

**STATE OF VERMONT  
STATE ETHICS COMMISSION**

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**STATE ETHICS COMMISSION UPDATE  
January 19, 2018**

**INTRODUCTION**

The Ethics Commissioners have given their full commitment to the task of establishing a new State Commission. Since the initial meeting on October 18, 2017, the Commission has held six meetings that focused on meeting the tasks mandated in Act 79 within the set timelines.

In November, the Commission recruited, interviewed and hired an Executive Director, while concurrently, a commission subcommittee created two financial disclosure statements; one for Candidates for State and Legislative Office and the other for Executive Officers & Commission members. Additionally, several Commissioners began researching State ethics codes and advisory opinions of other State Ethics Commissions.

The process of transforming an empty room at 6 Baldwin Street into a professional office was time consuming and often frustrating. The Chair and Commissioners were committed to ensuring a easy transition for the Executive Director to allow him to start work immediately. At present, the Ethics Commission office is furnished with basic office furniture and equipment albeit office supplies and stationary.

As Chair, and the person in charge of this initial undertaking, it is important to report on the tasks completed, the focus of the Ethics Commission in 2018 and offer program recommendations for FY 2019.

I am very proud of the professionalism and commitment of the Commissioners and I look forward to working with the Commissioners and the Executive Director as we push on in 2018.

Madeline M. Motta  
Chair – State Ethics Commission

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STATE ETHICS COMMISSION TASKS AND TIMELINES UPDATE

June 14, 2017 - Governor Scott signs into law 2017, Act No. 79, An Act relating to establishing the State Ethics Commission and Standards of Governmental Ethical Conduct.

Sept. 2017 - Commissioner appointments to the State Ethics Commission are completed.

October 18, 2017 – State Ethics Commission meets for the first time, elects Dr. Madeline Motta as Chair. Commissioners receive briefing by Legislative Counsel and Agency Directors.

November 2017 – December 2017, the State Ethics Commission met five times to recruit and interview three top qualified applicants for the part-time Executive Director position.

November 2017 – January 1, 2018

In lieu of an Executive Director, and seeking to fulfill the tasks and timelines outlined in Act 79, the State Ethics Commission in consultation with the Secretary of State's Office drafted financial disclosure forms for Candidates, State Officers and Commissioners.

November 2017 – January 1, 2018- Chair of the Ethics Commission equips the ethics office with office furniture, equipment, computer, printer and phone.

Dec. 28, 2017 – Executive Director, Brian Leven is hired and begins his first day at the Ethics Commission.

January 2018 – The Executive Director has been reaching out and meeting with State Agency executives and legislators.

He has taken the lead on records management and working with Agency of Digital Services on creating commissioner access to the Commission's shared email address: [StateEthicsCommission.vermont.gov](mailto:StateEthicsCommission.vermont.gov)

Absent support or IT staff, the Executive Director is creating the State Ethics Commission website.

January 2018 - The State Ethics Commission has been researching ethics codes and advisory opinions of other State Ethics Commissions in order to assist the Executive Director in the drafting of the State Ethics Code. A draft of the State ethics code is due for comments in March 2018.

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**Ongoing State Ethics Commission Tasks**

January 1, 2018 – ongoing. The Executive Director accepts and reviews complaints of unethical misconduct by State Officials and Legislators and refers to proper agency or legislative body for resolution. Executive Director monitors response by agency or body charged with resolving ethics misconduct complaint.

January 1, 2018 –ongoing. The Executive Director accepts copies of complaints about municipal and town managers from the Sec. of State's Office.

March 15, 2018: Ethics Commission submits draft State Code of Ethics for comments to the Senate and House Committees on Government Operations

July 1, 2018: Final version of State Code of Ethics is completed.

Jan. 15, 2019: File first annual report to General Assembly

**RECOMMENDATIONS FOR THE STATE ETHICS COMMISSION PROGRAM**

**Office Location**

State Ethics Commission Office Location

At present, the State Ethics Commission is located on the third floor in the Buildings and Administration Agency at 6 Baldwin Street. Visitors enter the Baldwin Street entry pass security services to gain access to the ethics office. The location is not highly visible to the public, and this will be true even when the moderate exterior Ethics Commission sign is posted outside the building.

The State of Vermont would benefit greatly by situating the State Ethics Commission Office in a location that has increased visibility to the public such as on State Street.

When Vermont residents visit the State capitol, they are aware that there is a Commission for Women (located on State Street) signaling that Vermont State government is progressive and a supportive of women issues. Likewise, by locating the State Ethics Commission office in a more visible location (State Street) signals to the public that Vermont State government is a transparent and open government. The Ethics Commission will be actively seeking a more visible office location preferably in a stand-alone residential structure on State Street.

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**Security**

Secure Mail Delivery System

Given the limitations of the current location of the Ethics Commission Office in regard to a secure mail delivery system, the Ethics Commission Office has leased a private post office box at the Montpelier Post Office. This will ensure that sensitive information regarding complaints will be mailed to a secure, private mailbox rather than delivered to the current building location where mail is delivered in a shared mail slot system that is in a common area.

The private post office address is intended to communicate to the public that ethics complaint correspondence will be handled in a private and confidential manner.

Storing Sensitive Information

When a confidential ethics complaint is made, often the complainant will voluntarily provide secondary evidence of an ethical complaint. It is important that there be a secure location in the office for storing sensitive information. Many State regulatory agencies used electronic locked cabinets that are housed in a locked closet for storing sensitive, confidential information. As there is no closet in the Ethics Commission office at 6 Baldwin Street, the Ethics Commission will be purchasing a four drawer fireproof vertical legal file cabinet with a digital lock for this purpose.

Records Management

The Executive Director of the State Ethics Commission has been working with the Vermont State Archives and Records Administration (VSARA) division of the Office of the Secretary of State to establish, and implement an active and continuing program for the effective management, preservation, and disposition of records, regardless of their physical form or characteristics. Since the Ethics Commission is a newly created State agency, we are in the enviable position of being able to implement a records management program at the start in accordance with the best practices and principles of professional records and information management.

Secure WIFI Access

At present, there is no WiFi access point set up for the Ethics Commission office at 6 Baldwin. The WiFi access available is from neighboring State buildings. If a wireless access point is not properly secured, people from other businesses, State offices or nearby buildings could gain access to it.

Given the sensitive nature of a complainant report and other data, it is recommended that the State Ethics Commission allocate funds to obtain a secure WIFI access point at the Ethics Office location.

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**Ethics Commission Policy on Complaint Procedures**

Complaint Referral and Tracking Policy and Procedures

Currently, the State Ethics Commission is focused on devising a Complaint form that is PDF fillable and available on line and may be received electronically or by paper.

While the Commission continues to research best practices of other State Ethics Commission's complaint procedures, preliminarily the procedure is the following:

When received as a paper (mailed to the secure Ethics post office box or in person) the complaint will be entered into a complaint tracking system that is to be created in Office 365 SharePoint.

The database will be able to track complaints under the Commission's jurisdiction as well as complaint submissions relating to matters outside its jurisdiction.

Under Act 79, the Ethics Commission current role is only to receive, review and refer complaints to all relevant entities for disposition. Complaint procedures and policy will be limited to insuring that a complaint complies with certain requirements and that tracking the complaint regarding a final disposition is to occur generally within 10 days of the disposition. [Sec. 7, 3 V.S.A. § 1223]

Some of these requirements are to provide the full name and address of the complainant, clearly recite the facts that show specific violations, clearly identify each person, committee or group that is alleged to have committed a violation. Differentiate between statements based on the complainant's personal knowledge and those based on information and belief. Statements not based on personal knowledge should identify the source of information.

**Ethics Commission Collaboration and Consultation**

Government Ethics Consultation with Agency of Human Resources

It has come to the Ethics Commission attention that the Department of Human Resources (DHR) has submitted a budget for an ethics program for state employees. Act 79 mandates that the State Ethics Commission consult with the DHR on the development of the State Ethics code and collaborate on ethics training for the legislature. Given the State Ethics Commission's expertise in government ethics it makes sense for the DHR to extend an invitation to the State Ethics Commission to participate in the development of the ethics program for State employees.

Collaboration with Legislative Sexual Harassment Committees on Sexual Harassment Complaint Procedures

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Based on information from other State Ethics Commissions, it is highly probable that the Vermont State Ethics Commission will receive sexual harassment complaints.

Under Act 79 the State Ethics Commission must accept complaints from any source regarding government conduct regulated by law and the ethical misconduct of elected officials and legislators.

Additionally the Ethics Commission is not only mandated to receive and refer complaints of government conduct regulated by law but to track the complaint and ensure that the Ethics Commission receives written notice of the actions taken by the entity that is responsible for investigating and resolving the complaint.

It is imperative that the State Ethics Commission be identified as a State organization to report sexual harassment and sexual discrimination allegations. As in the case of all complaints, the State Ethics Commission will refer the complaint to the appropriate government entity for investigation and resolution and then track the complaint for further action taken.