

*State of South Carolina*  
*State Ethics Commission*

CHILDS C. THRASHER, CHAIR  
DONALD GIST, VICE CHAIR  
BRIAN M. BARNWELL  
SCOTT E. FRICK



AJ HOLLOWAY  
DON JACKSON  
BRANDOLYN THOMAS PINKSTON

201 EXECUTIVE CENTER DRIVE, SUITE 150  
COLUMBIA, S.C. 29210

MEGHAN L. WALKER  
EXECUTIVE DIRECTOR

September 15, 2021

VIA EMAIL

Joseph H. Jefferson, Jr  
Chairman, Executive Subcommittee  
Post Office Box 11867  
Columbia, South Carolina 29211  
CharlesAppleby@schouse.gov

RE: Response to letter dated August 31, 2021

Dear Chairman Jefferson,

The State Ethics Commission appreciates the opportunity to provide sworn, written testimony in response to the Executive Subcommittee's August 31, 2021 letter.

The Commission's responses are below, and no contractual or statutory provision exists that would prohibit publishing these responses.

Please let us know if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Meghan Walker".

Meghan Walker  
Executive Director  
South Carolina State Ethics Commission

## *Ethics Portal*

1. Please explain the following about the new filing system:
  - a. New features included and, for each, the purpose/goal sought by having it (e.g., Feature: option for registered user to receive text messages about filing deadlines; Purpose/goal: provide another avenue to inform registered users to prevent violation of act and penalties);
    - i. The new Accountability Portal (Portal) will allow required filers to opt-in to receiving text message alerts notifying them of upcoming filing deadlines. Commission staff believes that this will increase adherence to filing requirements and result in decreased non-compliance efforts and costs.

The Portal will automatically generate the required reports based upon the information provided by the filer – the filer will no longer have to select the correct report. Commission staff believes this will result in decreased non-compliance efforts as well as a decrease in the number of calls for assistance.

The Portal will not allow filers to submit reports early which leads to the improper filing of reports. Commission staff believes this will result in decreased non-compliance efforts and costs.
  - b. Issues, other than those stated above, agency hopes to address through the system (e.g., decrease cost per unit of sending correspondence, etc.); and
    - i. The new Accountability Portal is more intuitive and user-friendly. Commission staff believes this will lead to fewer calls for assistance (5,109 calls for assistance in fiscal year 2020-2021) and decreased non-compliance efforts and costs associated with those efforts.
  - c. Measures the agency will utilize to evaluate the effectiveness of the new system, including the base values of those measures under the old system.
    - i. In FY 2020-2021, Commission staff mailed 2,179 non-compliance letters to delinquent filers. Staff believes that increased notifications, along with a more user-friendly filing experience, will result in fewer instances of non-compliance with required filings.
2. Will the new system have the following:
  - a. Frequently Asked Question section;
    - i. The Portal will have a FAQ section as well as video tutorials.
  - b. Ability for public or those registered in the system to submit questions electronically; and
    - i. No, the Portal will not have a chatbot or its equivalent.
  - c. Ability for individuals providing gifts to officials (i.e., those who have to report gifts) to enter the information about the gift in the site and click on the individuals it is given to as a way to automate that entry for the official so the official can then check whether they accepted it, and it needs to be officially added to their records, or they did not accept it, and it needs to be deleted. For example, elected officials may wish the individual/entity print a copy to show them it has been entered before receiving, or at the same time they receive, the gift.
    - i. No, only required filers have access to the Portal.

3. Please provide an Excel document with all data fields in the new system (e.g., Have you paid registration fee? How much? From what fund? What is date of election? Mailing Address street; Mailing address city; Mailing address zip code; Term of Office), regardless of whether another agency may collect the same or similar data. For each field in which the agency believes one or more other state agencies may also collect the same, or a similar, data point, please type the name of the agency and, if known, how/when the agency would collect the data point. Please see example below. The agency may include additional columns, as needed, to provide further explanation.

<b>Data Point</b>	<b>Other Agency #1 with data</b>	<b>Other Agency #2 with data</b>	<b>Other Agency #3 with data</b>
Election Date	State Election Commission		
Term of Office	State Election Commission – For elected officials as part of candidate filing	Secretary of State’s Office – For appointed individuals	Governor’s office or other appointing entity – For appointed individuals
Mailing Address street	State Election Commission – For elected officials as part of candidate filing	Secretary of State’s Office – For elected officials and appointed individuals	Governor’s office or other appointing entity – For appointed individuals
Mailing Address city	State Election Commission – For elected officials as part of candidate filing	Secretary of State’s Office – For elected officials and appointed individuals	Governor’s office or other appointing entity – For appointed individuals
Registration Fee	State Election Commission – For elected officials as part of candidate filing		

- a. Pursuant to discussions with Committee staff, this information will be provided upon launch of the system.
4. Please list, and provide a summary, of each report those registered in the system will have the ability to view and print.
    - a. The Portal will contain the same reports as the Portal currently being used. Required filers will be able to complete, view, and print Statements of Economic Interests and Campaign Disclosure Reports. Statements of Economic Interests disclose finances associated with a required filer’s household and Campaign Disclosure Reports disclose finances associated with a candidate’s campaign.
  5. Please list, and provide a summary, of each report the agency will have the ability to view and print with aggregated information.
    - a. The Commission will be able to view and print the Candidate Roster (list of candidates for state and local office as well as contact information), the Successful Candidate Roster (a list of successful candidates), Daily Reports (showing all reports filed the previous day), Volume Reports (showing the number of reports filed over a given time period), Flagged Items Reports (showing campaign contributions and expenditures that have been deemed improper), Late Filers Reports (showing individuals who filed a required filing late), Non-Filers Reports (showing individuals who have failed to file reports), Positive Balance Reports (showing all individuals with positive campaign checking account balances), Zero Balance and Outstanding Loan Reports (showing all individuals with a negative or zero campaign checking account balance), In-Kind Contributions and Expenditures Report (showing all in-kind contributions by filing year and type), and the Audit Log (showing changes authorized by admin users).

### *Difference in Interpretation*

6. Please list all legal or practical interpretations that differed among the Commission, House Ethics Committee, and Senate Ethics Committee, that have been made uniform in the last three years.

- a. In Commission AO2021-001, the Commission held candidates could not accept contributions in the form of digital cryptographic currencies. This opinion was in uniformity with House Ethics Committee (HEC) AO2018-03 prohibiting the same. Upon information and belief, the Senate Ethics Committee (SEC) has not issued an opinion on this.

In HEC AO2020-02, the HEC withdrew a prior AO the held individuals were required to file a Statement of Economic Interest as long as they held an open campaign bank account. The withdrawal of this opinion brought the HEC in uniformity with the Commission and the SEC's interpretation.

On April 1, 2017, Section 5-13-540 of the Ethics Act became effective, granting the Commission the limited authority to investigate alleged violations of the Ethics Act by members of the South Carolina House of Representatives and the South Carolina Senate. As the Commission worked through these new processes with the House and Senate, the following issues arose:

- Section 8-13-540(B)(1) requires the Commission, upon receipt of a complaint filed against a House Member or Senator, to make a determination as to whether the allegations in the complaint contain facts sufficient to support opening an investigation. Unlike Section 8-13-320(10), there is no timeline stated in which this determination is required. After consultation with the House and Senate Ethics Committees, all have agreed that this determination will be made within ten (10) days.
- Section 8-13-540(B)(6) requires the Commission to provide a report to the appropriate Ethics Committee if there is a probable cause recommendation at the end of its investigation into allegations that a House Member or Senator has violated the Ethics Act. The recommendation is to include a copy of all relevant reports, evidence, and testimony considered by the Commission. Following an initial dispute as to the recommendation's form, the parties have agreed on the recommendation's form.

7. Please list all interpretations that currently differ among the Commission, House Ethics Committee, and Senate Ethics Committee. For each, please include each entities interpretation.

- a. In Commission AO2019-001, the Commission held that candidates and public officials could not use campaign funds to pay for ethics fines and penalties. This opinion was in line with two prior HEC Opinions, AO2000-1 and AO2016-2. In contrast, the SEC allows ethics fines and penalties to be paid from campaign funds. See SEC Memorandum, August 13, 2009.

In Commission AO2002-008, the Commission rectified the discrepancy that exists between §8-13-710 (requiring reporting of gifts regardless of monetary value) and §8-13-1120 (requiring reporting of gifts valued over \$25) by requiring filers to report gifts received regardless of monetary value. This differs from the HEC and SEC, both of which require gifts to be reported only when the value exceeds \$25 pursuant to §8-13-1120.

The Commission, in Commission AO2003-006, prohibited candidates and officeholders from using campaign funds to make charitable contributions, except upon final disbursement of a

campaign account pursuant to §8-13-1370. The HEC, in HEC AO2016-2 and 2017-11, has stated it believes this is a permissible use of campaign funds at any time. Upon information and belief, the SEC has not issued an opinion on this.

The Commission has informally advised candidates and office holders that they may not purchase clothing with campaign funds. The HEC, in AO2016-2, has permitted campaign funds to be used for this purpose. Upon information and belief, the SEC has not issued an opinion on this.

The Commission believes that the prohibition found in §8-13-1346(A) applies to both elections and ballot measures, and that the prohibition found in §8-13-1346(C) applies to individuals as well as governmental entities. The HEC disagrees. See C2019-006: In the Matter of Neal Collins, documents available at <https://www.scstatehouse.gov/Archives/CommitteeInfo/houseethics.php>.

### ***Definition of Committee***

8. Please provide a list of entities that continue to file documentation applicable to committees (e.g., statement of organization) and a list of entities that, after the court ruled the definition of “committee” unconstitutional, stopped filing applicable documents.
  - a. See attachments 1 and 2.
9. Please explain the agency’s understanding of why some entities continue to file the applicable documentation.
  - a. On several occasions, entities have expressed the desire to “do the right thing” and continue filing quarterly campaign disclosures for their political action committees (PACs). In other instances, where the PACs are nationwide, it is believed that it is easier for these organizations to continue filing since they are also required to file similar reports in all other states.

### ***Board Positions, Hearings, and General Enforcement***

10. How many vacancies currently exist on the Commission, if any? If none, on what date was the most recently appointed Commissioner appointed?
  - a. There is currently one vacancy on the Commission. One seat appointed by the Governor has been vacant since March 10, 2020. Commissioner Scott Frick, our most recent appointee, was appointed by the majority party of the Senate on April 29, 2021.
11. How can vacancies on the Commission impact its operations and effectiveness?
  - a. Commission vacancies may lead to a delay in findings of probable cause and resolution of cases awaiting a hearing.
12. Would the agency oppose having the Commission meetings and hearings stream online?
  - a. The Commission is not opposed to streaming hearings online. To date, neither the House of Representatives Ethics Committee, Senate Ethics Committee nor the Commission livestream hearings. The public is invited to attend Commission hearings either in person or via Zoom. Commission meetings are more difficult to livestream, logistically, as the vast majority of each meeting is conducted in executive session so Commissioners can evaluate matters for probable cause determinations.

13. Is it currently feasible to stream Commission meetings and hearings online? If no, why not?

- a. The Commission has not explored the feasibility of livestreaming but is considering doing so in the future.

14. For each of the last four years, please provide the number of individuals that received noncompliance letters and of those that received letters, the number that took the actions highlighted in the chart below:

Individual required to file...	Noncompliance letter directs individual to...	Option 1		Option 2		Option 3	
		Offender response	Agency response	Offender response	Agency response	Offender response	Agency response
Files report late	Pay penalty fee	Pays fee	No further action	Does not pay fee	Debt sent to DOR* + Added to Debtor's List^	No Option 3	
Does not file report completely or at all	Correct deficiency + pay penalty fee	Corrects deficiency + pays fee		Corrects deficiency, but does not pay fee	Moves to complaint process^^	No response	Moves to complaint process^^
				Does not correct deficiency, but pays fee	Moves to complaint process^^		

- a. Historically, the Commission has tracked the number of non-compliance letters sent as opposed to the number of individuals receiving letters. With the implementation of Spartan software, Commission staff believes that we will be able to track individuals receiving letters in the near future. In FY16-17 863 letters were sent, in FY17-18 223 letters were sent, in FY 18-19 1,503 letters were sent, and in FY 19-20 1,189 letters were sent.

Option 1: Data is not tracked in this format.

Option 2:

FY 16-17	107
FY 17-18	66
FY 18-19	35
FY 19-20	77

Option 3:

FY 16-17	35
FY 17-18	14
FY 18-19	16
FY 19-20	28

15. Please list statutory methods of enforcing the Ethics Act granted to the Commission, House Ethics Committee, and Senate Ethics Committee.

- a. The Commission enforces the Ethics Act by assessing penalties for filings via non-compliance letters (§8-13-320(7); §8-13-1510) and by receiving and initiating complaints and making investigations into violations of the Ethics Act (§8-13-320(7); §8-13-320(9)). Once an individual is found in violation of the Ethics Act, the Commission may require the payment of late-filing fees up to \$5,000 per late or missing report (§8-13-1510), may require up to a \$2,000 civil penalty for each violation not related to a late or missing filing (§8-13-320(1)); require the forfeiture of any ill-gotten gains (§8-13-320(1)); or issue a written warning or public reprimand

(§8-13-780). For collection of fees and fines owed to the Commission, the Commission may file judgments or send debts owed to the Department of Revenue for collection through their GEAR or Set-Off Debt programs (§8-13-320(14)). The Commission may also prosecute individuals in magistrate's court if, after a maximum fine is levied, the report is still filed (magistrate's court is not an option for violations of the Rules of Conduct) (§8-13-1510). The Commission may also refer cases it believes are criminal in nature to a solicitor or the Attorney General (§8-13-320(8)). The HEC and SEC may have additional methods via their respective rules.

16. Please explain why current methods may be limiting or not as effective as someone may believe from just reading the method.

- a. Non-compliance letters assessing late-filing penalties are only effective if the Commission is able to serve a certified letter on the individual. Often time, individuals do not keep their contact information in the Commission's system up to date, making it hard to locate filers.

Enforcing the Ethics Act against public employees and public members of non-state boards may be difficult in instances where the Commission does not know the identity of all public employees and/or what non-state boards exist.

Individuals who have been found in violation of the Ethics Act and/or owe debts to the Commission are not prohibited from running for or holding public office.

Judgments are ineffective if the individual does not own property within the State.

The Department of Revenue's debt collection programs are not effective if the individual does not receive a paycheck or a tax return.

17. Please answer the following about the debtors list:

- a. How frequently is the debtors list online update?
  - i. The Debtors List is updated quarterly.
- b. Does the debtors list include legislators?
  - i. Debts incurred by candidates for the South Carolina House of Representatives or Senate are not included on the Debtors List. If a candidate runs for local office and has an outstanding debt associated with that candidacy their unsatisfied debt remains on the Debtors List even if they are elected to the House of Representatives or Senate. The HEC and SEC maintain their own lists.
- c. What actions does the agency take to update the list, including, but not limited to, removing deceased individuals?
  - i. Debtors who have satisfied their debts are removed, amounts are changed to reflect payments and deceased individuals are removed when the Commission is notified of their death.
- d. For all individuals currently on the debtors list, please provide an Excel chart that lists the following for each violation of each person:

- i. Ethics Definition (e.g., candidate, elected official, appointed official, etc.), position, violation, year of violation, initial fine, fees accrued for failure to pay fine, number of correspondences Ethics Commission sent to individual regarding the issue, current method of enforcement agency is utilizing to collect the debt (e.g., GEAR, judgment, etc.), and current elected or appointed position held, if any.
    - 1. The Commission does not currently store data in this manner but may be able to do so going forward. Following some research, the Commission believes approximately fifty-eight (58) of the individuals on the debtors list are currently public officials or public employees.
  - ii. For any that relate to candidates, please indicate whether the individual was successful in winning election to the position for which they owe a debt.
    - 1. The Commission does not currently store data in this manner but may be able to do so going forward.
- e. When someone downloads the list, after implementation of the new ethics portal, will it list the data below, separately for each violation of each person and, if not, what data will be available?
- i. Ethics Definition (e.g., candidate, elected official, appointed official, etc.), position, violation, year of violation, initial fine, fees accrued for failure to pay fine, number of correspondences sent to individual regarding the issue, and current method of enforcement agency is utilizing to collect the debt (e.g., GEAR, judgment, etc.) and current elected or appointed position held, if any.
    - 1. The Debtors List is not connected to the new Portal. The information contained on the Debtors List contains information regarding individuals owing ethics fines due to non-compliance or complaint resolution. The Debtors List will not change with the implementation of the new Portal.
- f. What recommendations, if any, does the agency have to improve collection?
- i. Commission staff believes that all options to collect debt are currently being utilized.

### ***Funding***

18. Please provide a list of entities that receive pass through funding from the Commission and for each, for the last three years, the following information:
- a. whether the Commission requested the General Assembly provide funding for the entity;
  - b. information the receiving entity had to provide the Commission, if any, prior to receiving the funds;
  - c. whether the Commission has any control over how the receiving entity utilizes the funds;
  - d. name of the receiving entity;
  - e. amount received; and
  - f. copy of the information the receiving entity provided the Commission pursuant to Proviso 117.21.
    - i. There are no entities that receive pass through funding from the Commission.
19. What changes, including, but not limited to, additional funding, would be needed for the agency to monitor those that lobby local government (e.g., municipalities, counties, school boards, etc.)?
- a. For effective and efficient monitoring of local lobbyists, the Commission would need additional staff in the Disclosure, Non-Compliance/audit, and Investigation departments. Bringing local lobbyists within the jurisdiction of the Commission would increase requirements of the Commission's already strained resources and personnel. Disclosure staff would be needed to assist local lobbyists with questions and training about filing requirements. Non-compliance/audit staff would be needed to monitor lobbyists' compliance with filing

requirements. Investigations staff would be needed to investigate complaints resulting from failures to file and/or disclose information on reports. Increased office space and equipment, funding for salaries and benefits, and training would also be necessary to bring new personnel on board.

***Miscellaneous***

20. Please confirm the information included in Attachment A is accurate or provide revisions necessary to ensure it is accurate.

- a. On the “Information Available” chart on page 9 there is no mention of email reminders to filers regarding deadlines.

On the “Required Filings” chart on page 11, there is a checkmark for Campaign Disclosures for Public Officials—Elected/Appointed. Appointed Public Officials do not file Campaign Disclosures, only Elected Public Officials.

On the “Complaint Process Explanation” chart on page 14, the last block that reads “next step, if any” should read “Appeals from the Commission’s Appellate Panel are made to the South Carolina Court of Appeals then to the South Carolina Supreme Court.”

## **Ethics Act Process Summary**

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## Ethics Act: Applies to

Ethics Act Definition	F&/or A <sup>6</sup>	Approx. #	Description	Examples
<b>Public Official:</b> Candidates	F&A	Unknown <sup>1</sup>	<ul style="list-style-type: none"> <li>Seek appointment, nomination, or election, etc.</li> </ul>	School Districts; City Councils; County Councils; Special Purpose Districts
Elected <sup>2</sup>	F&A	Unknown <sup>1</sup>	<ul style="list-style-type: none"> <li>State, county, municipality or political subdivision (except House members and Senators)</li> </ul>	County School District; City Council; North Greenville Fire District; House of Representatives
Appointed	F&A	Unknown <sup>1</sup>	<ul style="list-style-type: none"> <li>State, county, municipality or political subdivision position that pays more than per diem or expense reimbursement</li> </ul>	Commissioner on Public Service Commission; Spartanburg County Board of Voter Registration and Elections; Greenwood County Auditor
<b>Public Member:</b> Appointed (state board)	F&A	Unknown <sup>1</sup>	<ul style="list-style-type: none"> <li>Part-time position on a state board, commission, or council that pays no more than per diem or expense reimbursement</li> </ul>	Abbeville Area Medical Center Board; Columbia Housing Authority Board; State Election Commissioners
Appointed (non-state board)	A	Unknown <sup>1</sup>	<ul style="list-style-type: none"> <li>Part-time position on a non-state board, commission, or council that pays no more than per diem or expense reimbursement</li> </ul>	
<b>Public Employee:</b> Statement of Economic Interest (SEI) Filer	F&A	Unknown <sup>3</sup>	<ul style="list-style-type: none"> <li>Chief Administrative Official, Chief Financial Officer, Chief Procurement Official, and Chief Administrative Official employed by state, county, municipality, or special purpose district/political subdivision</li> <li>Dept. of Transportation District Engineering Administrators</li> </ul>	
Non SEI Filer <sup>2</sup>	A	Unknown <sup>3</sup>	<ul style="list-style-type: none"> <li>All non-SEI employees of state, county, municipality, or special purpose district/political subdivision</li> </ul>	
<b>Lobbyist</b>	F&A	553 <sup>4</sup>	<ul style="list-style-type: none"> <li>Seek to influence action/vote, with/without compensation</li> </ul>	See Accountability Portal for full list
<b>Lobbyists Principal</b>	F&A	582 <sup>4</sup>	<ul style="list-style-type: none"> <li>Employ, appoint, or retain lobbyist</li> </ul>	Google, Dominion Energy, Broad River Electric, Bristol-Myers Squibb Company, Charter Schools USA, Christ Church Episcopal Church
<b>Committee</b> <sup>5</sup>	F&A	Unknown	<ul style="list-style-type: none"> <li>Assoc., club, org., or group of persons seeking to influence outcome of elective office or ballot measure by receiving, contributing, or expending certain levels of money.</li> <li>Person who makes certain contributions or independent expenditures to influence outcome of an elective office</li> </ul>	Citizens for Life, Citizens for a Greater Midlands, We the People Aiken 2010, Pennies for Progress, Yes4Schools

<sup>1</sup> The Commission's electronic filing system is unable to break down its filers by public official, public member, or public employee. Recognizing that this type of data could be useful in the future, the Commission intends to discuss this with sc.gov as it moves forward in its implementation of the new filing system. <sup>2</sup> Candidates and elected House members and Senators, and their staff, fall under the purview of their respective House and Senate Ethics Committee for training and enforcement of filings. Investigations of complaints related to these individuals are performed by the State Ethics Commission. <sup>3</sup> The Commission is unable to determine the number of public employees that fall under its jurisdiction. There is no central database from which to derive this information.

<sup>4</sup> Lobbyist and Lobbyists Principal numbers are for registered Lobbyists and Lobbyists Principals. <sup>5</sup> The State Ethics Commission, House Ethics Committee, and Senate Ethics Committee are currently unable to enforce laws related to Committees because in 2010 a federal district court found the definition of "committee" was unconstitutional. South Carolina Citizens for Life v. Krawcheck, 759 F. Supp.2d 708 (D.S.C. 2010). <sup>6</sup> "F" means must register in Ethics Commission portal and submit one or more filings; "A" means must abide by prohibitions in Ethics Act.

## Information Available: Distribution and Content

Ethics Act Definition	Specific Communication	General Communication
<p><b>Public Official:</b></p> <p>Candidates</p>	<p><b>Newsletter</b> <u>Distributed:</u></p> <ul style="list-style-type: none"> <li>Physically given to county elections offices for county election offices to distribute</li> <li>Posted on Commission’s website</li> </ul> <p><u>Contains:</u></p> <ul style="list-style-type: none"> <li>Information on filing requirements</li> </ul>	
<p>Elected</p>		<ul style="list-style-type: none"> <li>Website</li> </ul>
<p><b>Public Member:</b></p> <p>Appointed (state board)</p> <p>Appointed (non-state board)</p>	<p><b>Newsletter</b> <u>Distributed:</u></p> <ul style="list-style-type: none"> <li>Posted on Commission’s website</li> </ul> <p><b>Letter</b> <u>Distributed:</u></p> <ul style="list-style-type: none"> <li>Emailed via address they provide to Governor’s Office at the time of their appointment (includes letter and digital copy of Public Members Newsletter)</li> </ul> <p><u>Contains:</u></p> <ul style="list-style-type: none"> <li>Congratulation on appointment</li> <li>Introduction to State Ethics Commission</li> <li>Information on filing requirements</li> </ul>	<ul style="list-style-type: none"> <li>Social Media (reminders about filing deadlines)</li> <li>General Advice (via phone, email)</li> <li>Customer Training</li> </ul>
<p><b>Public Employee:</b></p> <p>SEI Filer</p> <p>Non SEI Filer</p>	<p><b>Brochure</b> <u>Distributed:</u></p> <ul style="list-style-type: none"> <li>Posted on Commission’s website</li> </ul> <p><u>Contains:</u></p> <ul style="list-style-type: none"> <li>Overview of the Ethics Act for public employees</li> </ul>	
<p>Lobbyist</p> <p>Lobbyists Principal</p>		

### Website

- o Commission
- o Advisory Opinions
- o Brochures/Newsletters
- o How to file a complaint
- o Meeting agendas and minutes

### **Customer Training**

- o Free of charge
- o Conducted by Executive Director or General Counsel
- o In person or virtual
- o Tailored to each group
- o Consists of written material and oral presentation

## Information Available: Advice (General, Informal Advisory Opinions, Formal Advisory Opinions)

### **Informal Advisory Opinion**

#### *What are they?*

- Prospective non-binding opinions, written by staff, concerning requestor's actions
- Based on real or hypothetical circumstances

#### *Who can request one?*

- Any individual against whom the Ethics Reform Act can reasonably apply
- Most requestors are public officials, public members or public employees

#### *How are they distributed?*

- Returned directly to the individual that requested it
- Informal Advisory Opinions are not published on the Commission's website

### **Formal Advisory Opinion**

#### *What are they?*

- Prospective binding opinions, written by staff and approved by Commissioners, concerning the requestor's conduct
- Based on real or hypothetical circumstances

#### *Who can request one?*

- Any individual against whom the Ethics Reform Act can reasonably apply
- Most requestors are public officials, public members or public employees

#### *How are they distributed?*

- Published on the Commission's website
- Disseminated to public officials, public members and public employees via the Municipal Association, Association of Counties and School Board Association

## Prohibited Actions: Applies to Everyone

- Use of official position or office for financial gain
- Disclosure of confidential information for financial gain
- Receiving anything of value for speaking in an official capacity
- Receiving, offering, or giving anything of value to influence action of a public employee, member or official
- Receiving additional money for public assistance
- Representation of another by a public official, member or employee before certain governmental entities
- Future employment of public employees
- Use of governmental resources to influence the outcome of an election
- Violation of other laws under the Commission's jurisdiction
  - Judicial Canons as applied to Workers' Compensation Commissioners.
  - Judicial Canons as applied to Public Service Commissioner Commissioners.
  - Provisions of the South Carolina Lottery Education Act.

**Required Filings: Applies to Some, but not All**

	Public Officials - Candidates	Public Officials – Elected / Appointed	Public Members - Appointed	Public Employees	Lobbyists	Lobbyists Principals	Committee
Campaign Disclosure Reports	<input checked="" type="checkbox"/> (All)	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>

Statements of Economic Interests <sup>1</sup> (Partisan candidates only) <sup>2</sup> <sup>2</sup>

Lobbyist and Lobbyist Principal Registration					<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
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Lobbyist and Lobbyist Principal Disclosures

Statement of Organization							<input checked="" type="checkbox"/>
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Table Note: <sup>1</sup> Only candidates in partisan elections are required to file Statements of Economic Interest. <sup>2</sup> Statements of Economic Interests are filed annually by (1) public members appointed to a *state* board, commission, or council and DOT: District Engineering Administrators, and (2) public employees who serve in the capacity of chief administrative officer or chief financial for their governmental entity as well as school district superintendents, county administrators, and city managers. Chief administrative officials for political subdivisions included in Section 8-13-1110(b) of the SC Code of Laws.

## Required Filings: Steps taken to ensure compliance

\*Note: These steps do not apply to House and Senate officials and staff. House and Senate Ethics Committees each have a similar, but different process.

### Daily Portal Reviews Random Audits

**Daily Portal Review:** Review entries flagged the previous day by the Public Disclosure Accountability Reporting System

**Zip Code Audit:** Randomly pull and audit all filings for individuals, within a certain zip code, who are required to file

**Request for Information Letter:** Send letter requesting additional information from individuals with questionable filings

**Noncompliance Letter:** Send letter directing individual to amend or file and pay penalty fee

Individual required to file...	Noncompliance letter directs individual to...	Option 1		Option 2		Option 3	
		Offender response	Agency response	Offender response	Agency response	Offender response	Agency response
Files report late	Pay penalty fee	Pays fee	No further action	Does not pay fee	Debt sent to DOR <sup>1</sup>	No	No
Does not file report completely or at all	Correct deficiency + pay penalty fee	Corrects deficiency + pays fee	Corrects deficiency but does not pay fee	Corrects deficiency but does not pay fee	Added to Debtor's List <sup>2</sup>	No response	Moves to complaint process <sup>3</sup>
			Does not correct deficiency, but pays fee	Does not correct deficiency, but pays fee	Moves to complaint process <sup>3</sup>		

<sup>1</sup>Unpaid late filing penalties are submitted to the Department of Revenue for collection through Governmental Enterprise Account Receivable (GEAR) and Setoff Debt.

<sup>2</sup>Debtor's List is published on the Commission's website and includes all individuals with debts to the Commission including GEAR, Setoff Debt, and debt filed as judgments with the county court. It was first published online in 2002 and created to inform the public of fines owed by public officials, public members and public employees.

<sup>3</sup>Commission noncompliance staff create non-compliance complaints and submit them to the Executive Director for approval.

**Prohibited Actions**

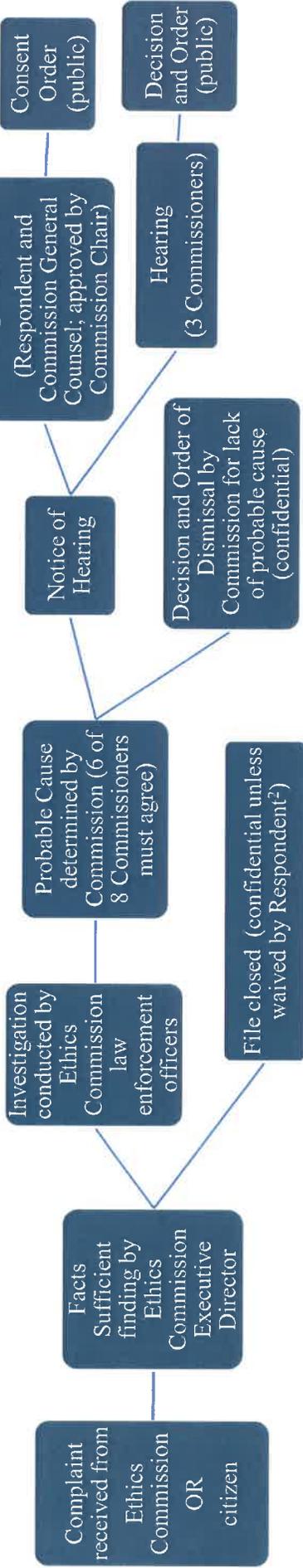
Complaint – Investigation and Hearing – Order – Appeal

**Complaint Process: Flow Charts**

**Required Filings**

Reviews – Noncompliance Letter – Complaint – Investigation and Hearing – Order – Appeal

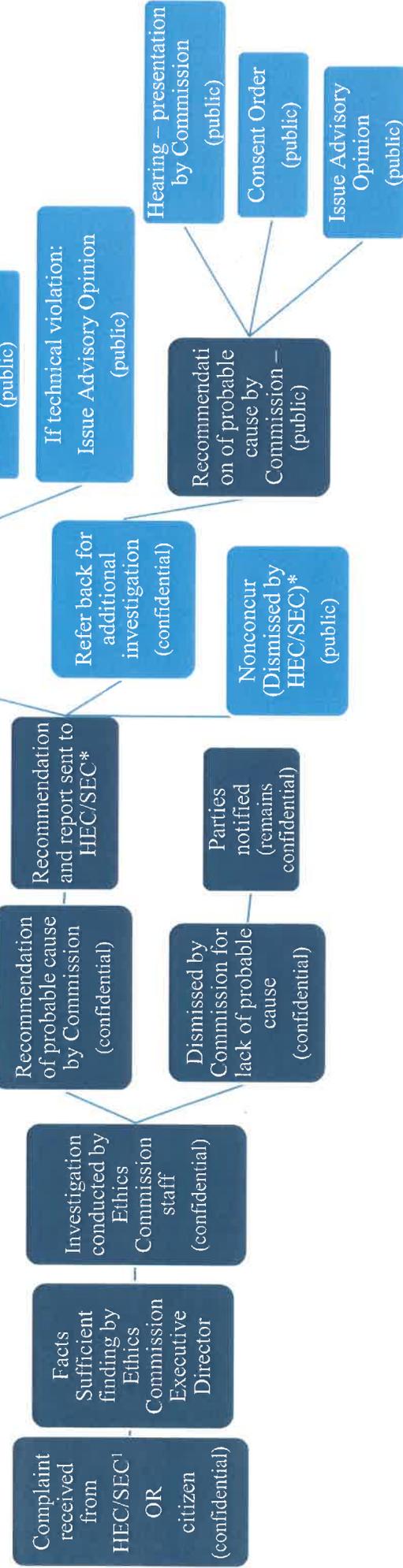
**Non-General Assembly public officials, members, and employees**



**General Assembly public officials and employees**

Dark blue: Actions by State Ethics Commission

Light blue: Actions by House or Senate Ethics Committee



<sup>1</sup> HEC/SEC: House of Representatives Ethics Committee, the supervisory authority for House members or staff, including staff elected to serve as officers or candidates for the office. Senate Ethics Committee, which is the supervisory authority for Senators or staff, including staff elected to serve as officers or candidates for the office of State Senator.  
<sup>2</sup> Respondent: A person charged in a complaint with a violation of the Act.

## Complaint Process: Explanation

### Complaint

#### *Who can file a complaint:*

- Commission - Typically arise from an individual not curing deficiencies in required filings (e.g., statements of economic interests, etc.). Complaints also filed after preliminary investigations based upon information provided by a member of the public who is fearful of retaliation if a formal complaint is filed.
- Citizen – Must be notarized (a) Individual, on personal behalf; (b) Individual, on behalf of organization; (c) Individual, on behalf of governmental body
- House Ethics Committee
- Senate Ethics Committee

#### *What must it include:*

- Name, address and telephone number of a person alleged to have committed a violation (Respondent)
- Name, address and telephone number of the person making the complaint.
- Particulars of the alleged violation of the Ethics Reform Act or other provision of state law within the Commission's jurisdiction.

#### *Where is it available:*

- Blank forms on Commission's website. Verified complaints are sent to the Respondent and, when appropriate, the House of Representatives or Senate Ethics Committees. If probable cause is found, the complaint is made available to the public upon request.
- Information in submitted complaints are entered into the Ethics Commission case management system.

### Facts Sufficient finding

- Chief investigator and Executive Director of Commission review only the facts as alleged in the complaint. If the facts as alleged were true would be a violation of the Act, it moves to the next step and an investigation is performed.

### Investigation

- All of the Commission's investigators are Class I certified law enforcement officers, who are required to maintain their law enforcement certification as well as participate in in-house training at the Commission
- Investigations include: Interviews of witness(es); Interview of Respondent (individual alleged to have committed violation); Collection of evidence including meeting minutes, bank records, audio and video recordings and social media postings; and Review of collected evidence
- Investigator provides a written summary including a recommendation as to whether probable cause is present

<i>Probable Cause Determined</i>	<ul style="list-style-type: none"> <li>• Ethics Commission staff present the investigators summary to the Commissioners.</li> <li>• Six of the Eight Commissioners must agree probable causes exists in order to notice a hearing</li> <li>• Probable cause means based on the evidence available more likely than not a violation of the Act will be found.</li> </ul>
<i>Hearing</i>	<p>Panel consists of three Commissioners selected at random to hear contested matters. During the hearing the following occurs:</p> <ul style="list-style-type: none"> <li>• Parties are permitted to make opening statements</li> <li>• Parties are permitted to call witnesses who are sworn and subject to cross-examination</li> <li>• Parties are permitted to introduce exhibits</li> <li>• Parties are permitted to make closing arguments</li> <li>• Hearing panel deliberates and issues a decision and order</li> </ul>
<i>Orders from Ethics Commission</i>	<p>An Order from the Commission (consent or otherwise), may include one or more of the following:</p> <ul style="list-style-type: none"> <li>• Enforcement/administrative fee, to include costs related to (1) investigator's time, (2) mileage, meals, and lodging, (3) prosecutor's time, (4) hearing panel travel, per diem, and meals, (5) administrative time, (6) subpoena costs/witness fees, (7) miscellaneous costs such as postage and supplies.<sup>1</sup></li> <li>• Civil penalty of up to \$2,000 for each violation.<sup>2</sup></li> <li>• Forfeiture of gifts, receipts, or profits, or the value thereof, obtained in violation of the Ethics Act.<sup>3</sup></li> <li>• Voiding non-legislative state action obtained in violation of the Ethics Act.<sup>4</sup></li> <li>• Late-filing penalties of up to \$5,000 per report, provided notification requirements are met.<sup>5</sup></li> <li>• Oral or written warning or reprimand.<sup>6</sup></li> </ul>
<i>Appeal</i>	<ul style="list-style-type: none"> <li>• Respondent may request a review of the panel's decision and order within ten days of the date of service of the decision and order. The request must be made in writing.</li> <li>• The appellant must provide a written brief within ten days of date of service of the Appellate Hearing notice.</li> <li>• Group of Commissioners, not including the original hearing panel Commissioners review the hearing panel's decision and order, reconsider the evidence, receive further evidence, rehear the parties, and enter an order amending, affirming or modifying the panel's decision.</li> </ul>
<i>Next step, if any?</i>	<ul style="list-style-type: none"> <li>• Explanation of next step, if any</li> </ul>

Table Note: <sup>1</sup> Section 8-13-130, <sup>2</sup> Section 8-13-320(10)(I), <sup>3</sup> Section 8-13-320(10)(I) and 8-13-780 <sup>4</sup> Section 8-13-320(10)(I), <sup>5</sup> Section 8-13-1510, <sup>6</sup> Section 8-13-780.

ATTACHMENT 1

## Committees Filing in 2010

1. SC Realtors PAC
2. Palmetto Leadership Council
3. SC Leadership PAC
4. Florence Democratic First Monday Breakfast Club
5. South Carolina Club for Growth PAC
6. BONEPAC SC Orthopaedic Association
7. Pickens County Committee for Good Government
8. SC Law Enforcement PAC
9. Citizens for Better Government
10. Inman Mills Good Government
11. SC Bankers Association State PAC
12. SG CAGC PAC
13. SC Pre-Paid Legal PAC
14. The SC Education Association Fund
15. West Side Democrats
16. Berkeley Electric Coop Employee Fund
17. American Council of Life Insurers Non-Federal PAC
18. A Fund for a Better SC
19. North Area Democrats
20. SC Trial Lawyers Association
21. IIASC Public Affairs Committee
22. Home Builders Association of Greenville PAC
23. AIA-SEINSPAC-SC
24. SC Republican Women's PAC
25. PAL PAC

26. FINPAC-ICFA of SC
27. Verizon Good Government Club of SC
28. AT&T SC PAC
29. Democratic Club of Beaufort Co, SOB
30. MEDPAC
31. Mortgage Bankers PAC
32. NBSC PAC
33. Pro Business Committee Fund
34. Putting Students First
35. SC Association of Auto Insurance Agents
36. SCADA Dealer PAC
37. SC Green Industry PAC
38. SC Progressive Voter Coalition
39. South Carolinians for Responsible Government SCRG PAC
40. COLPAC
41. Democratic Women of Greenville
42. Leaders in Education Administration
43. Credit Union PAC CUPAC of SC
44. SCPMA PAC
45. Teamsters Local 509 Drive Chapter
46. 3rd Congressional District Democratic Committee
47. Palmetto Blue Democrats
48. Dorchester County Democratic Women
49. First Citizens State PAC
50. SC Ironworkers PAC
51. SCMA Good Government Fund
52. Democratic Women of Charleston

53. ECHO
54. NMRS State/Local PAC
55. Nucor Corp. PAC of SC
56. Dominion Energy Inc. EMPAC PAC
57. SCACS PAC
58. SCAFP Family Doc PAC
59. SCBWA Political Action Fund
60. SC DENPAC
61. SC Good Government Committee
62. Time Warner Cable SC PAC
63. Trucking Industry PAC
64. Carolina Commerce Fund
65. NAIFA SC PAC
66. SC Beverage Association PAC Fund
67. SC Builders PAC
68. SC FORPAC
69. SC Health Care PAC
70. SCMESA PAC
71. MGC PAC
72. AIA South Carolina
73. Friends of Farm Bureau
74. SC Women's PAC
75. GunRights PAC
76. South Strand Republican Club
77. Charleston Metro Chamber of Commerce PAC
78. Citizens United for SC
79. SC Fraternal Order of Police

80. Conservatives in Action PAC
81. SCSA PAC
82. East Cooper Democrats
83. Conservation Voters of SC PAC
84. SC PACE
85. SC Financial Services Association PAC
86. Truist South Carolina PAC
87. 5<sup>th</sup> District Republican Party
88. Hilton Head Island Republican Club
89. SCAPTA-PAC
90. SC Constitution Party
91. SC Association of Nurse Anesthetists PAC
92. SC Mortgage Brokers Association
93. Northern Beaufort County Democratic Club
94. SC State Farm Agents & Association PAC
95. Palmetto Family PAC
96. Life PAC
97. Charleston County Republican Party-Federal
98. Host PAC
99. Horry County Democratic Party
100. Grand Strand Statewide PAC
101. MB Lodging PAC
102. Philip Morris USA Inc., by its service company Altria Client Services Inc.
103. SC AFL-CIO
104. Citizens for a Better Spartanburg County
105. South Carolina Forward
106. Greater Greer Business Leadership Committee

107. The Commonwealth PAC-SC
108. SC Truth Monitor
109. Rudy PAC
110. HCA Good Government Fund of SC
111. Palmetto Business Council
112. Anheuser-Busch Companies, Inc.
113. Emily's List – SC
114. American Council of Engineering Companies of SC PAC
115. Greater Greenville Business Leadership Committee
116. Anderson County Democratic Women's Club
117. SC Podiatric PAC
118. Conservatives for Responsible Government
119. Grand Strand Restaurant PAC
120. SC Association of CPA's PAC
121. Wine & Spirits Wholesalers Association – SC PAC
121. Duke Energy Corporation PAC
122. The Spotlight Project
123. Palmetto Patriot Leadership Committee
124. Anderson Area Chamber Committee for Progress
125. Good Government for Myrtle Beach
126. Local Residents for Tourism
127. Myrtle Beach Residents for Lower Taxes
128. Bridgestone Americas, Inc. PAC
129. Dillon County PAC, LLC
130. Local 0793 PAC Fund
131. SC Optometric Physicians Association
132. SCRG PAC

133. South Carolina Chamber PAC
134. Nexsen Pruet PAC
135. LCV Political Engagement Fund
136. South Carolina Truth Squad
137. Hoyt Graham
138. Sumter Conference for Excellence
139. Charles W. Richards III
140. HuckPAC
141. Lafarge North America Inc. Cement PAC
142. UAW South Carolina V-PAC
143. Free and Strong America PAC – South Carolina
144. Isaiah Simmons
145. Tenet Healthcare Corporation PAC
146. SC Podiatric PAC
147. Reform SC Inc.
148. RGA South Carolina 2010 PAC
149. SC Fraternal Order of Police State Lodge
150. Spartanburg Tomorrow
151. SC Law Enforcement PAC
152. IOP Concerned Citizens
153. Citizens United for South Carolina
154. CIPAC
155. Palmetto Committee for Justice & Fairness
156. Concerned Citizens of District Seven
157. MEDNAX Inc. Federal PAC
158. ARD ROC-PAC
159. Aiken County Tea Party

160. SC EMS PAC Fund, Inc.

161. Amgen Inc. PAC

162. Republican State Leadership Committee

## ATTACHMENT 2

## Committees filing in 2021

1. SC Realtors PAC
2. BONEPAC SC Orthopaedic Association
3. Pickens County Committee for Good Government
4. SC Law Enforcement PAC
5. Inman Mills Good Government
6. SC Bankers Association State PAC
7. The SC Education Association Fund
8. West Side Democrats
9. American Council of Life Insurers Non-Federal PAC
10. SC Trial Lawyers Association
11. IIASC Public Affairs Committee
12. FINPAC-ICFA of SC
13. AT&T SC PAC
14. MEDPAC
15. Mortgage Bankers PAC
16. Democratic Women of Greenville
17. Leaders in Education Administration
18. Teamsters Local 509 Drive Chapter
19. Dorchester Co. Democratic Women
20. First Citizens State PAC
21. SC Hospital Association PAC
22. First Citizens State PAC
23. SC Hospital Association PAC
24. SCMA Good Government Fund
25. ECHO

26. NMRS State/Local PAC
27. Nucor Corp. PAC of SC
28. Time Warner Cable SC PAC
29. Trucking Industry PAC
30. SC Beverage Association PAC Fund
31. SC Builders PAC
32. SC FORPAC
33. SC Health Care PAC
34. MGC PAC
35. Friends of Farm Bureau
36. Charleston Metro Chamber of Commerce PAC
37. SCSA PAC
38. Conservation Voters of SC PAC
39. SC PACE
40. SC Association of Nurse Anesthetists PAC
41. SC State Farm Agents & Association PAC
42. Grand Strand Statewide PAC
43. MB Lodging PAC
44. Greater Greer Business Leadership Committee
45. HCA Good Government Fund of SC
46. Retail Political Action Committee
47. Greater Greenville Business Leadership Committee
48. Conservatives for Responsible Government
49. Grand Strand Restaurant PAC
50. Wine & Spirits Wholesalers Association – SC PAC
51. Bridgestone Americas, Inc. PAC
52. Haynsworth Sinkler Boyd, PAC State/Local PAC

53. South Carolina Chamber PAC
54. Nexsen Pruet PAC
55. UAW South Carolina V-PAC
56. Reform SC Inc.
57. SC EMS PAC Fund, Inc.
58. Amgen Inc. PAC
59. Justice PAC One
60. Justice PAC Two
61. Justice PAC Three
62. Justice PAC Four
63. Justice PAC Five
64. Justice PAC Six
65. SC Equality PAC
66. Justice PAC Seven
67. Justice PAC Eight
68. Justice PAC Nine
69. Justice PAC Ten
70. Maximus Inc. PAC
71. SC Propane PAC
72. Grand Strand Golf PAC
73. International Longshoremen Association COPE
74. CAREPAC
75. Eli Lilly and Company PAC
76. MAG Mutual SC PAC
77. SC Podiatric Medical Association PAC Fund
78. Dominion Energy Inc. PAC – SC
79. Planned Parenthood Votes! SC PAC

80. Advancement of BB Communications PAC
81. National Federation of Independent Business/SC Save America's Free Enterprise Trust
82. Enterprise Holdings, Inc. PAC
83. SC Red
84. Lowcountry Livability PAC
85. York County Citizens for Change