



**COMMISSION MEMBERS:**  
PAUL M. VETTORI, *Chairman*  
ROBERT G. BLUE  
JULIAN L. LAPIDES  
ANDREA LEAHY-FUCHECK  
JACOB YOSEF MILIMAN

## STATE ETHICS COMMISSION

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*Staff Counsel*  
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*Assistant General Counsel*

### MINUTES OF THE STATE ETHICS COMMISSION MEETING

September 13, 2012

Commission Members Present: Robert G. Blue  
Julian L. Lapidés  
Andrea Leahy-Fuccheck  
Jacob Yosef Miliman  
Paul M. Vettori

Staff Members Present: Michael W. Lord, Executive Director  
Jennifer K. Allgair, General Counsel  
William J. Colquhoun, Staff Counsel  
Katherine P. Thompson, Assistant General Counsel  
Darlene J. Brocki, Office Manager  
Jennifer Whitehead, Legal Assistant  
Megan W. Schutz, Legal Assistant  
Tim McCormick, Special Assistant

The meeting convened at 9:30 a.m. at the Commission's offices in Annapolis. Robert G. Blue was introduced as the new Commission member, Katherine Thompson was introduced as the new Assistant General Counsel and Timothy McCormick was introduced as the new Special Assistant.

ITEM 1: Annual Election of Chairman (July 1, 2012 to June 30, 2013)

Discussion: Mr. Vettori was unanimously elected chairman for a one-year term.

ITEM 2: Tentative Agenda

Discussion: The Commission reviewed the tentative agenda.

Decision: The tentative agenda was approved with additions.

ITEM 3: Minutes of the June 28, 2012 Meeting

Discussion: The draft minutes of the June 28, 2012 meeting were reviewed and discussed.

Decision: The draft minutes were approved as amended.

#### ITEM 4: Financial Disclosure Additions and Deletions

Discussion: Mr. Lord presented a listing of the proposed additions and deletions to the financial disclosure list recommended by State agencies and reviewed by him. The recommendations covered the Executive Department, Treasurer's Office, Comptroller's Office, Department of the Environment, Department of Budget & Management, Public Service Commission, Department of Juvenile Services, State Highway Administration, Department of Business & Economic Development, Motor Vehicle Administration, Transportation Authority, University of Maryland-Baltimore, University of Maryland-College Park, University of Maryland-Eastern Shore, Coppin State University, Montgomery College, Baltimore City Community College and the Register of Wills for Anne Arundel County. The Administrative Officer III position in the Executive Department, the Computer Network Specialist II, the IT Technical Support Specialist II and the Field Enforcement Agent positions in the Comptroller's Office were discussed in detail.

Decision: The Administrative Officer III position in the Executive Department was not added to the financial disclosure listing. The Computer Network Specialist II position in the Comptroller's Office was deleted from the financial disclosure listing. The IT Technical Support Specialist II in the Comptroller's Office was not deleted from the financial disclosure listing. All the Field Enforcement Agent positions in the Comptroller's Office were deleted from the financial disclosure listing. The Commission approved the remainder of Mr. Lord's recommendations.

#### ITEM 5: Financial Disclosure Exemption Requests

Discussion: Mr. Lord briefed the Commission on a list of boards and commissions requesting exemptions from financial disclosure requirements.

Decision: The Commission approved exemptions for the following:

- Task Force to Study the Renovation and Repair Needs of Senior Homeowners
- State Council on Child Abuse and Neglect
- Multidisciplinary Alternative Response Advisory Council
- Communications Taxes – Reform Commission
- Workgroup on Lead Liability Protection for Rental Property
- Workgroup on Access to Habilitative Services Benefits
- Task Force to Study the Laws and Policies Relating to Representation of Indigent Defendants  
by the Office of the Public Defender
- Maryland Higher Education Commission – Student Transfer Advisory Committee

The Commission did not approve an exemption for the Northeast Maryland Higher Education Advisory Board.

#### ITEM 6: Executive Director's Report – Training

Discussion: Mr. Lord briefed the Commission on the trainings provided to the Maryland Transit Administration which were video taped for repeat showings to all or most of its staff.

#### ITEM 7: Executive Director's Report – Senate Bill 1

Discussion: Mr. Lord briefed the Commission on Senate Bill 1 which was passed during the Second Special Session of 2012. This bill required a special activity report to be filed with the Commission by September 17, 2012.

ITEM 8: Executive Director's Report – Status of Regulations

Discussion: Ms. Allgair and Mr. Lord briefed the Commission on the status of the Commission's proposed regulations.

Decision: The Commission approved the Financial Disclosure Regulations – Board and Commission Members; Secondary Employment and Financial Interest Exception Regulations; Participation Exception Regulations; and Activity Reports Regulations. These should become effective on October 15, 2012.

ITEM 9: Local Government – Draft and Adopted Policies and Regulations – Boards of Education

Discussion: Ms. Allgair briefed the Commission on the adopted ethics policies and regulations received from the Garrett County Board of Education, Montgomery County Board of Education and the Baltimore City Board of Education.

Decision: The Commission approved the proposed and adopted ethics policies and regulations.

ITEM 10: Local Government – Draft Ethics Laws – Municipalities

Discussion: Ms. Allgair briefed the Commission on the proposed and adopted ethics laws, policies and regulations received from the Town of Chestertown, Town of Bladensburg, Town of Cheverly, City of District Heights, City of Greenbelt, Town of Westernport, City of Annapolis, City of Hyattsville, Town of Oakland, Town of Leonardtown, City of Takoma Park, Town of Bel Air, Town of Federalsburg, Town of Greensboro, Town of Hagerstown, Town of Princess Anne and Town of Ocean City.

Decision: The Commission approved the proposed and adopted ethics laws, policies and regulations.

ITEM 11: Local Government – Village of Chevy Chase (12-0276)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Village of Chevy Chase. Michael Denger spoke on behalf of the Village of Chevy Chase.

Decision: The Commission granted a partial exemption permitting the Village of Chevy Chase not to adopt lobbying provisions.

ITEM 12: Local Government – Town of Fairmount Heights (12-0184)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Fairmount Heights. Jason DeLoach, Town Attorney, spoke on behalf of the Town of Fairmount Heights.

Decision: The Commission granted a full exemption for the Town of Fairmount Heights.

ITEM 13: Local Government – City of Westminster (12-0208) (Ms. Leahy-Fuckeck did not participate in this matter.)

Discussion: Ms. Allgair briefed the Commission on the partial exemption request received from the City of Westminster. Elissa Levan, City Attorney, spoke on behalf of the City of Westminster.

Decision: The Commission denied an exemption for the City of Westminster.

ITEM 14: Local Government – Town of Hebron (12-0150)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Hebron. Steve Cox, Town Attorney, spoke on behalf of the Town of Hebron.

Decision: The Commission granted a full exemption for the Town of Hebron.

ITEM 15: Local Government – Town of Sharptown (12-0277)

Discussion: Ms. Allgair briefed the Commission on the continuation of a full exemption request received from the Town of Sharptown.

Decision: The Commission granted a full exemption for the Town of Sharptown.

ITEM 16: Local Government – Town of Goldsboro (12-0205)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of Goldsboro.

Decision: The Commission granted a full exemption for the Town of Goldsboro

ITEM 17: Local Government – Town of New Windsor (12-0122)

Discussion: Ms. Allgair briefed the Commission on the full exemption request received from the Town of New Windsor.

Decision: The Commission granted a full exemption for the Town of Windsor.

ITEM 18: Local Government – Formal Consideration of Exemption Requests (Ms. Leahy-Fuchek did not participate in these matters.)

Discussion: Ms. Allgair briefed the Commission on seven new requests from municipalities seeking exemptions and requested that the Commission consider these requests at the October 25, 2012 meeting. The Commission received requests from the Town of Middleton, Town of Brentwood, Town of Forest Heights, Town of Snow Hill, Town of Mountain Lake Park, Town of North Beach and the Town of Rising Sun.

ITEM 19: Local Government – Formal Consideration of Continuation of Full Exemption Requests (Ms. Leahy-Fuchek did not participate in these matters.)

Discussion: Ms. Allgair briefed the Commission on the continuation of full exemption requests from municipalities to be considered at the October 25, 2012 meeting. The Commission received requests from the Town of Edmonston, Town of Lonaconing, Town of Keedysville, Town of Woodsboro, Town of Garrett Park, Town of Willards, Village of Chevy Chase View, Town of Grantsville, Town of Sharpsburg, Town of Queenstown, Town of New Market, Town of Upper Marlboro, Town of Galena, Town of North Brentwood, Town of Washington Grove, Town of Loch Lynn Heights, Village of North Chevy Chase, Town of Friendsville, Town of East New Market, Town of Rosemont, Town of Glen Echo, Town of Queen Anne, Town of Henderson, Town of Luke, Town of Eagle Harbor, Town of Barton, Town of Cecilton, Town of Union Bridge, and the Town of Kitzmiller.

Meeting was closed at 11:25 a.m. to consider confidential advice matters.

ITEM 20: Informal Matter – Secondary Employment - Department of Human Resources (12-0272)

Discussion: Ms. Allgair briefed the Commission on the secondary employment request received from an employee in the Department of Human Resources who is also serving on the board of directors of a non-profit organization.

Decision: The Commission determined this secondary employment is allowable with certain restrictions.

ITEM 21: Informal Matter – Secondary Employment – State Highway Administration (12-0312)

Discussion: Ms. Allgair briefed the Commission on the secondary employment request received from an employee in the State Highway Administration wanting to continue her part-time employment as an adjunct professor teaching engineering and science courses at a private university.

Decision: The Commission granted an exception to allow the secondary employment.

ITEM 22: Informal Matter – Secondary Employment – Department of Human Resources (12-0401)

Discussion: Ms. Thompson briefed the Commission on the secondary employment request received from an employee in the Department of Human Resources wanting to continue her employment as a resident counselor for a private organization providing services to persons with disabilities.

Decision: The Commission granted an exception to allow the secondary employment, pending a response from the Department of Human Resources.

ITEM 23: Informal Matter – Secondary Employment – Department of Human Resources (12-0356)

Discussion: Ms. Thompson briefed the Commission on the secondary employment request received from an employee in the Department of Human Resources wanting to continue her employment as sexual assault advocate and crisis hotline worker on call at night and on the weekends for a private organization.

Decision: The Commission granted an exception to allow the secondary employment, pending a response from the Department of Human Resources.

ITEM 24: Informal Matter – Secondary Employment - Department of Human Resources (12-0412)

Discussion: Ms. Thompson briefed the Commission on the secondary employment request received from an employee in the Department of Human Resources wanting to continue her employment as a residential counselor for a private organization.

Decision: The Commission granted an exception to allow the secondary employment.

ITEM 25: Informal Matter - Secondary Employment – State Highway Administration (12-0381)

Discussion: Ms. Thompson briefed the Commission on a secondary employment request regarding a potential employee in the State Highway Administration who has his own excavating and outdoor advertising businesses.

Decision: The Commission granted an exception, with certain restrictions.

ITEM 26: Informal Matter – Secondary Employment/Financial Interest – Legislative Staff (12-0377)

Discussion: Mr. Lord briefed the Commission on a secondary employment request regarding an employee of the legislative staff who is also serving in an elected position for a local government.

Decision: The Commission determined that the secondary employment is inconsistent with the secondary employment provisions of the Public Ethics Law.

ITEM 27: Informal Matters – Dual Employment – Office of the Governor (12-0403)

Discussion: Ms. Allgair briefed the Commission on a secondary employment request regarding an employee in the Office of the Governor wanting to teach a course at the University of Maryland School of Law.

Decision: The Commission granted an exception to allow the dual employment.

ITEM 28: Informal Matters – Post Employment – Maryland State Lottery (12-0301)

Discussion: Ms. Allgair briefed the Commission on a post-employment request from a former employee with the Maryland State Lottery who is currently working for a gaming corporation and also works as a consultant for a company that sells gaming equipment.

Decision: The Commission determined that the post-employment provisions of the Public Ethics Law did not restrict the former State employee from working on individual licensee issues for a new employer, working on matters related to a different class of video lottery terminals or private party maintenance contracts between the new employer and operators because the former employee did not significantly participate in these specific matters during State employment. The former employee was precluded on working on any matter for a new employer involving matters under a Master Contract he helped draft for his former State agency. Additionally, the former employee was not prohibited from lobbying on new legislation.

ITEM 29: Informal Matters – Participation – State Highway Administration (12-0288)

Discussion: Ms. Allgair briefed the Commission on a participation matter involving an employee in the State Highway Administration whose spouse works for an SHA vendor. The agency also requested advice regarding placement of a vendor's employee in the SHA office related to this request and the SHA employee's ability to participate in future planning matters.

Decision: The Commission determined that advice regarding the participation, prestige of office and confidential information restrictions of the Public Ethics Law will be provided to the employee and his agency. Additional advice will be provided to the agency regarding the issues raised. The SHA employee is not prohibited from participating in future planning activities, as the spouse's employer does not have a specific interest in that matter during the planning phase.

ITEM 30: Informal Matters – Participation – Department of Health and Mental Hygiene (12-0418)

Discussion: Ms. Allgair briefed the Commission on a participation matter involving whether an employee in the Department of Health and Mental Hygiene is precluded from participating in the selection of a behavioral health financing model for the State because of the anticipated interest in bidding on future behavior health service contracts by a private hospital which employs his father.

Decision: The Commission determined that this participation is allowable.

ITEM 31: Informal Matters – Gifts - Department of Agriculture (12- 0363)

Discussion: Ms. Allgair briefed the Commission on whether the gift restrictions prohibit the Department of Agriculture from using certain grant funds to promote international marketing initiatives for Maryland agricultural products.

Decision: The Commission determined that the grant funding is not a gift under the provisions of the Public Ethics Law.

ITEM 32: Informal Matters – Gifts – Patuxent River Commission (12-0354)

Discussion: Ms. Allgair briefed the Commission on whether the Patuxent River Commission can create a private non-profit foundation to raise money to support initiatives created by the Commission.

Decision: The Commission determined that the provisions of the Public Ethics Law would prohibit Commission members from having an active role with such a private non-profit foundation. Commission staff will provide advice to the requestor.

ITEM 33: Informal Matters – Prestige – Maryland Higher Education Commission (12-0393)

Discussion: Mr. Lord briefed the Commission on a question that has arisen as to whether it would be consistent with the Public Ethics Law if the Maryland Higher Education Commission were to vote to take a position to support the Dream Act, to include advocating for its passage in forums, newspaper articles, etc.

Decision: The Commission determined this activity is not within the Commission's jurisdiction, as the regulation of such activity is more appropriately addressed by State Personnel law and agency policy.

ITEM 34: Informal Matter - Political Activity Discussion

Discussion: Mr. Lord briefed the Commission on a request as to whether an employee may wear a political button or display in his/her office a sign showing a candidate preference during work hours.

Decision: The Commission determined these actions tend to be protected freedom of expression under the First Amendment and were not covered under the prestige of office restrictions in the Public Ethics Law. The Commission approved an update to the Political Activities Informational Memorandum reflecting this guidance.

ITEM 35: Informal Matter - Full-Time Contractual Employee Discussion

Discussion: Mr. Lord briefed the Commission on the issue of when a full time contractual employee, who satisfies the Public Ethics Law's definition of public official, becomes subject to the Law. Since the definition of public official applies to a full time contractor who is employed for more than 6 months, the question was whether a contractor who meets the definition of public official becomes subject to the Law at the start of the contract or not until having worked for 6 months.

Decision: The Commission determined a full time contractor for more than 6 months who satisfies the definition of public official becomes subject to the Public Ethics Law at the outset of the contract.

ITEM 36: Informal Matter - Solicitation of Funds

Discussion: Ms. Allgair briefed the Commission on whether the provisions of the Public Ethics Law prohibit a State agency from soliciting funding for State projects or initiatives from private entities.

Decision: The Commission determined that decisions concerning an agency's participation in fundraising activities are more appropriately left to the agency, which should ensure any applicable laws, policies or procedures established by the government branch or agency are followed, including, if required, obtaining proper authorization for the activity. The agency should also ensure relevant laws, policies and procedures are followed by the officials and employees involved in the fundraising activity, and should address with the officials or employees any failure to do so.

(Mr. Lord, Mr. Colquhoun, Ms. Whitehead and Ms. Schutz participated in the briefings but did not participate in the decisions regarding items 37 through 58.)

ITEM 37: A-28-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission declined to issue a complaint in this matter.

ITEM 38: A-30-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: Complaints will be issued in this matter. (C-7-12, C-19-12, C-30-12 and C-39-12)

ITEM 39: A-31-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will remain on the Preliminary Consideration Docket.

ITEM 40: A-32-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: Staff Counsel will draft a letter that this matter is not within the Commission's jurisdiction.

ITEM 41: A-34-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission declined to issue a complaint in this matter.

ITEM 42: A-35-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will be placed on the Preliminary Inquiry Docket. (B-2-12)

ITEM 43: A-37-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.



Decision: The Commission declined to issue a complaint in this matter.

ITEM 44: C-29-09

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission will review the Preliminary Investigation Report at a later date.

ITEM 45: A-29-12

Discussion: Mr. Colquhoun briefed the Commission on these matters.

Decision: The Commission accepted a late filing agreement and decided the other matter would remain on the Preliminary Consideration Docket.

Mr. Lapidès was not present for the remainder of the meeting.

ITEM 46: A-38-12 (Ms. Leahy-Fuchek did not participate in this matter.)

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: This matter will be placed on the Preliminary Inquiry Docket. (B-3-12)

ITEM 47: A-36-12

Discussion: Mr. Colquhoun briefed the Commission on these matters.

Decision: Complaints will be issued in these matters. (C-31-12, C-32-12, C-33-12, C-34-12, C-35-12, C-36-12, C-37-12 and C-38-12)

ITEM 48: C-161-11

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 49: C-25-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing, the Respondent's statement and payment of a fee as a cure.

ITEM 50: C-16-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 51: C-18-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 52: C-21-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 53: C-22-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 54: C-23-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 55: C-24-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 56: C-26-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 57: C-27-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

ITEM 58: C-28-12

Discussion: Mr. Colquhoun briefed the Commission on this matter.

Decision: The Commission accepted the late filing as a cure.

The meeting was adjourned at 2:30 p.m.