

Colorado Independent Ethics Commission  
FY 2023 Strategic Plan and Budget Request



Elizabeth Espinosa Krupa, Chair

Selina Baschiera, Vice-Chair

Dino Ioannides, Executive Director

**COLORADO INDEPENDENT ETHICS COMMISSION - BUDGET REQUEST  
FISCAL YEAR 2023**

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# Independent Ethics Commission Strategic Plan and Budget Request FY 2023

## I. Purpose and Mission

The purpose of the Independent Ethics Commission is “to hear complaints, issue findings, and assess penalties, and also to issue advisory opinions, on ethics issues arising under [Article XXIX of the Colorado Constitution] and under any other standards of conduct and reporting requirements as provided by law.” Colo. Const. art. XXIX, sec. 5(1). The Commission was established to improve the public’s confidence in the integrity of Colorado government by providing oversight and accountability for public officials and employees. Colo. Const. art. XXIX, sec. 1.

## II. Agency Overview

The Colorado Independent Ethics Commission (“the Commission” or “IEC”) was created in 2006 pursuant to a voter-initiated amendment to the Colorado Constitution. The measure was on the ballot as Amendment 41 and became Article XXIX. Following enactment, the General Assembly passed the facilitating legislation found in Article 18.5 of Title 24, C.R.S. The Commission held its first meeting in December 2007, promulgated procedural rules in July 2008, and issued its first opinion in October 2008. The Commission last revised its rules in June 2019.

Pursuant to the Colorado Constitution and statute, the IEC investigates and adjudicates ethics complaints against public officials and employees. The Commission also issues guidance in advisory opinions and letter rulings about whether proposed courses of conduct are ethical under Colorado law. The IEC holds its own hearings on all complaints it finds to be non-frivolous.<sup>1</sup>

The Commission has jurisdiction over all state legislative and executive branch elected officials and employees, as well as elected officials and employees of all Colorado counties and municipalities, unless the county or municipality is a home rule jurisdiction that has adopted charters, ordinances, or resolutions that address the matters covered by Article XXIX.

The Commission consists of five members. The Governor, the House of Representatives, the Senate, and the Chief Justice of the Supreme Court each appoint one member, for a total of four members. The fifth member, who must be a local government employee or official, is appointed by the other four members. No more than two members may be from the same political party. The current members of the Commission are Elizabeth Espinosa Krupa (U), Chair; Selina Baschiera (U), Vice-Chair; Annie Kao (D), Commissioner; Sarah Mercer (D), Commissioner; and Cole Wist (R), Commissioner. The Commission’s Executive Director is currently the only staff member.

The Commission is an independent entity under the umbrella of the Colorado Judicial branch. The State Court Administrator’s Office (SCAO) provides administrative assistance to the Commission including payroll, accounting and budget assistance, employment services, and technological

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<sup>1</sup> See Colo. Const. art. XXIX, § 5(1), (3), and (5); § 24- 18.5-101(4)(a) and (b), C.R.S.

support at no additional cost to the Commission. The IEC office is located in the Ralph L. Carr Colorado Judicial Center.

### **III. Evaluation of Performance**

Since its inception in 2007, the Commission has issued 154 opinions (including position statements, advisory opinions, and letter rulings) and reviewed 354 complaints, holding public hearings on 31 of those matters.

The trend for advisory opinions and letter rulings issued by the Commission shows a generally lower than average number of opinions issued in 2019 through 2020; as of June 2021, numbers suggest an average or below average 2021 calendar year. For complaints, the trend is different. From 2015 through June 2021, the Commission has consistently seen a greater number of complaints filed than its annual average. In 2020, the Commission received three times its annual average complaint volume. The Commission's running average for complaint volume has been on an upward trend since 2008, hitting an all-time high in 2020.

A chart summarizing Commission activities since 2008 is attached as Appendix A.

### **IV. Other Activities**

The Commission is committed to outreach and training for all employees and officials under its jurisdiction. The Commission publishes an ethics handbook that explains the Commission's purpose and mission; describes the Commission's structure, jurisdiction, and activities; summarizes the ethical standards contained in the amendment; and provides resources to covered individuals and members of the public. Since its initial release, this handbook has been provided to the members of the General Assembly, employees of state agencies, appointees to local and state boards and commissions, and county and municipal employees and officials. An electronic version of the handbook is also available on the Commission's website.

In 2019, the Commission significantly increased its outreach and training efforts, more than doubling its prior annual training average. However, the COVID-19 pandemic seriously impacted the Commission's outreach and training efforts in 2020 and the first half of 2021. Nonetheless, the Commission remains committed to training and outreach as an efficient and cost-effective way of ensuring that public officials and employees understand and appreciate their ethical obligations under Article XXIX and the Colorado Revised Statutes.

### **V. Ongoing Strategic Plan and Goals**

The Commission's primary goal is to continue to perform its duties under the Constitution in a fair, balanced, and timely manner. The Commission's ongoing objectives are as follows:

- 1) Continue to respond to requests for advisory opinions and letter rulings promptly and, where possible, issue general guidance to covered individuals through position statements.

In responding to requests for advisory opinions and letter rulings, the Commission's goal is

to achieve resolution of requests within 30-60 days. For the period January 1, 2020, through June 30, 2021, the IEC issued nine opinions, with an average resolution period of 36 days, with the longest period being 85 days and the shortest being just four days. Only one opinion took longer than 60 days to resolve. Excluding this one outlier, the Commission resolved opinions in an average of 28 days.

2) Review complaints as quickly as possible.

Any person may file a complaint with the IEC.<sup>2</sup> The IEC uses electronic complaint filing to facilitate the complaint filing process. Although parties may choose to be represented by counsel, some elect to participate in complaint proceedings on a *pro se* basis. Thus, the Commission strives to be flexible in its hearing requirements, while being mindful of procedural protections for all participants. For example, the Commission regularly allows parties who live outside the metro area to appear by telephone if needed. During the COVID-19 pandemic, parties have appeared through an online meeting platform, WebEx. Additionally, Commission staff works with the parties to explain the complaint process, impart an understanding of the IEC's operations and role, and clarify the IEC's procedures and available remedies. Commission staff cannot provide legal advice, but is nonetheless available to answer questions about navigating the process.

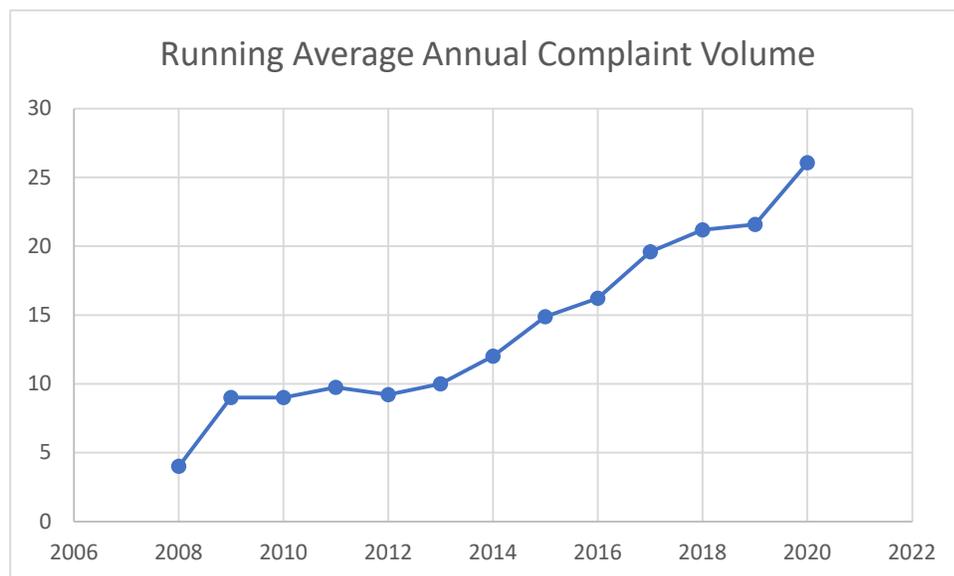
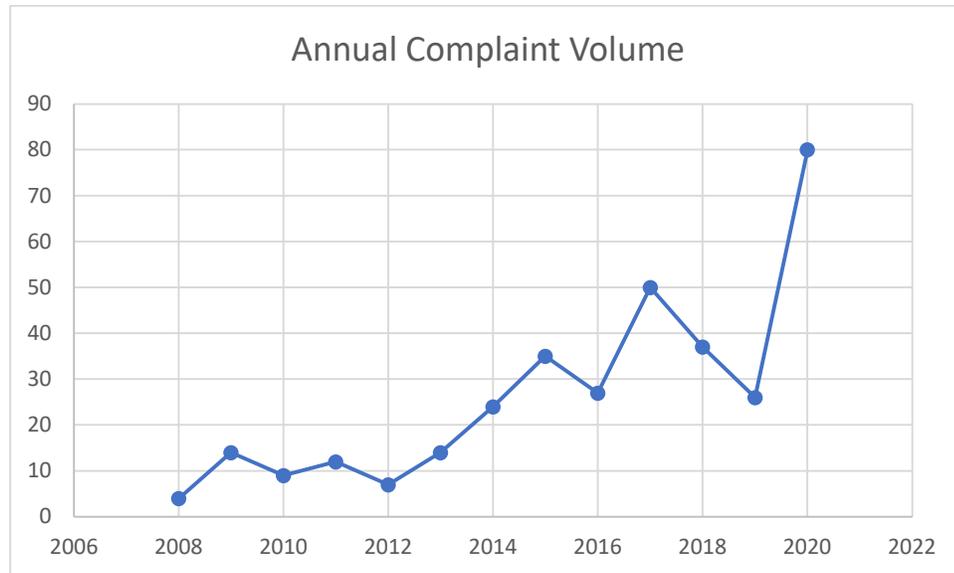
The Commission strives to achieve timely review of complaints following initial filing. Between January 1, 2020, and June 30, 2021, the Commission addressed each complaint that was filed within an average of 74.5 days from the date of filing. This includes six complaints (one of which<sup>3</sup> was postponed for an extended period during the pendency of related litigation) that were resolved via written order. These six complaints took an average of 630 days to resolve. The remaining complaints were resolved, on average, in 37.5 days, with a median of 25.5 days.

As indicated in section III., above, the Commission's complaint volume has been increasing for several years. The following two charts reflect the Commission's annual complaint volume and running average annual complaint volume since 2008.

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<sup>2</sup> Colo. Const. Art. XXIX, § 5(3)(a).

<sup>3</sup> Complaint 17-28.



The Commission expects that complaint volume will continue to increase due to (1) the Commission’s increased public visibility after processing recent high-profile complaints and (2) the increasing polarization in the national political environment. The Commission has been monitoring its increasing complaint volume for several years and will be including a decision item in this year’s budget request for an additional 0.5 FTE.

- 3) Continue the ongoing commitment to outreach and education, including parts of the state outside the Denver metro area, to ensure that all covered individuals receive ethics training and/or information soon after they are hired and on a routine basis thereafter.

Education and outreach are a fundamental component of the Commission’s overall mission. Covered individuals should know what is expected of them and what ethical standards will apply to the performance of their duties. Training and outreach typically include interactive

sessions teaching the fundamentals of Article XXIX and the core of ethical standards found in the Colorado Revised Statutes. Unfortunately, the COVID-19 pandemic has had a significant negative impact on the Commission’s outreach and education program.

4) Increase access to the Commission proceedings for covered individuals and citizens outside the Denver metro area.

The difficulties faced by state and local governments during the COVID-19 pandemic also opened new horizons for improving litigant, witness, and public access to Commission proceedings. Conducting meetings through internet platforms such as Cisco WebEx facilitated participants’ and the public’s remote meeting participation. The Commission anticipates continued use of WebEx, through at least the end of 2021. With the eventual return to in-person meetings, the Commission will continue to have the WebEx option available—in addition to traditional options such as teleconferencing—to facilitate remote participation.

**VI. Additional Issues**

Budget/Adjustments.

In FY 2021, the Commission reverted \$16,395 to the general fund from its program cost allocation.

HB 18-1430 Long-Range Financial Plan.

The consistently growing number of complaints filed with the Commission over time (see charts, p. 5, above) has caused the Commission to reassess its resource needs. Specifically, the Commission believes that seeking decision item approval for an additional 0.5 FTE to assist with the Commission’s investigative and outreach functions is necessary. In particular, additional resources to assist with complaint investigations will ensure the Commission can meet its obligations to dispose of complaints in a timely fashion. After approval of the additional FTE resources, if that is the case, the Commission does not anticipate any additional changes in, or potential contingencies affecting, its future financial planning. The chart below reflects approval of the additional 0.5 FTE, if that is the case, projected into the subsequent five years.

FY2022		FY2023		FY2024		FY2025		FY2026		FY2027	
Appropriation		Appropriation		Appropriation		Appropriation		Appropriation		Appropriation	
FTE	Total	FTE	Total	FTE	Total	FTE	Total	FTE	Total	FTE	Total
1.0	\$193,231	1.5	\$263,924	1.5	\$270,217	1.5	\$278,017	1.5	\$286,064	1.5	\$294,365
1.0	\$193,231	1.5	\$263,924	1.5	\$270,217	1.5	\$278,017	1.5	\$286,064	1.5	\$294,365
<b>Assumptions for Calculations:</b>											
- FY23 assumes approval of FTE request plus 3% base salary and 4% HLD increases for existing staff.											
- FY24 – FY27 assumes continuation plus 3% base salary and 4% HLD increases.											

Common policy adjustments.

For FY 2023, the Commission requests the addition of any applicable common policy adjustments.

## **VII. Conclusion**

For FY 2023 the Commission seeks approval of a decision item to increase its allocation by an additional 0.5 FTE in FY23 and is submitting a decision item for same.



# INDEPENDENT ETHICS COMMISSION

Elizabeth Espinosa Krupa, Chair  
 Selina Baschiera, Vice-Chair  
 Annie Kao, Commissioner  
 Sarah Mercer, Commissioner  
 Cole Wist, Commissioner

## FY 23 Decision Item Request November 1, 2021

Dino Ioannides, Executive Director

**Department Priority:** R-01  
**Request Title:** Staffing of the Independent Ethics Commission  
**Program:** Independent Ethics Commission  
**Statutory Authority:** Colo. Const. art. XXIX, § 5(1)

Summary of Incremental Funding Change for FY23	Total Funds	General Fund	Cash Funds	General Fund FTE
<b>TOTAL REQUEST (All Lines)</b>	\$ 64,024	\$ 64,024	\$ -	<b>0.5</b>
<b>Total Program:</b>	\$ 64,024	\$ 64,024	\$ -	0.5
<b>(10) INDEPENDENT ETHICS COMMISSION</b>				
Program Costs	\$ 64,024	\$ 64,024	\$ -	0.5

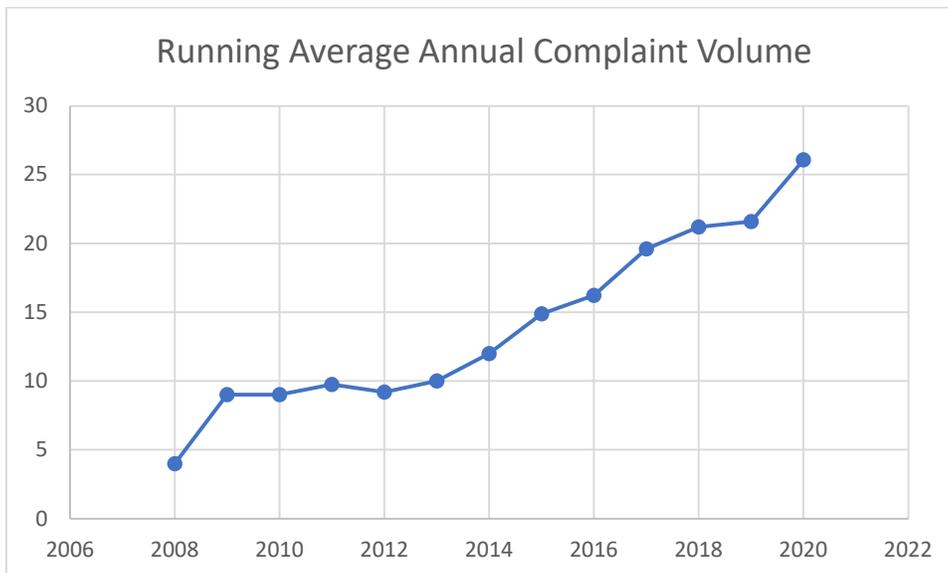
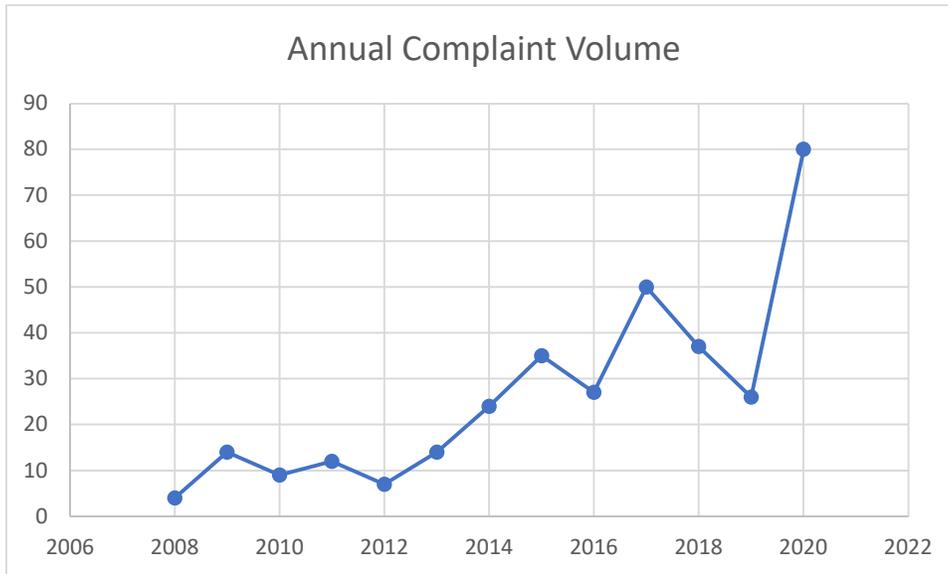
**Summary of Request:**

The Independent Ethics Commission (“IEC”) requests approval of this decision item for 0.5 FTE, and \$64,024 including personal services, program, and capital outlay costs, to be funded from the general fund. This represents approximately a 36% increase to the budget (compared to SB 21-205). The request is ongoing and the outyear impact will be \$63,056.

**Problem or Opportunity:**

Problem 1: Increasing Complaint Volume

From 2015 through June 2021, the IEC has consistently seen a greater number of complaints filed than its annual average. In 2020, the IEC received three times its annual average complaint volume. The IEC’s running average for complaint volume has been on an upward trend since 2008, hitting an all-time high in 2020. The following two charts reflect the IEC’s annual complaint volume and running average annual complaint volume since 2008.



The IEC expects that complaint volume will continue to increase due to (1) the IEC’s increased public visibility after processing recent high-profile complaints; and (2) the increasing polarization in the national political environment. If the volume of complaints continues to increase as expected, the IEC anticipates growing delays for complainants and respondents before cases can be resolved, likely leading to increases in litigant costs. The IEC also anticipates that the increasing volume of complaints will adversely affect other work done by the IEC, such as increasing the time to issue advisory opinions and letter rulings and decreasing the IEC’s ability to conduct outreach and training.

The discussion that follows provides additional background about the IEC’s complaint processing, particularly with respect to the investigations conducted by the IEC’s staff.

Incident to its responsibility to process ethics complaints, the IEC conducts two types of investigations: preliminary and full. Preliminary investigations are those that IEC staff conducts to assist the IEC in determining whether a complaint is frivolous or non-frivolous. The IEC’s staff conducts preliminary investigations at the discretion of the IEC, generally when the IEC needs additional facts or context to make

the frivolous/non-frivolous determination. On the other hand, IEC staff conducts a full investigation for every complaint the IEC has determined is non-frivolous. Full investigations are required by the Colorado Constitution for every non-frivolous complaint. Colo. Const. art. XXIX, § 5(3)(c).

The IEC has only one staff member, the IEC's executive director. Among other things, the executive director is responsible for day-to-day IEC operations such as responding to phone calls and emails; providing informal ethics advice to members of the public; conducting training sessions for state and local governments; drafting agendas and minutes of the IEC; evaluating policy options and making policy recommendations to the IEC; implementing the policy decisions of the IEC; drafting IEC opinions and orders in consultation with legal counsel; making necessary expenditures and monitoring the IEC's budget; media relations; responding to records requests; coordinating IEC hearings and rulemakings; maintaining the IEC's website; coordinating with the analyzing legislative proposals and bills, including preparing fiscal note analyses; and testifying in legislative committees.

In addition to the above responsibilities, the executive director is also responsible for conducting preliminary and full investigations. On average, full investigations occur 1 – 4 times annually. However, the number of preliminary investigations is higher. The IEC estimates that it conducts preliminary investigations in approximately 25% to 40% of complaint cases in any given year. As the number of complaints has risen over time so, too, have the number of preliminary investigations. The IEC estimates that, by 2023, its running average volume of complaints will reach 32 annually, with the possibility of significant volume spikes such as the spike seen in 2020, resulting in an increase in both preliminary and full investigations.

### Problem 2: Lack of Staff Coverage

Because the IEC has only one staff member, staff absences for annual or sick leave can have a significant impact in the IEC's day-to-day operations. The IEC's sole staff member has consistently foregone taking the full measure of accrued leave to ensure that the IEC's operations are not extensively impacted. The inability to timely respond to open records requests represents one example of how even a modest absence by the IEC's one staff member adversely affects both the IEC and the public.

The IEC's one staff member is significantly less than the staff maintained by similar ethics bodies in other states. For reference, please find on the following page a chart of other state ethics boards and commissions, showing staffing, budget, and jurisdiction of each. Colorado is highlighted in gray. It should be noted that some states have multiple regulatory bodies with differing jurisdictional reach and staffing resources. States with similar populations to Colorado include Maryland, Wisconsin, Minnesota, and South Carolina.

	# Employees	Annual Budget	Campaign Finance	Conflicts of Interest	Elections Administration	Ethics	Financial Disclosure	Freedom of Information	Gift Restriction	Lobbying	Public Records	Exec Branch Employees	Judges	Judicial Employees	Legislative Employees	Legislators	Lobbyists	Local Appt'd Officials	Local Elected Officials	Local Employees	Private Sector/Vendors	State Appt'd Officials	State Elected Officials	State Employees	State Colleges & Univs.	
Alabama Ethics Commission	14	\$2,085,939.85	✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Arkansas Ethics Commission	11	\$706,524	✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
California Fair Political Practices Commission	89	\$15,025,000	✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Colorado Independent Ethics Commission	1	\$189,271		✓		✓			✓			✓			✓	✓		✓	✓	✓		✓	✓	✓	✓	✓
Connecticut Office of State Ethics	14	\$1,515,986		✓		✓	✓		✓	✓		✓		✓	✓	✓	✓				✓	✓	✓	✓	✓	✓
Delaware Public Integrity Commission	1	\$189		✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Florida Commission on Ethics	23.5	\$2,642,450		✓		✓	✓		✓	✓		✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Georgia Government Transparency & Campaign Finance Commission	18	\$2,663,796	✓				✓		✓	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Hawai'i State Ethics Commission	11	\$1,269,220		✓		✓	✓		✓	✓		✓		✓	✓	✓	✓					✓	✓	✓	✓	✓
Illinois Executive Ethics Commission	70	\$9,005,500.00				✓			✓			✓											✓	✓		✓
Illinois Secretary of State - Index Department	9			✓			✓	✓		✓	✓	✓	✓		✓	✓	✓						✓	✓	✓	✓
Indiana State Ethics Commission	12			✓		✓	✓		✓	✓		✓					✓				✓	✓	✓	✓		
Iowa Ethics & Campaign Disclosure Board	6	\$510,000	✓	✓		✓	✓		✓	✓		✓					✓						✓	✓	✓	✓
Kansas Governmental Ethics Commission	8	\$717,311	✓	✓		✓	✓		✓	✓		✓	✓		✓	✓	✓		✓				✓	✓	✓	✓
Kentucky Executive Branch Ethics Commission	8	\$969,200		✓		✓	✓		✓	✓		✓					✓						✓	✓	✓	
Kentucky Legislative Ethics Commission	4 FT 3 PT	\$580,000		✓		✓	✓		✓	✓						✓	✓									
Louisiana Ethics Administration	40	\$4,699,476	✓	✓		✓	✓		✓	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Maine Commission on Governmental Ethics & Election Practices	6	\$4,000,000	✓				✓			✓						✓	✓	✓			✓		✓	✓		
Maryland Joint Committee on Legislative Ethics, Maryland General Assembly	3			✓		✓	✓		✓							✓										
Maryland State Ethics Commission	12	\$1,650,973		✓		✓	✓		✓	✓	✓	✓		✓	✓		✓						✓	✓	✓	✓

	# Employees	Annual Budget	Campaign Finance	Conflicts of Interest	Elections Administration	Ethics	Financial Disclosure	Freedom of Information	Gift Restriction	Lobbying	Public Records	Exec Branch Employees	Judges	Judicial Employees	Legislative Employees	Legislators	Lobbyists	Local App't'd Officials	Local Elected Officials	Local Employees	Private Sector/Vendors	State App't'd Officials	State Elected Officials	State Employees	State Colleges & Univs.	
Massachusetts State Ethics Commission	27	\$2,391,848		✓		✓	✓		✓			✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Michigan Department of State	10		✓		✓			✓	✓	✓	✓		✓			✓	✓		✓		✓	✓	✓		✓	✓
Michigan State Board of Ethics	0	\$2,500		✓		✓			✓			✓										✓		✓		
Minnesota Campaign Finance and Public Disclosure Board	9	\$1,123,000	✓	✓			✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓		✓	✓			
Mississippi Ethics Commission	6	\$605,993	✓	✓		✓	✓	✓			✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓
Missouri Ethics Commission	24	\$1,381,405	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Montana Commissioner of Political Practices	7	\$1,100,000.00	✓	✓		✓	✓		✓	✓		✓			✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
Nebraska Accountability & Disclosure Commission	8	\$721,425	✓	✓		✓	✓		✓	✓		✓			✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Nevada Commission on Ethics	6	\$930,000		✓		✓			✓			✓		✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓
New Jersey State Ethics Commission	9	\$1,055,000		✓		✓	✓		✓			✓											✓	✓	✓	✓
New Mexico State Ethics Commission	5	\$900,000	✓	✓		✓	✓		✓	✓		✓			✓	✓	✓					✓	✓	✓		
New York State Assembly Office of Ethics and Compliance	2														✓	✓										
New York State Joint Commission on Public Ethics	55	\$5,582,000		✓		✓	✓		✓	✓		✓			✓	✓	✓				✓	✓	✓	✓	✓	✓
New York State Legislative Ethics Commission	7			✓		✓	✓		✓						✓	✓										
North Carolina State Ethics Commission	10	\$1,139,578		✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓					✓	✓	✓	✓	✓
Ohio Ethics Commission	17	\$2,357,515		✓		✓	✓		✓			✓						✓	✓	✓	✓	✓	✓	✓	✓	✓
Ohio Legislative Inspector General's Office	6	\$700,000		✓		✓	✓		✓	✓					✓	✓	✓									
Oklahoma Ethics Commission	7	\$1,139,754	✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Oregon Government Ethics Commission	9	\$2,758,688		✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Pennsylvania State Ethics Commission	19	\$3,015,000.00		✓		✓	✓			✓		✓			✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Rhode Island Ethics Commission	12	\$1,800,000		✓		✓	✓		✓			✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

	# Employees	Annual Budget	Campaign Finance	Conflicts of Interest	Elections Administration	Ethics	Financial Disclosure	Freedom of Information	Gift Restriction	Lobbying	Public Records	Exec Branch Employees	Judges	Judicial Employees	Legislative Employees	Legislators	Lobbyists	Local Appt'd Officials	Local Elected Officials	Local Employees	Private Sector/Vendors	State Appt'd Officials	State Elected Officials	State Employees	State Colleges & Univs.
South Carolina State Ethics Commission	17	\$1,269,616	✓	✓		✓	✓		✓	✓		✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tennessee Bureau of Ethics and Campaign Finance	8	\$1,200,000	✓			✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Texas Ethics Commission	35	\$3,656,936	✓			✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Vermont State Ethics Commission	1	\$120,000																							
Virginia Conflict of Interest and Ethics Advisory Council	4	\$598,000		✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
Washington State Executive Ethics Board	4	\$498,345		✓		✓			✓			✓										✓	✓	✓	✓
Washington State Legislative Ethics Board	1	\$229,000		✓		✓			✓	✓					✓	✓									
West Virginia Ethics Commission	6	\$719,844		✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
Wisconsin Ethics Commission	8	\$1,425,800	✓	✓		✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Wyoming Secretary of State	4		✓		✓	✓				✓						✓	✓						✓		
Washington State Public Disclosure Commission	19	\$1,941,000	✓				✓			✓			✓			✓	✓		✓	✓		✓	✓		✓

### Problem 3: Lack of Dedicated Outreach and Training Staff

The IEC provides ethics training to state and local governments free of charge. The IEC's training efforts have historically been directed to state and local governments only—the IEC has not emphasized outreach to members of the public generally. Although the IEC solicits training opportunities with state and local governments, such solicitation efforts have occasionally met with limited success; some years the IEC receives a greater number of training requests and some years there are few. The IEC believes that part of the problem is the lack of dedicated staff that can develop and implement a formal outreach program that effectively communicates training opportunities to the numerous state and local government agencies in Colorado.

The IEC believes that a fully developed and effective outreach and training program would have the added benefit of stemming the number of complaints received by the IEC. Government employees and officials who are trained in their ethical responsibilities are less likely to violate ethics requirements and, therefore, less likely to be the subject of an ethics complaint. Education and prevention are central to the IEC's function.

#### Efforts to Solve the Problems

For all the problems listed above, alternative solutions are difficult to come by precisely because the IEC's staff is limited to one individual. With no additional staff, there are few other options available. One solution that worked, in part, for one extended staff absence, was the use of the IEC's general counsel from the Office of the Attorney General to fulfill mission-critical IEC work. However, this solution is not ideal for the future—it is an inefficient use of legal resources, depends heavily on counsel's availability and workload, results in a backlog of non-critical work, and it is not going to be consistently available when needed.

#### ***Proposed Solution:***

The IEC's proposed solution is to hire a part-time employee at 0.5 FTE. The cost of the 0.5 FTE, including personal services, operating, and capital outlay will be \$64,024 in Year 1 and annualizing to \$63,056 in Year 2 (see Assumptions and Calculations, below). There will be no impact to any other department; there are no required statutory changes. The request is for ongoing resources.

The 0.5 FTE is anticipated to fill investigatory, outreach/training, and administrative staff coverage needs of the IEC, with the investigatory function being the primary focus. The investigatory role of this position will be expected to increase the capacity to conduct comprehensive and quality investigations. In addition to investigating complaints, this position will also serve as the investigator for advisory opinion and letter ruling requests. That expansion of the IEC's investigative role will enhance the advisory opinion and letter ruling process and result in higher quality decisions by ensuring that the IEC has all relevant information before making a decision.<sup>1</sup> The IEC expects that the new position will free up the executive director to more fully focus on the day-to-day needs of the IEC, case management, and the development and implementation of a robust outreach and training program for state and local governments.

The addition of investigatory resources will help ensure the continuing prompt completion of investigations so that complainants and respondents can obtain a timely resolution to complaint cases; and so that requestors of advisory opinions and letter rulings can receive judicious and timely responses from the IEC.

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<sup>1</sup> Currently, the IEC relies primarily on the requestor to provide information regarding the request.

These additional resources have a clear connection to the IEC’s strategic plan, which has for years emphasized the timely completion of complaint cases (including investigations), advisory opinions, letter rulings, and the importance of training and outreach. The measurable goals to be advanced are the timing goals (number of days to complaint resolution) and training goals (number of individuals trained) referenced in the IEC’s strategic plan.

A review of the chart provided above, showing the staffing of other state ethics boards and commissions, demonstrates that the majority of states have staffing in excess—frequently far in excess—of the staffing available to the IEC for similar jurisdictional responsibilities.

The IEC anticipates that, if this decision item request is not approved, the IEC will continue to encounter heavy complaint workloads that will: (1) adversely affect the quality of investigations; (2) adversely affect the time to adjudicate complaint cases; and (3) interfere with the IEC’s ability to timely process its other work.

### **Anticipated Outcomes:**

If the proposal is approved, the 0.5 FTE will be hired as an investigative and outreach/training employee that will ensure the ongoing quality and timeliness of the IEC’s complaint investigations, outreach, and training, as well as expand the IEC’s investigative role. Other possible solutions, such as the hiring of contract employees, are not viable because they do not address the long-term needs of the IEC to fulfill its constitutional role for the benefit of the People of Colorado. Specifically, the focus and scope of the IEC’s investigations are such that specialized training and consistency are important to the role. The hiring of a 0.5 FTE will provide permanent resources that can respond to the specialized needs of the IEC. The hiring of a 0.5 FTE will also improve the quality of the IEC’s complaint decisions and advisory opinion/letter ruling decisions, because it will enable the IEC to conduct more fulsome investigations. This is especially important for the IEC because the IEC does not have a prosecutorial arm and the burden of prosecuting complaints falls to members of the public, who are frequently *pro se*. The IEC’s ability to collect relevant information at the investigative stage will improve the quality of its hearings and written decisions.

## Assumptions and Calculations:

		Investigator Year 1	Total Year 2
<b>PERSONAL SERVICES</b>			
Number of FTE per class title		<b>0.50</b>	<b>0.50</b>
Monthly base salary		\$ 7,000	\$ 7,000
Number of months charged in FY22-23		<b>11</b>	<b>12</b>
Salary		\$ 38,500	\$ 42,000
PERA (Staff, GF)	<b>11.40%</b>	\$ 4,389	\$ 4,788
Medicare (Staff, GF)	<b>1.45%</b>	\$ 558	\$ 609
AED	<b>5.00%</b>	\$ 1,925	\$ 2,100
SAED	<b>5.00%</b>	\$ 1,925	\$ 2,100
<b>Sub-total Base Salary</b>		\$ 47,297	\$ 51,597
Health/Life/Dental	<b>\$ 10,042</b>	\$ 10,042	\$ 10,042
Short-Term Disability	<b>0.16%</b>	\$62	\$67
<b>Total Personal Services</b>		<b>\$ 57,401</b>	<b>\$ 61,706</b>
<b>OPERATING</b>			
Phone (common policy)	<b>\$ 450</b>	\$ 450	\$ 450
Supplies (common policy)	<b>\$ 500</b>	\$ 500	\$ 500
<b>Total Operating</b>		<b>\$ 950</b>	<b>\$ 950</b>
<b>CAPITAL OUTLAY</b>			
Furniture	<b>\$ 3,473</b>	\$ 3,473	\$ -
Computer/Monitor/Software/licensing	<b>\$ 2,200</b>	\$ 2,200	\$ 400
<b>Total Capital Outlay</b>		<b>\$ 5,673</b>	<b>\$ 400</b>
<b>Grand Total</b>		<b>\$ 64,024</b>	<b>\$ 63,056</b>
<ul style="list-style-type: none"> <li>- Position costs based on the Dept. of Personnel and Administration Criminal Investigator II.</li> <li>- Assumes minimum salary + 12% adjustment.</li> <li>- IEC is a program line and includes AED/SAED, STD and HLD.</li> <li>- \$400 cap. outlay in outyear is ongoing subscription costs.</li> </ul>			

## Cash Fund Projections (if necessary):

Not Applicable.

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# FY 2022-23 Summary of Change Requests

# Schedule 10

Request Name	Interagency Review	Requires Legislation	Total Funds	FTE	General Fund	Cash		
						Funds	Reappropriated	Federal
<b>Non-Prioritized Request</b>								
	N/A	N/A	-	-	-	-	-	-
<b>Prioritized Request</b>								
R-01 IEC Staffing	No Other Agency Impact	No	\$64,024	0.5	\$64,024	-	-	-
<b>Subtotal Prioritized Request</b>			<b>\$64,024</b>	<b>0.5</b>	<b>\$64,024</b>	-	-	-
<b>Total for Independent Ethics Commission</b>			<b>\$64,024</b>	<b>0.5</b>	<b>\$64,024</b>	-	-	-

## FY 2022-23 Budget Request - Independent Ethics Commission

## Schedule 02

	Total Funds	FTE	General Fund	Cash Funds	Reappropriated	Federal
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### FY 2019-20 Actual Expenditures

10. Independent Ethics Commission	\$175,798	1.0	\$175,798	-	-	-
<b>Total For: FY 2019-20 Actual Expenditures</b>	<b>\$175,798</b>	<b>1.0</b>	<b>\$175,798</b>	<b>-</b>	<b>-</b>	<b>-</b>

### FY 2020-21 Actual Expenditures

10. Independent Ethics Commission	\$172,876	1.0	\$172,876	-	-	-
<b>Total For: FY 2020-21 Actual Expenditures</b>	<b>\$172,876</b>	<b>1.0</b>	<b>\$172,876</b>	<b>-</b>	<b>-</b>	<b>-</b>

### FY 2021-22 Initial Appropriation

10. Independent Ethics Commission	\$193,231	1.0	\$193,231	-	-	-
<b>Total For: FY 2021-22 Initial Appropriation</b>	<b>\$193,231</b>	<b>1.0</b>	<b>\$193,231</b>	<b>-</b>	<b>-</b>	<b>-</b>

### FY 2022-23 Elected Official Request

10. Independent Ethics Commission	\$263,924	1.5	\$263,924	-	-	-
<b>Total For: FY 2022-23 Elected Official Request</b>	<b>\$263,924</b>	<b>1.5</b>	<b>\$263,924</b>	<b>-</b>	<b>-</b>	<b>-</b>

## 10. Independent Ethics Commission

## Schedule 3A

FY 2019-20 Actual Expenditures	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>Program Costs</b>						
SB 19-207 FY 2019-20 Long Bill	\$204,709	1.0	\$204,709	-	-	-
<b>FY 2019-20 Final Appropriation</b>	<b>\$204,709</b>	<b>1.0</b>	<b>\$204,709</b>	-	-	-
<b>FY 2019-20 Final Expenditure Authority</b>	<b>\$204,709</b>	<b>1.0</b>	<b>\$204,709</b>	-	-	-
<b>FY 2019-20 Actual Expenditures</b>	<b>\$175,798</b>	<b>1.0</b>	<b>\$175,798</b>	-	-	-
<b>FY 2019-20 Reversion (Overexpenditure)</b>	<b>\$28,911</b>	-	<b>\$28,911</b>	-	-	-
<b>FY 2019-20 Personal Services Allocation</b>	<b>\$169,974</b>	<b>1.0</b>	<b>\$169,974</b>	-	-	-
<b>FY 2019-20 Total All Other Operating Allocation</b>	<b>\$5,824</b>	-	<b>\$5,824</b>	-	-	-

## 10. Independent Ethics Commission

## Schedule 3B

FY 2020-21 Actual Expenditures	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>Program Costs</b>						
HB 20-1360 FY 2020-21 Long Bill	\$189,271	1.0	\$189,271	-	-	-
<b>FY 2020-21 Final Appropriation</b>	<b>\$189,271</b>	<b>1.0</b>	<b>\$189,271</b>	-	-	-
<b>FY 2020-21 Final Expenditure Authority</b>	<b>\$189,271</b>	<b>1.0</b>	<b>\$189,271</b>	-	-	-
<b>FY 2020-21 Actual Expenditures</b>	<b>\$172,876</b>	<b>1.0</b>	<b>\$172,876</b>	-	-	-
<b>FY 2020-21 Reversion (Overexpenditure)</b>	<b>\$16,395</b>	-	<b>\$16,395</b>	-	-	-
<b><i>FY 2020-21 Personal Services Allocation</i></b>	<b>\$171,594</b>	<b>1.0</b>	<b>\$171,594</b>	-	-	-
<b><i>FY 2020-21 Total All Other Operating Allocation</i></b>	<b>\$1,282</b>	-	<b>\$1,282</b>	-	-	-

## 10. Independent Ethics Commission

Schedule 3C

FY 2021-22 Initial Appropriation	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>Program Costs</b>						
SB 21-205 Long Appropriations Bill	\$193,231	1.0	\$193,231	-	-	-
<b>FY 2021-22 Initial Appropriation</b>	<b>\$193,231</b>	<b>1.0</b>	<b>\$193,231</b>	-	-	-
<b>FY 2021-22 Personal Services Allocation</b>	<b>\$183,669</b>	<b>1.0</b>	<b>\$183,669</b>	-	-	-
<b>FY 2021-22 Total All Other Operating Allocation</b>	<b>\$9,562</b>	-	<b>\$9,562</b>	-	-	-

## 10. Independent Ethics Commission

Schedule 3D

FY 2022-23 Budget Request	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>Program Costs</b>						
<b>FY 2022-23 Starting Base</b>	<b>\$193,231</b>	<b>1.0</b>	<b>\$193,231</b>	-	-	-
TA-01 - IEC FY22-23 Total Compensation Request	\$5,726	-	\$5,726	-	-	-
TA-02 - IEC Annualization of SB18-200 Pera Modifications	\$644	-	\$644	-	-	-
TA-03 - IEC Prop 118 Paid FML Insurance Program	\$299	-	\$299	-	-	-
<b>FY 2022-23 Base Request</b>	<b>\$199,900</b>	<b>1.0</b>	<b>\$199,900</b>	-	-	-
R-01 IEC Staffing	\$64,024	0.5	\$64,024	-	-	-
<b>FY 2022-23 Elected Official Request</b>	<b>\$263,924</b>	<b>1.5</b>	<b>\$263,924</b>	-	-	-
<b>Personal Services Allocation</b>	<b>\$247,739</b>	<b>1.5</b>	<b>\$247,739</b>	-	-	-
<b>Total All Other Operating Allocation</b>	<b>\$16,185</b>	<b>-</b>	<b>\$16,185</b>	-	-	-



Schedule 14B

Line Item	Object Code	Detail	FY 2019-20 Actual		FY 2020-21 Actual		FY 2021-22 Appropriation		FY 2022-23 Gov Req	
			Expenditure	FTE	Expenditure	FTE	Budget	FTE	Budget	FTE
<b>All Other Operating Expenditures</b>										
<b>Object Group</b>	<b>Object Group Name</b>									
2000	Total Operating Expenses		\$2,745		\$1,282		\$9,562		\$16,185	
3000	Total Travel Expenses		\$3,079		-		-		-	
<b>Object Code</b>	<b>Object Name</b>									
2000	Operating Expense		-		-		\$9,562		\$16,185	
2160	Other Cleaning Services		-		\$175		-		-	
2231	Information Technology Maintenance		\$20		-		-		-	
2253	Rental of Equipment		\$726		\$662		-		-	
2510	In-State Travel		\$252		-		-		-	
2512	In-State Personal Travel Per Diem		\$27		-		-		-	
2513	In-State Personal Vehicle Reimbursement		\$509		-		-		-	
2520	In-State Travel/Non-Employee		\$1,116		-		-		-	
2521	In-State/Non-Employee - Common Carrier		\$28		-		-		-	
2522	In-State/Non-Employee - Personal Per Diem		\$61		-		-		-	
2523	In-State/Non-Employee - Personal Vehicle Reimbursement		\$700		-		-		-	
2541	Out-Of-State/Non-Employee - Common Carrier		\$228		-		-		-	
2542	Out-of-State/Non-Employee - Personal Per Diem		\$159		-		-		-	
3110	Supplies & Materials		\$23		-		-		-	
3118	Food and Food Service Supplies		\$700		-		-		-	
3123	Postage		\$10		-		-		-	
4140	Dues And Memberships		\$668		\$445		-		-	
4220	Registration Fees		\$600		-		-		-	
<b>Subtotal All Other Operating</b>			<b>\$5,824</b>		<b>\$1,282</b>		<b>\$9,562</b>		<b>\$16,185</b>	
<b>Total Line Item Expenditures</b>			<b>\$175,798</b>	<b>1.0</b>	<b>\$172,876</b>	<b>1.0</b>	<b>\$193,231</b>	<b>1.0</b>	<b>\$263,924</b>	<b>1.5</b>

IEC Salary Pots Request Template

	TOTAL FUNDS/FTE FY 2022-23	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FUND SPLITS - From Position-by-Position Tab					
Sum of Filled FTE as of July 27, 2021	1.00	100.000%	0.000%	0.000%	0.000%
Salary X 12	\$128,805	128,805	-	-	-
<b>I. Continuation Salary Base</b>					
PERA (Standard, Trooper, and Judicial Rates) at FY 2022-23 PERA Rates	\$14,684	14,684	-	-	-
Medicare @ 1.45%	\$1,868	1,868	-	-	-
Subtotal Continuation Salary Base =	\$145,357	145,357	-	-	-
<b>II. Salary Survey Adjustments</b>					
System Maintenance Studies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Across the Board - Base Adjustment	\$3,864.00	\$3,864.00	\$0.00	\$0.00	\$0.00
Across the Board - Non-Base Adjustment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Movement to Minimum - Base Adjustment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Subtotal - Salary Survey Adjustments</b>	<b>\$3,864</b>	<b>\$3,864.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
PERA (Standard, Trooper, and Judicial Rates) at FY 2022-23 PERA Rates	\$441	441	-	-	-
Medicare @ 1.45%	\$56	56	-	-	-
Request Subtotal =	\$4,361	\$4,361.00	\$0.00	\$0.00	\$0.00
<b>III. Increase for Minimum Wage (if applicable)</b>					
Increase for Minimum Wage	-	\$0.00	\$0.00	\$0.00	\$0.00
<b>Subtotal - Minimum Wage Adjustments</b>	<b>-</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
PERA (Standard, Trooper, and Judicial Rates) at FY 2022-23 PERA Rates	\$0	\$0.00	\$0.00	\$0.00	\$0.00
Medicare @ 1.45%	\$0	-	-	-	-
Request Subtotal =	\$0	\$0.00	\$0.00	\$0.00	\$0.00
<b>IV. Merit Pay Adjustments</b>					
Merit Pay - Base Adjustments	\$0	\$0.00	\$0.00	\$0.00	\$0.00
Merit Pay - Non-Base Adjustments	\$0	\$0.00	\$0.00	\$0.00	\$0.00
<b>Subtotal - Merit Pay Adjustments</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
PERA (Standard, Trooper, and Judicial Rates) at FY 2022-23 PERA Rates	\$0	-	-	-	-
Medicare @ 1.45%	\$0	-	-	-	-
Request Subtotal =	\$0	\$0.00	\$0.00	\$0.00	\$0.00
<b>V. Shift Differential</b>					
FY 2020-21 ACTUAL EXPENDITURES for All Occupational Groups	\$0				
Total Actual and Adjustments @ 100%	\$0	-	-	-	-
PERA (Standard, Trooper, and Judicial Rates) at Current PERA Rates	\$0	-	-	-	-
Medicare @ 1.45%	\$0	-	-	-	-
Request Subtotal =	\$0	-	-	-	-
<b>VI. Revised Salary Basis for Remaining Request Subtotals</b>					
Total Continuation Salary Base, Adjustments, Performance Pay & Shift	\$132,669	132,669	-	-	-
<b>VII. Amortization Equalization Disbursement (AED)</b>					
Revised Salary Basis * 5.00%	\$6,633	6,633	-	-	-
<b>VIII. Supplemental AED (SAED)</b>					
Revised Salary Basis * 5.00%	\$6,633	6,633	-	-	-
<b>IX. Short-term Disability</b>					
Revised Salary Basis * 0.16%	\$212	212	-	-	-
<b>X. Health, Life, and Dental</b>					
Funding Request	\$21,416	\$21,416.00	\$0.00	\$0.00	\$0.00
<b>XI. Paid Family and Medical Leave Insurance Program Premiums (50% Employer Share of 0.9% of wages for six months)</b>					
	\$299	\$299	\$0	\$0	\$0
<b>Additional Appropriations Needed for SB18-200 Changes</b>	<b>\$644</b>	<b>\$644</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

FY23 IEC POTs SUMMARY

Common Policy Line Item	FY 2021-22 Appropriation	GF	CF	RF	FF
Salary Survey	\$4,215	\$4,215	\$0	\$0	\$0
Merit Pay	\$0	\$0	\$0	\$0	\$0
PERA Direct Distribution	\$0	\$0	\$0	\$0	\$0
Paid Family and Medical Leave Insurance Program	\$0	\$0	\$0	\$0	\$0
Shift	\$0	\$0	\$0	\$0	\$0
AED	\$6,440	\$6,440	\$0	\$0	\$0
SAED	\$6,440	\$6,440	\$0	\$0	\$0
Short-term Disability	\$206	\$206	\$0	\$0	\$0
Health, Life and Dental	\$20,443	\$20,443	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$37,744</b>	<b>\$37,744</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
IEC Common Policy Line Item	FY 2022-23 Total Request	GF	CF	RF	FF
Salary Survey	\$4,361	\$4,361	\$0	\$0	\$0
Merit Pay	\$0	\$0	\$0	\$0	\$0
PERA Direct Distribution	\$0	\$0	\$0	\$0	\$0
Paid Family and Medical Leave Insurance Program	\$299	\$299	\$0	\$0	\$0
Shift	\$0	\$0	\$0	\$0	\$0
AED	\$6,633	\$6,633	\$0	\$0	\$0
SAED	\$6,633	\$6,633	\$0	\$0	\$0
Short-term Disability	\$212	\$212	\$0	\$0	\$0
Health, Life and Dental	\$21,416	\$21,416	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$39,554</b>	<b>\$39,554</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Common Policy Line Item	FY 2022-23 Incremental	GF	CF	RF	FF
Salary Survey	\$4,361	\$4,361	\$0	\$0	\$0
Merit Pay	\$0	\$0	\$0	\$0	\$0
PERA Direct Distribution	\$0	\$0	\$0	\$0	\$0
Paid Family and Medical Leave Insurance Program	\$299	\$299	\$0	\$0	\$0
Shift	\$0	\$0	\$0	\$0	\$0
AED	\$193	\$193	\$0	\$0	\$0
SAED	\$193	\$193	\$0	\$0	\$0
Short-term Disability	\$6	\$6	\$0	\$0	\$0
Health, Life and Dental	\$973	\$973	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$6,025</b>	<b>\$6,025</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## Independent Ethics Commission FTE Detail

Object Code 1110,1111,1210,1211	FY2019-20		FY2020-21	
	Total Funds	FTE	Total Funds	FTE
<b>Position Detail:</b>				
Executive Director	124,772	1.0	125,054	1.0
<b>Total Full-Time/Part-Time Wages</b>	<b>124,772</b>	<b>1.0</b>	<b>125,054</b>	<b>1.0</b>

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# Appendix

## Appendix A

Year	Meetings	Opinions				Complaints	Hearings	Trainings
		AO	LR	PS	Total			
2008	24			3	3	4	0	2
2009	25	9	5	7	21	14	1	6
2010	20	16	2	1	19	9	3	7
2011	13	12	0	1	13	12	1	34
2012	13	9	1	2	12	7	2	14
2013	21	10	0	0	10	14	3	4
2014	21	17	2	0	19	24	1	3
2015	12	12	2	1	15	35	3	19
2016	18	7	4	1	12	27	4	1
2017	11	8	1	0	9	50	2	6
2018	12	3	0	0	3	37	1	5
2019	10	5	3	1	9	26	4	19
2020	15	6	0	0	6	80	3	2
1/1/21- 6/30/21	9	0	3	0	3	15	3	0
<b>Total</b>	<b>224</b>	<b>114</b>	<b>23</b>	<b>17</b>	<b>154</b>	<b>354</b>	<b>31</b>	<b>122</b>
<b>Avg.</b>	<b>16.6</b>	<b>8.4</b>	<b>1.7</b>	<b>1.3</b>	<b>11.4</b>	<b>26.2</b>	<b>2.3</b>	<b>9.0</b>

**LEGEND:**

**AO** = Advisory Opinion

**LR** = Letter Ruling

**PS** = Position Statement

**Meetings** include all in person meetings and telephonic meetings.