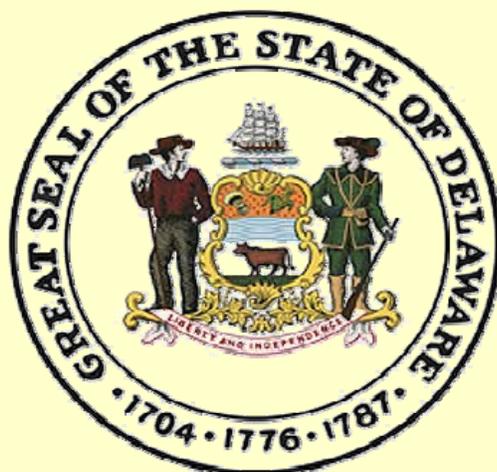


*State of Delaware*

*State Public Integrity Commission*



**ANNUAL REPORT**  
**March 1, 2010**

*Bernadette Winston, Chair*

*William D. Dailey, Jr. and Wayne T. Stultz Vice Chairs*

*Commissioners*

*Terry (Foster) Massie  
Dennis L. Schrader, Esq.*

*Barbara H. Green  
Mark Dunkle, Esq.*

# STATE PUBLIC INTEGRITY COMMISSION

## Annual Report – March 1, 2010

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**Mission:** An independent agency, the Public Integrity Commission administers, interprets and enforces four State laws: Code of Conduct (ethics); Financial Disclosure; Dual Compensation; and Lobbyists' Registration. *29 Del. C., Chapter 58.*

## *Public Integrity Commission Jurisdiction History*

- ☑ *1991 - State Ethics:* all Executive Branch officers and employees, including casual/seasonals; (over 48,000); all non-legislative elected officials; and all State Board and Commission appointees (In 2009, over 300 Boards and Commissions).
- ☑ *1993 - Local Ethics:* 57 local governments' employees, officers, elected officials, and Board and Commission appointees, unless they submit a Code for the Commission's approval. (As of 2009, only 7 have submitted a Code, leaving PIC with 50).
- ☑ *1994 - Dual Compensation:* all State and local employees and officials with a second elected or paid appointed position with State or local government.
- ☑ *1995 - Financial Disclosure:* elected officials (legislators and non-legislators); State candidates; Cabinet Secretaries, Division Directors and equivalents. (2009: 329 officers filed).
- ☑ *1996 - Lobbying:* all State lobbyists register, submit authorization from entities they represent, and file quarterly expense reports (2009: 333 lobbyists; 808 organizations; 3232 expense reports).
- ☑ *2000 - Ethics:* School Districts and Boards of Education
- ☑ *2001 - Ethics:* Charter School Boards of Education



# DELAWARE PUBLIC INTEGRITY COMMISSION

410 Federal St., Suite 3; Dover, Delaware 19901  
Phone (302) 739-2399 Fax (302) 739-2398

## *Commission Structure*

### *Appointments, Qualifications and Compensation*

- ☑ *7 Citizens are the "Public Eye" on Government Ethics*
- ☑ *Nominated by the Governor; Senate Confirms*
- ☑ *Elect their Own Chair*
- ☑ *Cannot be:*
  - Elected or Appointed Official - State or Federal*
  - Holder of Political Party Office*
  - An officer in a political campaign*
- ☑ *Generally are Appointed from all three Counties*
- ☑ *Terms - one full 7 year term; may serve until successor is confirmed*
- ☑ *Vacancies filled just as Original Appointments*
- ☑ *Pay - \$100 each official duty day; reimbursement of reasonable and necessary expenses*

## *II. Commissioners' and Staffs' Biographies*

### ***Bernadette P. Winston, Chair***

Bernadette P. Winston was the fourth Commissioner appointed in 2004. Her term expires May 12, 2011. In 2006, her fellow Commissioners elected her as the Vice Chair of Personnel. In 2009, she was elected as the Commission's Chair.

Ms. Winston is the Executive Director of the Kingswood Community Center, Inc., in Wilmington, Delaware. As the Director, she is responsible for the operations of the Center's three sites.

She has had more than 35 years of experience in government and non-profit programs. Among her past activities, she was Board President, West Center City Early-Learning Center; Vice Chair, Interfaith House; Board of the Food Bank of Delaware; Advisory Board Member for Girls Scouts and YMCA; and Second Vice President, NAACP; Treasurer of Monday Majors; and President of Thursday Women's Major League.

She currently chairs the Wilmington Housing Authority Board of Commissioners; is a member of Community and Schools Boards; is active with the Junior Board of Christiana Care; and is a member of the Order of the Eastern Star and the Illustrious Commandress of the Daughters of Isis.

Ms. Winston resides in Wilmington, New Castle County, with her husband, George. She has two grown daughters and four grandchildren.

### ***William W. Dailey, Jr.***

In 2006, William W. Dailey, Jr., was appointed to the Commission to serve until November 8, 2012. In 2009, he was elected by his fellow Commissioners to serve as the Vice Chair of Personnel.

Mr. Dailey has an extensive engineering and surveying background, through his education and service in the United States Army Engineer Corps. After an honorable discharge, he continued his education and was certified in Reduction and Flood Hazards, Inshore and Coastal Hydrographic Surveying. He is a licensed Land Surveyor in Delaware, Maryland, New Jersey and Pennsylvania.

Before retiring, he worked for VanDemark & Lynch, Inc., gaining experience in all phases of surveying and land development. He supervised field operations for the company, including property, topographic, construction, geodetic and hydrographic surveys; supervised field crews in those areas;

compiled and reviewed field data; conducted legal research where necessary; and was recognized by Courts as a legal expert in the field, and has given expert testimony.

Projects he worked on ranged from small tracts to areas exceeding 5,000 acres, where he gained extensive experience in horizontal and vertical controls for aerial mapping and hydrographic surveys. His work in Delaware has covered projects such as supervising field surveys for the Delaware Army and Air National Guard at the Greater Wilmington Airport; Dover Air Force Base; and Georgetown Airport. His work for the military focused on runway and taxiway extensions and improvements. He also was responsible for field surveys on major shopping centers in Delaware: Christiana Mall, Concord Mall and Brandywine Town Center.

He has taught seminars and classes on surveying, including Boundary Law, Surveying Basics, Surveying Issues, Title Insurance, Metes and Bounds Descriptions, etc. For 15 years, he was an instructor at Delaware Technical and Community College, Stanton Campus.

He has served on and been a member of numerous Surveyor Societies, including serving as Chair of the State of Delaware Board of Land Surveyors (1981-1990). In 1993, the Delaware Association of Surveyors selected him as its Surveyor of the Year.

In addition to serving on boards and committees related to surveyors, he was Youth Chairman, President and Vice President of the Red Clay Kiwanis Club. Although retired, he remains involved with VanDemark & Lynch as a consultant. He also is active in the Gull Point Condominium Council in Millsboro, Delaware.

He lives in Millsboro with his spouse.

### ***Commissioner Wayne R. Stultz***

The Delaware Senate confirmed Mr. Stultz's appointment as a Commissioner in January 2007 to serve until January 2010, to complete the term of a prior Commissioner. By law, he may be reappointed to serve a seven year term of his own. In 2009, he was elected as Vice Chair of Policies and Procedures.

Mr. Stultz retired from the State of Delaware as a project manager for advanced electronic card systems. He is a principal with the Stultz Group, an electronic card consulting company.

Mr. Stultz holds degrees of Bachelor of Science for Business Administration and Master of Business Administration.

His community service includes current President Elect and past Treasurer of the Dover Rotary Club; Board member and Operations Officer for the Volunteer Ambulatory Surgical Access Program; Business administrator for Operation We Care Overseas Medical Missions; Board member and Chair of the Asset Liability Management Committee for the Del-One Federal Credit Union; and a past director for the Maryland Interstate Senior Golf Association.

Mr. Stultz resides in Dover.

### ***Foster (Terry) J. Massie***

Foster J. (Terry) Massie was appointed for a seven-year term on July 23, 2002. The Commissioners twice elected him as Vice-Chair for Personnel, and in 2006 elected him as Chairman. He served as Chair for three years, and his appointment was to expire on June 30, 2009. By law, he continues to serve until his replacement is confirmed.

Mr. Massie is employed by Wells Fargo's Auto Finance as a Regulatory and Operational Risk Consultant. He has worked in Risk Management for three years.

A graduate of Henry C. Conrad High School, he completed his Associate's Degree in Accounting at Goldey Beacom College, Wilmington, Delaware. He attended Neumann College, Aston, Pennsylvania, and Wilmington College.

His commitment to his community is evidenced by his community service through such positions as current President, Mendenhall Village Homeowners Association; former Board Member and First Vice President, Greater Hockessin Area Development Association; and former Chair, Upper Limestone Road Focus Group. He resides in Hockessin, New Castle County.

### ***Barbara H. Green***

Commissioner Green was appointed on June 25, 2004 to complete the term of Paul E. Ellis, with the term expiring July 8, 2005. By law, she was reappointed to serve her own 7-year term, which expires November 8, 2012. Her fellow members elected her three times as one of the Commission's Vice-Chairs. In that capacity, she not only served as a back-up for the Commission Chair, but she was responsible for the Procedures and Orientation Committee, which designs and implements procedures for the Commission and its staff. The Commission has adopted a rule providing that generally a Commissioner can only hold the position of Vice Chair for three years. Accordingly, at the September 2009 elections, Commissioner Green did not seek re-election as a Vice Chair. She also did not seek the role of Chair.

Ms. Green has a bachelor's degree in Medical Technology with a minor in

Biology from the University of Delaware. Until retirement, she worked for Dade Behring, a global diagnostic products company, the Dupont Company, and the Wilmington Medical Center. She has now come out of retirement and began a new career in real estate sales.

In her early career she spent several years in hospital laboratory supervision before moving to the corporate world. While with the Dupont Company, she worked in research and development and developed new medical diagnostic tests for Dupont chemistry analyzers. The bulk of her career was spent in management, mostly in the diagnostic products manufacturing environment. Her most recent assignment was with Dade Behring as the Director of Manufacturing for a 500 person medical diagnostics manufacturing organization. She was also responsible for global implementation of corporate level quality and efficiency processes for that organization.

Ms. Green is a resident of Rehoboth Beach, in Sussex County.

***Dennis L. Schrader, Esq.***

Commissioner Schrader was appointed on June 24, 2004 to complete 6 years of Marla L. Tucker's term after she relocated out of State. His term expires June 30, 2010.

Mr. Schrader earned a law degree from West Virginia University College of Law. He is admitted to practice in both West Virginia and Delaware State and Federal Courts, and is admitted to the U.S. Supreme Court. He presently practices with the firm of Wilson, Halbrook & Bayard, P.A., in Georgetown, Delaware. In his practice, he has served as the Town Attorney for towns in Southern Delaware, and was the County Attorney for Sussex County.

Mr. Schrader has been active in the legal community for many years as the Delaware State Bar Association's President, and an officer/representative of such organizations as the Sussex County Bar Association, Mid-Atlantic Conference of Bar Presidents, National Conference of Bar Presidents, American Bar Association, etc. He currently serves on the Board of Bar Examiners.

He was selected by former Chief Justice Veasey to Chair the Delaware Supreme Court Committee that rewrote the Lawyer's Rules of Professional Conduct. He has been highly active in studies of the Delaware Court system, and received the Delaware State Bar Association President's Citation for service in the public interest for his work for the Professional Guidance Committee. He also was recognized for his work in furtherance of the administration of justice when he received the Andrew D. Christie *Pro Bono Publico* Award.

***Mark F. Dunkle, Esq.***

Mr. Dunkle was confirmed for a seven year appointment to the

Commission on June 30, 2009. His term will expire on June 30, 2016.

Mr. Dunkle is an Attorney/Director in the Dover law firm of Parkowski, Guerke & Swayze, P.A. He has worked with this general practice law firm since July 1996. Prior to that, he worked in the Dover offices of the law firm of Prickett, Jones, Elliott, Kristol & Schnee.

Before receiving his law degree from Emory University School of Law in Georgia, he graduated with distinction from the University of Virginia with a history degree. Upon completing his law degree, he was admitted to the Georgia Bar, and three years later was admitted to the Delaware Bar. Aside from his admission to practice in all Delaware Courts, he is admitted to practice in the U.S. District Court, District of Delaware, and the United States Supreme Court.

Mr. Dunkle is well-published in, and has made presentations on, land use law. Among his publications and presentations are: "Municipal Annexation Law in Delaware," "Delaware Land Use Law," "Delaware Condemnation Law," and "Eminent Domain Law in Delaware." His presentations have been through the auspices of the Delaware Urban Studies Institute, the National Business Institute, and the Delaware State Bar Association. Also, in the area of land use, he was a member of the Kent County Comprehensive Development Plan Update Committee, and a member of the Kent County Transfer of Development Rights Committee. In the area of publications, he also served as co-editor, *In Re*, the Delaware State Bar Association Journal.

He has chaired the Governor's Magistrate Screening Committee. Presently, he is a member of the Delaware Board of Bar Examiners Character and Fitness Committee. He also has served on the Executive Committee of the Delaware State Bar Association.

Mr. Dunkle has been active in the community of Dover and surrounding areas by serving as President of the Capital City Rotary Club, and continues to be a member.

Mr. Dunkle resides in Wyoming, Delaware.

## ***Staff***

### ***Commission Counsel Janet A. Wright***

As an independent agency, the Commission appoints its own attorney. 29 *Del. C.* § 5809(12). Janet Wright was appointed in 1995.

A Widener University School of Law graduate (cum laude), she was admitted to the Delaware bar in 1989. She also is admitted to the Delaware U.S.

District Court, and the U.S. Third Circuit Court of Appeals. Ms. Wright clerked in the Superior Court for the Honorable Richard S. Gebelein. She then was a City of Wilmington Assistant Solicitor. She prosecuted Fire, Building and Housing Codes, and animal protection laws violations, she also prosecuted criminal matters in Municipal Court. Later, as a litigator, she defended the City and its employees, primarily in federal court, against alleged civil rights violations.

She received an American Jurisprudence Award in Professional Responsibility, and completed the National Institute for Trial Advocacy's course. She is a Northeastern Regional Conference on Lobbying (NORCOL) and Council on Government Ethics Laws (COGEL) member. NORCOL members from Washington, D.C. to New England enforce lobbying laws. COGEL members enforce ethics, lobbying, financial disclosure, and campaign laws in all States, local, federal, Canada, and Mexico governments.

Ms. Wright served on COGEL's Site Selection Committee; moderated a Lobbying seminar; conducted a Dual Government employment session; and served on its Model Lobbying Law Committee. The "COGEL Guardian" published her review of Alan Rosenthal's Drawing the Line: Legislative Ethics in the States.

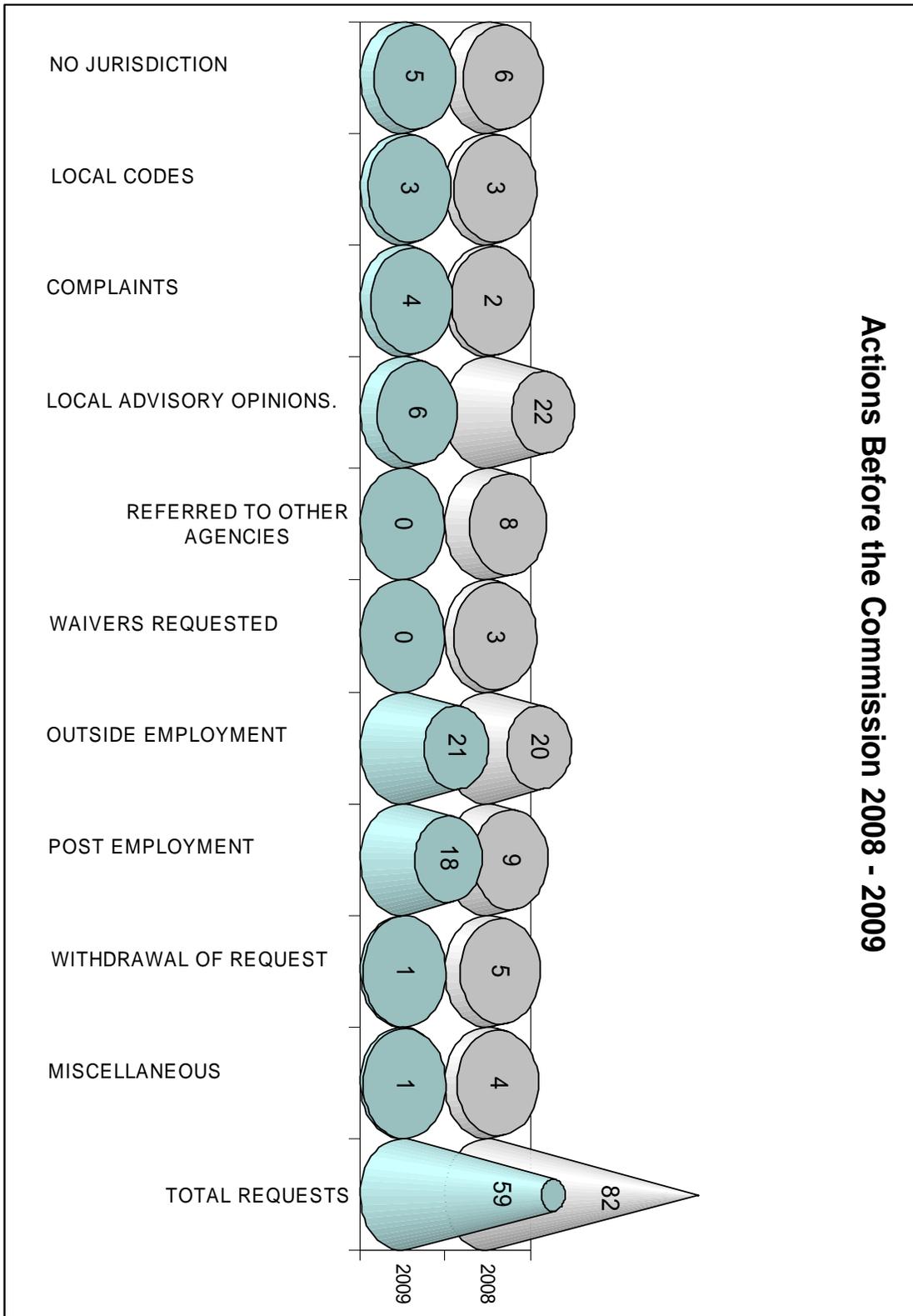
She has given Government Ethics sessions for the Delaware Bar Association's, Continuing Legal Education classes. The National Business Institute (NBI) selected ethics section on "Land Use Planning and Eminent Domain in Delaware" class for its on-line training. She also gave training on "Managing Ethical Issues in Your Day-to-Day Practice."

### ***Administrative Assistant Jeanette Longshore***

Jeannette Longshore was hired as a temporary employee when the Commission's full-time State administrative specialist was absent. She was hired full-time in June 2007.

Ms. Longshore worked at Delaware Technical Community College, Hewlett-Packard, and Agilent Technologies. She has experience in Microsoft Word, Excel, Access, and other computer skills. She performs the day-to-day administrative functions, updates the Commission's website calendar with agendas and minutes, and attends and takes minutes at the meetings, etc. She has worked for the Commission since February 2006. She has trained in various systems, such as Mobius, and attended a 3-day Budget course, which aids in managing PIC's Budget.

## Actions Before the Commission 2008 - 2009



**Actions Before the Commission in 2008 Compared to 2009**

### *III. Laws Administered by the Commission*

#### *A. Code of Conduct - Ethical Standards for the Executive Branch and Local governments*

**Subchapter I, Code of Conduct**—Ethics Rules on Conflicts of Interest for the Executive Branch and 50 local government ethics, and procedures for advisory opinions, waivers and complaints for the entire Chapter.

**Purpose:** Instill the public's respect and confidence that public servants will base their actions on fairness, rather than bias, prejudice, favoritism, etc., arising from a conflict of interest.

**Jurisdiction:** All Executive Branch employees (rank and file, including part-time), officers (elected and appointed Senior Level Executive Branch officials), and honorary State officials (Board and Commission appointees). Approximately 48,000 State positions are in those categories. The number of persons in the 50 local governments is unknown.

#### ***The 12 Rules of Ethics***

**(1) Bar on State Position Acts:** Public servants may not make official decisions if they have a personal or private interest in the decision. Such interests require recusal from official dealings with relatives, personal friends, other employers, etc. This avoids self-dealing and/or bias (positive or negative) due to a personal conflict.

**(2) Bar on Private Activities:** No public servant can go before their own

agency to represent or otherwise assist a private enterprise, whether paid or not by a for-profit or non-profit entity. Private entity also includes any personal private contracts with their agency. In effect, they may not lobby their own agency to award grants-in-aids, contracts, or other government services to a private enterprise. Aside from barring any formal representation, the law bars “otherwise assisting” the private enterprise, e.g., drafting a response to requests for proposals, etc. This does not mean the private enterprise cannot seek such services, only that the government employee, as part of that organization, must avoid any matters on the organization’s behalf. This limits biased decisions by colleagues and co-workers, and prevents a “leg-up” on competitors by a private entity that hires, or otherwise uses, a State employee. For Senior level officials, the bar extends to all agencies. See paragraph (4).

**(3) Limits on Contracting with Other Agencies by Rank and File Employees**

**(a)** As rank and file employees are only barred from dealing with their own agency, they may deal with other agencies in their private capacity. However, if they seek to contract with another agency, the contract must be publicly noticed and bid if for more than \$2,000. This is a much lower threshold for public notice and bidding than the normal procurement law provision. Under the procurement law, public notice and bidding is required for professional contracts of more than \$50,000. The agency decides if contracts for lesser amounts are publicly noticed and bid. If they do not have public notice and bidding down to the \$2,000 threshold, State employees are barred from that contract. Rule 2, barring public servants from dealing with their own agency

avoids suspicion of favoritism by their own agency. This restriction makes public their private dealings with other agencies, so the public concern of favoritism in awarding the contract is diminished in other agencies.

Contracts for less than \$2,000 must show arms' length negotiations--that means distance from self-dealing (Rule 1); from own agency (Rule 2), and a fair market value price.

**(b)** Public concern is further reduced by the provision requiring that as a condition of commencing and continuing employment or appointment, the public servant with a financial interest in a private enterprise that is doing business with, or is regulated by the State, must file a full disclosure with the Commission. Full disclosure is to insure that a direct connection between the financial interest and the public servant's government are closely monitored for any potential conflicts. "Full disclosure" means more details than Senior Level officials are required to report under the Financial Disclosure law, which is discussed later.

**(4) Bar on Private Activities – Elected and Senior Level Executive Branch Officials.** These officials are not only barred from representing or assisting a private enterprise before their own agency, but are barred from such dealings within any agency within their own government. This is because the influence carried at that level may effect decisions by persons from any agency.

**(5) Acquiring Financial Interests:** A public servant can continue to hold financial interests acquired before they had decision making authority over a private enterprise, but must recuse as required by Rule 1. However, they cannot acquire such interests when they know they will be directly involved in making

official decisions over that private enterprise.

**(6) Accepting anything of monetary value:** Whether it is other employment, a gift, compensation, payment of expenses, or other things of monetary value, it cannot be accepted if acceptance may result in:

**(a) impaired judgment in performing official duties.** The Commission looks for compliance with Rule 1.

**(b) preferential treatment to any person,** whether they are the giver or whether they are the public servant to whom it is offered. The Commission looks to the purpose of the rules to insure a lack of favoritism to the public servant or the private source that gives anything of value.

**(c) official decisions outside official channels:** This is to avoid public servants doing through the “back door” that which they cannot do through the “front door.” For example, if they recuse from an official decision (Rule 1), but “know somebody” and unofficially talk to them to get a preferential decision, that fits into this category.

**(d) any adverse effect on the public’s confidence in its government.** This is basically an appearance of impropriety test. Even when there is no actual violation, the Commission looks to the totality of particular facts to see if the conduct appears to violate the Code. This instills the public’s confidence because they know even appearances can bar certain conduct by a public servant.

**(7) Restrictions applying to any Interest:** Public servants may not have any obligation or interest that substantially conflicts with performing their public duties. Public duties must command precedence over any private duty, or

it may follow that the public duty is violated.

**(8) Post-Employment Restriction:** For 2 years after terminating public service, former public servants' activities in the private sector are limited. The restriction does not completely bar former public servants from dealing with their government. Rather, to encourage citizens to enter public service, the post-employment limits are not so stringent that they would turn down public service because of concerns that post-employment restrictions may make it difficult to return to the private sector.

Thus, the bar applies only when a former employee, paid or not, is asked by a private entity to work on government matters where they: (a) gave an opinion—(final or not); (b) conducted an investigation; or (c) were otherwise directly and materially responsible for the matter while in a government job. This insures former employees do not obtain a “windfall” in a private job based on their “inside track” on those particular matters. Even if they are not paid, it also serves to reduce the possibility of their private entity getting a “leg-up” on competitors.

**(9) Misuse of Public Office:** On a broad scale, this is essentially the theme of any situation where the individual acts in the face of a conflict. Additionally, in giving advice, the Commission points out that using government resources or time for personal interests can be misuse of public office.

**(10) Improper Disclosure of Confidential Information:** The government may acquire personal information on those receiving services, or acquire confidential personnel information on its on employees, or investigations, etc. Barring improper use or disclosure is to insure that even the most modest

norms of privacy are protected.

**(11) Sex for Favorable Treatment:** It cannot be explicitly stated or implied that a person seeking government services will receive favorable treatment in return for sex. This is meant to protect the public from such harm.

**(12) Suspicion of Violating the Public Trust:** This, like the bar on creating any adverse effect on the public's confidence, is basically an appearance of impropriety test. It must be applied in conjunction with one of the other 11 rules. It cannot stand alone because of the concern of "ad hoc" decisions, or use for tactical reasons to get an official to recuse. The test is if a reasonable person, knowledgeable of all relevant facts, would still think it appeared that the rules were violated.

**Penalties:** Criminal and/or administrative penalties may be imposed.

**(a) Criminal Prosecution:** The General Assembly found that some standards of conduct are so "vital" that the violator should be subject to criminal penalties. 29 Del. C. § 5802(2). Four (4) rules of conduct carry criminal penalties of up to a year in prison and/or a \$10,000 fine. Those rules are:

- ✚ A personal or private interest tending to impair judgment in official duties;
- ✚ Representing or assisting private entities before their agency and/or other agencies;
- ✚ Contracts without public notice and bidding or arm's length negotiations;
- ✚ Representing or assisting private enterprises on certain matters for two years after leaving employment.

**(b) Administrative Sanctions**

Disciplinary levels are:

- (1) issuing letters of reprimand/censure to any person;
- (2) removing, suspending, demoting, or other appropriate disciplinary action, except for elected officials;
- (3) recommending removal from office of an honorary official; or
- (4) referring contracts violating the law to the issuing agency to decide if it will void the contract; and
- (5) referring suspected violations of other laws to appropriate authorities.

**2009 Actions:** During the calendar year, the Commission responded to 59 requests for advisory opinions and complaints. Areas addressed are in the following chart, which compares 2009 to 2008.

## *B. Financial Disclosure for State Officers and Candidates for State Office*

**Subchapter II, Financial Disclosure**—Public Records of financial interests, such as assets, creditors, income, and gifts, and enforcement procedures, for public officers in the Executive, Legislative and Judicial Branches, and State Candidates.

**Purpose:** The reports are public records to give the public a view of their sources of financial interest, both assets and debts. It helps instill confidence that officials will not act on matters if they have a direct or indirect financial interest that may impair objectivity or independent judgment.

For the public officer, it helps them recognize a potential conflict between official duties and financial interests that may require recusal or ethical guidance. If those financial interests, or others later incurred, raise ethical issues in day-to-day functions, the conflict issue decisions are made under the ethics laws for that particular officer--Executive Branch officers - Code of Conduct, 29 *Del. C.*, Ch. 58;--Legislative Branch officers - Legislative Conflicts of Interest, 29 *Del. C.* Ch. 10;--Judicial officers - Code of Judicial Conduct, *Delaware Rules Annotated*.

**Jurisdiction:** More than 300 “public officers” in the Executive, Legislative, and Judicial branches must file reports within 14 days of becoming a public officer and on February 15 each year thereafter. Filers include: Executive and Legislative Branch elected officials; Cabinet secretaries, division directors, and

equivalents; all Judges. State candidates also must file. That number varies each year based on the total of candidates. .

**Reporting Requirements:** Assets, creditors, income, capital gains, reimbursements, honoraria, and gifts are reported based on a statutory threshold value. Aside from their own financial interests, officials report: assets held with another if they receive a direct benefit, and held with or by spouses and children, regardless of direct benefits. They report their own creditors and creditors of joint debts.

**Penalties:** Willful failure to file is a Class B misdemeanor. Knowingly filing false information is a Class A misdemeanor. 29 Del. C. § 5815. The Commission may refer suspected violations to Commission Counsel for investigation and to the AG for investigation and prosecution. *Id.* The penalties are: (1) up to six months incarceration and/or a fine of up to \$1,150 for a Class B misdemeanor, 11 Del. C. § 4206(b); and (2) up to 1-year incarceration and up to a \$2,300 fine for a Class A misdemeanor, 11 Del. C. § 4206(a). The Court may also require restitution or other conditions, as it deems appropriate. 11 Del. C. § 4206(a) and (b).

**2009 Actions: Referrals:** The Commission had no occasion to refer any suspected violations. **On-line filing:** The Commission strongly encourages on-line filing to save Public Officers, and its office, State costs of stamps, messenger service, paper, etc. Of the 329 public officers, all but 32 filed on-line, meaning 90% filed on line. This is an increase from 2008, when 61% filed on-line.

### *C. Dual Compensation for Local and State Employees and Officials*

**Subchapter III, Dual Compensation Policy**—Monitoring officials holding dual government jobs to prevent “double-dipping;” and enforcement procedures.

**Purpose:** Bar individuals from pay from two tax-funded agencies for the same hours.

**Jurisdiction:** Elected or paid appointed officials with a second government job.

“Double-Dipping” is avoided by more stringent time card requirements. The individual must clock out with approved annual leave, approved leave without pay, or approved compensatory time from their first job to go to their second job, or have their pay pro-rated. Supervisors must verify the time the individual left the first job. The Auditor conducts annual audits of the time cards. A public report is issued. Link: [Auditor’s Dual Compensation Report 2009](#).

**Penalties:** The Auditor reports discrepancies to the Commission for investigation, and/or the AG for investigation and prosecution under appropriate criminal laws. If the dual jobs raise ethics issues, for those subject to Subchapter I, Commission may apply Code of Conduct penalties.

**2009 Actions: Annual Audit:** The Auditor referred no discrepancies to the Commission. **Case Decisions:** In 2009, the Delaware Supreme Court affirmed a Superior Court decision dismissing a claim against a State Representative, alleging a violation of the Dual Compensation Law.

The case began in 2006, in Superior Court. A private citizen alleged the Representative, who also held a School District job, used her “duty free planning period” for paid legislative duties without adjustment to her teacher’s salary.

Complainant sought injunctive relief to stop receipt of alleged dual pay, and monetary relief by reimbursement of the State Treasury for any dual pay.

The complaint was dismissed on the basis that the citizen lacked standing because only the Attorney General can bring actions on Statewide concerns.

Complainant, with another citizen joining, then filed in Chancery Court. The allegations against the Representative were the same, but they added that the State Auditor failed to audit the time records, and also named the School Board Superintendent.

The relief sought was a Declaratory Judgment. Chancery Court held that it had no jurisdiction as it is an equity court. It said it cannot decide matters if a sufficient remedy exists under common law or statute through any other State Court, and the Superior Court has authority to consider Declaratory Judgments. The action was transferred to the Superior Court. It again dismissed the complaint for lack of standing and lack of an actual controversy.

Complainants then appealed to the Supreme Court. It said plaintiff must show an “injury in fact,” a causal connection, and the likelihood the Court will favorably address the injury. That was not substantiated. It also said the suit could not be considered a tax-payers’ claim because it was not to stop the misuse of money, but to have the Auditor perform discretionary duties to audit only one official. [Link to cases.](#)

## *D. Lobbying Registration, Authorization and Expense Reports*

**Subchapter IV, Lobbying**—Public Records of Lobbyists' registrations, authorizations, and expense reports of lobbyists at the State level.

**Purpose:** Lobbying registration informs the public of who is dealing with their officials so that the people's voice will not be "drowned out by the voice of special interest groups." *United States v. Harriss*, 347 U.S. 612 (1954).

**Jurisdiction:** In 2009, 335 lobbyists registered, representing 808 entities, and filing 3,232 expense reports. A chart at the end of this section shows the increases in the past 3 years.

### **Penalties:**

**Criminal Misdemeanor:** Knowingly failing to register or giving false information.

**Administrative:** Failure to file reports is a voluntary cancellation. Lobbyists may not re-register or lobby until delinquent reports are filed.

**2009 Actions: Failure to File:** 1<sup>st</sup> Quarter 2009, 11 lobbyists; 2<sup>nd</sup> Quarter 2009, 14; 3<sup>rd</sup> Quarter 2009, 14; and 4<sup>th</sup> Quarter 2009, 21. Notice was sent to those who failed to file, advising of possible penalties. Notice was sent to their organization if they still failed to file. Non-filers are listed on the Commission's web site.

Some did not file because they were no longer lobbying. They were advised to file for days of the quarter when they were lobbying, and close their account. Others said they forgot, or thought they filed. The rest were cancelled.

## *IV. Training*

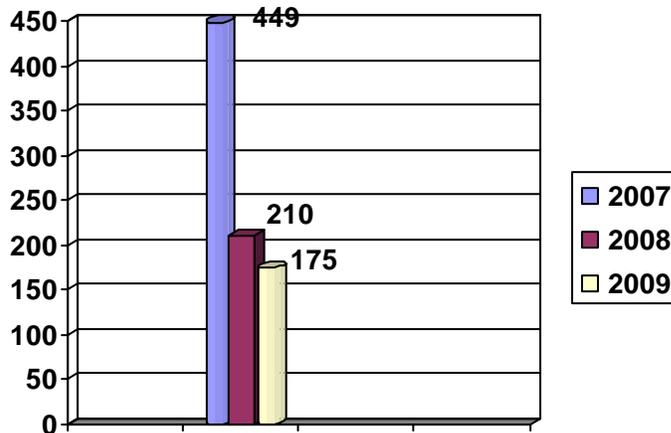
The Public Integrity Commission is tasked, by law, to give seminars. No previous agency handling these laws gave training. The law does not make attendance mandatory.

Education has been and remains a primary focus.

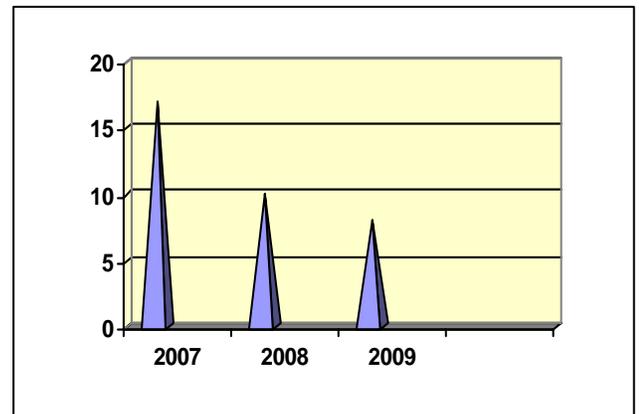
Training covers the laws, obtaining advice, filing complaints, responding to complaints, etc. Tools are opinion synopses, brochures, bulletins, and the Commission's website.

The number of classes and attendees decreased in 2009. That, in part reflects: (1) in 2008 there were no new decisions on financial disclosure, dual compensation or lobbying, and no changes to on-line filing; (2) two Financial Disclosure classes were cancelled for lack of attendees; and (3) the law does not require anyone to attend. In 2009, 9 classes were given, and 175 attended.

**# of Attendees – 2007 – 2009**



**# of Classes – 2007 – 2009**



**(1) Training and Publications - 29 Del. C. § 5808(A)(a)(1)**

As the Commissioners normally meet monthly, the day-to-day work of providing guidance and facilitating compliance with the laws, conducting seminars and workshops, publishing materials for trainees and for public distribution, etc., are Commission Counsel's statutory duties. *Id.*

To best assist employees, officials and lobbyists in understanding and complying with the law, the Commission's primary focus is on training. Handouts of publications which can be reviewed later to reinforce training. Also, attendees ask for copies to take back to those who cannot attend, and others share the materials with persons who have not attended.

Due to budget constraints, the Commission had to reduce the number of hard copy publications distributed to trainees, and to the public, referring them to the Commission's website.

**Ethics Training:** For quick reference, an Ethics Brochure with the 12 rules of conduct, with some brief case examples, is provided at training. It also gives procedures for obtaining advice or waivers, and filing or responding to complaints. Opinion synopses have more specific cases decided over the years. Previously, hard copies of all synopses were distributed at training. To reduce costs, the Commission now hands out only synopses covering 1991 through 1995, and referring trainees to its website, even though trainees' evaluations reflect that the hard copy handouts were one of the most valuable tools from the training.

Based on a Commission survey, electronic access to the documents was

rarely used by trainees.

**2009 Action:** In 2009, eight (8) Ethics classes were given, with 171 attendees.

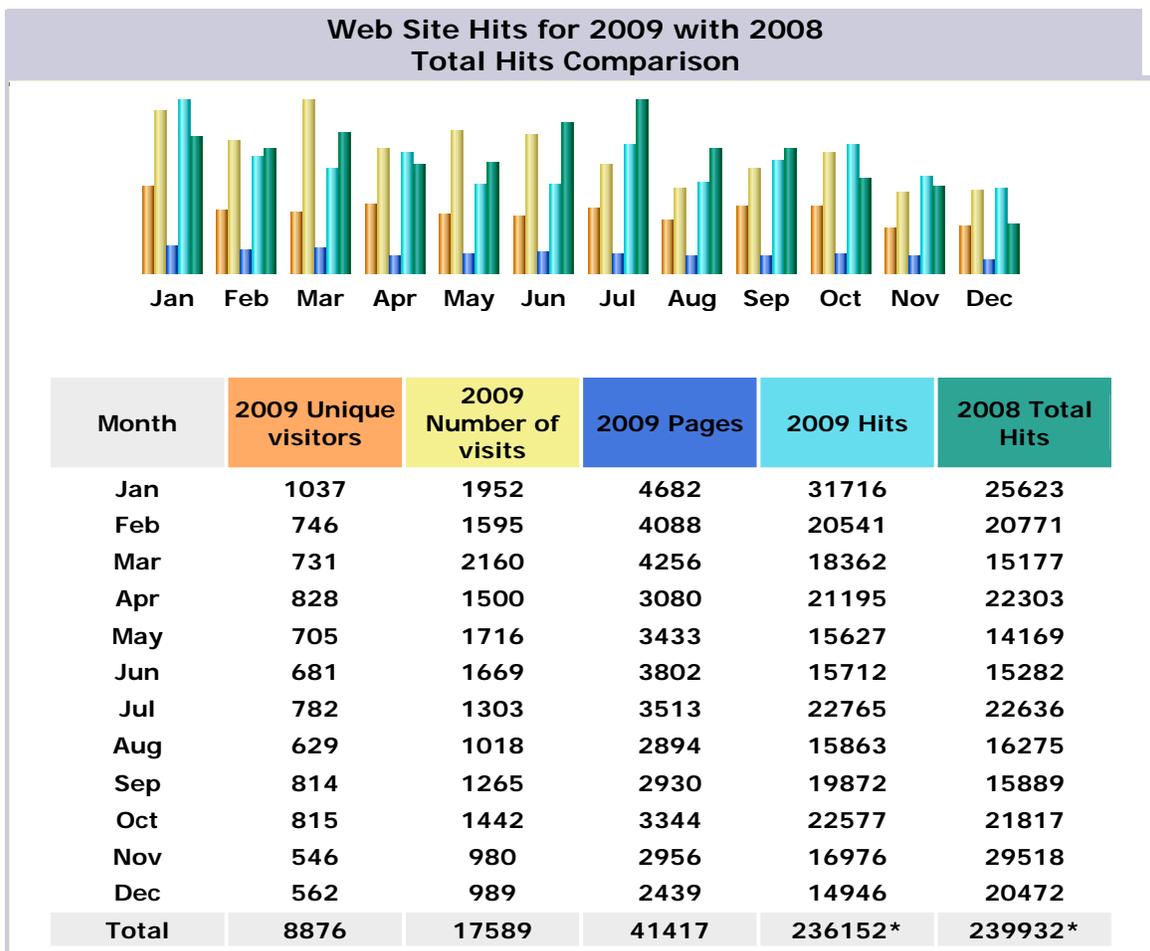
**Financial Disclosure Training:** The Commission notified public officers, in all three branches, that they could schedule classes at their agency, but none were requested. The Commission saved printing costs for hard copies on the disclosure synopses by putting them on its web site.

**2009 Action:** Four (4) new General Assembly members were given financial disclosure training at their Legislative Orientation in November 2009.

**Lobbying Training:** No classes on lobbying were requested. Again, to save budget costs, the Commission has stopped publishing hard copy Lobbying Synopses, but has them available on its web site.

**Website Publications:** Most non-confidential publications are on the Commission's web site. Previously, synopses were added annually to the website after all synopses for a particular year were completed. Now, synopses are in the meeting minutes, and on the Commission's website within 5 workdays of approval. This insures those subject to the law, and interested members of the public are current on the Commission's activities and decisions. The web site also has the statutes, Ethics Bulletins, a gift law brochure, the Commission's rules and its annual reports. For Financial Disclosure filers and lobbyists, it has instructions so they can complete on-line filing. Lobbyists can link to the Legislative Bill Drafting manual if drafting legislation for clients. It also links to related laws such as Legislative Conflicts of Interest and the Judicial Code of Conduct.

**Website Use:** In 2009, the total hits on the Commission’s databases for lobbyists and public officers slightly decreased as compared to 2008. While the number of public officers who filed on-line reports increased, the number of lobbyists using the database decreased. The decrease is attributed to the cancellation of registration by lobbyists, which mean fewer hits by individuals filing on-line reports. It is the first time since the Commission was given jurisdiction over lobbyists in 1996 that the number decreased. Charts for the main website, and the lobbyist/public officer database site follow.

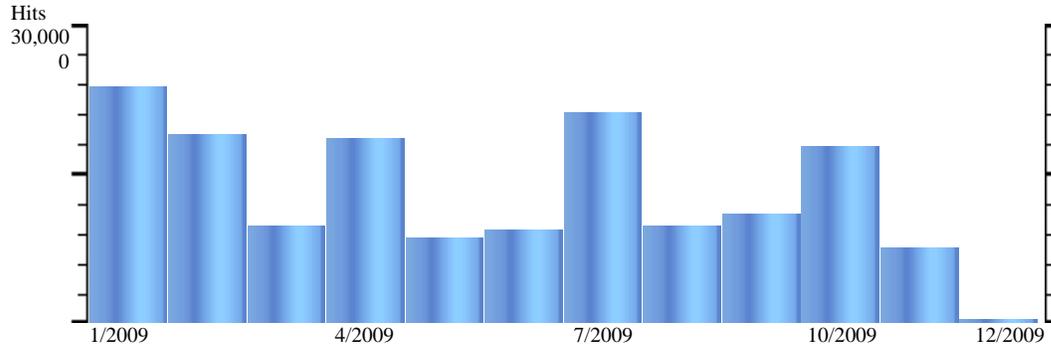


\*The number of hits in 2009 was 3,780 less than in 2008. This is mainly attributed to the fact that fewer lobbyists are registered so there is less use of the home page to enter into the lobbying database to file quarterly reports.

## Web Hits on the Public Officer and Lobbying Databases

Date Range: 01/01/2009 - 12/01/2009

Range Total: 158,161 Monthly Average: 13,180.08



	2009
Total Sessions	14,980.00
Total Page views	68,961.00
Total Hits	158,161.00
Average Sessions Per Day	44.72
Average Page views Per Day	205.85
Average Hits Per Day	472.12

**Total hits in 2009 were 158,161 compared to 189,148 in 2008. That was a decrease of 30,987.**



# DELAWARE PUBLIC INTEGRITY COMMISSION

410 Federal St., Suite 3; Dover, Delaware 19901  
Phone (302) 739-2399 Fax (302) 739-2398

## *Legislation of Interest - 145<sup>th</sup> General Assembly (2009-2010)*

➤ *Budget* - FY 10 PIC Operating Budget - \$32,100 – cut by \$7,000 from last 13 Fiscal Years. Governor's Proposed FY 11 Operating Budget - \$31,100 – cut by \$1,000.

➤ *Public Officers - H.B. 12:* Annual report of relatives who are State workers, or work for entities receiving at least 1/3 of its annual operating budget from the State. Estimated one-time cost of \$1,800 to upgrade existing database to accommodate the new report.

➤ *Public Officers & Others - H.B. 20:* Annual report of relatives like H.B. 12, but adds reporting of relatives who work for institutes of higher learning, Delaware River and Bay Authority, Port of Wilmington, Riverfront Development Corporation and Solid Waste Authority, without limits. Notably, it would require sworn certification—meaning no on-line filing as signatures and notarization cannot occur on line. Paper filings would mean more costs on a continuing basis. If sworn statement is removed, the on-time costs would likely exceed \$1,800 to upgrade the data base because it does not presently include persons from such organizations, and they would also have to be filtered out only for this report since they do not file financial disclosure reports.

➤ *Lobbying - H.B. 16:* Disclose the name and address of every State nonprofit organization, civic association, community association, foundation, maintenance organization or trade group if they are a council or board member. Estimated one-time cost of \$1,800 to upgrade lobbyist database.

➤ *Post-Employment Lobbying - H.B. 27:* Bars Legislators from lobbying for 1 year after leaving public officers; imposes more stringent bars on

Senior Executive Branch officials than existing post-employment law by barring all lobbying for one year after leaving, while current bill would impose bar only if the lobbying were on matters for which they had been directly and materially responsible;

*Hiring of Lobbyists - H.B. 16:* Cannot be hired by State until 1 year after lobbying ends.

➤ *Elected Officials and State Candidates - H.B. 172* - File reports of State non-profits, associations, foundations, maintenance organizations, or trade groups, and such entities having activities in the State. Estimated one-time cost likely to exceed \$1,800 to upgrade database as these reports differ, in part, from the existing database “public officers.” In 2009, the legislation passed the House and was referred to the Senate Executive Committee.

➤ *School Board Elections - H.B. 117:* Within 15 days of election results, elected board members must file a financial disclosure report. Would require a new database program as these persons, and the timing of their filings are not the same as those in the existing database. Costs unknown. In 2009, passed the House and was referred to the Senate Finance Committee.

➤ *Other Legislation of Interest:* For a chart of all monitored legislation click this link: [PIC Monitored Legislation](#). For the most recent action on the legislation, each bill is linked to the General Assembly’s web site. Clicking on the bill number will bring up the information.

## *VI. Commission's Goals*

In 2009, the Commission identified four goals as priorities. Those goals remain the same for 2010.

**(1) Continue emphasizing training in all four areas of the law.** Result: Training classes were fewer in 2009 than in 2008. This was due, in part, to the fact, that no new opinions were issued on the financial disclosure law, the lobbying law or the dual compensation law. Also, most lobbyists and public officers who file financial disclosures have already attended the training covering not only the law, but also on-line training which peaked in 2007. The financial disclosure filings in 2009 were the 4<sup>th</sup> year for on-line filing, so many public officers are more familiar the process. The statistical increase of public officers using the on-line system from 61% in 3008 to almost 90% in 2009 reflects their understanding and usage of the system.

**(2) Increase access to services for those subject to the laws:** Result: The increased use of on-line filing by public officers and lobbyists reflects the convenience of the services. If the pending legislation that would create new reporting requirements for existing public officers passes, they should be familiar with the system and able to quickly adapt to the technicalities of on-line filing for new reports. If the legislation for persons not presently filing is passed, training on the system should result in a steadily increased usage, just as with the lobbyists beginning in 2002, and the public officers in 2006. In 2009, the Commission also added to its web site Delaware Court decisions interpreting the Code of Conduct and the Dual Compensation law to help give further

understanding to those subject to the law.

**(3) Increase access to services for the public:** Result: The list of lobbyists who failed to file expense reports and, as a result, had their registration cancelled was posted on the Commission's website starting at the beginning. The reports go back to all filings since 2002. The provides easy access for the public to gather current and past information without having to make a Freedom of Information Act request or pay any costs associated with such requests. As noted above, in 2009, the Commission also added Delaware Court case decisions to its web site. Again, this is free access for the public, and it also shows the public how the Courts deal with issues related to conduct of government employees, officers and officials.

**(4) Work to achieve an on-line training program:** The Commission continued to work on drafting training modules for an on-line training program. Once the draft is completed and test, the program will be put on the website. Due to budget constraints, the training modules may be staggered by subject over fiscal years to meet the associated costs.

## *VIII. Funding*

As noted in the legislative section, for the past 13 fiscal years, the Legislature appropriated \$40,100 for PIC's operating budget. Several of those years, PIC, like all agencies, had appropriated funds cut. For example, the FY09 appropriations were cut by 17%. In 2009, former Governor Minner proposed a \$6,000 reduction of the past appropriations of \$40, 100. When the appropriations were approved by the General Assembly, the Commission's

operating budget was reduced by \$7, 000, leaving PIC with an operating budget of \$32, 100. The Governor's proposed budget proposal being considered in 2010 includes a cut of another \$1,000.

The Commission operates with this small budget by tightly managing its funds, and staggering goals over fiscal years to provide more services. For example, on-line training will be staggered over fiscal years with modules added when funds are available. However, it has few areas left where it can reduce costs, and if the 6 pieces of legislation that would require additional filings is past, if all of it is done on-line, the costs will average about \$1,800 for each change—a total of \$10,800. Aside from those costs, any changes in legislation also result in more requests for advisory opinion and/or complaints, which entail costs associated with the number of meetings the Commission would need to have, and such administrative costs as paper, envelopes, stamps and messenger services.

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

For Current Status Click on Hyperlinks	<i>Senate Legislation 145<sup>th</sup> General Assembly 1<sup>st</sup> January-July 09</i>	PIC Comments
<a href="#">S.B. 57</a> Stricken 5/6/09	Amends Freedom on Information Act (FOIA) definitions of “meeting” and “quorum”; eliminates the 60-day limit for citizens’ suit enforcement, leaving only the 6-month deadline to challenge a public body’s action. “Meeting” means the gathering of a quorum of any public body’s members to discuss or take action on public business or the formal or informal simultaneous communication of a quorum of members. If a quorum of a public body is not present at a public meeting, no discussion or action on public business shall take place. If a public body holds a series of meetings to discuss public business,, it shall be considered a ‘meeting of the quorum’ when the number of participants reach the public body’s ‘quorum’ requirements.”	PIC is subject to FOIA.
<a href="#">S.B. 58</a> Stricken 5/6/09	Amends FOIA, e.g. (1) Cannot ask why a person wants the information; (2) reasonable effort to provide access as promptly as possible absent exceptional circumstances; (3) reasonable effort to accommodate the number of persons expected at a meeting; (4) public body to prepare meeting minutes no later than 30 days from the meeting date or by the time of the next regularly scheduled meeting, whichever comes first.	PIC is subject to FOIA. PIC has been making these deadlines for posting its minutes, and usually provides the information within about 2 days or less. It has never asked why the information is needed.
<a href="#">S.B. 71</a> Senate Judiciary Out of Committee	Would add 2 more Judges to Superior Court, if funding provided.	PIC administers Financial Disclosure Law. New Judges would need to be put in database, sent notice to file, etc.
<a href="#">S.B. 80</a> LOT 6/11/09	Creates Delaware Health Consortium to implement and operate a Statewide Health Information Network. Its 12-member oversight board will be subject to the Freedom of Information Act. Its by-laws are to establish conflict of interest rules.	Usually, entities subject to FOIA are “public bodies”; basically like “State agencies” in the Code of Conduct. S.B. 80 appears to exempt these members from the Code of Conduct by having them put their Code in the by-laws.

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

<p><a href="#">S.B.125</a> Senate Exec. Committee 6/4/09</p>	<p>Amend State Constitution to provide that no Senator or Representative shall receive any wages or salary from the State other than the capacity as a General Assembly member.</p> <p>1<sup>st</sup> leg of a Constitution Amendment. Would need to pass in 145th 1<sup>st</sup> and 2<sup>nd</sup> Sessions.</p>	<p>Impacts on the number of officials to whom the Dual Compensation law, administered by PIC, applies.</p>
<p><a href="#">S.B. 104</a> Signed On 09/17/2009</p>	<p>Any public body subject to the Freedom of Information Act may conduct a meeting by videoconferencing if each attending member's participation occurs at a noticed public location where the public may attend the meeting, and a member's participation if in compliance with the law would be included for purposes of a quorum.</p>	<p>Not feasible for PIC. Most everything on the agenda is confidential. Also, costs would be prohibitive as the phone/video line costs must be paid by the user. Most Commission meetings run for many hours.</p>
<p><a href="#">S.B. 120</a> Senate Finance Committee 6/4/09</p>	<p>Creates Delaware Health Security Authority. It will have a Division of Planning.</p>	<p>Division Directors must file financial disclosure reports. Will need to add to database, notify of requirement, etc.</p>
<p><a href="#">S.B. 165</a> Signed On 07/08/2009</p>	<p>Amends City of Dover Charter to bar Council members from holding: (1) other elected offices, city employment or office while they are Council members. After they leave office, they are barred for one year from holding any compensated appointive office or employment with the city, unless a waiver is granted by the Board of Ethics.</p>	<p>More stringent than State law. 29 Del. C. § 5821 allows dual offices but mandates time keeping actions. 29 Del. C. § 5805(d) does not bar public jobs after termination; only certain private sector work. PIC sent Ltr to City pursuant to 29 Del. C. § 5802(4).</p>
<p><a href="#">S.B. 196</a> Senate Finance Committee 01/28/2010</p>	<p>Governor's Proposed Budget Bill for FY2012</p>	<p>Recommends total appropriations of \$178.9 for PIC—reducing operating budget of \$32,100 by \$1,000.</p>

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

	<p><i>House Legislation</i>  <i>145<sup>th</sup> General Assembly Session 1</i>  <i>January-July 09</i></p>	
<p><a href="#">H.B. 12</a>  House Admin. Committee  3/10/09</p> <p>Compared to <a href="#">H.B.20</a>  Out of Committee  4/29/09</p>	<p>Public Officers: annual report of relatives who are State workers, or work for entities receiving at least 1/3 of its annual operating budget from the State.</p> <p><b>Similar Legislation: H.B. 20:</b> Difference: H.B. 20 adds reporting of relatives who work for institutes of higher learning, Delaware River and Bay Authority, Port of Wilmington, Riverfront Development Corporation and Solid Waste Authority, without limits.</p> <p>H.B 20 would require sworn certification—meaning no on-line filing as signatures and notarization cannot occur on line.</p> <p>H.B. 12 limits the scope to entities receiving at least 1/3 of its operating budget from the State. H.B. 20 requires reporting if relative’s agency receives any State funds.</p> <p>H.B. 12 annual filing by Mar. 15. H.B. 20 annual filing by Feb. 15.</p>	<p><b>New Jurisdiction over Subject Matter</b></p> <p>H.B. 20 “Sworn statements” would not permit on-line filing. Creates yearly on-going costs, e.g., printing more than 300 forms, etc. On-line saves costs and is more efficient and convenient. The Legislature removed “sworn statement” requirement for the Financial Disclosure reports so they can be filed on-line. Courts have held there is a “strong legal presumption of honesty and integrity” in public officials. That presumption, rather than a sworn statement could be applied. It works that way for other documents from public officers, such as reimbursement requests--no sworn statement.</p> <p>If filed electronically: one-time upgrade of existing public officer database. Est. \$1,800.</p> <p><b>New jurisdiction over persons added to the definition of “public officers.”</b></p> <p>H.B. 20 adds persons who are not now “Public officers” and exempt from filing financial disclosure report, e.g. persons from institutes of higher</p>

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

		<p>learning. <i>29 Del. C. § 5812(n)(2)</i>. The original Financial Disclosure law had a proposed amendment to include the River &amp; Bay Authority, &amp; Solid Waste Authority was never passed. <i>H.A. 14 to H.S. 1 to H.B. 83 (6/9/83)</i>. The Port of Wilmington &amp; Riverfront Development Authority were never considered or included. If they are to become public officers, the exclusion of persons from the institutions of higher learning would have to be removed from <i>§ 5812(n)(2)</i>. Those persons &amp; River &amp; Bay persons, etc., “public officers” would need to be changed. <i>§ 5812(n)(1)</i>.</p> <p>Filing dates: May be more convenient to file this report at the same time as the financial disclosure report.</p> <p>PIC Ltr to General Assembly  <b>House passed Similar bill last year.</b></p>
<p><a href="#">H.B. 16</a>  House  Passed w/  HA 1  Senate  Exec.  Committee  4/9/09</p>	<p>All lobbyists to disclose to the Commission the name and address of every nonprofit organization, civic association, community association, foundation, maintenance organization or trade group of which the lobbyist is a council or board member.</p> <p>H.A. 1 Limits reporting to organizations incorporated in the State and/or having activities in Delaware.</p>	<p><b>New Jurisdiction.</b> One-time upgrade to lobby database. Est. cost: \$1,800.</p> <p>Nothing on how often to file. Presently, they file quarterly expense reports.</p> <p>PIC Ltr to General Assembly</p> <p><b>Identical bill passed House last year.</b></p>

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

<p><a href="#">H.B. 1</a> Signed 06/12/2009</p>	<p>Amending Freedom of Information Act: Public access to meetings of the General Assembly except for caucuses. Also allows public access to records of the General Assembly. The current exceptions that apply to public bodies and public records would apply to meetings and records of the Delaware General Assembly.</p>	<p>Of interest to lobbyists because it gives them another opportunity to access meeting with the General Assembly.</p>
<p><a href="#">H.B. 20</a>  <a href="#">HA. 1</a> House Admin. Committee Out of Committee 4/29/9</p>	<p>Public officers to report family members working for a State agency, school district or any organization, including college, university or like institute of higher learning, including, without limits, the Univ. of Delaware, Delaware State Univ., and Delaware Technical &amp; Community College, or any other entity, including the Delaware River and Bay Authority, Port of Wilmington, Riverfront Development Corporation, and Delaware Solid Waste Authority, that receive State funds.  To be filed within 14 days of becoming an officer and, annually thereafter, by February 15<sup>th</sup>.  H.A. 1: requires sworn certification that officer read the report &amp; believes it true, complete and correct to the best of the officer’s knowledge.</p>	<p><b>New Jurisdiction.</b> See H.B. 12 comments comparing H.B. 20.  If filed on-line a one time cost for upgrading Public Officer database. Est. cost \$1,800. PIC Ltr to General Assembly  <b>Similar bill passed House last year. Senate amended to remove “sworn” statement to allow on-line filing, then session ended.</b></p>
<p><a href="#">H.B. 25</a> House Appropriations Com- 01/15/2009</p>	<p>Governor’s Proposed Budget. Recommends \$6,000 decrease in PIC’s Operating Budget from prior appropriations of \$40, 100 since FY 1996, except when those were cut. Total for salaries &amp; operations: \$188.2  <b>See subsequent appropriations bill: H.B. 290 – reduced by \$7,000</b></p>	<p>PIC is spending less than 1-cent per under the State level jurisdiction, even with \$40,100. It also has jurisdiction of 51 local governments.</p>
<p><a href="#">H.B. 27</a>  <a href="#">HA 1</a> <a href="#">HA 2</a> <a href="#">HA 1 to</a> <a href="#">HA 2</a> <a href="#">HA 3</a> - <a href="#">HA 4</a>- <a href="#">HA 5</a></p>	<p>Legislators may not lobby for 1 year after their term ends. H.A. 1 restricts heads of State agencies, Cabinet Officials and the Executive Staff of the Governor from lobbying for a period of one (1) year after their term of office ends or such State employment ends. H.A. 2 bars lobbyists from State jobs for 1 year after lobbying. H.A. 1 to H.A. 2 limits the bar on hiring lobbyists to high-level State jobs. H.A. 3 restricts agency heads, Cabinet Officials &amp; the Gov.’s Executive Staff from lobbying for 1 year after their term or State employment ends.</p>	<p><b>New jurisdiction:</b> Legislators’ post employment; lobbyists’ pre-employment with State; more stringent post-employment rule for Executive Branch.  Executive Branch law now bars new employees from reviewing or disposing of matters for a period after being hired if they have a conflict. That includes</p>

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

<p>House Admin. Committee  <b>Out of Committee 3/24/09</b>  <b>On House agenda three times; Deferred</b></p>	<p>H.A. 4 bars legislators from lobbying for 2 years after their term ends.          H.A. 5 clarifies: (1) enactment clause to reflect a simple majority, rather than 2/3 majority; (2) clarifies the term “cooling off” period;(3) maintain consistency with other statutes: (4) penalty section re-designated; (5) clarifies that the 1 year applies to any Legislator elected at an election occurring after the Act’s effective date.</p>	<p>decisions on prior employer. The Legislative and Judicial rules, 29 Del. C. § 1002(a) and Canon 3(c), are the same: recusal, rather than barring public service. The Code says it is not to be so “unduly circumscribed” as to discourage citizens from public service. <i>29 Del. C. § 5802(3)</i>.          Pre-employment may create legal concerns: (1) equal employment opportunities, as it targets a select group of people (lobbyists) to bar them from State employment, which is an Equal Opportunity employer; (2) would bar them based on “speech” to elected officials. May also be a jurisdiction issue for the State to have jurisdiction over people who do not work or have not worked for the State.          The bar basically effects only the Executive Branch as lobbyists could still be elected as Legislators, or appointed as Judges.          Monitoring difficulty: if a former lobbyist is being hired, hiring decisions do not go through PIC. Agencies would have to call PIC to find out if one year had passed.</p>
<p><u><a href="#">H.B. 134</a></u>          House Admin.</p>	<p>Establishes State Inspector General Office to investigate state employees and state agencies for waste, fraud, abuse and corruption, make reports to the Governor and refer to the Attorney General the report findings for</p>	<p>Dept. of State will provide office space &amp; staff but have no control or oversight “similar to the independent nature of</p>

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

<p>Committee 4/22/09</p>	<p>possible prosecution.</p>	<p>the Public Integrity Commission.” Uses same definitions as PIC law for State agency; State employee. Reinforces PIC’s independence. PIC has asked for reinforcement of its independence from DOS and/or put it in the Judicial Branch to further remove potential conflicts with the DOS.</p>
<p><u>H.B. 117</u> House Passed Senate Finance Committee 6/16/09</p>	<p>School Board Elections <u>HA 4 to HB 117</u> – Passed – Within 15 days of certification of the results of an election, elected board members must file a financial disclosure report with Public Integrity Commission.</p>	<p>Need database upgrade. The filings are not due at the same time as other public officers. Need program added to send notices, etc., at a different time.</p>
<p><u>H.B. 172</u> House Passed w/ H.A 1 &amp; 2 Senate Executive Committee 6/16/09</p>	<p>Elected officers and Candidates to file reports of State non-profits, associations, foundations, maintenance organizations, or trade groups, and such entities having activities in the State. Takes effect 180 days after enactment. H.A. 1 – exempts reporting of religious entities H.A. 2 – amends to clarify that penalties are specified in § 5815.</p>	<p>Will need upgrade to database (reason for the 180 time frame). Cost approx. \$1800.  Similar legislation last year.</p>
<p><u>H.B. 222</u> Senate Finance Committee 01/12/2010</p>	<p>All state agencies, including Commissions that prepare reports for the General Assembly shall off each member the option to receive the report in electronic format instead of hard copies.</p>	<p>PIC prepares annual reports and annual financial disclosure synopses for Legislators. Electronic version, will reduce costs.</p>
<p><u>H.B. 245</u> Signed 02/01/2010</p>	<p>Amends Titles of Board of Elections Administrators by deleting the word “Administrative” and leaving “Director” and “Deputy Director.”</p>	<p>Would need to amend PIC’s financial disclosure law, 29 Del. C. § 5812(n)(15). Letter should go to Code Revisors: Daniel F Wolcott, Jr. and</p>

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

		Bruce A. Rogers.
<a href="#">H.B. 251</a> Vetoed 02/09/2010	Any person otherwise eligible to be a Council member shall not have a family member holding an elected office for the Town, nor have a family member nominated for and/or appointed to an elected office.	Felton does not have a PIC approved Code of Conduct, so is subject to the State Code. State Code bars relatives from reviewing or disposing of matters if they have a personal or private interest arising from a familial connection, e.g., cannot not review or dispose of nominating or appointing relative.
<a href="#">H.B. 290</a> Signed 07/01/2009	Appropriations: Governor had proposed total for personnel and operating cost: of 188.2 – This bill appropriates: \$179.9.	See H.B. 25 above re: spending less than 1 penny per person on operations. Gov. had proposed a \$6,000 cut in the operating budget as opposed to \$40,100 since FY 96. <a href="#">PIC had asked the JFC to preserve its operating budget \$40,100 operating budget.</a> Instead it was cut \$7,100 which is 17.7%.
<a href="#">H.B. 295</a> Signed 07/01/2009	Grant in Aid: None of these funds may be spent on partisan political campaigns or lobbyists.	Of interest to lobbyists.
<a href="#">H.B. 253</a> Signed On 07/31/2009	Changes name of Violent Crimes Compensation Board to the Victims' Compensation Assistance Program. Changes title of Executive Secretary to Executive Director.	Will need to have that information changed in the Financial Disclosure law. <i>29 Del. C. § 5812(12)</i> . Letter to Code Revisors: Daniel F Wolcott, Jr. and Bruce A. Rogers.
<a href="#">H.B. 300</a> House Passed	Freedom of Information Act (FOIA) requests to be responded to within 10 days after request received. Response may be the records or the reason for needing additional time. Additional time "shall be reasonable."	PIC is subject to FOIA

**SUMMARY OF LEGISLATION AFFECTING LAWS ADMINISTERED BY THE PUBLIC INTEGRITY COMMISSION OR EFFECTING ITS OPERATION**

01/26/2010		
<a href="#">H.B. 310</a> Signed 01/28/2010	Creates Division of Gaming Enforcement, Department of Safety & Homeland Security	Division Director will be added to financial disclosure database for annual filing requirements