

SCSL Digital Collections

State Ethics Commission 29th ANNUAL REPORT

Item Type	Text
Publisher	South Carolina State Library
Rights	Copyright status undetermined. For more information contact, South Carolina State Library, 1500 Senate Street, Columbia, South Carolina 29201.
Download date	2024-09-13 15:59:25
Link to Item	http://hdl.handle.net/10827/18761



SOUTH CAROLINA



State Ethics Commission

29th ANNUAL REPORT

TO THE

GOVERNOR

AND THE HONORABLE MEMBERS OF THE
GENERAL ASSEMBLY OF SOUTH CAROLINA

for

FISCAL YEAR 2005

www.state.sc.us/ethics

October 10, 2006

TO HIS EXCELLENCY THE GOVERNOR AND THE HONORABLE MEMBERS OF
THE GENERAL ASSEMBLY OF SOUTH CAROLINA.

We have the honor to transmit the Twenty-Ninth Annual Report of the State
Ethics Commission for the fiscal year 2005, in accordance with the provisions of Section
8-13-340, Code of Laws for South Carolina, 1976, as amended.

Respectfully submitted,

Gregory P. Harris, Chairman
Kenneth C. Krawcheck, Vice-Chairman
Marvin D. Infinger
Edward E. Duryea
Pricilla L. Tanner
Pete C. Diamaduros
John Lewis Cannon
Flynn T. Harrell
Herbert R. Hayden, Jr.,
Executive Director

Requirements of Statute

SECTION 8-13-340. Annual report of Commission.

The State Ethics Commission at the close of each fiscal year shall report to the General Assembly and the Governor concerning the action it has taken, the names, salaries, and duties of all persons in its employ, and the money it has disbursed and shall make other reports on matters within its jurisdiction and recommendations for further legislation as may appear desirable.

Rules of Conduct for Public Employees

All public employees, public officeholders, and public members are expected to adhere to and follow the rules of conduct as outlined in the Ethics Reform Act. Anyone who is found guilty of violating these rules is subject to prosecution by the State Ethics Commission and the Attorney General's Office.

A public official, public member, or public employee may not knowingly use his official office, membership, or employment or develop, participate in developing or attempt to use his office, membership, or employment to influence a government decision to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

A person may not directly or indirectly give, offer, or promise anything of value to a public official, public member, or public employee with intent to influence the public official's, public member's, or public employee's official responsibilities, nor is the public official, public member, or public employee to ask, demand, solicit, or accept anything of value for himself or for another person in return for fulfilling his official responsibilities or duties.

A public official, public member, or public employee may not receive anything of value for speaking before a public or private group in his/her official capacity. A meal can be accepted if provided in conjunction with the speaking engagement where all participants are entitled to the same meal and the meal is incidental to the speaking engagement. A public official, public member or public employee may receive payment or reimbursement for actual expenses incurred.

Public officials, public members, or public employees may not receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

No public official, public member, or public employee may disclose confidential information gained as a result of his responsibility as a public official, public member, or public employee that would affect an economic interest held by himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

No person may serve as a member of a governmental regulatory agency that regulates any business with which that person is associated.

No person shall serve on the governing body of a state; county; municipal; or political subdivision, board, or commission and serve in a position of the same governing body which makes decisions affecting his economic interests.

A public official occupying a statewide office, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated may not knowingly represent another person before a governmental entity.

No member of the General Assembly or an individual with whom he is associated or business with which he is associated may represent a client for a fee in a contested case before an agency, a commission, board, department, or other entity if the member of the General Assembly has voted in the election, appointment, recommendation, or confirmation of a member of the governing body of the agency, board, department, or other entity within the 12 preceding months.

A public member occupying statewide office, an individual with whom associated, or a business with which associated may not knowingly represent a person before the same unit or division of the governmental entity for which the public member has official responsibility.

A public official, public member, or public employee of a county or municipality, an individual with whom associated, or a business with which associated may not knowingly represent a person before any agency, unit, or subunit of that county or municipality.

A public employee, other than of a county or municipality, an individual with whom associated, or a business with which associated may not knowingly represent a person before an entity of the same level of government for which the public employee has official responsibility.

No public official, public member, or public employee may cause the employment, appointment, promotion, transfer, or advancement of a family member to a state or local office or position in which the public official, public member, or public employee supervises or manages. A public official, public member, or public employee may not participate in an action relating to the discipline of the public official's, public member's or public employee's family member.

A former public official, former public member, or former public employee holding office, membership, or employment may not serve as a lobbyist or represent clients before the agency or department on which the public official, public member, or public employee formerly served in a matter in which he directly and substantially participated for one year after terminating his public service or employment.

It is a breach of ethical standards for a public official, public member, or public employee who participates directly in procurement to resign and accept employment with a person contracting with the governmental body if the contract falls or would fall under the public official's, public member's, or public employee's official responsibility.

No person may use government personnel, equipment, materials, or an office building in an election campaign. A person may use public facilities for a campaign purposes if they are available on similar terms to all candidates and committees. Likewise, government personnel may participate in election campaign on their own time and on non-government premises.

A public official, public member, or public employee may not have an economic interest in a contract with the state or its political subdivisions if the public official, public member, or public employee is authorized to perform an official function (including writing or preparing the contract, accepting bids, and awarding of the contracts) relating to the contract.

NOTE: The above information is intended as an overview of the law. It is not intended to be read as a substitute for the statutes themselves. Should an individual have a question involving his/her own activities, he/she should review the statutes, or contact the Commission. Appropriate instructions, documents or forms will be provided upon request.

TABLE OF CONTENTS

State Ethics Commissioners	7
Staff Members.....	8
Organizational Chart	9
SECTION I- Executive Summary	10-12
SECTION II - Business Overview.....	13-17
SECTION III - Elements of Malcom Baldrige Award Criteria	18-45
Appendix A - Advisory Opinions.....	46
Appendix B - Complaints Resolved.....	47-48
Index of Advisory Opinions by Title	49
Index of Advisory Opinions by Subject.....	50
Index of Advisory Opinions by Code Section	51

**State of South Carolina
State Ethics Commission
5000 Thurmond Mall, Suite 250
Columbia, SC 29201**

**(803) 253-4192 Office
(803) 253-7539 Fax**

<http://www.state.sc.us/ethics/index.htm>

STATE ETHICS COMMISSIONERS FOR FY 2005

GREGORY P. HARRIS, CHAIRMAN

Member at Large
Term expires June 30, 2005

KENNETH C. KRAWCHECK, Vice-Chairman

Member at Large
Term expires August 30, 2006

MARVIN INFINGER

Term expires June 30, 2008
First District
Representing: Berkeley, Dorchester, Horry, and Georgetown Counties

EDWARD DURYEA

Second District
Term expires May 31, 2010
Representing: Aiken, Allendale, Barnwell, Beaufort, Calhoun, Colleton, Hampton, Lexington, Orangeburg, & Richland Counties

JOHN LEWIS CANNON

Third District
Term expires June 30, 2008
Representing: Abbeville, Aiken, Anderson, Edgefield, Greenwood, Laurens, Oconee, Pickens, & Saluda Counties

PETE C. DIAMADUROS

Fourth District
Term expires May 31, 2005
Representing: Greenville, Laurens, Spartanburg, & Union Counties

VACANT

Fifth District
Representing: Cherokee, Chester, Chesterfield, Darlington, Dillon, Fairfield, Lancaster, Lee, Marlboro, Newberry, Sumter & York Counties

PRISCILLA L. TANNER

Sixth District
Term expires June 30, 2008
Representing: Bamberg, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Darlington, Dorchester, Florence, Lee, Marion, Orangeburg, Richland, Sumter, & Williamsburg

FLYNN T. HARRELL

Member at Large
Term expires June 30, 2005

STAFF MEMBERS

HERBERT R. HAYDEN, JR.
EXECUTIVE DIRECTOR

CATHY L. HAZELWOOD
ASSISTANT DIRECTOR/GENERAL COUNSEL

TERRI W. CONNOR
ADMINISTRATIVE ASSISTANT

AMI R. FRANKLIN
EXECUTIVE ASSISTANT

MARJORIE A. DELEE
HUMAN RESOURCE MANAGER

SANDRA MCCLELLAN
DATA COORDINATOR

CHRISTINE LEBEOUF
ADMINISTRATIVE ASSISTANT

MAVIN S. LAIL
Administrative Assistant

DONALD M. LUNDGREN
CHIEF INVESTIGATOR

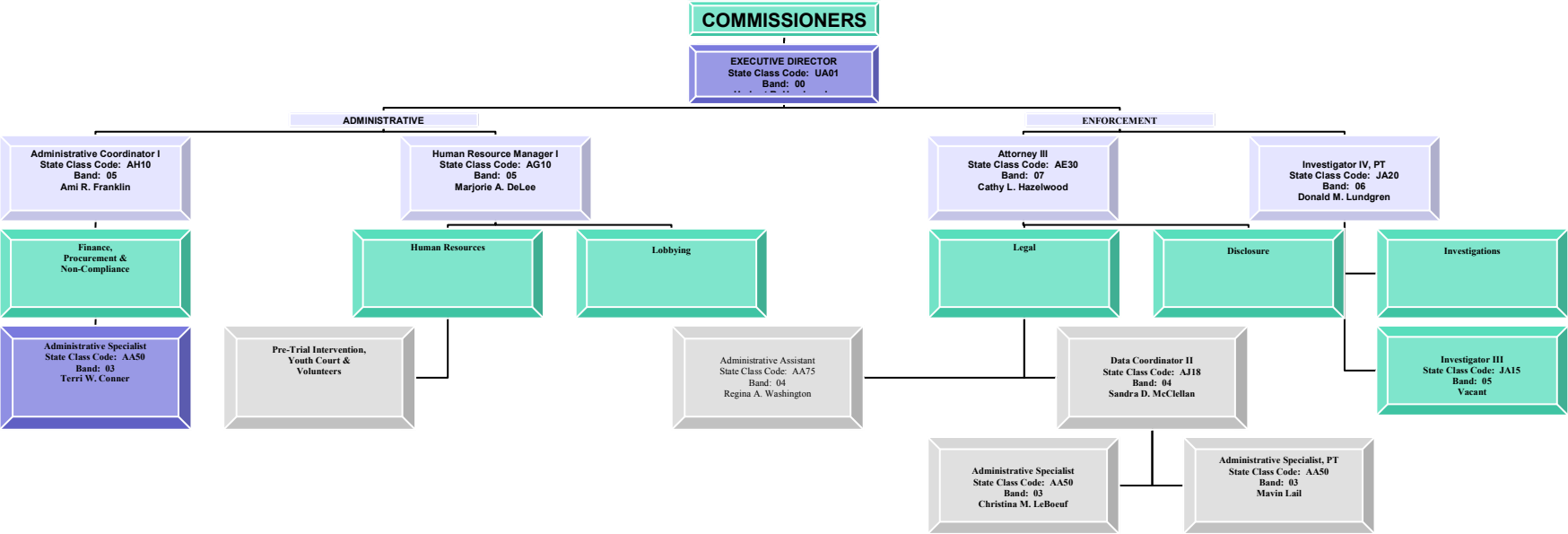
REGINA A. WASHINGTON
ADMINISTRATIVE ASSISTANT

Legal Counsel

Legal Counsel is provided to the State Ethics Commission by Attorney General and by Assistant Attorney General who he designates. Assistant Attorney General C. Havird Jones, Jr. is presently assigned to the State Ethics Commission

STATE ETHICS COMMISSION

ORGANIZATIONAL CHART



SECTION I - EXECUTIVE SUMMARY

The General Assembly established the State Ethics Commission's mandate to restore public trust in governmental institutions and the political and governmental processes. The State Ethics Commission's mission is established by the statutory provisions of the Ethics Reform Act of 1991, Sections 2-17-5, et. seq., and 8-13-100, et. seq., Code of Laws for South Carolina, 1976, as amended. The State Ethics Commission has one program, Administration. This program encompasses four distinct areas of responsibility of the Ethics, Government Accountability and Campaign Reform Act of 1991: lobbying registration and disclosure; ethical rules of conduct; financial disclosure; and campaign practices and disclosure.

1. Mission and Values

The State Ethics Commission is an agency of state government responsible for the enforcement of the Ethics Reform Act of 1991 to restore public trust in government. The mission of the State Ethics Commission is to carry out this mandate by ensuring compliance with the state's laws on financial disclosure, lobbyist/lobbyist's principal disclosure and campaign disclosure; regulating lobbyists and lobbying organizations; issuing advisory opinions interpreting the statute; educating public officeholders and the public on the requirements of the state's ethics laws; conducting criminal and administrative investigations of violations of the state's ethics laws; and prosecuting violators either administratively or criminally.

2. Major Achievement from Past Year

The major achievement from the past year was the appropriation of funds to

implement an electronic filing system for campaign finance reporting. In addition, staff continues to upgrade the Commission's web-site to include information on resolved complaints, advisory opinions, lobbyist/lobbyist's principal lists and the availability of all Commission forms online. The ability of filers to download and print Commission forms and lists has been both a time-saver for staff and a cost-saver to the Commission.

3. Key Strategic Goals for Present and Future Years

A continued key strategic goal is the electronic filing system. The Commission finally received the funding and will now oversee a two part system: an immediate stop-gap measure for the 2006 statewide elections and the final system for all filers. Although the legislative mandate requires electronic filing system for campaign finance reports, the Commission goal is to develop a system that would enable public officials, candidates, public employees and lobbyists/lobbyist's principals to file registration and disclosure reports on line. A second strategic goal is the cross training of personnel to ensure smooth transitions in the event of promotions, retirement or turnover.

4. Opportunities and Barriers that may Affect our Success in Fulfilling our Mission and Achieving Goals

Enforcement of the very complex Ethics Reform Act is one of the major challenges before the State Ethics Commission. Citizens' and state agencies' concern with public corruption and violations of the state's ethics laws have caused increased investigative and non-compliance caseloads. The Commission's mandate requires close analysis of critical issues of which the outcomes have significant impacts on the lives of the affected individuals, to include criminal prosecution. This mandate coupled with personnel and equipment needs, and limited funds, are major barriers to the fulfillment of the agency's mission and goals. The Commission must ensure that the

latest technological advances are taken into account to balance the technology versus personnel scale. An information management system, to include electronic filing of campaign, financial, and lobbyist/lobbyist's principal disclosure, is another of the major challenges.

5. How the accountability report is used to improve organizational performance?

The accountability report provides staff an opportunity to review past performance over the course of several years' reports. Determining whether staff is on target for auditing the many, many forms received is vital for improving organizational performance.

SECTION II - BUSINESS OVERVIEW

The State Ethics Commission is composed of nine private citizens who are appointed by the Governor with the advice and consent of the General Assembly. The Commission sets the policy; recommends legislative changes to the statute; issues formal advisory opinions; and conducts hearings into complaint matters. The Commission has a nine member staff (8 FTEs, 2 PTEs).

The Executive Director is responsible for directing the operational and administrative management of the agency and providing oversight to investigations, and other activities of an extremely sensitive nature. The Executive Director reports directly to the State Ethics Commission. No other position reports to the Commission. The Executive Director advises the Commission regarding administrative and law enforcement matters. As necessary or upon request, he provides members of the General Assembly with information pertinent to matters before that body. He informs the Attorney General about matters of significant interest to the state's chief prosecutor. The Executive Director maintains contact with major components of the state criminal justice system such as SLED and circuit solicitors to assist in providing a coordinated investigation of matters of mutual interest.

The Commission's Assistant Director/General Counsel provides legal counsel to the Commission and agency staff; prosecutes complaint matters and administrative violations of the state's ethics laws before a Commission hearing panel; represents the Commission in both state and federal courts; researches and prepares advisory opinions; and acts as liaison with the Attorney General's office for criminal prosecution of violations, as needed. The Assistant Director/General Counsel also oversees the

Disclosure Section. Under limited supervision, the Assistant Director/General Counsel plans, organizes, and directs statewide activities of the administrative and investigative operations of the agency; directs activities relating to the enforcement of the Ethics Reform Act; ensures compliance with all disclosure requirements; and assumes responsibilities of Executive Director in his absence.

The Chief Investigator, presently a part-time position, assists the Executive Director in planning, organizing, and directing the enforcement of investigative and non-compliance activities; and conducts criminal and sensitive administrative investigations of violations of the state's ethics laws.

The Administrative Coordinator/Executive Assistant to the Director provides administrative support to the Executive Director; directs the agency-wide fiscal program, and supervises the agency budgetary process; directs the agency procurement operation; and supervises the non-compliance program.

The Human Resource Manager directs the agency personnel and payroll operations; manages employee participation in the state benefits program, and personal development training; supervises the lobbyists/lobbyist's principal program; and maintains the agency web site.

The Data Coordinator supervises the receipt, audit, scanning, and maintenance of all financial and campaign disclosure documents; responds to public and agency requests for documents; and refers non-compliance matters to the Administrative Coordinator.

The Commission has only one location at 5000 Thurmond Mall, Suite 250, Columbia. The Commission's customers include public officials, public members, public

employees, candidates and political committees, other state and local agencies, the citizens of South Carolina, and the media. Beyond the computer support and services provided by the Office of Information Resources and a private vendor, the Commission does not have key suppliers. All other services and supplies are obtained through the bid process. The Commission is in the business of processing information received by lobbyists/lobbyist's principals; public officials, public members and public employees; and candidates and political committees and ensuring compliance with the Ethics Reform Act.

**Accountability Report Appropriations/Expenditures Chart Example
Base Budget Expenditures and Appropriations**

Major Budget Categories	03-04 Actual Expenditures		04-05 Actual Expenditures		05-06 Appropriations Act	
	Total Funds	General Funds	Total Funds	General Funds	Total Funds	General Funds
Personal Service	\$303,467.85	\$303,467.85	\$312,478.73	\$312,478.73	\$281,123.00	\$281,123.00
Other Operating	\$141,458.18	\$	\$108,807.93	\$108,807.93	\$100,000.00	\$100,000.00
Special Items	\$	\$	\$	\$	\$318,000.00	\$318,000.00
Permanent Improvements	\$	\$	\$	\$	\$	\$
Case Services	\$	\$	\$	\$	\$	\$
Distributions to Subdivisions	\$	\$	\$	\$	\$	\$
Fringe Benefits	\$78,915.41	\$78,915.41	\$130,895.24	\$130,895.24	\$75,733.00	\$75,733.00
Non-recurring	\$	\$	\$	\$	\$	\$
Total	\$523,841.44	\$382,383.26	\$552,181.90	\$552,181.90	\$774,856.00	\$774,856.00

Other Expenditures

Sources of Funds	03-04 Actual Expenditures	04-05 Actual Expenditures
Supplemental Bills	\$	\$
Capital Reserve Funds	\$	\$
Bonds	\$	\$

Major Program Areas

Program Number And Title	Major Program Area Purpose (Brief)	FY 03-04 Budget Expenditures	FY 04-05 Budget Expenditures	Key Cross References for Financial Results*
01000000 Administration	This program encompasses four distinct areas of responsibility of the Act: lobbying registration and disclosure; ethical rules of conduct; financial disclosure; and campaign practices and disclosure.	State: 303,467.85 Federal: Other: 141,458.18 Total: 444,926.03 % of Total Budget: 100%	State: 352,985.00 Federal: Other: 126,804.00 Total: 479,789.00 % of Total Budget: 100%	Chart 7.3-1

Below: List any programs not included above and show the remainder of expenditures by source of funds.

Remainder of Expenditures:	State: Federal: Other: Total: % of Total Budget:	State: Federal: Other: Total: % of Total Budget:
-----------------------------------	---	---

* Key Cross-References are a link to the Category 7 - Business Results. These References provide a Chart number that is included in the 7th section of this document.

SECTION III - ELEMENTS OF MALCOLM BALDRIGE AWARD CRITERIA

Category I - Leadership

The State Ethics Commission is a very small state agency with a staff of nine people (eight FTEs and two PTEs). Every employee appears on the organizational chart, as do the volunteers. No layers of managers, supervisors, deputies, etc. exist between the Commission's senior leader, the Executive Director, and the Commission staff. The Executive Director speaks to each employee everyday. The Executive Director discusses short term expectations at monthly staff meetings. The Executive Director reviews leave requests, determines the audit status of all forms and updates staff on matters of interest. Of particular interest this year as in years past was the budget shortfall. The Executive Director communicated regularly with staff about the budget and also continued to seek staff input on cost-saving strategies.

Long term performance expectations and directions are communicated at annual staff reviews conducted each September. This one month review period allows the Executive Director to plan merit raises and revise employee responsibilities as needed. During annual reviews employee performance expectations are discussed and set. Organizational values are discussed with new hires after a new employee reviews the Commission's Administrative Policies and Procedure Manual. All employees are required to stay up to date on changes in the manual.

The Executive Director is always prepared to listen to staff's suggestion on ways to improve a process for both the customer and the employee. Due to the size of the Commission, the Executive Director is not removed from the "front line". All staff members have audited forms during the dead-line rush. All members of staff have filled

“Requests for Documents” requests. Staff, like various customers, often make suggestions that they believe would improve the process; however, many processes must be complied with because they are mandated in the Ethics Reform Act.

In the past training sessions and seminars were available to all employees; however, in January 2001, the Commission froze the training budget as a result of anticipated midyear budget cuts. Only essential training is taken by staff. The Executive Director continued to participate in agency head training throughout the year. In addition, the Executive Director and the Investigator are certified law enforcement officers and they must participate in regular training sessions to maintain their certification. This training is provided by the Criminal Justice Academy at no charge to agencies. General Counsel participates in a minimum of 14 hours of continuing legal education training each year; however, the Commission does not pay for this training. The Commission takes advantage of any free training that would be helpful to staff.

As the state agency that enforces the Ethics Reform Act, both the Executive Director and staff model ethical behavior. Commission members recuse themselves and leave the room when even a potential, not actual, conflict exists. Policies and procedures are in place for the use of Commission equipment and supplies and subsequent reimbursement.

Staff is well aware of who the Commission’s customers are as each employee interacts with customers everyday, whether on the phone or in person. The Commission’s customers include the citizens of South Carolina, public officials, public members, public employees, candidates for public office, committees, lobbyists and lobbyist’s principals, all state agency heads, the Governor’s Office, and the media.

Staff is courteous and knowledgeable in responding to the Commission's customers. Staff, to include the Executive Director, has an open-door policy for walk-in customers.

The Executive Director is the Commission's chief financial officer and chief procurement officer and thus has sole oversight of fiscal matters. General Counsel reports directly to the Executive Director and all legal matters regarding the representation of the Commission are discussed with the Executive Director. The size of the agency provides no isolation of the Executive Director from day-to-day activities of the Commission.

The Executive Director receives and reviews a monthly compliance report which is a compilation of key performance measures which include the number of forms received; the number of complaints received; the number of complaints resolved; the number of both formal and informal opinions issued; and the amount of money received, to include late-filing penalties, complaint fines, administrative fees and lobbyist's/lobbyists' principals registration fees. This same information from the previous fiscal year is also provided on the compliance report for comparison.

The Commission does not normally address the current and potential impact of the Ethics Reform Act on the public, since the Commission is mandated to enforce the Act as written. Services are provided within the confines of the Act. If the General Assembly amends the Act, then the Commission must enforce it notwithstanding the impact, either negative or positive. The Commission must submit fiscal impact statements with proposed amendments.

Staff is encouraged to participate in community service projects. The Commission had approximately 90% participation in the United Way campaign and the

Good Health Appeal. Various members of staff also participated in Buck-A-Cup, Ask-a-Lawyer, the Salvation Army Red Kettle Campaign, Meals on Wheels and regular blood donations to the American Red Cross. In addition, many staff members are actively involved in their churches and their churches community outreach programs.

Category 2 - Strategic Planning

The Executive Director, with staff input and some input from Commission members, is the sole participant in the strategic planning process. As noted, staff input is welcomed and the Executive Director formulates the strategic plan after reviewing input and process results from the previous year. The Commission is forced to conform any strategic planning to its small budget and its small staff. Customer needs and expectations are reviewed in line with the requirements of the Ethics Reform Act. Due to the Commission's limited budget, financial considerations are always present in the strategic planning process, as are the human resource capabilities and needs and the operational capabilities and needs.

Of the two strategic goals in place, the electronic filing system action plan remains in place. Monetary resources were expended in contracting with CIO for a virtual CIO and a significant amount of staff time was devoted to working with CIO in reviewing systems. The cross training continues. The cross training requires significant amounts of staff time but not of other resources. In presenting the Commission's budget to the General Assembly, the Commission communicated and deployed its key strategic goal for an electronic filing system which was finally funded. As for the second key strategic goal of cross training employees, staff meetings and one on one meetings between the Executive Director and staff are the means used to communicate and deploy its key strategic goal.

The key action plan is to work with CIO and vendors to develop and implement the electronic filing system. Our previous accountability reports appear in our Annual Report which can be found on our web page. The report includes our strategic

objections, action plans and performance measures.

Strategic Planning

Program Number and Title	Supported Agency Strategic Planning Goal/Objective	Related FY 04-05 Key Agency Action Plan/Initiative(s)	Key Cross References for Performance Measures*
01000000 Administrative	The most important strategic goal is implementing an electronic filing system.	In FY04-05 the Commission included in its budget request, for the seventh straight year, an appropriation of funds for an electronic filing system. The funds were finally appropriated.	Chart 7.3-1

Key Cross-References are a link to the Category 7 - Business Results. These References provide a Chart number that is included in the 7th section of this document.

Category 3 - Customer Focus

Key customers and stakeholders of the State Ethics Commission are complainants and respondents; filers of forms; reviewers of forms; public officials, public members and public employees; candidates and committees; the citizens of South Carolina; training participants; and opinion requesters. The largest percentage of the Commission's customers is determined by the Ethics Reform Act and it is the Act that determines each customer's requirements.

The Commission is constrained in keeping its listening and learning methods current with changing customer needs by two major factors: the Ethics Reform Act itself and the Commission's budget. Clearly the trend in disclosure, to include financial, campaign and lobbyist/lobbyist's principal, is for the electronic filing of this information. The trend for making this information available to the public is also to provide it electronically; however, until such time as the Commission has a fully developed and implemented electronic filing system, the Commission will not keep current with changing customer needs. According to information provided by the Center for Governmental Studies of Los Angeles, South Carolina is one of only four states which does not provide some form of electronic filing or viewing.

Due to budget constraints only two key customer groups were regularly surveyed in FY2005: training participants and citizens coming to the Commission's office to review documents. When the Commission conducts its standard training, a training survey is provided to the participants to complete. In other training situations, staff is part of a program wherein survey results are compiled at the conclusion of the entire program and staff is notified of the results at a later date. A review of the Commission's

training survey results found that approximately 82% of responders found the training to be good or excellent; however, 18% found it to be poor and unresponsive to their expectations. Citizens who are inclined to complete a survey are unanimous in their satisfaction. By statute, our top two key customers are parties to complaints and filers of forms. Staff has not yet developed either a cost effective or reliable surveying technique for either group.

Category 4 – Information, Analysis and Knowledge Management

It is the Commission's belief that what gets measured is what gets done in an organization. The Commission measures the number of forms received; the number of complaints received; the number of complaints resolved; the number of both formal and informal opinions issued; and the amount of money received, to include late-filing penalties, complaint fines, administrative fees and lobbyist's/lobbyists' principals registration fees. The Commission's key measures are the comparisons between numerous years of compiling data of the number of forms filed, etc. The Commission compares the current year's numbers with past years, as well as comparing it with data from other similarly situated agencies. The Commission relies on staff members whose duties include the compilation of this information. The Commission uses the analysis of this data to assist in developing the strategic plan. The Commission attempts to find other public agencies with comparable duties and mandates. As a result of the Commission's past membership with COGEL, the Commission has found only one other state agency with similar areas of responsibility regarding state government: lobbying registration and disclosure; ethical rules of conduct; financial disclosure; and campaign practices and disclosure. The Commission also found a city agency with the

same responsibilities and the analysis for both entities appears in Category 7 Results. The compliance reports which are compiled monthly are maintained indefinitely, in that they become a part of the record of each Commission meeting. Meeting minutes with attachments dating back to the inception of the Commission in 1976 are archived and could be recovered if required. The Commission's small size lends itself to the identification and sharing of best practices among staff.

Category 5 - Human Resource Focus

As noted before, the State Ethics Commission is a small state agency. The Executive Director speaks to each employee daily. While the Commission is unable to make significant financial rewards to its employees, the Commission does provide many non-financial rewards such as flexible scheduling; casual dress day on Friday for nine months of the year and during the summer months throughout the week; recognition of significant employment milestones; birthday celebrations; holiday meals together; lunch for staff in observance of Employee Recognition Week; and in years past training. Staff did receive a bonus in FY2005.

Only essential training was taken by staff. The Executive Director continued to participate in agency head training throughout the year. In addition, the Executive Director and the Investigator are certified law enforcement officers and they must participate in regular training sessions to maintain their certification. The Criminal Justice Academy provides this training at no charge to state agencies. General Counsel participates in a minimum of 14 hours of continuing legal education training each year; however, the Commission does not pay for this training. Staff has

participated in free training provided by the State when available. Staff participated in training regarding the e-leave system developed by the Budget and Control Board's Office of Human Resources.

The Employee Performance Management System provides an opportunity for the Executive Director and the employee to make changes to employee responsibilities in line with ongoing strategic goals and to revise position descriptions to accurately reflect actual duties. The process encourages high performance by realigning the position description and evaluation documents with the actual job responsibility.

The Commission monitors employee well being and satisfaction through two key measures: staff longevity and turnover. Three quarters of the staff has been with the Commission between five to sixteen years. The Commission attempted through informal discussion to discover why staff remains with the Commission; however, beyond the ongoing concern of the over-all state economy, no satisfactory reasons were given.

The Commission's office is in a smoke-free building which provides a smoke-free work environment. Except for certified law enforcement officers, the Commission's office does not permit concealed weapons. Policies and procedures are in place regarding weapons and the use of force. The staff kitchen is a repository for various health newsletters and employees are welcome to post health articles and other articles of interest in the kitchen. Staff members take part in health screenings offered by the State Health Plan and results are informally discussed in staff meetings.

Employees are encouraged to participate in community service projects. These include the United Way, the Good Health Appeal, Buck-A-Cup, Ask-a-Lawyer, Meals

on Wheels and regular blood donations to the American Red Cross. In addition, many employees are actively involved in their churches and their churches' community outreach programs.

Category 6 - Process Management

The Commission's key design and delivery processes must fit within the confines of the Commission's budget. Within these confines, the newest technology used by the Commission has been its web site. The Commission's Human Resource Manager, in coordination with the CIO, continues to upgrade the Commission's web site. As noted in the Commission's previous Accountability Reports, the web site includes all formal advisory opinions and summaries of all complaints resolved. All the Commission's forms can also be downloaded and printed from the web site. As a result, the Commission has not incurred any printing costs since September, 2000. Additionally, minutes from the Commission's bi-monthly meetings are also available online. These efforts are directed at making the Commission's web site more user friendly; more responsive to the public's needs; and more cost effective to the Commission, i.e. reduction in printing and postage costs. Finally, the Commission has provided a link to a national web-site that provides campaign contribution information about various candidates in South Carolina in an electronic format.

The Commission's various measurements are not done on a day-to-day basis, but rather week-to-week and month-to-month based on the particular deadline. The Commission has a minimum of seven deadlines throughout the year with more during an election year. The Commission attempts to ensure full staffing during deadline in order to ensure timely auditing and timely production of documents for requesters. The

Commission is in the business of managing the information provided in the various forms received, as well as the enforcement of the Ethics Reform Act.

Except for computer support and services the Commission does not have a key supplier, contractor or partner. The Commission meets yearly with the computer support and service providers to review the previous year's service in order to make any changes in the contract needed to fulfill the Commission's mandated responsibilities.

Category 7 - Business Results

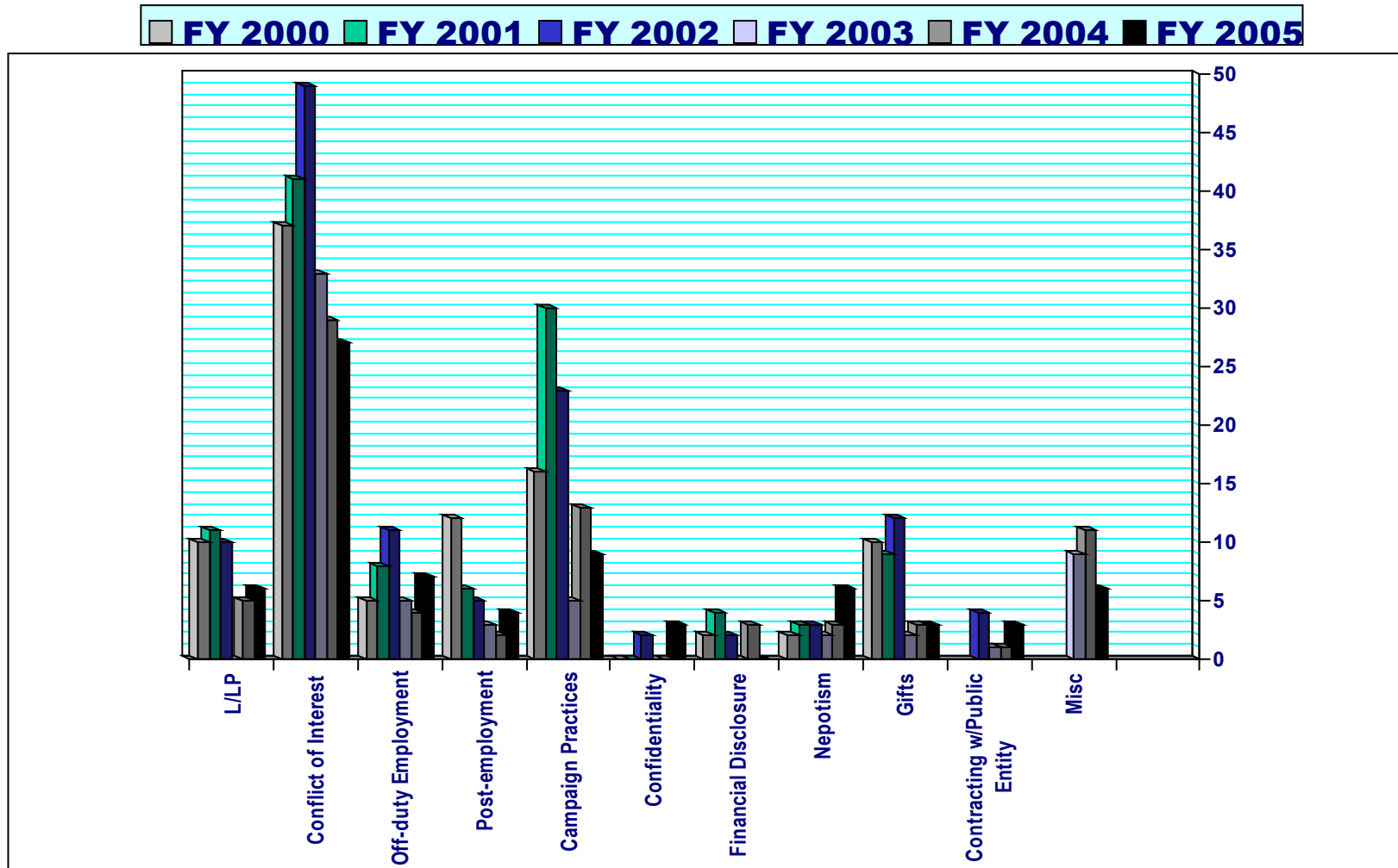
Performance levels and trends of customer satisfaction:

Training is essential to the four million residents of the State where approximately 230,000 citizens are engaged in government employment and approximately 10,000 are engaged in government service. As part of its public mission, the Commission feels that it is vital to educate public officials, public members, public employees and the general public regarding the standards of conduct and disclosure requirements of the Ethics Reform Act. Whenever possible, as personnel and resources are available, staff conducts training for its various customers throughout the state. Customers receiving training in FY 2005 included the following: the South Carolina Commission for Minority Affairs; Sumter County League of Women Voters; South Carolina Dental Association; South Carolina Training Center; South Carolina Law Enforcement Victim Advocacy Association; South Carolina Public Library Trustee Institute; Beaufort County Republican Party; South Carolina Democratic Party; South Carolina School for the Deaf and Blind; South Carolina Forestry Commission; South Carolina Association of Counties; public officials and public employees through the Municipal Association of South Carolina on two occasions; South Carolina School Board Association members and candidates for school board; procurement employees through MMO; lobbyists with the South Carolina Association of Nonprofit Organizations; members of the South Carolina Beer Association; commissioners and legal staff of the Public Service Commission; attorneys with the House of Representatives to include House members; and government attorneys.

Hand-in-hand with training is the advisory nature of the Commission's responsibility. The Commission advises its customers concerning the intricacies of the law through both informal and formal opinions. Staff answers approximately 173

telephone inquires per month. The Commission's policy of issuing informal opinions provides more timely advice to its customers. This advice is based on prior opinions, decisions, and staff experience and interpretation of the statute. The Commission has established the objective of responding to all informal advisory opinions within seven to ten calendar days. This target is met approximately 96% of the time and when it cannot be met the requestor is informed of the delay and when to anticipate his opinion. Formal opinions are handled as expeditiously as possible at regularly scheduled Commission meetings. The advice given, either written or verbal, provides information to the various customers of the Commission. A chart identifying the types of opinions issued follows.

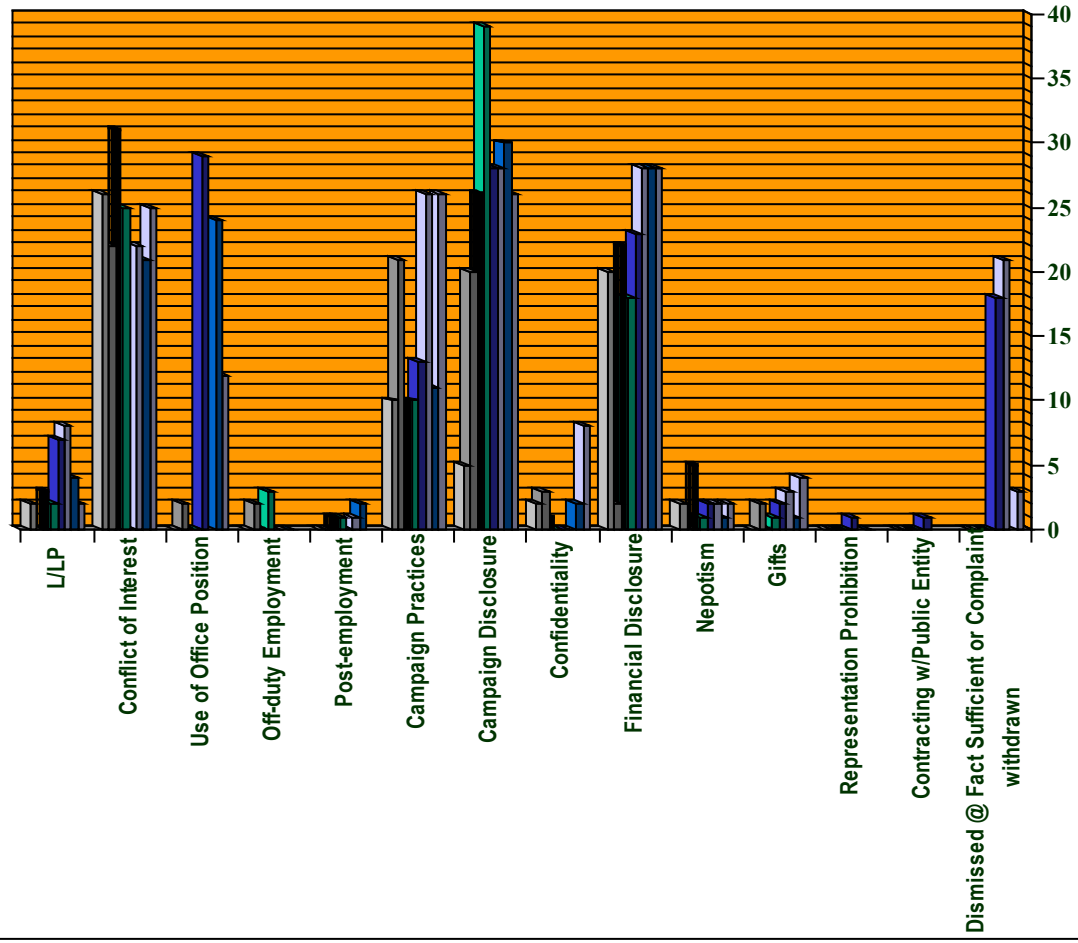
Advisory Opinions Issued



As a result of budget concerns, the Commission has committed less time to investigating alleged violations of the Ethics Reform Act, which is a key component of the Act and where the Commission's involuntary customers appear. The Commission's investigator has retired and he has returned as a part-time investigator for the foreseeable future. Due to budget constraints, the Commission will continue to manage with a part-time investigator, although this does result in a potential back-log of complaints. The Commission hopes to employ a second part-time investigator during FY2006. A due process procedure is established in the statute and staff has worked to reduce the completion time from the receipt of a complaint to final disposition. Non-compliance matters, from issuance of complaint to final disposition, take approximately four months. Other complaints' completion times were approximately six months, but are now nine to twelve months in duration.

Of the 112 complaints resolved in FY2005, approximately 9 complaints were resolved by Consent Orders. Fines of \$2448.45 were collected. Thirty-nine hearings were held. Twenty-five complaints were dismissed at the fact sufficient stage or for lack of probable cause. The remaining thirty-nine complaints' proceedings were either waived due to compliance or extenuating circumstances or withdrawn by the complainant. A chart of the types of complaints filed over the last seven years follows.

Complaints



In addition, the Commission collected \$58,757.76 in late filing penalties for failing to timely file Statement of Economic Interests forms, Campaign Disclosure forms, and lobbyist and lobbyist's principal reports. The Department of Revenue's Set-off Debt program collected an additional \$10,707.31 in late filing penalties. The Commission continues to emphasize the timely enforcement of disclosure deadlines.

LEVELS OF PERFORMANCE

The report shows the current level of performance in the four key areas. They include:

	FY2005	FY2004	FY2003	FY2002	FY2001	FY2000	FY99	% change from previous year
Complaints								
Received	136	111	138	124	144	107	54	21
Final Disposition	112	110	92	136	150	108	51	2
Pending	58	44	73	27	39	45	50	31
Forms								
Statement of Economic Interests	8776	9104	8970	8,410	8,683	9,588	8,378	-4
Campaign Disclosure Form	5158	4873	4658	3,963	5,169	4,170	4,431	5.5
Lobbyist/Lobbyist's Principals' Registration & Reports	3542	4445	4527	4,349	4,786	4,717	5,856	-19
Opinions								
Formal	3	3	6	12	6	11	7	0
Informal	73	68	54	121	105	117	128	10
Training								
Training Sessions	16	19	20	17	26	24	24	-.5
# Trained	1724	530	961	954	1,600	1,398	904	324

By and large the percentage changes from one year to the next are minimal and those significant percentage changes reflect activity over which the Commission has minimal control. Training is contingent on requests. Although training sessions decreased nominally, the number of participants tripled. In the past the training charge has been a factor; however, due to significant changes to the Ethics Reform Act individuals and entities are prepared to pay for the training.

Formal advisory opinions were the same and informal opinions increased only slightly from last year. Staff continued to reduce the response time in the issuance of informal advisory opinions and to publicize the availability of formal opinions on its website. The availability of advisory opinions on the Commission's web site has directly

resulted in a significant decrease for written opinions request.

The City of Chicago Board of Ethic's key responsibilities mirror the four distinct responsibilities of the Commission: lobbying registration and disclosure; ethical rules of conduct; financial disclosure; and campaign practices and disclosure. The Board of Ethics in providing advice responds to inquiries (verbal responses) and cases (written responses). The Board of Ethics handled 1900 inquiries in FY2004 and 52 cases as opposed to 2076 inquiries and 112 cases by the Commission. The Board of Ethics' staff decreased significantly due to several difficult budget cycles and was 6 FTEs at the beginning of FY2004 but has returned to 9 FTEs. Its budget is significantly larger at approximately \$600,000.00.

A continued goal of staff was to reduce the backlog of non-compliance matters considering the amount of staff time that must be devoted to ensuring proper and timely reporting. When proper and timely disclosure does not occur then significant staff time is devoted to the administrative late-filing procedure, as well as the complaint and hearing process. A complaint is not filed simultaneously to a missed deadline, as the Commission by statute has an administrative late-filing penalty procedure which takes approximately two months to complete. This procedure begins immediately following a quarterly deadline and the annual financial disclosure deadline of April 15th. As the chart on page 24 illustrates, complaint matters relating to disclosure have remained the largest percentage of complaint matters. The Commission received 136 complaints, of which 54 were related to disclosure, and resolved 112 complaints, of which 54 were related to disclosure. The Commission continues to meet its goal of timely prosecuting non-compliance matters to avoid a backlog.

The Commission continued to make direct contact with filers of the Statement of Economic Interests (SEI) form 30 days prior to the deadline. As a result the Commission achieved nearly 80% compliance. Of the remaining 20% of forms not received by deadline, the Commission achieved near total compliance following the exhaustion of administrative and enforcement remedies. Staff diligently sought cost-effective ways to provide notice to those public officials, public members and public employees required to file SEIs and the increased forms filed reflect that diligence. Staff stressed in training and correspondence with municipalities, counties, school districts and other public entities, those individuals required under Section 8-13-1100 to annually file SEIs. The Kansas Governmental Ethics Commission enforces the Campaign Finance Act and State Governmental Ethics Law primarily on the state level to include House, Senate and Judicial and to a very limited extent on the local level. In FY2004, the Kansas Governmental Ethics Commission received 1134 campaign finance forms in an off-election year and 5579 financial disclosure forms. The Kansas Governmental Ethics Commission reported an enviable rate of 99% compliance with financial disclosure which our Commission has now achieved.

A slight decrease occurred in lobbyists' and lobbyist's principals' registrations and disclosures; however, more lobbyist's principals registered. Less disclosure forms were filed which is a result of having only two disclosure periods for lobbyists and their principals rather than an optional third period.

In FY2005, a total of 1365 requests to review statements were filed and honored with the Commission, compared to 1322 in FY2004, an increase of 43 requests. Numerous members of the press and public came to the Commission's office to review candidates' files. Staff devotes a significant portion of each week providing information

in a timely manner to requesters. The new filing system, implemented in calendar year 2001, continues with the assistance of Richland County Pre-trial Intervention participants. The volunteers have clocked approximately 1300 hours in the filing office, as well as making copies of forms and providing other secretarial services as needed. Staff could not have implemented the new filing system without the services of the volunteers. For those customers seeking current documents and those filed within the last four years, staff response time to locate the documents is minutes. The City of Chicago Board of Ethics noted only 43 requests to review documents and the Kansas Governmental Ethics Commission does not report that information.

The Commission again sought funds to implement the electronic filing of all documents received by the Commission. Electronic filing would allow for more timely filing; it would reduce incomplete filings; and it would reduce repetitive auditing of forms by staff. Electronic filing would provide almost immediate access to information to all Commission customers. The General Assembly appropriated the funding however, according to the State Budget Office these funds will not be available to the Commission until October and then spaced out in even quarterly distributions. Prior to the appropriation staff met regularly with CIO to prepare for the eventual appropriation of funds.

Performance levels and trends to accomplish mission:

(1) Lobbyist Registration and Disclosure

The State Ethics Commission utilizes registration fees obtained from lobbyists and lobbyists' principals to administer this requirement. In FY2005, the State Ethics Commission received \$148,750.00 from these registration fees. Fewer state agencies registered as lobbyist's principals. This change resulted in no loss of revenue as state

agencies do not pay registrations. The overall increase in the number of lobbyist's principals registering resulted in the increase in funds.

Any person employed or retained to lobby for any person, group or business must register with the Commission within fifteen days after being employed or retained. Further, the person, group, or business which employs or retains a lobbyist must register within fifteen days after such employment or retention. Registered lobbyists and lobbyist's principals are subject to strict restrictions on their activities while they are registered. Both the lobbyists and lobbyist's principals must file disclosures of income and expenditures by June 30th for the period January 1st through May 31st , and January 31st for the period June 1st thru December 31st. Registrations and reports are audited and made available for public inspection. Registration and disclosure reports totaled 4243 in FY2005, a slight decrease over FY2004. The Commission has very little control over these figures as they are dependent on legislative issues. The number of disclosure reporting periods decreased from three to two which resulted in less total disclosure forms filed.

(2) Ethical Rules of Conduct

The Ethics Reform Act provides certain standards for public officials and public employees, centered around prohibitions against the use of the public position to affect the officeholder's or employee's economic interests, those of immediate family members, or businesses or individuals with whom the person is associated. These standards prohibit the misuse of public resources and confidential information, nepotism, revolving door contracts, receipt of compensation to influence official actions, and representation restrictions. Penalties for violations of the Act range from administrative penalties, including public reprimands and civil fines of up to \$2000 per

violation, to criminal penalties ranging from \$5000 and one year in prison to \$10,000 and ten years in prison.

(3) Financial Disclosure

Certain public officeholders, to include all public officials, either elected or appointed; candidates; public members of state boards; chief administrative officials or employees; chief procurement officials or employees; and chief finance officials or employees must file a Statement of Economic Interests (SEI) at specified times to include an annual update by April 15th. The Commission develops the reporting form; provides the form to required filers; receives and audits the filed reports; and makes those reports available for public inspection. In FY2005, approximately 8776 SEIs were processed. Staff stressed in training and correspondence with municipalities, counties, school districts and other public entities those individuals required to annually file SEIs. Those individual filers who had not filed as of March 15th received a postcard reminder. Staff diligently sought cost-effective ways to provide notice to those public officials, public members and public employees required to file SEIs.

(4) Campaign Practices and Disclosure

Candidates and committees are required to file disclosure of their campaign finance activities. They are subject to contribution limitations, restricted use of campaign funds, and proper accountability. The Commission develops the reporting form; provides the form to required filers; receives and audits the filed reports; and makes those reports available for public inspection. In FY2005 approximately 5158 campaign disclosure forms were received, audited and made available to the public. The Commission receives Campaign Disclosure Forms from the House Ethics Committee and the Senate Ethics Committee which are made available to the public.

Normally an increase of six percent would relate to an election year, but that theory does not apply to this off-year.

To follow is a review of the previous ten years of Commission activity. The one significant trend is the increase in the number of complaints received which is directly related to staff's goal of reducing the backlog on non-compliance matters through the complaint process.

LEVELS OF PERFORMANCE-FY95 TO FY2005

	FY95	FY96	FY97	FY98	FY99	FY00	FY01	FY02	FY03	FY04	FY05
COMPLAINTS											
Filed	15	18	37	49	54	107	144	124	138	111	136
Final Disposition	29	15	18	35	51	108	150	136	92	110	112
On Hand	15	17	33	47	50	45	39	27	73	44	58
ADVISORY OPINIONS											
Formal	15	6	6	13	7	11	6	12	6	3	3
Informal	172	240	296	292	128	117	105	121	54	68	73
FORMS											
Statement of Economic Interests	10,497	9,176	9,056	9,193	8,378	9,588	8683	8,410	8,970	9104	8776
Campaign Disclosure Form	5,263	3,659	4,308	4,111	4,431	4,170	5169	3,963	4,658	4873	5158
Lobbyist/ Lobbyist's Principal Registration & Reports	3,598	3,797	4,137	4,191	5,856	4,717	4786	4,349	4,527	4445	3542
TRAINING SESSIONS											
Conducted	13	32	34	33	24	24	26	17	20	19	16
Participants	683	1,522	1,452	1,515	904	1,398	1,600	954	961	530	1724

Performance levels and trends of employee satisfaction:

The Employee Performance Management System provides an opportunity for the Executive Director and the employee to make changes to employee responsibilities in line with ongoing strategic goals and to revise position descriptions to accurately reflect actual duties. The process encourages high performance by realigning the position description and evaluation documents with the actual job responsibility.

Performance levels and trends of supplier performance:

Not applicable.

Performance levels and trends of regulatory/legal compliance and citizenship:

Not applicable.

Current levels and trends of financial performance:

Since September, 2000, the Commission has ceased printing forms. All forms can be downloaded from the web site. This results in a savings of materials, equipment use, personnel time and postage. Additionally, minutes from the Commission's bi-monthly meetings are also available online. These efforts are directed at making the Commission's web site more user friendly, more responsive to the public's needs and more cost effective to the Commission, i.e. reduction in printing and postage costs. Despite the significant budget cuts borne by the Commission, it has suffered a nominal negative effect on its mission.

APPENDIX A

ADVISORY OPINIONS

SEC AO 2005-001

November 17, 2004

SUBJECT: LOBBYING BY STATE AGENCIES AND THEIR EMPLOYEES

SUMMARY: Actions of state agency employees, regardless of job title, constitute lobbying when that action involves direct communication with a public official in an effort to influence that official's vote regarding the enactment of legislation, covered gubernatorial actions or covered agency actions, and these actions constitute a part of the employee's ordinary and normal job duties.

SEC AO2005-002

January 19, 2005

SUBJECT: PUBLIC SERVICE COMMISSION AND THE JUDICIAL CODE OF CONDUCT

SUMMARY: Public Service Commission officials and employees are governed by both the Ethics Reform Act and the Judicial Code of Conduct. The Judicial Code of Conduct significantly restricts the activities of Public Service Commission officials and employees to a much greater extent than the Ethics Reform Act.

SEC AO2005-003

May 18, 2005

SUBJECT: COUNTY COUNCIL MEMBER VOTING ON CLERK OF COURT BUDGET

SUMMARY: A county council member is advised not to vote on matters relating to his spouse's salary. He may vote on the county budget as a whole; however, he should refrain from voting on specific matters relating only to the clerk's office to avoid even an appearance of impropriety.

APPENDIX B

COMPLAINTS RESOLVED FY 2004-2005

Copies of these Orders may be obtained by contacting the State Ethics Commission. Complaints which were dismissed for lack of sufficient facts and those which were found to be groundless are not a matter of public record.

C2003-039 Parks vs. Wearing

C2003-058 and C2004-059 Goff and Langley vs. Quick

C2004-0603 Jones vs. Wright

C2004-075 McDonald vs. Public Education Awareness Coalition (PEAC)

C2004-076 McDonald vs. Nelson

C2004-083 Jones vs. Wright

C2004-088 Wright vs. Hodges

C2004-087 SEC vs. Page

C2004-094 SEC vs. Skardon

C2004-095 SEC vs. Florence School District One.

C2004-100 SEC vs. O'Hara

C2004-107 Mabry vs. McKown

C2004-107 Crenshaw vs. Floyd

C2004-109 Morris vs. Gillian

C2004-110 Murtha vs. Gillian

C2004-111 Loftis, Jr., vs. Reeves

C2004-001 Vaughn vs. Gillian

C2005-001 Lee vs. Frierson

C2005-013 SEC vs. Patsourakos

C2005-042 SEC vs. Jasper Co-party

C2005-023 Bedingfield vs. Enis Fant of Project Genesis

C2005-047 Jones vs. Wright

C2005-107 Murphy vs. Gantt

C2005-088 SEC vs. Hendley

C2005-093 SEC vs. Pasley

C2005-094 Citizens Advocating Responsible Education Support (CARES) vs. Odom

C2005-095 Citizens Advocating Responsible Education Support (CARES) vs. Muldrow

C2005-096 Citizens Advocating Responsible Education Support (CARES) vs. Lockhart

C2005-099 Citizens Advocating Responsible Education Support (CARES) vs. Pipkins

C2004-015; C2004-22; C2004-066 SEC, Howell IV, and Dukes vs. Redmond, Mayor-Town of Johnsonville

C2005-085 SEC vs. Dove

C2005-077 SEC vs. Hawkins

INDEX-KEYWORD-TITLE

LOBBYING BY STATE AGENCIES AND THEIR EMPLOYEES	2005-001
PUBLIC SERVICE COMMISSION AND THE JUDICIAL CODE OF CONDUCT	2005-002
COUNTY COUNCIL MEMBER VOTING ON CLERK OF COURT BUDGET	2005-003

INDEX- KEYWORD SUBJECT

Lobbying; Lobbyist; “regular and substantial” 2005-002
Public Officials; Public Employers; PSC Judicial Code 2005-002
Economic Interest 2005-003

ADVISORY OPINIONS CODE SECTIONS

Code Sections	Advisory Opinions
2-17-10	AO2005-001
8-13-100, 8-13-700 (B)	AO2005-003
8-13-705	AO2005-002
8-13-765	AO2005-002
8-13-1338, 8-13-1346	AO2005-002
Miscellaneous: 58-3-30 (B) Rule 501, SCACR	AO2005-002

This Annual Report is published by the South Carolina State Ethics Commission. In accordance with the Fiscal Year 2004-2005 State Appropriations Act, the following information is provided:

Number of copies printed.....	31
Cost per copy.....	\$ 1.00
Total Printing Cost.....	\$31.00