

STATE ETHICS COMMISSION
MEETING

October 1, 2021

PUBLIC MEETING MATERIALS PACKET

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STATE ETHICS COMMISSION

Hon. William F. Lang, Chair
Jeffrey L. Baker, Member
Stuart M. Bluestone, Member
Hon. Garrey Carruthers, Member
Hon. Celia Foy Castillo, Member
Ronald Solimon, Member
Dr. Judy Villanueva, Member

Friday, October 1, 2021, 9:00 a.m. to 2:00 p.m. (Mountain Time)

Public Meeting (via Zoom):

Join Zoom meeting through internet browser:

<https://us02web.zoom.us/j/88074064154?pwd=bUVFc1lTNlRGN3haQmZ6TFAvRlM5dz09>

Meeting ID: 880 7406 4154

Join Zoom meeting telephonically: (346) 248-7799

Telephone Passcode: 247365

Chairman Lang Calls the Meeting to Order

1. Roll Call
2. Approval of Agenda
3. Approval of Minutes of August 13, 2021, Commission Meeting

Commission Meeting Items

Action Required

- | | |
|--|-----|
| 1. FY23 Budget Request and Strategic Plan
(Farris) | Yes |
| 2. Adoption of amendments to 1.8.1 NMAC
(Farris) | Yes |
| 3. Oct. 1, 2021 report on jurisdiction
(Farris) | Yes |
| 4. Rescind Resolution 2020-03 (Commissioner Financial Disclosures)
(Farris) | Yes |

- | | |
|---|----|
| 5. Appointment of Temporary Commissioners under 1.8.2.10
(<i>Baker and Farris</i>) | No |
|---|----|

Upon applicable motion, Commission goes into executive session under NMSA 1978, §§ 10-15-1(H)(3) (administrative adjudicatory proceedings) & 10-15-1(H)(7) (attorney client privilege pertaining to litigation)

- | | |
|--|--|
| 6. Discussions regarding administrative complaints
(<i>Farris, Boyd & Branch</i>) | |
| a. Administrative Complaint No. 2020-31 | |
| b. Administrative Complaints No. 2020-034 and 2020-035 | |
| c. Administrative Complaint No. 2021-018 | |
| d. Administrative Complaint No. 2021-019 | |
| e. Administrative Complaint No. 2021-021 | |
| f. Administrative Complaint No. 2021-022 | |
| 7. Discussions regarding pending civil litigation
(<i>Farris & Boyd</i>) | |

Upon applicable motion, Commission returns from executive session

-
- | | |
|--|-----|
| 8. Actions on Administrative Complaints
(<i>Farris</i>) | Yes |
| a. Administrative Complaint No. 2020-31 | |
| b. Administrative Complaints No. 2020-034 and 2020-035 | |
| c. Administrative Complaint No. 2021-018 | |
| d. Administrative Complaint No. 2021-019 | |
| e. Administrative Complaint No. 2021-021 | |
| f. Administrative Complaint No. 2021-022 | |
| 9. Resolution No. 2021-02: authorization of civil action | Yes |
| 10. Discussion of amendments to the Governmental Conduct Act
(<i>Bluestone</i>) | No |
| 11. Discussion of next meeting
(<i>Lang</i>) | No |
| 12. Public Comment | No |
| 13. Adjournment | |

For inquiries or special assistance, please contact Sonny Haquani at
Ethics.Commission@state.nm.us

SEC Office
800 Bradbury Dr. SE,
Suite 215
Albuquerque, NM 87106



Hon. William F. Lang
Jeffrey L. Baker
Stuart M. Bluestone
Hon. Garrey Carruthers
Hon. Celia Foy Castillo
Ronald Solimon
Judy Villanueva

STATE ETHICS COMMISSION

Commission Meeting Minutes of August 13, 2021 | 9:00AM-3:00PM

Virtually Via Zoom

[View Recording Here](#)

[SUBJECT TO RATIFICATION BY COMMISSION]

CALL TO ORDER AND ROLL CALL

- The meeting was called to order by Chair Lang. The roll was called; the following Commissioners were present:

Jeffrey Baker, Commissioner
Stuart Bluestone, Commissioner
Hon. Garrey Carruthers, Commissioner
Ronald Solimon, Commissioner
Hon. Celia Foy Castillo, Commissioner
Judy Villanueva, Commissioner
Hon. William Lang, Chair

1. APPROVAL OF AGENDA

- Chair Lang sought a motion to approve the agenda. Commissioner Carruthers moved to approve the agenda; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the agenda was approved unanimously.

2. APPROVAL OF JUNE 4, 2021 COMMISSION MEETING MINUTES

- Chair Lang sought a motion to approve the minutes of the June 4, 2021 Commission meeting. Commissioner Bluestone moved to approve the minutes; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the minutes were approved unanimously.

3. ADVISORY OPINION 2021-10

- Director Farris provided an overview of SEC advisory opinion 2021-10.
- After a discussion to clarify elements of the opinion, Chair Lang sought a motion to approve Advisory Opinion 2021-10. Commissioner Bluestone moved to approve Advisory Opinion 2021-10; Commissioner Solimon seconded. Chair Lang conducted a

roll-call vote. All Commissioners voted in the affirmative, and Advisory Opinion 2021-10 was approved unanimously.

4. ADVISORY OPINION 2021-11

- General Counsel Walker Boyd provided an overview of SEC advisory opinion 2021-11.
- After a discussion to clarify elements of the opinion, Chair Lang sought a motion to approve Advisory Opinion 2021-11. Commissioner Carruthers moved to approve Advisory Opinion 2021-11; Commissioner Baker seconded. Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and Advisory Opinion 2021-11 was approved unanimously.

5. RESOLUTION No. 2021-01

- General Counsel Boyd informed the Commissioners that the Commission's advisory opinions are now available on NMSOneSource.com, noting Deputy General Counsel Rebecca Branch's work on the matter, and an overview of Resolution 2021-01, which specifies that the official versions of the Commission's advisory opinions are the versions that are published by the New Mexico Compilation Commission and are available on NMSOneSource.com. After a brief discussion to clarify elements of the Resolution, General Counsel Boyd sought a motion to approve Resolution No. 2021-01. Commissioner Carruthers moved to approve Resolution No. 2021-01; Commissioner Baker seconded. Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and Resolution No. 2021-01 was approved unanimously.

6. AMENDMENTS TO JOINT POWERS AGREEMENTS WITH SECRETARY OF STATE

- Director Farris provided an overview of amendments to four joint powers agreements (JPAs) between the SEC and the Secretary of State related to laws for which both agencies share jurisdiction: the Campaign Reporting Act; the Lobbyist Regulation Act; the Financial Disclosure Act; and the Voter Action Act.
- After a discussion to clarify elements of the amendments, Chair Lang sought a motion to authorize the Executive Director's amendments to the JPAs between the State Ethics Commission and Secretary of State as described and to authorize the Director to proceed under the amended JPAs. Commissioner Baker moved to authorize the Executive Director as stated; Commissioner Villanueva seconded. Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion passed.

7. DISCUSSION OF OCT. 1, 2021 SPECIAL REPORT ON JURISDICTION

- Director Farris provided an overview of the Commission staff's draft report on jurisdictional expansion.
- The Commissioners discussed elements of the report and the Commission's current jurisdiction.

8. PRESENTATION OF (I) ANY WRITTEN PUBLIC COMMENTS RECEIVED REGARDING AMENDMENTS TO RULES 1.8.1 (GENERAL RULES) AND 1.8.3 (ADMINISTRATIVE HEARINGS); AND (II) COMMISSION STAFF RECOMMENDED AMENDMENTS TO PROPOSED RULES.

- Mr. Boyd provided an overview of the steps taken to publicize the proposed amendments to Rules 1.8.1 and 1.8.3 NMAC.
- Mr. Boyd and Director Farris confirmed that the Commission had not received written public comments on the proposed amendments.
- Director Farris provided an overview of the proposed amendments to Rule 1.8.1 NMAC (General Rules) and Rule 1.8.3 NMAC (Rules of Procedure).
- Mr. Boyd provided additional details on the proposed amendments to Rule 1.8.3 NMAC.

9. PUBLIC COMMENT ON AMENDMENTS TO RULES 1.8.1 AND 1.8.3

- a. Brody Norton: Asked whether the Commission publicly releases complaints which are dismissed for lack of jurisdiction. Director Farris clarified that a complaint filed with the Commission is not publicly released unless the Commission's General Counsel conducts an investigation and determines that its allegations are supported by probable cause.
- b. Tony Ortiz: Stated that the proposed amendments would likely improve the Commission's workflow on administrative complaints.
- c. No other public comments were offered.

END OF PUBLIC RULE HEARING AND CONTINUATION OF COMMISSION OPEN MEETING FOR ACTIONS ON RULES AND OTHER MATTERS

1.24.25.14(D) NMAC

10. ADOPTION OF AMENDMENTS TO RULES 1.8.1 (GENERAL RULES)

- Director Farris provided an overview of the amendments to Rule 1.8.1 NMAC
- The Commissioners discussed the proposed amendments to Rule 1.8.1 NMAC:
 - o Commissioner Villanueva asked for clarification on the difference in treatment and language relating to formal and informal advisory opinions.
 - o Commissioner Villanueva moved to revise Rule 1.8.1.9 to delete Section (B)(5).
 - o Commissioner Bluestone stated that the rules should empower the Executive Director to use his or her discretion to treat requests for advisory opinions as either formal or informal, while also giving the requestor the ability to request that the Commission provide a formal advisory opinion.
 - o Commissioner Carruthers moved to table the approval of amendments to 1.8.1 NMAC for further discussion between Commissioners and staff at a later date.
 - o Commissioner Bluestone Seconded the motion to table approval of amendments to 1.8.1 NMAC.
 - o Hearing no objections, the motion was tabled as stated above.

11. ADOPTION OF AMENDMENTS TO RULES 1.8.3 (ADMINISTRATIVE HEARINGS)

- Director Farris provided an overview of the staff amendments to the version of Rule 1.8.3 NMAC noticed for public comment.
- The Commissioners discussed the proposed amendments to Rules 1.8.3
- Commissioner Bluestone moved to strike subsection (E)(4) of rule 1.8.3.9 except for the sentence that states: “A commissioner’s vote to initiate a complaint pursuant to this subsection E is not grounds for recusal pursuant to Subsection A of 1.8.2.8 NMAC.” Commissioner Carruthers seconded. Hearing no further discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the rule amendment was revised as stated above.
- Director Farris sought a motion to adopt Rule 1.8.3 as amended. Commissioner Baker moved as stated; Commissioner Villanueva seconded. Hearing no further discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and Rule 1.8.3 NMAC was adopted as amended.

12. EXECUTIVE SESSION

- Chair Lang sought a motion to enter executive session under NMSA 1978, §§ 10-15-1(H)(2) (limited personnel matters), 10-15-1(H)(3) (administrative adjudicatory proceedings), and 10-15-1(H)(7) (attorney-client privilege pertaining to litigation). Commissioner Baker moved to enter executive session; Commissioner Carruthers seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the Commissioners entered executive session.

---BEGINNING OF EXECUTIVE SESSION---

- The following matters were discussed in executive session:
 - a. Administrative Complaint No. 2020-031
 - b. Administrative Complaint Nos. 2020-034 & 2020-035
 - c. Administrative Complaint No. 2021-09
 - d. Administrative Complaint No. 2021-010
 - e. Administrative Complaint No. 2021-011
 - f. Administrative Complaint No. 2021-014
 - g. Administrative Complaint No. 2021-015
- The matters discussed in the closed meeting were limited to those specified in the motion to enter executive session. After concluding its discussion of these matters, the Commission resumed public session upon an appropriate motion.

---END OF EXECUTIVE SESSION---

13. ACTIONS ON ADMINISTRATIVE CASES

- **Administrative Complaint Nos. 2021-09, 2021-010, 2021-011, 2021-014, & 2021-015**
- Director Farris sought motions from the Commission for:
 - An order to dismiss the claims in administrative case No. 2021-009 for lack of personal jurisdiction.
 - Commissioner Carruthers moved as stated above; Commissioner Bluestone seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Authorization for the staff to continue its investigation for another 90 days in administrative case No. 2021-010.
 - Commissioner Baker moved as stated above; Commissioner Carruthers Seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Refer administrative case No. 2021-011 to the Office of the Attorney General and withhold notice of the referral to the Respondent to preserve the integrity of an investigation under § 10-16G-14, and close the administrative case before the SEC.
 - Commissioner Bluestone moved as stated above; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Dismiss claims against the respondents for lack of jurisdiction and for failure to satisfy the filing requirements under the rules of procedure in administrative case No. 2021-014, and to close administrative case.
 - Commissioner Solimon moved as stated above; Commissioner Villanueva seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.
 - Dismiss the claims of the complaint in administrative case No. 2021-015 for lack of jurisdiction and pursuant to § 10-16G-9(C) and (D).
 - Commissioner Baker moved as stated above; Commissioner Solimon Seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved.

14. SELECTION OF NEXT MEETING

- Chair Lang confirmed that the next meeting should take place on October 1, 2021.
 - Director Farris confirmed that the schedule of bi-monthly meetings is still optimal for the staff's workload.

15. COMMENTS

- Members of the public were invited to address the Commission.
- No public comments were offered.

16. ADJOURNMENT

- Chair Lang sought a motion to adjourn. Commissioner Carruthers moved to adjourn. Hearing no discussion or opposition, the meeting was adjourned.

[SUBJECT TO RATIFICATION BY COMMISSION]



STATE ETHICS COMMISSION

<http://sec.state.nm.us>

800 Bradbury Dr. SE
Suite 215
Albuquerque, NM 87106
(505) 827-7800

BUDGET REQUEST Fiscal Year 2023 July 1, 2022 - June 30, 2023

STATE OF NEW MEXICO

Prepared By:
Jeremy D. Farris, Executive Director and
Wendy George, Finance & Administration Director

FORM S-1
CERTIFICATION

AGENCY NAME: State Ethics Commission

BUSINESS UNIT: 41000

FY23 APPROPRIATION REQUEST CERTIFICATION

I hereby certify that the accompanying summary and detailed statements are true and correct to the best of my knowledge and belief and that the arithmetic accuracy of all numeric information has been verified.

- ☐ Yes, department-level budgets will be used this fiscal year
- ☒ No, department-level budgets will not be used this fiscal year


AGENCY HEAD

Executive Director
TITLE


APPROVED (Board/Commission Chairperson)

Chair
TITLE

Wendy George
AGENCY CONTACT

CFO
TITLE

800 Bradbury Dr SE, STE 215, Albuquerque NM 87106
ADDRESS

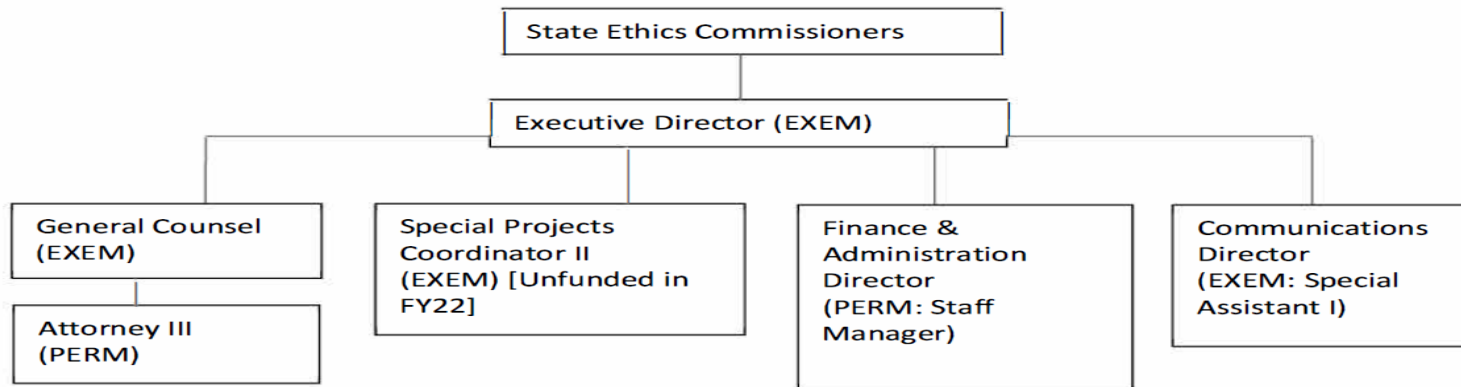
505-554-7608
PHONE NUMBER

Note: Operating Budgets of agencies headed by a board or commission must be approved by the board or commission by official action and signed by the chairperson. Operating Budgets of other agencies must be signed by the director or secretary. Operating Budgets not properly signed will be returned.

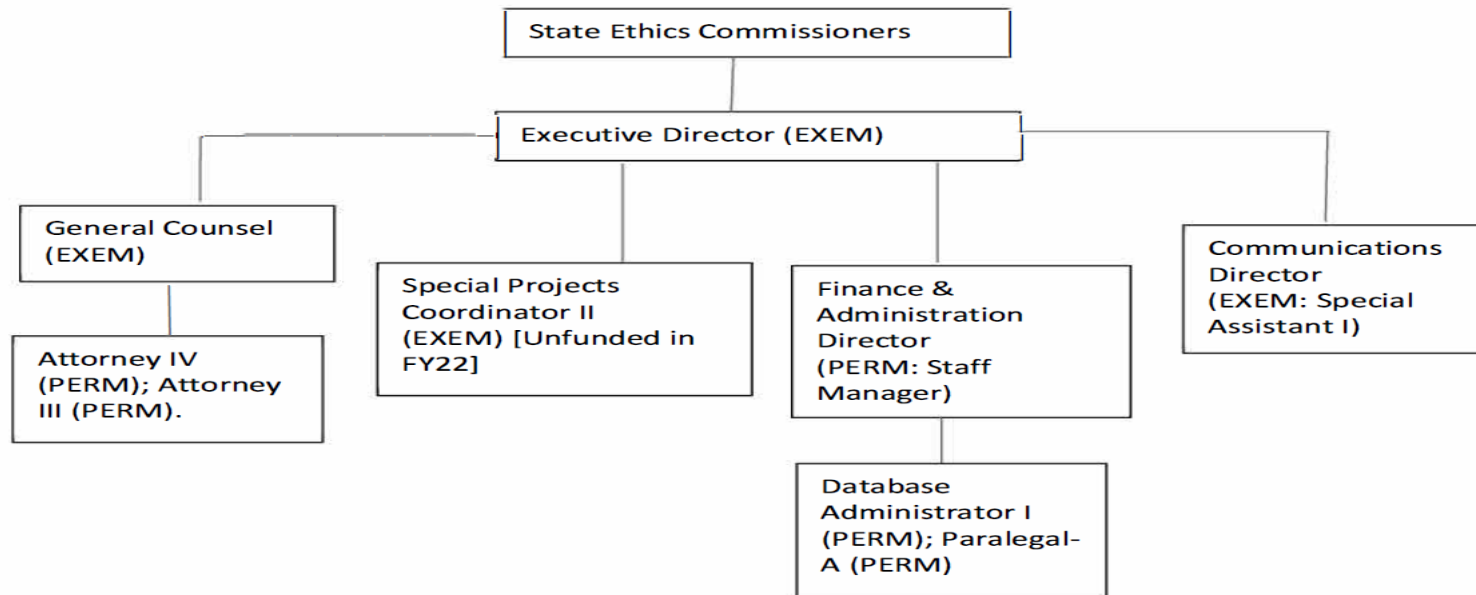
Agency Name: State Ethics Commission
Program Name: State Ethics Commission

Business Unit: 41000
Program Code: P410

Agency Organizational Chart (as of September 1, 2021):



Agency Organizational Chart (corresponding to the FY23 request):



☐ Check Box if this form is a revision

Revision no:

1

Revision Date:

9/1/2021

Page

1

Program Description:

The State Ethics Commission is an independent agency created by Article V, Section 17 of the New Mexico Constitution. The Commission has three core responsibilities:

First, the Commission investigates and adjudicates administrative complaints alleging violations of New Mexico's ethics laws—namely, New Mexico's governmental conduct, procurement, and disclosure laws, including laws requiring financial disclosure, campaign finance disclosure, and lobbyist disclosure.

Second, the Commission investigates and prosecutes violations of the ethics laws through civil enforcement actions in state court.

Third, the Commission educates public officers, public employees, and the public about New Mexico's ethics laws by issuing advisory opinions, offering trainings to legislators, state agencies, local governments, and affiliate organizations, and promulgating a model code of ethics.

In addition to its core functions, the Legislature has tasked the Commission with other responsibilities. For example, the Commission was charged to appoint three members of the Citizen Redistricting Committee ("CRC"), including that committee's chair. The Commission has an interagency memorandum of understanding to provide limited staff support to the CRC during the limited period of the CRC's operations (from July 1, 2021 through October 31, 2021).

Major Issues and Accomplishments:

[I] Major Accomplishments Over Past Year:

[1] Investigation and Adjudication of Administrative Complaints:

- Launched the State Ethics Commission's Proceedings Portal, the Commission's web-based case management and docketing system, which allows for the filing of complaints online, the ability for parties to file papers into the docket, notifications, calendaring, docket text-entry, and archival functions.
- Prevailed in the district court, achieving the denial of a subpoenaed entity's motion to quash the Commission's subpoena in In re State Ethics Commission Petition, D-307-ET-2020-01 (3d Jud. Dist. Ct.). The case is pending on appeal in the Court of Appeals.
- Prevailed in the district court, achieving the denial of a subpoenaed party's motion to quash the Commission's subpoena in In re State Ethics Commission Petition, D-307-ET-2021-01 (3d Jud. Dist. Ct.). The case is pending on appeal in the Court of Appeals, and related proceedings are pending before the Supreme Court on a petition for extraordinary writs.
- Adjudicated 40 administrative cases in 2020 and 18 cases in 2021 to date. Of those 58 cases, 13 remain pending in the State Ethics Commission, either in pre-hearings motions practice or in investigation.
- Entered hearing officer agreements with the Honorable Edward L. Chávez (retired Chief Justice of the New Mexico Supreme Court); the Honorable Alan Torgerson (retired federal Magistrate Judge for the United State District Court for the District of New Mexico); the Honorable James Starzynski (retired Chief Bankruptcy Judge for the United States District Court for the District of New Mexico); and the New Mexico Administrative Hearings Office.
- Promulgated amendments to 1.8.3 NMAC, the Commission's rules of procedure for administrative cases.

[2] Civil Enforcement Actions:

- Filed a civil action against Council for Competitive New Mexico ("CCNM") and litigated that case to a successful settlement, forcing CCNM to disclose that CCNM received \$470,000 from PNM Resources, which CCNM used to fund independent expenditures related to the Democratic Party primary elections for Senate Districts 5, 28, 30, 31,

and 35. See State Ethics Comm'n v. Council for a Competitive New Mexico (2d Jud. Dist. Ct., Dec. 11, 2020).

- Entered pre-litigation settlement with the Committee to Protect New Mexico Consumers ("CPNMC"), forcing CPNMC to disclose that it expended \$264,193.14 on independent expenditures related to the ballot question to change the composition and appointments of the Public Regulation Commission.

[3] Advisory Opinions, Education and Trainings:

- Issued 12 formal advisory opinions and 15 informal advisory letters.
- Achieved publication of the Commission's formal advisory opinions and annotations of New Mexico's ethics laws by the Commission's advisory opinions on www.NMOneSource.com, the New Mexico Compilation Commission's official research tool of the New Mexico courts and legislature.
- Promulgated model code of ethics at 1.8.4 NMAC for state agencies to adopt as appropriate.
- Delivered ethics trainings to legislators, state agencies, state boards and commissions staff, county commissions, boards of regents, and affiliate organizations around the state.

[4] Other Accomplishments:

- Conducted competitive application and interview process to select three members of the Citizen Redistricting Committee, including that committee's Chair. Provide limited staff support to the Citizen Redistrict Committee during that committee's abbreviated tenure through an interagency memorandum of understanding.
- Conducted outreach to all county and municipal governments to gather perspectives and concerns regarding the potential expansion of the Commission's jurisdiction for administrative complaints and the Commission's authority to provide advisory opinions.

[II] Major Issues:

[1] The Commission urgently needs more personnel

- The Commission urgently needs more personnel to fulfill its responsibilities now and in the coming years. The Commission has no staff vacancies. Its budget was cut by 5% in FY22. But at the same time, the legislature expanded the Commission's responsibilities. The Commission needs more personnel to minimally satisfy its constitutional and statutory mandates.
- In FY21, the Commission had 6 FTE. For most of FY22, the Commission has budget for only 5 FTE. The Commission's FY22 budget was decreased by 5% as compared to FY21 levels, a decrease that was entirely attributed to the Commission's personnel budget. As a result, the Commission will be forced to separate its Special Projects Coordinator II position at the end of October 2021.
- In FY23, the Commission hopes to restore funding for its Special Projects Coordinator II position, as well as hire three classified positions—an Attorney IV, a Paralegal-A, and a Database Administrator I. These positions would bring the Commission's staff to 9 FTE and are necessary for the Commission to minimally satisfy its core functions.

[2] The Commission's core functions require more attorney personnel and support

- As part of its core functions, the Commission handles intensive civil litigation. The Commission participates in civil litigation in mainly three ways.
- First, to investigate administrative complaints, the Commission petitions for and issues subpoenas for documents and deposition testimony. Subpoenaed persons routinely challenge the Commission's subpoenas in district court. If the subpoenaed parties are respondents in Commission administrative proceedings, then, under statute, those respondents are entitled to state-funded attorneys who have contracts with the Risk Management Division (RMD).

These state-funded attorneys have incentives to litigate on every issue, because the taxpayers—not the respondent in the underlying ethics case—are paying their fees. Accordingly, for each of its subpoenas, the Commission inevitably confronts motions to quash and, when the Commission prevails, the subpoenaed parties (particularly if they are represented by RMD funded counsel) seek appellate review in the Court of Appeals and the Supreme Court. In ONLY TWO administrative proceedings in which the Commission issued subpoenas, RMD has already paid (as of August 31, 2021) over \$83,000 in state funds to outside counsel to represent respondents in subpoena-related litigation. That number also does not represent the total costs, because in one of those two cases, there are likely outstanding invoices or work that has been performed but yet to invoiced. In total, to date, RMD has paid over \$140,000 in state funds to outside counsel to defend respondents in 10 administrative proceedings, with invoices still outstanding. These cost figures paid to risk-contract counsel give an indication of the strain that the Commission's three attorneys (one of whom is also the ED) are under to litigate with risk contract counsel in concurrent proceedings in the Third Judicial District Court, the Court of Appeals, and the Supreme Court, all related to respondents' challenges to the Commission's subpoenas. The Commission needs more staff to keep up with outside risk counsel who are assigned to and financed to litigate against the Commission.

- Second, the Commission files civil enforcement actions in state court and, in appropriate cases, participates amicus curiae, particularly where third-party litigation (including criminal prosecutions) involves the interpretation of a key statutory provision of one of the statutes the Commission oversees—all of which require attorney staff.

- Third, State Ethics Commission handles all its litigation in house. Unlike other state agencies, the Commission has not contracted for outside counsel to represent it in court. The Commission currently has three attorneys, one of whom is the ED. To maintain its basic functions, the Commission needs additional attorney and paralegal staff.

Overview of Request:

The Commission seeks an FY23 appropriation for \$1,277,400.00. By category, this request amounts to \$973,000.00 for personnel; \$175,000.00 for contracts; and \$129,400.00 for other operating costs. The primary programmatic and policy focus of the Commission's FY23 request to maintain the Commission's current ability to perform its constitutional and statutory duties; to restore funding for the Commission's Special Projects Coordinator II position; and to hire additional personnel, including an Attorney IV, a Paralegal-A, and a Database Administrator I. As explained above, the Commission requires additional personnel to minimally meet its core constitutional and statutory duties to investigate and adjudicate administrative complaints, prosecute violations of the ethics laws through civil enforcement actions in state court, and to provide advisory opinions and trainings regarding New Mexico's ethics laws.

Programmatic Changes:

[1] In FY23, the Commission's subject matter jurisdiction will be expanded to include the Revised Uniform Law on Notarial Acts, 14-14A-1 to 14-14A-32 (2021), which governs notaries public and notarial acts. Consequently, the Commission will be required to adjudicate violations of statutory law governing notaries public—a function that was previously assigned to the Regulation and Licensing Department. Without an increase in personnel and resources, the Commission will struggle to investigate and adjudicate complaints alleging violations by notaries public and persons who are performing notarial acts without authorization.

[2] In FY23, the Commission will work with the Secretary of State to ensure more complete compliance with the requirements of the Financial Disclosure Act. Over the past year, the Commission has worked to interpret the Financial Disclosure Act to make clear who is required to annually file financial disclosures. See, e.g., 2021 Op. Ethics Comm'n No. 2021-10 (construing "state agency" and "state agency heard"). Beginning February 2022, and extending into FY23, the Commission will take greater efforts to seek and, ultimately, to compel compliance with the Financial Disclosure Act.

P-1 Program Overview

Base Budget Justification: The Commission seeks an FY23 appropriation for \$1,277,400.00. By category, this request amounts to \$973,000.00 for personnel; \$175,000.00 for contracts; and \$129,400.00 for other operating costs. As compared to the Commission's FY22 appropriation, the FY23 request is for a \$339,800 increase in the 200s (to fund the Commission's Special Projects Coordinator II position and hire three additional personnel service positions); a \$0 increase in contracts; and a \$27,300 increase in the 400s to cover other operating costs associated with hiring additional personnel. All of the requested increases for FY23 are entirely tied to the Commission's need for additional personnel, costs which include salaries and benefits and associated operating costs, including for IT equipment, DoIT service costs, office space, research subscriptions, and professional licenses.

BU PCode Department
41000 P410 000000

S-8 Financial Summary

(Dollars in Thousands)

	2020-21 Opbud	2020-21 Actuals	2021-22 Opbud	2022-23 PCF Proj	----- FY 2023 Agency Request -----			----- FY 2023 Exec Recommendation -----			FY 2023 Opbud
					Base	Expansion	Total	Base	Expansion	Total	
REVENUE											
111 General Fund Transfers	946.2	946.2	900.3	0.0	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
112 Other Transfers	1.5	1.5	10.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE, TRANSFERS	947.7	947.7	910.3	0	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
REVENUE	947.7	947.7	910.3	0	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
EXPENSE											
200 Personal Services & Employee Benefits	670.6	585.7	633.2	698.7	973.0	0.0	973.0	0.0	0.0	0.0	0.0
300 Contractual Services	175.0	79.6	175.0	0.0	175.0	0.0	175.0	0.0	0.0	0.0	0.0
400 Other	102.1	82.1	102.1	0.0	129.4	0.0	129.4	0.0	0.0	0.0	0.0
EXPENDITURES	947.7	747.4	910.3	698.68	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
EXPENSE	947.7	747.4	910.3	698.68	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
FTE POSITIONS											
810 Permanent	0.00	6.00	6.00	6.00	9.00	0.00	9.00	0.00	0.00	0.00	0.00
FTEs	0.00	6.00	6.00	6.00	9.00	0.00	9.00	0.00	0.00	0.00	0.00
FTE POSITIONS	0.00	6.00	6.00	6.00	9.00	0.00	9.00	0.00	0.00	0.00	0.00

Ethics Commission

State of New Mexico

BU PCode Department
41000 0000 0000000000

S-9 Account Code Revenue/Expenditure Summary
(Dollars in Thousands)

		2020-21 Opbud	2020-21 Actuals	2021-22 Opbud	2022-23 PCF Proj	----- FY 2023 Agency Request -----			----- FY 2023 Exec Recommendation -----			FY 2023 Opbud
						Base	Expansion	Total	Base	Expansion	Total	
499105	General Fd. Appropriation	946.2	946.2	900.3	0.0	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
111	General Fund Transfers	946.2	946.2	900.3	0.0	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
499905	Other Financing Sources	1.5	1.5	10.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
112	Other Transfers	1.5	1.5	10.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL REVENUE		947.7	947.7	910.3	0	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
520000	Payroll	670.6	0.0	633.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
520100	Exempt Perm Positions P/T&F/T	0.0	330.5	0.0	382.4	382.4	0.0	382.4	0.0	0.0	0.0	0.0
520300	Classified Perm Positions F/T	0.0	112.7	0.0	150.7	349.9	0.0	349.9	0.0	0.0	0.0	0.0
520500	Temporary Positions F/T & P/T	0.0	2.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
521100	Group Insurance Premium	0.0	13.3	0.0	14.2	31.6	0.0	31.6	0.0	0.0	0.0	0.0
521200	Retirement Contributions	0.0	79.1	0.0	99.9	137.2	0.0	137.2	0.0	0.0	0.0	0.0
521300	F I C A	0.0	33.4	0.0	40.8	53.1	0.0	53.1	0.0	0.0	0.0	0.0
521400	Workers' Comp Assessment Fee	0.0	1.4	0.0	0.0	0.1	0.0	0.1	0.0	0.0	0.0	0.0
521410	GSD Work Comp Insur Premium	0.0	0.0	0.0	0.0	1.2	0.0	1.2	0.0	0.0	0.0	0.0
521600	Employee Liability Ins Premium	0.0	3.6	0.0	0.0	1.9	0.0	1.9	0.0	0.0	0.0	0.0
521700	RHC Act Contributions	0.0	8.9	0.0	10.7	15.6	0.0	15.6	0.0	0.0	0.0	0.0
200	Personal Services & Employee Benefit	670.6	585.7	633.2	698.7	973.0	0.0	973.0	0.0	0.0	0.0	0.0
530000	Contracts	175.0	0.0	175.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
535200	Professional Services	0.0	36.9	0.0	0.0	118.0	0.0	118.0	0.0	0.0	0.0	0.0
535209	Professional Svcs - Interagenc	0.0	2.8	0.0	0.0	5.0	0.0	5.0	0.0	0.0	0.0	0.0
535400	Audit Services	0.0	7.6	0.0	0.0	11.8	0.0	11.8	0.0	0.0	0.0	0.0
535500	Attorney Services	0.0	0.0	0.0	0.0	5.2	0.0	5.2	0.0	0.0	0.0	0.0
535600	IT Services	0.0	32.4	0.0	0.0	35.0	0.0	35.0	0.0	0.0	0.0	0.0
300	Contractual Services	175.0	79.6	175.0	0.0	175.0	0.0	175.0	0.0	0.0	0.0	0.0
540000	Other Expenses	102.1	0.0	102.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
542100	Employee I/S Mileage & Fares	0.0	0.4	0.0	0.0	2.0	0.0	2.0	0.0	0.0	0.0	0.0
542200	Employee I/S Meals & Lodging	0.0	0.2	0.0	0.0	1.5	0.0	1.5	0.0	0.0	0.0	0.0
542300	Brd & Comm Mbr Meals & Lodging	0.0	0.0	0.0	0.0	8.0	0.0	8.0	0.0	0.0	0.0	0.0
544000	Supply Inventory IT	0.0	5.2	0.0	0.0	5.2	0.0	5.2	0.0	0.0	0.0	0.0
544100	Supplies-Office Supplies	0.0	2.3	0.0	0.0	2.3	0.0	2.3	0.0	0.0	0.0	0.0
544400	Supplies-Field Supplies	0.0	0.0	0.0	0.0	0.1	0.0	0.1	0.0	0.0	0.0	0.0
544900	Supplies-Inventory Exempt	0.0	1.3	0.0	0.0	1.5	0.0	1.5	0.0	0.0	0.0	0.0
545600	Reporting & Recording	0.0	0.2	0.0	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0

Ethics Commission

State of New Mexico

BU PCode Department
41000 0000 0000000000

S-9 Account Code Revenue/Expenditure Summary
(Dollars in Thousands)

		2020-21 Opbud	2020-21 Actuals	2021-22 Opbud	2022-23 PCF Proj	----- FY 2023 Agency Request -----			----- FY 2023 Exec Recommendation -----			FY 2023 Opbud
						Base	Expansion	Total	Base	Expansion	Total	
545700	ISD Services	0.0	5.1	0.0	0.0	8.2	0.0	8.2	0.0	0.0	0.0	0.0
545710	DOIT HCM Assessment Fees	0.0	2.5	0.0	0.0	3.2	0.0	3.2	0.0	0.0	0.0	0.0
545900	Printing & Photo Services	0.0	0.5	0.0	0.0	2.0	0.0	2.0	0.0	0.0	0.0	0.0
546100	Postage & Mail Services	0.0	0.0	0.0	0.0	1.0	0.0	1.0	0.0	0.0	0.0	0.0
546400	Rent Of Land & Buildings	0.0	38.5	0.0	0.0	57.6	0.0	57.6	0.0	0.0	0.0	0.0
546500	Rent Of Equipment	0.0	2.7	0.0	0.0	3.5	0.0	3.5	0.0	0.0	0.0	0.0
546600	Communications	0.0	1.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
546610	DOIT Telecommunications	0.0	10.8	0.0	0.0	14.3	0.0	14.3	0.0	0.0	0.0	0.0
546700	Subscriptions/Dues/License Fee	0.0	8.4	0.0	0.0	9.5	0.0	9.5	0.0	0.0	0.0	0.0
546800	Employee Training & Education	0.0	1.9	0.0	0.0	2.5	0.0	2.5	0.0	0.0	0.0	0.0
546900	Advertising	0.0	1.1	0.0	0.0	3.0	0.0	3.0	0.0	0.0	0.0	0.0
547999	Request to Pay Prior Year	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
549600	Employee O/S Mileage & Fares	0.0	0.0	0.0	0.0	1.5	0.0	1.5	0.0	0.0	0.0	0.0
549700	Employee O/S Meals & Lodging	0.0	0.0	0.0	0.0	1.5	0.0	1.5	0.0	0.0	0.0	0.0
400	Other	102.1	82.1	102.1	0.0	129.4	0.0	129.4	0.0	0.0	0.0	0.0
TOTAL EXPENSE		947.7	747.4	910.3	698.68	1,277.4	0.0	1,277.4	0.0	0.0	0.0	0.0
810	Permanent	0.00	6.00	6.00	6.00	9.00	0.00	9.00	0.00	0.00	0.00	0.00
810	Permanent	0.00	6.00	6.00	6.00	9.00	0.00	9.00	0.00	0.00	0.00	0.00
TOTAL FTE POSITIONS		0.00	6.00	6.00	6.00	9.00	0.00	9.00	0.00	0.00	0.00	0.00

State of New Mexico

S-13 Line Items by Business Unit
(Dollars in Thousands)

					-----FY 2023 Exec Recommendation-----						
					2020-21	2021-22	Request		Recommendation		
BusUnit		Line Item			Actuals	Opbud	Base	Expansion	Base	Expansion	Opbud
41000	P410-R	State Ethics Commission	521410	GSD Work Comp Insur Premium	0	0	1.2	0	0	0	0.0
			521600	Employee Liability Ins Premium	3.64	0	1.9	0	0	0	0.0
			535400	Audit Services	7.55	0	11.8	0	0	0	0.0
			545700	ISD Services	5.1	0	8.2	0	0	0	0.0
			545710	DOIT HCM Assessment Fees	2.49	0	3.2	0	0	0	0.0
			546610	DOIT Telecommunications	10.79	0	14.3	0	0	0	0.0
Subtotal for:	41000	P410-R	State Ethics Commission		29.57	0	40.6	0	0	0	0.0
41000					29.57	0	40.6	0	0	0	0.0

Totals by Line Item

Totals by Line Item			FY 2023 Exec Recommendation						
			2020-21	2021-22	Request		Recommendation		Opbud
BusUnit	Line Item		Actuals	Opbud	Base	Expansion	Base	Expansion	
41000	521410	GSD Work Comp Insur Premium	0	0	1.2	0	0	0	0.0
	521600	Employee Liability Ins Premium	3.64	0	1.9	0	0	0	0.0
	535400	Audit Services	7.55	0	11.8	0	0	0	0.0
	545700	ISD Services	5.1	0	8.2	0	0	0	0.0
	545710	DOIT HCM Assessment Fees	2.49	0	3.2	0	0	0	0.0
	546610	DOIT Telecommunications	10.79	0	14.3	0	0	0	0.0
Grand Total			29.57	0	40.6	0	0	0	0.0

Account	2020 Starting FTE	2020 Sept	2020 Oct	2020 Nov	2020 Dec	2021 Jan	2021 Feb	2021 March	2021 April	2021 May	2021 June	2021 July	2021 Aug	Justification
AUTHFTE	6.00	1.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

State of New Mexico
Full Program and Measure Report

BusUnit: 41000 State Ethics Commission

Code: 41000

Program Name: State Ethics Commission

Code: P410

Authority:

Purpose:

Performance Measures:	2020-21 Actuals	2021-22 Target	2022-23 Target
Percent of advisory opinions issued within sixty days of receipt of request.	100%	90%	90%
Percent of complaints either disposed, referred to other state agency, or set for public hearing within ninety days after a complaint is either received or referred from other state agency with shared jurisdiction.	70%	90%	90%

08/31/2021

DFA Performance Based Budgeting Data System

Annual Performance Report

Agency: 41000 State Ethics Commission

Program: State Ethics Commission

Performance Measures:	2020-21 Target	2020-21 Result	Met Target	Year End Result Narrative
Percent of advisory opinions issued within sixty days of receipt of request.	90%	100%	Yes	Performance measure exceeded.
Percent of complaints either disposed, referred to other state agency, or set for public hearing within ninety days after a complaint is either received or referred from other state agency with shared jurisdiction.	90%	70%	No	There are several reasons why the Commission often requires more than 90 days to resolve an administrative complaint. First, under applicable regulations (1.8.3 NMAC), the parties to administrative cases may request extensions to deadlines. After the onset of the COVID-19 pandemic, these requests are routinely made and granted. Second, the Risk Management Division (RMD) of GSD is required to hire and pay attorneys to represent respondents who are officers or employees of the state. RMD counsel often request extensions of time to become familiar with the case, and often elect to challenge Commission subpoenas. Litigating novel and complex issues in front of district courts and the courts of appeal is common, and these proceedings take far longer than 90 days to resolve. Third, motions to dismiss for failure to state a claim—which are currently available under the Commission’s rules of procedure—are ultimately decided by a Commission hearing officer, who might take several weeks to draft an order and memorandum opinion resolving the motion.

8/31/2021



STATE ETHICS COMMISSION

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ALBUQUERQUE,
NM 87106
(505) 827 7800

www.sec.state.nm.us

FY Fiscal Year 2023 STRATEGIC 23 PLAN

STATE of NEW MEXICO

A Message from the Executive Director

I am pleased to present the *Strategic Plan* for the State Ethics Commission for fiscal year 2023—the Commission’s fourth year. Having grown past its infancy, the Commission is focused on hiring key personnel who can help sustain and grow what its initial staff built.

The Commission urgently needs resources and personnel to fulfill its responsibilities now and in the coming years. The Commission has no staff vacancies. Its budget was cut by 5% in FY22. But at the same time, the legislature expanded the Commission’s responsibilities. The Commission needs more personnel to meet its constitutional and statutory mandates.

This strategic plan is targeted to that need. In FY23, the Commission hopes to hire three additional, classified positions—an Attorney IV, a Paralegal-A, and a Database Administrator I—as well as to restore funding for the Commission’s Special Projects Coordinator, for which the Commission lost funding with the FY22 budget cut.

Sincerely,

Jeremy Farris
Executive Director
State Ethics Commission



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Mission Statement

The State Ethics Commission is an independent agency committed to preventing and remedying public corruption and building trust in state government. The Commission promotes the integrity of government through the interpretation, enforcement, and improvement of New Mexico's governmental conduct, procurement, and financial disclosure laws.

Agency Overview

Legal foundation and creation

The State Ethics Commission is an independent agency created by Article V, Section 17 of the New Mexico Constitution and enabled by the State Ethics Commission Act. The Commission's initial Commissioners were appointed on July 1, 2019. The Commission's jurisdiction and enforcement authority began on January 1, 2020.

Structure

The Commission is bipartisan, comprised of seven Commissioners, and chaired by a retired judge. The State Ethics Commission Act sets forth both the qualifications to serve as a Commissioner and a procedure for appointing commissioners that ensures an independent commission: The Governor appoints the Chair, who must be a retired judge. The Speaker of the House, the House Minority Floor Leader, the President Pro Tem of the Senate, and the Senate Minority leader each appoint a Commissioner. The legislatively-appointed Commissioners appoint two other Commissioners.

No more than three Commissioners may be members of the same political party. Except for the initial Commissioners, the Commissioners are appointed for staggered terms of four years. No Commissioner may serve more than two consecutive four-year terms. Commissioners are removable for cause only, through a removal proceeding before the New Mexico Supreme Court. The seven current Commissioners are listed at Appendix I, *infra*.

The Commission hires an Executive Director, who in turn hires the staff, including the Commission's General Counsel. Both the Commission's Executive Director and General Counsel are term-limited positions created by statute. The current and founding Executive Director is Jeremy Farris. The current and founding General Counsel is Walker Boyd.

Agency powers

The Commission has three core responsibilities: (1) to adjudicate administrative complaints alleging violations of New Mexico's ethics laws; (2) to investigate and prosecute violations of the ethics laws through civil enforcement actions in state court; and (3) to educate public officers, employees, and the public about New Mexico's governmental conduct, procurement and disclosure laws.

First, the Commission may adjudicate administrative complaints against state government officials, employees, candidates, lobbyists and contractors. These administrative complaints must allege violations of the Campaign Reporting Act, the Financial Disclosure Act, the Gift Act, the Lobbyist Regulation Act, the Voter Action Act, the Governmental Conduct Act, the Procurement Code, the State Ethics Commission Act, or Article IX, Section 14 of the New Mexico Constitution, commonly known as the “Anti-Donation Clause.” The Commission may also issue advisory opinions upon appropriate request, opinions which bind the Commission’s decisions in future administrative adjudications.

Second, under its executive power, the Commission may investigate and initiate enforcement actions in state court to remedy violations of New Mexico’s ethics laws, including the Governmental Conduct Act, the Procurement Code, and the Financial Disclosure Act. For example, in *State Ethics Commission v. Council for a Competitive New Mexico*, D-202-CV-06718 (2nd Jud. Dist. Ct.), the Commission filed suit against the Council for a Competitive New Mexico (“CCNM”), forcing CCNM to disclose \$470,000 in previously hidden contributions that PNM gave to CCNM to support candidates in the 2020 Senate primary election. The Commission may also initiate administrative proceedings and petition state district courts to issue subpoenas.

Third, the Commission educates government officers and employees and members of the public about ethical government. The Commission fulfills this responsibility by answering requests for advice through either formal or informal advisory opinions; and by offering trainings and guidance materials for public officials and employees about their obligations under state ethics laws. The Commission also provides trainings and presentations to associations that support public officials and employees, including the Municipal League, New Mexico Counties, the New Mexico Public Procurement Association, the New Mexico Society of Certified Public Accountants, and members of the New Mexico State Bar. The Commission’s formal advisory opinions are published by the New Mexico Compilation Commission and are publicly available on www.NMOneSource.com. The Commission has also issued a model code of ethics at 1.8.4 NMAC, which is available for state agencies to adopt in whole or in part.

The Commission also has several responsibilities that flow from the core functions described above. The Commission periodically issues and amends administrative rules governing the issuance of advisory opinions (1.8.1 NMAC), commissioner recusals (1.8.2 NMAC), and administrative hearing procedures (1.8.3 NMAC). The Commission also provides the Legislature and the Governor with annual reports on its activities and potential amendments to the laws under the Commission’s jurisdiction. Additionally, to foster a community of attorneys in New Mexico that are familiar with the Commission and the state’s ethics laws, the Commission hosts a summer internship program for students at the University of New Mexico School of Law.

Major Accomplishments

Major Accomplishments Over Past Year (Sept. 1 2020 to Sept. 1 2021):

Investigation and Adjudication of Administrative Complaints:

- Launched the State Ethics Commission's Proceedings Portal, the Commission's web-based case management and docketing system, which allows for the filing of complaints online, the ability for parties to file papers into the docket, notifications, calendaring, docket text-entry, and archival functions.
- Prevailed in the district court, achieving the denial of a subpoenaed entity's motion to quash the Commission's subpoena in *In re State Ethics Commission Petition*, D-307-ET-2020-01 (3d Jud. Dist. Ct.). The case is pending on appeal in the Court of Appeals.
- Prevailed in the district court, achieving the denial of a subpoenaed party's motion to quash the Commission's subpoena in *In re State Ethics Commission Petition*, D-307-ET-2021-01 (3d Jud. Dist. Ct.). The case is pending on appeal in the Court of Appeals, and related proceedings are pending before the Supreme Court on a petition for extraordinary writs.
- Adjudicated 40 administrative cases in 2020 and 18 cases in 2021 to date. Of those 58 cases, 13 remain pending in the State Ethics Commission, either in pre-hearings motions practice or in investigation.
- Entered hearing officer agreements with the Honorable Edward L. Chávez (retired Chief Justice of the New Mexico Supreme Court); the Honorable Alan Torgerson (retired federal Magistrate Judge for the United State District Court for the District of New Mexico); the Honorable James Starzynski (retired Chief Bankruptcy Judge for the United States District Court for the District of New Mexico); and the New Mexico Administrative Hearings Office.
- Promulgated amendments to 1.8.3 NMAC, the Commission's rules of procedure for administrative cases.

Civil Enforcement Actions:

- Filed a civil action against Council for Competitive New Mexico ("CCNM") and litigated that case to a successful settlement, forcing CCNM to disclose that CCNM received \$470,000 from PNM Resources, which CCNM used to fund independent expenditures related to the Democratic Party primary elections for Senate Districts 5, 28, 30, 31, and 35. See *State Ethics Comm'n v. Council for a Competitive New Mexico* (2d Jud. Dist. Ct., Dec. 11, 2020).
- Entered pre-litigation settlement with the Committee to Protect New Mexico Consumers ("CPNMC"), forcing CPNMC to disclose that it expended \$264,193.14 on independent expenditures related to the ballot question to change the composition and appointments of the Public Regulation Commission.

Advisory Opinions, Education and Trainings:

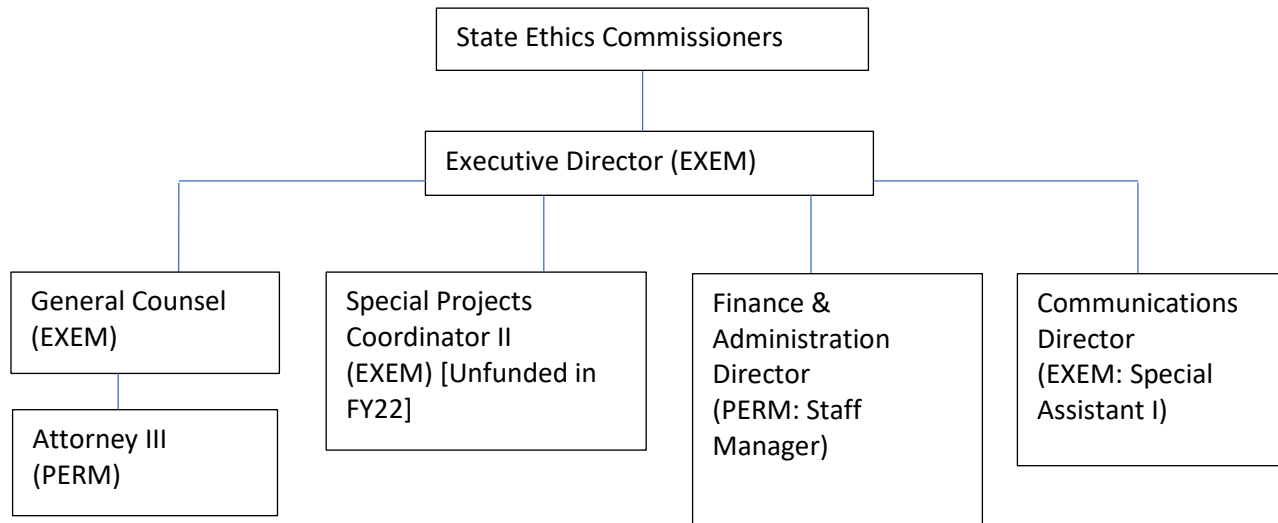
- Issued 12 formal advisory opinions and 15 informal advisory letters.
- Achieved publication of the Commission's formal advisory opinions and annotations of New Mexico's ethics laws by the Commission's advisory opinions on www.NMOneSource.com, the New Mexico Compilation Commission's official research tool of the New Mexico courts and legislature.
- Promulgated model code of ethics at 1.8.4 NMAC for state agencies to adopt as appropriate.
- Delivered ethics trainings to legislators, state agencies, state boards and commissions staff, county commissions, boards of regents, and affiliate organizations around the state.

Other Accomplishments:

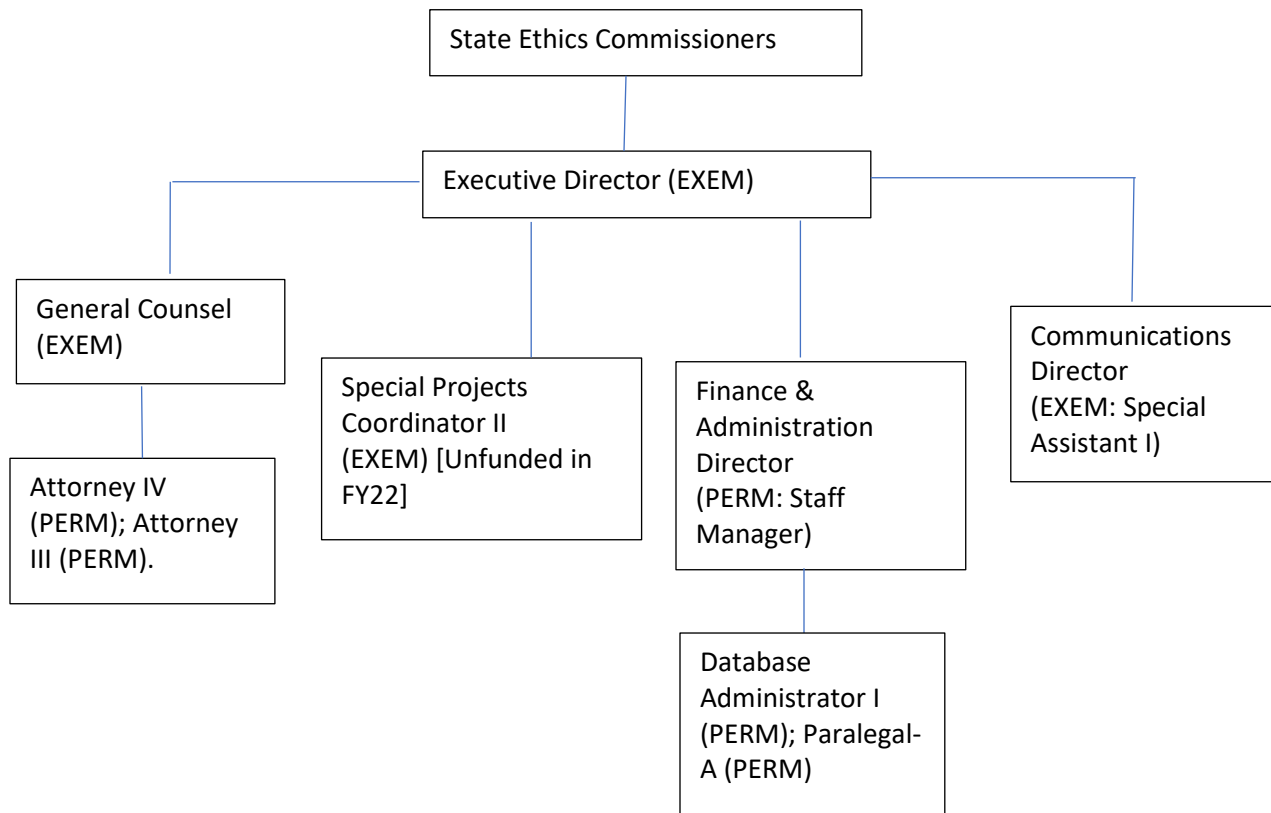
- Conducted competitive application and interview process to select three members of the Citizen Redistricting Committee, including that committee's Chair. Provide limited staff support to the Citizen Redistrict Committee during that committee's abbreviated tenure through an interagency memorandum of understanding.
- Conducted outreach to all county and municipal governments to gather perspectives and concerns regarding the potential expansion of the Commission's jurisdiction for administrative complaints and the Commission's authority to provide advisory opinions.

Organizational Structure

Agency Organizational Chart (as of September 1, 2021):



Agency Organizational Chart (corresponding to the FY23 request):



FY23 Objectives and Strategic Actions

Through FY23, the Commission will retain the same basic objectives as in previous fiscal years: administrative adjudication; enforcement of the state's governmental conduct, procurement, and disclosure laws; guidance and education; and building agency capacity and visibility. Further, FY23 is a fiscal year that includes both a general election and a 60-day legislative session; consequently, the Commission and its staff will confront a comparatively more demanding year. Looking forward to FY23, the Commission proposes the following strategic actions:

ADMINISTRATIVE ADJUDICATION

The Commission's primary function is the adjudication of administrative complaints filed either by members of the public or referred by other state agencies. In FY22, the Commission made significant amendments to 1.8.3 NMAC, its rules of procedure for administrative cases, which streamline the administration of the Commission's administrative case docket. In FY23, the Commission intends to take the following strategic actions to improve its administrative adjudications:

Strategic Actions (FY23)

- Subject to requested appropriations, hire three additional positions to assist the administration, investigation, and adjudication of administrative complaints:
 1. Attorney IV to assist in the litigation that is related to the Commission's subpoenas, including motion practice in the district courts, appeals, and extraordinary writ petitions in the Supreme Court;
 2. Database Administrator I to manage the Commission's Proceedings Portal, the Commission's web-based case management and docketing system, among other information database and IT related functions; and
 3. Paralegal-A to assist the Commission's attorney staff in the management of administrative case files, administrative case investigations, and subpoena proceedings in district court arising out of administrative cases.
- Contract for hearing-officer services with a retired Supreme Court Justice or retired federal magistrate or bankruptcy judge and with the Administrative Hearings Office.
- Consider a rule change that will allow the Commissioner who is not a member of either the largest or second-largest political party in the state to serve as a hearing officer where the contracted hearing officers must recuse on conflicts of interest grounds.
- Provide public guidance on Subsection 10-16G-15(B) (also known as the "blackout period"), which limits the Commission's ability to adjudicate complaints during the 60 days before the primary and general elections in 2022.

ENFORCEMENT

The Commission can pursue civil enforcement actions in state court to remedy violations of the Governmental Conduct Act, the Procurement Code, the Campaign Reporting Act, and other ethics laws. This discretionary authority is the Commission's greatest tool to directly vindicate New Mexico's ethics laws. In FY23, the Commission intends to take the following strategic actions to enable and effectuate its enforcement authority:

Strategic Actions (FY23)

- Subject to requested appropriations, hire an Attorney IV and a Paralegal-A, so that the Commission has a greater capacity to consider and pursue direct civil enforcement actions.
- Contract with investigators to ensure informed assessment of whistleblower allegations, informal complaints, and tips and to develop evidence that may be introduced in litigation.
- Implement Financial Disclosure Act compliance project in conjunction with the Office of the Secretary of State
- File and litigate enforcement actions in state court as necessary and proper and participate as amicus curiae on appellate cases implicating New Mexico's ethics laws.

GUIDANCE AND EDUCATION

The Commission has the responsibility to provide trainings on the Governmental Conduct Act, the Procurement Code and other of the state's ethics and disclosure laws to officials and employees across New Mexico's state and local governments. In FY23, the Commission intends to take the following strategic actions to continue and increase its trainings:

Strategic Actions (FY23)

- Subject to requested appropriations, hire an Attorney IV and a Paralegal-A, so that the Commission has a greater ability to timely issue formal advisory opinions and informal advisory letters that are correct and responsive to any requester.
- Research and prepare recommended amendments to the state ethics laws for consideration by members of the legislature during the 2023 legislative session.
- Develop and offer trainings and continuing legal education courses (and related materials) on the Governmental Conduct Act and other laws within the Commission's jurisdiction; provide those trainings to both state agencies and local public bodies.
- Issue formal and informal advisory opinions upon proper request.
- Work with the Compilation Commission to ensure that State Ethics Commission advisory opinions are published on NMOneSource.com and New Mexico's statutes are annotated with the growing body of Ethics Commission advisory opinions
- Prepare and deliver ethics training for legislators in December 2022 or January 2023, before the 60-day session

CAPACITY BUILDING & VISIBILITY

FY23 will be the Commission's fourth year; as such, the Commission remains a young state agency staffed by its initial staff members. To build its capacity to perform its basic constitutional and statutory mandates to adjudicate administrative complaints, issue advisory opinions, and provide trainings on New Mexico's governmental conduct and disclosure laws, in FY23, the Commission intends to take the following strategic actions:

Strategic Actions (FY23)

- Subject to requested appropriations, recruit and hire for three additional FTE (for a total of 9 FTE) to enable and support the Commission's increase in adjudicatory, enforcement, and guidance functions
- Subject to the Supreme Court's decision in *State v. Gutierrez, et al.*, prepare and deliver report on potential amendments to the Governmental Conduct Act in advance of the 2023 legislative session

- Conduct a summer internship program for UNM law students to develop a pipeline of New Mexico lawyers familiar with and concerned about New Mexico's ethics and good government laws and the Commission's work enforcing those laws.
- In the 2023 legislative session, advocate for any expansion of the Commission's jurisdiction for administrative complaints that the Commission recommends in its October 1, 2021 special report required by Laws 2019, Chapter 86, Section 37.

Performance Measures

Under the Accountability in Government Act, NMSA 1978, §§ 6-3A-1 to -10 (1999, as amended 2019), each state agency submits performance measures and outcomes under those measures to the State Budget Division of the Department of Finance and Administration and the Legislative Finance Committee. The Commission's current performance measures and outcomes are:

Existing Measure	FY21 Actual	FY23 Target
Percent of advisory opinions issued within sixty days of receipt of request.	100%	90%
Percent of complaints either disposed, referred to other state agency, or set for public hearing within ninety days after a complaint is either received or referred from other state agency with shared jurisdiction.	70%*	90%

*There are several reasons why the Commission often requires more than 90 days to resolve an administrative complaint. First, under applicable regulations (1.8.3 NMAC), the parties to administrative cases may request extensions to deadlines. After the onset of the COVID-19 pandemic, these requests are routinely made and granted. Second, the Risk Management Division of the General Services Department is required to hire and pay attorneys to represent respondents who are officers or employees of the state. Risk Management Division counsel often request extensions of time to become familiar with the case, and often elect to challenge Commission subpoenas. Litigating novel and complex issues in front of district courts and the courts of appeal is common, and these proceedings take far longer than 90 days to resolve. Third, motions to dismiss for failure to state a claim—which are currently available under the Commission's rules of procedure—are ultimately decided by a Commission hearing officer, who might take several weeks to draft an order and memorandum opinion resolving the motion.

Considerations

Three considerations are relevant to the Commission's strategic plan for FY23:

1. The Commission received a 5% budget cut in FY22, the consequence of which is that the Commission loses funding for, and must separate, its Special Projects Coordinator II on October 30, 2021. In FY23, the Commission hopes not only to restore funding for its Special Projects Coordinator II position (bringing the Commission back to FY21 appropriations), but also to receive a budget increase over FY21 appropriations to hire for three additional, classified staff members: an Attorney IV, a Paralegal-A, and a Database Administrator I.
2. Because the Commission is comprised of bipartisan, trusted New Mexican leaders, each of whom have long experience in public service to this State, the Legislature has tasked the Commission with responsibilities that exceed the Commission's initial mandate. For example, in FY21, the Legislature required the Commission to appoint three members of the independent, Citizens Redistricting Committee ("CRC"), including the CRC's Chair—a responsibility that required the Commission's staff to create and organize a competitive, statewide application process, followed by public interviews. The Commission has entered an interagency, reimbursement-based memorandum of understanding with the CRC to provide limited staff support to the CRC through October 30, 2021. These reimbursement funds have enabled the Commission to fund its Special Projects Coordinator II position (effectively on loan to the CRC) through October 2021. As noted, after that date, the Commission will be forced to separate that employee from state service.
3. Relatedly, the Commission's delegated powers and jurisdiction are still in flux. In the 2021 regular session, the Legislature expanded the Commission's jurisdiction to investigate and adjudicate violations of the Revised Uniform Law on Notarial Acts, NMSA 1978, §§ 14-14A-1 to 14-14A-32 (2021)—additional jurisdiction which commences in January of 2022. Also, for the past two sessions, legislators have introduced joint resolutions that would authorize and mandate the Commission to set the salaries for the elected officials in the state: legislators, elected executive officers, and judges. The Commission simply cannot perform additional constitutional and statutory mandates without a commensurate increase in funding.

Appendix I: Current Commissioners

The current Commissioners are:

Hon. William F. Lang, Chair

Appointing authority: Governor Michelle Lujan Grisham
Initial term expires: June 30, 2022

Jeffrey Baker, Member

Appointing authority: Legislatively-appointed Commissioners
Term expires: June 18, 2024

Stuart M. Bluestone, Member

Appointing authority: Speaker of the House, Brian Egolf
Initial term expires: June 30, 2023

Hon. Garrey Carruthers, Member

Appointing authority: Minority Floor Leader of the Senate, Stuart Ingle
Initial term expires: June 30, 2023

Hon. Celia Foy Castillo, Member

Appointing authority: President Pro Tem of the Senate, Mimi Stuart
Term expires: June 30, 2025

Ronald Solimon, Member

Appointing authority: Legislatively-appointed Commissioners
Term expires: June 18, 2024

Dr. Judy Villanueva, Member

Appointing authority: Minority Floor Leader of the House, James
Townsend
Term expires: June 30, 2025

Appendix II: The Commission's Legal Authority

Article V, Section 17 of the New Mexico Constitution

A. The "state ethics commission" is established as an independent state agency under the direction of seven commissioners, no more than three of whom may be members of the same political party, whose terms and qualifications shall be as provided by law. The governor shall appoint one commissioner. One commissioner each shall be appointed by the president pro tempore of the senate, the minority floor leader of the senate, the speaker of the house of representatives and the minority floor leader of the house of representatives, all as certified by the chief clerks of the respective chambers. Two commissioners, who shall not be members of the same political party, shall be appointed by the four legislatively appointed commissioners.

B. The state ethics commission may initiate, receive, investigate and adjudicate complaints alleging violations of, and issue advisory opinions concerning, standards of ethical conduct and other standards of conduct and reporting requirements, as may be provided by law, for state officers and employees of the executive and legislative branches of government, candidates or other participants in elections, lobbyists or government contractors or seekers of government contracts and have such other jurisdiction as provided by law.

C. The state ethics commission may require the attendance of witnesses or the production of records and other evidence relevant to an investigation by subpoena as provided by law and shall have such other powers and duties and administer or enforce such other acts as further provided by law. (As added November 6, 2018.)

NMSA 1978, § 1-19-34.6 (2021) (Campaign Reporting Act)

A. If the secretary of state exhausts efforts in seeking voluntary compliance and reasonably believes that a person committed, or is about

to commit, a violation of the Campaign Reporting Act, the secretary of state shall refer the matter to the state ethics commission for enforcement; provided, however, that if the secretary of state waives the imposition of a fine pursuant to Subsection D of Section 1-19-35 NMSA 1978, the matter shall not be referred.

B. With or without a referral from the secretary of state, the state ethics commission may institute a civil action in district court for any violation of the Campaign Reporting Act or to prevent a violation of that act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of up to one thousand dollars (\$1,000) for each violation not to exceed a total of twenty thousand dollars (\$20,000), and forfeiture of any contribution received as a result of an unlawful solicitation or unlawful contribution. Each unlawful solicitation and each unlawful contribution made or accepted shall be deemed a separate violation of the Campaign Reporting Act.

C. With or without a referral from the secretary of state, the state ethics commission may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Campaign Reporting Act other than that specified in Subsection B of this section. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of up to one thousand dollars (\$1,000) for each violation not to exceed a total of twenty thousand dollars (\$20,000).

NMSA 1978, § 1-19-34.8 (2021) (Campaign Reporting Act)

A. The state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a

provision of the Campaign Reporting Act in accordance with the provisions of that act.

B. The secretary of state shall forward complaints it receives alleging violations of the Campaign Reporting Act to the state ethics commission in accordance with the provisions of the Campaign Reporting Act and a formalized agreement.

NMSA 1978, § 1-19A-15.1 (2021) (Voter Action Act)

A. The state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Voter Action Act in accordance with the provisions of the State Ethics Commission Act [10-16G-1 to 10-16G-16 NMSA 1978].

B. The secretary of state shall forward complaints it receives alleging violations of the Voter Action Act to the state ethics commission in accordance with a formalized agreement.

NMSA 1978, § 2-11-8.2 (2021) (Lobbyist Regulation Act)

A. The secretary of state shall advise and seek to educate all persons required to perform duties pursuant to the Lobbyist Regulation Act of those duties. This includes advising all registered lobbyists at least annually of the Lobbyist Regulation Act's deadlines for submitting required reports. The state ethics commission, in consultation with the secretary of state, shall issue advisory opinions, when requested to do so in writing, on matters concerning the Lobbyist Regulation Act.

B. The secretary of state may conduct examinations of reports and the state ethics commission may initiate investigations to determine whether the Lobbyist Regulation Act has been violated. Any person who believes that a provision of the Lobbyist Regulation Act has been violated may file a written complaint with the state ethics commission pursuant to the terms of the State Ethics Commission Act [10-16G-1 to 10-16G-16 NMSA 1978]. If the commission has jurisdiction for the complaint,

the state ethics commission shall refer the complaint to the secretary of state. Upon referral, the secretary of state shall attempt to achieve voluntary compliance with the Lobbyist Regulation Act. Within twenty days after receiving the complaint from the state ethics commission, the secretary of state shall return the complaint to the state ethics commission and certify to the state ethics commission whether voluntary compliance was achieved. If the secretary of state certifies voluntary compliance, the state ethics commission shall dismiss the complaint or that part of the complaint alleging a violation of the Lobbyist Regulation Act. If the secretary of state does not certify voluntary compliance, the state ethics commission shall proceed with the complaint pursuant to the terms of the State Ethics Commission Act.

C. The secretary of state and the state ethics commission shall at all times seek to ensure voluntary compliance with the provisions of the Lobbyist Regulation Act. Additionally, the state ethics commission shall give a person who violates that act unintentionally or for good cause ten days' notice to come into compliance before the commission takes any action on a complaint filed with or referred to the commission against that person.

D. Any person who fails to file or files a report after the deadline imposed by the Lobbyist Regulation Act shall be liable for and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the report until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

E. If the secretary of state determines that a reporting entity subject to the reporting provisions of the Lobbyist Regulation Act has failed to file or has filed a report after the deadline, the secretary of state shall by written notice set forth the violation and the fine that may be imposed and inform the reporting individual that the individual has ten working days from the date of the letter to come into voluntary compliance and to provide a written explanation, under penalty of perjury, stating any reason why the violation occurred. If a

timely explanation is filed and the secretary of state determines that good cause exists to waive the imposition of a fine, the secretary of state may by a written notice of final action partially or fully waive the imposition of a fine for any late report or statement of no activity. A written notice of final action shall be sent by certified mail. The secretary of state may file an appropriate court action to remit outstanding fines for good cause or refer unpaid fines for enforcement pursuant to Subsection F of this section.

F. The secretary of state may refer a matter to the state ethics commission for a civil injunctive or other appropriate order or enforcement.

NMSA 1978, § 2-11-8.3 (2021) (Lobbyist Regulation Act)

A. The state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Lobbyist Regulation Act in accordance with the provisions of that act.

B. The secretary of state shall forward complaints it receives alleging violations of the Lobbyist Regulation Act to the state ethics commission in accordance with the Lobbyist Regulation Act and a formalized agreement.

NMSA 1978, § 10-16-11 (2021) (Governmental Conduct Act)

C. The head of every executive and legislative agency and institution of the state may draft a separate code of conduct for all public officers and employees in that agency or institution. The separate agency code of conduct shall prescribe standards, in addition to those set forth in the Governmental Conduct Act and the general codes of conduct for all executive and legislative branch public officers and employees, that are peculiar and appropriate to the function and purpose for which the agency or institution was created or exists. The separate codes, upon approval of the responsible executive branch public officer for executive branch public officers and employees or the New Mexico legislative council for legislative branch employees,

govern the conduct of the public officers and employees of that agency or institution and, except for those public officers and employees removable only by impeachment, shall, if violated, constitute cause for dismissal, demotion or suspension. The head of each executive and legislative branch agency shall adopt ongoing education programs to advise public officers and employees about the codes of conduct. All codes shall be filed with the state ethics commission and are open to public inspection.

...

E. All legislators shall attend a minimum of two hours of ethics continuing education and training developed and provided, in consultation with the director of the legislative council service, by the state ethics commission or a national state legislative organization of which the state is a member, approved by the director, biennially.

NMSA 1978, § 10-16-18 (2021) (Governmental Conduct Act)

A. If the state ethics commission reasonably believes that a person committed, or is about to commit, a violation of the Governmental Conduct Act, the state ethics commission may refer the matter to the attorney general or a district attorney for enforcement.

B. The state ethics commission may institute a civil action in district court or refer a matter to the attorney general or a district attorney to institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Governmental Conduct Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000).

NMSA 1978, § 10-16A-8 (2021) (Financial Disclosure Act)

A. If the state ethics commission reasonably believes that a person committed, or is about to commit, a violation of the Financial

Disclosure Act, the commission may refer the matter to the attorney general or a district attorney for enforcement.

B. The state ethics commission may institute a civil action in district court or refer a matter to the attorney general or a district attorney to institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Financial Disclosure Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000).

NMSA 1978, § 10-16B-5 (2019) (Gift Act)

A. The state ethics commission may initiate investigations to determine whether the provisions of the Gift Act have been violated. A person who believes that a violation of the Gift Act has occurred may file a complaint with the state ethics commission.

B. If the state ethics commission determines that a violation has occurred, the commission shall refer the matter to the attorney general for criminal prosecution.

**NMSA 1978, § 13-1-196 (2019)
(Procurement Code)**

Any person, firm or corporation that knowingly violates any provision of the Procurement Code is subject to a civil penalty of not more than one thousand dollars (\$1,000) for each procurement in violation of any provision of the Procurement Code. The district attorney in the jurisdiction in which the violation occurs or the state ethics commission is empowered to bring a civil action for the enforcement of any provision of the Procurement Code; provided that the commission may refer a matter for enforcement to the attorney general or the district attorney in the jurisdiction in which the violation occurred. Any penalty collected under the provisions of this section shall be credited to the general fund of the political subdivision in which the violation occurred and on whose behalf the suit was brought.

**NMSA 1978, § 13-1-196.1 (2019)
(Procurement Code)**

The state ethics commission may investigate complaints against a contractor who has a contract with a state agency or a person who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a state agency. The state ethics commission may impose the civil penalties authorized in Sections 13-1-196 through 13-1-198 NMSA 1978 pursuant to the provisions of those sections.

NMSA 1978, § 10-16G-1 to -16 (2019, as amended 2021) (State Ethics Commission Act)

§ 10-16G-1. Short Title

Sections 1 through 16 of this act may be cited as the "State Ethics Commission Act".

§ 10-16G-2. Definitions

As used in the State Ethics Commission Act:

- A. "commission" means the state ethics commission;
- B. "commissioner" means a member of the commission;
- C. "complainant" means a person who files a verified complaint with the commission;
- D. "complaint" means a complaint that has been signed by the complainant and the complainant attests under oath and subject to penalty of perjury that the information in the complaint, and any attachments provided with the complaint, are true and accurate;
- E. "director" means the executive director of the commission;
- F. "government contractor" means a person who has a contract with a public agency or who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a public agency;
- G. "legislative body" means the house of representatives or the senate;
- H. "lobbyist" means a person who is required to register as a lobbyist pursuant to the provisions of the Lobbyist Regulation Act [Chapter 2, Article 11 NMSA 1978];
- I. "political party" means a political party that has been qualified in accordance with the provisions of the Election Code [Chapter 1 NMSA 1978];

J. "public agency" means any department, commission, council, board, committee, agency or institution of the executive or legislative branch of government of the state or any instrumentality of the state, including the New Mexico mortgage finance authority, the New Mexico finance authority, the New Mexico exposition center authority, the New Mexico hospital equipment loan council and the New Mexico renewable energy transmission authority;

K. "public employee" means an employee of a public agency;

L. "public official" means a person elected to an office of the executive or legislative branch of the state or a person appointed to a public agency; and

M. "respondent" means a person against whom a complaint has been filed with or by the commission.

§ 10-16G-3. State Ethics Commission Created; Membership; Terms; Removal

A. The "state ethics commission", as created in Article 5, Section 17 of the constitution of New Mexico, is composed of seven commissioners, appointed as follows:

(1) one commissioner appointed by the speaker of the house of representatives;

(2) one commissioner appointed by the minority floor leader of the house of representatives;

(3) one commissioner appointed by the president pro tempore of the senate;

(4) one commissioner appointed by the minority floor leader of the senate;

(5) two commissioners appointed by the four legislatively appointed commissioners; and

(6) one commissioner appointed by the governor, who shall be a retired judge and who shall chair the commission.

B. No more than three members of the commission may be members of the same political party.

C. The appointing authorities shall give due regard to the cultural diversity of the state and to achieving geographical representation from across the state. Each appointing authority shall file letters of appointment with the secretary of state.

D. Commissioners shall be appointed for staggered terms of four years beginning July 1,

2019. The initial commissioners appointed by the speaker of the house of representatives and senate minority floor leader shall serve an initial term of four years; members appointed by the president pro tempore of the senate and house minority floor leader shall serve an initial term of two years; members appointed by the legislatively appointed members shall serve an initial term of one year; and the member appointed by the governor shall serve an initial term of three years. Members shall serve until their successors are appointed and qualified.

E. A person shall not serve as a commissioner for more than two consecutive four-year terms.

F. When any member of the commission dies, resigns or no longer has the qualifications required for the commissioner's original selection, the commissioner's position on the commission becomes vacant. The director shall notify the original appointing authority of the vacant position. The original appointing authority shall select a successor in the same manner as the original selection was made. A vacancy shall be filled by appointment by the original appointing authority no later than sixty days following notification of a vacancy for the remainder of the unexpired term. A vacancy on the commission shall be filled by appointment by the original appointing authority for the remainder of the unexpired term.

G. The commission shall meet as necessary to carry out its duties pursuant to the State Ethics Commission Act. Commissioners are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

H. Four commissioners consisting of two members of the largest political party in the state and two members of the second largest political party in the state constitute a quorum for the transaction of business. No action shall be taken by the commission unless at least four members, including at least two members of the largest political party in the state and two members of the second largest political party in the state, concur.

I. A commissioner may be removed only for incompetence, neglect of duty or malfeasance in office. A proceeding for the removal of a commissioner may be commenced by the

commission or by the attorney general upon the request of the commission. A commissioner shall be given notice of hearing and an opportunity to be heard before the commissioner is removed. The supreme court has original jurisdiction over proceedings to remove commissioners, and its decision shall be final. A commissioner is also liable to impeachment pursuant to Article 4, Section 36 of the constitution of New Mexico.

§ 10-16G-4. Commissioners; Qualifications; Limitations

A. To qualify for appointment to the commission, a person shall:

- (1) be a qualified elector of New Mexico;
- (2) not have changed party registration in the five years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the commission;
- (3) not continue to serve as a commissioner if the member changes party registration after the date of appointment in such a manner as to make the member ineligible to serve on the commission; and
- (4) not be, or within the two years prior to appointment shall not have been, in New Mexico, any of the following:
 - (a) a public official;
 - (b) a public employee;
 - (c) a candidate;
 - (d) a lobbyist;
 - (e) a government contractor; or
 - (f) an office holder in a political party at the state or federal level.

B. Before entering upon the duties of the office of commissioner, each commissioner shall review the State Ethics Commission Act and other laws and rules pertaining to the commission's responsibilities and to ethics and governmental conduct in New Mexico. Each commissioner shall take the oath of office as provided in Article 20, Section 1 of the constitution of New Mexico and, pursuant to the Financial Disclosure Act [Chapter 10, Article 16A NMSA 1978], file with the secretary of state a financial disclosure statement within thirty days of appointment and during the month of January every year thereafter that the commissioner serves on the commission.

C. For a period of one calendar year following a commissioner's tenure or following the resignation or removal of a commissioner, the commissioner shall not:

- (1) represent a respondent, unless appearing on the commissioner's own behalf; or
- (2) accept employment or otherwise provide services to a respondent unless the commissioner accepted employment or provided services prior to the filing of a complaint against the respondent.

D. During a commissioner's tenure, a commissioner shall not hold another public office or be:

- (1) a public employee;
- (2) a candidate;
- (3) a lobbyist;
- (4) a government contractor; or
- (5) an office holder in a political party at the state or federal level.

E. A commissioner who changes political party affiliation in violation of the provisions of Subsection A of this section or who chooses to seek or hold an office in violation of Subsection D of this section shall resign from the commission or be deemed to have resigned.

§ 10-16G-5. Commission; Duties and Powers

A. The commission shall:

- (1) employ an executive director, who shall be an attorney, upon approval of at least five commissioners;
- (2) develop, adopt and promulgate the rules necessary for it to implement and administer the provisions of the State Ethics Commission Act; and
- (3) establish qualifications for hearing officers and rules for hearing procedures and appeals.

B. Beginning January 1, 2020, the commission shall:

- (1) receive and investigate complaints alleging ethics violations against public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers;
- (2) hold hearings in appropriate cases to determine whether there has been an ethics violation;

(3) compile, index, maintain and provide public access to all advisory opinions and reports required to be made public pursuant to the State Ethics Commission Act;

(4) draft a proposed code of ethics for public officials and public employees and submit the proposed code to each elected public official and public agency for adoption; and

(5) submit an annual report of its activities, including any recommendations regarding state ethics laws or the scope of its powers and duties, in December of each year to the legislature and the governor.

C. Beginning January 1, 2020, the commission may:

(1) by approval of at least five commissioners, initiate complaints alleging ethics violations against a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer;

(2) petition a district court to issue subpoenas under seal requiring the attendance of witnesses and the production of books, records, documents or other evidence relevant or material to an investigation;

(3) issue advisory opinions in accordance with the provisions of the State Ethics Commission Act;

(4) compile, adopt, publish and make available to all public officials, public employees, government contractors and lobbyists an ethics guide that clearly and plainly explains the ethics requirements set forth in state law, including those that relate to conducting business with the state and public agencies; and

(5) offer annual ethics training to public officials, public employees, government contractors, lobbyists and other interested persons.

§ 10-16G-6. Executive director; appointment; duties and powers

A. The commission shall appoint an executive director who shall be knowledgeable about state ethics laws and who shall be appointed without reference to party affiliation and solely on the grounds of fitness to perform the duties of the office. The director shall hold office from the date of appointment until such

time as the director is removed by the commission.

B. The director shall:

(1) take the oath of office required by Article 20, Section 1 of the constitution of New Mexico;

(2) hire a general counsel who may serve for no more than five years, unless rehired for up to an additional five years;

(3) hire additional personnel as may be necessary to carry out the duties of the commission;

(4) prepare an annual budget for the commission and submit it to the commission for approval;

(5) make recommendations to the commission of proposed rules or legislative changes needed to provide better administration of the State Ethics Commission Act;

(6) perform other duties as assigned by the commission; and

(7) be required to reapply for the position after six years of service and may serve as director for no more than twelve years.

C. The director may:

(1) enter into contracts and agreements on behalf of the commission; and

(2) have the general counsel administer oaths and take depositions subject to the Rules of Civil Procedure for the District Courts.

D. For a period of one calendar year immediately following termination of the director's employment with the commission, the director shall not:

(1) represent a respondent, unless appearing on the director's own behalf; or

(2) accept employment or otherwise provide services to a respondent, unless the director accepted employment or provided services prior to the filing of a complaint against the respondent.

§ 10-16G-7. Recusal and Disqualification of a Commissioner

A. A commissioner may recuse from a particular matter.

B. A commissioner shall recuse from any matter in which the commissioner is unable to make a fair and impartial decision or in which there is a reasonable doubt about whether the commissioner can make a fair and impartial decision, including:

(1) when the commissioner has a personal bias or prejudice concerning a party to the proceeding or has prejudged a disputed evidentiary fact involved in a proceeding prior to a hearing. For the purposes of this paragraph, "personal bias or prejudice" means a predisposition toward a person based on a previous or ongoing relationship that renders the commissioner unable to exercise the commissioner's functions impartially;

(2) when the commissioner has a pecuniary interest in the outcome of the matter; or

(3) when in previous employment the commissioner served as an attorney, adviser, consultant or witness in the matter in controversy.

C. A party to the proceeding may request the recusal of a commissioner and shall provide the commission with the grounds for the request. If the commissioner declines to recuse upon request of a party to the proceeding, the commissioner shall provide a full explanation in support of the refusal to recuse.

D. A party may appeal a commissioner's refusal to recuse, or if the propriety of a commissioner's participation in a particular matter is otherwise questioned, the issue shall be decided by a majority of the other commissioners present and voting.

E. A disqualified commissioner shall not participate in any proceedings with reference to the matter from which the commissioner is disqualified or recused, and the commissioner shall be excused from that portion of any meeting at which the matter is discussed.

F. Minutes of commission meetings shall record the name of any commissioner not voting on a matter by reason of disqualification or recusal.

G. If two or more commissioners have recused themselves or are disqualified from participating in a proceeding, the remaining commissioners shall appoint temporary commissioners to participate in that proceeding. Appointments of temporary commissioners shall be made by a majority vote of the remaining commissioners in accordance with the political affiliation and geographical representation requirements and the qualifications set forth in the State Ethics Commission Act.

H. The commission shall promulgate rules for the recusal and disqualification of commissioners, for an appeal of a recusal decision and for the appointment of temporary commissioners.

§ 10-16G-8. Advisory Opinions

A. The commission may issue advisory opinions on matters related to ethics. Advisory opinions shall:

(1) be requested in writing by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer;

(2) identify a specific set of circumstances involving an ethics issue;

(3) be issued within sixty days of receipt of the request unless the commission notifies the requester of a delay in issuance and continues to notify the requester every thirty days until the advisory opinion is issued; and

(4) be published after omitting the requester's name and identifying information.

B. A request for an advisory opinion shall be confidential and not subject to the provisions of the Inspection of Public Records Act.

C. Unless amended or revoked, an advisory opinion shall be binding on the commission in any subsequent commission proceedings concerning a person who acted in good faith and in reasonable reliance on the advisory opinion.

§ 10-16G-9. Commission Jurisdiction; Compliance Provisions

A. The commission has jurisdiction to enforce the applicable civil compliance provisions for public officials, public employees, candidates, persons subject to the Campaign Reporting Act [~~1-19-25~~ to ~~1-19-36~~ NMSA 1978], government contractors, lobbyists and lobbyists' employers of:

(1) the Campaign Reporting Act;

(2) the Financial Disclosure Act

[Chapter 10, Article 16A NMSA 1978];

(3) the Gift Act [~~10-16B-1~~ to ~~10-16B-4~~ NMSA 1978];

(4) the Lobbyist Regulation Act [Chapter 2, Article 11 NMSA 1978];

(5) the Voter Action Act [~~1-19A-1~~ to ~~1-19A-17~~ NMSA 1978];

(6) the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978];

(7) the Procurement Code [13-1-28 to 13-1-199 NMSA 1978];

(8) the State Ethics Commission Act; and

(9) Article 9, Section 14 of the constitution of New Mexico.

B. All complaints filed with a public agency regarding the statutes listed in Subsection A of this section shall be forwarded to the commission.

C. The commission may choose to act on some or all aspects of a complaint and forward other aspects of a complaint to another state or federal agency with jurisdiction over the matter in accordance with Subsection E of this section.

D. If the commission decides not to act on a complaint, whether the complaint was filed with the commission or forwarded from another public agency, or decides only to act on part of a complaint, the commission shall promptly forward the complaint, or any part of a complaint on which it does not wish to act, to the public agency that has appropriate jurisdiction within ten days of the decision. The complainant and respondent shall be notified in writing when the complainant's request has been forwarded to another agency unless otherwise provided pursuant to Subsection H of Section 10-16G-10 NMSA 1978.

E. The commission may share jurisdiction with other public agencies having authority to act on a complaint or any aspect of a complaint. Such shared jurisdiction shall be formalized through an agreement entered into by all participating agencies involved with the complaint and the director. The commission may also investigate a complaint referred to the commission by the legislature, or a legislative committee, in accordance with an agreement entered into pursuant to policies of the New Mexico legislative council or rules of the house of representatives or senate.

F. The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section. The court action shall be filed in the district court in the county where the defendant resides.

A. A complaint of an alleged ethics violation committed by a public official, public employee, candidate, person subject to the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978], government contractor, lobbyist, lobbyist's employer or a restricted donor subject to the Gift Act [Chapter 10, Article 16B NMSA 1978] may be filed with the commission by a person who has actual knowledge of the alleged ethics violation.

B. The complainant shall set forth in detail the specific charges against the respondent and the factual allegations that support the charges and shall sign the complaint under penalty of false statement. The complainant shall submit any evidence the complainant has that supports the complaint. Evidence may include documents, records and names of witnesses. The commission shall prescribe the forms on which complaints are to be filed. The complaint form shall be signed under oath by the complainant.

C. Except as provided in Subsection H of this section, the respondent shall be notified within seven days of the filing of the complaint and offered an opportunity to file a response on the merits of the complaint.

D. The director shall determine if the complaint is subject to referral to another state agency pursuant to an agreement or outside the jurisdiction of the commission, and if so, promptly refer the complaint to the appropriate agency. If the director determines that the complaint is within the commission's jurisdiction, the director shall have the general counsel initiate an investigation.

E. The general counsel shall conduct an investigation to determine whether the complaint is frivolous or unsubstantiated. If the general counsel determines that the complaint is frivolous or unsubstantiated, the complaint shall be dismissed, and the complainant and respondent shall be notified in writing of the decision and reasons for the dismissal. The commission shall not make public a complaint that has been dismissed pursuant to this subsection or the reasons for the dismissal.

F. If the general counsel and the respondent reach a settlement on the matters of the complaint, the settlement shall be submitted to the commission for its approval, and if the matter has been resolved to the satisfaction of the commission, the complaint

§ 10-16G-10. Complaints; Investigations; Subpoenas

and terms of the settlement shall be subject to public disclosure.

G. If the general counsel determines that there is probable cause, the director shall promptly notify the respondent of the finding of probable cause and of the specific allegations in the complaint that are being investigated and that a public hearing will be set. If the finding of probable cause involves a discriminatory practice or actions by the respondent against the complainant, no settlement agreement shall be reached without prior consultation with the complainant. In any case, the notification, complaint, specific allegations being investigated and any response to the complaint shall be made public thirty days following notice to the respondent.

H. Notwithstanding the provisions of Subsections C and G of this section, the director may delay notifying a respondent and complainant and releasing to the public the complaint and related information required by Subsection G of this section if it is deemed necessary to protect the integrity of a criminal investigation. A decision whether to delay notifying a respondent shall be taken by a majority vote of the commission and shall be documented in writing with reasonable specificity.

I. As part of an investigation, the general counsel may administer oaths, interview witnesses and examine books, records, documents and other evidence reasonably related to the complaint. All testimony in an investigation shall be under oath, and the respondent may be represented by legal counsel. If the general counsel determines that a subpoena is necessary to obtain the testimony of a person or the production of books, records, documents or other evidence, the director shall request that the commission petition a district court to issue a subpoena.

J. The commission may petition the court for a subpoena for the attendance and examination of witnesses or for the production of books, records, documents or other evidence reasonably related to an investigation. If a person neglects or refuses to comply with a subpoena, the commission may apply to a district court for an order enforcing the subpoena and compelling compliance. All proceedings in the district court prior to the

complaint being made public pursuant to Subsection G of this section, or upon entry of a settlement agreement, shall be sealed. A case is automatically unsealed upon notice by the commission to the court that the commission has made the complaint public. No later than July 1 of each even-numbered year, the chief justice of the supreme court shall appoint an active or pro tempore district judge to consider the issuance and enforcement of subpoenas provided for in this section. The appointment shall end on June 30 of the next even-numbered year after appointment.

K. A public official or state public employee who is a respondent who is subject to a complaint alleging a violation made in the performance of the respondent's duties shall be entitled to representation by the risk management division of the general services department.

§ 10-16G-11. Status of Investigation; Reports to Commission

A. If a hearing has not been scheduled concerning the disposition of a complaint within ninety days after the complaint is received, the director shall report to the commission on the status of the investigation. The commission may dismiss the complaint or instruct the director to continue the investigation of the complaint. Unless the commission dismisses the complaint, the director shall report to the commission every ninety days thereafter on the status of the investigation.

B. Upon dismissal of a complaint or a decision to continue an investigation of a complaint, the commission shall notify the complainant and respondent in writing of its action. If the commission has not notified a respondent pursuant to the provisions of Subsection G of Section 10 of the State Ethics Commission Act, the commission shall vote on whether to notify the respondent. A decision whether to continue to delay notifying the respondent shall be taken by a majority vote of a quorum of the commission and shall be documented in writing with reasonable specificity.

§ 10-16G-12. Investigation Report; Commission Hearings; Decisions and

Reasons Given; Disclosure of an Ethics Violation

A. Upon receipt of the general counsel's recommendation, the commission or hearing officer shall:

(1) dismiss a complaint and notify the complainant and the respondent of the dismissal; or

(2) set a public hearing, as soon as practicable.

B. At any time before or during a hearing provided for in Subsection A of this section, the hearing officer may, at a public meeting, approve a disposition of a complaint agreed to by the general counsel and the respondent, as approved by the commission.

C. The hearing provided for in Subsection A of this section shall be pursuant to the rules of evidence that govern proceedings in the state's courts and procedures established by the commission. An audio recording shall be made of the hearing. The respondent may be represented by counsel. The parties may present evidence and testimony, request the director to compel the presence of witnesses and examine and cross-examine witnesses.

D. The hearing officer shall issue a written decision that shall include the reasons for the decision. If the hearing officer finds by a preponderance of the evidence that the respondent's conduct constituted a violation, the decision may include recommendations for disciplinary action against the respondent, and the hearing officer may impose any fines provided for by law. A finding of fraudulent or willful misconduct shall require clear and convincing evidence.

E. The complainant or respondent may appeal a decision of the hearing officer within thirty days of the decision to the full commission, which shall hear the matter within sixty days of notice of the appeal and issue its decision within 180 days.

F. The commission shall publicly disclose a decision, including a dismissal following a finding of probable cause or the terms of a settlement, issued pursuant to this section. The commission shall provide the decision to the complainant, the respondent and the:

(1) house of representatives if the respondent is a public official who is subject to impeachment;

(2) appropriate legislative body if the respondent is a member of the legislature;

(3) respondent's appointing authority if the respondent is an appointed public official;

(4) appropriate public agency if the respondent is a public employee;

(5) public agency with which the respondent has a government contract if the respondent is a government contractor; and

(6) secretary of state and the respondent's employer, if any, if the respondent is a lobbyist.

G. The commission shall produce a quarterly report subject to public inspection containing the following information:

(1) the number of complaints filed with and referred to the commission;

(2) the disposition of the complaints; and

(3) the type of violation alleged in the complaints.

§ 10-16G-13. Confidentiality of Records; Penalty

A. A decision that a respondent's conduct constituted a violation, and the terms of a settlement approved by the commission, are public records. Pleadings, motions, briefs and other documents or information related to the decision are public records, except for information that is confidential or protected pursuant to attorney-client privilege, provider-patient privilege or state or federal law.

B. If a complaint is determined to be frivolous, unsubstantiated or outside the jurisdiction of the commission, the complaint shall not be made public by the commission; provided that the commission shall not prohibit the complainant or respondent from releasing the commission's decision or other information concerning the complaint.

C. Except as otherwise provided in the acts listed in Section 9 of the State Ethics Commission Act, all complaints, reports, files, records and communications collected or generated by the commission, hearing officer, general counsel or director that pertain to alleged violations shall not be disclosed by the commission or any commissioner, agent or employee of the commission, unless:

(1) disclosure is necessary to pursue an investigation by the commission;

(2) disclosure is required pursuant to the provisions of the State Ethics Commission Act; or

(3) they are offered into evidence by the commission, respondent or another party at a judicial, legislative or administrative proceeding, including a hearing before a hearing officer.

D. Information and reports containing information made confidential by law shall not be disclosed by the commission or its director, staff or contractors.

E. A commissioner, director, staff or contractor who knowingly discloses any confidential complaint, report, file, record or communication in violation of the State Ethics Commission Act is guilty of a petty misdemeanor.

§ 10-16G-14. Criminal Violations; Referral

If the commission finds at any time that a respondent's conduct amounts to a criminal violation, the director shall consult with the attorney general or an appropriate district attorney, and the commission may refer the matter to the attorney general or an appropriate district attorney. The commission may provide the attorney general or district attorney with all evidence collected during the commission's investigation. Nothing in this section prevents the commission from taking any action authorized by the State Ethics Commission Act or deciding to suspend an investigation pending resolution of any criminal charges.

§ 10-16G-15. Time Limitations on Jurisdiction

A. The commission shall not accept or consider a complaint unless the complaint is filed with the commission within the later of two years from the date:

(1) on which the alleged conduct occurred; or

(2) the alleged conduct could reasonably have been discovered.

B. The commission shall not adjudicate a complaint filed against a candidate, except pursuant to the Campaign Reporting Act or Voter Action Act, less than sixty days before a primary or general election. During that time period, the commission may dismiss complaints that are frivolous or unsubstantiated or refer complaints that are outside the jurisdiction of the commission.

C. A complainant shall be notified in writing of the provisions of this section and shall also be notified in writing that the complainant may refer allegations of criminal conduct to the attorney general or the appropriate district attorney.

D. When commission action on a complaint is suspended pursuant to the provisions of this section, the respondent shall promptly be notified that a complaint has been filed and of the specific allegations in the complaint and the specific violations charged in the complaint.

§ 10-16G-16. Prohibited Actions

A. A person shall not take or threaten to take any retaliatory, disciplinary or other adverse action against another person who in good faith:

(1) files a verified complaint with the commission that alleges a violation; or

(2) provides testimony, records, documents or other information to the commission during an investigation or at a hearing.

B. A complainant and a respondent shall not communicate ex parte with any hearing officer, commissioner or other person involved in a determination of the complaint.

C. Nothing in the State Ethics Commission Act precludes civil or criminal actions for libel or slander or other civil or criminal actions against a person who files a false claim.



Note to Commissioners: This version of amendments to 1.8.1 NMAC, prepared after the Commission's rule-making hearing on August 13, 2021, is informed by the Commission's debate at the last Commission meeting and subsequent proposals sent by Commissioners Bluestone and Foy Castillo and Villanueva.

This is an amendment to 1.8.1 NMAC, Sections 9 & 13.

1.8.1.9 ADVISORY OPINIONS AND INFORMAL ADVISORY OPINIONS

A. Advisory opinions. The commission may issue advisory opinions on matters related to ethics upon request.

(1) A request for an advisory opinion must be in writing, and must be submitted by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer. The request is confidential and not subject to the provisions of the Inspection of Public Records Act.

(2) Upon receiving a request for an advisory opinion, the ~~commission~~ director or the director's designee:

(a) must provide the requester with a written confirmation of receipt; and

(b) may ask the requester if the requester would prefer to receive an informal advisory opinion.

(3) Within sixty days of receiving a request for an advisory opinion, the commission must either:

(a) issue an advisory opinion;

(b) inform the requester that the commission will not be issuing an advisory opinion and provide an explanation for the commission's decision; or

(c) inform the requester that the commission requires more than sixty days to issue an advisory opinion, and notifies the requester about the status of the request every thirty days thereafter.

(4) Unless amended or revoked, an advisory opinion shall be binding on the commission in any subsequent commission proceedings concerning a person who acted in good faith and in reasonable reliance on the advisory opinion.

(5) At the request of any commissioner, the director or the director's designee shall draft an advisory opinion based on any legal determination issued by the director, the general counsel, or a hearing officer for the commission to consider for issuance as an advisory opinion.

B. Informal advisory opinions. A person may submit the request for an informal advisory opinion to the director or general counsel, who may answer the request.

(1) A request for an informal advisory opinion must be in writing, and must be submitted by a public official, public employee, candidate, person subject to the Campaign Reporting Act or the Governmental Conduct Act, government contractor, lobbyist or lobbyist's employer. The request is confidential and not subject to the provisions of the Inspection of Public Records Act.

(2) An informal advisory opinion is specific to the person who requests the advice and the facts presented in the request.

(3) An informal advisory opinion is not binding on the commission unless and until the commission votes to adopt the informal advisory opinion as an advisory opinion. The director, based on any informal advisory opinion issued, may draft an advisory opinion for the commission to consider for issuance as an advisory opinion.

(4) If the commission determines that a person committed a violation after reasonably relying on an informal advisory opinion and the violation is directly related to the informal advisory opinion, the commission may consider that the person acted in good faith.

[1.8.1.9 NMAC-N, xx/xx/2021]

1.8.1.13 ADDRESS ~~FOR FILING DOCUMENTS~~:

A. By mail: Director, State Ethics Commission, 800 Bradbury Dr. SE, Ste. [247] 215, Albuquerque, NM 87106.

B. In person: State Ethics Commission, 800 Bradbury Dr. SE, Ste. [247] 215, Albuquerque, NM 87106.

C. By email: ethics.commission@state.nm.us.

[1.8.1.13 NMAC-N, 1/1/2020; Rn & A, 10/15/2020]



STATE ETHICS COMMISSION

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STATE ETHICS COMMISSION'S OCTOBER 1, 2021 REPORT ON JURISDICTION:

Review and Recommendations

To: New Mexico Legislature
&
Gov. Michelle Lujan Grisham

STATE of NEW MEXICO



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EXECUTIVE SUMMARY

In 2019, when the Legislature enacted the State Ethics Commission's initial enabling legislation, the Legislature required the State Ethics Commission to report by October 2021 whether the Legislature should extend the Commission's jurisdiction. See Laws 2019, Ch. 86, § 37(A). The Commission recommends the following expansions of the Commission's jurisdiction with respect to the Commission's administrative proceedings:

- Expand the Commission's subject matter jurisdiction to include those provisions of the New Mexico Constitution that limit emoluments, extra compensation, and legislative interests in civil offices and in contracts—namely, Article IV, Section 27; Article IV, Section 28; Article V, Section 12; and Article XX, Section 9 of the New Mexico Constitution. These constitutional provisions are at the center of the state's ethics laws and naturally fall within the State Ethics Commission's constitutional mandate and competence.
- Expand the Commission's personal jurisdiction to include jurisdiction for public agencies, as NMSA 1978, Section 10-16G-2(J) defines that term. Personal jurisdiction for both entity and individual respondents would enable the Commission to issue remedies against state agencies and state instrumentalities that would remain effective even if the official or employee who is directly responsible for a violation separates from the agency or from state service altogether.

After receiving the views of local governments across New Mexico and consulting with other state ethics commissions, the Commission does not recommend that, in the 2022 legislative session, the Legislature expand the Commission's personal jurisdiction in administrative proceedings to include the officials and employees of county and municipal governments, special districts, or school districts. While such an expansion might be sound in a future legislative session, the Commission does not recommend this expansion now. The Commission already has certain authority and responsibilities with respect to local governments—including the responsibilities to provide trainings and the discretionary authority to file civil enforcement actions to remedy violations of the Governmental Conduct Act, the Procurement Code, the Anti-Donation Clause, and the Campaign Reporting Act. These current responsibilities and powers, which are separate from the Commission's jurisdiction to decide administrative complaints, enable the Commission, in its opening years, to further New Mexico's ethics laws as they apply to the county and local governments. Furthermore, through FY22, the Commission has appropriated funds for only 5 FTE, which is insufficient to undertake a large expansion of the Commission's adjudicatory role to investigate and decide administrative complaints. Once the Commission has grown in capacity and is better able to execute its current

authority, the Commission might recommend an expansion of personal jurisdiction, after further consultation with New Mexico's county and municipal governments.

In lieu of a large expansion of jurisdiction in the Commission's adjudicatory role, the Commission does recommend two policy changes with respect to local governments:

- Amend NMSA 1978, Section 10-16G-8 (2019) to allow the Commission to receive requests for advisory opinions from the officials or employees of local governments, special districts and school districts and to issue advisory opinions in response to those requests. Currently, the Commission is not authorized to receive a request for an advisory opinion from an official or employee at the local government level. If the Commission were able to render advice to the officials and employees of local governments, the Commission could provide a needed service, particularly in counties and municipalities that might lack in-house counsel.
- Require the county and municipal governments to appoint the clerk or manager as the local government's "chief ethics officer," who shall have the ability to request advisory opinions and shall also have a bi-annual reporting requirement to the Commission for any ethics issues that arise related to the Governmental Conduct Act, the Procurement Code, the Anti-Donation Clause, and the Campaign Reporting Act (as it applies to county elected officials). These reports would inform the Commission of ethics issues at the local level. The chief ethics officer could also liaison with the Commission to receive trainings related to the state's ethics laws as they apply to local governments.

The Commission appreciates the support of the Legislature and the Governor to enhance ethical and transparent government in New Mexico.

Submitted: October 1, 2021

State Ethics Commissioners

Hon. William F. Lang (Chair)

Jeffrey L. Baker

Stuart M. Bluestone

Hon. Garrey Carruthers

Hon. Celia Foy Castillo

Ronald Solimon

Dr. Judy Villanueva

ORIGIN OF THIS REPORT

Following ratification by over 75% of New Mexico electors voting in the 2018 general election, Article V, Section 17 of the New Mexico Constitution creates the State Ethics Commission as an “independent state agency under the direction of seven commissioners”¹ The Constitution authorizes the Commission to

initiate, receive, investigate and adjudicate complaints alleging violations of, and issue advisory opinions concerning, standards of ethical conduct and other standards of conduct and reporting requirements, as may be provided by law, for state officers and employees of the executive and legislative branches of government, candidates or other participants in elections, lobbyists or government contractors or seekers of government contracts and have such other jurisdiction as provided by law.²

The Commission’s authority under the Constitution must be “provided by law” and, hence, is not self-executing. In other words, the Constitution leaves it to the Legislature to say which “standards of conduct and reporting requirements” the Commission may oversee and, beyond the categories of persons that Section 17(B) specifies, against whom else the Commission may adjudicate alleged violations. Further, the Constitution provides that the Commission “shall have other such powers and duties and administer or enforce such other acts as further provided by law.”³ This provision reserves to the Legislature the authority to assign the Commission with additional powers and responsibilities.⁴

In 2019, the First Session of the Fifty-Fourth Legislature enacted enabling legislation for the Commission, creating the State Ethics Commission Act and amending several statutes regarding New Mexico’s governmental conduct, procurement, and disclosure statutes.⁵ This legislation gives the Commission a broad array of authority to adjudicate complaints, issue advisory opinions, and prosecute civil enforcement actions in state court.⁶ The provisions regarding the Commission’s organization became effective on July 1, 2019, and the provisions enabling the Commission’s authority became effective on January 1, 2020.⁷

¹ N.M. Const., art. V, § 17(A).

² N.M. Const. art. V, § 17(B).

³ N.M. Const. art. V, § 17(C).

⁴ See *id.*

⁵ See Laws 2019, Ch. 86, §§ 1-34, 37-42.

⁶ See, e.g., NMSA 1978, § 10-16G-9 (2019, as amended 2021).

⁷ See Laws 2019, Ch. 86, § 41.

The initial legislation also required the Commission to report to the Legislature and the Governor by October 1, 2021, “regarding whether to extend [the] commission’s jurisdiction.”⁸ The Legislature provided:

B. If the report recommends extension of the state ethics commission’s jurisdiction, the report shall address:

(1) a detailed plan for implementation of an extension of the commission’s jurisdiction and a proposed time line [sic] for implementation;

(2) the estimated number of additional employees and other resources needed by the commission to perform its expanded duties;

(3) estimated budget increases needed for the commission to perform its expanded duties; and

(4) recommended changes to existing law.⁹

This report is prepared and submitted in compliance with that mandate.

⁸ See Laws 2019, Ch. 86, § 37(A).

⁹ Laws 2019, Ch. 86, § 37(B).

OVERVIEW OF THE COMMISSION'S CURRENT JURISDICTION AND CAPACITY

THE COMMISSION'S CURRENT JURISDICTION

Before considering proposed expansions of the Commission's jurisdiction, we present an overview of the Commission's current jurisdictional profile. By "jurisdiction," we mean (and understand the Legislature to mean) the Commission's power to decide an administrative complaint alleging a violation of a provision of law and to provide a remedy when a violation is found to have occurred.¹⁰ This concept combines both the Commission's subject-matter jurisdiction (*i.e.*, which laws the Commission has authority to enforce) and the Commission's personal jurisdiction (*i.e.*, the persons who are subject to the Commission's adjudicative process and remedies).¹¹

NMSA 1978, Section 10-16G-9(A)(1) through (9) (2019) sets forth the Commission's **subject-matter jurisdiction**. In its adjudicatory role, the Commission currently has the authority to decide whether there has been a violation of the following nine laws:

1. the **Campaign Reporting Act**, NMSA 1978, §§ 1-19-25 to -36 (1979, as amended 2021);
2. the **Financial Disclosure Act**, NMSA 1978, §§ 10-16A-1 to -9 (1993, as amended 2021);
3. the **Gift Act**, NMSA 1978, §§ 10-16B-1 to -5 (1993, as amended 2019);
4. the **Lobbyist Regulation Act**, NMSA 1978, §§ 2-11-1 to -10 (1977, as amended 2021);
5. the **Voter Action Act**, NMSA 1978, §§ 1-19A-1 to -17 (2003, as amended 2021);
6. the **Governmental Conduct Act**, NMSA 1978, §§ 10-16-1 to -18 (1993, as amended 2019);
7. the **Procurement Code**, NMSA 1978, §§ 13-1-28 to -1999 (1984, as amended 2019);
8. the **State Ethics Commission Act**, NMSA 1978, §§ 10-16G-16 to -18 (2019, as amended 2021); and

¹⁰ See, *e.g.*, *Jurisdiction*, BLACK'S LAW DICTIONARY (11th ed. 2019).

¹¹ See *Subject-matter jurisdiction*, BLACK'S LAW DICTIONARY (11th ed. 2019); *Personal jurisdiction*, BLACK'S LAW DICTIONARY (11th ed. 2019).

9. **Article IX, Section 14 of the New Mexico Constitution** (i.e., the “Anti-Donation Clause”).¹²

The Commission’s personal jurisdiction is established by Article V, Section 17(B) of the Constitution and Section 10-16G-9(A) of the State Ethics Commission Act. First, the Constitution sets a floor under the Commission’s **personal jurisdiction**. Under the Constitution, the following persons are subject to the Commission’s adjudicatory process: “state officers and employees of the executive and legislative branches of government, candidates or other participants in elections, lobbyists . . . government contractors . . . [and] seekers of government contracts”¹³ In addition to this set of persons, Section 10-16G-9(A) provides that the following sets of persons are within the Commission’s jurisdiction: “public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists’ employers”¹⁴

Putting the constitutional and statutory provisions together, the Commission’s personal jurisdiction extends to all officials and employees in the executive and legislative branches of state government; all officials and employees in any instrumentality of the state; all persons subject to the Campaign Reporting Act, including all candidates, campaign committees, political committees, legislative caucus committees, reporting individuals, and treasurers of campaign committees or political committees; all lobbyists and lobbyists’ employers having disclosure duties under the Lobbyist Regulation Act; and all contractors to the state and seekers of contracts with the state.¹⁵

Under current law, therefore, many persons are subject to the Commission’s jurisdiction. There are approximately 47,000 persons employed by the State of New Mexico;¹⁶ over 1,400 persons subject to the Campaign Reporting Act; 1332 lobbyists and lobbyist employers; and perhaps a few hundred persons who have reporting

¹² Effective January 1, 2022, the Commission will also have subject matter jurisdiction for the Revised Uniform Law on Notarial Acts, NMSA 1978, §§ 14-14A-1 to 14-14A-32 (2021). See Laws 2021, Ch. 109, § 16.

¹³ See N.M. Const., art. V, § 17(B).

¹⁴ “Public officials” and “public employees” are defined terms under the State Ethics Commission Act, such that a “public official” means “a person elected to an office of the executive or legislative branch of the state or a person appointed to a public agency,” § 10-16G-2(L), a “public employee” means “an employee of a public agency,” § 10-16G-2(K), and a “public agency,” in turn, means

any department, commission, council, board, committee, agency, or institution of the executive or legislative branch of government of the state or any instrumentality of the state, including the New Mexico mortgage finance authority, the New Mexico finance authority, the New Mexico exposition center authority, the New Mexico hospital equipment loan council and the New Mexico renewable energy transmission authority.

§ 10-16G-2(J).

¹⁵ See N.M. Const., art. V, § 17(B); § 10-16G-9(A).

¹⁶ See U.S. Bureau of Labor Statistics, Data Tools, <https://www.bls.gov/data/#employment>; 41,088 active suppliers to the State of New Mexico (as of July 21, 2021)

obligations under the Financial Disclosure Act who are not also employees of the State of New Mexico.

THE COMMISSION'S CURRENT CAPACITY

The Commission's statutory responsibilities fall on **five** employees: an Executive Director (exempt), a General Counsel (exempt), an Attorney III (classified personnel service), a Staff Manager (classified personnel service), and an Executive Assistant (exempt).¹⁷ These employees are responsible for administering and investigating administrative complaints filed with the Commission. They are also responsible for much more: In addition to its jurisdiction for administrative complaints, the Commission also issues advisory opinions, prosecutes and litigates civil enforcement actions in state court, provides trainings on ethics laws, conducts rule makings, and undertakes other statutory assignments—such as appointing members to the Citizen Redistricting Committee, which the Commission's employees currently assist in staffing under a reimbursement-based memorandum of understanding. In sum, the Commission current jurisdictional profile and statutory responsibilities greatly exceed the current capacity of its current five-FTE staff.

¹⁷ The Commission also has a Special Projects Coordinator II (exempt) on its organizational listing. During FY21, the Commission employed this position and had adequate appropriations to do so. Because of budget reductions for FY22, however, the Commission lacks sufficient appropriations to continue funding this position through FY22, absent a supplemental appropriation in the upcoming legislative session.

METHODOLOGY

SEPARATING RECOMMENDATIONS BY TYPE OF JURISDICTION

In preparation of this report, the Commission focused on two separate questions: First, whether to recommend that the Legislature expand the Commission's **subject-matter jurisdiction**, allowing the Commission to decide violations of additional statutes or constitutional provisions. Second, whether to recommend that the Legislature expand the Commission's **personal jurisdiction** to include additional classes of persons and, specifically, the officials and employees of New Mexico's counties and municipalities.

METHODOLOGY RELATED TO SUBJECT-MATTER JURISDICTION

Regarding the first question about subject-matter jurisdiction, Commission staff surveyed the requests for advisory opinions that had been submitted to the Commission to ascertain the relevance of ethics laws beyond those laws that Section 10-16G-9(A) enumerates.¹⁸ Under the State Ethics Commission Act, the Commission "may issue advisory opinions on matters related to ethics."¹⁹ The Commission issues advisory opinions on all "matters related to ethics," even those concerning laws beyond the Commission's subject-matter jurisdiction.²⁰ As such, requests for Commission advisory opinions—and the Commission's opinions—offer a view into ethics issues that might extend beyond the statutes under the Commission's current jurisdiction. Similarly, Commission staff have also reviewed referrals from the Office of the State Auditor and the Office of the Attorney General, as well as reviewed the press reporting on relevant ethics issues arising under laws for which the Commission currently lacks subject-matter jurisdiction.

METHODOLOGY RELATED TO PERSONAL JURISDICTION

Regarding the second question about personal jurisdiction, Commission staff conducted several lines of research. Commission staff (i) reviewed and compiled the Commission's current statutory responsibilities regarding local government officials and employees; (ii) surveyed local governments around New Mexico to understand if there are local ethics bodies in their jurisdictions and to solicit their views on expansion of the Commission's jurisdiction; (iii) interviewed the directors and senior staff of other state ethics commissions that have personal jurisdiction for both state and local officials and employees; and (iv) conducted a literature review on the costs of corruption and benefits of ethics bodies.

¹⁸ The State Ethics Commission's formal advisory opinions are available on www.NMOneSource.com, as published by the New Mexico Compilation Commission.

¹⁹ See NMSA 1978, § 10-16G-8(A).

²⁰ See State Ethics Comm'n Adv. Op. 2021-08, at n.3 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-02 (Feb. 5, 2021).

- **Review of Commission’s current authority.** While the Commission, in its adjudicatory role, lacks personal jurisdiction over local government officials and employees, the Commission interacts with them in several ways under current law.
- **Survey of local governments in New Mexico.** Commission staff contacted all 33 counties and approximately 80 municipalities having a population greater than 1,000 to request information about local ethics ordinances and ethics review boards and to solicit their views about the Commission’s jurisdiction. To this end, Commission staff deployed a survey addressed to the county and municipal managers and worked with New Mexico Counties and the New Mexico Municipal League to circulate the survey. (See Ex. 2). The survey asked basic questions about the existence of local ethics codes and ethics adjudicatory bodies, as well as inquiring about local views of the expansion of Commission jurisdiction. Commission staff also independently reviewed county and municipal information to gather information regarding local ethics ordinances and local ethics adjudicatory boards or committees. Commissioners and Commission staff also solicited the views of local government officials, at least one of whom (Javier Sánchez, the Mayor of Española) presented on this topic at the Commission’s October 2, 2020 meeting.
- **Interviews with ethics commissions in other states.** In addition to gathering information from New Mexico’s local government employees, Commission staff also considered ethics bodies in other states. Commission staff reviewed the jurisdictions of other state ethics commissions in other jurisdictions across the United States. For those other-state commissions have some jurisdiction for both state and local government officials and employees, Commission staff interviewed the executive staff of those other-state commissions, including state ethics commissions in Alabama, Arkansas, California, Florida, Georgia, Louisiana, Massachusetts, Montana, Nevada, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and West Virginia. Those interviews covered the jurisdictional profiles and budgets of other-state commissions, as well as how other commissions that have handled adjudications, enforcement, and training on applicable ethics laws for both state and local government officials and employees. In total, Commission staff interviewed the senior staff of 15 other state ethics commissions.

FINDINGS

[1] THE COMMISSION'S CURRENT AUTHORITY WITH RESPECT TO LOCAL GOVERNMENT OFFICIALS AND EMPLOYEES

While the Commission, in its adjudicatory role, lacks jurisdiction over the officials and employees of local governments, school districts, and special districts that are not “instrumentalities of the state,” the Commission currently interacts with those officials and employees in several ways, as provided by law.

1. The Commission currently has the discretionary authority to file civil actions in state court against local government officials and employees to enforce provisions of the Governmental Conduct Act, the Procurement Code, the Campaign Reporting Act (with respect to candidates for county elected office), and the Anti-Donation Clause.²¹
2. Subject to staff availability and resources, the Commission staff currently provides informal, letter advisory opinions to the officials and employees of local public bodies. See 1.8.1.9(B) NMAC.
3. The Commission currently offers trainings on New Mexico's ethics and disclosure laws, on request, to local public bodies and local government affiliates.²²

In sum, with respect to local governments, and as staff time and agency resources permit, the Commission currently has (i) the discretionary power to prosecute civil enforcement actions, (ii) the responsibility to provide governmental conduct trainings, and (iii) the ability to offer advisory letters. At present, however, the Commission has only appropriated funds for 5 FTE and, thus, lacks the resources to sufficiently perform its current statutory functions vis-à-vis local governments, special districts, and school districts.

[2] ETHICS ORDINANCES AND ETHICS BODIES AT THE LOCAL LEVEL

There is a wide range of ethics oversight structures among county and municipal governments. Some of the larger local governments in New Mexico have local ethics ordinances, complaint processes, and adjudicatory bodies like the State Ethics

²¹ See NMSA 1978, § 10-16G-9(F) (2019, as amended 2021) (“The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section.”); NMSA 1978, § 10-16-8(B) (1995, as amended 2019) (“The state ethics commission may institute a civil action in district court . . . if a violation has occurred or to prevent a violation of any provision of the Governmental Conduct Act.”); NMSA 1978, § 13-1-196 (1984, as amended 2019) (“[T]he state ethics commission is empowered to bring a civil action for the enforcement of any provision of the Procurement Code . . .”).

²² Cf. NMSA 1978, § 10-16-13.1 (1993, as amended 2019) (“The state ethics commission shall advise and seek to educate all persons required to perform duties under the Governmental Conduct Act of those duties.”).

Commission.²³ In contrast to several of the larger local governments, however, smaller county and municipal governments have less articulated means of adjudicating and remedying breaches of governmental ethics. For example, many local governments rely exclusively on their human resources policies and disciplinary procedures for handling ethics issues relating to local government employees.²⁴ Approximately 36% of New Mexico's population resides in a municipality that has ethics oversight ordinances and structure, and approximately 48% of New Mexico's population resides in a county that has ethics oversight ordinances and structures. (See Ex. 2).

[3] LOCAL PERSPECTIVES ON THE EXPANSION OF THE COMMISSION'S JURISDICTION

Commission staff contacted all 33 counties and approximately 80 municipalities having a population greater than 1,000 to request information about local ethics ordinances and ethics review boards and to solicit their views about the Commission's jurisdiction. To this end, Commission staff deployed a survey addressed to the county and municipal managers. As seen in Ex. 2., (Page) 15 counties and 30 municipalities responded to the Commission's survey. Support and opposition to expansion of the Commission's personal jurisdiction for local government officials and employees was evenly mixed. Seven counties and 16 Municipalities expressed a favorable opinion of jurisdictional expansion, while 7 counties and 13 municipalities expressed a negative opinion of jurisdictional expansion. In contrast to these mixed reactions, 38 out of 45 survey respondents (84% of survey respondents) expressed favorable views of receiving advisory opinions from the Commission. (Ex. 2). Please consult Exhibit 2 for a more detailed presentation of local perspectives on the expansion of the Commission's jurisdiction.

[4] PERSPECTIVES OF OTHER STATE ETHICS COMMISSIONS

After conducting interviews with the directors and senior staff of other commissions that interact with both state and local officials and employees, a few dominant themes emerged:

²³ See, e.g., Bernalillo County Code of Conduct Review Board, <https://www.bernco.gov/boards-commissions/code-of-conduct-review-board/> (last accessed Aug. 12, 2021); Roosevelt County Ethics Board, <https://www.rooseveltcounty.com/wp-content/uploads/2021/02/BoardofEthicsRulesAdoptedFiled.pdf> (last accessed Aug. 12, 2021); Sandoval County Ethics Board, <https://www.sandovalcountynm.gov/ethics-board/> (last accessed Aug. 12, 2021); Santa Fe County Ethics Board, https://www.santafecountynm.gov/committees/county_ethics_board (last accessed Aug. 12, 2021); City of Albuquerque Board of Ethics, <https://www.cabq.gov/clerk/ethics-1/board-of-ethics> (last accessed Aug. 12, 2021); City of Santa Fe Ethics and Campaign Review Board, https://www.santafenm.gov/ethics_and_campaign_review_board (last accessed Aug. 12).

²⁴ See, e.g., Los Alamos County Ordinance 02-240 (Ex. 2); Eddy County (Ex. 2); San Juan County (Ex. 2); Luna County (Ex. 2); Chaves County (Ex. 2).

- Commissions with personal jurisdiction for both state and local officials and employees consistently estimated that local governments accounted for approximately 70% to 75% of their total volume of work, across administrative adjudications, advisory opinions and letters, and educational presentations.
- The directors of other-state commissions also consistently predicted that New Mexico's commission would require double to triple the annual budget that is appropriated for an agency that is fully staffed to handle only state officials and employees. Directors stressed the need for appropriations and staffing levels adequate to the high workload that accompanies local governments, both administrative case load and advisory letters. One acting director in Nevada pointed out that the overbearing workload had recently caused key staff to separate from their positions.
 - The experience of the Oklahoma Ethics Commission is particularly illustrative on the dangers of statutory mandates far exceeding budget appropriations. The Oklahoma Ethics Commission's responsibilities were expanded in 2014 to cover campaign finance and financial disclosure duties as they applied to Oklahoma county and municipal offices.²⁵ Within a few years, however, the Oklahoma Ethics Commission was severely underfunded as compared to its statutory responsibilities. The Oklahoma Ethics Commission filed a constitutional challenge in the Oklahoma Supreme Court to enforce a provision of the Oklahoma Constitution that provides the Commission "shall receive an annual appropriation by the Legislature sufficient to enable it to perform its duties as set forth in this Constitutional Amendment."²⁶ The Oklahoma Supreme Court denied the Oklahoma Ethics Commission's petition, and the Oklahoma Commission struggles to perform its constitutional and statutory mandates.²⁷
- The directors and senior staff of other-state commissions also consistently opined that the service to local governments was important and worthwhile,

²⁵ See Okla. Stat. Title 19, §§ 138.11-138.19 (eff. Jan. 1, 2015).

²⁶ Okla. Const. art. XXIX, § 2; see App. To Assume Original Juris. and Pet. for Decl. Relief and Writs of Mandamus and/or Prohibition, *State of Oklahoma ex rel. Oklahoma Ethics Comm'n v. Fallin, et al.*, No. 117149 (Okla. Jun. 26, 2018). See also "Oklahoma Ethics Commission files lawsuit against Gov. Mary Fallin, legislative leaders," TULSA WORLD (Jun. 26, 2018), https://tulsaworld.com/news/capitol_report/oklahoma-ethics-commission-files-lawsuit-against-gov-mary-fallin-legislative/article_94ba2fc0-58dc-5189-9d1e-56c29fdbf648.html

²⁷ Order, *State of Oklahoma ex rel. Oklahoma Ethics Comm'n v. Fallin, et al.*, No. 117149 (Okla. Sept. 24, 2018); see also "Oklahoma Supreme Court rules against Ethics Commission in funding battle against Legislature," TULSA WORLD (Sept. 26, 2018), https://tulsaworld.com/news/state-and-regional/oklahoma-supreme-court-rules-against-ethics-commission-in-funding-battle-against-legislature/article_1a233119-ba62-5d0d-82e1-95b5a616d4b8.html

particularly where local governments were less likely to have ready access to legal counsel on the application of governmental ethics and procurement laws. One director said that he believed that, among government entities, local political subdivisions had the greatest effect on the lives of average residents.

[5] FINDINGS RELATED TO THE COMMISSION'S SUBJECT MATTER JURISDICTION

Ethics commissions across the states focus on laws regarding the conduct of public officials, public employees, candidates and lobbyists with respect to confidential information, conflict of interest, revolving door, financial disclosure, gifts, improper compensation, misuse of public office, nepotism, and public contracts and procurement.²⁸ While New Mexico's State Ethics Commission has a personal jurisdictional profile that, currently, is not as expansive as other state commissions that have jurisdiction for both state and local officials and employees, New Mexico's commission has a broader subject-matter jurisdiction than most other state ethics commissions. New Mexico's commission oversees all the main subject matters that ethics commissions generally handle—and more. No other director reported that their commission had jurisdiction to adjudicate violations of their state's procurement laws or constitutional anti-donation provisions, much less laws regulating the conduct of notaries public and unauthorized notarial acts.²⁹

While the Commission's subject matter jurisdiction broadly covers New Mexico's ethics laws, it is not exhaustive. There remain several other central and peripheral ethics laws for which the Commission currently does not have jurisdiction. The most central of these are the constitutional provisions that control (i) legislative interests in civil offices and contracts and (ii) forms of extra compensation and emoluments. The Commission also currently lacks jurisdiction for more peripheral ethics statutes, including New Mexico statutes prohibiting nepotism;³⁰ and statutes prohibiting certain financial interest and contracts by members of boards of regents and employees of state educational institutions.³¹ While the Commission does not have subject matter jurisdiction for these laws, the Commission interacts with them in other ways. For example, the Commission has issued advisory opinions interpreting Article IV, Section 28 of the New Mexico Constitution.³² The Commission's staff has also provided trainings to members of boards of regents of state educational institutions,

²⁸ See Council on Government Ethics Laws Blue Book, 2020 Ethics Update (prepared for 42nd Annual Conference: Dec. 1-15, 2020), *available at* https://cdn.ymaws.com/www.cogel.org/resource/resmgr/cogel_blue_books/cogel_2020_ethics_blue_book.pdf

²⁹ NMSA 1978, §§ 14-14A-1 to 14-14A-32 (2021)

³⁰ NMSA 1978, §§ 10-1-10 to 10-1-11 (1925).

³¹ NMSA 1978, § 21-1-17 (1889, as amended 2009); NMSA 1978, § 21-1-35 (1923, as amended 1999)

³² See State Ethics Comm'n Adv. Op. 2021-09 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-08 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-02 (Feb. 5, 2021).

apprising them of the applicable prohibitions surrounding financial interests and contracts.³³

³³ For example, on March 23, 2021, the Commission's senior staff presented on "Ethics Law for University Regents" to the Board of Regents of Eastern New Mexico University.

RECOMMENDATIONS

RECOMMENDATIONS REGARDING EXPANSION OF THE COMMISSION'S SUBJECT-MATTER JURISDICTION

The Commission recommends the Legislature expand the Commission's subject-matter jurisdiction to include those provisions of the New Mexico Constitution regarding (i) legislative interests in civil offices and contracts; and (ii) extra compensation.

1. Article IV, Section 28 of the New Mexico Constitution

The Constitution prohibits members of the Legislature from being appointed to certain civil offices and having interests in certain contracts. Article IV, Section 28 provides:

No member of the legislature shall, during the term for which he was elected, be appointed to any civil office in the state, nor shall he within one year thereafter be appointed to any civil office created, or the emoluments of which were increased during such term; nor shall any member of the legislature during the term for which he was elected nor within one year thereafter, be interested directly or indirectly in any contract with the state or any municipality thereof, which was authorized by any law passed during such term.³⁴

This prohibition on interests in contracts and appointments to certain civil offices protects a bedrock principle of government ethics—namely, that legislators should use the powers of their offices “only to advance the public interest and not to obtain personal benefits and not to obtain personal benefits or pursue private interests.”³⁵ As such, the prohibition in Article IV, Section 28 falls squarely within the Commission's mission. Unsurprisingly then, the Commission has already issued three formal advisory opinions advising how Article IV, Section 28 applies in various circumstances.³⁶ Because the Commission repeatedly has been asked to interpret Article IV, Section 28, and because the constitutional provision is so squarely within the Commission's ambit, the Commission recommends its subject-matter jurisdiction be expanded to include the constitutional provision.

³⁴ N.M. Const., art. IV, § 28.

³⁵ See NMSA 1978, § 10-16-3(A).

³⁶ See State Ethics Comm'n Adv. Op. 2021-09 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-08 (Jun. 4, 2021); State Ethics Comm'n Adv. Op. 2021-02 (Feb. 5, 2021).

2. The Extra-Compensation Clauses of the New Mexico Constitution

The New Mexico constitution contains three separate prohibitions on extra compensation to officers and employees of the state.³⁷ First, Article IV, Section 27 provides “No law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except as otherwise provided in this constitution.” Second, Article V, Section 12, in pertinent part provides “The compensation herein fixed [for certain executive officers] shall be full payment for all services rendered by said officers and they shall receive no other fees or compensation whatsoever.” Third, Article XX, Section 9 provides “No officer of the state who receives a salary, shall accept or receive to his own use any compensation, fees, allowance or emoluments for or on account of his office, in any form whatever, except the salary provided by law.”

³⁷ See N.M. Const., art. IV, § 27; art. V, § 12; and art. XX, § 9.

RECOMMENDATIONS REGARDING THE COMMISSION'S PERSONAL JURISDICTION

Expansion of jurisdiction for entity respondents

The Commission recommends that its personal jurisdiction for administrative complaints be extended to include “public agencies” as the State Ethics Commission Act defines that term.³⁸ Currently, the Commission has jurisdiction for the officials and employees of public agencies, but not for the entities themselves. The Commission routinely dismisses entity respondents in its administrative proceedings, sometimes to the detriment of the state’s ethics laws.

Lack of jurisdiction for the entity respondents hampers the Commission’s ability to vindicate New Mexico’s ethics laws, including the Governmental Conduct Act, the Procurement Code, and the Anti-Donation Clause because the Commission cannot issue injunctive remedies that should apply to the entire entity, and not just the individual respondents. For example, the Governmental Conduct Act prohibits a state agency from “enter[ing] into a contract with, or tak[ing] any action favorably affecting, any person or business that is represented personally in the matter by a person who has been a public officer or employee of the state within the preceding year if the value of the contract or action is in excess of one thousand dollars (\$1,000) and the contract is a direct result of an official act by the public officer or employee.”³⁹ If the Commission finds that a former public official or employee is representing a business with respect to a contract that the former official or employee approved, the Commission under current law cannot order the state agency to refrain from contracting or taking favorable action towards the represented person or business. Likewise, if the Commission finds that a transaction violates the Procurement Code or the Anti-Donation Clause for an individual respondent to make a certain transaction of public funds, then no other official or employee at the agency should be able to approve the transaction. The Commission should have the ability to render an administrative decision and remedy that results in enforcement of these important laws.

Recommendations concerning local governments

The Commission does not recommend an expansion of the Commission’s personal jurisdiction at this early juncture in the Commission’s operations. While such expansion to include the officials and employees of county governments, municipal governments, special districts, or school districts might make sense at a future date, the Commission recommends against an expansion of the Commission’s personal jurisdiction for administrative complaints in the 2022 legislative session. The Commission makes this recommendation for the following reasons:

³⁸ See § 10-16G-2(J).

³⁹ See NMSA 1978, § 10-16-8(A)(1) (2011).

- 1.** The Commission is significantly understaffed to handle a wider range of personal jurisdiction in the Commission's quasi-judicial capacity. At the time of this report, the Commission has only five staff members. Conversations with the leadership of other state ethics commissions that have jurisdiction for both state and local government officials and employees suggest that the Commission would need between double and triple its annual budget appropriation for FY21 to handle the increased workload that comes with jurisdiction for local public officials and employees. (See Ex. 1). At a future date, and only after the Commission has received budget commensurate with its current responsibilities, the Commission might be in a better position to recommend such a large expansion. To invite expanded jurisdiction with the Commission's current and limited staff is not sound.
- 2.** The Commission can more efficiently vindicate the Governmental Conduct Act, the Procurement Code, the Campaign Reporting Act, and the Anti-Donation Clause as applied to the officials and employees of local and district governments through civil enforcement actions than through adjudications of administrative complaints. There are several reasons why Commission-initiated civil enforcement is a more efficient means of vindicating the ethics laws than administrative adjudications:
 - a.** First, the Commission's investigatory and adjudicatory processes for administrative complaints do not incentivize prompt investigations or settlements. The penalties for violations of the ethics laws are likely too slight to motivate either deterrence or settlement.⁴⁰ Moreover, the State Ethics Commission Act provides representation, funded by the state, for any respondents to an administrative complaint.⁴¹ For a respondent with free legal counsel and the prospect of, at worst, a \$250 fine, there is very little reason to settle. Rather, the incentives are the opposite. The respondents' counsel, paid hourly on contracts with the Risk Management Division, have incentives to litigate every issue. These incentives create litigation and prevent the Commission from swiftly investigating and adjudicating administrative complaints.
 - b.** Second, complainants often file ethics complaints that are outside of the Commission's jurisdiction or obviously do not state a claim under a law for which the Commission has subject matter jurisdiction. Such complaints are a drag on Commission resources. Expansion of

⁴⁰ See, e.g., NMSA 1978, § 10-16-18(B) (authorizing a \$250 civil fine for a violation of the Governmental Conduct Act).

⁴¹ See § 10-16G-10(K).

jurisdiction for local government officials is likely to invite additional complaints that lack merit (assuming that they are even within the Commission's jurisdiction) and are motivated for political and media-coverage reasons. This drag on Commission resources is unnecessary to vindicate New Mexico's ethics laws, where the Commission currently has the authority to file civil enforcement actions to remedy violations of those laws.

- c.** Third, expansion of the Commission's jurisdiction for administrative complaints to include the officials and employees of local governments will create a jurisdictional quagmire for those local governments that already have ethics adjudicatory boards that investigate and enforce local ethics ordinances. Ideally, complainants would decide whether to file a complaint in their local ethics board, alleging a violation of a local ordinance or in the State Ethics Commission, alleging a violation of New Mexico statutory law. Likely, however, complainants will submit complaints to the State Ethics Commission alleging violations of local ordinances. This jurisdictional confusion will also create a drag on Commission resources—which, again, is unnecessary to vindicate the ethics laws as they apply to locals, given the Commission's authority to file civil enforcement actions.

Instead of an expansion of its personal jurisdiction to include the officials or employees of local governments, special districts or school districts, the Commission recommends two policy changes:

- 1.** First, the Commission recommends that the Commission be able to receive requests for advisory opinions from the officials or employees of local governments, special districts and school districts and to issue advisory opinions in response to those requests. Currently, the Commission is not authorized to receive a request for an advisory opinion from an official or employee at the local government level.⁴² If the Commission were able to render advice to the officials and employees of local governments, the Commission could provide a needed service, particularly in counties and municipalities that might lack in-house counsel. This recommendation is also supported by the counties and municipalities that responded to the Commission's survey. In fact, 38 out of 45 survey respondents (84% of survey respondents) expressed favorable views of receiving advisory opinions from

⁴² See NMSA 1978, § 10-16G-8 (2019),

the Commission. This included instances where respondents were opposed to jurisdictional expansion. (See Ex. 2).

- 2.** Second, the Commission recommends that the Legislature require the county and municipal governments to appoint the clerk or manager as the local government's "chief ethics officer," who shall have the ability to request advisory opinions and shall also have a bi-annual reporting requirement to the Commission for any ethics issues that arise related to the Governmental Conduct Act, the Procurement Code, the Anti-Donation Clause, and the Campaign Reporting Act (as it applies to county elected officials). These reports would inform the Commission of ethics issues at the local level. The chief ethics officer could also liaison with the Commission to receive trainings related to the state's ethics laws as they apply to local governments.

EXHIBIT 1



STATE ETHICS COMMISSION

Report on Jurisdiction

HIGHLIGHTS OF INTERVIEWS WITH OTHER STATE
ETHICS COMMISSIONS REGARDING
JURISDICTION FOR LOCAL GOVERNMENTS

DESCRIPTION

Throughout 2021, the New Mexico State Ethics Commission staff conducted interviews with the executive directors of other state ethics commissions with jurisdiction for both state and local government. The Commission sought to understand the responsibilities and resources required for an ethics oversight body to maintain administrative jurisdiction or any level of support for both state and local government bodies concurrently. The staff interviewed the following ethics commissions:

- | | |
|------------------|--------------------|
| 1. Alabama | 10. Nevada |
| 2. Arkansas | 11. Oklahoma |
| 3. California | 12. Oregon |
| 4. Florida | 13. Pennsylvania |
| 5. Georgia | 14. Rhode Island |
| 6. Louisiana | 15. South Carolina |
| 7. Maryland | 16. Texas |
| 8. Massachusetts | 17. Virginia |
| 9. Montana | 18. West Virginia |

In each interview, Commission staff requested information on the interviewee commission's jurisdictional profile, agency structure, staffing, resources, and workload. Additionally, the Commission staff sought insight on the process of expanding jurisdiction.

KEY OBSERVATIONS

- The average local-level workload across ethics commissions is approximately three times (3X) greater than their respective workloads for state-level issues and support.
- For five ethics commissions interviewed, the commission's local portfolio was 8X to 9X greater than their workload for the state.
- Across all segments of work: administrative cases, advisory opinions, and trainings, the local workload was between 2X – 3X higher than the state.
- The average number of staff across commissions with both state and local jurisdiction is 19 employees.
- The median number of staff across commissions with both state and local jurisdiction is 13 employees.
- The average budget for FY20 across ethics commissions with state and local jurisdiction was \$2,714,102

DISTRIBUTION OF STATE & LOCAL WORK ACROSS STATE ETHICS COMMISSIONS:

STATE	STATE WORKLOAD	LOCAL WORKLOAD
Alabama	15%	85%
Arkansas	23%	72%
California	45%	55%
Florida	25%	75%
Georgia	28%	72%
Louisiana	25%	75%
Massachusetts	10%	90%
Montana	10%	90%
Nevada	30%	70%
Oklahoma	50%	50%
Oregon	14%	86%
Pennsylvania	14%	86%
Rhode Island	30%	70%
South Carolina	25%	75%
Texas	36%	64%
Virginia	40%	60%
West Virginia	25%	75%
AVERAGE:	26%	74%

EXAMPLES OF LOCAL ETHICS OVERSIGHT AND SUPPORT

Alabama Ethics Commission

In 2019, the Alabama Commission received over 500 complaints, provided just under 1000 advisory opinions, and conducted 68 trainings. According to their Executive Director, 85% of complaints and advisory opinions pertain to the local level, and over 90% of trainings are provided to local government bodies.

Virginia Conflict of Interest and Ethics Advisory Council

In 2019, the Virginia Ethics body handled approximately 2,800 phone calls and 6,600 emails related to providing ethics support. In 2020, they handled 1650 phone calls and 7,200 emails. According to their Executive Director, over 60% of those requests for advice originated from local government bodies.

West Virginia Ethics Commission

In 2020, the West Virginia commission received 125 complaints. Of the complaints received, 95 related to local public officials (76%).

Massachusetts State Ethics Commission

In 2019, the Massachusetts commission received 815 complaints of which 87% related to local officials. In 2020, the Massachusetts commission received 5,714 requests for advice, 90% of which originated from local officials. In 2020, they provided approximately 70 trainings, of which 80% were to local government bodies.

GUIDANCE FROM OTHER STATE ETHICS COMMISSIONS' DIRECTORS

1

Expanding administrative jurisdiction to include locals will require a significant increase in staff by approximately 2X to 3X. Expansion is not advisable without adequate staffing.

2

Expanding administrative jurisdiction to include locals will require a budget increase of between 3X and 4X at the same time or before the SEC receives local jurisdiction. Expansion is not advisable without adequate funding.

3

Communicating with locals about the nature of expanded jurisdiction and support is important for effective enforcement, particularly for clarifying the parameters of the oversight and support and building trust.

PERSPECTIVES FROM OTHER STATE ETHICS COMMISSION DIRECTORS

All state ethics commissions interviewed maintained a positive perspective of their respective commissions providing ethics oversight and support to local government bodies. The primary reasons cited are as follows:

1. Centralized ethics oversight results in more uniform and effective administration of the state's ethics laws.
2. Local governments often need independent outside oversight which is insulated or removed from local politics.
3. Centralized oversight provided by the state is more cost effective for many local governments which may not have the budget for ethics oversight.

CONSIDERATIONS

Of the other state commissions interviewed, the majority stated that public officials are not provided state-funded counsel to defend against allegations of ethics violations, as such allegations are necessarily outside the scope of the official duties of public officials and employees. Of the commissions interviewed, no other commission leadership noted that their respective state provided state-funded outside counsel to respondents in commission administrative proceedings. New Mexico's practice of providing state-funded risk management counsel to respondents in Commission administrative proceedings stands in marked contrast to the practice nationwide. The associated costs should be considered before the Legislature enacts any expansion of the Commission's personal jurisdiction to include local government officials and employees.



STATE ETHICS COMMISSION

Report on Jurisdiction

HIGHLIGHTS OF SURVEY RESPONSES FROM NEW MEXICO
COUNTIES AND MUNICIPALITIES

ANALYSIS OF SURVEY RESPONSES

COUNTIES THAT RESPONDED TO SURVEY:

1. Valencia County
2. De Baca County
3. Eddy County
4. County of Lincoln
5. Guadalupe County
6. San Juan County
7. Sandoval County
8. Hidalgo County
9. Roosevelt County
10. Harding County
11. Mora County
12. City of Hobbs
13. Chaves County, New Mexico
14. Luna County
15. Incorporated County of Los Alamos

45% of NM counties responded.

MUNICIPALITIES THAT RESPONDED TO SURVEY:

1. Village of Cimarron
2. Village of Taos Ski Valley
3. City of Rio Rancho
4. City of Moriarty
5. City of Belen
6. City of Elephant Butte
7. City of Gallup
8. Village of San Ysidro
9. Artesia City Council
10. Village of Los Lunas
11. Village of Bosque Farms
12. Village of Corrales
13. City of Lordsburg
14. Town of Taos Town Council
15. Village of Milan
16. The City of Raton
17. City of Anthony
18. City of Eunice
19. Village of Tularosa
20. Village of Hatch
21. Village of Logan
22. Village of Williamsburg
23. City of Hobbs
24. City of Texico
25. Town of Mountainair
26. Town of Dexter
27. City of Roswell
28. City of Clovis
29. City of Albuquerque

8% of NM municipalities responded.

COUNTIES WITH AN ETHICS BODY:

1. Bernalillo County
2. Santa Fe County
3. Sandoval County
4. Roosevelt County
5. Incorporated County of Los Alamos

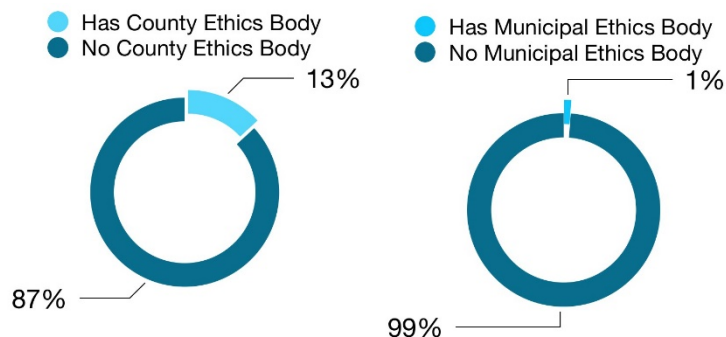
12 of the counties who responded do not have an ethics body.

MUNICIPALITIES WITH AN ETHICS BODY:

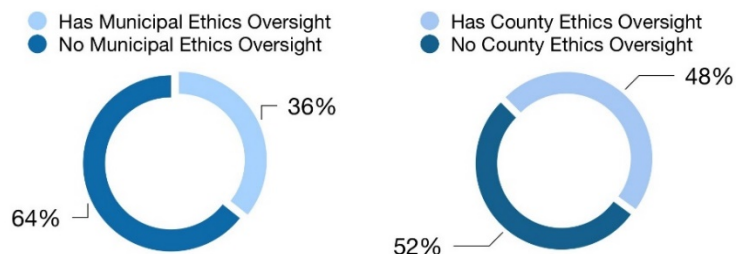
1. Albuquerque
2. Santa Fe
3. City of Rio Rancho
4. Village of Taos Ski Valley

26 of the municipalities who responded do not have an ethics body.

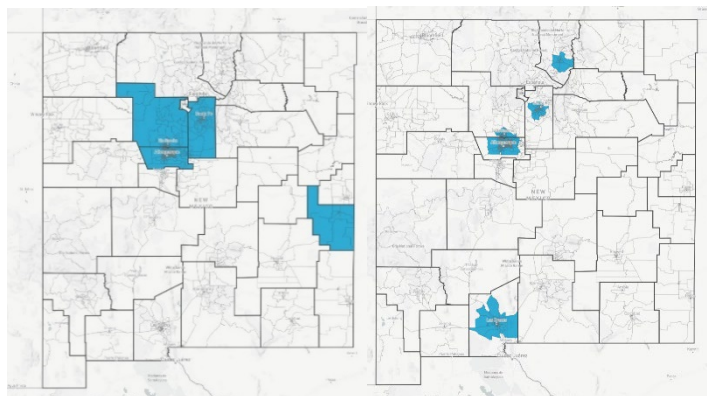
ETHICS COVERAGE ACROSS NM COUNTIES AND MUNICIPALITIES (BY ENTITY)



ETHICS COVERAGE ACROSS NM COUNTIES AND MUNICIPALITIES (BY STATE POPULATION)

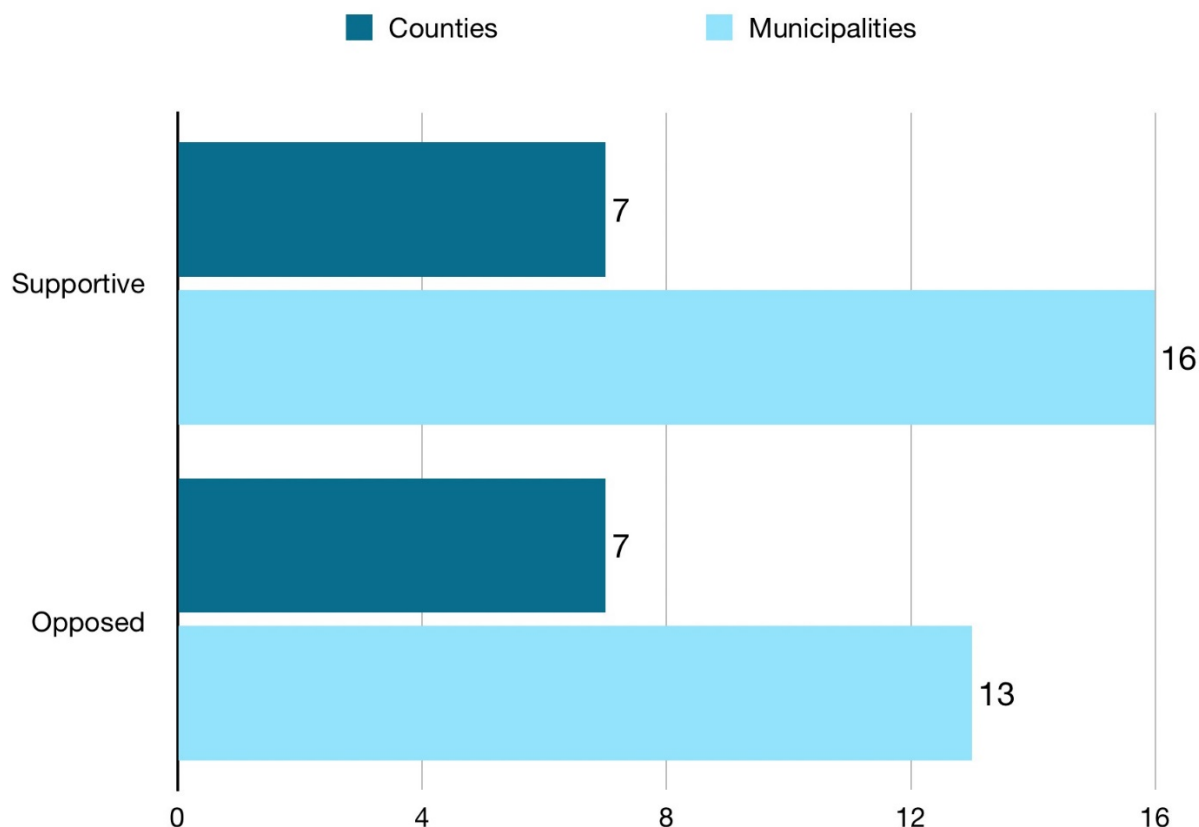


ETHICS COVERAGE ACROSS NM COUNTIES & MUNICIPALITIES (BY GEOGRAPHY)



COUNTIES AND MUNICIPALITIES ON ETHICS COMMISSION JURISDICTION EXPANSION

Includes only survey respondents



COUNTIES AND MUNICIPALITIES SUPPORTIVE OF JURISDICTIONAL EXPANSION:

- **7** Counties and **16** Municipalities expressed a favorable opinion of jurisdictional expansion.
- Of the local government bodies that replied to the Commission's survey, **8** expressed favorable opinions of jurisdiction expansion but stipulated that it would be best if it were applied in some tailored manner, e.g., only applying to elected officials and not public employees or including laws other than the procurement code.
- At least **2** survey respondents mentioned that jurisdiction expansion would be a benefit to local public bodies that don't have the resources to facilitate internal ethics oversight.
- **16** survey respondents indicated that ethics oversight might ultimately decrease costs incurred by their local government or acknowledged the potential for increased costs of ethics oversight and maintained a favorable opinion of jurisdiction expansion.

COUNTIES AND MUNICIPALITIES OPPOSED TO JURISDICTIONAL EXPANSION:

- **7** Counties and **13** Municipalities expressed a negative opinion of jurisdictional expansion.
- **28** survey respondents mentioned the potential for increased costs of ethics oversight.

- **11** survey respondents cited concerns that a state body would not understand the issues at the local level.
- **5** survey respondents with some form of ethics oversight cited concerns that jurisdictional expansion would be redundant relative to existing ordinances or modalities of addressing ethics violations.
- **16** survey respondents with no formal local ethics oversight body indicated a negative view of SEC jurisdiction expansion.

Number of Counties and Municipalities Supportive of Receiving Advisory Opinions from the Commission

- 3. 38** out of **45** survey respondents (**84%** of survey respondents) expressed favorable views of receiving advisory opinions from the Commission. This included instances where respondents were opposed to jurisdictional expansion.

APPENDIX

HIGHLIGHTS OF INTERVIEWS WITH OTHER COMMISSIONS:	Pages 23 - 26 of Report
ANALYSIS OF SURVEY RESPONSES:	Pages 27 - 30 of Report
SURVEY RESPONSES:	Pages 1 - 175 of Appendix

COUNTIES	PAGE	Corrales	84
Chaves County	1	Dexter	88
De Baca County	5	Elephant Butte	92
Eddy County	9	Eunice	96
Guadalupe County	13	Gallup	100
Harding County	17	Hatch	104
Hidalgo County	21	Hobbs	108
Lincoln County	25	Logan	112
Los Alamos Incorporated County	29	Lordsburg	116
Luna County	33	Los Lunas	120
Mora County	37	Milan	124
Roosevelt County	41	Moriarty	128
San Juan County	45	Mountainair	132
Sandoval County	49	Raton	136
Valencia County	53	Rio Rancho	141
		Roswell	145
		San Ysidro	149
MUNICIPALITIES		Taos (Town)	153
Albuquerque	57	Taos Ski Valley (Village)	159
Anthony	60	Texico	163
Artesia	64	Tularosa	167
Belen	68	Williamsburg	171
Bosque Farms	72		
Cimarron	76		
Clovis	80		

STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

In 2021, the State Ethics Commission must provide the Legislature and the Governor a report on whether the Commission's jurisdiction should be enlarged to include jurisdiction for complaints concerning the officials and employees of local public bodies. The State Ethics Commission therefore seeks the input of New Mexico's county and municipal governments. Your responses to this survey will inform the Commission's report to the Legislature and the Governor regarding expansion of the Commission's jurisdiction to include local public bodies.

If you have any questions when completing this survey, please call 505-362-9617. For more information about the Commission, please visit www.sec.state.nm.us

Email *

bill.williams@chavescounty.gov

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Chaves County, New Mexico

Number of Employees (full and part-time)

253.5

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

Human Resources, County Attorney and County Manager

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

Complaints are given to Human Resources and County Attorney for investigation, findings and legal recommendation is made to the County Manager.

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

See above

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes, State Statute, personnel policy and annual conflict disclosure

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Fortunately, I don't know, I presume that our internal policies and the State Statutes are why we are not having allegations of impropriety.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

If you will charge us for the service; then an increase in costs is expected. I do not expect that we will increase costs because of any wrongdoing by our officials though.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

I believe that it is paramount that any wrongdoing be exposed and corrected.

Additional Comments or Perspectives

Thanks for asking

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

amandal4@plateautel.net

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

De Baca County

Number of Employees (full and part-time)

44

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Internal Investigation or External Investigation

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

County Personnel Policy

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Fair

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Possible decrease

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

ardavis@co.eddy.nm.us

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Eddy County

Number of Employees (full and part-time)

350

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

Not a specific board - for County employees, we rely on our County Employee policy manual for addressing issues internally utilizing Supervisors and Leadership members. For Elected Officials, we don't have a program or governing policy other than what ever measures may be available for removal from office.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

We rely on our County Employee policy manual for addressing issues internally utilizing Supervisors and Leadership members. For Elected Officials, we don't have a program or governing policy other than what ever measures may be available for removal from office.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

The County has a Conflict of Interest Policy - however, for elected officials, there isn't the same recourse for action as there is for employees.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

If we have questions, we work through NMC to seek counsel and advice at this time.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Uncertain - I think from a County constituents perspective, the answer would be no as the appearance would be an expansion of government and an increase in government oversights.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

It would almost certainly increase the cost - someone would have to pay for an increase in agency oversight and then I would expect an increase in cost to pay for frivolous or unnecessary claims and suits. We have more of those than we want, driven by attorneys, related to detention and law enforcement - people looking for something other than their own accountability.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

N/A

Additional Comments or Perspectives

N/A

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

rfernandez@guadco.us

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

Guadalupe County

Number of Employees (full and part-time)

52

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

HR and County Manager

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

I would rate the effectiveness at a very low standard. We need to update and train

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I am not sure at this time. I would hope that it would decrease overall costs

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

no

Additional Comments or Perspectives

na

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

jennifer.baca@hardingcounty.org

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

Harding County

Number of Employees (full and part-time)

27

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

NO

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

the Personnel Policy, which is an ordinance

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

It services as a guide, but has no real authority for Elected officials

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

YES

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

yes, it would achieve a higher authority, to gain strength in policies, already in place.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Not having a current cost associated with this, it is unknown.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Additional Comments or Perspectives

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Email *

tisha.green@hidalgocounty.org

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

Hidalgo County

Number of Employees (full and part-time)

86

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

County Manager/legal staff/outside investigator

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

n/a

If your local government has an ethics body, does it provide advisory opinions or trainings?

n/a

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

County Manager/legal staff/outside investigator

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Personnel Policy/state statute

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Ethics are impressed upon heavily.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

yes. It would be a neutral party that would definitely make a big difference.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

It could decrease our overall costs as opposed to paying hourly to investigators or attorneys.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

no

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

ipearson@lincolncountynm.gov

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

County of Lincoln

Number of Employees (full and part-time)

115

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

NO

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Consult with Legal / DA / State Police

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes - Personnel Ordinance

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Works great

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Advisory opinions only

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

NO - Each County should handle itself

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase - More people involved causes cost to rise

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Counties have plenty of avenues to deal with ethics violations without state involvement

Additional Comments or Perspectives

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Email *

harry.burgess@lacnm.us

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

Incorporated County of Los Alamos

Number of Employees (full and part-time)

750

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

Yes, the county adopted an ordinance adopting its own code of conduct and reporting/investigation procedures which applies to employees, elected officials, and our volunteer boards/commissions.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

Los Alamos County Ordinance 02-240. HR is recipient of complaints, determines appropriate investigative means (HR/Attorney/third party investigator), and reports findings to appropriate body dependent upon nature of complaint (to Council, County Manager, or department head)

If your local government has an ethics body, does it provide advisory opinions or trainings?

No

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Per the ordinance and procedures outlined above

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Effective, relatively few uses of process to date but has included investigations of both elected officials and employees due to both internal and external complaints

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

I don't believe so, based on a 2011 citizen-led review of our charter, they recommended an in-house process

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No, I doubt that a state body can effectively/efficiently adjudicate local personnel issues.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase, we would still retain an obligation to investigate/respond to complaints so the inclusion of a state process would only add to the current efforts

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

We operate under a home rule/charter provisions that our citizens appreciate. These same citizens proactively discussed this issue and recommended potential changes to our charter 10 years ago and the elected body subsequently acted on their recommendations so the local perspective would likely question the appropriateness of state intervention into local matters. I question how an outside body can have the authority over our local personnel, especially given our home rule powers that we have successfully defended in past similar efforts to expand state authority over our local decision powers.

Additional Comments or Perspectives

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Email *

chris_brice@lunacountynm.us

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Luna County

Number of Employees (full and part-time)

276

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No, only HR

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

HR Investigates or outside investigator

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes, they mirror the Governmental Conduct Act

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

It works well with employees who we have control over with respect to policy. Not so much for elected officials

Jurisdiction Expansion

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Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

For elected officials only. Employees are handled through HR and internally. Contractors are through the Attorney General.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase because we would have to respond and present to the board

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

I think it would work well for elected officials who really don't answer ot the County Manager. Employees and contractors are more easily handled locally or with the DA or AG

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

jansley@countyofmora.com

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Mora County

Number of Employees (full and part-time)

53

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

It needs to be modified. We use the County Personnel Policy manual as well as the Government conduct act.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Expand, because the County would have to defend the complaints that arise

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

No

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

In 2021, the State Ethics Commission must provide the Legislature and the Governor a report on whether the Commission's jurisdiction should be enlarged to include jurisdiction for complaints concerning the officials and employees of local public bodies. The State Ethics Commission therefore seeks the input of New Mexico's county and municipal governments. Your responses to this survey will inform the Commission's report to the Legislature and the Governor regarding expansion of the Commission's jurisdiction to include local public bodies.

If you have any questions when completing this survey, please call 505-362-9617. For more information about the Commission, please visit www.sec.state.nm.us

Email *

ahamilton@rooseveltcountry.com

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

Roosevelt County

Number of Employees (full and part-time)

Approximately 85

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

Yes, Roosevelt County has an Ethics Ordinance and an appointed Ethics Board.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

<https://www.rooseveltcounty.com/wp-content/uploads/2021/02/BoardofEthicsRulesAdoptedFiled.pdf>

If your local government has an ethics body, does it provide advisory opinions or trainings?

Yes, training is provided.

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

<https://www.rooseveltcounty.com/wp-content/uploads/2021/01/2021-01EthicsOrdinance.pdf>

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

This was initially adopted in 2018 and has been revised in 2019 and 2021. It has been a strong addition to the governing laws and policies of the County.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

No

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Roosevelt County does not require such support. However, other counties might be interested in such services.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase, as this seems to be the constant with any such type of state level involvement.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

I will always remain a strong proponent of local jurisdiction. Our County has taken the initiative to develop and adopt an ordinance, establish an ethics board, which in turn adopted rules and procedures. Thus, we do not require such services as I believe local jurisdiction is vital and necessary.

Additional Comments or Perspectives

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Email *

mstark@sjcounty.net

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

San Juan County

Number of Employees (full and part-time)

630

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

We do not have an established board or committee to investigate ethics complaints. However, when do receive a complaint, it is investigated by our Human Resources and Legal Dept. Any ethical violation falling under the NM Governmental Conduct Act would be handled pursuant to the San Juan County handbook disciplinary procedures or handed over to the San Juan County District Attorney's Office or both.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

When an ethics violation is received it is investigated by our Human Resources and Legal Dept. Any ethical violation falling under the NM Governmental Conduct Act would be handled pursuant to the San Juan County handbook disciplinary procedures or handed over to the San Juan County District Attorney's Office or both.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Ordinance 34- San Juan County Handbook which explicitly incorporates the NM Governmental Conduct Act. Any Purchasing activities require filing of the NM Campaign Contribution Disclosure form.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

San Juan County's Ordinance #34 is highly effective in resolving NM Governmental Conduct Act issues to include ethics violations.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

It would be helpful to be able to directly request an advisory opinion on the State's ethics laws.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No- the sheer volume of baseless ethics complaints would overwhelm the Ethics Commission.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase- what we can informally resolve with minimal staff time, would now require multiple the number of staff hours dedicating to participate in a formal ethics proceeding

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Expansion of Jurisdiction would deprive local bodies from efficiently resolving complaints.

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

wjohnson@sandovalcountynm.gov

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

Sandoval County

Number of Employees (full and part-time)

500

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

Yes, an Ethics Board created by the County's Ethics Ordinance.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

The Ethics Board currently has jurisdiction over elected officials and non-employees. The Board is also responsible for reviewing the Ordinance for improvements and/or changes. Currently are considering expanding the Ethics Ordinance to all County employees, changing the name of the ordinance to a Code of Conduct, and including a provision on Commissioner Interference.

If your local government has an ethics body, does it provide advisory opinions or trainings?

Advisory opinions, yes. At this time the Ethics Board does not provide training.

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

N/A

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

All of the above is addressed through the Ethics Ordinance.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Their scope is limited at this time, which is the reasoning behind increasing the Ordinance's scope to include employees.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Perhaps. These questions are currently forwarded to the Attorney General's office.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No. That function should be handled locally due to our local ethics ordinance, personnel rules, and collective bargaining agreements. The State Ethics Commission would not have access to these laws and policies and would not be able to provide a complete response.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase. Duplicating existing oversight would, by definition, increase costs.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Before expanding its jurisdiction, the State Ethics Commission should focus on its own responsibilities under statute. As a new public body, I do not believe that it has reach the point where it is able to effectively increase its responsibilities.

Additional Comments or Perspectives

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Email *

danny.monette@co.valencia.nm.us

Information About Your Local Government Body

Type of Local Government Body *

☒ County

☐ Municipality

Local Government Body Name

Valencia County

Number of Employees (full and part-time)

280

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Handled by the County Commissioner, HR, County Manager and County Attorneys

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Works very well

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

increase

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Not at this time

Additional Comments or Perspectives

N/A

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Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

Yes, the City of Albuquerque established a Code of Ethics and the City's Board of Ethics and Campaign Practices ("BoE") in 1974. The BoE has been enforcing the City's Code of Ethics for over forty-five years.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

The BoE's jurisdiction is defined by Article XII of Albuquerque's City Charter. All City officials, as defined by Article XII, Section 2(k), are subject to the BoE's jurisdiction for violating the Charter's: conflict of interest provisions, Article XII Section 4; disclosure requirements, Article XI, Section 5; use of public property restrictions, Article XXI, Section 6; misuse of city employees in campaigns provisions, Article XII, Section 7; the City's Election Code, Article XIII, Sections 1 to 15; the City's Open and Ethical Elections Code, Article XVI, Sections 1 to 21, which govern the City's campaign financing program; and the rules promulgated by the BoE and City Clerk's office. Albuquerque's City Charter can be viewed at <https://codelibrary.amlegal.com/codes/albuquerque/latest/albuqcharter/0-0-0-1>.

The rules and regulations which govern the BoE's conduct can be found at <https://www.cabq.gov/vote/documents/2020-final-boe-rules-regulations.pdf>.

If your local government has an ethics body, does it provide advisory opinions or trainings?

Yes, it provides trainings and can provide advisory opinions. It is staffed by the Clerk's Office and the Clerk's Office in conjunction with the Human Resources Department provides training on Ethics.

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

N/A.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes. The City of Albuquerque has Charter Provisions, ordinances, and administrative instructions, regarding governmental conduct, conflicts of interest, financial disclosures, and campaign finances. Our ordinances and policies are in several cases broader in applicability than the state.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

The BoE is an effective body for monitoring and enforcing the provisions on Ethics in the City's Charter and Ordinances. It meets regularly and has historical precedent to inform its decisions.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes, specifically as it relates to the interaction between officials from other bodies and the City of Albuquerque. Currently, there are occasions where officials from other public bodies are engaging with the City and their conduct is not regulated by our ordinances or the ordinances governing their own body. It would be useful to have more insight into these cross jurisdictional issues.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No, in the case of the City. The BoE is effective, independent and specialized. Its specialization is due to our unique and broad ethics laws as well as our independent campaign finance system (City races are not covered under the Campaign Reporting Act). As a result, there would not be an added benefit to the City to expand the jurisdiction of the State Ethics Commission other than the cross jurisdictional issue identified above.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Other than adjudication complaints involving cross jurisdictional issues, expansion of the State Ethics Commission's jurisdiction would increase costs to the City because it would most likely duplicate the existing enforcement efforts required by the City Charter and necessary to administer our local campaign financing program.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

No.

Additional Comments or Perspectives

N/A.

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Email *

odominguez@cityofanthonymn.org

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Anthony

Number of Employees (full and part-time)

33

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

We have not had any ethics complaints during my tenure.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes. We have a formally adopted Code of Conduct.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

It is marginally effective. Many still violate the code regularly.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes. Ethics are often "gray areas" and additional oversight can only benefit the City and its residents.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

It should have a net neutral fiscal impact on the City of Anthony.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

No, thank you

Additional Comments or Perspectives

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Email *

AHOBSON@ARTESIANM.GOV

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

Artesia City Council

Number of Employees (full and part-time)

200

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

no

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

we have not had any complaints on ethics violations

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

No

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

.....

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

no

.....

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

no- we should handle these locally in a non partisan way

.....

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

i dont thin it would affect it either way

.....

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Additional Comments or Perspectives

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Email *

roseann.peralta@belen-nm.gov

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Belen

Number of Employees (full and part-time)

118

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

No, we do not have one. We have had several issues that have shown a need for one. Our FY Audits for the past 3 years has shown the need for some sort of oversight in regards to upper management and the elected officials. Concerns have been sent to the AG's office.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

There has been no ethics training for our governing body. The NMML MOLI course has been offered to all of them yet they do not attend.

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Concerns have been brought to the attention of the AG's office and NM OSA.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

We do have brief mentions in our personnel policy but nothing really presented as a important stand alone policy.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

N/A

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes. It would be great if our elected officials would be mandated to attend a training on the Governmental Conduct Act and the Procurement Code. As the Finance Director CPO I get accused of holding back monies when in fact I am delaying things because of the need to procure projects and items per our Procurement Policy. I also have to follow the statutory requirements from DFA, they think that I am just holding back funds.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes. Someone needs to hold local public bodies accountable for their actions. Changing out appointed positions (City manager, Police Chief, Fire Chief) regularly is not benefiting the community or the organization. I have seen good employees leave or be unappointed due to their differences with the Mayor or governing body. Employees have done what they can to follow the laws and rules but are pushed out because they don't want to cave into the governing bodies demands.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I believe that if there is a significant issue that is in need of an outside agency to look onto it; the cost would be justifiable. We have contracted with outside investigating companies to complete internals only to have there recommendations ignored by the governing body. In my opinion if it is done once it would be a deterrent for the issues to continue.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

I feel that if the Commission can gain jurisdiction it would be greatly beneficial to many communities in the state. The need to put ethics back into local government is huge. In my opinion, it can only happen if an outside agency can come in and expose the wrong doings these elected officials and upper management continue to do. The taxpayers savings on contract payouts and lawsuit settlements will be more than enough to cover the cost of your services.

Additional Comments or Perspectives

I support the expansion of the jurisdiction of the State Ethics Commission. Thank you for all you do!

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Email *

clerkadmin@bosquefarmsnm.gov

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Village of Bosque Farms

Number of Employees (full and part-time)

41

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

We have handled them in-house.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

It has been effective.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Maybe

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Additional Comments or Perspectives

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Email *

villageadmin@villageofcimarron.net

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Village of Cimarron

Number of Employees (full and part-time)

11

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

NA

If your local government has an ethics body, does it provide advisory opinions or trainings?

NA

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Through the Mayor and Governing Body- Executive Session

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

No not particular- The elected officials swear in and employees sign off on a policy

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Not very- things should be handled by a neutral party

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes I think it would be a great benefit

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes- Currently there isn't any avenue to file complaints without repercussion

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I think it would decrease and deescalate situation a lot faster

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

I think its a great idea

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

jhowalt@cityofclovis.org

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

City of Clovis

Number of Employees (full and part-time)

380

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

We have not received an ethics complaint in at least 15 years. The public has a recall option for elected officials. Employees are subject to termination for ethics violations.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Very effective. We have not received a complaint in the last 15 years.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

We would need more clarification regarding this question.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Yes because there is no need for this at the municipal level, and the state would have to hire people to perform this work. It would an unfunded mandate.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

The City of Clovis is satisfied that it has the ability to investigate any ethics complaint should the need arise.

Additional Comments or Perspectives

Many thanks for reaching out.

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

CorralesMayor@corrales-nm.org

Information About Your Local Government Body

Type of Local Government Body *

- ☐ County
- ☒ Municipality

Local Government Body Name

Village of Corrales

Number of Employees (full and part-time)

48

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Work with our contract attorney

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Defer to the state.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

N/A

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Anti donation clause as applies to public/private roads.

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

townofdexter@dfn.com

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Town of Dexter

Number of Employees (full and part-time)

18

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

NO

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Mayor and council Following Ordinance NO. 1992-3 Personnel Rules and Regulations of the Town of Dexter

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Ordinance NO. 1992-3 Personnel Rules and Regulations of the Town of Dexter. Have provided effective responses

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

N/A

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Possible increase for legal expenses.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

N/

a

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

N/A

Additional Comments or Perspectives

N/A

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

mayor@cityofeb.com

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

City of Elephant Butte

Number of Employees (full and part-time)

13

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No committee other than council along with the city attorney

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Council and city attorney

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Basic code of ethics.

Recently expanded to include all board and commission members

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

We havent had the need however if needed, the states assistance would be welcome

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase if it incurs additional legal fees

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Preference is to resolve locally first and approach state if needed

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

manager@cityofeunice.org

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Eunice

Number of Employees (full and part-time)

65

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

Yes, City Council just adopted ethics for elected official but they are governing themselves.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

All elected officials in the City of Eunice

If your local government has an ethics body, does it provide advisory opinions or trainings?

No

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

They have censored a council member for their comments and attendance.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes, just passed last year.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Since enacting the ordinance attendance went from 70% average to 90% average.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes, there needs to be a watch dog group when dealing with government funds and laws.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I could see an increase if the governing body has problems and has to defend itself or actions.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

There are a lot of elected officials that choose not to do their job they are elected to do. Currently most city's have no recourse on this but to wait out their term. In our case our council member that was reprimanded turned around and sued the city in federal court. It would be nice to have a state agency to help correct the problem.

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

mustick@gallupnm.gov

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Gallup

Number of Employees (full and part-time)

455

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

No but city has provided this training to employees

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

City has A Code of Conduct. We investigate violations either by HR staff or a third party investigator—but only for city staff and not elected officials.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Fair

Jurisdiction Expansion

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Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes this would help
City enforce its own code of conduct.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Cost neutral unless citizens use this
Process to harass elected officials.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

No

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

eporras@villageofhatch.org

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

VILLAGE OF HATCH

Number of Employees (full and part-time)

26

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

Complaints usually come to the attention of the Mayor and Board of Trustees.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

Complaints usually come to the attention of the Mayor and Board of Trustees, and they're the ones that take action to remedy the problem.

If your local government has an ethics body, does it provide advisory opinions or trainings?

Advice from legal counsel, but no training.

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Complaints usually come to the attention of the Mayor and Board of Trustees, and they're the ones that take action and begin the investigation if within our means, if not we normally seeks legal advice as well depending on the kind of complaint.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

We have policies and procedures in place for all finances, but no ordinances.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

We have no ordinances, at this time, but willing to work towards implementing one.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

N/A

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

None

Additional Comments or Perspectives

No

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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If you have any questions when completing this survey, please call 505-362-9617. For more information about the Commission, please visit www.sec.state.nm.us

Email *

scobb@hobbsnm.org

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

City of Hobbs

Number of Employees (full and part-time)

472 fulltime and 59 part-time

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

It is currently being handled by the City Attorney. We do not have a Board.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

NA

If your local government has an ethics body, does it provide advisory opinions or trainings?

NA

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Via our City Attorney or the State Auditor

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes - they are compliant with current state and federal law

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

We have never had a complaint that the State Auditor found to be valid one.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I would increase our costs.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

I believe that State Auditor and the Attorney General has the appropriate authority to address any ethics violations.

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

scott.parnell@villageoflogan.com

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

Village of Logan

Number of Employees (full and part-time)

16

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Mayor / Trustees (council)

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Very effective. The village council and the administration is very transparent to the community we serve.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes, as needed

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

In certain Instances many municipalities could benefit from additional oversight

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

A greater focus on larger communities could benefit and decrease the cost incurred by eliminating to wasteful spending that takes place. In smaller municipalities we do not have the benefit of wasteful spending so additional costs is not an option as wasteful spending is not an option.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

No

Additional Comments or Perspectives

No, Thank you

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

jeannie.madrid@cityoflordsburg.org

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

City of Lordsburg

Number of Employees (full and part-time)

44

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No we have to hire outside of the department for assistance.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

The City Council and Mayor would handle the complaint if it was within the city.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Our personnel policy is an ordinance that covers all of these types of issues.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

It works.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

yes

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

It would increase because of the assistance we would be provided with if we have to hire outside of the municipality to handle a legal matter.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

No

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

In 2021, the State Ethics Commission must provide the Legislature and the Governor a report on whether the Commission's jurisdiction should be enlarged to include jurisdiction for complaints concerning the officials and employees of local public bodies. The State Ethics Commission therefore seeks the input of New Mexico's county and municipal governments. Your responses to this survey will inform the Commission's report to the Legislature and the Governor regarding expansion of the Commission's jurisdiction to include local public bodies.

If you have any questions when completing this survey, please call 505-362-9617. For more information about the Commission, please visit www.sec.state.nm.us

Email *

marting@loslunasnm.gov

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Village of Los Lunas Mayor and Village Council

Number of Employees (full and part-time)

221

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

We haven't had any that I know of.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Marginally, but they haven't really been tested that I know of.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

It would seem so.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Sounds logical.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase, because it always seems to.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

None that I can think of.

Additional Comments or Perspectives

None

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

manager@villageofmilan.com

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Village of Milan

Number of Employees (full and part-time)

38

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

Not at this time. We have not received these types of complaints before.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

We have not been faced with these complaints

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

The ordinances can be updated to a more current ordinance.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes, the State's Ethics Commission is more familiar with those laws.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I feel it would do neither.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

N/A

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

mayorhart@moriartynm.gov

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Moriarty

Number of Employees (full and part-time)

Under 50

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

By department heads with oversight e by mayor and council

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

We follow the government conduct act. NMSA1978, chapter 10 Article 16

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

We have been in compliance with the government conduct act.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes, we could always use a free source of information.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes, maybe as a oversight to the city's process, and final outcome. I do believe that the attorney generals office requires the government agencies to report such complaints anyway, so having a dual reporting process might be a longer process and very expensive to the agency.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase definitely, smaller cities don't have the man power to go through additional processes, such as paperwork, attorney cost, labor intensive work.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

None

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

townclerk@mountainairnm.gov

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Town of Mountainair

Number of Employees (full and part-time)

14

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

No

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

.....

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

yes

.....

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes, because it would provide accountability to rural communities that do not have the resources or where the conflicts of interests are too intertwined.

.....

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

It would increase if the State Ethics Commission were to bill the town for their services.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Do not charge smaller towns for this service, or find a way to fund it indirectly.

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

sberry@cityofraton.com

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

The City of Raton

Number of Employees (full and part-time)

109

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

All complaints related to employees (including ethics) are the duty of the City Manager {NM Stat § 3-14-14 (2018)}.

Complaints related to Contractors are generally the duty of the City Manager, but detailed in contract terms and oversight by independent auditor. The City Commission has authority in regard to the City Manager, who is at-will. City Commissioners, Muni Judge oversight is vested with A.G., State Auditor, DFA, or possibly other state-level authority.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

Raton is a statutory municipality - under the provisions of New Mexico Statutes, or local ordinance that is not in contradiction to statute.

If your local government has an ethics body, does it provide advisory opinions or trainings?

Not Applicable

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

For employees - § 33 City Personnel Ordinance.

For Contractors - Statute/ Ordinance compliance by City Manager, Chief Procurement Officer, City legal staff.

City Manager - referred to Raton City Commission, City legal staff

Elected officials - NMAG, NM State Auditor, NM DFA, District Court

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

The Governmental Conduct Act, NMSA 1978, Chapter 10, Article 16

§ 30 City Officers & Employees Ordinance

§ 33 City Personnel Ordinance

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

The effectiveness is high - all related issues resolved successfully and timely in my experience with the City of Raton. Public interest has not been compromised and issues have been minor in nature.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

City of Raton participates currently in similar training and is subject to significant oversight from NMAG, State Auditor, DFA, numerous state regulatory initiatives. I would be concerned with duplication of state-level oversight and requirements without specific knowledge of the local specific factors.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

As above - concern for duplication of oversight efforts, application of less effective centralized system that results in undermining effective local mechanisms.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

It would increase expenses - reasons stated above

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Consultation with New Mexico Municipal League and New Mexico Counties would be productive.

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

glauer@rrnm.gov

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Rio Rancho

Number of Employees (full and part-time)

700

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

Yes. There's an ethics panel, the City's Governing Body, and the courts. The commission is a gilded, superfluous, feelgood notion which should be disbanded and the resources reallocated to better ideas.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

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If your local government has an ethics body, does it provide advisory opinions or trainings?

yes

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

N/A

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

8 out of 10

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

No. The commission is guaranteed to be staffed with wonks and cronies who know little if anything about local government administrations or operations. Why add layers of meaningless and wasteful bureaucracy that will achieve nothing meaningful or useful? There is nothing the commission offers now or could offer that is not already provided for by other laws, regulations, and entities.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No. It was a bad idea from inception and expanding it does not improve this condition. There are already myriad agencies, laws, regulations and oversight measures which render the commission to be useless, wasteful, and duplicitous from inception. There are also all the equitable and legal reliefs and remedies available through the courts. The commission is a political hacking tool waiting to be exploited. Why expand its wasteful and meaningless existence?

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

The commission is guaranteed to waste time, money, and all the other scarce resources local governments have. Anyone who believes the commission is a worthwhile or valuable entity and that its jurisdiction should exist, or be expanded should be disqualified from ever serving on the commission.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

It's foolish to believe that the commission is designed, equipped, or staffed to make any meaningful difference in the short or long run. It's a box to check on resumes for political wonks and cronies, nothing more.

Additional Comments or Perspectives

The State Ethics Commission is duplicitous and wasteful idea. Better to confine its current ability to waste others' time and resources rather than saddle counties and municipalities with an imperious and wrong-headed agenda that will add to the exhaustion of their scarce resources.

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

j.neeb@roswell-nm.gov

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Roswell

Number of Employees (full and part-time)

540

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

Nothing for elected officials. Employees and City Contractors are governed by agreement and personnel handbook.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

All employees and city contracts are managed through the City Administration department and Human Resources. When complaints are received, an investigation is completed. The severity of the complaint sets the level of investigation. All remedies are available from unfounded resolutions and up to termination from employment with the City.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

All complaints against employees and contractors are resolved quickly and appropriately. Issues involving elected officials are not addressed by City Administration.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes, advisory opinions are appreciated.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No. These matters are best handled locally. There are many methods available to local jurisdictions with employee and contractor matters. Elected officials are left to govern themselves.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase costs. There are many different layers for ethics complaints. They can come from those truly affected to those who just don't agree with another's position. By expanding the jurisdiction of the Commission, the fear would be that most resolutions will be resolved through the expense of increased investigations and financial penalties.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

There are ample avenues to correct ethic violations with employees and contractors. It is difficult to enforce ethical behavior on elected officials as they are only responsible to their constituents through their vote.

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

sanysidroclerk@valornet.com

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Village of San Ysidro

Number of Employees (full and part-time)

6

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Filing Complaints with the city office

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Great! All ordinances are enforced and followed. We are a very small Village

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Yes, it means accountability is necessary.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I believe it would neither increase or decrease.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

rbellis@taosgov.com

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

Town of Taos Town Council

Number of Employees (full and part-time)

132

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

No. Currently complaints regarding employees are handled by the HR Dept., which increasingly uses an independent outside investigator and reports the findings to the Town Manager. Complaints about the Manager or elected officials would be handled by the Town Attorney. Police and Fire additionally conduct an Internal Affairs Investigation regarding internal complaints and use outside law enforcement to conduct the investigation if it is an external complaint or there is the appearance of conflict to conduct it internally.

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

Not applicable.

If your local government has an ethics body, does it provide advisory opinions or trainings?

Not applicable.

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Currently complaints regarding employees are handled by the HR Dept., which increasingly uses an independent outside investigator and reports the findings to the Town Manager. Complaints about the Manager or elected officials would be handled by the Town Attorney. Police and Fire additionally conduct an Internal Affairs Investigation regarding internal complaints and use outside law enforcement to conduct the investigation if it is an external complaint or there is the appearance of conflict to conduct it internally.

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Our Personnel Code references and incorporates the State Governmental Conduct Act. The Council has additional conflict of interest language in the Town Code governing them. All RFP's/contracts require financial full disclosure by vendors/bidders regarding campaign contributions that might influence the decision-making process.

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

In general, fairly effective. Elected officials have been fairly good at self-disclosing or requesting the advice of the Town attorney before voting on matters that might have the appearance of conflict. Employees are already heavily covered by existing code and state law and even second jobs have to be disclosed. Hiring anyone who has a family member with the town requires that it be noticed and approved by the governing body at a regularly scheduled public meeting. Citizen committees and advisory boards sometimes need to be made aware by staff or the attorney of potential or the appearance of conflicts but are fairly effectively dealt with when they arise or are removed if not disclosed.

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Training is always helpful but advisory opinions are redundant in the the municipal attorney typically rules on the spot for items that arise spontaneously during meetings and if a member of the public disagrees it ends up before the AG.

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

NO. In theory this would be ideal but based on my experience at both the county and municipal levels you would have people using it the opposite way it is intended, by making repeated complaints to color the reputation of political figures they disagree with. This has happened before, always near an election, with nothing coming of it but allegations made just before an election to grab an adverse headline about an accusation they know is groundless to influence a vote when months after the election when the damage is already done a report comes out that it was groundless. Both the State Auditor and AG Offices have been used in this way and yet when there was serious actual criminal wrongdoing I had to go to the FBI, Dept. of Justice, HUD or other federal agencies to get a timely investigation and action because the state entities were so overloaded with politically motivated complaints and people that just didn't like local policies. I don't see this being any different.

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Increase. It would be abused by a small handful of anti-everything people in every community to grind the system to a halt and cause staff and officials, who are already too gun shy to act on controversial but badly needed public policy initiatives like, affordable housing, holding community organizations accountable, raising taxes for infrastructure, et. to act. Every complaint, whether baseless or real, would require the Town to provide attorney's , produce reams of records, take up endless staff time to produce records and testimony, etc. for all parties. We are increasingly unproductive and overwhelmed at the local level meeting voluminous and endless requests for documents and information from a small number of sometimes emotionally unbalanced and extreme people under IPRA, Open Public Meetings Act and local transparency requirements, as well as DFA, State Auditor and AG requirements. We support these and they are needed. But adding just another layer that does the same thing is doing it just to say you are doing something without really adding anything new. Now, under HB-3, in its broadest interpretation, any public employee or official can be sued for violating anyone's rights on anything and political gadflies and attorney's will be having a field day using the ethics commission to do their work for them or to lay the groundwork of an ethics complaint as the predicate for lawsuits. Why can't we use the system we have already been using? Report it to the AG (criminal), DA, DFA (Bidding and contracts), Secretary of State (elections), State Auditor (finance and misappropriation)? Is this not working? If not, fix it. But adding another politically appointed agency to oversee what multiple agencies are already charged with isn't helping. To have a valid "ethics complaint" and to be able to prosecute it there has to have been a violation of an existing public, law, regulation, rule or policy; which means that if that requirement exists already then there is already an agency charged with overseeing that requirement.

If you do this, then win or lose you should pay the municipality for any expenses it has to comply with your investigation. Otherwise you are goin to have to start taking over local governments because all of these ever increasing unfunded mandates are becoming our full-time job and breaking us.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

If you start doing this, then win or lose you should pay the municipality for any expenses it has to comply with your investigation. Otherwise you are going to have to start taking over local governments because all of these ever increasing unfunded mandates are becoming our full-time job and breaking us.

Why include employees and vendors when we can't find anyone wanting to work for or do business with local government as it is due to all of the added requirements, delays, disclosures and liabilities? There are already systems in place to protect whistleblowers and ferret out problem employees. We have unions. Have all the District Courts closed? People have not had any problem so far suing local government in court on a revolving door basis over anything and everything.

I would say that maybe including elected local officials is the only layer that makes sense, but I have never seen anyone remove an elected official in NM for any behavior unless it became so egregious they were charged criminally and either resigned or were removed by the court. And this wouldn't be any different.

Additional Comments or Perspectives

Uneducated and apathetic voters are the greatest risk to ethical government. Subjecting everyone to being held to an ethics investigation every time anyone in the state doesn't like what you do won't result in more ethical government; it will result in worse government. Because competent and successful people that can make more money with less personal and public grief in the private sector are rapidly leaving public service and what you are left with are the folks that are unscrupulous, unable to find work elsewhere and are the most likely to seize opportunities to get something extra for nothing and to leverage their job/office. In my 45 years in government I have never been pressured or approached by an elected official with a successful business or career to do anything untoward. But nearly every unemployed elected official in that time has had to be warned or has pressured me to do things that violated some law. Ask any manager/administrator and they will tell you the same thing. Make it less desirable to serve in office or as an employee and you will see more, not less, ethical behavior at every level. We are at a tipping point and you are about to go over it.

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

javila@vtsv.org

Information About Your Local Government Body

Type of Local Government Body *



County



Municipality

Local Government Body Name

Village of Taos Ski Valley

Number of Employees (full and part-time)

20

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

The Village Council can hear and adjudicate those charges

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

It is the entire Council

If your local government has an ethics body, does it provide advisory opinions or trainings?

NA

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

The Entire Governing Body, Village Council hears complaints

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

Not complete, it could be more structured, members of the Governing Body police themselves with few formal procedures

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

We should be able to get advisory opinions just as the AG office or Local Government Division can offer opinions

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

Other Departments of the State are more appropriate to oversee contractors, the Local government oversees the employees but there is little oversight of the highest officials

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

More expensive, as it would be an unfunded mandate and the local entity will be charged with defense of officials

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Share training to all, focus scrutiny on the highest level and fewest members for the most impact

Additional Comments or Perspectives

Unfortunately those that that operate now with impunity can scape goat subordinate levels unless the scrutiny is focused on them

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Email *

cityclerk@yucca.net

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

City of Texico

Number of Employees (full and part-time)

7 full time 1 part time

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors? Please explain.

Not that I know of

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

The city council but I don't know of any complaints on ethics in over 20 years

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

good

Jurisdiction Expansion

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Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

no

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

increase

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

none

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

rebekah@tularosa.net

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

Village of Tularosa

Number of Employees (full and part-time)

37

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

no

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Haven't had to deal with any ethic issues but it would be handled by the Mayor and Board

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

.....

Jurisdiction Expansion

Currently, the State Ethics Commission can receive, investigate, and adjudicate complaints filed against the officials and employees of the legislative and executive branches of state government, lobbyists, candidates, and state contractors. Additionally, the Commission also provides support through trainings and advisory opinions on the state's ethics laws such as the Governmental Conduct Act, the Financial Disclosure Act, and the Procurement Code among others.

Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

yes

.....

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No i feel they should be handled by the the local public bodies.

.....

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

I'm not sure if our costs would increase

.....

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

mayor@villageofwilliamsburg.com

Information About Your Local Government Body

Type of Local Government Body *

- ☐ County
- ☒ Municipality

Local Government Body Name

Village of Williamsburg

Number of Employees (full and part-time)

3

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

If your local government has an ethics body, does it provide advisory opinions or trainings?

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Through the Attorney Generals office

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

No

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

.....

Jurisdiction Expansion

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Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

Yes

.....

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No. More paperwork

.....

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Neither

.....

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

No

Additional Comments or Perspectives

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STATE ETHICS COMMISSION SURVEY FOR COUNTIES & MUNICIPALITIES

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Email *

clerkadmin@bosquefarmsnm.gov

Information About Your Local Government Body

Type of Local Government Body *

☐ County

☒ Municipality

Local Government Body Name

Bosque Farms

Number of Employees (full and part-time)

41

Does your local government have a board, committee, or other body that investigates or adjudicates ethics complaints involving government officials, employees, or contractors?
Please explain.

No

If your local government has an ethics body, please provide either a citation to its rules or a brief explanation of its work (e.g., who is subject to its jurisdiction, how complaints are processed, and what remedies are available).

N/A

If your local government has an ethics body, does it provide advisory opinions or trainings?

N/A

If your local government does not have an ethics body, how has your local government handled complaints alleging ethics violations?

Does your local government have ordinances or other local laws that concern governmental conduct, conflicts of interest, financial disclosures, or campaign finance and disclosure?

Yes

If yes, how would you rate the effectiveness of your local government's ethics body and ordinances? Please explain.

It's fine

Jurisdiction Expansion

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Would it benefit your local government's officials and employees to be able to request and receive advisory opinions on the state's ethics laws?

No

Do you believe the State Ethics Commission's jurisdiction to receive, investigate, and adjudicate complaints should be expanded to include complaints involving the officials, employees and contractors of New Mexico's local public bodies? Please explain.

No

Do you believe that expansion of the Commission's jurisdiction for complaints involving officials, employees, and contractors of your local government would increase or decrease the overall costs incurred by your local government? Please explain.

Is there any other information or perspective that should inform the State Ethics Commission's report regarding the potential expansion of jurisdiction for complaints against officials, employees, or contractors of local public bodies?

Additional Comments or Perspectives

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NEW MEXICO STATE ETHICS COMMISSION

Hon. William F. Lang, Chair
Jeff Baker, Member
Stuart M. Bluestone, Member
Hon. Garrey Carruthers, Member
Ronald Solimon, Member
Dr. Judy Villanueva, Member
Frances F. Williams, Member

Resolution No. 2020-03

WHEREAS, THE NEW MEXICO STATE ETHICS COMMISSION (“Commission”) met in regular session at the UNM Science and Technology Park, 851 University SE, Suite 200, Albuquerque, NM, on February 7, 2020, at 9:00 a.m.;

WHEREAS, the Financial Disclosure Act, NMSA 1978, § 10-16A-3(C) requires “[a] state agency head, an official whose appointment to a board or commission is subject to confirmation by the senate or a member of the insurance nominating committee shall file with the secretary of state a financial disclosure statement within thirty days of appointment and during the month of January every year thereafter that the person holds public office[;]”

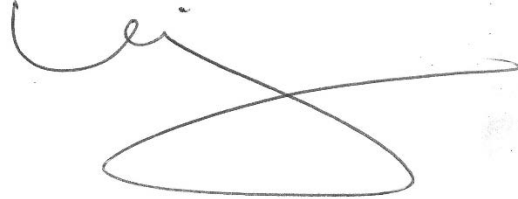
WHEREAS, under the State Ethics Commission Act, NMSA 1978, § 10-16G-3, the appointment of the State Ethics Commissioners is not subject to confirmation by the Senate;

WHEREAS, the Financial Disclosure Act, NMSA 1978, §§ 10-16A-1 through -8, does not require a commissioner to submit a financial disclosure unless the commissioner “has a financial interest that he [or she] believes or has reason to believe may be affected by his [or her] official act or actions of the . . . commission to which he [or she] is appointed,” §10-16A-4(B); and

WHEREAS, the Commission has determined that scrupulous adherence to the Financial Disclosure Act is critical to the Commission's mission, and that erring on the side of disclosure should be the rule for all public servants;

NOW, THEREFORE, BE IT RESOLVED by the New Mexico State Ethics Commission that all Commissioners and the Commission's Executive Director and General Counsel should file with the Secretary of State the information described in NMSA 1978, Section 10-16A-3(D), on a form provided by the Secretary of State.

Adopted by the New Mexico State Ethics Commission this 7th day of February 2020.

A handwritten signature in dark ink, appearing to be 'William F. Lang', written over a horizontal line.

The Hon. William F. Lang
New Mexico State Ethics Commission
Chair



STATE ETHICS COMMISSION

Hon. William F. Lang, Chair
Jeffrey L. Baker, Member
Stuart M. Bluestone, Member
Hon. Garrey Carruthers, Member
Hon. Celia Foy Castillo, Member
Ronald Solimon, Member
Judy Villanueva, Member

Resolution No. 2021-02: Authorizing a demand and civil action to enforce the Governmental Conduct Act

WHEREAS, THE NEW MEXICO STATE ETHICS COMMISSION
("Commission") met virtually, on October 1, 2021, at 9:00 a.m.;

WHEREAS, the Commission has the power to investigate violations and bring a
civil action to enforce the Governmental Conduct Act;

WHEREAS, the Commission has reason to believe that Gabriel Vargas, an
employee of Double Eagle Real Estate, LLC, doing business as Double Eagle
Property Tax Consultants ("Double Eagle"), has violated Section 10-16-8 of the
Governmental Conduct Act by (i) representing a person in the person's dealings
with the government on a matter in which the he participated personally and
substantially while a public officer or employee, in violation of Subsection 10-16-
8(B); and (ii) representing for pay a person before the state agency or local
government agency at which he served or worked, in violation of Subsection 10-
16-8(D);

WHEREAS, the Executive Director has sought the approval of the Commission to
initiate a civil action under NMSA 1978, Sections 10-16-18(B) and 10-16G-9(F)
against Vargas and his employer Double Eagle, and has explained the proposed
civil action and remedies to be sought, to include vicarious liability against Double
Eagle, civil penalties, and injunctive, disgorgement, and other equitable remedies;

NOW, THEREFORE, BE IT RESOLVED by the New Mexico State Ethics Commission:

1. The Commission's staff are authorized to demand that Vargas and Double Eagle comply with the Governmental Conduct Act and to prepare and file a civil action in a court of competent jurisdiction seeking to enforce the civil compliance provisions of the Governmental Conduct Act and any other relief that the court deems just and proper.
2. If Commission staff file a lawsuit against Vargas and Double Eagle, the Executive Director is instructed to provide regular updates on the status of the suit at the Commission's meetings during closed session. Commission staff shall communicate with the Chair as necessary between Commission meetings.
3. Commission staff are authorized to enter an agreement to settle or dismiss claims brought against Vargas and Double Eagle, upon having conferred with the Chair or his designee.

Adopted by the New Mexico State Ethics Commission this 1st day of October 2021.

The Hon. William F. Lang
New Mexico State Ethics Commission
Chair