

REPORT HIGHLIGHTS



INDEPENDENT ETHICS COMMISSION
PERFORMANCE AUDIT, FEBRUARY 2016

JUDICIAL BRANCH

CONCERN

The Independent Ethics Commission (IEC) could improve its procedures for ensuring that parties to ethics complaints are adequately informed of how to file complaints as well as the standards of conduct being considered at hearings and the basis of the IEC's decision to dismiss complaints as frivolous. Additionally, the IEC lacks adequate, written policies and procedures in several areas, including document retention, conflicts of interest, and staff administration.

KEY FINDINGS

- Individuals who file complaints with the IEC, known as complainants, are not adequately informed of how to file complaints, leading to the filing of incomplete complaints. Specifically, 86 percent of the complaints that were filed between January 2012 and June 2015, and for which the IEC had retained documentation, did not comply with the IEC's rule requiring a signed statement that the alleged facts and allegations were true; 33 percent of such complaint filings lacked key information, such as the date of the alleged violation and the ethical standards violated; and 61 percent of such complaints requested remedies that the IEC cannot provide, such as removal from office or reversal of agency decisions.
- The IEC lacks clear guidance for its staff on the content and scope of investigative reports and the methods to be used for notifying parties of the standards of conduct that will be considered at hearings and documenting this notice.
- The IEC did not retain one or more key documents for 25 of the 53 complaints that were filed between January 2012 and June 2015 and did not maintain audio recordings of the hearings for 43 of the 53 complaints. The IEC's Records Management Policy was not approved by the State Archives as required.
- The IEC did not have a written policy regarding conflicts of interest and the circumstances under which commissioners, the IEC Director, or the IEC's Attorney General's Office representative should recuse themselves from proceedings.
- There may be opportunities for the IEC to evaluate and pursue policy changes that could increase its effectiveness by providing additional support to complainants, increasing the transparency of its process for dismissing complaints as frivolous, and clarifying its rules of procedure.

BACKGROUND

- The IEC was created by a 2006 voter-initiated amendment to the State Constitution, commonly known as "Amendment 41."
- The IEC is responsible for hearing ethics complaints filed by citizens against state and local government employees and officials; providing ethics advice through advisory opinions, letter rulings, and position statements; and providing ethics training.
- From Calendar Year 2012 through 2015, the IEC ruled on 57 complaints and found that an ethics violation occurred for four of these complaints. In addition, during the same period, the IEC issued 48 advisory opinions, five letter rulings, and one position statement.
- In Fiscal Year 2016 the IEC was appropriated about \$350,000 in general funds and had one full-time employee.

KEY RECOMMENDATIONS

- Improve the complaint process by revising the complaint form and improving the instructions provided to the public on filing a complaint.
- Establish procedures to ensure that staff have clear guidance regarding the scope and content of investigative reports and that parties to complaints receive notice of the ethical standards the IEC plans to consider at hearings and that this notice is documented.
- Establish written policies for records retention, conflicts of interest, and staff administration in accordance with applicable laws.
- Consider changes to provide complainants with additional support and to increase the transparency of the process for dismissing frivolous complaints.