



United States
Office of Government Ethics

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Washington, DC 20005-3917

May 10, 2011

Kimberly Tolhurst
Designated Agency Ethics Official
Commission on Civil Rights
624 Ninth Street, NW., Suite 620
Washington, DC 20425

Dear Ms. Tolhurst:

The purpose of this letter is to provide a road map of what actions must be taken to bring the Commission on Civil Rights' (the Commission) ethics program into compliance. Specifically, this letter will address the challenges within the Commission's ethics program, the steps you have taken to address these challenges, and what remains to be done to bring the ethics program into compliance with relevant ethics laws and regulations.

Results In Brief

As a result of our discussions with you and a review of the relevant materials, we found several areas of concern within the financial disclosure, education and training elements of the Commission's ethics program. We note that since becoming the Designated Agency Ethics Official (DAEO) you have already made several improvements to the ethics program. While we are encouraged by the steps you have taken to rebuild the ethics program, additional actions need to be taken to bring the program into compliance.

Objective, Scope, and Methodology

The Office of Government Ethics (OGE) provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance. The purpose of a traditional review is to identify and report on the strengths and weaknesses of an ethics program by evaluating (1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program. OGE has the authority to evaluate the effectiveness of executive agency ethics programs. See Title IV of the Ethics in Government Act, and 5 CFR part 2638.

The Commission is currently undergoing a major transition in leadership and staff. Because of the transition, we did not perform a traditional review of the Commission's agency's ethics program. Instead, we determined that a consultation would be more appropriate.

On March 8, 2011, members of the OGE review team met with you to discuss the strengths and weakness of the Commission's ethics program as well as ways in which the

program could be improved. To assess the Commission's ethics program, the review team examined documents provided by you; other documents that the Commission forwarded to OGE throughout the year, including the annual questionnaire; and prior program review reports.

Areas of Concern

Working with you, several challenges within the ethics program were identified:

- The Commission is currently without a permanent Staff Director to approve policies and procedures needed to ensure the ethics program is in compliance.
- The established process for collecting and retaining public financial disclosure reports was not followed during the 2010 filing cycle.
- Some financial disclosure reports were not properly reviewed for potential conflicts of interest.
- The current OGE-approved alternative financial disclosure form used by special Government employees (SGEs) does not adequately address risks posed by outside activities.
- State Advisory Committee (SAC) members do not receive in-person ethics training.
- No screening process is in place to prevent potential conflicts of interest for SAC members.
- One required termination report filed by a former commissioner cannot yet be certified because the report is incomplete and illegible.

Actions Taken by the DAEO

To address these challenges and bring the ethics program into compliance, you have indicated that the following actions have or will be taken:

- You have collected and retained all confidential financial disclosure reports required to be filed in 2011. In addition, you will collect and retain all public financial disclosure reports required to be filed in 2011.
- You have reviewed and certified all confidential financial disclosure reports required to be filed in 2011. In addition, you will review and certify all public financial disclosure reports required to be filed in 2011 with the exception of your public report, which will be reviewed and certified by the Alternate DAEO.
- Designated Regional Ethics officials (DREOs) will provide newly revised in-person training to all SGEs during their annual meetings.
- Regional managers will also receive ethics training on identifying potential conflicts of interest in order to act as screeners for SGEs who are members of SACs.

- At your request, OGE mailed a letter on March 30, 2011, to the former commissioner advising him of his obligation to file and the potential consequences of non-compliance.¹

Additional Actions to Be Taken

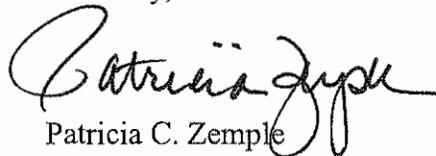
In addition to the actions you have already taken, OGE suggests that the following steps be taken to bring your program into compliance:

- With OGE's assistance, revise the current alternative financial disclosure form to require reporting of any outside positions held by filers.
- Provide reviewer training to all DREOs to ensure they are able to perform a thorough conflicts of interest analysis on all confidential financial disclosure reports filed in the regions. Specifically, DREOs should take advantage of OGE's online training for reviewers of confidential financial reports.
- Based on the former commission's failure to file, the Commission should take appropriate, corrective action.

Please continue to keep us apprised of any actions taken to address the areas of concern. The review team will remain in contact with you to monitor the progress the Commission is making in bringing its ethics program into compliance. OGE stands ready to assist the Commission in its efforts to meet the challenges of developing and maintaining an effective ethics program.

I appreciate the courtesies extended to the OGE program review staff. If you have any comments or would like to discuss additional concerns, please contact me at 202-482-9286.

Sincerely,



Patricia C. Zemple
Associate Director
Program Review Division

¹A response was requested by April 11, 2011. As of this date, the Commission had not received the termination financial disclosure report.