legal name and business address of both the employer and the government agent,
15 the period of time during which the government agent is authorized to act and
16 the subject or subjects of legislation, regulation or administrative action
17 upon which the employer is represented.

18 § 5834. Compensation of agent not to be substantially dependent on outcome of
19 legislative or administrative action.

20 No person shall employ a government agent nor shall any person be employed as
21 a government agent pursuant to any compensation agreement that permits more
22 than half of the compensation to be paid to such a government agent to be
23 dependent upon the outcome of any legislative or administrative action.

24 § 5835. Reports by government agents.

25 (a) On or before the twentieth day of the month following each calendar
26 quarter, each government agent shall file a written report covering the
27 immediately preceding calendar quarter and containing the information required
28 by this subchapter.

29 (b) A government agent shall file separate reports for each employer which
30 he or she represents. Each report shall contain the total expenditures during
31 the reporting period for all direct expenditures, costs or values, whichever
32 is greater, provided for members of the General Assembly or for employees or
33 members of any state agency for the following:

- 34 (1) Food and refreshment;
35 (2) Entertainment, including the cost of maintaining a hospitality

1 room;
2 (3) Lodging expenses away from home;
3 (4) Fair value of travel if the trip exceeds 100 miles;
4 (5) Recreation expenses; and
5 (6) Gifts or contributions, excluding political contributions as
6 defined in Chapter 80 of Title 15 provided to members of the General
7 Assembly.

8 (c) The information shall be reported on a form which shall be available
9 from the Commission and shall show the total expenditures for the reporting
10 period and shall also list the recipient any time the expenditures exceed \$50
11 per diem. The government agent shall also affirm that he or she has provided
12 the recipient of any gift in excess of \$50 with a representation as to the
13 value of the gift so as to facilitate the recipient's compliance with §5813 of
14 the chapter. The records shall be retained for a period of 4 years from the
15 date of filing.

16 § 5836. When registration, report or authorization is considered as filed;
17 access to records.

18 (a) Any registration, report or authorization form shall be considered
19 filed as of the date it is physically filed with the Commission or is mailed
20 if sent by registered or certified mail.

21 (b) The government agent docket maintained by the Commission and any
22 reports, authorizations or other documents filed with the Commission pursuant
23 to this subchapter shall be made available at reasonable hours for public
24 inspection and copying pursuant to Chapter 100 of this title.

25 § 5837. Violation and penalties.

26 (a) Any person who knowingly fails to register as a government agent as
27 required by this subchapter shall be guilty of a misdemeanor.

28 (b) Any person who knowingly furnishes false information in any
29 registration, authorization or report required by this subchapter shall be
30 guilty of a misdemeanor.

31 (c) Any person who fails to file an authorization or report as required by
32 this subchapter shall be deemed to have voluntarily cancelled his or her
33 registration as a government agent and shall be prohibited from reregistering
34 or acting as a government agent until all delinquent authorizations and/or
35 reports have been filed.

1 (d) The Commission may investigate and/or refer any suspected violation of
2 this subchapter to the Attorney General for investigation and prosecution.
3 The Speaker of the House, the presiding officer of the Senate, the Legislative
4 Council or any member of the General Assembly shall refer, or any other person
5 may refer, any suspected violation of this subchapter to the Commission and
6 the Attorney General of the State.

7 (e) The Superior Court shall have exclusive jurisdiction over all offenses
8 under this subchapter."

9 Section 28. Amend §2515, Chapter 25, Title 29, Delaware Code by
10 designating the present section as subsection (a) and by adding subsection (b)
11 thereof:

12 "(b) Notwithstanding §2507 of this title, the provisions of this chapter
13 relating to the supplying of legal advice, counsel, services and
14 representation in proceedings shall not apply to the State Public Integrity
15 Commission established pursuant to chapter 58 of this title."

16 Section 29. This Act shall take effect November 15, 1993.

SYNOPSIS

This legislation integrates and strengthens the State's key public integrity laws including: (1) Chapter 16, Title 29, governing registration of legislative agents; (2) Subchapter I, Chapter 58, Title 29, dealing with State Employees', Officers' and Officials' Code of Conduct; and (3) Subchapter II, Chapter 58, Title 29 governing financial disclosure by public officials.

Key provisions of the legislation; transform the State Ethics Commission into a Public Integrity Commission ("Commission") with authority over all provisions in Chapter 58; give the Commission a full-time Commission Counsel and the authority to hire other staff; make the Commission Counsel the prosecuting attorney in proceedings before the Commission; make the Commission the filing site for public official financial disclosure filings; put financial disclosure enforcement under the Commission; make the Commission's advisory opinion function available to all public officers with questions regarding Chapter 58, including public officers making financial disclosure filings; decrease the gift reporting limitation from \$250 to \$100; make the Commission the filing site for all lobbying reports; put lobbying filings and enforcement under the Commission; extend the Code's lobbying restrictions to persons who lobby the executive branch; and provide for an effective date of November 15, 1993.

Author: Sen. Voshell

DRAFT

SPONSOR:

DELAWARE STATE SENATE
137TH GENERAL ASSEMBLY

SENATE BILL NO. _____

AN ACT TO AMEND CHAPTERS 16, 25 AND 58, TITLE 29, DELAWARE CODE BY ESTABLISHING THE STATE PUBLIC INTEGRITY COMMISSION AND DEFINING ITS AUTHORITY AND RESPONSIBILITIES, AND THE DUTIES OF PERSONS SUBJECT TO ITS AUTHORITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. This Act may be referred to as the "Public
2 Integrity Act of 1993."

3 Section 2. Amend §5804(2), Title 29, Delaware Code by
4 striking it in its entirety and substituting in lieu thereof a new
5 §5804(2) as follows:

6 " (2) "Commission" means the State Public Integrity
7 Commission established by this chapter."

8 Section 3. Amend §5804, Title 29, Delaware Code by adding
9 thereto a new §5804(3) to read as follows and by renumbering the
10 remaining subparagraphs:

11 " (3) "Commission Counsel" means the legal counsel appointed
12 by the Commission pursuant to this chapter."

13 Section 4. Amend §5804(4)a., b. and c. by inserting the
14 words "or a close relative" immediately after the word "He" as it
15 appears in each subsection.

16 Section 5. Amend §5805(d) by adding the following words at
17 the end thereof: "Nor shall any former state employee, state
18 officer, honorary state official, disclose confidential
19 information gained by reason of his public position nor shall he
20 otherwise use such information for personal gain or benefit."

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3 sentence and replacing it with the word "chapter".

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5 striking the word "subchapter" in the first sentence and replacing
6 it with the word "chapter" and by adding the words "or a Public
7 Officer as defined in §5812 of this chapter" between the words
8 "state agency" and "," in the same sentence.

9 Section 8. Amend §5807(d), Title 29, Delaware Code by
10 striking the word "subchapter" in subsection (d) (2) and replacing
11 it with the word "chapter" and by adding a new subsection (d) (4)
12 to read as follows:

13 "(4) The Commission shall prepare a summary of its advisory
14 opinion for public distribution in any case where such
15 summary may be distributed without disclosing the identity of
16 the applicant."

17 Section 9. Amend §5808, Title 29, Delaware Code by striking
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21 "(a) The State Ethics Commission is hereby abolished. There
22 is hereby established the State Public Integrity Commission to
23 assume the functions of the State Ethics Commission and to
24 administer and implement this chapter, and to perform such other
25 responsibilities as may be entrusted to it by law.

26 (b) The Commission shall consist of 7 members appointed by
27 the Governor with the concurrence of the Senate. Not more than 4
28 members shall be registered with the same political party. No
29 member shall hold any elected or appointed office under the
30 government of the United States or the State or be a candidate for
31 any such office. No member shall hold any political party office

1 or an office in any political campaign. Members of the Commission
2 may be removed by the Governor, with the concurrence of the
3 Senate, for substantial neglect of duty, gross misconduct in
4 office or violation of this chapter.

5 (c) A member of the Commission shall be appointed for a term
6 of office of seven years and until his successor has been
7 appointed and has qualified, except that initially the Commission
8 shall consist of the members of the former State Ethics Commission
9 as of the date of its abolition, and said members shall serve the
10 remaining portion of their terms and until their successors have
11 been appointed and have qualified. No member shall serve for more
12 than 1 full 7-year term. When a vacancy occurs in the membership
13 of the Commission, it shall be filled by appointment for the
14 unexpired portion of the term in the same manner as original
15 appointments.

16 (d) The Commission shall elect a chairperson from among its
17 membership. Four members of the commission shall constitute a
18 quorum and, if a quorum is present, a vacancy on the Commission
19 shall not impair the right of the remaining members to exercise
20 all the powers of the Commission. Disciplinary hearings may be
21 conducted and sanctions may be imposed only by the affirmative
22 action of at least 4 members. Otherwise the Commission may
23 delegate authority to the chairperson to act for the Commission
24 between meetings.

25 (e) Each member of the Commission shall be compensated at
26 the rate of \$100 for each day devoted to the performance of his or
27 her official duties. Each member of the Commission shall be
28 reimbursed for reasonable and necessary expenses incurred in the
29 performance of official duties.

1 (f) The principal office of the Commission shall be in Dover
2 but it may meet, and exercise its power, at any other place in the
3 State."

4 Section 10. Amend Subchapter I, Chapter 58, Title 29,
5 Delaware Code by adding a new section thereto to read as follows:
6 "\$ 5808A. Commission Counsel; powers and duties.

7 "(a) There shall be a Commission Counsel who shall be the
8 legal representative of the Commission and have the following
9 powers and duties:

10 (1) To provide legal counsel to the Commission concerning
11 any matter arising in connection with the exercise of its
12 official powers or duties.

13 (2) To review information coming to the attention of the
14 Commission relating to potential violations of this
15 chapter.

16 (3) To investigate information coming to the attention of
17 the Commission that, if true, would constitute a violation
18 of any provision of this chapter and/or to recommend that
19 possible violations of these, or other State and federal
20 laws, be referred by the Commission to the Attorney
21 General or the United States Attorney for investigation
22 and prosecution.

23 (4) To prosecute disciplinary proceedings before the
24 Commission and to assist the Commission in drafting waiver
25 decisions and advisory opinions.

26 (5) To employ and supervise staff necessary to perform
27 his or her investigatory and prosecutorial functions.

28 (6) To maintain permanent records of all advisory,
29 waiver, investigatory and prosecutorial matters.

1 (7) To perform any other tasks requested by the
2 Commission concerning any matter arising in connection
3 with the exercise of its official powers or duties.

4 (b) The Commission Counsel may recuse from a matter before
5 the Commission when, in the view of Commission Counsel or of the
6 Commission, such recusal is deemed necessary or appropriate. In
7 situations where Commission Counsel recuses, the duties of the
8 Commission Counsel may be exercised by the Attorney General or by
9 outside counsel chosen by the Commission."

10 Section 11. Amend §§5809(2), (9) and (11) by striking the
11 word "subchapter" as it appears in those subsections and replacing
12 it with the word "chapter".

13 Section 12. Amend §5809(3), Title 29, Delaware Code by
14 striking it in its entirety and substituting in lieu thereof a new
15 subsection (3) to read as follows:

16 "(3) To refer to Commission Counsel to investigate any
17 alleged violation of this chapter and, after notice and
18 hearing, to recommend by resolution, such disciplinary
19 action as it may deem appropriate to such appropriate
20 official or agency as the Commission shall determine or to
21 take such other disciplinary action as is authorized by
22 §5810(d) of this chapter or other provisions of this
23 Code. Without reference to its Commission Counsel, the
24 Commission may also dismiss any complaint that it
25 determines is frivolous or fails to state a violation.

26 Section 13. Amend §5809(12), Title 29, Delaware Code by
27 striking it in its entirety and substituting in lieu thereof a new
28 subsection (12) as follows:

1 "(12) To appoint a lawyer admitted to practice in the State
2 to serve as Commission Counsel."

3 Section 14. Amend § 5809, Title 29, Delaware Code by adding
4 thereto new subsections (14), (15), (16) and (17) to read as follows:

5 "(14) To contract for any services which cannot
6 satisfactorily be performed by the Commission Counsel or other
7 Commission staff.

8 (15) To administer and implement the financial disclosure
9 provisions of subchapter II of this chapter and to maintain the
10 records filed pursuant thereto.

11 (16) To administer and implement the government agent
12 registration provisions of subchapter IV of this chapter and to
13 maintain the records filed pursuant thereto.

14 (17) To perform such other responsibilities as may be
15 assigned to it by law."

16 Section 15. Amend the first two sentences of § 5810(a),
17 Title 29, Delaware Code by striking them in their entirety and
18 substituting in lieu thereof the following:

19 "Upon the sworn complaint of any person or on its own
20 initiative, the Commission may refer to the Commission
21 Counsel for investigation any alleged violations of this
22 chapter. The Commission Counsel shall be the prosecuting
23 attorney in disciplinary proceedings before the Commission."

24 Section 16: Amend §5810(e), (g) and (h) by striking the word
25 "subchapter" as it appears in those subsections and replacing it
26 with the word "chapter".

27 Section 17. Amend §5810(h) by striking it in their entirety
28 and replacing it with a new §5810(h) to read as follows:

1 "All proceedings relating to a charged violation of this *subchapter*
2 shall be maintained confidential by the Commission unless (i)
3 public disclosure is requested in writing by the person
4 charged; (ii) after a sworn complaint has been filed, the
5 Commission determines that there is probable cause to believe
6 that a violation has occurred and the Commission determines,
7 in its discretion, that it would be in the public interest
8 for the proceedings to be open to the public; or (iii) the
9 Commission determines after a hearing that a violation has
10 occurred."

11 Section 18. Amend §5810A, Title 29, Delaware Code by
12 striking the word "subchapter" as it appears in the first sentence
13 and replacing it with the word "chapter".

14 Section 19. Amend §5812, Title 29, Delaware Code by adding
15 thereto a new subsection (p) to read as follows:

16 "(p) Commission" means the State Public Integrity Commission.

17 Section 20. Amend the second sentence of § 5813(a), Title
18 29, Delaware Code by striking the words "Controller General" and
19 substituting in lieu thereof the word "Commission."

20 Section 21. Amend §5813(a)(4)e., Title 29, Delaware Code by
21 striking "\$250" and substituting in lieu thereof "\$100".

22 Section 22. Amend §5813(d), Title 29, Delaware Code by
23 striking it in its entirety and substituting in lieu thereof a new
24 subsection (d) as follows:

25 "(d) Each report required by this section shall be filed with the
26 Commission."

27 Section 23. Amend §5814, Title 29, Delaware Code by striking
28 it in its entirety and substituting in lieu thereof a new section
29 as follows:

1 "(a) The Commission shall keep the reports required by this
2 subchapter on file for so long as the person submitting such
3 report is a public officer of this State, as defined in § 5812 of
4 this title, and for at least 5 years thereafter. All reports on
5 file with agencies other than the Commission as of November 15,
6 1993 shall be transferred to the Commission by January 15, 1994.

7 (b) The reports filed pursuant to this subchapter shall be
8 made available at reasonable hours for public inspection and
9 copying pursuant to Chapter 100 of this title."

10 Section 24. Amend §5815(c), Title 29, Delaware Code by
11 striking it in its entirety and substituting in lieu thereof a
12 subsection (c) as follows:

13 "(c) The Commission may investigate, and shall refer any
14 suspected violation of this subchapter to the Attorney General for
15 investigation and prosecution."

16 Section 25. Amend §5816, Title 29, Delaware Code, by
17 designating the present section as subsection (a) and by adding
18 the following as subsection (b) thereof:

19 No state officer or employee shall disclose the identity of a
20 citizen requesting any report filed pursuant to this
21 subchapter to any person except to other state employees
22 assisting in the fulfillment of the citizen's request or such
23 other persons as are approved by the Commission. Any
24 violation of this prohibition shall be deemed to be a
25 violation of the code of conduct under § 5806 of this title."

26 Section 26: Amend §5823(b), Title 29, Delaware Code by
27 inserting the words "Public Integrity Commission for investigation
28 pursuant to §5810 of this title and/or to the" between the words
29 "the" and "Office" as they appear therein.

1 Section 27. Amend §5805(a), §5806(d), §5807(a) and (c) and
2 the first sentence of §5809, Title 29, Delaware Code by striking
3 the phrase "Ethics Commission" whenever it appears in the existing
4 language and substituting in its place the word "Commission."

5 Section 28. Amend Title 29, Delaware Code by striking
6 Chapter 16 in its entirety and adding a new subchapter IV to
7 Chapter 58 to read as follows:

8 "SUBCHAPTER IV. Registration of Government Agents

9 § 5831. Definitions.

2 (a) As used in this subchapter, the following terms shall
3 have the meanings indicated:

4 (1) "Government agent" means any individual who acts to
5 promote, advocate, influence or oppose any matter pending
6 before the General Assembly by direct communication with
7 the General Assembly or any matter pending before a state
8 agency by direct communication with that state agency, and
9 who in connection therewith either:

10 a. Has received or is to receive compensation in
11 whole or in part from any person;

12 b. Is authorized to act as a representative of any
13 person who has as a substantial purpose the
14 influencing of legislative or administrative action;
15 or

16 c. Expends any funds during the calendar year for the
17 type of expenditures listed in subsection (b) of §
18 5835 of this title.

19 (2) "Compensation" means any money, service, facility, thing
20 of value or financial benefit which is received or to be received

1 in return for or in connection with services rendered or to be
2 rendered, whether in the form of a fee, salary, expense,
3 forebearance, forgiveness or any other form of compensation.

4 (3) "Employer" means any person on whose behalf a government
5 agent acts.

6 (4) "Person" means any individual or group of individuals,
7 whether or not formally organized or incorporated.

8 (5) "General Assembly" includes any member, committee or
9 subcommittee of either House of the General Assembly.

10 (6) "State agency" means any office, department, board,
11 commission, committee, school district, board of education and all
12 public bodies existing by virtue of an act of the General Assembly
13 or of the Constitution of the State, excepting only political
14 subdivisions of the State, their agencies and other public
15 agencies not specifically included in this definition that exist
16 by virtue of State law and whose jurisdiction:

17 a. Is limited to a political subdivision of the State or
18 to a portion thereof; or

19 b. Extends beyond the boundaries of the State.

20 (7) "Matter" means any application, petition, request,
21 business dealing, transaction or decision of any sort.

22 (8) "Commission" means the State Public Integrity Commission.

23 (b) Subparagraphs a. and b. of paragraph (1) of subsection
24 (a) of this section shall not apply to:

25 (1) Persons performing professional services in drafting
26 bills or regulations or in advising and rendering opinions to
27 clients as to the construction or effect of proposed, pending or
28 enacted legislation or regulations who do not otherwise act as
29 government agents;

1 (2) Persons appearing pursuant to their official duties as
2 elected officials of the State, or any political subdivision
3 thereof, or of the United States, and not as representatives of
4 any other person;

5 (3) Persons who, in relation to the duties or interests of
6 their employment or at the request or suggestion of their
7 employer, communicate with the General Assembly or a state agency
8 concerning any legislation, regulation or other matter before the
9 General Assembly or such state agency, if such communication is an
10 isolated, exceptional or infrequent activity in relation to the
11 usual duties of their employment;

12 (4) Persons communicating with the General Assembly or a
13 state agency if such communication is undertaken by them as a
14 personal expression and not as an agent of their employers as to
15 matters of interest to a person by whom or by which they are
16 employed and if they receive no additional compensation or reward,
17 in money or otherwise, for or as a result of such communication;

18 (5) Persons testifying at public hearings conducted by the
19 General Assembly or a state agency who do not otherwise act as
20 government agents;

21 (6) Persons appearing on behalf of any religious
22 organization with respect to subjects of legislation or regulation
23 that directly relate to the religious beliefs and practices of
24 that organization who do not otherwise act as government agents;

25 (7) Attorneys representing clients in administrative
26 adjudications governed by the provisions of subchapter III of
27 Chapter 101 of this Title, representing clients before the Tax
28 Appeals Board, or in other administrative procedures where ex
29 parte communications with the state agency with authority over the
30 matter are prohibited by law;

1 (8) Attorneys representing clients with regard to criminal
2 or civil law enforcement proceedings, or in any judicial
3 proceedings.

4 § 5832. Registration of government agents with the State Public
5 Integrity Commission.

6 (a) Every government agent shall register with the
7 Commission in a government agent docket and file, at that time,
8 the authorization from his employer as required by §5833 of this
9 title. A person who qualifies as a government agent in accordance
10 with §5831(a)(1)a. and b. of this title shall register prior to
11 performing any acts as a government agent. A person who qualifies
12 as a government agent in accordance with §5831(a)(1)c. of this
13 title must register within 5 days after so qualifying, if not
14 already registered as a government agent.

15 (b) The information recorded in the Commission's government
16 agent docket shall include for each separate employer:

- 17 (1) The name, residence or business address and
18 occupation of each government agent;
- 19 (2) The name and business address of the employer of such
20 government agent;
- 21 (3) The date on which the employment as government agent
22 commenced;
- 23 (4) The length of time the employment is to continue; and
- 24 (5) The subject matter of legislation, regulation or
25 administrative action as to which the employment relates
26 at that time.

27 (c) Upon any change in the information recorded in the
28 government agent docket, the government agent shall within 10
29 business days report such changes to the Commission, which shall
30 record the change in the docket.

1 (d) The Commission shall promptly furnish copies of each
2 entry in the government agent docket to the Chief Clerk of the
3 House of Representatives, the Secretary of the Senate, the
4 Governor and the head of any state agency upon request of such
5 persons.

6 § 5833. Employer's authorization to act.

7 Every employer of a government agent shall furnish to such agent a
8 written and signed authorization to act, which shall be filed with
9 the Commission by the government agent at the time of registration
10 as soon as available and not later than 15 business days after the
11 government agent has registered with the Commission. If the
12 employer is a corporation, association or labor union, any
13 authorized officer or agent who is not the government agent shall
14 furnish and sign the written authorization. The authorization
15 shall include the full and legal name and business address of both
16 the employer and the government agent, the period of time during
17 which the government agent is authorized to act and the subject or
18 subjects of legislation, regulation or nor executive action upon
19 which the employer is represented.

20 § 5834. Compensation of agent not to be substantially dependent
21 on outcome of legislative or administrative action.

22 No person shall employ a government agent nor shall any person be
23 employed as a government agent pursuant to any compensation
24 agreement that permits more than half of the compensation to be
25 paid to such a government agent to be dependent upon the outcome
26 of any legislative or administrative action.

27 § 5835. Reports by government agents.

28 (a) On or before the twentieth day of the month following
29 each calendar quarter, each government agent shall file a written
30 report covering the immediately preceding calendar quarter and
31 containing the information required by this chapter.

1 (b) A government agent shall file separate reports for each
2 employer which he or she represents. Each report shall contain
3 the total expenditures during the reporting period for all direct
4 expenditures, costs or values, whichever is greater, provided for
5 members of the General Assembly or for employees of any state
6 agency for the following:

- 7 (1) Food and refreshment;
- 8 (2) Entertainment, including the cost of maintaining a
9 hospitality room;
- 10 (3) Lodging expenses away from home;
- 11 (4) Fair value of travel if the trip exceeds 100 miles;
- 12 (5) Recreation expenses;
- 13 (6) Gifts or contributions as defined in Chapter 80 of
14 Title 15, excluding political contributions; and
- 15 (7) political contributions as defined in Chapter 80 of
16 Title 15.

17 (c) The information shall be reported on a form which shall
18 be available from the Commission and shall show the total
19 expenditures for the reporting period and shall also list the
20 recipient any time the expenditures exceed \$50 per diem. The
21 records shall be retained for a period of 4 years from the date of
22 filing.

23 § 5836. When registration, report or authorization is considered
24 as filed; access to records.

25 (a) Any registration, report or authorization form shall be
26 considered filed as of the date it is physically filed with the
27 Commission or is mailed if sent by registered or certified mail.

28 (b) The government agent docket maintained by the Commission
29 and any reports, authorizations or other documents filed with the
30 Commission pursuant to this subchapter shall be made available at

1 reasonable hours for public inspection and copying pursuant to
2 Chapter 100 of this title.

3 § 5837. Violation and penalties.

4 (a) Any person who knowingly fails to register as a
5 government agent as required by this subchapter shall be guilty of
6 a class C misdemeanor.

7 (b) Any person who knowingly furnishes false information in
8 any registration, authorization or report required by this
9 subchapter shall be guilty of a class C misdemeanor.

10 (c) Any person who fails to file an authorization or report
11 as required by this subchapter shall be deemed to have voluntarily
12 cancelled his or her registration as a government agent and shall
13 be prohibited from reregistering or acting as a government agent
14 until all delinquent authorizations and/or reports have been filed.

15 (d) The Commission may investigate and/or refer any
16 suspected violation of this subchapter to the Attorney General for
17 investigation and prosecution. The Speaker of the House, the
18 presiding officer of the Senate, the Legislative Council or any
19 member of the General Assembly shall refer, or any other person
20 may refer, any suspected violation of this chapter to the
21 Commission and the Attorney General of the State.

22 (e) The Superior Court shall have exclusive jurisdiction
23 over all offenses under this subchapter."

24 Section 29. Amend §2515, Chapter 25, Title 29, Delaware Code
25 by designating the present section as subsection (a) and by adding
26 subsection (b) thereof:

27 "(b) Notwithstanding §2507 of this title, the provisions of
28 this chapter relating to the supplying of legal advice, counsel,
29 services and representation in proceedings shall not apply to the

1 State Public Integrity Commission established pursuant to chapter
2 58 of this title."
3 Section 30. This Act shall take effect November 15, 1993.

SYNOPSIS

This legislation integrates and strengthens three of the State's key public integrity laws: (1) Chapter 16, Title 29, governing registration of legislative agents; (2) Subchapter I, Chapter 58, Title 29, dealing with State Employees', Officers' and Officials' Code of Conduct; and (3) Subchapter II, Chapter 58, Title 29 governing financial disclosure by public officials.

Key provisions of the legislation:

Transform the State Ethics Commission into a Public Integrity Commission ("Commission") with authority over all provisions in Chapter 58.

Give the Commission a full-time Commission Counsel and the authority to hire other staff.

Make the Commission Counsel the prosecuting attorney in proceedings before the Commission.

Make the Commission the filing site for public official financial disclosure filings.

Put financial disclosure enforcement under the Commission.

Make the Commission's advisory opinion function available to all public officers with questions regarding Chapter 58, including public officers making financial disclosure filings.

Make it a Code of Ethics violation to disclose the identity of a citizen who requests to see a financial disclosure form.

Decrease the gift reporting limitation from \$250 to \$100.

Make the Commission the filing site for all lobbying reports.

Put lobbying filings and enforcement under the Commission.

Extend the Code's lobbying restrictions to persons who lobby the executive branch.

Provide for an effective date of November 15, 1993.

Author: Sen. _____

APPENDIX D

Sunday News Journal

Feb. 2, 1992

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FINAL EDITION

Southern Venture Associates was a front for the FBI

Justice's successor may come from DelDOT ranks

OPERATION NEW CLEAN
SPECIAL REPORT — A5

It's a sad time. It's a very unpleasant time, Castle says

Justice's resignation surprises friends and associates

How FBI 'zoned' Justice

Sources: DelDot chief was filmed taking bribes

By JERRY GASSER
and CELIA COOPER
Staff reporters

Former Transportation Secretary Ferrell H. Justice was caught taking almost \$20,000 in bribes in an FBI sting called Operation New Clean, according to sources familiar with the investigation.

Justice, 64, a Republican from Forest Hills Park, was videotaped taking bribes on three occasions, those sources said.

Gov. Castle asked for Justice's resignation late Friday after learning of the investigation from the FBI and U.S. Attorney William C. Carpenter Jr.

The investigation is continuing, and at least seven other people are being questioned as part of the FBI operation in which an undercover agent posing as a developer took a phony development project through the New Castle County zoning process, allegedly by buying approvals.

The project planned by Southern Venture Associates Inc. was approved Tuesday night by New Castle County Council in its 6th vote, and the referendum question asked after the last vote was paid.

The sting showed how the zoning process is easily corrupted, despite a multitude of state and county check-points designed to regulate developers.

Law enforcement officials are not commenting publicly on the sting. No one has been arrested or indicted. A federal grand jury will begin considering the case soon.

So far Justice is the only person publicly identified as a target.

The News Journal has put together the following account:

■ The sting is a continuation of the state and federal investigation that started former New Castle County Commissioner Ronald J. Ables in 1988 on an unrelated charge. The Colonial Park Development has already completed a portion of two, seven and nine rooms for selling his wife for \$10,000.

■ The sting came to light late Friday when Gov. Castle announced the resignation of Justice, a corporate lawyer from the administration of Pierre S. du Pont IV in a letter of resignation. Justice defended his innocence. He has declined further comment.

■ Justice allegedly took the bribes to help Southern Venture build a temporary office building on a shaven plot on U.S. 42 at Beauregard. Justice was asked to get state approval to extend a sewer line across the state's Beauregard Vista conference center. In addition, the Transportation Department had to approve the project.

■ Southern Venture was an FBI front, operated by Joe Edwards, an undercover agent who played the role of a Southern developer wanting to expand into Delaware. The company supposedly was based in Norcross, Ga., a suburb of Atlanta, but there is no such listing in Georgia telephone directories.

■ Edwards linked to the underside of the county development would see Mario S. Caputo, 47, of Wilmington, who owns from a family of developers.

Caputo was drawn into the FBI operation by his cousin, Louis J. Caputo, the developer who helped the FBI set up Atlanta. Both Caputos agreed to help the FBI in their sting operation.

Louis Caputo helped the FBI set up Atlanta, and when that was completed, it was Mario Caputo's turn.

■ Edwards said he wanted to build on a small farm owned by James and Sharon Ash. He took out a \$2 million option on the land and began wheeling and dealing with his new-found associates.

The Ashes and Joseph H. Yarb, their attorney, advised comment.

■ Besides the state approval, the permits needed to be issued by New Castle County Council. Edwards paid two bribery installments of approximately \$10,000 each to middlemen. One bribe was paid before the council vote and one after.

■ The FBI is questioning people believed to be involved with the bribes. They have not been publicly identified, although the News Journal has learned that at least seven people have been asked to give statements. None has been identified as a suspect or target.

■ The FBI plans to talk to New Castle County Council members next week.

County Councilman J. Robert Woods, D-Clarksburg Heights, said an FBI agent called him at noon Saturday, saying he wanted to talk about "the story in the newspaper."

Woods said he was told that all council members would be questioned and that the FBI would be interviewing "hundreds" of people.

Also, the FBI is going back to the County Council to ask it to rescind the rezoning of the Ash property.

Small companies that Justice approached to buy equity

OPERATION NEW CLEAN

FEB. 2, 1992 SUNDAY NEWS JOURNAL A 5

Justice's resignation was a surprise

By JEFF MONTGOMERY
Investigative Reporter

Friends and associates of former Transportation Secretary Kenneth H. Justice reacted with shock and surprise when he told state officials his resignation in a surprise of these calls late Friday and early Saturday.

Justice said he had resigned because he was a "strong supporter" of the state's transportation program and he was going to fight it, said State Transportation Director Charles H. Justice Friday afternoon. Justice said he was surprised when he was called by state officials to resign.

Justice said he was surprised when he was called by state officials to resign.

to go through what he went through the last time. There's no way he's going to agree to a job. But added, referring to the incident plus Justice made in 1986 to a change of accepting an illegal campaign contribution for the vote. He was found guilty on that charge.

State Republican Chairman Bill R. Battaglia was stunned to learn of Justice's resignation and the investigation, Battaglia, who spent Friday and parts of Saturday in Washington at a meeting of the National Republican Committee, knew little about the situation, he offered support for Justice.

Battaglia and Justice are Wilmington Republicans who have fought political battles to ouster state Justice for the state House of Representatives in 1972. As the head of the Delaware Turnpike Administration, Battaglia

is reported to Justice before his resignation.

"It's a tragedy," Battaglia said. "I have a lot of faith in Kenneth, and I believe that when it gets sorted out, he'll be vindicated."

"This just caught us all off guard," said Raymond M. Harrison, DEDOT's director for government. He reported that Kenneth wasn't able to tell us anything at all on any condition, but we know that was not the case. He cleared his calendar, but we know that was not the case. He cleared his calendar, but we know that was not the case. He cleared his calendar, but we know that was not the case.

Harrison said there was no sign of an investigation at DEDOT as late as Friday afternoon.

When investigators come in, the files disappear. You know it's happened. I don't know of anybody who types and publishes any files," Justice said. DEDOT Planning Director Robert C. Parks

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Kenneth H. Justice, shown in a portrait released in January 1986.

Agent was nondescript, 'a nice guy'

By CARL WEISER
Staff Writer

WILMINGTON — Everyone who met him remembers Joe Edwards as well, conductive.

The company, Southern Venture Associates, was looking to build an office complex on U.S. 13. So Edwards came up from his company headquarters in Atlanta to get his personal approval for the government, just like any developer.

Edwards was working for the FBI.

Southern Venture Associates was an FBI front, and as part of a sting operation.

"I don't know that he's the one who came to all the meetings," said Brown C. Shivers, the company's planning director. He couldn't even remember what Edwards looked like.

"He was a pretty nondescript individual as people," he said.

Terry Holly, chairman of the company's planning board, remembered Edwards had dark hair, wore glasses, and stood up next to it.

"He just looked like a businessman," Holly said.

Edwards visited the Wilmington law firm of Bennett, Bennett, & Bennett to handle the Southern Venture Associates meeting. Then New Castle County officials told him the state, which had only owned the property until the late 1970s, owned a new conference center — but collected the former owner to the site.

Former Superior Court Judge Robert C. O'Hara was Edwards' real lawyer, with both the state and the county. O'Hara was a judge with an unruly reputation for getting into arguments. O'Hara could not be reached for comment.

"Joe seemed like he was in his 40s, a dark height guy," recalled Shivers, who said he was surprised to learn Southern Venture was an FBI front. "He's a hell of a nice guy."

Southern Venture listed its address as New Castle County. There's no listing for such a company in the Superior Court records. The ownership is not clear, but the county's address is 4000 Highway 102, Newark, Del.

Newark Police, Wilmington, remembered a Southern Venture private investigator who set up a 1982 campaign headquarters in Newark. The FBI was using it as a very difficult to find location in New Castle County, that the



The location of the Southern Venture, FBI's proposed office project.

1979-92: THE JUSTICE YEARS AT DELDOT

The age and down have come and Justice for Kenneth H. Justice, in a rather career career as a public figure that included two years as a Republican member of the House of Representatives, beginning in 1982.

January 1979 — Justice is chosen to succeed George J. as secretary of the Delaware Turnpike Authority. He had been named a few months earlier in a committee study of DART funding.

February 1980 — DEDOT proposes the construction of a multi-lane road, including and equipment purchase program to rehabilitate the state's road network.

August 1980 — Legislators approve DEDOT's first attempt to raise tolls. The tolls are set at 10 cents per mile. The tolls are set at 10 cents per mile. The tolls are set at 10 cents per mile.

October 1980 — Justice is elected president of the American Association of State Highway and Transportation Officials.

Successor may be picked from Deldot officials

DOVER — Gov. Coe is expected to select a top official in the Department of Transportation to succeed Kenneth H. Justice as its director.

Among the leading candidates for the job are:

- Robert C. Parks, planning director.
- Raymond M. Harrison, director for government.
- James W. Lattin, executive director.
- Mark A. McNulty, Delaware Transportation Authority director.
- John T. Diney, executive director of the Delaware Turnpike Authority.
- John T. Diney, executive director of the Delaware Turnpike Authority.
- John T. Diney, executive director of the Delaware Turnpike Authority.

Justice's resignation was a surprise to many in the state. He had been a prominent figure in Delaware politics and transportation. His departure leaves a significant void in the state's transportation leadership.

'A very unpleasant time'

By CELIA COHEN
Staff Writer

She was never expected then. Gov. Coe, when U.S. Attorney William C. Carpenter Jr. announced he was leaving after 10 years, Kenneth H. Justice was being named to succeed him.

Justice was a surprise to many. He was not a politician, but a businessman. He was not a lawyer, but a judge. He was not a politician, but a businessman. He was not a lawyer, but a judge. He was not a politician, but a businessman. He was not a lawyer, but a judge.

Justice's appointment was seen as a move to bring a fresh perspective to the state's transportation department. However, his tenure was marked by controversy and speculation.

Castle stunned, saddened at downfall of former cohort

By CELIA COHEN
Staff Writer

She was never expected then. Gov. Coe, when U.S. Attorney William C. Carpenter Jr. announced he was leaving after 10 years, Kenneth H. Justice was being named to succeed him.

Justice's appointment was seen as a move to bring a fresh perspective to the state's transportation department. However, his tenure was marked by controversy and speculation.

Sunday News Journal Wilmington, Del.

May 9, 1993 Section B

Local

Perspective, B9

NEWS LOTTERIES OBITUARIES WEATHER

Carper aims for tougher ethical standards

By NANCY KESLER
Dover Bureau chief

DOVER — Gov. Carper proposed strengthening ethical standards in state government Saturday, starting with his own Cabinet.

He told a meeting of Common Cause of Delaware he also wants changes in campaign finance reporting that will make it clearer who is contributing money.

Monday, Carper will issue an executive order to require all top appointees to report all gifts of at least \$100. The current minimum is \$250.

The reporting limit will apply to the aggregate value of gifts officials receive. They will need the approval of the state Ethics Commission before receiving any

gift of more than \$250 from a nonfamily member.

Carper also plans to push for legislation to strengthen ethical and financial disclosure standards that will include dropping the \$250 gift-reporting minimum to \$100 for all top state officials.

"During the campaign last year, I made a commitment to ethical and open government. It's a commitment I intend to keep," Carper said. Many of the proposals made Saturday reflected his campaign position paper on ethics and campaign finance reform.

"Too often in the past, the excellent public servants who work in government agencies found themselves embarrassed by the behavior of the political appointees who head their agencies," he said. "When the front-line employees of

state government look to the top of their agencies, I expect them to see decision makers who avoid compromising situations, who are sensitive to potential conflicts of interest, who value the input of merit system employees and the public and who put the public interest above any other interest."

Carper also plans legislation to expand the responsibilities of the state Ethics Commission, rename it the Public Integrity Commission and give it the kind of support staff it now lacks.

The commission now only reviews executive branch ethics problems, and in some cases, those of local government officials. Carper's goal is to bring the legislative branch, which has its own ethics committee, under the commission's umbrella.

The commission now has a part-time deputy attorney general. The commission "is hampered by the lack of a full-time staff. This deprives the commission of the capacity to fulfill its ethics enforcement and investigation function," Carper said.

He also believes the commission should be designated as the repository for all public officials' financial disclosure forms, which will increase public access to the documents. Financial disclosure forms are now filed either with the Department of State or the Controller General.

"We should make it a state ethics violation for a government employee to disclose the identity of a citizen requesting a report to the government official who filed the report," the governor said.

Carper also wants to extend lobbying regulations to people who are paid to influence executive decision makers. "These decisions are frequently as important as the enactment of legislation, and lobbyists who get involved in them should be subject to the same ethical rules as lobbyists working in Legislative Hall."

The campaign finance reform would include requiring contributors to list their employer and occupation as required on federal election reporting forms, Carper said that would help the public "identify concerted interest-group giving to candidates."

He also wants statewide candidates to file election-year quarterly finance reports. Now, a candidate with no primary opponent files a report in January of the

election year for the last year's activity, and two reports right before the general election.

"This denies the public — and the candidate's general election opponent — adequate time to scrutinize the reports and make an issue of undue interest group influence. These are important reforms and I want them in place before the next election year," he said.

But the governor said he isn't ready to tackle public financing of elections.

Carper also believes consideration should be given to putting the elections departments and election laws under the Public Integrity Commission. But he said his first step is to get the commission up and running with adequate staff.



STATE OF DELAWARE
OFFICE OF THE GOVERNOR

THOMAS R. CARPER
GOVERNOR

M E M O R A N D U M

May 3, 1994

TO: The Honorable Robert J. Voshell
State Senator

FROM: Leo E. Strine, Jr.
Counsel to the Governor

RE: Substitute Version of S.B. 198

Enclosed is the final substitute version of S.B. 198. The bill has 39 sponsors; 17 in the Senate and 22 in the House. Also enclosed are a final section-by-section analysis, a highlights sheet, and a set of relevant questions and answers.

This memorandum identifies the differences between the substitute and the original bill. The major changes of substance are, in order as they occur, as follows:

Section 1: The Act "shall" be referred to as the PIA of "1994".

Section 7: Amended at the request of Common Cause to remove language that, in its view, gave the Commission too much discretion in determining not to issue redacted advisory opinions. The words "opinion" and "applicant" were pluralized at the request of Rich Dillard, Republican Senate attorney.

Section 8: Instead of abolishing the State Ethics Commission, the substitute renames and reestablishes it so as to emphasize the continuity in its membership. A gap in spacing is also corrected.

Section 9: Amended to: add section 5808B which was part of S.A. Number 1 to S.B. 198; add a provision stressing the Commission Counsel's educational duties (§5808A(a)(1)); and incorporate suggestions made by Art Connolly to address the concern that the Commission Counsel could refer matters for prosecution to the Attorney General or U.S. Attorney or prosecute matters before the Commission without Commission approval (§5808A(a)(4), (5)).

Section 12: Amends §5809(11) at the request of Common Cause to provide for the preparation of an annual report by the Commission.

Section 13: Amended to: add an effective date of 1/15/95 for the Commission to maintain the financial disclosure records of subchapter II, Chapter 58 (§5809(15)); and add an effective date of 1/15/96 for the Commission to assume responsibility for the lobbying laws (§5809(16)).

Section 15: Added to change a reference to "subchapter" to "chapter" in §5810(b) which was missed in the original bill.

Section 16: Added to delete a reference to the Attorney General in §5810(f) that was left unchanged by S.B. 198.

Section 18: (§17 in S.B. 198): Amended to fix a typographical error omitting the title and code references.

Section 21: (§20 in S.B. 198): Amended to provide an effective date of 1/15/95 for the financial disclosure reports filing site change.

Section 22: (§21 in S.B. 198): Amended to delete the gift limit reduction.

Section 23: (§22 in S.B. 198): Id.

Section 24: (§23 in S.B. 198): Id., plus transfer of records to occur by April 15, 1995.

Section 25: (§24 in S.B. 198): Amended for consistency with proposed §5810(a).

Section 27: (§26 in S.B. 198): Amended to pick up a reference to the Ethics Commission that was not caught in S.B. 198.

Section 28: (§27 in S.B. 198): Amended to: provide an effective date of 1/15/96; change the term "government agent" to "lobbyist" (§ 5831(a)(1)); conform the definition of "compensation" in proposed §5831(a)(2) to that of §5804(4) (§5831(a)(2)); conform the definition of "person" in proposed §5831(a)(4) to that of §5804(6) (§ 5831(a)(4)); add a definition of "State

employee" for purposes of the lobbying statute (§ 5831(a)(9)); clarify that employees of the State or any political subdivision thereof acting in their official capacities are not "lobbyists" for purposes of the Act (§ 5831(b)(2)); change the word "and" in § 5832 to "or" to conform § 5832(a) to § 5831(a)(1) and thereby correct an inconsistency in the existing lobbying statute; fix a typo in the existing Code by adding the word "or" in proposed §5833; amend §5835 consistent with S.A. 1 to S.B. 198 except delete the words of S.A. 1 that say "so as to facilitate the recipient's compliance with § 5813 of this title."; and amend § 5837(d)'s last sentence to authorize members of the General Assembly to refer suspected lobbying law violations to the Commission "and/or" the Attorney General.

Section 30: Amends §1605(c) in accord with S.A. 1 to S.B. 198, except delete the words of S.A. 1 that say "so as to facilitate the recipient's compliance with § 5813 of this title."

Section 31: Added to provide that legislative agent filings on record with Legislative Council as of January 15, 1996 shall be transferred to the Commission by April 15, 1996.

Section 32: (§29 of S.B. 198): Amended to provide an effective date of 7/15/94 except where otherwise expressly indicated.

The substitute takes the following approach as to effective dates. The bill is generally effective July 15, 1994. The Commission obtains advisory opinion and investigative authority over all of Chapter 58 on that date. The Commission takes over general administrative and filing site responsibility for financial disclosure filings on January 15, 1995. On January 15, 1996, the Commission assumes responsibility for lobbying law enforcement and filings. All existing lobbying filings will be transferred to the Commission by April 15, 1996.

cc: The Honorable Arthur G. Connolly, Jr.
Michael Houghton, Esquire
Jan Konesey

S.B. 198 -- THE PUBLIC INTEGRITY ACT OF 1994 - HIGHLIGHTS

- * Renames and reestablishes the State Ethics Commission as a Public Integrity Commission ("Commission") with authority over all provisions in Chapter 58.
- * Gives the Commission a badly needed full-time Commission Counsel and the authority to hire other staff.
- * Makes the Commission Counsel responsible for helping the Commission perform its now unperformed ethics education function and acting as the counsel to the Commission.
- * Puts public official financial disclosure enforcement under the Commission.
- * Makes the Commission's advisory opinion function available to all public officers with questions regarding Chapter 58, including public officers making financial disclosure filings.
- * Effective January 15, 1995, makes the Commission the filing site for public official financial disclosure filings.
- * Effective January 15, 1996, extends the Code's lobbying restrictions to persons who lobby the executive branch.
- * Effective January 15, 1996, puts lobbying filings and enforcement under the Commission.
- * Effective January 15, 1996, makes the Commission the filing site for all lobbying reports.

DRAFT

SENATE SUBSTITUTE TO S.B. 198
PUBLIC INTEGRITY ACT OF 1994 --
SECTION BY SECTION ANALYSIS

- Section 1: Provides that the Act shall be referred to as the Public Integrity Act of 1994.
- Section 2: Changes the definition in 29 Del. C. §5804(2) from the State Ethics Commission to the Public Integrity Commission ("PIC").
- Section 3: Adds the definition of the Commission Counsel to §5804.
- Section 4: Amends §5805(d) by prohibiting misuse of confidential state information by former state officials.
- Section 5: Extends the confidential information waiver provisions of §5806(d) to cover enforcement of all of Chapter 58, not just Subchapter I.
- Section 6: Enables public officers under §5812 to take advantage of the advisory opinion process and broadens this process to include all questions regarding Chapter 58, not just those arising under Subchapter I.
- Section 7: Extends the public disclosure provisions of §5807(d)(2) to all prosecutions of violations of Chapter 58, not just those under Subchapter I, and by providing for the publication of summaries of advisory opinions which will not disclose the identity of the applicants.
- Section 8: (a) Replaces existing §5808 and renames and reestablishes the Ethics Commission as the PIC; (b) sets membership, qualifications; (c) sets terms of office and vacancy filling provisions; (d) chairperson, quorum and vote requirements; (e) compensation for PIC members; (f) office of PIC.

- Section 9: Adds new sections 29 Del. C. §5808A, which creates and sets forth the duties of the Commission Counsel, and §5808B, which makes the Counsel's appointment contingent upon appropriations.
- Section 10: Extends the duties of the PIC under §5809 from Subchapter I across all of Chapter 58.
- Section 11: Amends 29 Del. C. §5809(3). Authorizes the Commission to have the Commission Counsel investigate violations of Chapter 58 of Title 29, and to give the Commission the authority to recommend, after notice and hearing, disciplinary action to the employee's employing agency or to take such action as is authorized by §5810(d).
- Section 12: Amends 29 Del. C. §§5809(11) and (12) to require the Commission to prepare an annual report and to empower the Commission to appoint the Commission Counsel.
- Section 13: Amends 29 Del. C. §5809 by adding new sections (14)-(17) thereto, empowering the PIC to: (14) contract for services the Commission Counsel and staff cannot perform; (15) commencing January 15, 1995, to administer and implement the financial disclosure provisions of Subchapter II of Chapter 58; (16) commencing January 15, 1996, to administer and implement the lobbyist registration provisions of the Delaware Code; and (17) perform such other responsibilities assigned to it by law.
- Section 14: Amends 29 Del. C. §5810(a) by making the Commission Counsel the prosecuting attorney before the PIC, and empowering the PIC to investigate all violations of Chapter 58.
- Section 15: Amends §§5810(b), (e) and (g) to extend certain disqualification and procedural due process provisions of §5810 to all violations of Chapter 58, not just violations of Subchapter I.
- Section 16: Amends §5810(f) to place an obligation on the Commission Counsel to disclose exculpatory information to a person under investigation.
- Section 17: Eliminates confusing provisions of §5810(h) that provide for different confidentiality standards to apply to disciplinary proceedings involving State employees, State officers and honorary State officials by providing for one uniform standard covering all such proceedings.

- Section 18: Amends §5810(h)(4) to conform with the new confidentiality provision, and §§5810(h)(4) and (5) by replacing the word "subchapter" with "chapter."
- Section 19: Amends the judicial review provisions of §5810A to apply to appeals from any decision finding a violation of Chapter 58, not just Subchapter I.
- Section 20: Amends §5812 by defining the PIC for purposes of Subchapter II.
- Section 21: Amends 29 Del. C. §5813(a), effective January 15, 1995, to allow the PIC to prescribe the form used in financial disclosures by public officials.
- Section 22: Amends 29 Del. C. §5813(a)(4)e. by adding a provision allowing a recipient to rely in good faith upon the giver's representation of the value of a gift.
- Section 23: Amends 29 Del. C. §5813(d), effective January 15, 1995, by making the PIC the filing site for all public official financial disclosure filings.
- Section 24: Amends 29 Del. C. §5814, effective January 15, 1995, to require the PIC to maintain the files for the requisite time period, and to make such reports available for inspection and copying. All existing records to be transferred to the PIC by April 15, 1995.
- Section 25: Amends 29 Del. C. §5815(c) by empowering the PIC to investigate and refer any violation of the financial disclosure subchapter to the Attorney General.
- Section 26: Amends §5823 by requiring the State Auditor to refer possible violations of §5823 to the PIC for investigation pursuant to 29 Del. C. §5810 and/or to the Attorney General.
- Section 27: Amends 29 Del. C. §§5805(a), 5806(d), 5807(a) and (c) and the first sentence of §5809 to replace the words "Ethics Commission" with the word "Commission".
- Section 28: Effective January 15, 1996, strikes Chapter 16 in its entirety and adds a new Subchapter IV to Chapter 58 called Registration of Lobbyists.
- §5831: Sets forth key definitions. §5831(a)(1) extends lobbying restrictions to executive branch lobbying activity. Changes term "legislative

agent" to "lobbyist." Makes definitions more consistent with those in the rest of Chapter 58. Adds a definition of "state employee" to the lobbyist statute. Clarifies that employees of the state or any political subdivision thereof acting in their official capacities are not lobbyists for purposes of the Act.

§5832: Registration Provisions. Makes lobbyists register with the PIC. Conforms § 5832(a) to § 5831(a)(1) to require that lobbyists who qualify under either § 5831(a)(1) a. or b. shall register before performing any acts as a lobbyist. This corrects an inconsistency in existing law.

§5833: Employer's authorization to act. No substantive changes from current law.

§5834: Compensation not to be substantially dependent on outcome. No substantive changes from current law.

§5835: Reports by Lobbyists. Only substantive change is to require lobbyists to affirm that they have provided the recipient of any gift in excess of \$50 with a representation of the value of the gift.

§5836: When registration report is considered as filed; public access. No substantive changes from current law.

§5837: Violations and penalties. Gives the PIC the authority to investigate and/or refer suspected violations to the Attorney General.

- Section 29: Amends 29 Del. C. §2515 to make existing language subsection (a), and by creating a new subsection (b) to exempt the PIC from the usual provisions of 29 Del. C. §2507 dealing with outside legal counsel.
- Section 30: Amends § 1605(c) of Title 29 to require lobbyists to affirm that they have provided the recipient of any gift in excess of \$50 with a representation of the value of the gift.
- Section 31: Provides for the transfer of legislative agent filings on record with the Legislative Council as of January 15, 1996 to the Commission by April 15, 1996.
- Section 32: Provides that the bill becomes effective July 15, 1994 except as otherwise expressly provided.



SPONSOR: Sens. Vosshell and Knox,
Reps. Amick and Bradley;
Sens. Adams, Bair,
Blevins, Connor, Cook,
Hauge, Henry, Marshall,
Martin, McBride, McDowell,
Neal, Sokola, Still and
Torbert; Reps. Bennett,
Buckworth, Bunting, Davis,
DiLiberto, D. Ennis,
Ewing, Fallon, Mack,
Maroney, Petrilli, Plant,
Reynolds, Roy, Schroeder,
Sorenson, Spence, Taylor,
Wagner, and Wojewodzki

DELAWARE STATE SENATE

137TH GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1 MAY 03 1994

TO

SENATE BILL NO. 198

AN ACT TO AMEND CHAPTERS 16, 25, AND 58, TITLE 29, DELAWARE CODE AND CHAPTER 417, VOLUME 67, LAWS OF DELAWARE BY ESTABLISHING THE STATE PUBLIC INTEGRITY COMMISSION AND DEFINING ITS AUTHORITY AND RESPONSIBILITIES, AND THE DUTIES OF PERSONS SUBJECT TO ITS AUTHORITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. This Act shall be referred to as the "Public Integrity Act of
2 1994."

3 Section 2. Amend §5804(2), Title 29, Delaware Code by striking it in its
4 entirety and substituting in lieu thereof a new §5804(2) as follows:

5 "(2) "Commission" means the State Public Integrity Commission established
6 by this chapter."

7 Section 3. Amend §5804, Title 29, Delaware Code by adding thereto a new
8 §5804(3) to read as follows and by renumbering the remaining subparagraphs:

9 "(3) "Commission Counsel" means the legal counsel appointed by the
10 Commission pursuant to this chapter."

11 Section 4. Amend §5805(d), Title 29, Delaware Code by adding the following

1 of 13

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1 words at the end thereof: "Nor shall any former state employee, state officer
2 or honorary state official disclose confidential information gained by reason
3 of his public position nor shall he otherwise use such information for
4 personal gain or benefit."

5 Section 5. Amend §5806(d), Title 29, Delaware Code by striking the word
6 "subchapter" as it appears in the second sentence and replacing it with the
7 word "chapter".

8 Section 6. Amend §5807(c), Title 29, Delaware Code by striking the word
9 "subchapter" in the first sentence and replacing it with the word "chapter"
10 and by adding the words "or a public officer as defined in §5812 of this
11 chapter" between the words "state agency" and "," in the same sentence.

12 Section 7. Amend §5807(d), Title 29, Delaware Code by striking the word
13 "subchapter" in subsection (d)(2) and replacing it with the word "chapter" and
14 by adding a new subsection (d)(4) to read as follows:

15 "(4) The Commission shall prepare a summary of its advisory opinions for
16 public distribution without disclosing the identity of the applicants."

17 Section 8. Amend §5808, Title 29, Delaware Code by striking it in its
18 entirety and substituting in lieu thereof the following:

19 "§ 5808. State Public Integrity Commission; establishment, membership,
20 offices.

21 "(a) The State Ethics Commission is hereby renamed and reestablished as
22 the State Public Integrity Commission to assume the functions of the State
23 Ethics Commission and to administer and implement this chapter, and to perform
24 such other responsibilities as may be entrusted to it by law.

25 (b) The Commission shall consist of 7 members appointed by the Governor
26 with the concurrence of the Senate. Not more than 4 members shall be
27 registered with the same political party. No member shall hold any elected or
28 appointed office under the government of the United States or the State or be
29 a candidate for any such office. No member shall hold any political party
30 office or an office in any political campaign. Members of the Commission may
31 be removed by the Governor, with the concurrence of the Senate, for
32 substantial neglect of duty, gross misconduct in office or violation of this
33 chapter.

34 (c) A member of the Commission shall be appointed for a term of office of

1 seven years and until his successor has been appointed and has qualified,
2 except that initially the Commission shall consist of the members of the
3 former State Ethics Commission as of the date of its renaming and
4 reestablishment, and said members shall serve the remaining portion of their
5 terms and until their successors have been appointed and have qualified. No
6 member shall serve for more than 1 full 7-year term. When a vacancy occurs in
7 the membership of the Commission, it shall be filled by appointment for the
8 unexpired portion of the term in the same manner as original appointments.

9 (d) The Commission shall elect a chairperson from among its membership.
10 Four members of the commission shall constitute a quorum and, if a quorum is
11 present, a vacancy on the Commission shall not impair the right of the
12 remaining members to exercise all the powers of the Commission. Disciplinary
13 hearings may be conducted and sanctions may be imposed only by the affirmative
14 action of at least 4 members. Otherwise the Commission may delegate authority
15 to the chairperson to act for the Commission between meetings.

16 (e) Each member of the Commission shall be compensated at the rate of \$100
17 for each day devoted to the performance of his or her official duties. Each
18 member of the Commission shall be reimbursed for reasonable and necessary
19 expenses incurred in the performance of official duties.

20 (f) The principal office of the Commission shall be in Dover but it may
21 meet, and exercise its power, at any other place in the State."

22 Section 9. Amend Subchapter I, Chapter 58, Title 29, Delaware Code by
23 adding new §§5808A and 5808B thereto to read as follows:

24 "§ 5808A. Commission Counsel; powers and duties.

25 "(a) There shall be a Commission Counsel who shall be the legal
26 representative of the Commission and have the following powers and duties:

27 (1) To assist the Commission in preparing and publishing manuals and
28 guides explaining the duties of individuals covered by this chapter and
29 in other activities, such as seminars and workshops, educating
30 individuals covered by this chapter about its requirements and
31 purposes; and giving instructions and public information materials to
32 facilitate compliance with, and enforcement hereof.

33 (2) To provide legal counsel to the Commission concerning any matter
34 arising in connection with the exercise of its official powers or
35 duties.

- 1 (3) To review information coming to the attention of the Commission
2 relating to potential violations of this chapter.
- 3 (4) To investigate information coming to the attention of the
4 Commission that, if true, would constitute a violation of any provision
5 of this chapter and/or to recommend that possible violations of these,
6 or other State and federal laws, be referred by the Commission to the
7 Attorney General or the United States Attorney for investigation and
8 prosecution. Matters may be so referred to the Attorney General or the
9 United States Attorney only upon a determination by at least a majority
10 of the Commission that there are reasonable grounds to believe that a
11 violation may have occurred.
- 12 (5) To prosecute disciplinary proceedings, if a determination has been
13 made by at least a majority of the Commission that there are reasonable
14 grounds to believe that a violation may have occurred, before the
15 Commission and to assist the Commission in drafting educational
16 materials, waiver decisions and advisory opinions.
- 17 (6) To employ and supervise staff necessary to perform his or her
18 investigatory and prosecutorial functions.
- 19 (7) To maintain permanent records of all advisory, waiver,
20 investigatory and prosecutorial matters.
- 21 (8) To perform any other tasks requested by the Commission concerning
22 any matter arising in connection with the exercise of its official
23 powers or duties.
- 24 (b) The Commission Counsel may recuse from a matter before the Commission
25 when, in the view of Commission Counsel or of the Commission, such recusal is
26 deemed necessary or appropriate. In situations where Commission Counsel
27 recuses, the duties of the Commission Counsel may be exercised by the Attorney
28 General or by outside counsel chosen by the Commission."
- 29 §5808B. Commission Counsel's appointment contingent upon appropriations.
- 30 The Commission Counsel established by §5808A of this chapter shall not be
31 appointed by the Commission until adequate funds have been appropriated for
32 such purpose. In the absence of such appointment, the Attorney General shall
33 provide legal assistance to the Commission and shall exercise any duties
34 assigned to the Commission Counsel by this chapter. Such duties may also be
35 exercised by outside counsel chosen by the Commission, if adequate funds are

1 appropriated for such purpose."

2 Section 10. Amend §5809, Title 29, Delaware Code by striking the word
3 "subchapter" wherever it appears in that section and replacing it with the
4 word "chapter".

5 Section 11. Amend §5809(3), Title 29, Delaware Code by striking it in its
6 entirety and substituting in lieu thereof a new subsection (3) to read as
7 follows:

8 "(3) To refer to Commission Counsel to investigate any alleged
9 violation of this chapter and, after notice and hearing, to recommend
10 by resolution, such disciplinary action as it may deem appropriate to
11 such appropriate official or agency as the Commission shall determine
12 or to take such other disciplinary action as is authorized by §5810(d)
13 of this chapter or other provisions of this Code. The Commission may
14 also dismiss any complaint that it determines is frivolous or fails to
15 state a violation."

16 Section 12. Amend §5809(11) and (12), Title 29, Delaware Code by striking
17 them in their entirety and substituting in lieu thereof new subsections (11)
18 and (12) as follows:

19 "(11) To prepare an annual report by March 1st of each year describing its
20 activities for the previous year and to prepare such other reports and studies
21 as may advance the purposes of this chapter.

22 (12) To appoint a lawyer admitted to practice in the State to serve as
23 Commission Counsel."

24 Section 13. Amend § 5809, Title 29, Delaware Code by adding thereto new
25 subsections (14),(15),(16) and (17) to read as follows:

26 "(14) To contract for any services which cannot satisfactorily be
27 performed by the Commission Counsel or other Commission staff.

28 (15) Commencing January 15, 1995, to administer and implement the
29 financial disclosure provisions of subchapter II of this chapter and to
30 maintain the records filed pursuant thereto.

31 (16) Commencing January 15, 1996, to administer and implement the lobbyist
32 registration provisions of this Code and to maintain the records filed
33 pursuant thereto.

34 (17) To perform such other responsibilities as may be assigned to it by
35 law."

1 Section 14. Amend the first two sentences of § 5810(a), Title 29, Delaware
2 Code by striking them in their entirety and substituting in lieu thereof the
3 following:

4 "Upon the sworn complaint of any person or on its own initiative, the
5 Commission may refer to the Commission Counsel for investigation any
6 alleged violations of this chapter. The Commission Counsel shall be the
7 prosecuting attorney in disciplinary proceedings before the Commission."

8 Section 15: Amend §§5810(b), (e) and (g), Title 29, Delaware Code by
9 striking the word "subchapter" as it appears in those subsections and
10 replacing it with the word "chapter".

11 Section 16: Amend §5810(f), Title 29, Delaware Code by deleting the words
12 "Attorney General" and inserting the words "Commission Counsel" in lieu
13 thereof.

14 Section 17. Amend §5810(h), Title 29, Delaware Code by striking
15 §§5810(h)(1),(2) and (3) in their entirety and replacing them with a new
16 §5810(h)(1) to read as follows and by renumbering the remaining subparagraphs:

17 "(1) All proceedings relating to a charged violation of this Chapter shall
18 be maintained confidential by the Commission unless (i) public disclosure
19 is requested in writing by the person charged; (ii) after a sworn complaint
20 has been filed, the Commission determines that there is probable cause to
21 believe that a violation has occurred and the Commission determines, in its
22 discretion, that it would be in the public interest for the proceedings to
23 be open to the public; or (iii) the Commission determines after a hearing
24 that a violation has occurred."

25 Section 18. Amend current §5810(h)(4), Title 29, Delaware Code by striking
26 the words "paragraphs (1)-(3)" and replacing them with the words "paragraph
27 (1)" and amend current §§5810(h)(4) and (5) by replacing the word "subchapter"
28 wherever it appears with the word "chapter".

29 Section 19. Amend §5810A, Title 29, Delaware Code by striking the word
30 "subchapter" as it appears in the first sentence and replacing it with the
31 word "chapter".

32 Section 20. Amend §5812, Title 29, Delaware Code by adding thereto a new
33 subsection (p) to read as follows:

34 "(p) "Commission" means the State Public Integrity Commission.

35 Section 21. Effective January 15, 1995, amend the second sentence of §

1 5813(a), Title 29, Delaware Code by striking the words "Controller General"
2 and substituting in lieu thereof the word "Commission".

3 Section 22. Amend §5813(a)(4)e., Title 29, Delaware Code by adding a
4 second sentence to §5813(a)(4)e. to read as follows:

5 "For purposes of compliance with this gift reporting obligation, the
6 recipient may rely in good faith upon the representation of the source
7 of the gift as to the gift's value."

8 Section 23. Effective January 15, 1995, amend §5813(d), Title 29, Delaware
9 Code by striking it in its entirety and substituting in lieu thereof a new
10 subsection (d) as follows:

11 "(d) Each report required by this section shall be filed with the
12 Commission."

13 Section 24. Effective January 15, 1995, amend §5814, Title 29, Delaware
14 Code by striking it in its entirety and substituting in lieu thereof a new
15 section as follows:

16 "§5814. Retention of Reports:

17 (a) The Commission shall keep the reports required by this subchapter on
18 file for so long as the person submitting such report is a public officer of
19 this State, as defined in § 5812 of this title, and for at least 5 years
20 thereafter. All reports on file with agencies other than the Commission as of
21 January 15, 1995 shall be transferred to the Commission by April 15, 1995.

22 (b) The reports filed pursuant to this subchapter shall be made available
23 at reasonable hours for public inspection and copying pursuant to Chapter 100
24 of this title."

25 Section 25. Amend §5815(c), Title 29, Delaware Code by striking it in its
26 entirety and substituting in lieu thereof a subsection (c) as follows:

27 "(c) The Commission may refer to the Commission Counsel for investigation
28 and/or may refer any suspected violation of this subchapter to the Attorney
29 General for investigation and prosecution."

30 Section 26. Amend §5823(b), Title 29, Delaware Code by inserting the words
31 "Public Integrity Commission for investigation pursuant to §5810 of this title
32 and/or to the" between the words "the" and "Office" as they appear therein.

33 Section 27. Amend §5805(a), §5806(d), §§5807(a) and (c) and the first
34 sentence of §5809, Title 29, Delaware Code by striking the phrase "Ethics

1 Commission" whenever it appears in the existing language and substituting in
2 its place the word "Commission".

3 Section 28. Effective January 15, 1996, amend Title 29, Delaware Code by
4 striking Chapter 16 in its entirety and adding a new subchapter IV to Chapter
5 58 to read as follows:

6 "SUBCHAPTER IV. Registration of Lobbyists

7 § 5831. Definitions.

8 (a) As used in this subchapter, the following terms shall have the
9 meanings indicated:

10 (1) "Lobbyist" means any individual who acts to promote, advocate,
11 influence or oppose any matter pending before the General Assembly by
12 direct communication with the General Assembly or any matter pending
13 before a state agency by direct communication with that state agency,
14 and who in connection therewith either:

15 a. Has received or is to receive compensation in whole or in part
16 from any person; or

17 b. Is authorized to act as a representative of any person who has
18 as a substantial purpose the influencing of legislative or
19 administrative action; or

20 c. Expends any funds during the calendar year for the type of
21 expenditures listed in subsection (b) of § 5835 of this title.

22 (2) "Compensation" means any money, thing of value or any other
23 economic benefit of any kind or nature whatsoever conferred on or
24 received by any person in return for services rendered or to be
25 rendered by himself or another.

26 (3) "Employer" means any person on whose behalf a lobbyist acts.

27 (4) "Person" means any individual, partnership, corporation, trust,
28 joint venture and any other association of individuals or entities."

29 (5) "General Assembly" includes any member, committee or subcommittee
30 of either House of the General Assembly.

31 (6) "State agency" means any office, department, board, commission,
32 committee, school district, board of education and all public bodies
33 existing by virtue of an act of the General Assembly or of the
34 Constitution of the State, excepting only political subdivisions of the
35 State, their agencies and other public agencies not specifically

1 included in this definition that exist by virtue of State law and whose
2 jurisdiction:

3 a. Is limited to a political subdivision of the State or to a
4 portion thereof; or

5 b. Extends beyond the boundaries of the State.

6 (7) "Matter" means any application, petition, request, business
7 dealing, transaction or decision of any sort.

8 (8) "Commission" means the State Public Integrity Commission.

9 (9) "State employee" means person who receives compensation as an
10 employee of a state agency (including the elected or appointed heads of
11 such agencies) or who serves as an appointed member, trustee, director
12 or the like of any state agency.

13 (b) Subparagraphs a. and b. of paragraph (1) of subsection

14 (a) of this section shall not apply to:

15 (1) Persons performing professional services in drafting bills or
16 regulations or in advising and rendering opinions to clients as to the
17 construction or effect of proposed, pending or enacted legislation or
18 regulations who do not otherwise act as lobbyists;

19 (2) Persons appearing pursuant to their official duties as employees
20 or elected officials of the State, or any political subdivision
21 thereof, or of the United States, and not as representatives of any
22 other person;

23 (3) Persons who, in relation to the duties or interests of their
24 employment or at the request or suggestion of their employer,
25 communicate with the General Assembly or a state agency concerning any
26 legislation, regulation or other matter before the General Assembly or
27 such state agency, if such communication is an isolated, exceptional or
28 infrequent activity in relation to the usual duties of their employment;

29 (4) Persons communicating with the General Assembly or a state agency
30 if such communication is undertaken by them as a personal expression
31 and not as an agent of their employers as to matters of interest to a
32 person by whom or by which they are employed and if they receive no
33 additional compensation or reward, in money or otherwise, for or as a
34 result of such communication;

35 (5) Persons testifying at public hearings conducted by the General

- 1 Assembly or a state agency who do not otherwise act as lobbyists;
- 2 (6) Persons appearing on behalf of any religious organization with
3 respect to subjects of legislation or regulation that directly relate
4 to the religious beliefs and practices of that organization who do not
5 otherwise act as lobbyists;
- 6 (7) Attorneys representing clients in administrative adjudications
7 governed by the provisions of subchapter III of Chapter 101 of this
8 title, representing clients before the Tax Appeals Board, or in other
9 administrative procedures where ex parte communications with the state
10 agency with authority over the matter are prohibited;
- 11 (8) Attorneys representing clients with regard to criminal or civil
12 law enforcement proceedings, or in any judicial proceedings.

13 § 5832. Registration of lobbyists with the State Public Integrity Commission.

14 (a) Every lobbyist shall register with the Commission in a lobbyist docket
15 and file, at that time, the authorization from his employer as required by
16 §5833 of this title. A person who qualifies as a lobbyist in accordance with
17 §5831(a)(1)a. or b. of this title shall register prior to performing any acts
18 as a lobbyist. A person who qualifies as a lobbyist in accordance with
19 §5831(a)(1)c. of this title must register within 5 days after so qualifying,
20 if not already registered as a lobbyist.

21 (b) The information recorded in the Commission's lobbyist docket shall
22 include for each separate employer:

- 23 (1) The name, residence or business address and occupation of each
24 lobbyist;
- 25 (2) The name and business address of the employer of such lobbyist;
- 26 (3) The date on which the employment as lobbyist commenced;
- 27 (4) The length of time the employment is to continue; and
- 28 (5) The subject matter of legislation, regulation or administrative
29 action as to which the employment relates at that time.

30 (c) Upon any change in the information recorded in the lobbyist docket,
31 the lobbyist shall within 10 business days report such changes to the
32 Commission, which shall record the change in the docket.

33 (d) The Commission shall promptly furnish copies of each entry in the
34 lobbyist docket to the Chief Clerk of the House of Representatives, the
35 Secretary of the Senate, the Governor and the head of any state agency upon

1 request of such persons.

2 § 5833. Employer's authorization to act.

3 Every employer of a lobbyist shall furnish to such lobbyist a written and
4 signed authorization to act, which shall be filed with the Commission by the
5 lobbyist at the time of registration or as soon as available and not later
6 than 15 business days after the lobbyist has registered with the Commission.
7 If the employer is a corporation, association or labor union, any authorized
8 officer or agent who is not the lobbyist shall furnish and sign the written
9 authorization. The authorization shall include the full and legal name and
10 business address of both the employer and the lobbyist, the period of time
11 during which the lobbyist is authorized to act and the subject or subjects of
12 legislation, regulation or administrative action upon which the employer is
13 represented.

14 § 5834. Compensation of lobbyist not to be substantially dependent on outcome
15 of legislative or administrative action.

16 No person shall employ a lobbyist nor shall any person be employed as a
17 lobbyist pursuant to any compensation agreement that permits more than half of
18 the compensation to be paid to such a lobbyist to be dependent upon the
19 outcome of any legislative or administrative action.

20 § 5835. Reports by lobbyists.

21 (a) On or before the twentieth day of the month following each calendar
22 quarter, each lobbyist shall file a written report covering the immediately
23 preceding calendar quarter and containing the information required by this
24 subchapter.

25 (b) A lobbyist shall file separate reports for each employer which he or
26 she represents. Each report shall contain the total expenditures during the
27 reporting period for all direct expenditures, costs or values, whichever is
28 greater, provided for members of the General Assembly or for employees or
29 members of any state agency for the following:

- 30 (1) Food and refreshment;
31 (2) Entertainment, including the cost of maintaining a hospitality
32 room;
33 (3) Lodging expenses away from home;
34 (4) Fair value of travel if the trip exceeds 100 miles;
35 (5) Recreation expenses; and

1 (6) Gifts or contributions, excluding political contributions as
2 defined in Chapter 80 of Title 15 provided to members of the General
3 Assembly.

4 (c) The information shall be reported on a form which shall be available
5 from the Commission and shall show the total expenditures for the reporting
6 period and shall also list the recipient any time the expenditures exceed \$50
7 per diem. The lobbyist shall also affirm that he or she has provided the
8 recipient of any gift in excess of \$50 with a representation as to the value
9 of the gift. The records shall be retained for a period of 4 years from the
10 date of filing.

11 § 5836. When registration, report or authorization is considered as filed;
12 access to records.

13 (a) Any registration, report or authorization form shall be considered
14 filed as of the date it is physically filed with the Commission or is mailed
15 if sent by registered or certified mail.

16 (b) The lobbyist docket maintained by the Commission and any reports,
17 authorizations or other documents filed with the Commission pursuant to this
18 subchapter shall be made available at reasonable hours for public inspection
19 and copying pursuant to Chapter 100 of this title.

20 § 5837. Violation and penalties.

21 (a) Any person who knowingly fails to register as a lobbyist as required
22 by this subchapter shall be guilty of a misdemeanor.

23 (b) Any person who knowingly furnishes false information in any
24 registration, authorization or report required by this subchapter shall be
25 guilty of a misdemeanor.

26 (c) Any person who fails to file an authorization or report as required by
27 this subchapter shall be deemed to have voluntarily cancelled his or her
28 registration as a lobbyist and shall be prohibited from reregistering or
29 acting as a lobbyist until all delinquent authorizations and/or reports have
30 been filed.

31 (d) The Commission may refer to the Commission Counsel for investigation
32 and/or refer any suspected violation of this subchapter to the Attorney
33 General for investigation and prosecution. The Speaker of the House, the
34 presiding officer of the Senate, the Legislative Council or any member of the
35 General Assembly shall refer, or any other person may refer, any suspected

1 violation of this subchapter to the Commission and/or the Attorney General of
2 the State.

3 (e) The Superior Court shall have exclusive jurisdiction over all offenses
4 under this subchapter."

5 Section 29. Amend §2515, Chapter 25, Title 29, Delaware Code by
6 designating the present section as subsection (a) and by adding subsection (b)
7 thereof:

8 "(b) Notwithstanding §2507 of this title, the provisions of this chapter
9 relating to the supplying of legal advice, counsel, services and
10 representation in proceedings shall not apply to the State Public Integrity
11 Commission established pursuant to chapter 58 of this title."

12 Section 30. Amend §1605(c), Chapter 16, Title 29, Delaware Code by adding
13 a new sentence after the first sentence of §1605(c) to read as follows:

14 "The legislative agent shall also affirm that he or she has provided
15 the recipient of any gift in excess of \$50 with a representation as to the
16 value of the gift."

17 Section 31. The legislative agent reports on file with the Legislative
18 Council as of January 15, 1996 shall be transferred to the Public Integrity
19 Commission by April 15, 1996.

20 Section 32. This Act shall take effect July 15, 1994, except as to those
21 sections where another effective date is expressly indicated.

SYNOPSIS

This legislation integrates and strengthens the State's key public integrity laws including: (1) Chapter 16, Title 29, governing registration of legislative agents; (2) Subchapter I, Chapter 58, Title 29, dealing with State Employees', Officers' and Officials' Code of Conduct; and (3) Subchapter II, Chapter 58, Title 29 governing financial disclosure by public officials.

Key provisions of the legislation: transform the State Ethics Commission into a Public Integrity Commission ("Commission") with authority over all provisions in Chapter 58; give the Commission a full-time Commission Counsel and the authority to hire other staff; make the Commission Counsel the prosecuting attorney in proceedings before the Commission; effective January 15, 1995, make the Commission the filing site for public official financial disclosure filings; put financial disclosure enforcement under the Commission; make the Commission's advisory opinion function available to all public officers with questions regarding Chapter 58, including public officers making financial disclosure filings; effective January 15, 1996, make the Commission the filing site for all lobbying reports; effective January 15, 1996, put lobbying filings and enforcement under the Commission; effective January 15, 1996, extend the Code's lobbying restrictions to persons who lobby the executive branch.

Author: Sen. Voshell



STATE OF DELAWARE
DELAWARE STATE ETHICS COMMISSION
P.O. BOX 1401 - TOWNSEND BUILDING
FEDERAL STREET
DOVER, DELAWARE 19903

TELEPHONE: (302) 739 - 4195

April 6, 1994

The Honorable Thomas R. Carper
Governor, State of Delaware
Tatnall Building
Dover, DE

Dear Governor Carper:

The State Ethics Commission, at its meeting on March 30, 1994, discussed at great length the concerns we all have about the increasing decline in administrative and legal assistance the Commission is receiving. The Deputy Attorney General assigned to the Commission, in addition to Commission work, has an extremely heavy burden of work for other agencies which continues to increase. In fact most of the work which would otherwise be handled by the Deputy is being done by Commission members, Arthur Connolly and Kimber Vought who are lawyers. Both are willing to continue to perform some legal functions for the Commission, but they should not be expected to shoulder any more of the legal burden.

The administrative work is being handled by a merit employee from the Personnel Department. She recently received a promotion and is required to perform increasing duties for the Personnel Department which has and will continue to cut into time she otherwise would devote to Commission work.

Since the Commission started business in July, 1991, it has held approximately 40 meetings, disposed of 60 matters, issued approximately 35 letter opinions, and 12 full opinions. It also prepared and, after notice of public hearings, issued its Rules of Procedure and Regulations.

Moreover, under an Amendment to the Ethics Code, the Commission was required to review Ethics Codes adopted by local municipalities to determine whether they met state standards. Those municipalities that did not meet such standards, as well as those municipalities which have no codes, (which is practically all of them), are now under the State code and the State Ethics Commission must hear and dispose of ethics matters filed with it from these municipalities. To date the Commission has disposed of 3 matters and completed hearings on another matter which is awaiting the preparation and approval of a formal opinion.

The Honorable Thomas R. Carper
April 6, 1994
Page Two.

The Commission, on March 30, 1994, conducted its third hearing, which lasted approximately four hours, in a substantial contested matter now requiring decision and preparation of opinion.

It should be noted that in addition to the work which all of the foregoing required of our Administrative Assistant, she also prepared approximately 400 pieces of correspondence not counting minutes of meetings; many of which still need to be completed.

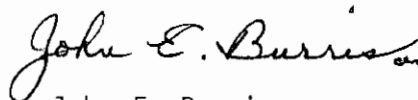
The members of the Commission are fearful that with its workload continuing to grow, the Commission's effectiveness will suffer unless it receives funds now to hire its own attorney on at least a part-time basis and to hire a full-time Administrative Assistant.

If we continue on the path we are now following, delays will increase in acting upon requests for advisory opinions, waivers, and in holding hearings and rendering decisions on charges which can only result in the public perceiving the Commission to be an ineffective body. Furthermore, we believe we have an obligation to prepare digests of Commission decisions and opinions and to conduct seminars with State officers and employees to help educate them about the requirements of the Code and the Commission's interpretation of its various sections. So far, we have been unable to perform these tasks, except for the seminar which was held under your direction some time ago at Buena Vista.

It is imperative that we have a meeting with you to discuss these and other issues and to seek solutions now rather than wait until the fiscal budget is finally approved and the Administration's proposed amendments to the Ethics code are adopted by the Legislature.

Therefore, I am requesting an appointment to meet with you within the next week to ten days to discuss these very important matters. I propose to have Messrs. Connolly and Vought attend such meeting with me. I look forward to receiving your early reply.

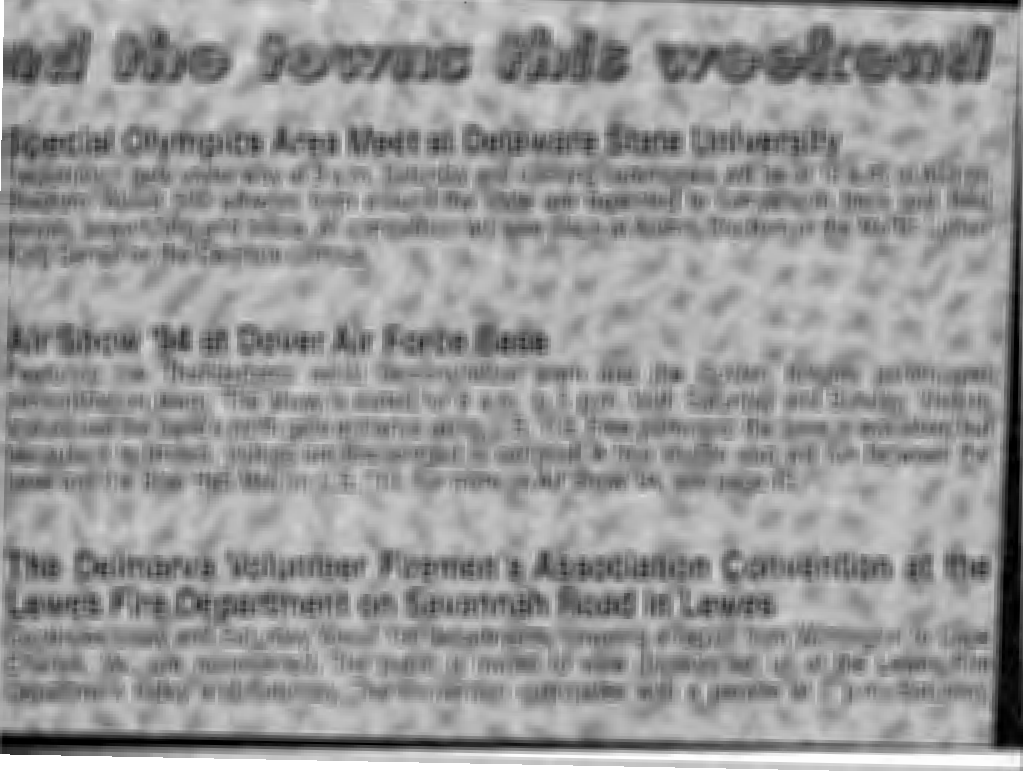
Sincerely,



John E. Burris
Chairman

JEB/clc

cc: Members, State Ethics Commission



Proposal to add lawyer to ethics commission

By Martha Simpson
Staff writer

DOVER — State Sen. Robert J. Voshell wants to retool a commission that enforces above-board behavior among state employees and administrators.

Sen. Voshell, D-Milford, is a chief sponsor of the Public Integrity Act of 1994, which would create the Public Integrity Commission. He is among a bi-partisan group of 39 co-sponsors introducing the bill in the state Senate today.

The proposal would revamp the state's Ethics Commission by adding a lawyer working exclusively for the counsel, Ethics Commission Chairman John E. Burris said.

Currently, a deputy attorney general is assigned to the commission, but that legal counsel has to balance commission activities with other responsibilities as well, Mr. Burris said.

"We have no full-time staff right now," he said. "A lot of our legal functions are performed by two lawyers serving on the commission."

Included in Gov. Thomas R. Carper's \$1.467 billion budget, the renewed commission would cost \$111,700, said state Budget

Director Michael C. Ferguson. That money would pay for an attorney, administrative assistant and office equipment, he said.

The additional office help would enable the commission to develop ways to educate state officials about the ethics code, Mr. Burris said.

The same members would serve under the renamed commission and continue to serve seven-year terms, Mr. Burris said.

Commission members are appointed by the governor.

Jan A. Konesey, lobbyist for Common Cause of Delaware, said the bill is long overdue. Common Cause, a government watchdog group, supports the proposal.

"The fact of the matter is you can't have a commission with no staff. It's insane," she said.

Sen. Voshell could not be reached for comment on Thursday. In a prepared statement, he said the General Assembly must pass the bill this year.

"For too many years, our state Ethics Commission has functioned without adequate capacity to perform the ethics education and enforcement responsibilities given to it by state law," he said.

Del. State News

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APPENDIX E

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Sussex council takes a look at code of conduct

County has adopted state's regulations including Public Integrity Commission



Sussex County Council is reviewing whether to enact its own code of conduct. The county currently follows guidelines in the state code of conduct. RON MACARTHUR PHOTO

By Ron MacArthur December 16, 2022

During the recent election, several residents questioned Sussex County's code of ethics, and suggested the county should have its own code.

Currently, the county follows the state's code of conduct, which falls under the jurisdiction of the Public Integrity Commission.

During a Dec. 13 presentation to Sussex County Council, County Administrator Todd Lawson said the county could create its own code of ethics, but there are several factors to consider, including legal costs. The code would have to be at least as strict as the state code. In addition, an ordinance would need to be written and approved, an additional attorney would need to be assigned and it could require the creation of a Sussex County integrity commission.

260

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Lawson said Kent County adopted its own code of conduct in 1989, but it refers cases to the state’s integrity commission, and New Castle County also has its own code of conduct adopted in 1990, as well as its own integrity commission. He said the New Castle County budget includes \$344,000 for the process.

County attorney J. Everett Moore said the county often asks for guidance from the state commission. “There is an established process and the commission works in a timely manner,” Moore said.

In addition, he said, the commission’s website contains all rulings and cases dating back to 1991, which provides a valuable resource to Sussex County staff.

“People tend to think this is a good ole boys network and we are protecting our own,” Moore said. “The state process is a separate entity with no connection to the county.”

He said a deputy attorney general is assigned to the commission.

Training for staff

During the presentation, Finance Director Gina Jennings said county staff underwent ethics training in 2014, and as of 2015, every employee must sign a conflict-of-interest disclosure. Since 2019, county council members have also had to sign a separate disclosure form related to the county’s purchasing and procurement policies and procedures. The disclosure document is similar to one in the state code of conduct.

Jennings said employees can anonymously report cases of harassment, fraud, possible conflict, waste and abuse through the county’s website. She suggested the public should also be able to report cases using the website. She said staff and the public can also make reports directly to the Public Integrity Commission.

Other suggestions include additional ethics training, especially for county council, planning & zoning commission and board of adjustment members as well as appointees and key staff members.

Moore suggested a direct link from the county website to the commission’s website should be established.

“I don’t see why we need our own commission,” said Council President Mike Vincent. “The commission has no ties to Sussex County. Why should we create another form of government at a cost to taxpayers?”

Moore said it might be hard to select an independent county commission “because everyone knows everyone.”

He said there would be a potential for leaks of confidential information. The state system is well established and well protected, he said.

“The same rules and processes would apply. It’s much easier to ask for a commission’s opinion because the process is already set up,” Lawson said.

Council will discuss the issue further when it adopts its rules of procedure at the start of 2023.

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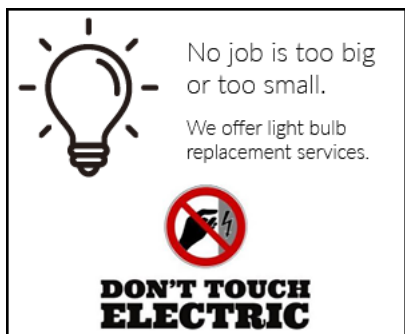
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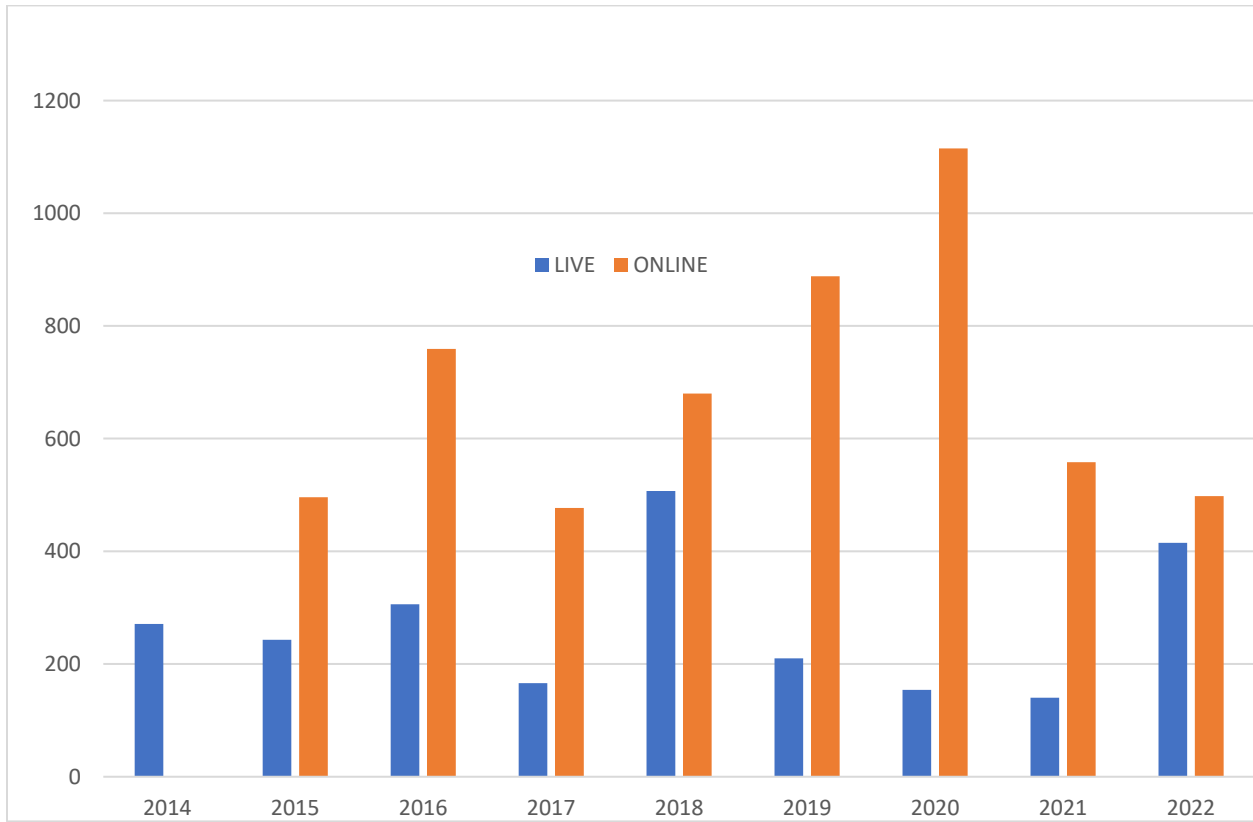


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APPENDIX F

PIC TRAINING CHART



APPENDIX G

DEPARTMENT OF JUSTICE CREATES NEW OFFICE OF CIVIL RIGHTS AND PUBLIC TRUST

New Attorney General Seeks to Improve Office's Focus In Critical Areas

Attorney General Matt Denn announced today that the Department of Justice would be restructured to create a new Office of Civil Rights and Public Trust. The office will be responsible for protecting individual rights and liberties of Delawareans, enforcement of laws designed to ensure citizen trust in government, and conducting investigations where the Department of Justice's other responsibilities might present the appearance of a conflict of interest.

Denn has appointed Allison Reardon, one of the most senior attorneys in the Department of Justice, to head the new office. Reardon most recently served as State Solicitor, the highest ranking civil attorney in the Department of Justice. Reardon will report directly to the Chief Deputy Attorney General.

"This new office will create a focus for the office on civil rights and citizen trust in government," Denn said. "It will provide the legal firepower to ensure that these important areas are addressed, and will provide citizens with a point of contact in the office when they believe that there are civil rights or public trust issues that must be addressed."

"I am very pleased that Allison Reardon will be heading this new effort. It is important that the person in charge of this effort be a skilled attorney, have sound judgment, and have my confidence. Allison is one of the most respected attorneys in the Department of Justice, and is the perfect person to head up this effort."

The responsibilities of the Office of Civil Rights and Public Trust will include:

1. Enforcement of Delaware laws protecting the individual rights and liberties of Delawareans, including but not limited to rights secured by the Delaware and United States constitutions, Delaware's public accommodations laws, housing discrimination laws, employment discrimination laws, and laws protecting the educational rights of children and the rights of Delawareans with disabilities.
2. Enforcement of laws designed to ensure citizen trust in government, including election laws, laws governing the use of public funds, and laws governing the conduct of public employees and officials. In these areas, the office will work collaboratively with the Elections Commissioner, Public Integrity Commission, and State Auditor.
3. Investigations where the Department of Justice's other responsibilities might present the appearance of a conflict, such as investigations of use of force by law enforcement officers and investigations of deaths or near-deaths of children under state supervision.

Meredith Stewart Tweedie, who previously served as the head of the health law unit for the Department of Justice, has been selected to take over Ms. Reardon's role as State Solicitor. Attorney General Denn also announced today that State Prosecutor Kathleen Jennings, Consumer Fraud Director Matt Lintner, and Family Law Division Director Patricia Dailey Lewis would remain in their current positions.

Danielle Gibbs, currently a partner at Young Conaway Stargatt and Taylor will serve as Chief Deputy Attorney General. Gregory Patterson, a former aide to Gov. Jack Markell and to Denn as insurance commissioner, will serve as Chief of Staff and Emily Cunningham, who headed Denn's lieutenant governor staff, will serve as Deputy Chief of Staff in the Department of Justice.

APPENDIX H

STATE OF DELAWARE



OFFICE OF THE GOVERNOR

PROCLAMATION IN OBSERVANCE OF GLOBAL ETHICS DAY

Whereas, the State of Delaware instituted the State Code of Conduct in 1992 to set forth specific standards of ethical conduct required of State officials and employees while also strengthening the public's confidence in their government; and

Whereas, the State Public Integrity Commission was formed in 1995 to enforce the State Code of Conduct and to educate State employees and officials about the ethics guidelines; and

Whereas, established by the Carnegie Council for Ethics in International Affairs, Global Ethics Day is an annual event. Since 2014, citizens; businesses; professional organizations; schools; governments; and nonprofits from over 75 countries have participated in Global Ethics Day. This year's theme is Ethics Empowered; and

Whereas, in support of Ethics Empowered, the Public Integrity Commission announces that it has received funding to provide online ethics training to over 30,000 State employees and officials over the next three years.

*Now, Therefore, We, John C. Carney, Governor,
and Bethany A. Hall-Long, Lieutenant Governor,*
do hereby declare October 19th, 2022

GLOBAL ETHICS DAY

in the State of Delaware, and encourage all State employees and officials to rededicate themselves to ethics in government by completing the training provided by the State Public Integrity Commission.



John C. Carney
John C. Carney
Governor

Bethany A. Hall-Long
Bethany A. Hall-Long
Lieutenant Governor

17-4280
Number

APPENDIX I



STATE OF DELAWARE
DELAWARE STATE PUBLIC INTEGRITY COMMISSION

MARGARET O'NEILL BUILDING
410 FEDERAL STREET, SUITE 3
DOVER, DELAWARE 19901

TELEPHONE: (302) 739-2399

VIA EMAIL

January 25, 2023

Senator David P. Sokola, President Pro Tempore
Senator Laura Sturgeon
Delaware Senate
411 Legislative Avenue
Dover, DE 19901

RE: Delaware ethics

Dear Senators,

Our Commission is responsible for administering and enforcing the State Code of Conduct (ethics laws) for over 30,000 state, municipal and county employees/appointees.¹ We have held that role for almost 30 years. During the legislature's last session, there were numerous media reports regarding the feasibility/need for an Office of the Inspector General.² According to those news reports, the Inspector General's authority could potentially have included areas over which we already have statutory jurisdiction. While the proposed legislation did not move forward during the last session, we anticipate that it may be raised again during the current session, or in future legislative sessions. Of particular concern to us was the fact that the debate surrounding the issue did not appear to acknowledge, or consider, the PIC's existing role as the State's independent ethics body.

As the new session of the General Assembly begins, we would like to share some information with you regarding the Commission and its duties. The Commission's budget for FY2023 is \$190,600, a much lower cost than the proposed \$1,152,717 for the Inspector General in FY2025.³ On our website, members of the public can review a 1074-page compendium of the Commission's advisory opinions issued over the past 30 years. We also provide online and in-person Code of Conduct training to state agencies, municipalities and counties.

In addition to our ethics duties, the Commission is responsible for oversight of lobbyist registration and expense reports, as well as public officer financial disclosures. Our most recent Annual Report shows that during CY2021 the Commission processed 366 financial disclosures and 3564 lobbyist expense reports.

¹ PIC has administered the Code of Conduct since 1994.

² See HB 405-HA1 (4/28/22) and HB 370 (3/31/22).

³ Budget SB 225; HB 405 fiscal note.

Our Commission is able to administer the Code of Conduct, along with other statutory duties, at a significant cost savings over that of an Inspector General. The Commission does not have an opinion as to whether the State should adopt legislation creating an Office of the Inspector General, we are not a political body. However, we do believe it is our duty to point out the fact that many of the Inspector General's proposed job duties are already being performed by our Commission, at a significantly lower cost to the Delaware taxpayer. For those proposed duties that are not already performed by our Commission, it may be possible for the State to leverage already existing resources at a substantial cost savings.

Our Commission is an existing resource through which you may compare the services already being provided against the proposed services. We respectfully request that if the Inspector General legislation is introduced again this year, or in the future, that we be included in those discussions since any decision may have an immediate impact on our existing statutory duties.

Sincerely,

State Public Integrity Commission

/s/ F. Gary Simpson

Hon. F. Gary Simpson
Chair

/s/ Michele Whetzel

Michele Whetzel
Vice-Chair

/s/ Rourke Moore

Hon. Rourke Moore
Vice-Chair

/s/ Andrew T. Manus

Andrew T. Manus
Commissioner

/s/ Marjorie Biles

Marjorie Biles
Commissioner

/s/ Ron Chaney

Ronald Chaney
Commissioner

/s/ Alex J. Smalls

Hon. Alex J. Smalls
Commissioner

cc: Sen. Bryan Townsend

APPENDIX J

SPONSORS: Rep. Morrison, Senator Gay

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

BILL NO.

AN ACT TO AMEND TITLE 29 CHAPTER 58 OF THE DELAWARE CODE: LAWS REGULATING THE CONDUCT OF OFFICERS AND EMPLOYEES OF THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5804 Title 29 of the Delaware Code by making deletions and insertions as shown by strikethrough and underline as follows:

~~(1) “Close relative” means a person’s parents, spouse, children (natural or adopted) and siblings of the whole and half blood.~~

(1) “Close Relative” means an individual to whom a state employee, state officer, or honorary state official stands, or stood in the past, as any of the following, whether through biology, adoption, domestic partnership, marriage, or court order:

- a. A parent or legal guardian
- b. A child.
- c. A spouse or domestic partner.
- d. A sibling of the whole or half-blood.
- e. A grandparent or grandchild.
- f. An aunt or uncle.
- g. A niece or nephew.
- h. A first cousin.

Section 2. Amend § 5805 Title 29 of the Delaware Code by making insertions as shown by underline as follows:

§ 5805. Prohibitions relating to conflicts of interest.

(a) Restrictions on exercise of official authority. — (1) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter, including the employment of a close relative, known as nepotism, pending before the State in which the state employee, state officer or honorary state official has a personal or private interest, provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person’s independence of judgment in the performance of the person’s duties with respect to that matter.

Section 3. Amend § 5813 Title 29 of the Delaware Code by making insertions as shown by underline as follows:

(a) Every public officer as defined in § 5812 of this title shall electronically file a report disclosing financial interests, as hereinafter provided. Each electronic report shall be submitted and electronically verified through the database maintained by the Commission for such records and shall include at least the following information:

(6) The name of each 'close relative', as defined in 29 Del. C. § 5804 of this title, employed by the State; the Department where they are employed; and the close relative's relationship to the public officer.

Section 4. This Act becomes effective on January 1, 2024.

SYNOPSIS

The purpose of this Bill is to update the definition of 'close relative' and to emphasize the fact that nepotism, the hiring of relatives, is a type of conflict of interest. The Bill also requires public officers to disclose 'close relatives' that are also employed by the State.

SPONSORS: Rep. Morrison, Senator Gay

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

BILL NO.

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE REQUIRING PUBLIC OFFICERS TO DISCLOSE FAMILY MEMBERS EMPLOYED BY THE STATE AND THEIR RELATIONSHIP TO THE PUBLIC OFFICER

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5813 Title 29 of the Delaware Code by making insertions as shown by underline as follows:

(a) Every public officer as defined in § 5812 of this title shall electronically file a report disclosing financial interests, as hereinafter provided. Each electronic report shall be submitted and electronically verified through the database maintained by the Commission for such records and shall include at least the following information:

(6) The name of each 'close relative', as defined in 29 Del. C. § 5804 of this title, employed by the State;
(the branch or agency of government in which they are employed?); and the close relative's relationship to
the public officer.

Section 2. This Act becomes effective on January 1, 2024.

SYNOPSIS

The purpose of this Bill is to provide transparency

APPENDIX K



STATE OF DELAWARE
DELAWARE STATE PUBLIC INTEGRITY COMMISSION

MARGARET O'NEILL BUILDING
410 FEDERAL STREET, SUITE 3
DOVER, DELAWARE 19901

TELEPHONE: (302) 739-2399

May 21, 2021

RE: SB 130

To The Honorable Members the General Assembly:

We are writing regarding SB 130 which is currently awaiting consideration in the Senate. It was our intent to participate in the Senate Legislative Oversight & Sunset Committee's meeting on SB 130 which was held on May 18, 2021. However, the meeting notice and agenda were not visible on the public side of the General Assembly's website until approximately one hour¹ before the Tuesday meeting, a deviation from the traditional Wednesday meeting that has been scheduled for the past six years. In addition to the short notice, the meeting was scheduled on the same day and time as our monthly Commission meeting, precluding our ability to participate. We are reaching out in advance of the Senate's consideration of SB 130 and in advance of the House Sunset (Policy Analysis & Government Accountability) meeting so that we have an opportunity to be heard.

While SB 130 is focused on the members of the Delaware Interscholastic Athletic Association ("DIAA"), the synopsis repeatedly references advisory opinions issued by the Public Integrity Commission. We wanted to clarify a few points regarding the synopsis of SB 130:

- It is noted in the bill's synopsis that the DIAA should write regulations that overcome the limitations "imposed by the PIC advisory opinion." The limitations in the advisory opinion are not "imposed" by the PIC. The **limitations** are imposed by the State Code of Conduct, a set of ethics laws **passed by the legislature** and applied to the facts by PIC.
- The **invitation to overcome the ethics laws** underlying the PIC's advisory opinion will be construed by other organizations as an invitation from the General Assembly to exempt themselves from the State Code of Conduct (the *ethics* rules).
- **What are the limitations** contained in PIC's advisory opinion and the State Code of Conduct? The PIC previously advised that coaches may coach out-of-season, for pay or uncompensated, as long as they do not coach their school athletes. Therefore, a coach may coach out-of-season, for pay or not, **any child** in the state, the nation or the world, **except for the 20, 30 or 40 students they coach during the school year.**

¹ The GA's website incorrectly shows the meeting notice as being posted on May 13, 2021 and May 14, 2021.

- As stated in the PIC advisory opinions, allowing coaches to coach their student athletes for pay is likely to create **inequity and favoritism between students that can afford private coaching and students that cannot.**
- “Under this Act, out-of-season coaching **does not violate the Code of Conduct** if the coach and the organization providing the sport meet certain criteria that provide restrictions to **minimize the risk of unethical activity.**” This reads like a perfect example of self-dealing. How will the “risk of unethical activity” be measured? Is a **little unethical activity** ok? The risk of unethical activity is **already addressed** in the State Code of Conduct and mandates an independent review by the PIC.
- “[T]his Act tasks DIAA with setting the parameters that establish whether a specific instance of out-of-season coaching violates the Code of Conduct.” Interpretation of the Code of Conduct is vested solely in the PIC. **Any interpretation of the ethics code by a board unfamiliar with the applicable law would expose coaches to subsequent prosecution by the PIC** for violations of the Code of Conduct.

We respectfully request that you consider our concerns and the long-lasting effects enactment of this statute may have on the public’s confidence in their government and the PIC’s ability to enforce the Code of Conduct.

We also request that a copy of this letter be incorporated into the record for SB 130.

THE PUBLIC INTEGRITY COMMISSION

Andrew T. Manus, Chair

The Honorable Rourke Moore, Vice-Chair

The Honorable F. Gary Simpson, Commissioner

William F. Tobin, Jr., Commissioner

Bonnie Smith, Commissioner

APPENDIX L

SPONSOR:

DELAWARE HOUSE OF REPRESENTATIVES or SENATE
150th GENERAL ASSEMBLY

BILL NO.

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE ISSUANCE OF
LOBBYIST IDENTIFICATION BADGES

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5832, Title 29 of the Delaware Code by making insertions as shown by underline as follows:

(e) Lobbyists may obtain a photo identification badge, to be worn while in Legislative Hall, from the State Public Integrity Commission (“PIC”). To obtain a badge, the lobbyist must have a registered employer on whose behalf they lobby and must be current with all reports required by this subsection. The color of the badge will change effective January 10th of each year, to a color to be designated by the PIC.

Lobbyists who have not incurred any late fees, and who have remained an actively registered lobbyist for five (5) consecutive years or more, are eligible to obtain a permanent ID badge distinguishable in color from those badges that expire every year. Permanent lobbyist ID badges must be surrendered to the PIC within 10 days of the lobbyist’s account becoming inactive.

(1) The photo identification badge shall include a photograph of the lobbyist, first and last name, and the word “Lobbyist”.

Section 2. This Act becomes effective on January 10 following its enactment into law.

SYNOPSIS

The purpose of this Bill is to create a mechanism by which ID badges can be obtained and periodically renewed by duly registered lobbyists with documented lobbying business before the General Assembly. As a result, those individuals at Legislative Hall who are duly registered lobbyists are accurately identified as such and those individuals who are no longer registered lobbyists cannot falsely identify as a lobbyist. Visitors to Legislative Hall who are not State employees, State officers, elected officials or duly registered lobbyists with ID badges are required to sign a visitor’s log. By creating an ordered application and renewal cycle for lobbyist ID badges, the visitor’s log will more accurately reflect the names of individuals who have entered the building on any given day should that information be needed in an emergency situation.

APPENDIX M

SPONSOR:

DELAWARE HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

BILL NO.

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE SUBMISSION OF COMPLAINTS TO THE STATE PUBLIC INTEGRITY COMMISSION

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5810(a), Title 29 of the Delaware Code by making insertions as shown by underline as follows:

- (1) The Commission shall not accept any complaint against, or submitted by, an individual who has formally filed their candidacy for state, county or municipal elected office with the State Election's Commissioner's Office, or the Department of Elections Office in the appropriate county, during the period of time beginning ninety (90) days prior to the general or special election in which the individual is a candidate and ending the day after the election.
- (2) Enforcement of this subsection shall not be interpreted as extending the jurisdiction of other subchapters of Title 29, Chapter 58 where it does not otherwise exist.

SYNOPSIS

The purpose of this Bill is to eliminate the possibility that the State Public Integrity Commission could be used for the purpose of political advantage, and/or influence, during the time period immediately preceding an election.

APPENDIX N



STATE OF DELAWARE

DELAWARE STATE PUBLIC INTEGRITY COMMISSION

MARGARET O'NEILL BUILDING
410 FEDERAL STREET, SUITE 3
DOVER, DELAWARE 19901

TELEPHONE: (302) 739-2399
FAX: (302) 739-2398

March 28, 2018

RE: HB 73

Honorable Members of the House Administration Committee:

The Public Integrity Commission (PIC) supports HB 73 because it addresses significant deficiencies in the State's Dual Compensation Policy. Although the compensation policy has been in place for over 30 years, PIC does not have the statutory authority to collect the necessary information from the entire population of dually-employed individuals. That lack of authority has been cited by the State Auditor's Office as the primary reason they have been unable to complete an audit of the state's dually compensated individuals.

With the enactment of HB 73, PIC will have the authority necessary to identify those individuals who receive compensation from two or more governmental entities. By collecting and analyzing that data, the PIC can properly enforce the State's prohibition against receiving dual compensation for coincident hours of work. In addition, HB 73 gives PIC the flexibility to determine the methodology by which it collects that information. Rather than engage in a costly upgrade to our database, the Public Integrity Reporting System (PIRS), PIC can employ less costly means of data collection until the scope of the information being collected is properly understood.

PIC would like to thank the sponsors of HB 73 for identifying our need for this legislation and for taking the steps necessary to help us remedy deficiencies in the State's Dual Compensation Policy.

Respectfully,

A handwritten signature in black ink, appearing to read "Deborah J. Moreau, Esq.", written over a horizontal line.

Deborah J. Moreau, Esq.
Commission Counsel

APPENDIX O



STATE OF DELAWARE

DELAWARE STATE PUBLIC INTEGRITY COMMISSION

MARGARET O'NEILL BUILDING
410 FEDERAL STREET, SUITE 3
DOVER, DELAWARE 19901

TELEPHONE: (302) 739-2399
FAX: (302) 739-2398

January 16, 2018

The Honorable Representatives Williams, Baumbach, Bennett, Keeley, Kowalko, Lynn,
Paradee, Spiegelman
The Honorable Senator Townsend

RE: HB 92

Honorable Members the General Assembly:

I am writing regarding HB 92 which appears on the agenda for the House Administration Committee meeting on January 17, 2018. The Public Integrity Commission ("PIC") is respectfully requesting a delayed enactment date of January 1st, 2019. We are currently in the midst of the annual financial disclosure filing period which runs from January 1, 2018 through March 15, 2018. If the Bill were to become effective upon being signed into law, PIC would not have time to make the necessary changes to our electronic database, the Public Integrity Reporting System ("PIRS"). As it currently exists, PIRS cannot accommodate the collection of data not already defined by law. As a consequence, all public officers required to disclose the information proposed in the Bill would be in violation of the law due to PIC's inability to modify the electronic database before the end of the 2018 filing season.

I will be present at the committee meeting to answer any questions or concerns related to our request.

Respectfully,

Deborah J. Moreau, Esq.
Commission Counsel

cc: The Honorable Valerie Longhurst, Chair
House Administration Committee

APPENDIX P



PUBLIC INTEGRITY COMMISSION

Statutory Authority: 29 Delaware Code, Section 5809(6) (29 Del.C. §5809(6))

FINAL

Rules adopted by the Delaware State Public Integrity Commission pursuant to 29 Del.C. §5809(6), State Employees, Officers and Officials Code of Conduct.

I. STRUCTURE OF COMMISSION

(A) **Chairperson.** Pursuant to 29 Del.C. §5808(c) of the Code of Conduct, the Commission shall elect from among its membership, a Chairperson to serve at the pleasure of the membership. The Chairperson shall preside at meetings of the Commission.

(B) **Vice-Chairpersons.** The Commission shall elect from among its membership a two Vice-Chairpersons to serve at the pleasure of the membership. ~~The~~ A Vice-Chairperson shall preside at meetings of the Commission in the absence of the Chairperson.

(C) The **Administrative Assistant** shall attend Commission meetings and hearings, shall take minutes of meetings and transcribe testimony at hearings in the absence of a court reporter. The Administrative Assistant shall maintain the books, records, and files of the Commission in the Commission's principal office, or at such other location as the Commission shall so designate. The Administrative Assistant shall carry out the duties and responsibilities required by the job description as assigned by the Commission and/or Legal Counsel.

(D) The **Commission Counsel**, legal representative, shall perform the duties delegated by 29 Del.C. §5808A and shall supervise the daily operations of the Commission Office.

(E) **Principal Office** of the Commission shall be located at the Margaret O'Neill Bldg., Dover, and all complaints, responses, correspondence, and other documents relating to the Commission business shall be filed at or mailed to the principal office whose address is:

Delaware State Public Integrity Commission
Margaret O'Neill Bldg., Suite 3, Rm. 211
410 Federal Street
Dover, DE 19901

II. ADMINISTRATIVE MATTERS

(A) Commission Meetings

(1) **Place of Meetings** - The Commission shall meet to conduct its business at its principal office in Dover, but may meet, hold hearings, and exercise its powers and duties, at any other place in the state.

(2) **Notice** - The Chairperson, or in the Chairperson's absence, the Vice-Chairperson, shall fix the time and place for all meetings and hearings of the Commission by directing the Administrative Assistant to send written notice thereof together with the agenda by first class mail to each Commission member at the address listed with the Administrative Assistant.

(3) **Quorum** - Four (4) members of the Commission shall constitute quorum at meetings and hearings and a majority vote of Commission members present shall be required to take action on matters before the Commission; provided, however, at least four (4) members of the Commission shall be required to vote "affirmative" on all disciplinary hearings and orders that would impose sanctions.

(4) **Executive Session** - Commission meetings may be held in executive session when permitted by law.

(B) **Examination of Commission Files - Records** - Subject to the confidentiality requirements of the Code of Conduct, the files and records of the Commission may be examined by any member of the public in the following manner.

(1) A request must be made in writing, during regular business hours, to the Administrative Assistant on a form provided for that purpose.

(2) The Administrative Assistant first shall determine whether or not the material in the requested file or record is subject to the confidentiality provisions of the Code of Conduct. If the Administrative Assistant is unable to make this determination, the request will be referred to the Commission's Legal Counsel. If the material in the requested file or record is found not to be subject to the confidentiality provisions of the Code of Conduct, the person requesting such examination will do so only in the Office of the Public Integrity Commission during regular business hours. No file material or records subject to the confidentiality provisions of the Code of Conduct shall be given to or examined by anyone not authorized to do so.

(3) Pursuant to 29 Del.C. §10003, a copying cost of fifty cents (\$.50) per page shall be levied as a charge

for copying such records.

(C) **Subpoenas** shall be on forms similar to subpoenas used by the Delaware Superior Court and shall bear the signature or facsimile signature of the Chairperson. Such forms will be available in the Commission's principal office. Subpoenas shall be served by U.S. Mail or in the same manner as subpoenas are served in the Delaware Superior Court to all parties involved in the matter before the Public Integrity Commission.

(D) **Sub-Committees** consisting of no more than three (3) Commission members may be designated by the Chairperson, or a Vice-Chairperson in the Chairperson's absence, to perform non-binding general administrative matters of the Commission, including, but not limited to, the drafting of reports to the State Legislature as required by the Code of Conduct.

III. INVESTIGATIONS

If there is filed with the Commission a sworn complaint by any person alleging violation of the Code of Conduct, the following rules shall apply:

(A) The **Commission** shall meet and review the Complaint to determine whether the Complaint is frivolous or fails to state a violation. If the Commission determines that the Complaint states a violation, then the Commission shall:

- (1) Set the matter down for hearing; or
- (2) Refer the matter to the Commission's Legal Counsel for investigation; or
- (3) Retain the Attorney General or Special Counsel to investigate the matter if the investigation cannot be performed by the Commission's Legal Counsel where recusal is deemed necessary.

(B) **Referred Matters** - When the Commission refers matters for investigation to the Attorney General or Special Counsel, as the case may be, it shall be by letter requesting that the matter be thoroughly investigated and concluded as promptly as practicable.

(C) **Report of Investigation** - Commission's Legal Counsel, the Attorney General, or the Special Counsel, as the case may be, shall report the results of such investigation to the Commission by:

- (1) Filing a Complaint with the Commission if there is reason to believe that a violation has occurred; or
- (2) Filing a report with the Commission if there is reason to believe that no violation has occurred stating the reasons for such conclusion.

(D) **Commission Action Following Investigation** - If, following such investigation, a Complaint is filed by Commission Counsel, the Attorney General, or Special Counsel, as the case may be, the Commission will, after notice, set the matter down for hearing and the Complaint shall be prosecuted by Commission Counsel, the Attorney General, or Special Counsel, as the case may be. If following such investigation, no Complaint is filed, the Commission may dismiss the matter or take such other action as it deems necessary and as provided by the Code of Conduct.

(E) The Commission, upon receiving information that violations of the Code of Conduct may have occurred, may upon its own initiative, if it finds good cause therefor, refer the matter for investigation in accordance with the provisions set forth in this section relating to investigations.

IV. HEARINGS AND DECISIONS

If a sworn, written complaint is filed with the Commission and the Commission determines that it should be scheduled for a hearing, the following Rules shall apply:

(A) **Prosecuting Attorney** - The Commission Counsel shall be the Prosecutor, except where the Attorney General or Special Counsel has been retained under 29 **Del.C.** §5808A (5), in which case the Attorney General or Special Counsel may be the Prosecutor. It shall be the duty of the Prosecutor to ensure that all pertinent evidence is placed in the record for the Commission's consideration. The prosecutorial functions shall be performed by personnel who are not serving as Legal Counsel to the Commission.

(B) **Respondent** - The person charged in the Complaint with violating the Code of Conduct shall be referred to herein as Respondent. Respondent is entitled to retain legal counsel.

(C) **The Complaint:**

- (1) shall be served on Respondent; and
- (2) shall specifically identify each portion of the Code of Conduct Respondent is alleged to have violated and facts upon which each alleged violation is based.

(D) **Service-Response to Complaint** - Service upon Respondent shall be made by personal service by any

person authorized by the Commission or by registered or certified mail sent to the last known dwelling place and/or work place of Respondent. Within twenty (20) days after service of the Complaint on Respondent, Respondent shall serve on the Prosecutor and file with the State Public Integrity Commission a written Response.

(E) **Scheduling Hearing - Transcript** - After the Response is served and filed, the Commission shall schedule a hearing. A transcript of the hearing shall be made and retained subject to the confidentiality requirements of the Code of Conduct.

(F) **Inspection and Copying** - The Respondent shall be permitted to inspect and copy documents or other tangible objects which will be used as evidence against Respondent.

(G) **Exculpatory Information** - If the Commission Counsel or the Commission at any time receives any exculpatory information respecting an alleged violation, such information shall promptly be made available to the Respondent.

(H) **Subpoenas** - The Prosecutor and Respondent may apply to the Commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents. The subpoenas will be issued if the testimony or documents are relative, not cumulative, and if the applications have been made with reasonable promptness.

(I) **Pre-Hearing Conference** - A pre-hearing conference may be held with the Chairperson or the Chairperson's designee and the parties to discuss ways of expediting the hearing and ensuring the fairness of the hearing. Among the items that may be covered at such a pre-hearing conference are:

- (1) the identity of the witnesses each party intends to call at the hearing and the subject matter of their expected testimony;
- (2) the identification of documents and other tangible evidence each party intends to introduce at the hearing and whether or not there will be objection to the introduction; and
- (3) stipulations of facts and the avoidance of unnecessary proof and cumulative evidence.

(J) **Evidence** offered by the parties shall be admitted if it has probative value unless the Commission determines that the evidence is privileged or inadmissible for some other reason. The Commission may exclude evidence which is not relevant or which is cumulative.

(K) **Burden of Proof** - The burden of proving violations of the Code of Conduct is on the Prosecutor and such violations must be proven by clear and convincing evidence.

(L) **Order of Proceedings** at the hearing shall be as follows:

- (1) The Chairperson or the Chairperson's designee shall open and preside at the hearing.
- (2) An opening statement by the Prosecutor.
- (3) An opening statement by the Respondent.
- (4) Witnesses and other evidence by the Prosecutor.
- (5) Witnesses and other evidence by Respondent.
- (6) Rebuttal witnesses and other evidence by the Prosecutor, if appropriate.
- (7) Witnesses may be cross-examined by the opposing party. Redirect examination and recross-examination may be permitted in the Commission's discretion. Commission members may also question witnesses.
- (8) Closing argument by the Prosecutor.
- (9) Closing argument by Respondent.
- (10) Rebuttal closing argument by the Prosecutor, if appropriate.

M. **Post Hearing Briefs and Oral Argument** may be required in the discretion of the Commission.

N. **Quorum - Number Required to Sanction** - Four (4) members of the Commission constitute a quorum and sanctions may be imposed only by the affirmative action of at least four (4) members. 29 Del.C. '5808(d).

O. **Decisions** after hearing by the Commission shall be rendered in writing as promptly as reasonably possible. Decisions shall set forth (a) findings of fact based on the evidence, (b) conclusions of law as to whether Respondent has violated the Code of Conduct and (c) what sanctions the Commission is imposing if violations of the Code of Conduct are found. Commission members, if any, who disagree with the Decision of the Commission may file dissenting opinions.

P. **Motion for Reconsideration** may be served and filed by either party within ten (10) days after the filing of the Commission's Decision. The motion shall briefly and succinctly state the ground on which the motion is based. Within ten (10) days after service of the motion, the opposing party may serve and file a brief and succinct response to each ground asserted in the motion. The Commission will determine from the motion and response whether reconsideration will be granted and, if so, what procedure will be followed for reconsideration.

Q. **Confidentiality** - Complaints, Hearings, and Decisions of the Commission shall be confidential to the extent required by 29 Del.C. §5810(h).

R. **Time Limitations** set forth in these Rules may for good cause shown, be extended or shortened in the discretion of the Commission.

S. **Disqualification** - Members of the Commission may disqualify themselves from participating in any

hearing upon submission in writing and under oath of an affidavit by the Commission member or by the Prosecutor, or by Respondent setting forth the reason for the disqualification. The decision by the member of the Commission concerning disqualification can be overturned by a vote of at least four (4) members of the Commission.

VI. REQUESTS FOR WAIVERS AND ADVISORY OPINIONS

(A) 29 Del.C. §5805 deals with “Prohibitions relating to conflicts of interest” and 29 Del.C. §5806 deals with “Code of Conduct.” The State Public Integrity Commission may, pursuant to 29 Del.C. §5807, grant Waivers and Advisory Opinions concerning the prohibitions of §§5805 and 5806 pursuant to the following procedures:

(1) **Applications to be in Writing** - The individuals or State agency seeking a Waiver or Advisory Opinion shall apply in writing to the Commission setting forth in detail the applicable parts of §§5805 and/or 5806 involved and the specific reasons a Waiver or Advisory Opinion is warranted or required.

(2) **Quorum - Majority Vote** - Four (4) members of the Commission constitute a quorum under 29 Del.C. §5808(c). A vote of a majority of the Commission members present at a meeting is required for a Waiver or an Advisory Opinion.

(3) **Standards for Waiver** - A Waiver may be granted only if the Commission determines in writing that the prohibitions in the parts of §§5805 and/or 5806 in issue are not necessary under the circumstances to achieve the public purposes of the Code of Conduct or if enforcing the prohibitions under the circumstances would result in undue hardship to the employee, state official, or honorary state official and state agency. 29 Del.C. §5807(a).

(4) **Advisory Opinions** are also to be in writing.

(5) **Attendance at Meeting - Decisions Without Attendance** - Prior to reaching its decision on the Application for a Waiver or an Advisory Opinion, the Commission may require the applicant and others with pertinent knowledge of the facts necessary for the Commission to reach a decision to attend a meeting of the Commission and testify. The Commission may in its discretion require that the testimony be under oath. The Commission may in a clear case grant or deny a Waiver or issue an Advisory Opinion based on the written application without requiring the attendance at a meeting of the applicant or others.

(6) **Reliance** - Any person who acts in good faith reliance upon any Waiver Decision or Advisory Opinion of the Commission shall not be subject to discipline or other sanction under the Code of Conduct with respect to the matters covered by the Waiver Decision or Advisory Opinion, provided there was a full disclosure to the Commission of all material facts necessary for the Decision.

(7) **Confidentiality** - Any application for a Waiver or Advisory Opinion, any proceedings and any decisions with respect thereto shall be maintained confidential by the Commission provided that:

(a) Public disclosure shall be made by the Commission upon the written request of the applicant.

(b) The Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of the Code of Conduct.

(c) The Commission shall report to appropriate federal and state authorities substantial evidence of any criminal violation which may come to its attention.

(d) In the event that a Waiver is issued, the decision of the Commission and the record of all proceedings relating thereto shall be open to public inspection.

Adopted by the State Public Integrity Commission: April 6, 1993

Effective Date: May 7, 1993

Revised: December 8, 1995 to comport with the law by the State Public Integrity Commission.

Revised August 19, 2004 to comport with the law by the State Public Integrity Commission.

8 DE Reg. 710 (11/01/04)

APPENDIX Q

Report Title:
Report Generated By:
Report Generated Date/Time:
Record Count:
Record Count Limit:
Report Source:

Training Title	Organization	Training Type	Transcript Status	Transcript Completed Date
Ethical Conduct in Government	DNREC/Fish and Wildlife	Session	Completed	04/20/2022 11:00 AM
Ethical Conduct in Government	DHR/Office of the Secretary	Session	Completed	04/21/2022 09:11 AM
Ethical Conduct in Government	DHSS/DSAMH (EX)	Session	Completed	04/12/2022 11:30 AM
Ethical Conduct in Government	DOF/State Lottery Office	Session	Completed	04/13/2022 04:36 PM
Ethical Conduct in Government	DOL/Vocational Rehabilitation/OSHA/Labor Stats	Session	Completed	04/14/2022 03:27 PM
Ethical Conduct in Government	DHR/Office of the Secretary	Session	Completed	04/13/2022 04:41 PM
Ethical Conduct in Government	DOL/Vocational Rehabilitation/OSHA/Labor Stats	Session	Completed	04/12/2022 11:30 AM
Ethical Conduct in Government	DSCYF/Management Support Services/Fiscal Services	Session	Completed	07/20/2022 02:17 PM
Ethical Conduct in Government	DSCYF/Youth Rehabilitative Services/Office of the Director	Session	Completed	04/14/2022 07:27 AM
Ethical Conduct in Government	DHR/Division of Diversity and Inclusion	Session	Completed	07/13/2022 01:30 PM
Ethical Conduct in Government	DOC/Community Corrections/Probation & Parole	Session	Completed	04/28/2022 08:02 AM
Ethical Conduct in Government	Legis/Leg Coun/Office Controller General	Session	Completed	04/14/2022 03:13 PM
Ethical Conduct in Government	Exec/OMB/PHRST	Session	Completed	04/22/2022 03:47 PM
Ethical Conduct in Government	DHSS/Child Support Services	Session	Completed	04/14/2022 02:10 PM
Ethical Conduct in Government	DHSS/Child Support Services	Session	Completed	04/28/2022 08:02 AM
Ethical Conduct in Government	DSHS/Administration	Session	Completed	04/28/2022 08:02 AM
Ethical Conduct in Government	DOS/Secretary of State/Administration	Session	Completed	04/14/2022 02:36 PM
Ethical Conduct in Government	DSCYF/Managed Care Organization	Session	Completed	04/12/2022 11:30 AM
Ethical Conduct in Government	DHR/Office of the Secretary	Session	Completed	04/28/2022 08:02 AM
Ethical Conduct in Government	DOS/Secretary of State/Administration	Session	Completed	04/14/2022 02:13 PM
Ethical Conduct in Government	DOF/Office of the Secretary	Session	Completed	07/12/2022 11:30 AM
Ethical Conduct in Government	Courts/AOC/JIC	Session	Completed	07/18/2022 08:13 AM
Ethical Conduct in Government	Exec/OMB/Pensions	Session	Completed	04/14/2022 03:19 PM
Ethical Conduct in Government	DHSS/Child Support Services	Session	Completed	04/27/2022 04:12 PM
Ethical Conduct in Government	Other/Advrsy Cncl for Excep Citizens	Session	Completed	04/12/2022 11:30 AM
Ethical Conduct in Government	DHR/Division of Statewide Benefits	Session	Completed	07/15/2022 03:36 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	07/19/2022 11:46 AM
Ethics Orientation for State Employees	DSHS/State Police/Patrol	Online Class	Completed	03/06/2022 10:21 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	10/19/2022 10:12 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	09/14/2022 10:44 AM
Ethics Orientation for State Employees	DNREC/Climate, Coastal & Energy	Online Class	Completed	07/25/2022 11:46 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	01/11/2022 12:08 PM
Ethics Orientation for State Employees	DHSS/DDDS/Community Services	Online Class	Completed	01/19/2022 09:59 AM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	09/26/2022 02:21 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	09/12/2022 02:37 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	02/05/2022 10:20 AM
Ethics Orientation for State Employees	DHSS/Delaware Hospital for the Chronically Ill	Online Class	Completed	03/21/2022 02:51 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	11/02/2022 07:33 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	01/11/2022 08:26 AM
Ethics Orientation for State Employees	DHSS/State Service Centers/State Service Centers	Online Class	Completed	04/07/2022 01:25 PM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	05/27/2022 11:15 AM
Ethics Orientation for State Employees	DHSS/State Service Centers/State Service Centers	Online Class	Completed	08/19/2022 03:06 PM
Ethics Orientation for State Employees	DOT/Motor Vehicles/Administration	Online Class	Completed	04/29/2022 12:28 PM
Ethics Orientation for State Employees	DOL/Vocational Rehabilitation/OSHA/Labor Stats	Online Class	Completed	03/22/2022 01:57 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	05/03/2022 03:00 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	06/23/2022 11:02 AM
Ethics Orientation for State Employees	DSHS/State Police/Executive	Online Class	Completed	03/19/2022 10:31 AM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	01/22/2022 05:13 PM
Ethics Orientation for State Employees	DSCYF/MSS/Fac Mgmt	Online Class	Completed	03/17/2022 01:52 PM
Ethics Orientation for State Employees	DOS/Banking Commission	Online Class	Completed	06/15/2022 11:46 AM
Ethics Orientation for State Employees	DOT/Maintenance & Operations/Maint Distric	Online Class	Completed	11/04/2022 01:04 PM
Ethics Orientation for State Employees	DOC/Prisons/Special Operations	Online Class	Completed	04/21/2022 01:51 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	10/28/2022 05:13 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	10/28/2022 04:22 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	08/05/2022 06:43 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	02/14/2022 09:27 AM
Ethics Orientation for State Employees	DSCYF/Managed Care Organization	Online Class	Completed	04/01/2022 10:58 AM
Ethics Orientation for State Employees	DNREC/Fish and Wildlife	Online Class	Completed	11/23/2022 09:59 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Kent County CC	Online Class	Completed	09/13/2022 11:46 AM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	03/22/2022 03:14 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	11/22/2022 03:10 PM
Ethics Orientation for State Employees	DOC/Admin/Management Services	Online Class	Completed	03/16/2022 10:40 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	10/19/2022 08:54 AM
Ethics Orientation for State Employees	DHR/Division of Statewide Benefits	Online Class	Completed	09/19/2022 11:55 AM
Ethics Orientation for State Employees	DOC/Facilities Maintenance	Online Class	Completed	10/25/2022 10:41 AM
Ethics Orientation for State Employees	DHSS/Child Support Services	Online Class	Completed	06/02/2022 09:39 PM
Ethics Orientation for State Employees	Exec/OMB/PHRST	Online Class	Completed	02/24/2022 11:33 AM
Ethics Orientation for State Employees	DOC/Hazel D. Plant Wmns Trmt Fclty	Online Class	Completed	07/21/2022 11:26 AM
Ethics Orientation for State Employees	DHSS/Admin/Facility Operations	Online Class	Completed	04/25/2022 10:56 AM
Ethics Orientation for State Employees	DHR/Division of Statewide Benefits/InsCvrf Offc	Online Class	Completed	09/13/2022 03:19 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	10/22/2022 01:22 PM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	06/28/2022 05:59 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	03/01/2022 11:37 AM
Ethics Orientation for State Employees	DOC/CHCS/Medical Treatment Services	Online Class	Completed	08/16/2022 11:24 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	07/09/2022 10:20 PM
Ethics Orientation for State Employees	DHSS/DDDS/Community Services	Online Class	Completed	06/01/2022 01:06 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	06/30/2022 06:31 PM
Ethics Orientation for State Employees	DNREC/Waste & Haz Sub	Online Class	Completed	11/07/2022 11:16 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	03/07/2022 10:25 PM
Ethics Orientation for State Employees	DOL/Employment And Training	Online Class	Completed	10/27/2022 03:43 PM
Ethics Orientation for State Employees	DHSS/Medicaid & Medical Assist	Online Class	Completed	06/06/2022 12:23 PM
Ethics Orientation for State Employees	Courts/Superior Court	Online Class	Completed	11/01/2022 12:14 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	05/30/2022 03:38 PM
Ethics Orientation for State Employees	DSCYF/YRS/Community Services	Online Class	Completed	03/17/2022 02:29 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	12/10/2022 12:39 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Management Information Services	Online Class	Completed	10/17/2022 10:43 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	03/18/2022 01:06 AM

Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	06/06/2022 09:58 AM
Ethics Orientation for State Employees	Delaware Transit Corporation (DOT/DTC)	Online Class	Completed	10/07/2022 11:47 AM
Ethics Orientation for State Employees	Courts/Supreme Court	Online Class	Completed	03/01/2022 12:52 PM
Ethics Orientation for State Employees	DSCYF/MSS/Education Service	Online Class	Completed	07/15/2022 03:21 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	10/24/2022 07:33 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Kent County CC	Online Class	Completed	08/31/2022 02:51 PM
Ethics Orientation for State Employees	DOL/Unemployment Insurance	Online Class	Completed	06/15/2022 12:13 PM
Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	05/26/2022 10:56 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	06/10/2022 03:17 PM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	08/19/2022 11:55 AM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	03/24/2022 02:38 PM
Ethics Orientation for State Employees	DOC/Facilities Maintenance	Online Class	Completed	03/16/2022 03:32 AM
Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	08/01/2022 04:10 PM
Ethics Orientation for State Employees	DHSS/DDDS/Admin	Online Class	Completed	09/13/2022 10:34 AM
Ethics Orientation for State Employees	DSCYF/Managed Care Organization	Online Class	Completed	03/11/2022 01:58 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Office of the Director	Online Class	Completed	03/16/2022 03:58 PM
Ethics Orientation for State Employees	Courts/Family Court	Online Class	Completed	08/31/2022 03:06 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	07/25/2022 04:44 AM
Ethics Orientation for State Employees	DOL/Industrial Affairs	Online Class	Completed	02/16/2022 09:40 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	01/12/2022 01:05 PM
Ethics Orientation for State Employees	DOC/Food Services	Online Class	Completed	06/04/2022 12:23 AM
Ethics Orientation for State Employees	Courts/Superior Court	Online Class	Completed	09/08/2022 10:37 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	03/27/2022 10:42 PM
Ethics Orientation for State Employees	DOC/Admin/Office of the Commissioner	Online Class	Completed	11/22/2022 12:33 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	04/29/2022 03:54 PM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	10/20/2022 03:00 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	10/31/2022 08:40 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	09/10/2022 10:07 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	05/31/2022 11:49 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	02/01/2022 11:14 AM
Ethics Orientation for State Employees	DOE/Block/Special Needs Prgms	Online Class	Completed	03/07/2022 01:00 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	05/09/2022 04:01 PM
Ethics Orientation for State Employees	DSHS/Capitol Police	Online Class	Completed	03/11/2022 10:44 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	03/02/2022 04:33 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	06/08/2022 03:11 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	03/11/2022 02:18 PM
Ethics Orientation for State Employees	DHSS/DDDS/Stockley Center	Online Class	Completed	03/30/2022 10:02 PM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	11/04/2022 01:16 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	04/12/2022 02:39 PM
Ethics Orientation for State Employees	DNREC/Parks and Recreation	Online Class	Completed	03/07/2022 10:08 AM
Ethics Orientation for State Employees	DOS/Secretary of State/Administration	Online Class	Completed	11/30/2022 09:19 AM
Ethics Orientation for State Employees	DNREC/Climate, Coastal & Energy	Online Class	Completed	04/28/2022 09:47 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	12/21/2022 11:26 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	04/12/2022 04:04 AM
Ethics Orientation for State Employees	Legal/Attorney General	Online Class	Completed	11/15/2022 01:28 PM
Ethics Orientation for State Employees	DOE/Student Support	Online Class	Completed	07/25/2022 04:09 PM
Ethics Orientation for State Employees	DOC/Admin/Management Services	Online Class	Completed	01/19/2022 10:43 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	10/08/2022 10:30 PM
Ethics Orientation for State Employees	DSHS/Forensic Science	Online Class	Completed	03/24/2022 03:51 PM
Ethics Orientation for State Employees	DOC/Prisons/Sussex Corr Instit	Online Class	Completed	04/29/2022 03:57 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	05/27/2022 01:39 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	04/12/2022 10:57 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	05/09/2022 09:43 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	12/16/2022 10:12 AM
Ethics Orientation for State Employees	DHR/Division of Diversity and Inclusion	Online Class	Completed	08/18/2022 03:01 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	10/17/2022 10:35 AM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Fiscal Services	Online Class	Completed	11/23/2022 10:54 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	03/03/2022 12:53 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	03/27/2022 01:12 AM
Ethics Orientation for State Employees	DOT/Transportation Solutions/Project Teams	Online Class	Completed	01/31/2022 02:23 PM
Ethics Orientation for State Employees	DOS/Corporations	Online Class	Completed	07/15/2022 04:56 PM
Ethics Orientation for State Employees	Courts/Superior Court	Online Class	Completed	10/20/2022 12:38 PM
Ethics Orientation for State Employees	DHR/Division of Diversity and Inclusion	Online Class	Completed	02/01/2022 09:43 AM
Ethics Orientation for State Employees	DSCYF/YRS/Community Services	Online Class	Completed	03/14/2022 08:47 AM
Ethics Orientation for State Employees	DNREC/Parks and Recreation	Online Class	Completed	01/23/2022 09:46 AM
Ethics Orientation for State Employees	DOT/Maintenance & Operations/Maint Distric	Online Class	Completed	09/09/2022 11:32 AM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	07/18/2022 12:23 PM
Ethics Orientation for State Employees	DOE/Block/Special Needs Prgms	Online Class	Completed	10/17/2022 02:51 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	05/17/2022 02:02 PM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	07/21/2022 01:27 PM
Ethics Orientation for State Employees	Exec/OMB/Pensions	Online Class	Completed	11/01/2022 04:26 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	05/10/2022 02:01 PM
Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	06/16/2022 11:20 AM
Ethics Orientation for State Employees	DHSS/Visually Impaired	Online Class	Completed	07/25/2022 10:44 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	09/28/2022 03:14 PM
Ethics Orientation for State Employees	DOS/Veterans Home	Online Class	Completed	07/05/2022 03:04 PM
Ethics Orientation for State Employees	DOS/Corporations	Online Class	Completed	11/14/2022 08:08 AM
Ethics Orientation for State Employees	DOC/Hazel D. Plant Wmns Trmt Fclty	Online Class	Completed	07/20/2022 02:54 PM
Ethics Orientation for State Employees	DHSS/DDDS/Admin	Online Class	Completed	02/01/2022 01:52 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	06/21/2022 12:33 AM
Ethics Orientation for State Employees	DSHS/Forensic Science	Online Class	Completed	03/20/2022 09:10 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	01/20/2022 10:44 AM
Ethics Orientation for State Employees	Fiscal Management	Online Class	Completed	03/21/2022 04:09 PM
Ethics Orientation for State Employees	DOC/Plummer Community Corrections Ctr	Online Class	Completed	09/27/2022 11:33 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	01/11/2022 11:39 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	10/01/2022 01:41 AM
Ethics Orientation for State Employees	DOS/Office of the Director	Online Class	Completed	10/04/2022 09:33 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	07/25/2022 08:31 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	07/08/2022 10:34 AM
Ethics Orientation for State Employees	DOC/Prisons/Emp Dev Center	Online Class	Completed	03/16/2022 10:25 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	04/26/2022 11:55 AM
Ethics Orientation for State Employees	DHSS/Public Health/Emergency Medical Service	Online Class	Completed	05/11/2022 11:52 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	04/18/2022 12:29 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	04/05/2022 12:39 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	08/11/2022 07:15 PM
Ethics Orientation for State Employees	Courts/Superior Court	Online Class	Completed	01/07/2022 04:27 PM

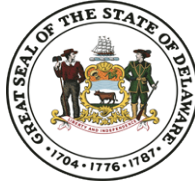
Ethics Orientation for State Employees	Exec/OMB/PHRST	Online Class	Completed	02/25/2022 10:23 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	12/27/2022 09:50 PM
Ethics Orientation for State Employees	DOT/Transportation Solutions	Online Class	Completed	10/10/2022 02:56 PM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	05/10/2022 02:22 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Office of the Director	Online Class	Completed	06/15/2022 12:45 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	09/26/2022 12:54 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	04/05/2022 12:19 PM
Ethics Orientation for State Employees	DSCYF/YRS/Community Services	Online Class	Completed	03/16/2022 01:19 AM
Ethics Orientation for State Employees	DNREC/Waste & Haz Sub	Online Class	Completed	02/24/2022 02:58 PM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	03/24/2022 01:07 PM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	03/29/2022 02:42 PM
Ethics Orientation for State Employees	DOC/Prisons/Sussex Corr Instit	Online Class	Completed	12/08/2022 01:46 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	04/22/2022 10:28 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Kent County CC	Online Class	Completed	06/18/2022 01:41 AM
Ethics Orientation for State Employees	DHR/Division of Statewide Benefits	Online Class	Completed	06/10/2022 03:10 PM
Ethics Orientation for State Employees	DOC/Admin/Management Services	Online Class	Completed	12/06/2022 11:20 AM
Ethics Orientation for State Employees	DHSS/Delaware Hospital for the Chronically Ill	Online Class	Completed	01/26/2022 01:48 PM
Ethics Orientation for State Employees	DHSS/State Service Centers/State Service Centers	Online Class	Completed	08/10/2022 09:56 AM
Ethics Orientation for State Employees	DHSS/Medicaid & Medical Assist	Online Class	Completed	01/12/2022 10:30 AM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	08/15/2022 12:54 PM
Ethics Orientation for State Employees	DOC/Admin/Cntrl Offender Rcds	Online Class	Completed	03/03/2022 11:25 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	03/15/2022 12:43 PM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	12/07/2022 09:56 AM
Ethics Orientation for State Employees	DSCYF/Managed Care Organization	Online Class	Completed	10/14/2022 04:54 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	08/01/2022 12:28 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	09/25/2022 04:14 PM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	02/17/2022 03:27 PM
Ethics Orientation for State Employees	DHR/Division of Diversity and Inclusion	Online Class	Completed	07/14/2022 03:32 PM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	10/27/2022 01:25 PM
Ethics Orientation for State Employees	Exec/OMB/PHRST	Online Class	Completed	03/15/2022 11:45 AM
Ethics Orientation for State Employees	DSCYF/Early Intervention	Online Class	Completed	11/18/2022 01:59 PM
Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	02/23/2022 09:32 PM
Ethics Orientation for State Employees	DHSS/Admin/Management Services	Online Class	Completed	05/19/2022 02:35 PM
Ethics Orientation for State Employees	DHSS/DDDS/Community Services	Online Class	Completed	05/12/2022 12:12 PM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	09/09/2022 04:03 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	02/17/2022 03:37 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	02/18/2022 02:16 AM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Office of the Director	Online Class	Completed	03/22/2022 10:09 AM
Ethics Orientation for State Employees	DNREC/Secretary/Office of the Secretary	Online Class	Completed	08/02/2022 09:40 AM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	10/11/2022 12:22 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	05/31/2022 12:37 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	01/02/2022 02:57 AM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	05/15/2022 04:19 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	07/19/2022 03:39 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	02/14/2022 12:34 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	01/29/2022 11:30 AM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	08/30/2022 11:27 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	03/28/2022 08:28 PM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	02/17/2022 03:26 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Center for Professional Development	Online Class	Completed	03/07/2022 10:48 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	05/22/2022 09:08 PM
Ethics Orientation for State Employees	DOC/Prisons/Emp Dev Center	Online Class	Completed	02/02/2022 10:14 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	05/23/2022 03:15 AM
Ethics Orientation for State Employees	DHSS/DDDS/Community Services	Online Class	Completed	07/11/2022 10:21 AM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	01/30/2022 10:32 PM
Ethics Orientation for State Employees	DOC/Admin/Office of the Commissioner	Online Class	Completed	05/24/2022 11:53 AM
Ethics Orientation for State Employees	DHSS/Medicaid & Medical Assist	Online Class	Completed	03/07/2022 09:39 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	03/17/2022 01:16 PM
Ethics Orientation for State Employees	DHR/Division of Personnel Management	Online Class	Completed	03/29/2022 02:23 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	03/07/2022 09:08 AM
Ethics Orientation for State Employees	DSHS/State Police/Criminal Investigatio	Online Class	Completed	05/19/2022 03:54 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	04/10/2022 11:52 PM
Ethics Orientation for State Employees	DSHS/Forensic Science	Online Class	Completed	02/22/2022 09:58 AM
Ethics Orientation for State Employees	DOC/Admin/Planning, Research Reentry	Online Class	Completed	10/25/2022 10:48 AM
Ethics Orientation for State Employees	DOT/Maintenance & Operations/Maint Distric	Online Class	Completed	10/29/2022 10:58 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	03/16/2022 01:28 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	07/01/2022 10:24 PM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	03/08/2022 01:15 PM
Ethics Orientation for State Employees	DHSS/DDDS/Community Services	Online Class	Completed	05/11/2022 03:12 PM
Ethics Orientation for State Employees	DOC/Admin/Cntrl Offender Rcds	Online Class	Completed	10/11/2022 11:14 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Kent County CC	Online Class	Completed	01/07/2022 11:21 AM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	02/15/2022 06:35 PM
Ethics Orientation for State Employees	DHR/DivPersMam/Staff Dev&Trng	Online Class	Completed	03/22/2022 10:09 AM
Ethics Orientation for State Employees	DOL/Unemployment Insurance	Online Class	Completed	03/28/2022 03:02 PM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	12/13/2022 09:07 AM
Ethics Orientation for State Employees	DOC/Plummer Community Corrections Ctr	Online Class	Completed	10/11/2022 11:41 AM
Ethics Orientation for State Employees	DOF/Office of the Secretary	Online Class	Completed	06/13/2022 03:20 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	03/03/2022 04:25 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	10/08/2022 02:23 AM
Ethics Orientation for State Employees	DSCYF/MSS/Education Service	Online Class	Completed	06/29/2022 11:26 AM
Ethics Orientation for State Employees	DOT/Transportation Solutions/Project Teams	Online Class	Completed	11/18/2022 11:52 AM
Ethics Orientation for State Employees	DOT/Transportation Solutions/Project Teams	Online Class	Completed	03/07/2022 08:07 AM
Ethics Orientation for State Employees	Elect/Insurance Commissioner/BERG	Online Class	Completed	06/10/2022 04:21 PM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	04/06/2022 11:00 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Office of the Director	Online Class	Completed	03/23/2022 01:35 PM
Ethics Orientation for State Employees	DHSS/Medicaid & Medical Assist	Online Class	Completed	07/14/2022 01:46 PM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	07/25/2022 10:23 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	06/04/2022 12:40 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	06/07/2022 12:51 PM
Ethics Orientation for State Employees	DHSS/DDDS/Admin	Online Class	Completed	06/10/2022 04:36 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	06/09/2022 09:57 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	07/09/2022 11:48 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	12/19/2022 01:22 PM
Ethics Orientation for State Employees	DOS/Secretary of State/Administration	Online Class	Completed	01/25/2022 12:52 PM
Ethics Orientation for State Employees	DHSS/Admin/Facility Operations	Online Class	Completed	07/31/2022 06:44 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	05/18/2022 01:20 PM

Ethics Orientation for State Employees	DHSS/Admin/Management Services	Online Class	Completed	07/06/2022 12:49 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	10/27/2022 02:25 PM
Ethics Orientation for State Employees	DSHS/Capitol Police	Online Class	Completed	12/13/2022 12:50 PM
Ethics Orientation for State Employees	DHSS/Admin/Management Services	Online Class	Completed	10/17/2022 01:24 PM
Ethics Orientation for State Employees	DTI/OMP/Application Delivery	Online Class	Completed	03/30/2022 12:25 PM
Ethics Orientation for State Employees	DSCYF/YRS/Community Services	Online Class	Completed	07/08/2022 02:32 PM
Ethics Orientation for State Employees	DOL/Vocational Rehabilitation/DisabilityDeterminntn Svcs	Online Class	Completed	11/29/2022 09:19 AM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	08/17/2022 11:41 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	10/01/2022 03:32 PM
Ethics Orientation for State Employees	DHSS/DDDS/Admin	Online Class	Completed	06/15/2022 10:09 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Sussex County CC	Online Class	Completed	03/10/2022 03:32 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	03/31/2022 11:01 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	05/10/2022 11:21 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	10/31/2022 03:14 PM
Ethics Orientation for State Employees	DHSS/Admin/Management Services	Online Class	Completed	07/19/2022 08:53 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	10/28/2022 11:54 AM
Ethics Orientation for State Employees	DOL/Vocational Rehabilitation/DisabilityDeterminntn Svcs	Online Class	Completed	11/04/2022 10:19 AM
Ethics Orientation for State Employees	DOC/Admin/Cntrl Offender Rcds	Online Class	Completed	08/16/2022 10:58 AM
Ethics Orientation for State Employees	Elect/Insurance Commissioner/Regulatory Activities	Online Class	Completed	08/08/2022 04:00 PM
Ethics Orientation for State Employees	DOC/Prisons/D Baylor Corr Ins	Online Class	Completed	03/01/2022 10:48 AM
Ethics Orientation for State Employees	DHSS/Child Support Services	Online Class	Completed	05/27/2022 09:18 AM
Ethics Orientation for State Employees	DHSS/Child Support Services	Online Class	Completed	07/12/2022 12:14 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	03/16/2022 03:56 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	04/22/2022 01:44 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Fiscal Services	Online Class	Completed	03/04/2022 10:19 AM
Ethics Orientation for State Employees	DOC/Prisons/Sussex Corr Instit	Online Class	Completed	06/12/2022 06:21 AM
Ethics Orientation for State Employees	DHR/Division of Personnel Management	Online Class	Completed	06/28/2022 03:55 PM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	05/12/2022 04:02 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	05/16/2022 11:27 AM
Ethics Orientation for State Employees	Courts/Family Court	Online Class	Completed	04/21/2022 12:15 PM
Ethics Orientation for State Employees	DOT/Transportation Solutions	Online Class	Completed	10/05/2022 08:03 AM
Ethics Orientation for State Employees	Courts/Court of Common Pleas	Online Class	Completed	05/19/2022 01:26 PM
Ethics Orientation for State Employees	Exec/OMB/PHRST	Online Class	Completed	10/12/2022 02:31 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	07/27/2022 08:08 PM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	05/13/2022 01:03 PM
Ethics Orientation for State Employees	DNREC/Parks and Recreation	Online Class	Completed	11/26/2022 01:16 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Fiscal Services	Online Class	Completed	11/18/2022 10:37 AM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	08/31/2022 12:58 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	01/14/2022 07:59 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Office of the Director	Online Class	Completed	02/25/2022 08:50 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	12/22/2022 11:31 AM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	04/05/2022 04:05 PM
Ethics Orientation for State Employees	DHSS/DSAMH/Delaware Psychiatric Center	Online Class	Completed	07/15/2022 09:47 PM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	05/13/2022 03:36 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	05/08/2022 09:43 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	06/10/2022 01:51 PM
Ethics Orientation for State Employees	DHSS/Medicaid & Medical Assist	Online Class	Completed	09/01/2022 08:05 AM
Ethics Orientation for State Employees	DNG/Division	Online Class	Completed	01/28/2022 12:10 PM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	06/09/2022 04:17 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	03/21/2022 02:29 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	03/21/2022 10:58 AM
Ethics Orientation for State Employees	DOL/Employment And Training	Online Class	Completed	10/12/2022 09:46 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	10/12/2022 02:36 PM
Ethics Orientation for State Employees	DOC/CHCS/Medical Treatment Services	Online Class	Completed	01/19/2022 10:36 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	03/01/2022 09:01 AM
Ethics Orientation for State Employees	DOC/Admin/Cntrl Offender Rcds	Online Class	Completed	07/19/2022 10:59 AM
Ethics Orientation for State Employees	DOC/Admin/Management Services	Online Class	Completed	10/25/2022 10:27 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	08/30/2022 11:19 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Office of the Director	Online Class	Completed	03/03/2022 09:38 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	08/16/2022 11:23 AM
Ethics Orientation for State Employees	DHSS/Public Health/Support Service	Online Class	Completed	01/25/2022 02:36 PM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	04/01/2022 02:57 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	08/23/2022 10:39 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	12/06/2022 08:40 PM
Ethics Orientation for State Employees	DNREC/Waste & Haz Sub	Online Class	Completed	03/07/2022 01:50 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	04/26/2022 01:58 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	04/06/2022 10:10 AM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	03/18/2022 02:32 PM
Ethics Orientation for State Employees	DHSS/Admin/Facility Operations	Online Class	Completed	04/18/2022 08:27 PM
Ethics Orientation for State Employees	DOC/Admin/Management Services	Online Class	Completed	10/25/2022 10:46 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	03/15/2022 09:21 AM
Ethics Orientation for State Employees	DOT/Motor Vehicles/Administration	Online Class	Completed	05/05/2022 10:04 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	01/06/2022 04:02 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	04/07/2022 11:23 AM
Ethics Orientation for State Employees	DNREC/Climate, Coastal & Energy	Online Class	Completed	05/27/2022 04:06 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	06/27/2022 10:32 PM
Ethics Orientation for State Employees	DOS/Public Archives	Online Class	Completed	07/05/2022 02:03 PM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	04/11/2022 11:32 AM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	01/06/2022 11:20 AM
Ethics Orientation for State Employees	DSHS/Capitol Police	Online Class	Completed	03/29/2022 11:08 AM
Ethics Orientation for State Employees	DOT/Maintenance & Operations/Maint Distric	Online Class	Completed	03/09/2022 12:47 PM
Ethics Orientation for State Employees	DHR/Division of Statewide Benefits/InsCvrf Offc	Online Class	Completed	09/20/2022 11:10 AM
Ethics Orientation for State Employees	DOL/Vocational Rehabilitation/OSHA/Labor Stats	Online Class	Completed	07/14/2022 04:06 PM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	02/14/2022 10:30 AM
Ethics Orientation for State Employees	Exec/Criminal Justice Council	Online Class	Completed	03/18/2022 01:10 PM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	05/12/2022 04:16 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	09/20/2022 04:10 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	11/03/2022 10:36 AM
Ethics Orientation for State Employees	Courts/Superior Court	Online Class	Completed	02/10/2022 09:43 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	01/14/2022 11:34 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	03/07/2022 10:40 AM
Ethics Orientation for State Employees	DNREC/Water	Online Class	Completed	03/04/2022 02:58 PM
Ethics Orientation for State Employees	DHSS/Child Support Services	Online Class	Completed	07/12/2022 10:02 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	01/02/2022 03:15 PM
Ethics Orientation for State Employees	DOS/Veterans Home	Online Class	Completed	05/17/2022 05:16 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	04/08/2022 12:37 PM

Ethics Orientation for State Employees	DHSS/Child Support Services	Online Class	Completed	04/06/2022 08:21 AM
Ethics Orientation for State Employees	Exec/OMB/Contracting	Online Class	Completed	06/01/2022 10:39 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	03/21/2022 03:22 PM
Ethics Orientation for State Employees	DHSS/DDDS/Admin	Online Class	Completed	01/19/2022 02:21 PM
Ethics Orientation for State Employees	Legal/Attorney General	Online Class	Completed	10/21/2022 10:58 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	08/21/2022 10:51 PM
Ethics Orientation for State Employees	DHSS/Admin/Management Services	Online Class	Completed	06/22/2022 11:16 AM
Ethics Orientation for State Employees	DNREC/Climate, Coastal & Energy	Online Class	Completed	08/16/2022 10:54 AM
Ethics Orientation for State Employees	DOS/Veterans Home	Online Class	Completed	10/26/2022 08:31 AM
Ethics Orientation for State Employees	DOC/Hazel D. Plant Wmns Trmt Fclty	Online Class	Completed	05/24/2022 11:46 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	03/30/2022 12:18 PM
Ethics Orientation for State Employees	DOC/Prisons/Sussex Corr Instit	Online Class	Completed	01/10/2022 06:26 PM
Ethics Orientation for State Employees	DHR/Division of Personnel Management	Online Class	Completed	06/28/2022 11:02 AM
Ethics Orientation for State Employees	DSCYF/YRS/Community Services	Online Class	Completed	10/06/2022 02:31 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	03/08/2022 02:17 PM
Ethics Orientation for State Employees	DOT/Transportation Solutions/Project Teams	Online Class	Completed	08/17/2022 09:21 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Sussex County CC	Online Class	Completed	05/27/2022 09:02 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	03/18/2022 06:09 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	05/18/2022 03:32 PM
Ethics Orientation for State Employees	Exec/OMB/Fleet Management	Online Class	Completed	05/12/2022 03:53 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	10/31/2022 05:29 PM
Ethics Orientation for State Employees	DOF/State Lottery Office	Online Class	Completed	04/06/2022 09:22 PM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	09/12/2022 10:57 PM
Ethics Orientation for State Employees	DOS/Veterans Home	Online Class	Completed	07/12/2022 03:50 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	09/12/2022 06:16 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Office of the Director	Online Class	Completed	03/08/2022 09:20 AM
Ethics Orientation for State Employees	DHSS/Delaware Hospital for the Chronically Ill	Online Class	Completed	08/08/2022 02:13 PM
Ethics Orientation for State Employees	DSCYF/Early Intervention	Online Class	Completed	11/17/2022 05:01 PM
Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	05/20/2022 12:16 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	06/07/2022 11:44 AM
Ethics Orientation for State Employees	DOF/Office of the Secretary	Online Class	Completed	06/27/2022 02:56 PM
Ethics Orientation for State Employees	DOC/Plummer Community Corrections Ctr	Online Class	Completed	05/04/2022 03:45 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	02/01/2022 11:09 AM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	03/03/2022 09:29 AM
Ethics Orientation for State Employees	DOE/Block/Special Needs Prgrms	Online Class	Completed	03/08/2022 11:23 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	08/08/2022 08:58 AM
Ethics Orientation for State Employees	DNREC/Fish and Wildlife	Online Class	Completed	12/07/2022 02:37 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	01/05/2022 08:44 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	06/02/2022 10:26 AM
Ethics Orientation for State Employees	DHSS/DDDS/Stockley Center	Online Class	Completed	09/30/2022 03:07 PM
Ethics Orientation for State Employees	Legal/Attorney General	Online Class	Completed	04/18/2022 02:10 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	04/14/2022 11:32 AM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	03/21/2022 01:58 AM
Ethics Orientation for State Employees	DSHS/Capitol Police	Online Class	Completed	06/15/2022 01:45 PM
Ethics Orientation for State Employees	DOC/Intelligence Operations Center	Online Class	Completed	07/06/2022 11:16 AM
Ethics Orientation for State Employees	DNREC/Waste & Haz Sub	Online Class	Completed	05/03/2022 12:05 PM
Ethics Orientation for State Employees	DHSS/Medicaid & Medical Assist	Online Class	Completed	06/06/2022 04:11 PM
Ethics Orientation for State Employees	DNREC/Secretary/Office of the Secretary	Online Class	Completed	03/29/2022 11:18 AM
Ethics Orientation for State Employees	DHSS/Public Health/Support Service	Online Class	Completed	06/28/2022 11:24 AM
Ethics Orientation for State Employees	DOL/Employment And Training	Online Class	Completed	12/13/2022 02:31 PM
Ethics Orientation for State Employees	DOL/Unemployment Insurance	Online Class	Completed	03/03/2022 11:02 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	02/24/2022 03:21 PM
Ethics Orientation for State Employees	DOC/Prisons/Sussex Corr Instit	Online Class	Completed	04/26/2022 11:33 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	03/17/2022 05:59 PM
Ethics Orientation for State Employees	DHSS/Medicaid & Medical Assist	Online Class	Completed	09/21/2022 12:31 PM
Ethics Orientation for State Employees	DOC/Food Services	Online Class	Completed	07/15/2022 04:59 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	07/20/2022 01:49 PM
Ethics Orientation for State Employees	DSCYF/24 Hour Treatment	Online Class	Completed	03/06/2022 05:49 AM
Ethics Orientation for State Employees	Courts/Family Court	Online Class	Completed	07/07/2022 03:02 PM
Ethics Orientation for State Employees	DOC/Prisons/Emp Dev Center	Online Class	Completed	01/05/2022 08:27 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	11/30/2022 10:02 AM
Ethics Orientation for State Employees	DSCYF/Early Intervention	Online Class	Completed	07/25/2022 10:10 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	03/17/2022 01:12 PM
Ethics Orientation for State Employees	DHSS/DDDS/Admin	Online Class	Completed	04/04/2022 01:59 PM
Ethics Orientation for State Employees	DOF/Revenue	Online Class	Completed	04/13/2022 08:48 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	04/12/2022 11:01 AM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	02/19/2022 12:18 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	02/09/2022 01:16 PM
Ethics Orientation for State Employees	DOC/Food Services	Online Class	Completed	02/02/2022 07:59 AM
Ethics Orientation for State Employees	Division of Waste and Hazardous Substances	Online Class	Completed	03/07/2022 03:59 PM
Ethics Orientation for State Employees	DSCYF/YRS/Secure Care	Online Class	Completed	04/12/2022 11:07 AM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	05/11/2022 08:42 AM
Ethics Orientation for State Employees	DOE/Block/Special Needs Prgrms	Online Class	Completed	03/14/2022 03:49 PM
Ethics Orientation for State Employees	DOS/Veterans Home	Online Class	Completed	10/11/2022 10:11 AM
Ethics Orientation for State Employees	Courts/Superior Court	Online Class	Completed	03/10/2022 12:30 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	04/14/2022 03:51 PM
Ethics Orientation for State Employees	DOT/Motor Vehicles/Administration	Online Class	Completed	04/26/2022 01:35 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	08/16/2022 11:21 AM
Ethics Orientation for State Employees	DOF/Revenue	Online Class	Completed	10/24/2022 11:08 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	03/31/2022 01:07 PM
Ethics Orientation for State Employees	Lake Forest School District	Online Class	Completed	02/15/2022 02:12 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	09/27/2022 03:15 PM
Ethics Orientation for State Employees	DOL/Unemployment Insurance	Online Class	Completed	11/02/2022 02:48 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	08/11/2022 10:03 AM
Ethics Orientation for State Employees	DHSS/Admin/Management Services	Online Class	Completed	10/05/2022 01:59 PM
Ethics Orientation for State Employees	DSCYF/YRS/Community Services	Online Class	Completed	04/04/2022 02:12 PM
Ethics Orientation for State Employees	Exec/OMB/Fleet Management	Online Class	Completed	10/12/2022 11:38 AM
Ethics Orientation for State Employees	DHSS/Admin/Facility Operations	Online Class	Completed	08/09/2022 09:07 AM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	05/16/2022 02:16 AM
Ethics Orientation for State Employees	DHR/Division of Personnel Management	Online Class	Completed	07/25/2022 03:59 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intervention Treatment	Online Class	Completed	02/24/2022 05:27 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	02/12/2022 10:14 AM
Ethics Orientation for State Employees	DOC/Prisons/Sussex Corr Instit	Online Class	Completed	03/21/2022 06:16 AM
Ethics Orientation for State Employees	DOF/State Lottery Office	Online Class	Completed	03/04/2022 06:46 PM
Ethics Orientation for State Employees	Exec/OMB/Administration	Online Class	Completed	12/16/2022 01:49 PM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	03/18/2022 02:56 PM

Ethics Orientation for State Employees	DOC/Hazel D. Plant Wmns Trmt Fclty	Online Class	Completed	09/13/2022 11:55 AM
Ethics Orientation for State Employees	DSCYF/Periodic Treatment	Online Class	Completed	05/02/2022 10:29 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	03/09/2022 11:43 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	12/13/2022 11:32 AM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	03/23/2022 03:31 PM
Ethics Orientation for State Employees	DHSS/DSAMH/Substance Abuse	Online Class	Completed	03/28/2022 02:16 PM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Office of the Director	Online Class	Completed	06/02/2022 01:29 PM
Ethics Orientation for State Employees	DHSS/Child Support Services	Online Class	Completed	07/01/2022 02:33 PM
Ethics Orientation for State Employees	DOC/Intelligence Operations Center	Online Class	Completed	12/21/2022 11:04 AM
Ethics Orientation for State Employees	DHR/Division of Statewide Benefits	Online Class	Completed	03/30/2022 03:13 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	01/13/2022 12:38 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	01/23/2022 01:18 AM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	08/18/2022 07:53 AM
Ethics Orientation for State Employees	Elect/Auditor of Accounts	Online Class	Completed	01/20/2022 02:58 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	03/15/2022 10:33 AM
Ethics Orientation for State Employees	DNREC/Waste & Haz Sub	Online Class	Completed	12/06/2022 03:15 PM
Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	07/11/2022 03:23 PM
Ethics Orientation for State Employees	DHSS/Delaware Hospital for the Chronically Ill	Online Class	Completed	08/30/2022 10:32 PM
Ethics Orientation for State Employees	DHR/Division of Statewide Benefits	Online Class	Completed	02/01/2022 11:22 AM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Fiscal Services	Online Class	Completed	03/09/2022 04:24 PM
Ethics Orientation for State Employees	Courts/AOC/JIC	Online Class	Completed	05/09/2022 12:38 PM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	01/11/2022 10:00 AM
Ethics Orientation for State Employees	DSCYF/Management Support Services/Office of the Director	Online Class	Completed	08/22/2022 04:00 PM
Ethics Orientation for State Employees	DHSS/Public Health/Community Health	Online Class	Completed	03/21/2022 11:23 AM
Ethics Orientation for State Employees	DOC/Community Corrections/Sussex County CC	Online Class	Completed	03/16/2022 09:52 AM
Ethics Orientation for State Employees	DHSS/Social Services	Online Class	Completed	03/09/2022 09:55 AM
Ethics Orientation for State Employees	DSCYF/Early Intervention	Online Class	Completed	03/07/2022 01:28 PM
Ethics Orientation for State Employees	DNREC/Air Quality	Online Class	Completed	08/01/2022 02:49 PM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	01/03/2022 12:14 PM
Ethics Orientation for State Employees	DNREC/Waste & Haz Sub	Online Class	Completed	03/07/2022 09:38 AM
Ethics Orientation for State Employees	DOC/Prisons/Emp Dev Center	Online Class	Completed	06/15/2022 10:52 AM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	02/05/2022 03:06 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	05/11/2022 03:06 PM
Ethics Orientation for State Employees	DOS/Office of the Director	Online Class	Completed	04/04/2022 12:03 PM
Ethics Orientation for State Employees	DSCYF/Youth Rehabilitative Services/Office of the Director	Online Class	Completed	03/10/2022 09:51 AM
Ethics Orientation for State Employees	DSCYF/Family Services/Intake Investigation	Online Class	Completed	06/23/2022 02:07 PM
Ethics Orientation for State Employees	DOC/Prisons/Howard R Young CI	Online Class	Completed	10/02/2022 06:23 PM
Ethics Orientation for State Employees	DOT/Office of the Secretary/Finance	Online Class	Completed	01/05/2022 01:12 PM
Ethics Orientation for State Employees	DHSS/Social Services (EX)	Online Class	Completed	02/16/2022 12:59 PM
Ethics Orientation for State Employees	DOC/Prisons/James T Vaughn CC	Online Class	Completed	12/06/2022 11:09 AM
Ethics Orientation for State Employees	DHSS/DSAAPD	Online Class	Completed	07/25/2022 01:02 PM
Ethics Orientation for State Employees	DNREC/Fish and Wildlife	Online Class	Completed	12/20/2022 04:57 PM
Ethics Orientation for State Employees	DSCYF/Family Services/Office of the Director	Online Class	Completed	01/04/2022 03:21 PM
Ethics Orientation for State Employees	DHR/DivPersMgmt/Staff Dev&Trng	Online Class	Completed	08/10/2022 03:57 PM
Ethics Orientation for State Employees	DSCYF/Periodic Treatment	Online Class	Completed	07/08/2022 05:50 PM
Ethics Orientation for State Employees	DHSS/DDDS/Stockley Center	Online Class	Completed	07/18/2022 09:09 AM
Ethics Orientation for State Employees	DHR/Office of the Secretary	Online Class	Completed	04/26/2022 02:52 PM
Ethics Orientation for State Employees	DHSS/DSAMH (EX)	Online Class	Completed	02/13/2022 12:36 PM
Ethics Orientation for State Employees	DHSS/Admin/Office of the Secretary	Online Class	Completed	06/13/2022 08:45 AM
Ethics Orientation for State Employees	DNREC/Air Quality	Online Class	Completed	12/08/2022 03:17 PM
Ethics Orientation for State Employees	DOC/Community Corrections/Probation & Parole	Online Class	Completed	08/30/2022 11:22 AM
Ethics Orientation for State Employees	DHSS/DSAMH/Delaware Psychiatric Center	Online Class	Completed	11/23/2022 01:48 PM
Ethics Orientation for State Employees	Courts/Justice of the Peace Court	Online Class	Completed	05/24/2022 08:27 AM

APPENDIX R



KATHLEEN JENNINGS
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
KENT COUNTY
102 WEST WATER STREET
DOVER, DELAWARE 19904

CIVIL DIVISION (302) 739-7641
FAX (302) 739-7652
CRIMINAL DIVISION (302) 739-4211
FAX (302) 739-6727

September 15, 2022

VIA EMAIL

Jack Guerin
Jackguerin7@gmail.com

RE: FOIA Petition Regarding the Public Integrity Commission

Dear Mr. Guerin:

This letter acknowledges receipt of the enclosed correspondence alleging that the Public Integrity Commission (“PIC”) violated Delaware’s Freedom of Information Act, 29 *Del. C.* §§ 10001-10007 (“FOIA”). We have reviewed your attached submission and concluded that your FOIA petition is not ripe for determination. According to your petition, your FOIA request was submitted on August 24, 2022. Thus, the PIC’s statutory deadline to provide a written response to your request has not yet passed.¹

If the PIC does not timely respond to your request as required by FOIA, or you believe that the PIC’s response otherwise violates FOIA, you may file a new petition with this Office, in accordance with the FOIA statute and the DOJ’s Rules of Procedure for FOIA Petitions and Determinations, which are both available at: <https://attorneygeneral.delaware.gov/executive/open-government/>. In the event you file a new petition, please enclose copies of all relevant correspondence with the PIC, including your original FOIA request (if available) and any correspondence forwarding it to the PIC.

Our Office now considers this matter closed.

Very truly yours,

/s/ Dorey L. Cole

Dorey L. Cole
Deputy Attorney General

Enclosure

cc: Deborah J. Moreau, Legal Counsel, Public Integrity Commission (Deborah.Moreau@delaware.gov)

¹ 29 *Del. C.* § 10003(h) (“The public body shall respond to a FOIA request as soon as possible, but in any event within 15 business days after the receipt thereof, either by providing access to the requested records, denying access to the records or parts of them, or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or archived. If access cannot be provided within 15 business days, the public body shall cite [one] of the reasons hereunder why more time is needed and provide a good-faith estimate of how much additional time is required to fulfill the request.”)

APPENDIX S



IN THE SUPREME COURT OF THE STATE OF DELAWARE

RICHARD L. ABBOTT,	§	
	§	
Plaintiff Below,	§	No. 155, 2018
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
	§	
DELAWARE STATE PUBLIC	§	C.A. No. N16A-09-009 FWW
INTEGRITY COMMISSION,	§	
	§	
Defendant Below,	§	
Appellee.	§	

Submitted: February 20, 2019

Decided: February 25, 2019

Before **STRINE**, Chief Justice; **VAUGHN**, **SEITZ**, **TRAYNOR**, Justices; and **NEWELL**, Chief Judge,* constituting the Court *en Banc*.

PER CURIAM:

ORDER

After consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant and plaintiff below, Delaware attorney Richard L. Abbott, filed this appeal from a Superior Court opinion, dated February 28, 2018, affirming the Delaware State Public Integrity Commission's dismissal of his complaint.¹ We hold that in determining that Abbott's complaint failed to state a

* Sitting by designation under Del. Const. art. IV, § 12.

¹ *Abbott v. Del. State Pub. Integrity Comm'n*, 2018 WL 1110852 (Del. Super. Ct. Feb. 28, 2018).

violation, the Commission did not exceed its jurisdiction, proceed illegally or manifestly contrary to law, or proceed irregularly. We therefore affirm the Superior Court's judgment.

(2) The origins of this litigation lie in a Court of Chancery action captioned *Seabreeze Homeowners Assoc., Inc. v. Marshall Jenney*, C.A. No. 8635-VCG.² In June 2013, Seabreeze Homeowners Association, Inc. filed a complaint for specific performance of a 2012 settlement agreement in which the property owner had agreed to trim trees and shrubs on his properties in the subdivision.³ In July 2014, the Court of Chancery entered a consent order requiring the property owner to take certain actions for the trimming of the shrubs.⁴ In November 2014, Seabreeze moved for a rule to show cause, alleging that the property owner had failed to perform.⁵ The Vice Chancellor ruled that the property owner, who was represented by Abbott, had breached the consent order.⁶ The Vice Chancellor encouraged the parties to work together and file a stipulation for the necessary shrub trimming.⁷

² App. to Opening Br. at A57–80. These facts are taken from Abbott's complaint and exhibits before the Commission. See *Maddrey v. Justice of Peace Court 13*, 956 A.2d 1204, 1216 (Del. 2008) (recognizing that record for review of *certiorari* proceeding consists of "the complaint initiating the proceeding, the answer or response (if required), and the docket entries").

³ App. to Opening Br. at A68.

⁴ *Id.* at A69.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

(3) On March 16, 2015, Abbott informed the Vice Chancellor that, other than pending requests for attorneys' fees, the action was moot because the property owner had transferred the properties to his wife, which meant he no longer had an ownership interest and was relieved of his obligations under the Settlement Agreement.⁸ Seabreeze renewed a motion for a rule to show cause hearing, arguing that the transfer was a sham transaction designed to evade a court order.⁹ At the hearing, the Vice Chancellor ruled:

But despite having done many, many, many homeowners cases, I have never had a defendant in one of those cases sit in a witness chair and tell me that he didn't intend to comply with his agreement because he was upset with his neighbors and he might want to sell the property. Nor have I ever had anybody sit in a witness chair and tell me that on advice of counsel, he had entered into a sham transaction to frustrate the specific performance of any agreement. It is shocking to me. It is unacceptable. It is unacceptable behavior for a litigant in this Court. It is unacceptable behavior for an attorney in this Court. So it's clear to me there was contempt of my bench order and of the stipulation and order of this Court.¹⁰

⁸ *Id.* at A69–70.

⁹ *Id.* at A70.

¹⁰ *Id.* at A70–71.

The Vice Chancellor suspended the rule to show cause hearing and ordered that it would be reconvened when the parties met on the properties to determine which shrubs would be trimmed.¹¹

(4) On May 21, 2015, after the site visit, the rule to show cause hearing resumed.¹² The Vice Chancellor noted that he had previously found “it both contemptuous of this Court, contemptuous of the order of this Court, and a blatant, blatant example of vexatious litigation to undergo a sham transfer of the property solely to avoid enforcement of a court Order.”¹³ After awarding Seabreeze its costs and fees, the Vice Chancellor stated:

My question here today really is should that be borne by the defendant or should it be borne by counsel who advised his client to take an action that so clearly, in my mind, represents purely vexatious litigation tactics. I think I will leave that to the client and the attorney to figure out.¹⁴

On June 10, 2015, the Vice Chancellor referred Abbott to the Office of Disciplinary Counsel (“ODC”).¹⁵ The ODC opened an investigation into Abbott’s conduct.¹⁶

(5) On July 22, 2016, Abbott filed a complaint against Jennifer-Kate Aaronson, then Chief Disciplinary Counsel, with the Commission.¹⁷ He alleged that

¹¹ *Id.* at A71.

¹² *Id.*

¹³ *Id.* at A71–72.

¹⁴ *Id.* at A72.

¹⁵ *Id.* at A80.

¹⁶ *Id.* at A57–66.

¹⁷ *Id.* at A57–80.

Aaronson had violated the appearance of impropriety standard in Section 5806(a) of the States Employees', Officers' and Officials' Code of Conduct (the "State Ethics Code").¹⁸ Abbott alleged that Aaronson had violated the State Ethics Code by: (i) declining to recuse herself in the ODC proceeding; (ii) pursuing "an out-and-out fishing expedition" at the request of the Vice Chancellor in order to advance her own judicial ambitions; (iii) having improper *ex parte* communications with the Chief Justice to obtain confidential Court on the Judiciary documents in furtherance of her "fishing expedition"; and (iv) filing a motion to compel the production of privileged documents.¹⁹ The attachments to the complaint included Abbott's July 8, 2016 letter to Aaronson demanding that she recuse herself from his ODC matter, Aaronson's July 13, 2016 letter in response, the ODC's July 13, 2016 motion to compel Abbott's communications with his client about the transfer of the properties, and the Court of Chancery's June 10, 2015 letter referring Abbott to the ODC.²⁰

(6) In a decision dated August 24, 2016, the Commission dismissed Abbott's complaint.²¹ Based on Aaronson's status as a lawyer subject to this Court's regulation and oversight of the legal profession, the separation of powers doctrine, and the alleged misconduct, the Commission concluded that it lacked authority over

¹⁸ *Id.* at A57.

¹⁹ *Id.* at A57–60.

²⁰ *Id.* at A65–80.

²¹ *Id.* at A81–84.

Aaronson.²² The Commission also found that, even if it had authority over Aaronson, Abbott failed to allege adequately a violation of the State Ethics Code.²³ According to the Commission, Abbott’s allegation that two of three previous Chief Disciplinary Counsel became judges did not mean Aaronson shared similar aspirations or that such aspirations would affect her professional judgment.²⁴ The Commission also determined that Abbott failed to allege any facts to support a conclusion that an appearance of impropriety existed among the public.²⁵

(7) On September 21, 2016, Abbott filed a complaint for a writ of *certiorari* and declaratory judgment in the Superior Court. The Commission subsequently amended its decision to include additional grounds for dismissal. Abbott amended his complaint to include the amended decision. After briefing and oral argument, the Superior Court affirmed the Commission’s decision.²⁶

(8) The Superior Court limited its review to the Commission’s original decision, finding that once Abbott filed his complaint in the Superior Court the Commission was divested of jurisdiction and could not amend its decision.²⁷ The Superior Court next held that the Commission did not err by declining to exercise jurisdiction over Aaronson because administrative agencies generally “can

²² *Id.* at A82–83.

²³ *Id.* at A83.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Abbott*, 2018 WL 1110852, at *6.

²⁷ *Id.* at *3–4.

determine their own jurisdiction in the first instance.”²⁸ The Superior Court then held that the Commission did not commit an error of law in concluding that it lacked jurisdiction over Aaronson.²⁹ The Superior Court agreed with the Commission that Aaronson, as an attorney and Chief Disciplinary Counsel, was subject to this Court’s regulation and authority and the Commission could not “interject itself into what is exclusively the Supreme Court’s domain.”³⁰ Finally, the Superior Court concluded that the Commission did not commit an error of law in concluding that Abbott’s complaint failed to state a violation of the State Ethics Code.³¹ This appeal followed.

(9) Because Abbott had no right of appeal from the Commission’s decision under the State Ethics Code, he sought *certiorari* review.³² The purpose of a writ of *certiorari* is “to permit a higher court to review the conduct of a lower tribunal of record.”³³ A writ of *certiorari* is not a substitute for a direct appeal.³⁴ “A *certiorari* proceeding differs fundamentally from an appeal in that the latter brings the case up on its merits while the . . . (former) brings up the record only so that the reviewing court can merely look at the regularity of the proceedings.”³⁵ The record for review

²⁸ *Id.* at *4.

²⁹ *Id.* at *4–5.

³⁰ *Id.* at *5.

³¹ *Id.* at *5–6.

³² 29 *Del. C.* § 5810A (limiting right of appeal to person found to have violated State Ethics Code).

³³ *Christiana Town Ctr., LLC v. New Castle Cnty.*, 2004 WL 2921830, at *2 (Del. Dec.16, 2004) (citing *Shoemaker v. State*, 375 A.2d 431, 436-37 (Del. 1977)).

³⁴ *Black v. New Castle Cnty. Bd. of License*, 117 A.3d 1027, 1030 (Del. 2015).

³⁵ *Shoemaker*, 375 A.2d at 437 (internal quotation marks omitted).

is “limited to the complaint initiating the proceeding, the answer or response (if required), and the docket entries.”³⁶ When reviewing on a writ of *certiorari*, a court is “limited to determining based on that limited record whether the lower tribunal: ‘(i) exceeded its jurisdiction;’ (ii) ‘proceeded illegally or manifestly contrary to law;’ or (iii) ‘proceeded irregularly.’”³⁷

(10) Abbott first argues that the Superior Court erroneously failed to address the declaratory judgment claim alleged in his complaint. Abbott’s declaratory judgment claim asked the Superior Court to declare that the Commission committed legal error by: (i) determining that it could not exercise jurisdiction over Aaronson and the ODC; (ii) determining that Abbott had not stated sufficient facts to support an appearance of impropriety claim; and (iii) issuing an amended decision. But the Superior Court addressed each of those claims of legal error when addressing the substance of the Commission’s decision.³⁸ Separately analyzing Abbott’s declaratory judgment claim would have been duplicative. There is thus no basis for reversal on this issue.

³⁶ *Maddrey v. Justice of Peace Court 13*, 956 A.2d 1204, 1216 (Del. 2008).

³⁷ *Black*, 117 A.3d at 1031 (quoting *Christiana*, 2004 WL 2921830, at *2).

³⁸ *See Abbott*, 2018 WL 1110852, at *4–5 (holding that the Commission correctly determined that it could not exercise jurisdiction over Aaronson and the ODC); *id.* at *5 (holding that the Commission did not err by concluding that Abbott had not sufficiently alleged an appearance of impropriety); *id.* at *3–4 (holding that the Commission was divested of jurisdiction to issue the Amended Decision upon the filing of the Superior Court action).

(11) Abbott next argues that the Commission committed legal error in concluding that it lacked jurisdiction over Aaronson based on her status as an attorney who is subject to this Court’s disciplinary oversight. The Commission argues its exercise of jurisdiction over Aaronson would violate the constitutional doctrine of the separation of powers. It is unnecessary to address this issue because, as discussed below, we find that the Commission did not commit manifest legal error in concluding that Abbot’s complaint failed to state a violation of the State Ethics Code. This Court will not decide a constitutional question unless “its determination is essential to the disposition of the case.”³⁹

(12) Abbott’s last argument on appeal is that the Commission committed legal error in finding he failed to allege adequately that Aaronson violated 29 *Del. C.* § 5806(a). We hold that it was not manifestly contrary to law for the Commission to determine that Abbott’s complaint did not state a violation of the State Ethics Code.

(13) The Commission may “dismiss any complaint that it determines is frivolous or fails to state a violation.”⁴⁰ Under Section 5806(a) of the State Ethics Code, State employees must “endeavor to pursue a course of conduct which will not raise suspicion among the public that such state employee, state officer or honorary

³⁹ *Downs v. Jacobs*, 272 A.2d 706, 708 (Del. 1970).

⁴⁰ 29 *Del. C.* § 5809(3).

state official is engaging in acts which are in violation of the public trust and which will not reflect unfavorably upon the State and its government.” The parties agree that this is an appearance of impropriety standard. The Commission has described the test for an appearance of impropriety as whether “the conduct would create in reasonable minds, with knowledge of all relevant facts, a perception that an official’s ability to carry out her duties with integrity, impartiality and competence is impaired.”⁴¹

(14) Abbott complains that the Commission did not address all of the allegations in his complaint, but in fact the Commission correctly recognized the gravamen of his complaint. Abbott’s logic was stark and went like this. In the years before the Court of Chancery referred Abbott’s conduct in the *Seabreeze* litigation for investigation by the ODC, two previous Chief Disciplinary Counsel had become judges. Aaronson had herself applied for a judicial position. Based on this, Abbott contends that Aaronson had a desire for judicial office. Because the referring Vice Chancellor was a judicial officer, Aaronson would, in Abbott’s view of the world, somehow naturally advantage herself by determining that Abbott had engaged in professionally inappropriate behavior and thus in seeking sanctions against him to be imposed by the Board on Professional Responsibility (“BPR”).

⁴¹ *Hanson v. Del. State Pub. Integrity Comm’n*, 2012 WL 3860732, at *16 (Del. Super. Ct. Aug. 30, 2012), *aff’d*, 69 A.3d 370 (Del. 2013) (TABLE).

(15) In so arguing, Abbott does not allege any facts suggesting that Aaronson had any personal relationship with the Vice Chancellor or any personal motive to disfavor Abbott himself. Likewise, Abbott does not allege that the referring Vice Chancellor had any role at all in the nomination or confirmation process used by the Governor and Senate for the selection and seating of judicial officers. There are approximately sixty judges serving on Delaware courts other than the Justice of the Peace Court. Abbott makes no attempt to show the referring trial judge had any special sway with the Judicial Nominating Commission, the Governor, or the Senate. Nor does Abbott allege that the referring judge had ever involved himself in any judicial appointment process that did not involve his own personal candidacy. In sum, all that Abbott argues is that Aaronson had a desire to become a judge, that each of the five dozen judges in the state have influence over who gets appointed to judicial vacancies, and that she would therefore view a successful prosecution of Abbott as pleasing to the referring judge and thus as advancing her judicial hopes.

(16) The Commission's determination that these allegations do not state a violation of the State Ethics Code was not manifestly contrary to law. For starters, we note that the circumstances of Aaronson's involvement in investigating Abbott are themselves benign. In some situations, the ODC is itself the initiator of an investigation, when it happens upon information that provides a basis to suspect that

a lawyer has violated the Lawyers' Rules of Professional Conduct. Here, however, neither the ODC nor Aaronson was the motivating force in inspiring the ODC's investigation of Abbott. Instead, the ODC received a formal referral from a Vice Chancellor of our Court of Chancery, a referral that was put on the record by the referring judge and that involved facially reasonable grounds for suspecting that Abbott might have breached the Rules of Professional Conduct. The mere fact that the Vice Chancellor made the referral does not imply that he desired any particular outcome in the matter. Judges are supposed to take action when they become aware of a likelihood of unprofessional conduct by a lawyer.⁴² Abbott also ignores another factor. The Vice Chancellor did not sanction Abbott as he could have done if he wished to impose his own ultimate judgment on Abbott's conduct. He instead referred the matter to the ODC so it could investigate and only subject Abbott to sanction if the BPR agreed that sanctions were warranted. And the fact that Aaronson proceeded to investigate also does not imply that she was personally targeting Abbott. As Chief Disciplinary Counsel, Aaronson was required to "screen and evaluate all information coming to the attention of the Office relating to conduct by a lawyer and/or the practice of law in the State of Delaware" and "[i]nvestigate when necessary or appropriate all information coming to the attention of the Office

⁴² Del. Judges' Code of Judicial Conduct R. 2.15 ("A judge should initiate appropriate action when the judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a judge or lawyer.").

which might be grounds for discipline or other action regarding the practice of law in the State of Delaware.”⁴³

(17) Abbott notably does not allege any facts suggesting that Aaronson had a personal bias against Abbott or in favor of the Vice Chancellor that would affect the impartiality of her investigation. He does not allege, for example, that Aaronson sought the assignment of the Vice Chancellor’s referral to herself so she could pursue a matter in which she had a personal interest,⁴⁴ that she had a personal relationship with anyone in the matter,⁴⁵ or that she had any personal interest in the relevant proceedings.⁴⁶ Abbott also ignores the reality that Aaronson represents only one side of the matter, and that the process for attorney discipline has extensive procedural due process protections for parties like him, including the ability to

⁴³ Supr. Ct. R. 64(e)(1), (e)(2).

⁴⁴ See, e.g., *Stevenson v. State*, 782 A.2d 249, 251–57 (Del. 2001) (holding that trial judge’s contact with the murder victim and undisclosed request for assignment of the murder cases to him before indictment created an appearance of impropriety).

⁴⁵ See, e.g., *Wright v. United States*, 732 F.2d 1048, 1055 (2d Cir. 1984) (“We find it hard to deny that the decision, after one grand jury investigation of the BRL transaction had terminated without the prosecutor’s seeking an indictment, to assign Wright’s case for further investigation to a prosecutor whose wife was not merely a political opponent of Wright’s but a lawyer who had on two occasions brought complaints to federal authorities that could have resulted in criminal charges against him, who had actively petitioned various federal, state and local agencies to investigate Wright’s alleged misdeeds, who had allegedly been assaulted by Wright’s minions, and who almost certainly harbored personal animosity against Wright, created an appearance of impropriety.”).

⁴⁶ See, e.g., *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 805–06 (1987) (concluding that appointment of counsel for an interested party to bring a criminal contempt prosecution created an appearance of impropriety); *People v. Zimmer*, 414 N.E.2d 705, 708 (N.Y. 1980) (holding that the prosecutor, who was counsel to and stockholder in the corporation that the defendant was alleged to have harmed should have recused himself).

appeal any determination of the BPR to this Court.⁴⁷ Instead, Abbott relies solely on Aaronson's alleged desire to be a judge.

(18) This Court has rejected the notion that career goals alone create an appearance of impropriety in the context of judicial recusals. In *Capano v. State*, we held that without identification of discrete instances in which the judge's exercise of discretion may have been "motivated by political ambitions," allegations that a judge had plans to run for election as Governor did not create an inference that the judge could not act impartially in a highly publicized trial.⁴⁸ Similarly, the existence of past professional relationships between judges and litigants do not by themselves create an appearance of impropriety.⁴⁹

(19) Ultimately, Abbott's argument proves too much. By his logic, every Delaware prosecutor or regulator who aspires to a higher office (be it as a judge, elected official, or cabinet position) and strives to do a good job would be violating the State Ethics Code by ingratiating themselves with potential sources of referral who have positions of stature in our community. As to ambition for judgeships in particular, Abbott's logic essentially boils down to this: anything someone does that a sitting judge supposedly wants will naturally advantage that person in seeking a

⁴⁷ See, e.g., Del. Lawyers' Rules of Disciplinary Procedure 9(e) (providing for this Court's review of the BPR's final report and any objections by the ODC or respondent).

⁴⁸ 781 A.2d 556, 641-43 (Del. 2001).

⁴⁹ See, e.g., *Madison v. State*, 133 A.3d 200, 2016 WL 363734, at *2 (Del. Jan. 28, 2016) (TABLE) (rejecting the defendant's claim that the trial judge's past supervision of the prosecutor showed bias and created an appearance of impropriety).

judgeship for herself. This is not sensible and ignores how the judicial appointment process in Delaware actually works. A person who seeks a judicial position must run the gantlet of recommendation by the Judicial Nominating Commission, nomination by the Governor, and confirmation by a majority of the Senate.⁵⁰ Sitting judges do not determine judicial appointments, and as we have noted, Abbott does not indicate that the referring trial judge had any special influence over judicial nomination or confirmation or desired any particular outcome with respect to the disciplinary referral.

(20) Abbott's other grounds for asserting a claim under the State Ethics Code do not undermine the Commission's conclusion. Abbott's suggestion that Aaronson must have engaged in improper conduct because the Vice Chancellor's referral failed to identify specific wrongdoing is contradicted by the Court of Chancery's June 10, 2015 referral letter, which was attached to Abbott's complaint. The first sentence of the letter refers to the Court of Chancery's May 21, 2015 bench ruling, in which the Vice Chancellor stated that the issue before him was a sham transfer of property, on the advice of counsel, to avoid a court order.⁵¹

(21) Similarly, Abbott's contention that Aaronson had *ex parte* contact with a member of this Court to obtain confidential Court on the Judiciary documents

⁵⁰ Governor's Executive Order 7 (Mar. 9, 2017); Del. Const. art. IV, § 3.

⁵¹ See *supra* ¶ 4.

requires an inferential leap that is not supported by any facts alleged in the complaint. The only specific fact alleged in the complaint is that the Court on the Judiciary issued an order waiving certain confidentiality restrictions for Court on the Judiciary proceedings.⁵² But the fact that an order was issued does not support a reasonable inference that Aaronson engaged in impermissible *ex parte* communications. The more logical inference here is that Aaronson contacted the Clerk of the Court on the Judiciary to ask for access to the records, the complained-of judicial officer authorized a waiver of confidentiality, the Clerk prepared an appropriate order, and the Court signed the order. Indeed, that is precisely what the order denying Abbott's motion to disqualify describes as having happened.⁵³ Accordingly, it was not manifestly contrary to law for the Commission to conclude that these allegations did not state a violation of the State Ethics Code.

(22) In speculating that there were improper *ex parte* communications, Abbott also ignores that the confidentiality of Court on the Judiciary proceedings may be waived as ordered by the Court "on request of the judicial officer involved."⁵⁴ As this language reflects, the confidentiality of the Court on the

⁵² App. to Opening Br. at A63 ("[T]he first time I was aware of your improper communications . . . was when a surprise Order was issued, which was not preceded by any Motion and opportunity for me to be heard. Such actions smack of improper 'insider' communications and influence that is in and of itself sufficient to make the public suspicious of your motivations and actions.")

⁵³ *Abbott v. Del. State Pub. Integrity Comm'n*, No. 155, 2018 (Order Denying Motion for Recusal) (Del. Feb. 25, 2019).

⁵⁴ Court on the Judiciary R. 17.

Judiciary proceedings is intended to protect a judge,⁵⁵ not a complainant like Abbott. Improper *ex parte* communications, by contrast, involve contact with a judge on substantive matters concerning the merits of an issue pending before the court.⁵⁶ Any communication that was necessary to effect the confidentiality waiver did not relate to a substantive matter concerning the merits of an issue pending in the case.⁵⁷ This further supports the Commission’s conclusion that Abbott’s allegations regarding purported *ex parte* communications do not state a violation of the State Ethics Code.

⁵⁵ *Id.*

⁵⁶ See *Yost v. Johnson*, 591 A.2d 178, 182 (Del. 1991) (“A judge should not engage in a substantive *ex parte* communication concerning the merits of an issue pending before the court.”).

⁵⁷ *E.g.*, *In re Adbox, Inc.*, 2007 WL 816503, at *1 (9th Cir. Mar. 14, 2007) (holding that several *ex parte* contacts between a party’s counsel and the judge and his law clerk did not warrant recusal because the “communications related to purely procedural matters”); *Liberty Mutual Ins. Co. v. Commercial Concrete Sys., LLC*, 2017 WL 1234140, at *5-6 (N.D. Fla. Apr. 1, 2017) (explaining that contact between parties’ counsel and the judge or the judge’s staff for scheduling, administrative, or emergency purposes is unobjectionable, and citing cases); *Eleanora J. Dietlin Trust v. Am. Home Mortgage Inv. Corp.*, 2014 WL 911121, at *2–3 (D. Nev. Mar. 7, 2014) (denying motion for recusal where a non-party interested party communicated with the judge about the status of a settlement of the case, because the contact was for administrative purposes and there was no substantive discussion about the case); *In re Marriage of Herum*, 2018 WL 4635908, at *3 (Ia. Ct. App. Sept. 26, 2018) (concluding that *ex parte* “procedural conferences with court administration concerning scheduling and judicial case assignment” were not improper); *Patterson v. STHS Heart, LLC*, 2018 WL 4091633, at *4 (Tenn. Ct. App. Aug. 28, 2018) (holding that recusal of a judge was not required where the judge’s law clerk contacted the plaintiff’s counsel to request a draft order because the communication did not create an appearance that the court was biased or prejudiced, particularly where the argument for recusal was “based more on insinuation and speculation than on actual facts”); *Costalas v. Amalfitano*, 23 A.D.3d 303, 303–04 (N.Y. App. Div. 2005) (holding that *ex parte* communication by a party’s counsel with the judge did not warrant vacatur of judgment because the court had already decided to dismiss the action when the communication occurred and the communication did not concern the merits of the case).

(23) More fundamentally, the Commission did not commit a manifest error in law in concluding that Abbott’s allegations of *ex parte* communications fail to state a violation because *ex parte* communications in a matter pending before a state tribunal are not the type of misconduct that the State Ethics Code is designed to cover. The State Ethics Code is ultimately about ensuring there is no “violation of the public trust,”⁵⁸ such as when a public official has a specific financial or personal interest in the outcome of the matter.⁵⁹ Allegations of *ex parte* communications between a lawyer and judge, by contrast, are more appropriately resolved through the BPR and the Lawyers’ Rules of Professional Conduct, which contain a rule that specifically prohibits such communications.⁶⁰ Although we do not hold that government lawyers can never run afoul of the State Ethics Code, when that alleged

⁵⁸ 29 Del. C. § 5806(a); see also *id.* § 5802(1) (“In our democratic form of government, the conduct of officers and employees of the State must hold the respect and confidence of the people. They must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.”).

⁵⁹ See, e.g., *Commonwealth v. Eskridge*, 604 A.2d 700, 701–02 (Pa. 1992) (holding that a conflict of interest barred prosecution where the prosecutor “had a direct financial interest in obtaining a conviction” because his private law partners represented individuals suing the defendant in a separate civil action over the events at issue in the prosecution); *Commonwealth v. Balenger*, 704 A.2d 1385, 1389–90 (Pa. Super. Ct. 1997) (holding that the prosecutor’s romantic relationship with the defendant’s former girlfriend created an impermissible conflict of interest that required a new trial).

⁶⁰ Del. Lawyers’ Rules of Professional Conduct R. 3.5(b) (“A lawyer shall not . . . communicate . . . *ex parte* with [a judge, juror, prospective juror, or other official or member of such person’s family] during the proceeding unless authorized to do so by law or court order . . .”). See, e.g., *La. State Bar Ass’n v. Harrington*, 585 So.2d 514, 520–22 (La. 1990) (resolving allegations of *ex parte* communications between a lawyer and judge under the Louisiana Rules of Professional Conduct); *In re Disciplinary Proceedings Against McGrath*, 308 P.3d 615, 624 (Wash. 2013) (same under the Washington Rules of Professional Conduct).

misconduct of a state employee directly relates to the way that a lawyer has conducted herself before a tribunal, the standard governing the lawyer’s conduct is likely to instead be supplied by the Lawyers’ Rules of Professional Conduct, and any violation of those rules should be addressed by that tribunal or the BPR.

(24) Abbott’s last allegation against Aaronson is that she moved to compel the production of documents from him that he claims are subject to the attorney–client privilege—namely, client correspondence and communications related to the transfer of Abbott’s client’s properties to his wife.⁶¹ In the normal course, Abbott would have just objected to the BPR and sought to block the discovery. As with his *ex parte* communications claim, it was not manifestly contrary to law for the Commission to conclude that this type of conduct is not what the State Ethics Code is designed to address. Regulation of that type of misconduct falls squarely within the jurisdiction of the tribunal before which the parties are appearing and, ultimately, this Court’s “inherent and exclusive authority to discipline members of the Delaware Bar” for violations of the Rules of Professional Conduct.⁶² As the Commission recognized, if Abbott opposed the motion to compel or thought Aaronson should be

⁶¹ See App. to Opening Br. at A-41 (requesting “all documents that evidence, relate or refer to client correspondence and/or communications involving the transfer of 317 Salisbury Street and 318 Salisbury Street, Rehoboth, Delaware”).

⁶² *E.g.*, *In re Abbott*, 925 A.2d 482, 484 (Del. 2007) (quoting *In re Froelich*, 838 A.2d 1117, 1120 (Del. 2003)); accord *In re Pelletier*, 84 A.3d 960, 962 (Del. 2014).

disqualified, he had recourse in the BPR.⁶³ Moreover, disputes over whether documents are protected by the attorney–client privilege are common in litigation and do not inherently bring into question a lawyer’s integrity, impartiality, or competence.

(25) Underlying all of Abbott’s complaint is his belief that he should not be under disciplinary investigation, and that the person charged with that task should be disqualified for performing it. But Delaware law is clear that motions to disqualify an adversary are not to be lightly granted, as they present an obvious potential for abuse.⁶⁴ No litigant likes to be subject to a claim, but that does not justify disqualifying the attorney on the other side of the “v.” And our law makes plain that even if the lawyer on the other side engages in problematic behavior, the complaining party should first undertake lesser steps, such as those we have discussed, to address that behavior, and not take the stark step of seeking disqualification. Those principles further underscore that the Commission did not

⁶³ Del. Lawyers’ Rules of Disciplinary Procedure R. 12(f) (“Disputes concerning the scope and other aspects of the limited discovery afforded under these Rules shall be heard and determined by the Chair or Vice Chair of the Board, unless a Hearing Panel has been assigned to the matter, in which case such disputes shall be heard and determined by the chair of the Hearing Panel.”).

⁶⁴ See, e.g., *Dunlap v. State Farm Fire & Ins. Cas. Co.*, 950 A.2d 658, 2008 WL 2415043, at *1 (Del. 2008) (TABLE) (recognizing that motions to disqualify opposing counsel are generally disfavored); *In re Waters*, 647 A.2d 1091, 1095 (Del. 1994) (discussing the risk of tactical abuse posed by motions to disqualify); *Seth v. State*, 592 A.2d 436, 443 (Del. 1991) (“The Rules [of Professional Conduct] may not be used for tactical purposes to disqualify prosecutors where no realistic likelihood of conflict appears.”).

commit a manifest error of law in concluding that the gravamen of Abbott’s complaint does not state a well-pleaded claim of bias or appearance of impropriety.⁶⁵

(26) Not only was it not a manifest error of law for the Commission to conclude that this type of litigation-specific conduct by a lawyer did not violate the State Ethics Code, but the Commission was also well within its discretion in declining to use its limited enforcement resources to address conduct that was already subject to review of the tribunal in which the conduct occurred, and also by the BPR if that conduct was made the subject of a complaint to that body. By statute, the Commission is entitled to “dismiss any complaint *that it determines* is frivolous or fails to state a violation.”⁶⁶ The General Assembly’s decision to allow the Commission to dismiss not only a complaint that “fails to state a violation,” but also a complaint that the Commission “*determines* is frivolous or fails to state a violation,”⁶⁷ suggests that the General Assembly intended to imbue the Commission with discretion in deciding whether to refer an alleged violation for further investigation. Indeed, that is consistent with the traditional maxim that “an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion.”⁶⁸ In essence, the

⁶⁵ See, e.g., *Gattis v. State*, 955 A.2d 1276, 1284 (Del. 2008) (recognizing that a judge’s adverse rulings or critical remarks do not ordinarily support a bias or appearance of impropriety claim).

⁶⁶ 29 Del. C. § 5809(3) (emphasis added).

⁶⁷ *Id.* (emphasis added).

⁶⁸ E.g., *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

Commission’s decision in this case was a decision not to pursue enforcement action. As the United States Supreme Court has recognized, such a decision “often involves a complicated balancing of a number of factors,” including not only “whether a violation has occurred, but whether agency resources are best spent on this violation or another, whether the agency is likely to succeed if it acts, whether the particular enforcement action requested best fits the agency’s overall policies, and, indeed, whether the agency has enough resources to undertake the action at all.”⁶⁹ Here, the Commission’s decision reflects a consideration of those factors, including a desire not to bring enforcement actions related to “attorney conduct *as it relates to the practice of law*.”⁷⁰ The Commission reasoned that such an enforcement action was unnecessary in part because “courts are willing to enforce those rules, including conduct which creates an appearance of impropriety, as alleged in this matter.”⁷¹

(27) Stripped of its colorful adjectives, Abbott’s complaint in the Commission essentially alleged that Aaronson had future career goals while performing her job as Chief Disciplinary Counsel. Recognizing the gravamen of Abbott’s complaint, the Commission determined that he failed to allege any facts supporting a public perception of impropriety by Aaronson. Under these circumstances, the Commission did not commit a manifest error of law when it found

⁶⁹ *Id.*

⁷⁰ App. to Opening Br. at A-47 (emphasis in original).

⁷¹ *Id.*

Abbott failed to state a violation of the State Ethics Code, and it acted within its discretion in dismissing his complaint.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is hereby AFFIRMED.

APPENDIX T

UPGRADE

CREATE SURVEY

DelPIC

Get deeper analysis with crosstabs, SPSS & XLS exports, and stat testing. [See plans and features »](#)

Lobbyist ID Badge



SUMMARY → DESIGN SURVEY → PREVIEW & SCORE → COLLECT RESPONSES → **ANALYZE RESULTS** → PRESENT RESULTS NEW!

CURRENT VIEW

+ FILTER + COMPARE + SHOW

No rules applied

Rules allow you to **FILTER**, **COMPARE** and **SHOW** results to see trends and patterns.

[Learn more »](#)

SAVED VIEWS (1)

EXPORTS

PAID FEATURE

Export your survey data in .PDF, .XLS, .CSV, .PPTX, or SPSS format.

UPGRADE

[Learn more »](#)

SHARED DATA



MAXIMUM RESPONSE LIMIT You have reached your limit of 100 survey responses. To see all 125 responses, upgrade to a paid plan.

U

RESPONDENTS: 125 of 125

QUESTION SUMMARIES

DATA TRENDS

INDIVIDUAL RESPONSES

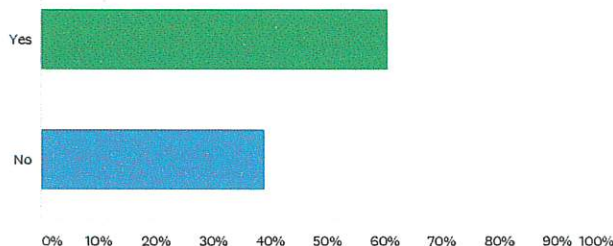
Page 1

Q1

Do you have a lobbyist ID badge?

Customize

Answered: 99 Skipped: 26



ANSWER CHOICES

Yes

No

TOTAL

RESPONSES

60.61%

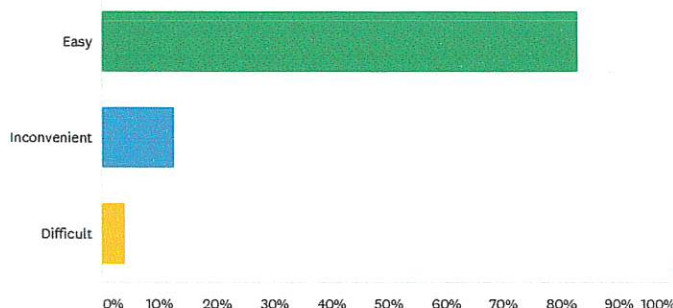
39.39%

Q2

The process to obtain my ID badge was:

Customize

Answered: 70 Skipped: 55



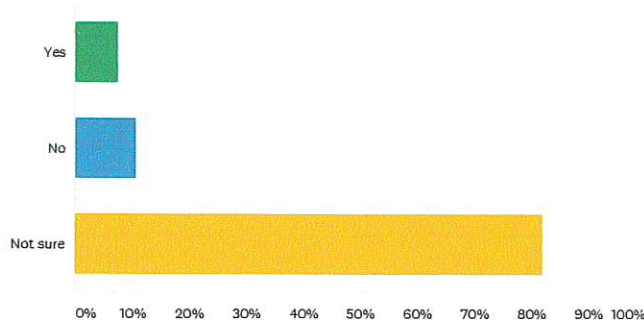
ANSWER CHOICES	RESPONSES
Easy	82.86%
Inconvenient	12.86%
Difficult	4.29%
TOTAL	

Q3

[Customize](#)

Do you think that the current method for obtaining your lobbyist ID b is/has been subject to abuse by non-lobbyists?

Answered: 94 Skipped: 31



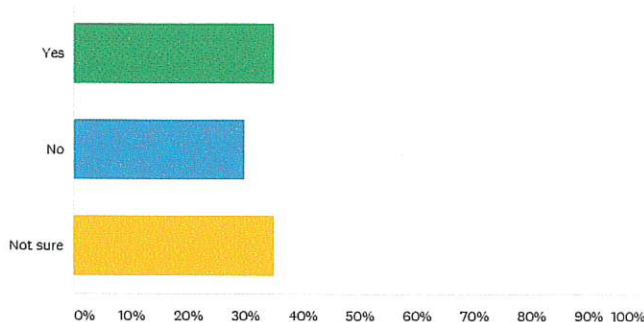
ANSWER CHOICES	RESPONSES
Yes	7.45%
No	10.64%
Not sure	81.91%
TOTAL	

Q4

[Customize](#)

Do you think the lobbyist ID badge should have an expiration date?

Answered: 97 Skipped: 28



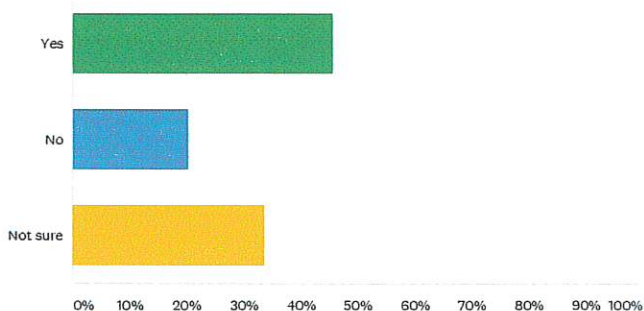
ANSWER CHOICES	RESPONSES
Yes	35.05%
No	29.90%
Not sure	35.05%
TOTAL	

Q5

Customize

Would you be in favor of a lobbyist ID badge that would be instantly recognizable as current by changing the color of the badge at the beg of each calendar year?

Answered: 98 Skipped: 27



ANSWER CHOICES

RESPONSES

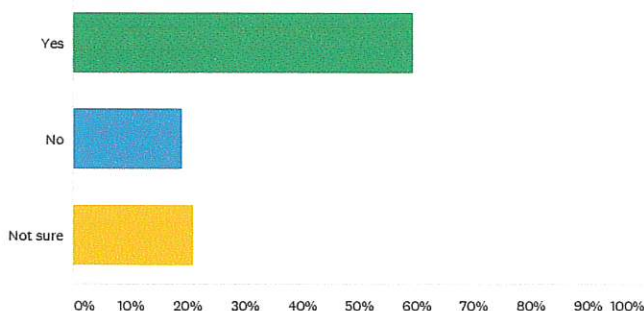
Yes	45.92%
No	20.41%
Not sure	33.67%
TOTAL	

Q6

Customize

Do you think lobbyists who have continuously lobbied for more than 7 years should qualify for a lobbyist ID badge that does not expire?

Answered: 99 Skipped: 26



ANSWER CHOICES

RESPONSES

Yes	59.60%
No	19.19%
Not sure	21.21%
TOTAL	