

Merom Brachman, *Chairman*
Megan C. Kelley, *Vice Chair*
Bruce E. Bailey
Julie A. Rutter
Elizabeth E. Tracy
Mark A. Vander Laan



OHIO ETHICS COMMISSION
William Green Building
30 West Spring Street, L3
Columbus, Ohio 43215-2256
Telephone: (614) 466-7090
Fax: (614) 466-8368

Paul M. Nick
Executive Director

www.ethics.ohio.gov

Budget Testimony of Executive Director Paul M. Nick
Main Operating Budget for FY20-FY21
Senate Finance Subcommittee on Primary and Secondary Education
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Chairman Terhar, Vice Chair Lehner, Ranking Minority Member Fedor, and members of the Committee, my name is Paul Nick. I am the Executive Director of the Ohio Ethics Commission, and I appreciate the opportunity to testify in support of the Administration's budget recommendation for the Commission for the 2020 to 2021 biennium.

OVERVIEW OF THE COMMISSION

The General Assembly has assigned to the Ethics Commission authority over the 18,700 elected officials and 590,000 public employees across Ohio at all levels of government, from villages and townships to cities and counties; all officials and employees of each of the public schools, colleges, and universities in Ohio; and each of the constitutionally-elected, statewide officeholders, appointed members of all boards and commissions, and their staff.

In addition to these public officials and employees, the Commission also oversees issues coming from individuals in the private and non-profit sectors who are expected to comply with the Ethics Law in doing business with or being regulated by public agencies throughout Ohio, to avoid potential conflicts of interest and maintain public accountability.

DUTIES AND RESPONSIBILITIES

The Commission has five main responsibilities: rendering advice and guidance; providing education sessions statewide; conducting confidential investigations; assisting the General Assembly on ethics-related legislation; and administering and enforcing the financial disclosure requirement.

Advice: The Commission employs two staff attorneys who collectively handled the 204 written advisory opinions received by the Commission in 2018. (This number is in addition to the immediate guidance provided in response to over 2,700 e-mails and 2,000 telephone calls the Commission received last year.) Each one of these 204 written requests was answered within 15 days of their receipt, and often, sooner. The Commission provides timely legal advice, helpful to public officials and their counsel, at no cost to the requester. In 2018, 30% of the requesters were from state officials or employees, and the remaining 70% were from counties, cities, townships, villages, school districts, and other local government agencies.

Education: The Commission believes strongly that both advice and education help to ensure compliance with the Ethics Law and to avoid a "gotcha" style enforcement. The Education program has two staff members – an administrator and an electronic design specialist. In calendar year 2018, Commission staff conducted 193 speeches across the state that were attended by over 18,000 public officials, employees,

and persons in the private and non-profit sectors. The program supplemented these live speeches with 11 webinars and a one-hour online course, in addition to several brief, on demand e-courses covering specific topics such as nepotism, revolving door, job seeking, and gifts.

Investigation: The Commission's Investigation program ensures uniform, statewide enforcement of the Ethics Law by investigating alleged violations and referring matters for criminal prosecution when the facts merit it. This oversight helps fight occurrences of misuse of tax dollars often coming to light among the hundreds of requests that come to the Commission covering various sectors of government. In 2018, the Commission received and reviewed 393 investigative inquiries and acted on 172 investigations. Of the newly opened cases in 2018, 12% involved public officials and employees at the state level, 84% involved officials at the local level (including public and charter schools), and 4% involved persons in the private sector.

In addition, the Commission initiated 19 new complaints against persons for failing to file a financial disclosure statement. All but one of these complaints involved officials at the local level of government.

Legislation: The Commission has responded to several recent legislative efforts during the past few years, including bills related to student trustees at public universities, categories of financial disclosure filers, and the confidentiality of persons involved with the procurement of lethal injection drugs.

Financial Disclosure: The Ethics Law requires approximately 10,500 public officials, employees, and candidates for elected office from more than 1,300 agencies to file annual, personal financial disclosure statements with the Ethics Commission. The Financial Disclosure program has been reduced from 3 to 2 full time employees – an administrator (who is also the Commission's IT Administrator) and an analyst.

Five years ago, the Commission launched its online filing portal. This innovation was designed and programmed entirely in house by Commission staff, without the need to secure additional funding. It has allowed filers to submit their statements and filing fees through a secure online portal on the Commission's web site. Last year, 88% of all persons filing their statements used the portal. This portal has been so successful that the Supreme Court's Board of Professional Conduct entered into a Memorandum of Understanding with the Commission to host the Court's online filing portal for judges and magistrates, saving the Court the expense of developing and maintaining an independent portal.

BUDGET REQUEST

Despite the success of the financial disclosure online portal externally, it has driven a serious decline in revenues for the Commission.

The Commission receives funding from two sources: The State General Revenue Fund (GRF) and the Commission's Dedicated Purpose Fund (DPF). Over the past biennia, about 30% of the funding for the Commission has come from the DPF account.

The sources of DPF funding are primarily financial disclosure filing fees, penalties for those who file their forms late, and court-ordered payments for the costs of the Commission's investigations.

During FY18 and FY19, the Commission, working with OBM staff, increased its reliance on funds in the DPF account to cover its operating expenses. However, there has been a steady drop in the number of persons who file annual disclosure statements compared with prior years. Previous biennia have seen approximate totals of 11,000 to 11,300 filers each year, depending on election cycles. Because of several factors, including agency and board consolidations and a reduction in the total number of state filers, the number of current filers has dropped to an average of only 10,000 to 10,300 filers. This reduction in the

number of filers (and the loss of filing fee revenues) has diminished the size of the Commission's DPF balance.

In addition, since the inception of the online filing portal in 2013, the Commission has seen a 65% reduction in the amount of late fees assessed and collected in 2016 compared with 2013. (See attached chart). The Commission attributes this revenue decline to the speed with which staff is now able to notify filers when their statements are late. This reduction in late fee collections has directly benefited many other state agencies by reducing their expenses, because R.C. 102.02 requires state agencies to pay the late filing fees of its current and past employees.

However, this cost savings to others has severely reduced the Commission's revenues and balances in the DPF account that historically has supported almost one-third of the Commission's budget. The extent of this revenue reduction has led to the DPF balance being projected to be in the negative by the end of FY21.

The modest increases in GRF funding for the Commission in the budget submitted by the Administration will offset this projected continued drop in revenues and ensure that the DPF account balance does not shift into the negative. The amounts submitted will continue funding the Commission's five major statutory duties, at current levels.

CONCLUSION

The bipartisan membership of the Ethics Commission understands that, like all other agencies supported by taxpayer funds, it must be frugal and diligent in ensuring that taxpayers receive the best service at the least cost. The Commission further believes that the duties and responsibilities assigned to it by the General Assembly are crucial to ensuring compliance and enforcement of high standards of integrity and conduct at all levels of state and local government.

Respected members of the Committee, thank you for the opportunity to testify today. I will be happy to answer any questions you may have.