

COLORADO INDEPENDENT ETHICS COMMISSION

ANNUAL REPORT 2015

William Leone, Chair
Bob Bacon, Vice Chair
April Jones, Commissioner
Matt Smith, Commissioner

Dino Ioannides, Executive Director

Background

The Colorado Independent Ethics Commission (“IEC” or “Commission”) was created by a voter-initiated constitutional amendment. This amendment, commonly referred to as “Amendment 41,” passed with more than 62% of the vote, and became effective on December 31, 2006, as Article XXIX of the Colorado Constitution. The IEC is authorized to implement and enforce Article XXIX. The Article, section 5, provides:

The purpose of the independent ethics commission shall be to hear complaints, issue findings, and assess penalties, and also to issue advisory opinions on ethics issues arising under this article, and any other standards of conduct and reporting requirements as required by law.

The IEC has jurisdiction over all employees and elected officials in the legislative and executive branches of state government. The IEC also has jurisdiction over employees and elected officials of county and municipal governments, except for home rule county or municipal governments that “have adopted charters, ordinances, or resolutions that address the matters covered by [Article XXIX].” Colo. Const. Art. XXIX, Sec. 7. The Commission does not have jurisdiction over employees and elected officials of special districts or school districts.

The Commission consists of five members, appointed as follows: one member is appointed by the Colorado House of Representatives, one by the Colorado Senate, one by the Governor, and one by the Chief Justice of the Colorado Supreme Court. The fifth commissioner is selected by the other four members of the IEC and must be a local government employee or elected official.

Commissioners serve without compensation but are reimbursed for actual and necessary expenses incurred in carrying out their official duties. Commissioners are appointed to four-year terms and may be reappointed. No more than two commissioners may be from the same political party.

The IEC held its first meeting on December 11, 2007. Originally located in the Office of Administrative Courts at the Department of Personnel and Administration, the IEC’s offices were moved to the Judicial Department in 2010 pursuant to HB 10-1404. The Commission’s offices moved to the new Ralph Carr Judicial Center in December 2012.

The members of the Commission in 2015 were: William J. Leone, Chair; Bob Bacon, Vice Chair; Rosemary Marshall; Bill Pinkham; and Matt Smith. Ms. Amy C. DeVan served as the Commission's Executive Director.

The work of the Commission on its constitutionally-mandated mission to issue advice and hear complaints is summarized below. In addition, Commission staff responds to open records requests pursuant to the Colorado Open Records Act ("CORA"), C.R.S. § 24-72-10, as applicable; conducts trainings of state and local employees and officials; and answers informal questions from covered individuals, the press and public.

Advisory Opinions

The Commission issued 12 advisory opinions in 2015. Two advisory opinion requests were withdrawn and one remained pending at the end of the calendar year. The advisory opinions issued were:

Advisory Opinion 14-20 (Conflict of Interest). This opinion addressed whether a current state employee may enter into a contract for publication of a book related to her duties. (01/05/2015)

Advisory Opinion 14-22 (Acceptance of Gifts). This opinion addressed whether a chief deputy district attorney could accept gifts for participating in a panel convened by the Aurora Police Department. (2/13/2015)

Advisory Opinion 14-23 (Acceptance of Gifts). This opinion addressed whether a deputy county attorney could accept a \$400 travel voucher from an overbooked airline. (01/25/2015)

Advisory Opinion 15-01 (Acceptance of Travel Expenses Paid for by Foreign Government). This opinion addressed the acceptance of travel expenses from the government of Germany by the Executive Director of the Department of Revenue. (02/13/2015)

Advisory Opinion 15-02 (Acceptance of Travel and Conference Expenses Paid by a Third Party). This opinion addressed the acceptance of travel expenses from a non-profit entity by the Director of Marijuana Coordination for the State of Colorado. (05/11/2015)

Advisory Opinion 15-03 *Withdrawn*

Advisory Opinion 15-04 (Conflict of Interest). This opinion addressed whether a current state employee may obtain a patent where there is no apparent conflict of interest. (04/10/2015)

Advisory Opinion 15-05 (Acceptance of Travel Expenses Paid by a Third Party). This opinion addressed the acceptance of travel expenses from a non-profit entity by the Director and Deputy Senior Director of Enforcement for the Colorado Department of Revenue. (04/10/2015)

Advisory Opinion 15-06 (Acceptance of Travel Expenses Paid by a Third Party). This opinion addressed the acceptance of travel expenses from a non-profit entity by the Director of Enforcement for the Colorado Department of Revenue. (04/10/2015)

Advisory Opinion 15-07 (Acceptance of Travel Expenses from a Nonprofit Entity). This opinion addressed the acceptance of travel expenses from a non-profit entity by the Executive Director of the Colorado Department of Corrections. (07/10/2015)

Advisory Opinion 15-08 (Acceptance of Travel Expenses from a Nonprofit Entity). This opinion addressed the acceptance of travel expenses from a non-profit entity by the Executive Director of the Colorado Department of Corrections. (07/07/2015)

Advisory Opinion 15-09 *Withdrawn*

Advisory Opinion 15-10 (Acceptance of Travel Expenses from a Nonprofit Entity). This opinion addressed the acceptance of travel expenses from a non-profit entity by the Pharmacy Clinical Supervisor of the Colorado Department of Health Care Policy & Financing. (08/03/2015)

Advisory Opinion 15-11 (Acceptance of Travel Expenses Paid by a Third Party). This opinion addressed the acceptance of travel expenses from a non-profit entity by senior employees of the Colorado Department of Revenue. (11/06/2015)

Advisory Opinion 15-12 *Pending*

Letter Rulings

The Commission issued two letter rulings in 2015. No letter rulings remained pending at the end of the calendar year. The letter rulings issued were:

Letter Ruling 14-03 (Solicitation for Benevolent Trust). This opinion addressed whether a non-profit benevolent fund is permitted to solicit donations to establish a relief fund benefitting federal law enforcement officers and members of state, county, and municipal police departments, and the spouses, children, families, and designated beneficiaries of such individuals. (01/05/2015)

Letter Ruling 15-01 (Acceptance of Donations for Door Prizes). This opinion addressed whether two trade organizations were permitted to accept and distribute donated items as door prizes to be awarded to covered individuals attending an educational conference. (11/06/2015)

Position Statements

The Commission issued one position statement in 2015:

Position Statement 15-01 (Adjustment of the Fifty Three (\$53) Dollar Gift Limit). This opinion adjusted the gift limit in Sec. 3(6) of Art. XXIX of the Colorado Constitution to fifty nine dollars (\$59). (03/09/2015)

Complaints

Of the complaints received in 2014 (the prior year), two were resolved in 2015. One was dismissed as frivolous. One was resolved by issuance of a final order resulting from a stipulation.

The Commission received 35 complaints in 2015. Of those, one complaint was withdrawn, eleven were dismissed as frivolous, two were resolved by issuance of final orders resulting from stipulations, and 21 remained pending at the end of the calendar year.

Other Activities

On May 7, 2015, the Colorado Court of Appeals affirmed the District Court's ruling in favor of the IEC in *Gessler v. Indep. Ethics Comm'n*, 2014CA670.

The IEC is involved in litigation with Colorado Ethics Watch. The IEC has petitioned the Colorado Supreme Court for review of the trial court's denial of the IEC's Motion to Dismiss. *Colo. Ethics Watch v. Indep. Ethics Comm'n*, 2016 CO 21.

In 2015, the Office of the State Auditor commenced an audit of the IEC. The audit report will be released in 2016.

In December 2015 the IEC's Executive Director, Ms. Amy DeVan, resigned her position. The IEC began a search for a new Executive Director and, in the meantime, hired temporary assistance to continue mission-critical functions.

Conclusion

The Commission received 35 complaints in 2015, which is an unusually high number representing a 46% increase over the prior year's record number of 24 complaints and a 135% increase over the annual average. The Commission's remaining workload was generally within the normal historical range. *See* Appendix.

Appendix

Year	Meetings	Opinions				Complaints	Hearings	CORA Requests	Trainings	Informal Advice Calls
		AO	LR	PS	Total Opinions					
2008	24			3	3	4	0	4	2	57
2009	25	9	5	7	21	14	1	8	6	@175
2010	20	16	2	1	19	9	3	12	7	@150
2011	13	12	0	1	13	12	1	9	34	82
2012	13	9	1	2	12	7	2	13	14	75
2013	21	10	0	0	10	14	3	27	4	232
2014	21	17	2	0	19	24	1	19	3	@110
2015	12	12	2	1	15	35	3	10	19	133
Total	149	85	12	15	112	119	14	102	89	1014

LEGEND:

AO = Advisory Opinion

LR = Letter Ruling

PS = Position Statement

@ = estimated calls (official records not maintained)

Meetings include all in person meetings and telephonic meetings.