

ETHICS MATTERS...HONESTY, INTEGRITY, ACCOUNTABILITY

CONNECTICUT OFFICE OF STATE ETHICS



**ANNUAL REPORT TO THE
GOVERNOR
CALENDAR YEAR 2011**

**ETHICS COMPLIANCE, LOBBYIST DISCLOSURE,
FINANCIAL INTERESTS DISCLOSURE**

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Mission

The Office of State Ethics (OSE) is an independent watchdog agency for the State of Connecticut. The OSE administers and enforces Connecticut General Statutes, Chapter 10, Part I for Public Officials, and Part II for Lobbyists, with limited jurisdiction over Part IV, Ethical Considerations Concerning Bidding and State Contracts. The mission of the OSE is to ensure honesty, integrity and accountability in state government through education, interpretation and enforcement of the State of Connecticut Codes of Ethics.

HIGHLIGHTS

The mission of the OSE is to ensure honesty, integrity and accountability in state government through education, interpretation and enforcement of the Codes of Ethics.

Most public officials, lobbyists and other individuals who fall within the OSE’s jurisdiction get up every day, go to work, and try to do the best job they can. For those individuals, the OSE is available to help by providing guidance, advice and education. For those who do not comply with the law, the role of the agency is to fairly and vigorously enforce the law.

Functions and Authority

The statutory authority for the OSE stems from Public Act 05-183, which established the agency as a successor to the former State Ethics Commission. The statutory responsibilities of the OSE are divided into four main categories: education, legal interpretation, enforcement and records administration.

On July 1, 2011, the OSE, along with eight other formerly independent agencies, was merged into the Office of Governmental Accountability (OGA), pursuant to Public Act 11-48. The OSE maintains independent decision-making authority. Such decision-making authority includes, but is not limited to, decisions concerning budgetary issues and the employment of necessary staff to carry out the statutory duties of the OSE. The Office of the Executive Administrator of the Office of Governmental Accountability provides “personnel, payroll, affirmative action and administrative and business office functions and information technology services” to the OSE.

The OSE promotes integrity in government by providing legal advice, guidance and education to public officials, state employees and lobbyists; by sensibly interpreting and, when necessary, fairly and impartially enforcing applicable laws; by administering the lobbyist and financial disclosure filing systems; and by providing the public with access to non-exempt information.

Citizen's Ethics Advisory Board Members

The body that oversees the OSE is the Citizen's Ethics Advisory Board (CEAB), which consists of nine members. The members are appointed by the Governor and legislative leadership for staggered four-year terms. With one vacancy, the current CEAB members are:

- **David Gay, Chairman**, of Windsor, appointed by Governor Jodi M. Rell for a four-year term expiring on September 30, 2013.
- **Charles F. Chiusano, Vice Chairperson**, of Fairfield, appointed by Senate Minority Leader John McKinney, to fill a vacancy expiring on September 30, 2013.
- **Thomas H. Dooley**, of Vernon, appointed by Governor M. Jodi Rell for a four-year term expiring on September 30, 2012.
- **Mary Bigelow** of Northford, appointed by Senate Majority Leader Martin Looney, to fill a vacancy expiring on September 30, 2013.
- **Herbert A. Grant** of Norwalk, appointed by House Republican Leader Lawrence Cafero, to fill a vacancy expiring on September 30, 2011.
- **Roger Kemp** of Meriden, appointed by Speaker of the House Christopher Donovan, for a four-year term expiring on September 30, 2015.
- **Dennis Riley** of Norwich, appointed by Senate President Pro Tempore Donald E. Williams for a four-year term expiring on September 30, 2013.

As of December 31, 2011, two vacancies existed on the Board.

Board members who served in 2011 include:

- **Kathleen F. Bornhorst**, of Hartford, appointed by Governor M. Jodi Rell for a four-year term expiring on September 30, 2012.
- **Martin Margulies** of Newtown, appointed by House Majority Leader Denise Merrill, to fill a vacancy expiring on September 30, 2011.

HIGHLIGHTS

Board members serve staggered four-year terms. Three are appointed by the Governor, three by House leaders, and three by Senate leaders.

Staff and Budget

The consolidation of the OSE on July 1, 2011 into the OGA resulted in a decrease in staff from 18 to 13 employees. These employees work in three separate divisions, under the leadership of the Executive Director, Carol Carson, who is appointed by the Citizen's Ethics Advisory Board.

The agency's managerial staff includes General Counsel Barbara Housen; Ethics Enforcement Officer TJ Jones; and Director of Education Nancy Nicolescu.

HIGHLIGHTS

The OSE operates at a cost of approximately \$0.39 per citizen of Connecticut.

The OSE had an original Fiscal Year 2011 appropriation of \$1,807,179.

Throughout the Fiscal Year, the OSE experienced holdbacks or adjustments of \$76,480, bringing the agency's General Fund Budget down to \$1,730,699. In addition to the adjustments, the OSE lapsed \$317,271

back to the General Fund at the end of the Fiscal Year.

The OSE's actual expenditures for Fiscal Year 2011 were \$1,413,428. This expenditure amount translates to a cost of approximately \$0.39 for each citizen¹ of Connecticut.

¹ 2011 population estimate of 3,580,709 from the United States Census Bureau.

Legal Advice, Legislation and Regulations

The Legal Division provides advice and opinions regarding the Codes of Ethics to the regulated community, which includes approximately 50,000 public officials and state employees, nearly 2,000 lobbyists, and all state contractors. The Division consists of a General Counsel, who also serves as counsel to the CEAB, three Staff Attorneys and a Paralegal.

Opinions

In 2011, the OSE received approximately 1,000 requests for advice about the application of the Codes of Ethics. The CEAB issued 5 Advisory Opinions and 2 Declaratory Rulings. The Legal Division staff issued 387 written staff opinions in 2011, in addition to handling 608 other requests for advice over the telephone or in face-to-face meetings. Just three requests for advice remained open as of December 31, 2011.

Litigation

OSE v. Journal Inquirer and Alex Wood: Two related administrative appeals, docket numbers CV 106007661-S and CV 116009483-S, stemming from FOI complaints filed by the Journal Inquirer and Alex Wood against the OSE were dismissed by the court in July 2011.

HIGHLIGHTS

The decisions of the CEAB were upheld by the Superior Court in 2010 in two appeals.

The OSE prevailed in Dickman v. OSE, CV 10-6003844-S. The Plaintiff appealed the CEAB's 2010 decision in early 2011 and the court dismissed the appeal in August 2011. The Plaintiff then appealed to the Appellate Court in September 2011. Docket Number AC 33867 is now pending in the Appellate Court.

In AFSCME v. OSE, an administrative appeal of the CEAB's decision in Advisory Opinion 2009-3 was dismissed in 2010. AFSCME appealed to the Appellate Court and Docket Number AC-32637, which was transferred to the Supreme Court in December 2011, is now pending.

Legislation

During the 2011 legislative session, the OSE once again introduced a number of legislative initiatives and proposals that pertained to the following matters:

1. The governance of the Citizen's Ethics Advisory Board;
2. Ethics enforcement standards applied to contractors and bidders who execute and/or pursue state contracts; and
3. Amendments concerning lobbyist registration and reporting requirements.

Legal Advice, Legislation and Regulations

The OSE engaged various stakeholders and sought input from the lobbying community, in particular, regarding the proposed amendments to the Code of Ethics. While the Government Administration and Elections Committee of the General Assembly unanimously voted the bills out of committee, they were not taken up by the House or the Senate.

Regulations

On October 5, 2011, amendments to the agency's regulations went into effect. In particular, the revisions:

1. Defined "principal officer or director;"
2. Provided that the color of lobbyist badges be determined by the OSE.

HIGHLIGHTS

The color of lobbyist badges, which have been blue for many years, will change each biennium, pursuant to a recent regulatory amendment.

In December 2011, the CEAB proposed further regulatory changes. These proposed changes, if adopted by the legislative Regulations Review Committee, will:

1. for purposes of certain revolving door provisions, provide an update of the positions that have significant decision-making or supervisory authority within the identified agencies;
2. clarify, for purposes of compliance with freedom of information law, that a board hearing concludes prior to deliberations by the Citizen's Ethics Advisory Board and that deliberations are not a part of the board hearing, and;
3. permit the OSE to monitor and ensure compliance with the requirement that it not charge lobbyists a registration fee in excess of the cost per registrant of administering the filings by allowing the OSE to calculate the fee on a biennium basis.

Financial Disclosure Filing

The OSE continued in 2011 to make improvements to the public official and lobbyist online filing systems. These improvements brought the filing systems up to current technological standards and provided users with simple, intuitive processes. The enhancements to the systems also improved the quantity and variety of information accessible to the public in real time from the filed data.

Statements of Financial Interests (SFI) Filing

The Code of Ethics for Public Officials (§ 1-83 (a) (1)), provides that elected officers, members of the General Assembly and certain other state officials and employees file yearly Statements of Financial Interests (SFIs) with the OSE. The Governor's Office also issues an annual standard that designates appointed officials and additional state employees in the Executive Branch who must file these financial disclosure statements. The SFIs include information such as names of all associated businesses, income over \$1,000 and a list of all real property, as well as any creditors. (These examples are not exhaustive; refer to Conn. Gen. Stat. § 1-83 (b) for a complete list.)

HIGHLIGHTS

In 2011, the OSE received 2,627 financial disclosure statements, 86% of which were filed online.

The SFIs serve two purposes. First, they provide a checklist or reminder to state officials and employees to be mindful of potential conflicts of interest. Second, the SFIs, which are available to the public, serve as a tool to maximize public confidence in governmental decision making. Additionally, State Marshals must file annual statements of income with the OSE.

In 2011, the OSE received 2,627 public official SFIs. The OSE saw 100% compliance from the 2,585 required filers, 86% of whom filed electronically. The OSE also handled a total of 227 annual income reports filed by State Marshals. All State Marshal filings and a percentage of the SFIs were audited, as described in the Enforcement section of this report.

Lobbyist Filing

During the 2011 lobbyist registration period, the OSE processed, via its electronic filing system, thousands of financial reports filed by business organizations (firms that employ communicator lobbyists), client lobbyists, and in-house communicator lobbyists. Over 1,800 lobbyist registrations in Calendar Year 2011 generated \$807,675 in fees, collected by the OSE and deposited into the state's General Fund.

Enforcement and Audits

The Enforcement Division investigates and prosecutes violations of the Codes of Ethics. The Division began the year with the Ethics Enforcement Officer, two Assistant Ethics Enforcement Officers, two Legal Investigators, an Associate Accounts Examiner and a Paralegal II. As a result of the July 1, 2011 consolidation, two positions – a Legal Investigator and the Associate Accounts Examiner – were eliminated and the employees were transferred to other state agencies.

Enforcement Statistics

The Enforcement Division conducted a total of 126 reviews of potential violations of the Codes of Ethics during 2011.

The Division resolved 36 matters in 2011 by consent order or other informal resolution, resulting in the collection of a total of \$18,730 in penalties and \$1,337 in disgorgements of financial gain. The penalties include monies paid in 24 cases by lobbyists who failed to register in a timely manner who were delinquent in filing required financial reports. Also included are 6 settlements of alleged Ethics Code violations such as conflicts of interest impermissible use of office for financial gain, and settlements with public officials for failure to timely file SFIs. Summaries of enforcement actions, as well as the accompanying settlement documents are available on the [OSE web site](#).

HIGHLIGHTS

The Enforcement Division resolved 36 matters in 2011 that resulted in \$20,067 received in penalties and disgorgements of financial gain.

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In 2011, the Division opened and closed 42 matters under the Uniform Administrative Procedure Act (UAPA) regarding failure to timely file financial reports or other required filings. Of these, 38 were resolved informally, and four matters were the subject of hearings, resulting in a finding in favor of the OSE.

In 2011, the Division opened 44 confidential evaluations and filed or received 45 complaints regarding alleged violations of the Ethics Codes committed by public officials, state employees, lobbyists or contractors. Of the complaints, 40 came from external sources, and the Division filed the remaining five on its own initiative; of the five filed by the OSE in 2011, four had been investigated previously. Forty-five complaints were dismissed, and six were settled by consent order in 2011.

In addition to the above, the Enforcement Division received approximately 68 “tips” regarding alleged violations of the Codes that, after review, proved to be outside of the jurisdiction of the OSE.

Enforcement and Audits

In 2011, the Division conducted two probable cause hearings before two Judge Trial Referees. In one of the matters, filed by the Division against a state employee for violations to the Code of Ethics for Public Officials, the matter was resolved by consent order following the hearing, but prior to the Judge's findings. In the second matter, filed against a member of the public, the Judge Trial Referee, subsequent to the presentation of evidence and closing arguments, found no probable cause to believe that the Respondent had violated the Code of Ethics for Public Officials.

The Division referred two matters to the Attorney General's Office (AGO) in an attempt to collect penalties due and owing to the state as a result of enforcement actions filed by the OSE. In one of the matters, subsequent to a hearing pursuant to the Uniform Administrative Procedure Act, the CEAB imposed a civil penalty on the Respondent for his failure to file his 2009 Statement of Financial Interests as required by law. The AGO was able to collect the penalties and the matter is now closed. The second matter was referred to the AGO as a result of the Respondent's failure to comply with the terms of the stipulation and consent order executed between the Respondent and this office.

Audit Program

The CEAB approved 35 audits of registered client and communicator lobbyists in 2011. Twenty one, or 60%, of the approved audits contained adverse findings, up from 59% in 2010. Corrective action was imposed in two audits, down from four in 2010.

In 2011, the OSE audited 10% of public official SFIs. The audit process is designed with education in mind and is not punitive. Of the 258 disclosure reports examined by the OSE, 74% were timely and correctly filed, up from 72% of those audited in 2010. The 2011 audit showed that common errors, particularly those of major concern, such as failure to properly disclose income or securities, decreased across all audit areas. Several errors of lesser concern found in the previous year were all but eradicated. This suggests that filers have an increased understanding of the SFI

HIGHLIGHTS

Several errors found in previous SFI audits were all but eradicated, suggesting that filers are taking their mandate seriously.

process and form (most likely due to more clarity on the form and increased education and outreach efforts) and are taking their mandate seriously.

In addition, the OSE, for the first time, audited all 225 State Marshal annual statements of income. Seventy percent of the required forms were submitted on time and without errors. The Enforcement Division sent 43 letters to those whose forms required correction. All of those Marshals filed the necessary amendments, and the OSE assessed no civil penalties. The OSE will use insight gained from this audit to make changes to the form and process that will assist State Marshals and improve compliance.

Education and Outreach

Education and Outreach activities are performed by the Director of Education, who oversees an Information Technology Analyst II and, until the consolidation, was supported part time by an Office Assistant whose position was abolished by the consolidation into the Office of Governmental Accountability. The Director of Education position was vacant for several months in 2011, resulting in decreased service delivery.

Training

The education component of the OSE is often the most visible aspect of the agency's work to public officials, state employees and the public. The OSE held 31 education sessions in 2011. These sessions included trainings for newly-elected legislators as well as sessions for new commissioners, deputy commissioners and appointed officials. The OSE also conducted several roundtables to highlight specific areas of the law.

HIGHLIGHTS

In 2011, the OSE provided a monthly e-newsletter to 86 state agency ethics liaisons and ethics compliance officers.

The OSE also continued to offer a variety of supplemental training tools. These materials, offered by the OSE free of charge, included six plain-language guides to the ethics codes, five handouts on specific areas of the law, two PowerPoint presentations for public officials and lobbyists, a training DVD, and an interactive, online training program, which received over 2,500 Web visits. The DVD content was also made available via a Web-streaming video.

The above tools were widely used by state agency Ethics Liaisons and Compliance Officers. The OSE continued to enhance its relationship with these officers, particularly with the monthly electronic newsletter that, in 2011, was distributed 12 times to a list of 145 individuals, including the 86 named agency liaisons. The OSE also recognized liaisons of state agencies that had 100% SFI filing compliance.

Web site

The web site, www.ct.gov/ethics, continues to serve as an effective outreach tool, with 93,675 visits in 2011, an average of 257 visits per day. The OSE also improved the online management system used by state agency ethics liaisons and compliance officers to maintain accurate and current SFI designated filer lists.

Education and Outreach

Media

The OSE continued its proactive media approach in 2011 with the goal of providing Connecticut citizens with information to enhance their confidence in state government. Specifically, the agency:

- Maintained its media list of nearly 150 contacts;
- Grew its web-based E-alerts list by 21% to 172 recipients;
- Disseminated 10 press releases.

Partnerships

The OSE collaborated in 2011 with outside partners to further the confidence of Connecticut citizens in state government. The OSE broadened its reach through no-cost activities, creating an increased awareness of agency services through the following partners and activities:

- Connecticut Consortium for Law and Citizenship Education (“We the People” high school competition judge); and
- Connecticut Better Business Bureau (student and corporate ethics prizes judge).