

Honest Enforcement:

**What Congress Can Learn From Independent
State Ethics Commissions**



February 2007

Executive Summary

Some argue that last year's scandals, which lead to the conviction of two congressmen and several top aides, are evidence that ethics enforcement in Congress works. The actual facts leading up to the convictions, however, are more an indictment of the current process than a testament to its success. A whistleblower who took his case to the media and the U.S. Department of Justice—not the House and Senate ethics committees—uncovered the dealings of lobbyist Jack Abramoff. Neither the House nor the Senate ethics committee has indicated publicly that they looked into the matter or considered if other members of Congress broke any Senate or House rules, regardless of whether outside laws were broken. Among the many concerns, the secrecy of the process provides no assurance to the American people that members take these scandals seriously.

Although Congress recently passed strong new rules to limit undue access by powerful interests, the federal ethics enforcement process is flawed in many ways. The House and Senate ethics oversight committees are comprised of colleagues who know and work with one another and who rely on one another's support for legislation or campaign contributions, creating both the appearance and practice of a conflict of interest. Committee members have no guaranteed terms and can and have been removed as recently as 2006 for taking actions in the course of their work of which their colleagues disapprove. Complaints in the House can only be filed by other colleagues, limiting the ability of outside and more impartial observers to make their concerns heard.

While not every state has experienced the level of corruption uncovered in Congress last year, state legislatures face similar challenges. How should legislative ethics rules be enforced? How can lawmakers identify and hold accountable

colleagues who cross the line and reassure skeptical voters that they are honest brokers of public policy and taxpayer money?

We decided to examine if state governments have had any success in creating an important layer of independence between the investigators and those being investigated—the state legislators. We found that the states are far ahead of Congress in understanding the inherent conflict of interest of colleagues overseeing colleagues. In fact, as of January 2007, at least 23 states had established independent commissions, boards or offices to oversee enforcement of ethics rules for their state legislators.

State commissions vary in how they were created, who participates and how they operate, but those that are independent from the legislature have, for the most part, several features in common:

- The commissions include outside panelists who oversee a professional director and a staff of impartial investigators;
- The commissions have clear and mandatory conflict of interest guidelines limiting service to those who are not covered by the rules or closely involved in partisan activities;
- Commissioners serve set terms and cannot be removed for any reason other than cause (i.e. neglect of duty, gross misconduct or other specified actions);
- The commissions have the power to receive complaints from the general public; and
- The commissions may launch investigations without legislative or outside approval and recommend or

enforce sanctions against those who have violated the rules.

Some independent commissions also enjoy guaranteed funding outside of legislative appropriations and offer better disclosure of ethics complaints. In a few cases, to protect against partisan abuses, commissions will not release publicly or act on any complaint filed within 60 days of an election.

We can divide the states with independent ethics commissions or offices into roughly three categories. All of these states have taken steps to remove the inherent conflicts of interest when colleagues investigate colleagues. States in Categories 1 and 2 meet all of the independence criteria listed above including outside oversight, meaningful conflict of interest rules, protection against arbitrary removal of commissioners, an open complaint process, full investigative authority and full disclosure of complaints filed and actions taken. They are strong commissions with model design features that provide for significant independence. States in Category 1, however, also include features that provide additional checks on the system. The commissions in Category 3 states include most of the design elements necessary for independence from the legislature, but they fall short in one or more of the areas. For example,

most of these commissions only disclose ethics complaints if the commission finds a violation.

Category 1	Category 2	Category 3
Connecticut	Alabama	California
Kentucky	Arkansas	Louisiana
	Florida	Maine
	Kansas	Massachusetts
	Missouri	Minnesota
	Montana	Nebraska
	Oklahoma	Nevada
	Oregon	North Carolina
	Rhode Island	Pennsylvania
	West Virginia	Tennessee
		Wisconsin

The states not listed either allow legislators to sit on their ethics commissions or do not have commissions that oversee ethics rules for state legislators. Other states have ethics commissions that only oversee compliance with campaign finance and lobby disclosure laws but not ethics rules or enjoy jurisdiction only over state executive branch officials, the judiciary or other non-legislative elected or appointed officials and their staff.

Congress is almost alone in choosing to self-police. If members are serious about honest and open government, they should follow the lead of almost half of the states and establish an independent ethics enforcement commission.

Introduction

In exit polls during the 2006 election, voters cited corruption as the top issue influencing their votes, making it a key factor in the change in leadership in Congress. In response, the House and Senate both took up ethics bills early in the 110th Congress and adopted by wide bi-partisan margins new rules to ban gifts and travel paid for by lobbyists and other restrictions to limit the undue influence of powerful interests. To ensure that these rules are enforced, however, Congress needs to set up a system of outside enforcement independent of the legislators themselves.

Despite the recent scandals, too many members of the House and Senate remain unconvinced that they need to overhaul the ethics enforcement process. Of those who do see a need for change, apprehension of a new system and uncertainty that it will work properly are two

of the most often cited reasons for inaction. This report takes a first-ever look at the more than 20 states that have created independent ethics enforcement commissions to oversee their state legislators. The findings offer insight into how states have addressed some of the same problems Congress is now facing.

The new rules adopted in the first weeks of the 110th Congress are important first steps. They provide a down payment on the promise for reform. As a newly appointed House task force on enforcement deliberates, however, Congress has a unique opportunity to develop at once unprecedented and time-tested reforms. Independent enforcement is the right policy and the necessary assurance that the American people deserve.

Ethics Enforcement in Congress

The ethics enforcement process in Congress is not working. Unresolved complaints, a lack of reasonable disclosure, and overlooked scandals have cast doubts among voters that the system can work in its current form. An ethics 'fix' implemented in the late 1990s did not solve the problems of weak oversight and lax enforcement. The system itself contains flaws that present obstacles to fair and aggressive enforcement regardless of who participates in the process. Changes are needed not because of any one particular individual or set of individuals, but because of the design. The system lacks any measure of independence.

The House Committee on Standards of Official Conduct is comprised of 10 members of Congress appointed by the leadership of each party. The conflict of interest guidelines are

advisory only. Staff members to the committee are prohibited from engaging in partisan activities, but in an apparent contradiction of standards, those with final decision making authority are the members themselves. Members can be removed from the Committee by those who appointed them at anytime and for any reason.

The House Committee does have authority to launch investigations and issue sanctions. In rare instances, the full House must approve the sanctions. Only members of Congress may formally file complaints, which are not disclosed to the public unless the committee issues a public sanction.

The Senate Select Committee on Ethics has six members appointed by the leadership of each

party. The House rules regarding advisory conflict of interest guidelines, limited public disclosure of cases, and service at the pleasure of the party leadership all apply equally to the Senate. The Senate does allow outside parties to file complaints.

Neither the House nor Senate processes allow for an impartial review of allegations, an independent investigation or an objective determination if violations occurred.

Ethics Enforcement in the States

States legislators face many of the same concerns confronting Congress. They must ensure that the members and the staff fairly and honestly serve the public. Many states have faced scandals of their own in which colleagues abused their office and violated the public trust. In response, at least 23 states have decided that boards or commissions independent of the state legislatures are effective and appropriate methods of ethics enforcement. By independent, we mean that legislators are not allowed to sit on the commission or serve on the board.

In addition to the states with independent boards or commissions overseeing the ethics of state legislators, several states have established ethics commissions that have jurisdiction only over state executive branch officials, the judiciary or other non-legislative elected or appointed officials and their staff. In other states, such as Texas, the ethics commission oversees compliance with campaign finance and lobby disclosure laws but not the ethics rules regulating the behavior of elected officials. While we did not examine these states in this report, they have taken some steps in the direction of independent enforcement of public officials.

State ethics commissions vary in how they were created, who participates and how they operate, but those that are independent have many of the following features in common:

- The commissions include outside panelists—not current legislators—who

- oversee a professional director and a staff of impartial investigators;
- The commissions have clear and mandatory conflict of interest guidelines limiting service to those who are not covered by the ethics rules or closely involved in partisan activities;
- Commissioners serve set terms and cannot be removed for any reason other than cause (i.e. neglect of duty, gross misconduct or other specified actions);
- The commissions have the power to receive complaints from the general public; and
- The commissions may launch investigations without legislative or outside approval and recommend or enforce sanctions against those who have violated the rules.

We can divide the states with independent ethics commissions or offices into roughly three categories, judging them against the criteria listed above. All of these states have taken steps to remove the inherent conflicts of interest when colleagues investigate colleagues, but some state commissions include unique features that offer the commissions an extra measure of independence while others fall short in one of the criteria.^a

^a We obtained information on the state ethics commissions from the commission websites and via personal communication with commission staff in the month of January 2007. We did not hear back from the Mississippi

- Category 1 -

Connecticut
Kentucky

The commissions in Connecticut and Kentucky not only meet all of the independence criteria listed above, but they also include design features that provide additional checks on the system.

In Connecticut, the Office of State Ethics has strong conflict of interest rules. Like several other states, board members are prohibited from holding legislative or party office. Additionally, board members may not make political contributions and are required to recuse themselves from proceedings involving anyone who appointed them.

Most importantly, these state commissions enjoy unique protections against attacks on their enforcement budgets. In Connecticut, statutory provisions hinder the legislature and governor from cutting the budget request submitted by the director of the Office of State Ethics. In Kentucky, funding for the commission comes in part from registration fees for lobbyists (\$250 every two years). The remainder of the budget comes from appropriations from the general assembly.

- Category 2 -

Alabama
Arkansas
Florida
Kansas
Missouri
Montana
Oklahoma
Oregon
Rhode Island
West Virginia

Ethics Commission in time to include that state in this report.

The commissions in these states also meet all the criteria listed above including outside oversight, meaningful conflict of interest rules, protection against arbitrary removal of commissioners, an open complaint process, full investigative authority and full public disclosure of complaints filed and the actions taken. They are strong commissions with model design features that provide for significant independence. Most of these commissions, however, depend on the state legislature for annual appropriations.

On an interesting note, at the beginning of each year, the Oklahoma Ethics Commission proposes new rules or amendments to existing rules. The legislature may vote to disapprove of the rules, but if it takes no action, the rules go into effect. In the Commission's first year, the legislature not only voted down the Commission's proposal, it drafted and passed its own rules. The Commission sued and won, establishing a clear line of independence from the legislature.

- Category 3 -

California
Louisiana
Maine
Massachusetts
Minnesota
Nebraska
Nevada
North Carolina
Pennsylvania
Tennessee
Wisconsin

The commissions in these states meet most of the criteria for independence but fall short in one of the categories. Regardless, these commissions are more open and accountable than the ethics committees in Congress.

Most of the commissions in Category 3 only disclose complaints if they find a violation. Virtually all commissions keep proceedings confidential, similar to grand jury proceedings.

In North Carolina, the ethics commission can only conduct inquiries into complaints to the extent necessary to determine if the case has probable cause. The commission can recommend sanctions for non-legislative public officials; for legislators, however, the commission only can refer the matter to the legislative ethics committee (comprised of sitting legislators). In Maine, the current rules only allow legislators or commissioners themselves to file complaints, not the general public. Due to recommendations from the state's Advisory Committee on Legislative Ethics, however, that may change in the coming year.

To assure the public that complaints are actively reviewed and screened, all final decisions – whether to issue sanctions or dismiss a complaint – should be made public. This not only provides the public with appropriate information, it protects legislators against frivolous

complaints. Ironically, the secrecy of the current process guarded by Congress exposes members to ongoing allegations from unresolved frivolous complaints. Some states have taken proactive steps to counter concerns that complaints will be used for partisan purposes. The West Virginia Ethics Commission, for example, will not publicize or act upon any complaint filed within 60 days of an election. In Florida, a complaint cannot be filed or disclosed about a candidate for office in the five days leading up to the election.

All of these commissions serve as models for Congress to consider. Despite their differences, they maintain basic accountability through an independent structure. They take conflicts of interest seriously and place a premium on impartial review. A more detailed description of each state commission can be found in the appendix.

Ethics Enforcement in the Private Sector

The private sector also values independent oversight with clear conflict of interest rules. The conflict of interest rules provide degrees of separation between those responsible for evaluating disciplinary actions and those allegedly involved in violations of the rules and guidelines. Below is snapshot of just a few of the private sector areas that employ some measure of independent oversight over their profession.

Public Companies

Businesses are required to have outside auditors. In part because of the multiple professional relationships that had developed between businesses and auditors (i.e. accounting firms doubling as financial advisors), Congress passed the Sarbanes-Oxley law in 2002 that tightened conflict of interest provisions. As auditors and their business clients increasingly entered into multiple business relationships, the

independence of the auditors began to erode. The lack of independent oversight has often been cited as one of the leading reasons for the large corporate scandals involving former business giants such as Enron and Worldcom. By 2002, all of the leading accounting firms -- Arthur Andersen, Deloitte & Touche, Ernst & Young, KPMG, and PricewaterhouseCoopers -- had admitted or been charged with wrongdoing.

Physicians

Guidance issued by the Federation of State Medical Boards, which informs the disciplinary boards for physicians, includes a number of features that Congress should consider in retooling its ethics process. The guidelines include a more open system for filing complaints, greater disclosure, and tighter conflict of interest rules than currently exist in Congress. In some

states, disciplinary review boards include members of the public.

Attorneys

Each state establishes its own rules for disciplining attorneys. While not all of them involve independent systems, none involve the lax conflict of interest rules that exist in Congress. In 1992, the American Bar Association (ABA) recognized the problems in practice and public perception of weak disciplinary procedures for errant attorneys. The ABA commissioned a review, which led to a report entitled, "Lawyer Regulation for A New Century--Report of the Commission on Evaluation of Disciplinary Enforcement." Among the findings, the report stated:

"The Commission is convinced that secrecy in discipline proceedings continues to be the

greatest single source of public distrust of lawyer disciplinary systems... The public does not accept the profession's claims that lawyers' reputations are so fragile that they must be shielded from false complaints by special secret proceedings. The irony that lawyers are protected by secret proceedings while earning their livelihood in an open system of justice is not lost on the public. On the contrary it is a source of great antipathy towards the profession." (McKay Commission Report, p.33)

Other Professions

State occupational licensing boards have been established for a wide array of professions. From Arkansas to Wyoming, state boards exist to oversee the practices of contractors, chiropractors, embalmers and many others.

Conclusions

Independence is a critical component of an effective ethics enforcement process. The scandals in Congress have moved legislators to adopt important new rules to rein in corruption, but members should look to state legislatures and the commissions they created for models to ensure those rules are being properly enforced. Right now, Congress is almost alone in choosing to self-police.

While independent ethics commissions differ from state to state, virtually all have common elements that preserve the integrity of the independence and promote honest enforcement and open government. Approximately half the states with commissions have reasonable but strong disclosure provisions. At least one state reduces the potential for partisan gamesmanship

by not publicly disclosing or acting upon any complaint made within 60 days of an election.

Congress should look carefully and thoughtfully at the state experiences, which have been, by all accounts, successful experiments with impartial, non-partisan citizen commissions. These commissions are no longer new nor are they radical departures from the norm. They are, increasingly, the way states choose to fairly and effectively enforce the legislative ethics rules.

If members of Congress are serious about honest and open government, they should follow the lead of almost half of the states and establish a professional and independent ethics enforcement commission.

Appendix

Note: We did not hear back from the Mississippi Ethics Commission in time to include that state in this report.

Alabama

The Alabama Ethics Commission has five members with jurisdiction for ethics oversight for all state and municipal elected officials. The members are nominated by the Governor, Lt. Governor and the Speaker of the House and confirmed by the Senate. The commission must include one member who is African American. Public officials, candidates and lobbyists are not eligible to serve on the commission. Members serve a five year term and cannot serve a second consecutive term.

The commission has the authority to launch investigations and determine administrative sanctions where warranted. Findings of potential criminal violations are referred to the Attorney General. Complaints can be filed by “anyone with knowledge.” Complaints filed against any of the commissioners are reviewed by a three judge panel appointed by the state Supreme Court. Ongoing investigations are kept confidential, but all final decisions, whether sanctions were made or the case was dismissed, are made public.

Of the 224 complaints filed, the commission referred nine to the Attorney General, issued 12 administrative sanctions, and dismissed the rest.

Arkansas

The Arkansas Ethics Commission has five members with jurisdiction over ethics and lobby rules and campaign finance laws. Members are appointed by the Governor, Lt. Governor, Attorney General, President Pro Tempore of the Senate and the Speaker of the House. Public officials and their staff, party officials and lobbyists are ineligible to serve. At all times, the commission must include one racial minority, one woman, and at least one member of the minority party. Members can serve two consecutive five year terms.

The commission has the authority to launch investigations without permission or interference from the state legislature or any outside approval. The legislature sets the budget through the normal appropriations process but cannot eliminate the commission because it was established by citizen initiative. Any citizen, including members of the commission, may file a complaint. Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public.

The Commission received 90 complaints in 2006 and completed work on 12 cases filed the previous year. Of those cases, 56 cases resulted in sanctions.

California

The California Fair Practices Commission is a five member commission with jurisdiction over certain ethics and lobbying rules and campaign finance laws. Two members are appointed by the Governor – the Chair and one member from the opposing party. The Secretary of State, Attorney General and State Controller each appoint one member. No current legislators are eligible to serve. Commissioners are only permitted to serve a single four year term.

The commission may launch investigations without outside approval and may issue administrative and civil sanctions. Criminal matters are referred to the Attorney General. While anyone may file a complaint, the commission only makes public those in which sanctions are issued. Dismissed complaints may be requested by the public, but there is no certain way to determine if such a complaint exists.

Of the 1,164 complaints filed with the commission in 2006, 269 sanctions were issued.

Connecticut

The Connecticut Office of State Ethics (OSE) and the Citizen's Ethics Advisory Board administer and enforce the Code of Ethics for Public Officials and State Employees. OSE employees and board members may not hold elected office or be an officer of a political party. Board members may not be state employees or make any political contributions to anyone covered by the Code of Ethics. Board members also must recuse themselves from proceedings involving anyone who appointed them. Three of the nine Board members are appointed by the Governor. The three ranking legislative leaders from each party appoint the remaining members. The members may serve no more than a single four year term.

The commission has the authority to launch investigations without permission or interference from the state legislature or any outside approval. As an additional measure of independence, statutory provisions hinder the legislature and Governor from cutting the budget request submitted by the director of the OSE.

Any state employee, public official or member of the general public may file a complaint. Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public.

Florida

The Florida Ethics Commission has nine members with jurisdiction to enforce the ethics and lobbying rules for all public offices in the state. Legislators and lobbyists are prohibited from serving on the commission. The Governor appoints five members, and the Senate President and Speaker of the House appoint two members each. Members serve two year terms but may not serve more than two consecutive terms.

The commission may initiate an investigation upon receiving an outside complaint. Anyone may file a complaint, but the commission cannot initiate an investigation on its own. Upon completion of an investigation, if it finds a violation has occurred, the commission recommends a penalty and submits that recommendation to either the Governor, the Speaker of the House or the President of the Senate depending upon the subject of the complaint.

Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public. There were 288 complaints filed in 2006. The commission found probable cause in 103 cases.

Kansas

The Kansas Governmental Ethics Commission is a nine member body. The Governor appoints two members; the Chief Justice of the state Supreme Court, Secretary of State, Attorney General, and the majority and minority party leaders of the state legislature also appoint one each. There is a five year 'cooling off' period before party officials, candidates and lobbyists may serve on the commission. Commissioners are appointed to two year terms.

The commission may initiate an investigation based on an outside complaint or a complaint filed by commission staff. Anyone may file a complaint, and all hearings of the commission are open to the public. In 2006, the commission reviewed approximately 35 complaints and issued 15 fines.

Kentucky

The Kentucky Legislative Ethics Commission has nine members. The Speaker of the House and President of the Senate appoint four each, and the Legislative Research Commission appoints one. Members serve four year terms.

The commission has the authority to launch investigations in response to a filed complaint and without permission or interference from the state legislature or any outside approval. Any citizen may file a complaint. As an additional measure of independence, the funding for the commission comes in part from registration fees for lobbyists (\$250 every two years). The remainder of the budget comes from appropriations from the general assembly.

Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public.

Louisiana

The Louisiana Board of Ethics has an 11 member board and administers the Louisiana Code of Ethics. The eight private colleges in the state compile lists of nominees from which the Governor appoints seven members and the House and Senate each appoint two. Public officials are ineligible to serve. Members serve no more than two five year terms.

The Board has the authority to launch investigations without permission or interference from the state legislature or any outside approval. Any citizen may file a complaint. Only cases in which a violation was found are made public. The Board does not track the number of complaints but referred 154 matters for investigation in 2006. Of those cases, 64 resulted in sanctions.

Maine

The Maine Commission on Governmental Ethics and Elections Practices is a five member body. The Governor and majority and minority party leaders of the state legislature appoint members jointly. No sitting legislators or party leaders may serve. There is a two year 'cooling off' period before declared candidates for elective office may serve. Members are appointed to three year terms and may serve up to two terms.

The commission may initiate an investigation based only on complaints filed by legislators or the commission itself. However, an advisory committee to review the process has recommended allowing outside complaints. Information is confidential until the commission determines that the complaint is worthy of investigation. In 2006, the commission reviewed approximately 35 complaints and issued 15 fines. At that time, the complaint becomes part of the public record.

Massachusetts

The Massachusetts State Ethics Commission has five members; three are appointed by the Governor, one by the Secretary of State and one by the Attorney General. Commissioners serve five year terms. Public and party officials are barred from serving.

The commission has the authority to launch investigations in response to a filed complaint and without permission or interference from the state legislature or any outside approval. Any citizen may file a complaint. Complaints may even be made anonymously. The commission only makes public cases in which there is "reasonable cause" to suspect a violation has occurred.

In 2006, the commission received 1,021 complaints and reviewed 1,043, including cases left over from the previous year. The commission resolved 27 cases in which sanctions were issued and 384 cases in which letters were issued.

Minnesota

The Minnesota Campaign Finance and Public Disclosure Board has authority over both campaign finance laws and legislative ethics rules relating to financial conflicts of interest. The Board has six members appointed by the Governor and confirmed by a three-fifths vote of both houses of the legislature. Public officials may not serve on the Board. Members serve four year terms.

The Board has the authority to launch investigations without permission or interference from the state legislature or any outside approval. Any citizen may file a complaint. Only cases in which a violation was found are made public.

Missouri

The Missouri Ethics Commission is comprised of six members. Commissioners are appointed by the Governor with the advice and consent of the state Senate. Public officials and candidates for public office are not eligible to serve on the commission. Commissioners may serve no more than a single four year term.

The commission has the authority to launch investigations without permission or interference from the state legislature or any outside approval. Any "natural person" may file a complaint. If there is evidence of a violation, the commission makes a recommendation for sanction and refers the matter to the appropriate prosecuting authority. Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public.

The commission received more than 300 complaints in 2006, most for minor infractions. Less than 5% of the complaints were dismissed for no evidence. Six cases led to findings of a conflict of interest.

Montana

The Montana Commissioner of Political Practices is appointed by the Governor to a single six year term. In addition to the ethics rules, the office also has jurisdiction over campaign finance laws. The Senate submits nominees to the Governor, who may choose from that list or on his own. The nominee must be confirmed by the Senate. The person is precluded from running for office for a period of five years after leaving the position.

The commissioner has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone may file a complaint provided it is done according to the established procedures. All decisions of the office are made public. The proceedings leading up to a decision are confidential. The office received two complaints in 2006. One was rejected, as it was outside the jurisdiction of the office. The second is pending.

Nebraska

The Nebraska Accountability and Disclosure Commission is comprised of eight members. Four are appointed by the Governor and four by the Secretary of State. The Secretary of State serves as an ex-officio voting member. None of the appointed members may hold public office or public employment. The appointed members serve single six year terms.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone may file a complaint. Complaints also may be initiated by the commission itself. Only cases in which a violation was found are made public.

Nevada

The Nevada Commission on Ethics consists of eight members. Four are appointed by the Governor and four by the Legislative Commission. Commissioners may not hold public office during their four year terms. Members may only serve two terms. Members also serve at the pleasure of the Governor and may be removed for any reason.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone may file a complaint, including the commission itself. The agency does have some financial independence with approximately 60% of its budget derived from assessments on cities and counties with a population larger than 10,000 people.

Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public.

North Carolina

The North Carolina State Ethics Commission consists of eight members. Four members are appointed by the Governor and two each by the President Pro Tempore of the Senate and the Speaker of the House. The commissioners serve four year terms. Sitting legislators are ineligible to serve on the commission.

The commission does not have the authority to launch investigations. It may receive and review complaints involving legislators to determine whether a complaint should be dismissed or has enough merit to warrant an investigation. Where probable cause exists, matters are referred to the legislative ethics committee for further review and determination if sanctions should be levied. The commission may pursue matters related to non-legislative public officials.

Anyone may file a complaint, including the commission itself. Complaints involving legislators, however, are not made public unless a public sanction is rendered by the legislative ethics committee.

The commission does have financial independence; the legislature also is restricted from reducing the commission's budget.

Oklahoma

The Oklahoma Ethics Commission is comprised of five members, one each appointed by the Governor, Chief Justice of the State Supreme Court, Attorney General, President Pro tempore, and Speaker of the House. Members may serve no more than two five-year terms. Elected officials may not serve on the commission.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone can file a complaint. The commission can act on a signed and notarized complaint by majority vote. Anonymous tips or independent action taken by the commission as a result of a news article or other outside source requires a unanimous vote. In one of the strongest provisions in the nation, the Oklahoma Commission may write ethics rules and then enforce them.

Only complaints that result in a public sanction are made public.

Oregon

The Oregon Government Standards and Practices Commission consists of seven members who are appointed by the Governor from a list of recommendations compiled by the House and Senate leadership of both parties. All members must be confirmed by the Senate. Terms are four years long, and members may only serve one term. Elected officials may not serve on the commission.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone with evidence may file a complaint. The commission also may act on its own initiative. While the commission does not have guaranteed funding at this time, the legislature is reviewing potential independent funding sources.

Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public. In 2006 (thru November), the commission received 108 complaints, finding 13 violations. The remaining cases were either dismissed, deferred or remain pending.

Pennsylvania

The Pennsylvania State Ethics Commission consists of seven members. Three are appointed by the Governor and one each appointed by the majority and minority leaders of the House and Senate. Members may only serve two three year terms. Elected officials and campaign officials may not serve.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone may file a complaint. Complaints must be signed and notarized. The commission also may act on its own initiative.

Only final orders become public. If a complaint was dismissed early on, then no order would be issued and there is no public notice. Complaints that move through the investigatory process are made public regardless of whether sanctions were issued.

Rhode Island

The Rhode Island Ethics Commission is comprised of nine members. Four are appointed directly by the Governor, and five are chosen by the Governor from lists provided by the majority and minority party leaders of the House and Senate. Members serve a single five year term. No elected officials, party or campaign officials may serve on the commission.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone may file a complaint. The commission also may act on its own initiative. Funding for the commission is subject to the legislative budget process, but the commission enjoys some guarantees in the state constitution.

All complaints and final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public. In 2006, 12 complaints were filed. Of those, the commission dismissed five and assessed administrative penalties on two; five remain under investigation.

Tennessee

The Tennessee Ethics Commission is comprised of six members. The Governor and the leaders of the House and Senate each appoint two people. The commission must have at least one woman and one African-American member. Members may only serve two four-year terms. No elected officials, party or campaign officials nor any of their immediate family members are eligible to serve.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone may file a complaint. The majority of funding for the commission is appropriated by the state legislature. Some additional funding is derived from lobbyist registration fees.

Only complaints that result in a public sanction are made public.

West Virginia

The West Virginia Ethics Commission consists of 12 members appointed to five year terms. Members may only serve for two terms. All members are appointed by the Governor with the advice and consent of the Senate. The law bars anyone covered by the state ethics law from serving on the commission.

Complaints are taken to a three member Probable Cause Review Board, which decides whether to authorize an investigation. Members of this board are appointed in the same manner as the commissioners and operate under the same conflict of interest requirements. The Board monitors the staff investigation and determines whether to bring the case to the full Ethics Commission. The process remains free and independent of legislative interference.

Anyone may file a complaint. Complaints must be signed and notarized and filed by an individual. The commission will not act on complaints filed against a sitting elected officials within 60 days of an election. Funding is provided through the legislative appropriations process, but the commission has started to review alternative options.

Final actions on every complaint, whether sanctions were issued or the case was dismissed, are made public. Approximately 30 complaints were filed in 2006, three of which resulted in sanctions. Two remain pending.

Wisconsin

The Wisconsin Ethics Board consists of six members who are appointed by the Governor and confirmed by the state Senate. Members serve six year terms. Elected officials, candidates and party officials may not serve on the commission.

The commission has the authority to launch investigations and issue sanctions without outside approval or legislative interference. Anyone with evidence may file a complaint. The commission also may act on its own initiative. While the commission does not have guaranteed funding at this time, the legislature is now reviewing potential independent funding sources.

Only complaints that result in a public sanction are made public.