

State of Colorado



William Leone, *Chair*
Bob Bacon, *Vice-Chair*
Rosemary Marshall, *Commissioner*
Matt Smith, *Commissioner*
Bill Pinkham, *Commissioner*

Independent Ethics Commission
1300 Broadway, Suite 240
Denver CO 80203
Phone: 720-625-5697
www.colorado.gov/ethics commission

Colorado Independent Ethics Commission

FY 2017 STRATEGIC PLAN AND BUDGET REQUEST

Colorado Independent Ethics Commission
FY 2017 Strategic Plan and Budget Request



William Leone, Chair
Bob Bacon, Vice Chair
Amy C. DeVan, Executive Director

Independent Ethics Commission Strategic Plan and Budget Request FY 2017

I. Mission Statement

The mission of the Colorado Independent Ethics Commission is to encourage, educate about and enforce ethical conduct by public officials and employees pursuant to Article XXIX of the Colorado Constitution, and to maintain and improve the public's confidence in the integrity of Colorado government.

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 enabling legislation found at C.R.S. §24-18.5-101, *et seq.* 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 April 2011.

Pursuant to the Constitution and statute, the IEC is required to "hear complaints, issue findings and assess penalties, and also to issue advisory opinions on ethics issues arising under Article XXIX and other standards of conduct and reporting requirements as provided by law." Article XXIX, §5(1). The Commission also issues letter rulings, which are provided for in C.R.S. §24-18.5-101(4)(a) and (b). In addition, the IEC "shall conduct an investigation, hold a public hearing, and render findings on each non frivolous complaint pursuant to written rules adopted by the Commission." Article XXIX §5(c).

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 which has promulgated an ethics code or ordinance.

The Commission consists of five members appointed by the Governor, the House, the Senate, the Chief Justice of the Supreme Court, and the "fifth Commissioner", who must be a local government employee or official and who is selected by the other four Commissioners. Additionally, no more than two members may be from the same political party. The current members of the Commission are William Leone (R), Chair; Bob Bacon (D), Vice Chair; Rosemary Marshall (D); [NAME]; and Matt Smith (R). 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 support at no additional cost to the Commission. The IEC office is located on the second floor of the Ralph Carr Justice Center.

III. Evaluation of Performance

In the years since its inception in 2007 (through August 2015), the Commission has issued 98 opinions (including position statements, advisory opinions and letter rulings) and reviewed 87 complaints, holding public hearings on eleven of those matters. The Commission has received and responded to more than 80 Colorado Open Records Act requests during its period of operations, and has twice promulgated and revised its procedural rules. The Commission has appointed a “fifth commissioner” member of local government three times. Overall the Commission continues to maintain a steady yearly workload, striving to address all matters in a timely fashion. During 2013 and 2014 the Commission saw a greater number of complaints filed, including higher profile ethical issues against statewide elected officials, which resulted in an increased workload during those periods. Since the end of 2014, the Commission has seen its workload reach a more steady pitch, consistent with prior years.

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

IV. Other Activities

The Commission remains committed to outreach and training for all employees and officials under its jurisdiction, as well as community groups interested in the work the Commission does. The Commission issued an ethics handbook in 2011, and substantially revised it in 2013. A new version with revisions will be issued in 2016. Since its initial release this handbook has routinely been provided to all members of the General Assembly, employees of state agencies, appointees to local and state boards and commissions, and county and municipal employees and officials through Colorado Counties, Inc. (CCI) and the Colorado Municipal League (CML). An electronic version of the handbook is also available on the Commission’s website.

The Commission remains committed to training and outreach as the most efficient and cost effective way of ensuring that public officials and employees understand and appreciate their general ethical obligations, as well as those required by the Colorado Revised Statutes and Article XXIX.

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 in order to provide guidance to requesters and, where possible, issue general guidance to covered individuals through position statements. The Commission continues to streamline its process for receiving, researching, writing and reviewing requests for advisory opinions

and letter rulings. The goal has been to achieve resolution of requests within 30-60 days, as indicated in previous strategic plans. For the period January 1, 2015 through September 2015, the average resolution period was 39.25 days, with some occurring in under 20 days and others taking in excess of 96 days, the latter due to a request for delay by requesters, or delays in obtaining additional necessary information. As of October 2015, two ongoing matters remained pending due to additional information needed or a request for delay by the requester. The Commission continues to review ways to make the request process more streamlined and efficient.

- 2) Review complaints as quickly as possible, issuing frivolous or non-frivolous decisions as appropriate, while working to assist unrepresented complainants in understanding and navigating the process. The Commission strives to achieve timely review of complaints following initial filing. For the period January 1, 2015 through September 30, 2015, the Commission addressed each complaint that was filed within an average of 44.5 days from the date of filing. This includes two complaints, which were investigated and resolved via stipulated agreement, each of which took 103 days, and one complaint, which was resolved within 14 days of filing. The remaining complaints were resolved in under 50 days. While complaints deemed to be non-frivolous may result in extensive investigation and litigation, in 2015 as noted above, the two complaints deemed non-frivolous were resolved by stipulation four months from the date of filing. The Commission intends to continue improving processing and case handling in order to bring finality to complaints, for both complainants and respondents, as quickly as possible. Although FY 2014 saw matters leading to protracted hearings before the IEC, FY 2015 did not see the same pattern. It remains to be seen what the caseload will look like in coming years.

Due to the structure of the IEC, as defined by Constitution and statute, the complainant prosecutes the complaint before the Commission. The Commission is aware of the burden this may place on individual complainants, many of whom are not lawyers. Thus the Commission strives to be flexible in its hearing requirements, allowing complainants who live outside the metro area to appear by telephone if needed, for example, to reduce the hardship. Additionally, Commission staff works with complainants to explain the process, understand the IEC operations and mandate, and better utilize the IEC resources including advising complainants regarding the Commission function and available remedies. The staff is always available to answer questions posed by complainants, in hopes of assisting them to better understand, and navigate, the process.

- 3) Continue the ongoing commitment to outreach and education, including in areas 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 thereafter on a routine basis. The Commission has long believed that education and outreach are a fundamental component

of its overall mission. Covered individuals should know what is expected of them and what ethical standards will apply to their performance of their duties. In addition, community outreach and availability to citizens is essential, so they know their concerns are being heard. The IEC committed in previous years to growing the outreach and public education component of its mandate, and has done so over the previous year. Since the new Executive Director was hired in September 2014, she has presented the IEC training approximately seventeen times, to various community groups and covered individuals. She has also met with two international groups sponsored by World Denver to discuss with them ethics in government and steps the State has taken to achieve the goal of an ethical government. In addition, several of the educational programs were to groups outside the Denver metro area, in an attempt to continue to reach other areas of the state. This hope is to increase this effort further in the coming year.

- 4) Increase access to the Commission proceedings for covered individuals and citizens outside the Denver metro area. This remains an ongoing area of concern for the Commission, in order to ensure access to its proceedings to all those who may be interested. In 2015 the IEC was awarded a microgrant from the State Internet Portal Authority (SIPA) to purchase recording equipment to be used to record meetings and post them immediately to the IEC website for any interested parties to listen. While there is an ongoing hope to also offer the meetings via a live stream, the Commission is exploring its options given its minimal staff size and the technological realities required by a live stream. This is an issue the Commission will continue to explore in the months ahead.

Additionally, the Commission has worked to make appearance by telephone a possibility for complainants and respondents in the complaint process. This was available twice this year and worked well. The Commission will continue to explore remote access in the coming year.

VI. Additional Issues

A. Budget Status/Adjustments

In FY 2014 the Commission exceeded its budgetary appropriation in operating and legal services expenses. In FY 2015 the Commission reverted money to the general fund from these same two areas, as well as from personal services due to the vacancy in the second staff position. Although the Commission reverted funds from operating and legal in FY 2015, it does appear as if those areas are appropriately budgeted given typical yearly operations.

The Commission began FY 2016 with two litigation matters pending – one of the Commission's decisions is currently pending before the Denver District Court with a request for clarification to the Colorado Supreme Court. Another of the decisions has resulted in the filing of a Writ of Mandamus with the Colorado Supreme Court. In the first two months of FY 2016 the

Commission has expended approximately \$35,800 of its legal budget. While it is anticipated this rate may slow as the year progresses, it represents a significant portion of the \$176,931 allotted to the Commission for legal services. Thus, the Commission continues to believe the .9 FTE currently allotted is the appropriate level for legal services.

Similarly, the Commission has reduced its operating request slightly from FY 2016, when it requested additional funds for equipment upgrades. Those additional funds will not be needed in FY 2017. However, the remainder of the request mirrors FY 2016. Although funds were reverted from the operating budget line in the FY 2015 year, that was partly due to fewer meetings in calendar year 2015. This was partly due to several matters before the Commission being settled through stipulation, rather than requiring multiple hearings as is always a possibility. Therefore, the Commission continues to believe that its overall operating request represents the appropriate figure, and asks that the funds be allotted at the level needed.

Additionally, as noted above, the Commission remains committed to outreach and education, including outside the Denver metropolitan area. This will result in added training and travel costs, which also must be included in the operating budget.

Finally, if the JBC approves a common policy (salary survey and merit) adjustment, the IEC would like to apply the adjustment to the Executive Director position.

VII. Conclusion

For FY-2017 the Commission seeks to maintain its budget at approximately the same level as FY 2016, with the exception of funds for equipment upgrades and funding for the second FTE, which the Commission will not presently be seeking.

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FY 2017 Budget Request

ITEMS		ACTUAL FY 2014		ACTUAL FY 2015		APPROP FY 2016		ESTIMATE FY 2016		REQUEST FY2017	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
PROGRAM COSTS											
PERSONAL SERVICES											
Position Detail:											
Executive Director		82,669	1.0	90,398	1.0			113,490	1.0	113,490	1.0
Director		19,333	1.0	13,557							
Assistant				1,313							
Continuation Salary Subtotal		102,003	2.0	105,267	1.0			113,490	1.0	113,490	1.0
Pera on Continuation Sub-Total		12,189		10,222				11,519		11,519	
Medicare on Continuation Subtotal		1,741		1,460				1,646		1,646	
Amortization Equalization Disbursement		n/a		n/a							
Supplemental Amortization Equalization Disbursement		n/a		n/a							
Other Personal Services:											
Retirement/Termination Payouts		(454)						-			
Professional Services		3,353						6,692		7,852	
Unemployment											
HLD, STD, AED, SAED								20,186		20,186	
Personal Services Subtotal (all above)		118,832	2.0	116,949	1.0			153,533	1.0	154,693	1.0
Difference: (Request Year FTE are non-add)											
FY 2015 Decision Items:											
#1 - Common Policy Salary Increase (3%)											
Decision Item Total										0	
General Fund										0	
PERSONAL SERVICES Subtotal											
General Fund		118,832	2.0	116,949	1.0	0	0.0	153,533	1.0	154,693	1.0
		118,832	2.0	116,949	1.0			153,533	1.0	154,693	1.0
OPERATING EXPENDITURES											
2231 - IT Hardware Maint/Repair Svcs											
		4		11							
2510 - In-State Travel											
				316				500		500	
2511 - In-State Common Carrier Fares											

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ITEMS	ACTUAL FY 2014		ACTUAL FY 2015		APPROP FY 2016		ESTIMATE FY 2016		REQUEST FY2017	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
2513 - In-State Pers Vehicle Reimbursement			885				750		750	
2520 - In-State Travel/Non-Employee	1,509		1,286				2,500		2,500	
2522 - IS/Non-Employee - Pers Per Diem										
2523 - IS/Non-Employee Vehicle Reimbursement	5,072		4,168				6,500		6,500	
2530 - Out-of-State Travel							900		900	
2531 - OS Common Carrier Fares							750		750	
2532 - OS Personal Travel Per Diem							350		350	
2550 - Out-of-Country Travel	935									
2551 - OC Common Carrier Fares	673									
2610 - Advertising	175						150		150	
2680 - Printing and Reproduction Services	516		459				1,800		1,000	
2681 - Photocopy Reimbursement	9						100		100	
2820 - Other Purchased Services	675		2,139							
3110 - Other Supplies & Materials	9		23				3,627		3,267	
3115 - Data Processing Supplies	27									
3116 - Noncap IT - Purchased PC SW	331									
3118 - Food and Food Service Supplies	1,635		1,328				1,700		1,700	
3120 - Books / Periodicals / Subscriptions			80							
3121 - Office Supplies	193		172				200		200	
3123 - Postage	48		58				150		150	
3124 - Printing/Copy Supplies	695						1,000		1,000	
3128 - Noncapitalized Equipment	232		1,166				500		500	
3132 - Noncap Office Furn/Office Systems			258							
3140 - Noncapitalized IT - PCs	1,521		2,564				7,500			
3143 - Noncapitalized IT - Other	261						500			
4100- Other Operating Expenses							100		100	
4140 - Dues and Memberships	533		445				1,000		1,000	
4151 - Interest - Late Payments	1		3							
4170 - Miscellaneous Fees & Fines	550		29							
4220 - Registration Fees			504				580		580	
Operating Expenditure Sub-total	15,601		15,894				31,157		21,997	
FY2015-16 Decision Items:										
#1 Legal Services and Operating										

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ITEMS	ACTUAL FY 2014		ACTUAL FY 2015		APPROP FY 2016		ESTIMATE FY 2016		REQUEST FY2017	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Total Operating Expenditures	15,601		15,894		0		31,157		21,997	
General Fund	15,601		15,894				31,157		21,997	

Total Program Costs	n/a	n/a	132,843	1.0	176,690	1.0	184,690	1.0	176,690	1.0
General Fund	n/a	n/a	132,843	1.0	176,690	1.0	184,690	1.0	176,690	1.0

PROGRAM COSTS RECONCILIATION

Prior Year Long Bill Appropriation	145,634	1.0	205,937	1.0			176,690		176,690	
Prior Year Salary Survey			2,143							
Prior Year Merit			1,740							
Vacancy Savings/Under-utilized FTE										
Request Year Decision Items										
Annualized Salary Survey										
Annualized Merit										
0.2% JBC Reduction										
Adjustment										
Pot Allocations										
July 1st Long Bill Appropriation	145,634	1.0	209,820	1.0			176,690	0.0	176,690	0.0
FY2013 Supplemental/FY2014 Budget Amendment:										
Additional FTE	71,123	1.0								
FY2015 Supplemental:			(70,000)							
#1 Legal Services and Operating Expenses										
TOTAL APPROPRIATION/REQUEST	216,757	2.0	139,820	1.0	n/a		176,690	0.0	176,690	0.0
Over/Under Expenditures										
Year-End Transfer	4,244									
Reversion	0		(6,977)							
TOTAL IEC PROGRAM COST RECONCILIATION	221,001	2.0	132,843	1.0	n/a		176,690	0.0	176,690	0.0

IEC SALARY POTS/BENEFITS

HEALTH, LIFE & DENTAL (HLD)										
Base Request	7,209		9,979						0	
FY2016 Adjustment										
Total HLD	7,209		9,979		0		0		0	
General Fund	7,209		9,979		0		0		0	

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ITEMS	ACTUAL FY 2014		ACTUAL FY 2015		APPROP FY 2016		ESTIMATE FY 2016		REQUEST FY2017	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
SHORT-TERM DISABILITY (STD)										
Base Request										
FY2016 Adjustment	183		226						0	
Total STD	183		226		0		0		0	
General Fund	183		226		0		0		0	
AMORTIZATION EQUALIZATION DISBURSEMENT (AED)										
Base Request										
FY2016 Adjustment	4,335		4,042						0	
Total AED	4,335		4,042		0		0		0	
General Fund	4,335		4,042		0		0		0	
SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSE										
Base Request										
FY2016 Adjustment	3,917		3,794						0	
Total SAED	3,917		3,794		0		0		0	
General Fund	3,917		3,794		0		0		0	
SALARY SURVEY										
Base Request										
FY2016 Adjustment									0	
Total SALARY SURVEY	0		0		0		0		0	
General Fund	0		0		0		0		0	

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ITEMS	ACTUAL FY 2014 Total Funds FTE	ACTUAL FY 2015 Total Funds FTE	APPROP FY 2016 Total Funds FTE	ESTIMATE FY 2016 Total Funds FTE	REQUEST FY2017 Total Funds FTE
MERIT					
Base Request				0	0
FY2016 Adjustment					
Total MERIT	0	0	0	0	0
General Fund	0	0	0	0	0
Total IEC Salary Pots/Benefits	15,645	18,042	0	0	0
General Fund	15,645	18,042	0	0	0
IEC SALARY POTS/BENEFITS RECONCILIATION					
Long Bill Appropriation:					
HLD	5,254	15,393			
STD	142	374			
AED	2,376	6,803			
SAED	2,032	6,378			
Salary Survey		4,567			
Merit		1,827			
JBC Adjustment/Common Policy		0			
Decision Item Funding					
July 1st Long Bill Appropriation	9,804	35,342		0	
TOTAL APPROPRIATION/REQUEST	9,804	35,342		0	0
Over/Under Expenditures - Xfr from Operating					
Year-End Transfer					
Transfer from DPA					
Transfers		(17,300)			
TOTAL IEC SALARY POTS/BENEFITS RECONCILIATION	9,804	18,042	n/a	0	0
LEGAL SERVICES					
Continuation Legal Services	150,252	144,182		171,018	171,018
FY2015-16 Decision Items:					
#1 Legal Services and Operating					
Total Legal Services	150,252	144,182	171,018	171,018	171,018
General Fund	150,252	144,182	171,018	171,018	171,018

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