

Annual Report

2021-2022

ENCOURAGING A CULTURE OF INTEGRITY



Office of the
**Integrity
Commissioner
of Ontario**

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

Office of the Integrity Commissioner
The Honourable J. David Wake, Commissioner

Bureau du commissaire à l'intégrité
L'Honorable J. David Wake, Commissaire

June 2022

The Honourable Ted Arnott
Speaker of the Legislative Assembly of Ontario

Dear Mr. Speaker,

It is an honour to present the Annual Report of the Office of the Integrity Commissioner for the period April 1, 2021, to March 31, 2022.

Sincerely,

The Honourable J. David Wake
Integrity Commissioner

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YEAR IN REVIEW

277 MPP INQUIRIES

6 LOBBYING INVESTIGATIONS
CONCLUDED

18 DISCLOSURES OF
WRONGDOING SUBMITTED

4 DISCLOSURES OF WRONGDOING
INVESTIGATED AND CONCLUDED

4 AGENCIES RELEASED
FROM EXPENSES REVIEW

150 MINISTERS'
STAFF INQUIRIES

2,363 EXPENSE
CLAIMS REVIEWED

3,401 ACTIVE LOBBYISTS

65 ADVISORY OPINIONS
TO LOBBYISTS

165 PUBLIC SECTOR ETHICS
MATTERS ADDRESSED

44 OUTREACH, TRAINING
AND SPEAKING EVENTS

3 AGENCIES ADDED TO
EXPENSES REVIEW



COMMISSIONER'S MESSAGE

The Honourable J. David Wake
Integrity Commissioner

This is my seventh annual report as Integrity Commissioner. This is also the third annual report in which I have had to make reference to the COVID-19 pandemic, which was still with us at the end of the fiscal year. In my message last year, I dealt extensively with matters related to the pandemic and how the Office's operations had been affected. I am pleased that my staff's ability to adapt to pandemic conditions allowed us to continue to provide full services to stakeholders in all seven of our mandates during the past year.

The full mandate reports follow this message, but I will briefly highlight each of the mandates and, as I did with Lobbyists Registration last year, I will feature one mandate for more thorough comment.

This year I want to focus on Members' Integrity, our foundational mandate. I do this, in part, because it is an election year and we have spent considerable time preparing for it, but also because of a surge in complaints from members against other members alleging breaches of the *Members' Integrity Act, 1994* (MIA) or Ontario parliamentary convention. As a result, I have had to issue an increased number of reports relating to these complaints and make recommendations with respect to them. Finally, I want to say a word about MPP compensation and the role this Office has played on this subject.

MEMBERS' INTEGRITY

► SECTION 31 REPORTS

Under section 30(1) of the MIA, a member of the Legislative Assembly of Ontario who has reasonable and probable grounds to believe another member has contravened the Act or Ontario parliamentary convention, may request that I, as Integrity Commissioner, give an opinion as to the matter.

Upon receiving such a request, I may conduct an inquiry under section 31 of the MIA and report my opinion to the Speaker of the Assembly, who must cause the opinion to be laid before the Assembly. Thus, the report is a public document. If I find that the member has contravened the Act or parliamentary convention, I must recommend one of the following: that no penalty be imposed; that the member be reprimanded or suspended; or, that the member's seat be declared vacant.

Since I became Integrity Commissioner in 2016, I have issued 21 reports through March 31, 2022, or three per year on average, with no reports issued in 2017–2018. Considering this, in the past fiscal year, the activity under sections 30 and 31 has been extraordinary. I have issued seven reports, which are summarized in the Members' Integrity section of this report. At year end, three more reports were waiting to be completed. They were required to be issued by May 4, 2022, the date set for the election writs to be issued. Many of these reports dealt with the parliamentary convention prohibiting the use of legislative or constituency office resources for partisan purposes, particularly by members' staff. In fact, I have received a request for a section 30(1) opinion on this same issue seven times during the 42nd Parliament.

► TRAINING SESSIONS

The issue concerning use of legislative and constituency office resources in partisan activities came up with such frequency in my reports that it led me to recommend that each political party's caucus services branch develop a detailed training program for MPP staff concerning this and other parliamentary conventions. After the election, there will be a significant number of new members and their staff who will be coming to Queen's Park for the first time. It is important for them to become familiar with the parliamentary conventions that have an impact on their work. The training may also help to reduce the number of section 30 requests in the next parliament. I have indicated that my Office will continue to be available to assist with any training programs on this topic.

► ELECTION READINESS PROJECT

During the past year, my Office has embarked on an Election Readiness Project, for which staff have worked to anticipate issues leading up to and following the June 2, 2022, provincial election. As part of this project, the Office has taken many actions including the following:

- Sending emails to all MPPs regarding constituency office operations during the writ period;
- Creating new and revising resources for lobbyists on our website - Guidance for Lobbyists on Political Activity and Guidance for Lobbyists During and After an Election;

- Revising our web resource on post-employment obligations for ministers' staff; and,
- Sending an email to public body Ethics Executives directing them to the Office's resources on the political activity restrictions for public servants.

► MPP COMPENSATION

Although the Integrity Commissioner no longer has a role to play on the subject of MPP compensation, that was not always the case. A bit of history may help to understand the current situation, where members' salaries have been effectively frozen for the last 14 years.

In 2001, the Integrity Commissioner was given the role of determining the salary of MPPs, which had been stagnant at \$78,000 since 1995. The Commissioner in 2001, the Honourable Gregory Evans, concluded that the salary freeze could no longer be justified. He recommended incremental catch-up adjustments with annual increases geared to the Ontario Industrial Average Wage Index. His successor, the Honourable Coulter Osborne, recommended continuing the indexing, pointing out that it was not a salary increase but simply a recognition of the effects of inflation on purchasing power. In his final report on the subject on December 7, 2006, Commissioner Osborne acknowledged that salaries continued to lag considerably. He offered the opinion that it would make sense to link salaries to those of federal MPs. This was the most relevant group for comparison, since for the most part, federal and provincial members in Ontario had represented the same ridings and constituents in their respective jurisdictions since

1999. The government immediately implemented this suggestion and chose 75% of an MP's salary as the salary for an MPP. This brought the salary of an MPP to \$116,550 on April 1, 2008, after the federal indexation was taken into account. The role of the Integrity Commissioner was no longer required under this new system that Commissioner Osborne had effectively recommended.

Following the 2008 increase, a salary freeze was then imposed and has continued for the last 14 years. Furthermore, in 2014, lifting the freeze was made contingent upon balancing the budget, which the government was planning to achieve in 2017. However, this did not happen. Then in 2020, COVID-19 struck, effectively precluding a balanced budget for the foreseeable future. Had the freeze not been imposed, MPP salaries would have risen by now to \$139,350, which is 75% of an MP's current salary.

During my meetings with MPPs to review their financial disclosure, as required by the MIA, some MPPs mention their concern over the continuing static nature of their income. Continuing to tie the lifting of the freeze to achieving a balanced budget is problematic for all MPPs. After the next election, I respectfully suggest that the government consider lifting the freeze or re-establishing an independent arm's-length process to review MPP salaries, similar to the one my Office was involved in from 2001 to 2007.

MINISTERS' STAFF ETHICAL CONDUCT

As reported last year I continue to work with the Premier's Office and the Secretary of the Cabinet to establish a formalized onboard training process for all ministers' staff on the Conflict of Interest Rules and political activity restrictions that apply to them. Through the Premier's Office, my staff and I have held remote sessions with newly hired ministers' staff from all offices to review their ethical obligations.

PUBLIC SECTOR ETHICS

This mandate resulted from the merger three years ago with the Office of the Conflict of Interest Commissioner.

I continue to provide Ethics Executives in public bodies with advice, and in some cases, the Ethics Executives have asked me to "step in their shoes" and provide determinations on possible conflicts involving appointees and employees of their organization.

Additionally, I continue to provide conflict of interest advice to the Premier's Office concerning prospective appointees to public bodies.

I participated in two successful online orientation sessions in June and November 2021 that my staff presented to a total of 73 senior staff of public bodies, including 28 Ethics Executives.

I am grateful to Deputy Commissioner Cathryn Motherwell, who has taken the lead on this mandate on top of her responsibilities for the operational requirements of the Office. She has been of immeasurable assistance to me and the Office.

EXPENSES REVIEW

The two Expenses Review mandates continued to be affected by the pandemic, primarily because of the ongoing reduction in travel expenses by those public office holders and staff who are subject to review. The same situation holds true with the agencies subject to review.

Prior to the pandemic, I expressed a desire to see an increase in the number of public bodies whose expenses the Office has reviewed and who have demonstrated sufficient compliance that they could be released from further review and replaced by other agencies. The number of public bodies that has been subject to an expenses review has only increased incrementally each year. We were on the verge of making progress in this area, but the reduced sample size of expenses due to the pandemic has hampered our efforts. I hope that as more travel activity takes place in the coming year, we will be in a position to review more agencies.

DISCLOSURE OF WRONGDOING

During the pandemic, the number of disclosures and contacts from public servants declined. This is likely due, in part, to the number of Ontario public servants who are working remotely. Nevertheless, four disclosure cases had allegations that were substantiated in the past year. One of these found gross mismanagement at the institutional level. I was satisfied that the deputy minister to whom I referred the disclosure for investigation did so thoroughly and set a course of action to correct the matter. The response of this Ethics Executive was entirely consistent with the approach taken by all Ethics Executives to whom I have referred disclosures.

They have treated the disclosures seriously and cooperated completely with my Office. The result has often been a correction or change to policy and procedures bringing about an improved and more effective public service.

LOBBYISTS REGISTRATION

The number of lobbyists registered has approximately doubled since I became the Lobbyist Registrar in 2016.

This is an election year, so I have taken several measures to ensure that the lobbyist community is aware of the impact a lobbyist's political activity can have on their ability subsequently to lobby a successful candidate for whom they campaigned. I have spoken to lobby groups, provided advisory opinions and presented a program on political activity with the lobbyist registrars for the City of Ottawa and the City of Toronto (since this is also a municipal election year).

Last year I devoted a significant portion of my message to the Lobbyists Registration mandate. I did so because I anticipated that a legislative review, as required by the *Lobbyists Registration Act, 1998* (LRA), would take place this past year. Unfortunately, this did not come to pass. A committee was struck for the purpose of the review, but there was insufficient time for it to begin — let alone complete — its work before the election. I trust the review will be renewed this year. With the growing number of persons engaged in lobbying, it is important that the existing weaknesses in the LRA be addressed and corrected so that we can have a transparent and effective lobbying regime.

NOTABLE OUTREACH ACTIVITIES

I participated in several speaking engagements this year. One highlight occurred on February 10, 2022, when I was invited to appear before the House of Commons Standing Committee on Procedure and House Affairs. The meeting concerned the review of the Conflict of Interest Code for Members of the House of Commons. I was pleased to provide MPs with an opening statement about my role and the treatment of conflict of interest issues under the MIA and to answer questions about the Ontario experience under the MIA on such topics as gifts, including sponsored travel, letters of support, definitions of a member's family or friends for conflict of interest purposes and the ability of members to work outside of their parliamentary duties. Although many similarities exist between the federal Code and the MIA, there are also several key differences. Appearances such as this one before the Standing Committee are valuable exercises in learning about the comparative treatments of conflict of interest matters affecting parliamentarians, whether federal or provincial. Ideas that can be imported from one jurisdiction to another are born from these efforts.

I was pleased that my Office, together with the Institute of Public Administration of Canada and federal and municipal partners, were able to present the third Public Sector Ethics Conference in May 2021. Due to the pandemic, the conference was presented online. It was a success despite some online limitations for conferences of this nature, but travel and accommodation costs for many participants were reduced compared to previous in-person conferences. It remains to be determined what the most effective way of delivering this conference will be in the future.

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LOOKING FORWARD

In last year's message, I stated that one of the challenges the Office would face after the pandemic subsides will be to determine what the office will look like when people return after working remotely for much of the preceding year. I had anticipated that this challenge would have been addressed in the year covered by this report. Unfortunately, the pandemic did not subside; it continued with a series of waves, resulting in ongoing remote work for most of last year. Some tentative plans to return to the Office were made, but they had to be revised as the health crisis persisted. The challenge I identified last year remains the challenge for the coming year. Fortunately, Office staff are talented and professional and they have succeeded in providing full service to our stakeholders in all mandates even when they had to do so while working remotely for much of the time. I remain confident that they will adapt successfully to a gradual return to the office subject to accommodations where necessary.

As I mentioned, I received a remarkable number of section 30 requests this year and conducted more inquiries than in past years. I would be remiss if I did not acknowledge the contribution of the Office's General Counsel, Stephan Luciw, and Counsel Genevieve Currie who, together with the investigative team, prepared investigation plans, obtained and reviewed extensive documentation, conducted interviews and assisted me with the preparation of the reports filed with the Speaker and laid before the Assembly. The publication of these reports involved many staff members who contributed not only by proofreading them, but also by preparing press releases announcing their outcomes, arranging for translation of the press releases and distributing copies of the reports to the persons required to receive them according to the MIA. A by-product of going through the exercise of preparing and releasing so many reports lately has been that we are — as one staff member put it to me recently — getting rather good at it. I wish to thank everyone who was involved in this process for their contribution to the timely delivery of these reports.



Since this is an election year, I anticipate meeting many new members and assuring them that my Office is available to assist them to navigate the shoals of the MIA and parliamentary conventions. Many of my annual meetings with members, as required by the MIA, have had to be done remotely due to pandemic restrictions. Although these remote meetings have worked well enough, I prefer in-person meetings, especially with new members. After the last election, the number of queries from members seeking advice spiked to 533 in the following year, in part because there were so many new members who came to Queen's Park in 2018. My Office and I are prepared for the anticipated sharp increase in the number of queries following the election this year.

Finally, as Lobbyist Registrar, I reiterate how important it is for members in the coming year to follow through on the statutory review of the LRA. Deficiencies need to be corrected and the Act needs to be made clearer for lobbyists and the public to understand it. Lobbying can be a valuable and important part of the democratic process. Measures that make lobbying activity easier to identify and more transparent can only foster greater trust in that activity. My Office and I remain available to assist the legislative committee responsible for reviewing the LRA.



OUTREACH

This year the Office held or participated in 44 outreach, training and speaking events. Mandate-specific training activities are described in the relevant sections of this report.

Pandemic-related health considerations continued to affect how outreach activities, training sessions and appearances at conferences were organized and carried out, with most events taking place remotely.

The Office responded to 31 media inquiries.

The Integrity Commissioner presented to the following groups:

- Standing Committee on Procedure and House Affairs of the House of Commons of Canada
- The Ontario Chapter of the Financial Management Institute of Canada
- Interns from the 2021–2022 Ontario Legislature Internship Programme
- The Ontario Chapter of the Public Affairs Association of Canada



The Commissioner addressed students studying public policy and government relations in various ethics courses at Seneca@York, Carleton University, Queen's University and York University.

The third Public Sector Ethics Conference was held in May 2021, having been postponed because of the pandemic in the previous year. Working with the Institute of Public Administration of Canada and federal and municipal partners, the Office was pleased to present an innovative two-day online event that featured expert speakers and panellists. Topics included ways to promote a culture of ethics, the psychology of acting unethically, municipal integrity issues and whistleblowing.

The Commissioner and staff also participated in the annual meetings of the following Canadian jurisdictional networks, which were held virtually:

- Canadian Conflict of Interest Network
- Lobbyists Registrars and Commissioners Network
- Public Interest Disclosure Conference

As a member of the *Réseau francophone d'éthique et de déontologie parlementaires*, the Commissioner and staff attended the organization's annual general meeting in November 2021. This network promotes exchange and dialogue between French-speaking parliaments and entities interested in ethics rules and frameworks for elected officials.

Office staff attended the 2021 Council on Governmental Ethics Laws (COGEL) Conference, which was held online. The Deputy Commissioner continues to serve on the COGEL program committee, which brings together public sector ethics organizations from across North America and beyond to share updates on their jurisdictions and to discuss emerging trends and challenges.

MEMBERS' INTEGRITY

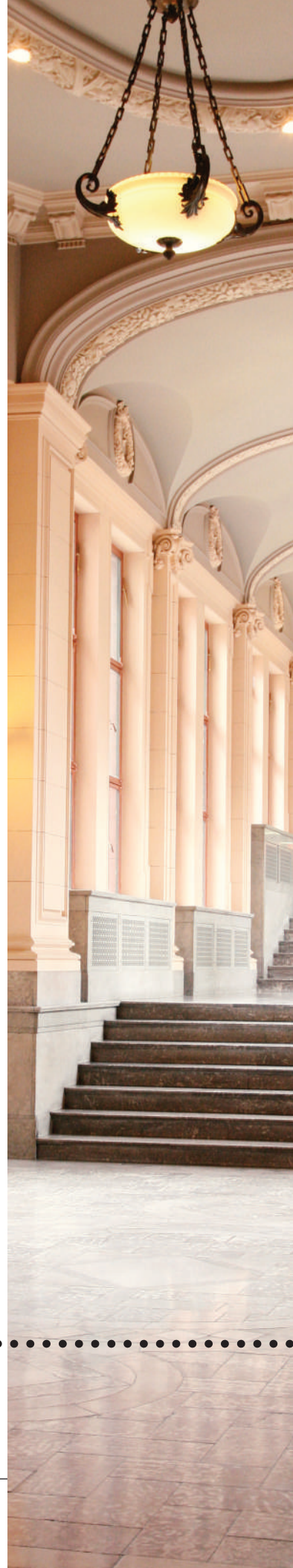
YEAR IN REVIEW

The Integrity Commissioner responded to 277 requests for advice from MPPs about their obligations under the *Members' Integrity Act, 1994*. This is a slight increase from the 265 inquiries from MPPs received in the previous year. Both years had a below-average number of inquiries compared to the previous three years, primarily due to the significantly lower number of inquiries about the appropriateness of accepting a gift. With MPPs attending fewer in-person events during the pandemic, there have been fewer instances of gifts being offered.

Inquiries that fall into the "letters of support" category were the most popular for the second year running. The Office has provided a general guidance on letters of support for MPPs and their staff on its website, which the Commissioner often references in the written advice he provides to specific inquiries.

What We Do

- Provide advice to MPPs on their ethical obligations
- Meet annually with each MPP and oversee their annual private and public financial disclosure statements
- Conduct inquiries into alleged breaches of the *Members' Integrity Act, 1994* when requested by one MPP about another



277**MPP INQUIRIES****Types of Inquiries**

LETTERS OF SUPPORT	73
ADVOCACY	48
GIFTS	28
CONFLICT OF INTEREST	27
CHARITABLE SUPPORT	23
POLITICAL ACTIVITY	13
WRIT PERIOD ACTIVITY	12
OTHER	53

MPP Financial Disclosures

The required annual financial disclosure process was carried out in the fall, with 123 sitting MPPs submitting confidential disclosures of their personal finances to the Office. As in past years, staff worked closely with the party caucuses and individual MPPs in completing this important obligation of the Act. All submissions are carefully reviewed and analyzed against the requirements of the Act and within the context of each MPP's responsibilities in the legislature. Depending on the member's preference and the health regulations or recommended protocols in place at the time, the Commissioner met with each MPP either in person or by video call.

The public financial statements were filed with the Clerk of the Legislative Assembly and published on the Office website on February 8, 2022. The



public statements are a redacted version of the private financial declarations. They provide a summary of each MPP's sources of income and their assets (as required by the Act), liabilities and any permissible gifts received with a value greater than \$200. The Commissioner also ensures that cabinet ministers have appropriate blind trusts of their assets if required under the Act. As of September 1, 2021, six ministers had trusts in place.

As a provincial election will take place in June 2022, the annual disclosure process will begin earlier than in other years. The Act requires that members submit their financial disclosure within 60 days of being elected or re-elected. The disclosure must include the financial information from the 12 months before the date of the election and the 12 months after the election.

New Resources

In preparation for the provincial election, Office staff reviewed existing resources and developed new materials to help MPPs and their own staff better understand their obligations under the Act. This included adding sample inquiries to the guidance for letters of support, providing guidance on the use of social media and creating a resource for cabinet ministers. All new and revised resources are available on the Office's redesigned website.

Training

The Office continued to offer training to constituency office staff upon request this year. Additionally, in November 2021, the Commissioner was invited by the Progressive Conservative caucus to present to more than 100 constituency staff. The virtual training includes ethics scenarios to highlight how staff can assist with their members' obligations under the Act.

Meeting With Other Jurisdictions

The annual Canadian Conflict of Interest Network meeting was held by video conference in September 2021, and a short mid-year meeting was held in late March 2022. While the Office looks forward to being able to meet with its federal and provincial counterparts in person, connecting through video conference allowed network members to share updates on the activities of their respective jurisdictions and discuss emerging issues related to the ethics rules for elected officials.

COMMISSIONER'S REPORTS UNDER SECTION 31 OF THE ACT

This year the Commissioner issued seven reports under section 31 of the Act. They are summarized below.

Use of Government Resources for Partisan Activity

Re: Stan Cho, MPP for Willowdale

The Commissioner received a request for an opinion from Stephen Blais, MPP for Orléans, on whether Stan Cho, MPP for Willowdale, breached Ontario parliamentary convention by participating in three partisan meetings held in February 2021 from his Ministry of Finance office, and by advertising a partisan budget consultation hosted in his capacity as Parliamentary Assistant to the Minister of Finance.

In his report published on September 14, 2021, the Commissioner found that Mr. Cho breached parliamentary convention by using his Ministry of Finance office to participate remotely in partisan meetings. Mr. Cho also failed to provide adequate supervision, direction and training to his staff to ensure that they did not participate in partisan activities while using legislative resources, including time.

The Commissioner recommended that no penalty be imposed in this case because Mr. Cho was unaware of the parliamentary convention involved in this matter and fully cooperated in the inquiry, resulting in a keener sense of the responsibilities he has in relation to the allocation of his staff's resources.

In the report, the Commissioner made three recommendations: 1) that the staff of all MPPs be trained on the ethics rules in the *Members' Integrity Act, 1994* and on the parliamentary conventions related to the duties they carry out for their respective members; 2) that ministers and parliamentary

assistants be aware of the bright line between the work done by their ministerial staff and that of their Queen's Park and constituency staff; and 3) that ethics rules for Queen's Park and constituency staff be implemented and made consistent with the rules for ministers' staff.

Use of Legislative Resources for Partisan Purposes

Re: Catherine Fife, MPP for Waterloo

The Commissioner received a request for an opinion from Dave Smith, MPP for Peterborough–Kawartha, on whether Catherine Fife, MPP for Waterloo, breached Ontario parliamentary convention by sending an email in February 2021 seeking feedback on the upcoming provincial budget. The email was sent from Ms. Fife's legislative account and linked to a partisan web page.

In his report published on September 14, 2021, the Commissioner found that Ms. Fife breached parliamentary convention with respect to the sending of the email because it resulted in legislative resources being used for partisan activities.

The Commissioner recommended that no penalty be imposed in this case because the breach was inadvertent and Ms. Fife acted promptly to address the issue as soon as it came to her attention. The Commissioner included a reminder in the report that all MPPs exercise appropriate caution and due diligence to ensure they and their staff, or others who provide services to MPPs, meet their responsibilities to respect parliamentary convention.

Use of Constituency Resources for Partisan Purposes

**Re: Vijay Thanigasalam, MPP
for Scarborough–Rouge Park**

The Commissioner received a request for an opinion from Taras Natyshak, MPP for Essex, on whether Vijay Thanigasalam, MPP for Scarborough–Rouge Park, breached Ontario parliamentary convention by using constituency resources for partisan purposes. Mr. Natyshak alleged that an electoral candidate for the Progressive Conservative Party of Ontario was introduced and given an opportunity to speak at a virtual town hall about COVID-19 vaccines that was organized by Mr. Thanigasalam's constituency office.

In his report published on December 21, 2021, the Commissioner found that Mr. Thanigasalam breached the Ontario parliamentary convention of not using constituency resources for partisan activities. Mr. Thanigasalam's constituency staff introduced a partisan aspect to the virtual town hall event and thus were engaged, to some extent, in partisan activities. Additionally, Mr. Thanigasalam failed to supervise and train his staff appropriately to ensure that the partisan aspect of the town hall event was avoided.

The Commissioner recommended that no penalty be imposed in this case because Mr. Thanigasalam arranged for his staff to have training concerning parliamentary convention, which should prevent any similar breaches in future.

In the report, the Commissioner recommended that each political party's caucus services branch develop a detailed training program for MPP staff so that they understand their roles and the importance of not using legislative and constituency resources for partisan purposes.

Conflict of Interest – Participating in a Decision

Re: The Honourable Doug Ford, MPP for Etobicoke North, the Honourable Caroline Mulroney, MPP for York–Simcoe and the Honourable Stan Cho, MPP for Willowdale

The Commissioner received a request for an opinion from Taras Natyshak, MPP for Essex, on whether Premier Ford, Minister Mulroney and Associate Minister Stan Cho each breached different sections of the Act with respect to decision-making related to the Bradford Bypass. Given the different statutory and evidentiary basis for Mr. Natyshak's allegations, the Commissioner decided to issue two separate reports.

In the first report, which was published on December 9, 2021, the Commissioner determined there were insufficient grounds to conduct an inquiry regarding Premier Ford in this matter because there was no direct or credible evidence to support Mr. Natyshak's allegation of a breach of section 2 of the Act (conflict of interest).

Mr. Natyshak also alleged that Minister Mulroney had breached section 3 of the Act (use of insider information) and that Associate Minister Cho had breached section 4 (influence) of the Act. These allegations focused on one aspect of decision-making related to the Bradford Bypass; specifically, an alleged decision to alter the route of the proposed highway so that it would not have an impact on a golf course owned by Mr. Cho's father. After reviewing available and requested information, the Commissioner determined in a second report published on February 2, 2022, that there were insufficient grounds to conduct an inquiry regarding the two ministers. Information provided by the deputy minister of Transportation satisfied the Commissioner that Minister Mulroney, Associate Minister Cho and their staff had no involvement in directing the process that led to a proposed realignment of the bypass.

Conflict of Interest – Participating in a Decision

Re: Stephen Crawford, MPP for Oakville

The Commissioner received a request for an opinion from Stephen Blais, MPP for Orléans, on whether Stephen Crawford, MPP for Oakville, breached the conflict of interest provisions of the Act by holding investments in companies involved in long-term care and failing to recuse himself from decisions that would have a material impact on these companies, specifically decisions relating to the Ministry of Infrastructure's Long-Term Care Development Program while Mr. Crawford served as Parliamentary Assistant to the Minister of Infrastructure and by voting on Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act*, 2020.

In his report published on February 17, 2022, the Commissioner found that Mr. Crawford did not have any influence in the decision-making process related to the Long-Term Care Development Program. The Commissioner also found that Mr. Crawford was not in breach of the Act when he voted for Bill 218, because it was a law of general application and his private interest was not engaged by the Bill.

The Commissioner recommended that the *Members' Integrity Act*, 1994 be reviewed to consider whether the restriction on cabinet ministers from holding or trading in securities, futures or commodities be extended to members and parliamentary assistants who have significant assets and/or stock portfolios, unless placed in a blind trust.

Use of Constituency Resources for Partisan Purposes

Re: Jessica Bell, MPP for University–Rosedale

The Commissioner received a request from Mike Harris, MPP for Kitchener–Conestoga, on whether Jessica Bell, MPP for University–Rosedale,



breached Ontario parliamentary convention by using constituency resources for partisan purposes when she posted to her constituency website a flyer that included a political party logo and distributed a letter on her MPP letterhead that promoted a charitable gift card drive jointly organized with the local riding association.

In his report published on March 31, 2022, the Commissioner found that Ms. Bell breached parliamentary convention; however, he did not believe that a penalty was appropriate. Ms. Bell admitted the breach promptly and advised that she and her staff had attended refresher training, and the Commissioner was satisfied the contravention was inadvertent.

What is parliamentary convention?

Under the *Members' Integrity Act, 1994*, an MPP can request that the Integrity Commissioner provide an opinion on whether another MPP has breached any section of the Act or Ontario parliamentary convention. What does that mean?

Parliamentary convention is not defined in the Act. Over the history of the Office, Commissioners have established that parliamentary conventions consist of generally accepted rules or practices of members of the Ontario legislature.

Reports issued by Commissioners under the Act have outlined six categories of parliamentary conventions:

1. **Advocacy** – Ministers and parliamentary assistants are prohibited from appearing before or having communication on behalf of a private party with any agency, board or commission that falls under the minister's jurisdiction.
2. **Judicial interference** – MPPs are not permitted to interfere in judicial processes in any way. The prohibition includes not interfering with police activities, advocating to the judiciary and publicly commenting on matters before the judiciary.
3. **Interference with public service** – Ministers and their offices do not advocate directly to public servants from other ministries about constituent issues but must go through the responsible minister.
4. **Management of trust account** – Ministers granted permission to hold certain assets in trust accounts must do so in a manner that promotes public confidence.
5. **Assisting others in a manner that interferes with public duties** – MPPs must ensure that constituent representation and activities in which they normally engage are done in a manner that does not undermine the MPP's public duty.
6. **Using government resources for partisan purposes** – Government resources, including constituency offices, telephones, computers and the salaried time of staff, should be used to assist constituents and not for matters related to partisan politics.

Requests Under Section 30 of the Act

In addition to the requests that led to the reports issued under section 31, the Commissioner received three requests for opinions under section 30. These three matters remained under review at fiscal year-end:

- A request for an opinion received on September 29, 2021, from Ian Arthur, MPP for Kingston and the Islands, on whether Randy Hillier, MPP for Lanark–Frontenac–Kingston, breached Ontario parliamentary convention and section 3 of the Act by using constituents' personal information, obtained through his office's case work, for partisan purposes.
- A request for an opinion received on October 26, 2021, from Peggy Sattler, MPP for London West, on whether Randy Hillier, MPP for Lanark–Frontenac–Kingston, breached parliamentary convention when he made social media posts that contained the names and photos of individuals who had recently become seriously ill or passed away and included a claim that COVID-19 vaccines were involved in these cases.
- A request for an opinion received on February 2, 2022, from Mike Harris, MPP for Kitchener–Conestoga, on whether Andrea Horwath, MPP for Hamilton Centre, breached the parliamentary convention of using legislative resources to promote partisan activity when a staff member attended a partisan event from the Legislative Assembly of Ontario.

Once these inquiries are completed, their reports will be filed with the Speaker of the Legislative Assembly and made available on the Office website.

INQUIRIES

The following are samples of the inquiries received by the Commissioner this year. These summaries are published to help MPPs and their staff identify circumstances that could give rise to issues under the Act. The inquiries and the opinions are abbreviated, the identities of those involved are anonymized and gender has been randomized. The cases are provided to raise awareness. It is important to remember that each opinion is based on its own set of disclosed facts and should not be considered a substitute for calling or writing the Office.

▶ INQUIRIES FROM MINISTERS

Letter of Support

A minister asked if cabinet ministers are permitted to provide letters of support in their capacity as MPPs.

It was the Commissioner's opinion that there may be times when it is appropriate for ministers to provide a letter of support in their capacity as an MPP — for example, to recipients outside of the provincial government, such as a federal department or agency, or to organizations in the private sector.

However, the Commissioner further noted that a minister's advocacy efforts are restricted when it comes to matters that fall under the jurisdiction of the provincial government, particularly when the matter can be appealed to cabinet. A cabinet minister should not appear as an advocate or supporter about a decision to be made about any government program that follows an established process. Such conduct could give rise to an appearance of inappropriate influence.

Parliamentary convention also prohibits ministers from appearing as advocates or supporters of a decision to be made by a provincial agency, board or commission about a specific matter affecting an individual or organization. The convention has

evolved to ensure that members of the agencies, boards or commissions can carry out their duties free of influence and the appearance of influence by ministers. Cabinet ministers are often responsible for appointing people to make decisions on agencies, boards or commissions.

The minister was encouraged to seek case-specific advice if she had questions about providing a particular letter of support.

Investments

An MPP asked whether he could continue to hold his financial investments and investment property if he was appointed to cabinet.

Since the MPP's investment portfolio included shares, the Commissioner advised that he would be required to sell them or put the portfolio into a trust. The Commissioner advised that he could continue to hold the investment property; however, he could not acquire any additional investment properties after entering cabinet.

► SOCIAL MEDIA

Posting Job Listings

An MPP was asked to post job listings on his Facebook page on behalf of local businesses. Was this permissible?

The Commissioner advised that the MPP should not post the job listings on his Facebook page or through any other means on his social media accounts. While the MPP could post generally about community businesses seeking employees and could direct constituents to a central listing of job posts, the Commissioner noted that the member should not post specific job ads on behalf of businesses. The concern was that this could be seen as the MPP using his position to further the businesses' private interests improperly. The MPP was also cautioned that it may be perceived as though he was endorsing the businesses.

Partisan Content

An MPP asked whether she was permitted to tweet partisan content using her Twitter account. The account profile identified her as an MPP.

The Commissioner advised that the Act permits MPPs to post partisan messaging on social media provided that their constituency office websites do not contain links to the social media accounts with partisan messages. This is regardless of whether an MPP's social media accounts reference their MPP titles and activities.

► POLITICAL ACTIVITY

Request from Constituent

An MPP sought guidance regarding the handling of constituent inquiries that were partisan in nature.

While Ontario parliamentary convention has established that an MPP's constituency office is to be a partisan-free zone, the Commissioner noted that constituents may not be aware of this convention or distinguish between the constituency office, the riding association and/or the campaign office. As such, it was the Commissioner's opinion that it is permissible to redirect constituents to the appropriate forum provided that the MPP and the constituency office staff are not directly engaging with constituents on partisan issues.

Use of MPP Title

An MPP asked whether she could use her MPP title when canvassing for the upcoming election.

It was the Commissioner's opinion that there is nothing in the Act that prevents the MPP from using her MPP title if she were to start her election canvass in advance of the writ period. However, since MPPs cease to be MPPs once the election writs are issued, the Commissioner reminded the MPP that she could not use her title for any purpose during the writ period.



▶ LETTERS OF SUPPORT

Reference Letter for Former Staff

A minister was asked to provide a general employment reference letter for a former constituency office employee. Could the minister provide the letter?

As a general guideline, the Commissioner recommends that reference or support letters be provided only under the following conditions:

1. The MPP knows the individual involved.
2. The MPP maintains as much control over the letter as possible – for example, by addressing it to the intended recipient and not “To whom it may concern.”
3. The MPP uses appropriate letterhead.
4. The letter is as specific as possible to the matter at hand. It should directly discuss the individual, organization or cause and address the reason(s) for which the letter is being proffered.

In this case, it was the Commissioner’s opinion that the minister should not provide a general reference letter since it could be used for various purposes, which is contrary to the second and fourth guidelines. The Commissioner advised that if the minister wished to provide a reference letter for his former employee, he could do so if he wrote the letter for a specific purpose, addressed it to the intended recipient and produced it on MPP (not ministerial) letterhead. However, the Commissioner cautioned that if the recipient of the letter was a provincial government ministry, agency or a direct government stakeholder, the minister could seek case-specific advice to ensure that the letter did not conflict with his ministerial role.

Letter to International Organization

An MPP asked whether she could provide a letter supporting a local group’s application to an international organization. Was this permissible?

It was the Commissioner’s opinion that there was no issue with the MPP providing the support letter since the letter’s recipient was in the United States. The MPP was advised to follow the Commissioner’s guidelines for writing letters of support.

Letter to Another Government

A minister wished to write a letter on ministerial letterhead to a foreign affairs minister in Europe regarding a consulate matter. Was this permissible?

Since the content of the letter was unrelated to the minister’s cabinet portfolio, it was the Commissioner’s opinion that it would not be appropriate to use ministerial letterhead. To ensure that there was no suggestion of improper influence, the Commissioner recommended that MPP letterhead be used.



► CHARITABLE SUPPORT

Promoting Clothing Drive

An MPP was asked by a local charitable organization to promote a winter clothing drive and collect donations on the organization's behalf. Could the MPP participate?

The Commissioner advised the MPP not to take part in the clothing drive since members should avoid directly asking for donations. While members may choose to contribute personally to charitable drives or speak publicly about the good work of charitable organizations, soliciting donations or encouraging public participation can be seen as an improper use of their influence, contrary to section 4 of the Act.

In addition, the Commissioner advised that the constituency office should not be used to collect donations on behalf of charitable organizations since this would be outside the scope of the office's intended purpose and contrary to parliamentary convention.

Participating in Promotional Video

An MPP was asked to participate in a promotional video on behalf of a charitable organization. The MPP was to comment on the organization's importance to the community and was asked to appear wearing the organization's branded T-shirt, which had been sent as a gift. Could the MPP participate?

The Commissioner advised that the MPP could take part in the promotional campaign since he was not asked to fundraise in the video and his commentary would be confined to the community benefits of the organization. The Commissioner also advised that it was permissible for the MPP to accept the T-shirt since it was given for promotional purposes and was of nominal value.

► GIFTS

Invitation to Gala

An organization invited an MPP to its gala. A consultant lobbyist was registered to lobby the provincial government on the organization's behalf and the MPP was listed in the registration as a target of the lobbying activity. Could the invitation be accepted?

The Commissioner reviewed the gift provisions in section 6 of the Act and advised the MPP not to accept the invitation. Given that the offering organization was registered to lobby the MPP, it was the Commissioner's opinion that accepting the invitation would likely give rise to a reasonable presumption that it was extended to influence the MPP in the performance of her duties of office.

Gift for Attending Event

A minister provided greetings for a virtual charitable fundraising event. Event attendees received a gift box containing items valued at \$200. The minister was also sent a gift box. Could this be accepted?

It was the Commissioner's opinion that the minister could accept the gift since it is customary for MPPs

to accept a gift after delivering a speech. Further, all other virtual attendees received the gift box, which was an indicator that the minister was not specifically targeted. As the value of the gift did not exceed \$200, it did not need to be disclosed publicly.

► ADVOCACY

Waiving a Provincial Penalty

A constituent asked an MPP to advocate to ministry officials on his behalf to waive a financial penalty. Could the MPP assist with the request?

The Commissioner advised that the MPP or her staff could contact the ministry to inquire about any relevant policies or procedures in place. If there was a ministry process to appeal the imposed penalty, it was the Commissioner's advice that the MPP could assist the constituent with navigating this process. However, the Commissioner further noted that an MPP must not use her position as MPP to circumvent ministry policies or procedures, or create the appearance of doing so. An attempt to intervene contrary to ministry policy would be inappropriate under the Act.

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MINISTERS' STAFF ETHICAL CONDUCT

YEAR IN REVIEW

As their Ethics Executive, the Integrity Commissioner provides advice and direction to ministers' staff at all stages of their employment, including conflict of interest assessments when they join government, during their employment in ministers' offices and when they move on to other positions. Advice is provided under the *Public Service of Ontario Act, 2006* and the Conflict of Interest Rules found in Ontario Regulation 382/07 of the Act.

The Commissioner responded to 150 inquiries from the public servants who work in ministers' offices this year, a number that is slightly higher than the 132 inquiries handled last year. The increase was largely due to the high number of post-employment inquiries, which occur when public servants decide to leave their positions in ministers' offices. Former ministers' staff are subject to post-employment obligations and restrictions under the Conflict of Interest Rules.

What We Do

- Provide direction to ministers' staff to help them understand and follow the Conflict of Interest Rules
- Answer questions about a variety of topics under the *Public Service of Ontario Act, 2006* and the Conflict of Interest Rules, including gifts, political activity in the workplace, outside volunteer activity and employment, financial conflicts of interest and post-employment requirements
- Provide training to ministers' offices to assist staff in understanding their obligations





150

MINISTERS' STAFF INQUIRIES

Types of Inquiries

POST-EMPLOYMENT	82
OUTSIDE ACTIVITY	32
CONFLICT OF INTEREST	15
PRE-EMPLOYMENT	13
OTHER	8

Post-employment Inquiries

Ministers' staff are encouraged to arrange a meeting with the Office when they are considering new employment opportunities. This allows Office staff to gather information about the specific role of the minister's staff and the opportunity being considered. The Commissioner will review this information in order to advise the minister's staff of the post-employment obligations and provide any special direction necessary to avoid a conflict of interest and comply with the Rules. Ministers' staff should contact the Office when considering any new opportunity, not just a position that might involve lobbying or government relations. While considering a new opportunity, ministers' staff may need to be screened from certain files related to the opportunity to avoid the appearance of preferential treatment to the prospective employer.



The Conflict of Interest Rules

All Ontario public servants are subject to conflict of interest rules. The Conflict of Interest Rules for public servants who work or worked in a minister's office are found in Ontario Regulation 382/07 under the *Public Service of Ontario Act, 2006*.

1. **Benefiting self, spouse or children** – Ministers' staff should not use their position to benefit themselves or their spouse or children.
2. **Disclosing confidential information** – Ministers' staff should not disclose or use any confidential information without authorization.
3. **Accepting gifts** – Ministers' staff should not accept gifts from anyone who: 1) receives services from; 2) does business with; or 3) wants to do business with the Ontario government. It may be permissible to accept a gift of nominal value that is given as an expression of courtesy or hospitality; however, the best course of action is to obtain direction from the Integrity Commissioner when offered a gift. A resource on the rules about gifts for ministers' staff is available on the Office's website.
4. **Outside activity** – Ministers' staff should not engage in activities (including business, employment or volunteer) outside their public servant roles if doing so would influence or conflict with their duties as public servants.
5. **Preferential treatment** – Ministers' staff should not give preferential treatment to anyone in the course of their work and should take steps to avoid creating the appearance that such treatment is being given.
6. **Hiring or supervising family members** – Ministers' staff should not hire, supervise or enter into contracts with their spouse, children, parents or siblings.
7. **Participating in decisions** – Ministers' staff should disclose if they could benefit from a decision. If a minister's staff has a conflict of interest, they may not be permitted to participate in the decision-making process, including providing advice on the matter.

8. **Declaration of financial interests** – Some ministers' staff may have to disclose their financial interests to the Commissioner and may be prohibited from acquiring financial interests related to their duties as public servants.

Post-Employment Rules

1. **Seeking preferential treatment** – Former ministers' staff must not seek preferential treatment from current public servants.
2. **Disclosing confidential information** – Former ministers' staff are not allowed to disclose confidential information without authorization or use confidential information for personal benefit.
3. **Switching sides** – Former ministers' staff who advised on a proceeding, negotiation or other transaction cannot provide advice or otherwise assist other entities or individuals on that matter after they cease to be public servants.
4. **Lobbying and employment restrictions** – Former ministers' staff are restricted from lobbying the ministry in which they worked for 12 months after they cease to be public servants. They may also be restricted from accepting employment with certain entities.

This summary of the Rules is provided as a resource. For the authoritative text, refer to both the regulation and the Act. Ministers' staff who have a question about their obligations under the Rules should always contact the Office for fact-specific determinations and direction from the Commissioner.

Training and Outreach

Training and outreach are key components of the work in this mandate, providing the more than 400 ministers' staff employees with a solid grounding on the ethics rules and how they apply to their role as public servants. Online sessions were provided to specific ministers' offices as refresher training, and four sessions were held for newly hired public servants across all ministers' offices. In total, 183 ministers' staff took part in the training, compared with 75 in the previous year.

During each training session, the Commissioner and staff provided an overview of the Conflict of Interest Rules and presented relevant scenarios to generate discussion about the real-world application of the ethics rules for ministers' staff. With the 2021 federal election and the provincial and municipal elections being held in 2022, the Office included a specific focus on the political activity restrictions.

In preparation for campaign-related activity, Office staff reviewed and updated the ministers' staff resources on both political activity and post-employment. They are available on the Office's redesigned website. The Commissioner sent a reminder to the chiefs of staff in all ministers' offices about these resources, as well as a general reminder about the requirements under the Act.



INQUIRIES

The following inquiry samples are intended to help ministers' staff identify conflict of interest issues. The inquiries are abbreviated, the identities of those involved are anonymized and gender has been randomized. The Commissioner's determinations as Ethics Executive are provided to raise awareness and should not be considered a substitute for contacting the Office to obtain the Commissioner's direction on a particular matter.

► PRE-EMPLOYMENT

Former employment as a consultant lobbyist

Upon joining the minister's office, the minister's staff advised that her former employer, a government relations firm, was registered to lobby her minister's office. The minister's staff proactively asked for direction to ensure compliance with the Rules.

Under the Rules, ministers' staff have an obligation not to provide preferential treatment or the appearance of preferential treatment to any person or entity. The Commissioner directed that an ethical screen be put in place to separate the minister's staff from matters involving the government relations firm and the clients that she previously represented. The Commissioner advised that it was permissible for the staffer to work on files related to other clients of the firm, but meetings should be handled by other members of the minister's staff. The one exception to this was if the government needed to deal with certain clients, and in those cases, the minister's staff could meet with those clients alone, provided that employees from the government relations firm were not in attendance. A copy of the screen was provided to the Office.

► CONFLICT OF INTEREST

Securities held intersect with government work

A minister's staff requested direction regarding shares that he held in a company with operations that fell under his ministry.

Given that the value of the shares was not substantial, the Commissioner gave the minister's staff two options. First, there was the option of entering into a no buy, sell or trade agreement. This would allow the minister's staff to be involved with discussions regarding the company and to retain his shares. This agreement would last for the duration of his current employment or until the Commissioner provided authorization for some or all of the shares to be sold. The second option was to establish an ethical screen that would prevent the minister's staff from having any involvement with the company's matters that came before the minister's office. The minister's staff decided to implement a no buy, sell or trade agreement.





Attending an event held by a former client

A minister's staff had an ethical screen that prevented her from interacting with her previous employer, a government relations firm, and her former clients. She asked if she could attend an event hosted by a former client.

The Commissioner determined that the ethical screen prevented the minister's staff from attending the event. The Commissioner also reiterated that the purpose of the screen was to create a clear division between the minister's staff and her former employer and clients in order to prevent the exchange of information and communication.

Spouse's prospective public appointment

A minister's staff advised that his spouse was being considered for a public appointment to a public body that did not fall under his ministry but that had the potential to intersect with his government work. The minister's staff had no involvement with the public appointment process.

The Commissioner determined that an ethical screen was not required as the minister's staff was not involved in the appointment process. However,

if a matter involving the spouse's prospective appointment crossed his desk, the minister's staff was directed to recuse himself and seek further direction. In addition, if his spouse was appointed to the public body, and in the course of his government work a matter arose that directly affected his spouse or the public body in question, he was similarly directed to recuse himself and seek the Commissioner's direction. The Commissioner also reminded the minister's staff of his confidentiality obligation not to discuss his government work with his spouse.

► GIFTS

Accepting an invitation from a stakeholder

A minister's staff was invited by a ministry stakeholder to play a round of golf. Could she accept the invitation?

The Commissioner directed that she should decline the invitation, as accepting it would put her in contravention of the Rules, which start with a blanket prohibition on accepting any gifts from anyone dealing with the government. Exceptions can be made for gifts of nominal value that are given as an expression of courtesy or hospitality. In this case, the Commissioner determined that an exception did not apply.

Accepting a gift in diplomatic meeting

A minister's staff received a bottle of wine from a cultural office during a diplomatic gift exchange. The staffer asked if it was permissible to accept the gift.

The Commissioner determined that it was permissible for the staffer to accept the gift as it was of nominal value, given as an expression of courtesy or hospitality and reasonable in the circumstances.



► OUTSIDE ACTIVITY

Retaining a real estate licence

A minister's staff advised that he needed to be signed with a real estate brokerage firm in order to retain his real estate licence. He did not plan to actively work as a realtor while employed in the minister's office, and the firm did not have any dealings with his ministry.

The Commissioner determined that the Rules did not prevent the minister's staff from retaining his real estate licence, but he had to first inform his minister and obtain her approval. If the minister's staff considered becoming active as a realtor during his employment with the Crown, the Commissioner advised that he should seek further direction.

Volunteering on federal and provincial riding associations

A minister's staff wished to sit as a volunteer board member on the provincial and federal riding associations. Was this permissible?

The Commissioner determined that the Act did not prevent the minister's staff from sitting as a volunteer

board member on either riding association, provided that she followed these directions:

1. Seek her minister's approval;
2. Do not identify herself as a minister's staff while volunteering;
3. Recuse herself from any discussions that arise in the course of her volunteer work that could conflict with her work with the Crown; and
4. Do not use any government resources, including time, for her volunteer activities.

The Commissioner also reminded the minister's staff to be mindful of the distinction between her role as a board member for the riding associations and her role as a member of a minister's staff. While the Act does not completely prohibit ministers' staff from engaging in political activity, their political activity when acting as a minister's staff should be limited to supporting their minister in his or her power, duty or function.



► POST-EMPLOYMENT

Accepting employment with a government stakeholder

A minister's staff was offered employment by a government stakeholder. He had worked with this stakeholder on government files during his last 12 months of employment; however, it was confirmed that he did not possess any confidential information that could harm the Crown or give an unfair advantage if disclosed. Could he accept the job?

Under section 19 of the Rules, the Commissioner can restrict ministers' staff from accepting future employment. The analysis conducted consists of a two-part test. The Commissioner first examines if the minister's staff had substantial involvement with the prospective employer in the last 12 months of employment with the Crown. If that part of the test is met, the Commissioner then determines if the minister's staff had access to confidential information that, if disclosed to the prospective employer, could result in harm to the Crown or could give that prospective employer an unfair advantage. Since the second part of the two-part test did not apply here, the minister's staff was able to accept the job.

Applying for a job at a related agency

A minister's staff applied for a position with a government agency. However, in her government position, she had a significant role in the creation, development and implementation of the agency. Was it permissible for the staffer to pursue this opportunity?

It was the Commissioner's recommendation that the minister's staff withdraw her application as she had an extensive role in developing the entity. The Commissioner had concerns under three sections of the Rules that related to not using her employment with the Crown to benefit herself, avoiding the appearance that preferential treatment is being given, and not participating in decision-making by the Crown with respect to a matter that she is able to influence in the course of her duties if she could benefit from the decision.

PUBLIC SECTOR ETHICS

YEAR IN REVIEW

In response to inquiries made by Ethics Executives and their staff, the Integrity Commissioner provided advice or direction on the application of the Conflict of Interest Rules found in Ontario Regulation 381/07 under the *Public Service of Ontario Act, 2006*, as well as the political activity restrictions in that Act. The Office addressed 165 matters this year, compared with 198 matters handled in the previous year.

Ethics Executives in public bodies sought advice on fulfilling their obligations within their organizations and asked for determinations from the Commissioner on their personal compliance with the requirements of the Act. Because of the 2021 federal election and the upcoming 2022 provincial and municipal elections, the number of questions about political activity increased this year.



What We Do

- Provide advice and determinations to Ethics Executives (chairs of public bodies and other designated individuals) on matters related to the Conflict of Interest Rules and the political activity restrictions in the *Public Service of Ontario Act, 2006*
- Provide post-service determinations to former appointees and employees of public bodies
- Review financial declarations submitted by public servants working on matters that involve the private sector
- Provide conflict of interest advice, upon request, to the Premier's Office regarding appointments to public bodies and other entities
- Approve new or revised conflict of interest rules for public bodies and ethics plans of administrative tribunals



165 MATTERS ADDRESSED UNDER THE ACT

Types of Inquiries

ADVICE*	40
DETERMINATIONS**	33
APPOINTMENT ADVICE	31
INFORMATION	55
RULES APPROVAL & ETHICS PLANS	6

*The Integrity Commissioner provides advice to Ethics Executives to assist them in making conflict of interest or political activity determinations for the employees or appointees in their public bodies or ministries.

**A determination made by the Commissioner is a formal direction to an Ethics Executive related to their own conflict of interest or political activity matter. Ethics Executives may also refer to the Commissioner matters about public servants in their public bodies or ministries, in order for the Commissioner to make the determinations.

► APPOINTMENT ADVICE

The Office continued to receive requests to provide advice to the Premier's Office on prospective appointments to public bodies. In these matters, the Commissioner assesses declared conflicts and provides advice on an individual's circumstances in the context of the proposed role with the public body. He does not address an individual's suitability for a particular role. The Commissioner proposes mitigation strategies in almost all circumstances. These strategies may include a recommendation that the appointee be recused from decisions related to certain matters, reminders of the need to keep their professional and public service roles separate and a briefing on the Rules related to not providing preferential treatment and maintaining confidentiality of Crown-related work.

► RULES APPROVAL

The Conflict of Interest Rules found in Ontario Regulation 381/07 of the Act apply to current ministry employees and to public servants employed in and appointed to public bodies. These rules are intended to be broad enough to cover most situations, but the Act allows public bodies to develop their own rules for the Commissioner's review and approval. To be approved, the rules submitted by a public body must, at a minimum, meet the ethical standard set by the regulation. This year, the Commissioner approved new or revised rules¹ for:

- Alcohol and Gaming Commission of Ontario
- Metrolinx
- Ontario Land Tribunal
- Workplace Safety and Insurance Board

Approved rules for public bodies are available on the Office website. The Commissioner also reviewed the ethics plans for two adjudicative tribunals.

► TRAINING AND OUTREACH

The Office held two online Ethics Executive orientation sessions for public body chairs and designated Ethics Executives, as well as the employees who support them, in June and November 2021. The sessions provided information about the Conflict of Interest Rules and political activity restrictions and explored how an Ethics Executive might interact with the Office. The training also explained the disclosure of wrongdoing framework and a public body's obligations under the Expenses Review mandate. Participants were presented with different hypothetical scenarios that were based on recent matters received by the Commissioner, and they were asked to discuss how they would apply the Act and the Rules to address the situations. A total of 73 public body appointees and employees attended the sessions, 28 of whom were Ethics Executives.

The Commissioner and staff provided five public body boards with presentations on the ethics framework, and the Commissioner also met with newly appointed deputy ministers, who are the Ethics Executives for their respective ministries.

As part of the preparation for the provincial election, the Commissioner sent a reminder to public body Ethics Executives about the political activity restrictions, along with links to resources available on the Office's redesigned website. It is noteworthy that this outreach resulted in several requests for case-specific advice and direction on political activity.

¹ Though approved and published this year, work on two sets of rules began in the previous year and were included in the statistics of the 2020–2021 annual report.

The Role of the Ethics Executive

Ethics Executives are designated individuals responsible for promoting ethical conduct within their organizations. Under the *Public Service of Ontario Act, 2006*, every Ontario public servant has an Ethics Executive who is responsible for providing advice or making a determination about the application of conflict of interest rules and political activity restrictions, as well as giving directions about how to minimize contraventions.

The responsibilities of Ethics Executives include:

- ensuring that public servants are familiar with the conflict of interest and political activity restrictions;
- providing advice to public servants on the application of the conflict of interest and political activity restrictions;
- making determinations on conflict of interest and political activity issues and providing directions where an actual or potential conflict of interest is found;
- making inquiries where public servants may have contravened a rule;
- authorizing requests to engage in certain political activities; and
- making determinations on the need to terminate employment or appointment if public servants are elected to municipal office.

The following list identifies the Ethics Executives for public servants:

Current/Former Public Servant	Ethics Executive
Ministry employee	Deputy Minister
Former ministry employee	Public Service Commission
Minister's staff member	Integrity Commissioner
Chair of a public body	Integrity Commissioner
Appointee to a public body	Chair of the public body
Public body employee	Chair of the public body or the person listed in Ontario Regulation 147/10
Deputy minister	Secretary of the Cabinet
Former deputy minister	Integrity Commissioner
Secretary of the Cabinet	Integrity Commissioner
Former Secretary of the Cabinet	Integrity Commissioner
Person listed in Ontario Regulation 147/10	Integrity Commissioner
Former public body employee or appointee	Integrity Commissioner

INQUIRIES

The following are examples of the advice and determinations the Commissioner provided to Ethics Executives of public bodies this year. These summaries are abbreviated, and the identities of those involved are anonymized and gender has been randomized. They are published to assist Ethics Executives and other public servants in consistently interpreting and applying the Conflict of Interest Rules and political activity restrictions found in the Act.

► PERSONAL ENGAGEMENT OF A SERVICE PROVIDER

A public body engaged the services of a vendor. An appointee requested a determination as to whether he can personally hire that same vendor.

The Rules require public servants not to use their employment by the Crown to directly or indirectly benefit them or give preferential treatment to any person when carrying out their duties to the Crown, and to take steps to avoid creating the appearance that such treatment is being given.

The public body had a longstanding professional relationship with the vendor, and as such, the Commissioner determined that there was a risk that the vendor would appear to receive preferential treatment from the appointee or, more broadly, from the public body. There was also the possibility of the perception that the appointee was receiving a benefit. The Commissioner determined that the appointee should not hire the vendor.

► OUTSIDE EMPLOYMENT

An employee of a public body asked her Ethics Executive for a determination on whether she could operate an outside business related to the work of the public body. The Ethics Executive referred the matter to the Commissioner.

After interviews with the employee as well as senior officials at the public body, the Commissioner determined that the employee could operate the business. He provided several requirements to assist the employee in complying with the Rules, including that she:

- Review the Rules and provide written confirmation of this review and written disclosure of any new potential conflict of interest to her Ethics Executive on an annual basis;
- Provide written confirmation to the public body not to undertake services that would compete with its business;
- Not hire any employees of the public body;
- Not use any confidential information she obtained in her role with the public body in the course of operating her business;
- Not use any of the public body's equipment or resources for the business; and,
- Inform her Ethics Executive if she hired any vendors that also did work for the public body so that the Ethics Executive could assess any potential conflict of interest.

The Ethics Executive was also directed to inform all public body employees that the Commissioner had made a determination in the matter and had provided directions to address potential conflict of interest concerns.

▶ ASSISTING AN OUTSIDE ORGANIZATION WITH GOVERNMENT CONTACTS

The Ethics Executive of a public body was active in an outside organization and wanted to help the organization find speakers for an upcoming event. He asked whether he could contact government officials with whom he interacted in his role with the public body.

The Commissioner determined that he should not contact government officials as it would be a contravention of the rule regarding preferential treatment. If he were to assist the organization, it could lead to the conclusion that he was providing preferential treatment because of the access created by his position on the public body.

The Commissioner recommended that the best approach was for another official at the organization to contact the officials directly through the established channels in each of the respective offices.

▶ PARTICIPATION IN A MUNICIPAL CAMPAIGN

A part-time appointee of an adjudicative tribunal asked if he could manage the election campaign of a municipal candidate.

Section 90 of the Act permits a specially restricted public servant to campaign on behalf of a candidate in a municipal election if authorization is granted from the Ethics Executive. Part-time appointees to tribunals are to seek this authorization from the Integrity Commissioner. Having considered the appointee's tribunal role and responsibilities, the Commissioner granted authorization to manage the campaign.

▶ DONATING TO A POLITICAL PARTY AND ATTENDING FUNDRAISERS

The chair of a public body was invited to attend a political fundraiser where a ticket to attend was more than \$500. By regulation, all appointees to that public body are specially restricted public servants under the Act.

The Commissioner reviewed the political activity rules listed in Part V of the Act. Section 88 covers prohibited activities for specially restricted public servants, and section 89 covers certain activities that are permitted only if the public servant does so on an approved unpaid leave of absence. Based on this, the Commissioner determined that donating to a political party is acceptable under the Act. He concluded that as a specially restricted public servant, the chair could purchase a ticket to the event (and thereby donate to the party); however, the chair could not attend the event because that is not one of the permitted activities listed in section 89.



EXPENSES REVIEW

YEAR IN REVIEW

As expected, the pandemic continued to affect the number of expense claims submitted to the Office for review. With fewer public servants travelling for work, the overall number of expense claims reviewed is slightly lower than the previous year as ministers' offices and agencies carefully weighed when in-person meetings were appropriate in accordance with health measures.

Office staff continued to receive claims electronically, which has made the submission process more efficient. They worked individually with their contacts in ministers' offices and the Opposition Leader's office, and with the agencies under review to explain the expenses rules and requirements and to seek more information about the claims they were reviewing.

What We Do

- Review the travel, meal and hospitality expenses of:
 - cabinet ministers, parliamentary assistants, Opposition leaders and their respective staff; and
 - senior executives, appointees and the top five employee expense claimants at agencies, boards and commissions
- Ensure that expenses comply with the Travel, Meal and Hospitality Expenses Directive and Allowable Expense Rules
- Determine whether repayment is required if an expense does not comply with the Directive or Rules

Statistics

MINISTER AND OPPOSITION LEADER EXPENSE CLAIMS REVIEWED	979
AGENCY EXPENSE CLAIMS REVIEWED	1,384
AGENCIES REVIEWED	22
AGENCIES RELEASED FROM REVIEW	4
AGENCIES ADDED TO REVIEW	3

Cabinet Ministers' and Opposition Leader's Expenses Review

This year the Office reviewed 979 expense claims from 148 ministers, parliamentary assistants, the Opposition Leader and their respective staff. The number of claims reviewed is higher than the 822 claims reviewed last year.

All expense claims examined were deemed to be compliant with the Allowable Expense Rules and passed review. This was reflected in the report that the Commissioner submits annually to the Speaker of the Legislative Assembly as required by the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*. When necessary, the Commissioner can name in the report any person who does not comply with an order to repay or a recommendation for other remedial action.

Office staff conducted 10 online training sessions with various ministers' offices to explain the expenses submission process and review the Allowable Expense Rules. Meeting with the office managers who process the expense claims is beneficial because it ensures that the submitted claims have the appropriate documentation, such as receipts and additional information required for the review.

Agency Expenses Review

The Office reviewed 1,384 expense claims from designated senior management employees, appointees and the top five employee expense claimants¹ of the 22 agencies, boards and commissions under review. This number of claims reviewed is lower than 1,642 last year.

The Commissioner may review the expenses of any public body listed in Ontario Regulation 146/10 under the *Public Service of Ontario Act, 2006*, as well as Ontario Power Generation and the Independent Electricity System Operator, which are also subject to review.

When an agency is found to be fully compliant with the Directive on a consistent basis, the Commissioner may release the agency from the requirement to submit expenses for review. This year the Commissioner released four agencies:

- Ontario French-language Educational Communications Authority (TFO)
- Ontario Tourism Marketing Partnership Corporation (Destination Ontario)
- Niagara Parks Commission
- St. Lawrence Parks Commission

Releasing these public bodies reinforces the effectiveness of the expenses review process and outreach efforts as agencies strive to attain full compliance.

The Commissioner selected the following agencies for review this year:

- Ontario Trillium Foundation
- Ontario Cannabis Store
- Nawiinginiima Forest Management Corporation

What documentation should be included with an expense claim?

When reviewing expense claims, Office staff regularly contact claimants for additional information about the expenses. The most common questions involve seeking context for an expense when information is missing in an expense report. For example, an expense report may contain a mileage claim but no explanation of what the trip was for or what the starting and end points of the trip were. In other instances, a hospitality claim for a meal will not include an explanation of how the expense met the criteria for extending hospitality.

To ensure documentation is complete, especially if the expense requires an exception from the Directive, claimants should include all the details of the expense. A memo or separate note attached to the claim will help provide the expense approver and the reviewer with all the necessary information. This is a best practice, regardless of whether one's expenses are reviewed by the Office or not, as it makes the approving and reviewing processes more efficient and leads to fewer questions being asked of the claimant.

These agencies received onboarding training from Office staff to become familiar with the expenses submission and review processes. Additionally, staff provided training about the expenses review requirements under the *Public Sector Expenses Review Act, 2009*, as well as information about the selection and submission process, at two orientation sessions held for public body Ethics Executives in June and November 2021.

The Commissioner has reviewed the expenses of 42 public bodies since the Act came into force in 2009.

¹ The top five employee expense claimants are those with the highest cumulative expenses in a six-month period, as compared with the expense claims submitted by all other employees of the organization.

INQUIRIES

The following are examples of questions the Office received from ministers' offices and agencies that sought advice and guidance to ensure compliance with the Travel, Meal and Hospitality Expenses Directive and Allowable Expense Rules. These inquiries are provided in order to raise awareness about allowable expenses. It is important to remember that each answer is based on its own set of disclosed facts and should not be considered a substitute for calling or writing the Office.

▶ MEALS

The Directive says a public servant can claim a \$45 meal per diem when they are travelling. Are there any limits on this?

There are several factors to consider when submitting a claim for a meal.

- Is the public servant entitled to claim all three meals? The individual must be travelling for the entire day; for example, to claim breakfast, they must have left home early in the morning.
- Was a meal purchased? The Directive and Rules state that a meal must have been purchased in order for it to be claimed. A public servant cannot skip lunch and still make a claim for that amount.
- Was a complimentary meal provided at a hotel or conference? If a meal was provided, then the public servant is not permitted to claim for an additional meal without reasonable justification.

▶ PREMIUM SEAT SELECTION AND OTHER COVID-19 ALLOWANCES

During the pandemic, public servants were often given permission to choose premium seats to allow for social distancing. Now that COVID-19 restrictions have been lifted, can premium seats still be claimed?

The Integrity Commissioner applied discretion on several types of expenses during the pandemic, including premium seat selection, to ensure that public servants could carry out their duties as safely as possible. With the lifting of public health restrictions, the Commissioner will return to reviewing all expenses at the same level as they were reviewed before the pandemic. The expectation will be:

- To choose the lowest airfare (i.e., standard or flex fares, not comfort or latitude fares)
- Standard seat selection

Some other examples of areas where the Commissioner will use pre-pandemic requirements as outlined in the Directive and Rules are:

- The use of a rental car if it is the more economical option; and,
- Renting compact cars instead of larger vehicles.



► BUSINESS CLASS RAIL TRAVEL

Business class rail travel between Ottawa and Toronto can be cheaper than airfare. Since this saves money, is it acceptable to book business class instead of regular rail fares?

This is not permitted. The Directive and Rules state that the traveller should choose the lowest available fare when purchasing a ticket. Even though taking business class rail is more economical than travelling by air, there are still more economical rail fares available. Business class rail travel is permitted only with prior approval and in limited circumstances, such as:

- The need to work with a team (three or more people);
- Reducing meal or accommodation expenses by travelling at a certain time;
- Accessibility requirements; and,
- Personal health and safety considerations.

► USE OF A TRAVEL CARD

Are public servants required to use a Travel Card if one is available, or can they use a personal credit card to pay for their work-related travel expenses.

As indicated in section 2.2 of the Directive ("Best Practices"), corporate travel cards are

to be used for authorized business travel and business-related expenses.

If a public servant is eligible to use the corporate travel card, it should be used wherever possible to pay for travel expenses.

Ministers and parliamentary assistants and their respective staff should use a corporate card for expenses incurred while carrying out official duties and functions wherever possible.

The use of a corporate card will allow the claimant to:

- Decline the collision damage waiver option when renting a vehicle, which mitigates costs;
- Book airfare and rail fare through a centrally billed booking system, so the balance is not directly billed to their card (note: some agencies may not have this feature);
- Ensure that credits and refunds are accounted for correctly for cancelled or changed airfares; and,
- Obtain a source document in the event of a missing receipt.

► USE OF PERSONAL VEHICLE

Can a public servant use their personal vehicle instead of renting a vehicle while on government business?

Yes, the Directive and Rules state that when driving is the most practical, economical way to travel, the following choices are available:

- Government vehicle;
- Rental vehicle; or,
- Personal vehicle, if more economical than a rental vehicle.

Claimants should use a personal vehicle only if it is the most economical practical mode of transportation. For longer trips, a fleet vehicle or car rental should be considered.

When using a personal vehicle, a claimant can be reimbursed only for the mileage driven at the appropriate rate per kilometre.

It is the driver's or owner's responsibility to ensure that the motor vehicle insurance includes coverage for business use of the vehicle.

Neither the Ontario government nor the Legislative Assembly are responsible for any deductibles and will not reimburse any insurance, physical damage or liability costs. Additional details are available in the Directive or Rules.



DISCLOSURE OF WRONGDOING

YEAR IN REVIEW

A significant number of Ontario Public Service employees continued to work remotely this year. The Office noted another decrease in the number of public servants making inquiries about the disclosure of wrongdoing process. There were 34 contacts from public servants in the past year, compared with 42 contacts the previous year. However, there was little change in the number of disclosures of wrongdoing filed by public servants, with 18 received this year compared with 19 received the previous year.

What We Do

- Receive disclosures from current and former public servants who believe that there has been wrongdoing at work
- Determine whether the Integrity Commissioner has jurisdiction over a disclosure of wrongdoing
- Refer disclosures to the appropriate senior official in the Ontario Public Service for investigation
- Review investigation reports to determine if the Commissioner is satisfied with how the matter was addressed
- Conduct investigations initiated by the Commissioner



Statistics

CONTACTS FROM PUBLIC SERVANTS	34
DISCLOSURES FROM PUBLIC SERVANTS	18
DISCLOSURES ACCEPTED AND REFERRED FOR INVESTIGATION	5
MATTERS INVESTIGATED AND CONCLUDED	4

A substantial increase in the number of inquiries and attempts to file a disclosure of wrongdoing came from members of the public. Under the *Public Service of Ontario Act, 2006*, only current and former public servants are able to make disclosures of wrongdoing. Whenever possible, the Office redirects members of the public to other entities that may be able to assist them with their concerns.

Office staff work confidentially with the public servants who file disclosures to understand their allegations in order to assess whether the Integrity Commissioner has jurisdiction under the Act to accept the disclosure. This process also helps the Office determine the basis for a potential investigation and to which senior official in the Ontario Public Service the matter should be referred.

Training

As in past years, the Office provided training on the disclosure of wrongdoing framework during its Ethics Executive orientation sessions, which were held in June and November 2021 by video conference. The goal of the training was to convey to Ethics Executives of public bodies and the employees who support them the importance of meaningfully addressing disclosures made by public servants and to view them as an opportunity to address potential issues within their organizations. The sessions included speaking generally about cases the Commissioner has handled in the past and how they were handled.

Additionally, when invited to speak to the boards of public bodies as well as new deputy ministers, the Commissioner took the opportunity to speak about disclosure of wrongdoing as part of the province's broader ethical framework under the Act.

Meeting With Other Jurisdictions

The annual Public Interest Disclosure Conference was held remotely in September 2021, with a shorter follow-up meeting taking place in January 2022. The federal and provincial counterparts that handle public interest disclosures shared updates on their respective activities and discussed particular legal and process issues that had arisen in their jurisdictions.

Two Ways to Make a Disclosure

Under the *Public Service of Ontario Act, 2006*, current and former public servants have two options when making a disclosure of wrongdoing.

One option is to make a disclosure to the Ethics Executive of the public servant's ministry or public body. In ministries, the Ethics Executive is the deputy minister. In public bodies, the Ethics Executive could be the executive head (e.g., the CEO or general manager) or the chair. When an Ethics Executive receives a disclosure from a public servant, they will follow the process outlined in the Disclosure of Wrongdoing Directive to assess, investigate and make findings with respect to the disclosure.

The second option available to public servants is to make the disclosure to the Integrity Commissioner. A public servant may choose to do this if they believe it would not be appropriate to make the disclosure to their Ethics Executive or they have already made a disclosure to the Ethics Executive but have concerns the matter is not being dealt with appropriately. The Commissioner will review the disclosure to determine if he has jurisdiction to receive it under the Act.

The Commissioner must decline jurisdiction in certain instances. He declines jurisdiction usually if there is a more appropriate way for an allegation to be addressed or if the allegation is already being addressed elsewhere. For

example, the Commissioner cannot accept jurisdiction over employment or labour relations matters that can be dealt with through a grievance procedure under a collective agreement or through a dispute resolution process under an act. The Commissioner must also decline jurisdiction over allegations that are being dealt with as a matter of law enforcement or that relate to a court or tribunal decision or a public policy decision.

If the Commissioner can accept jurisdiction over the disclosure of wrongdoing, he informs the public servant who made the disclosure that he is doing so. The Commissioner then refers the matter for investigation usually to the Ethics Executive in the ministry or public body concerned. The Ethics Executive must provide the Commissioner with the results of the investigation. The Commissioner then reviews these results to ensure that the matter has been addressed in an appropriate and meaningful way. If satisfied with the investigation, the Commissioner may make recommendations and monitor corrective action. Alternatively, the Commissioner may commence an independent investigation. If the Commissioner conducts an independent investigation, a report will be sent to a senior official within the Ontario government and the responsible minister.

Under the Act, anyone involved in the disclosure of wrongdoing framework is required to carry out their duties in a manner that protects the identity of the discloser. The Act also prohibits reprisals against anyone who has sought advice about or made a disclosure of wrongdoing.



DISCLOSURE ACTIVITY

	2020–2021	2021–2022
Total contacts from public servants	42	34
Requests for information	23	16
Disclosures of wrongdoing submitted	19	18
	2020–2021	2021–2022
Disclosures assessed for jurisdiction (including matters carried over from the previous fiscal year)	23 ¹	21 ²
Disclosures referred by the Commissioner to appropriate senior official for investigation	6	5
Matters not received as a disclosure of wrongdoing because the allegations could not possibly reveal a “wrongdoing” as that term is defined in the Act	4	3
Matters received as a disclosure of wrongdoing, but the circumstances were outside the Office’s jurisdiction	8	9
Files closed for a miscellaneous reason (e.g., it proceeded as an internal disclosure or there was insufficient information for the Office to pursue the matter)	3	3
Disclosures remaining under assessment at fiscal year-end	2	1

¹ This includes 19 disclosures received in 2020–2021, plus four matters remaining under review at year-end 2019–2020.

² This includes 18 disclosures received in 2021–2022, plus three matters remaining under review at year-end 2020–2021.



CASE SUMMARIES

The following are anonymized summaries of the disclosure of wrongdoing matters referred to the public service for investigation and concluded by the Office this year.

This year the Office closed four matters, all of which were referred for investigation. Wrongdoing was substantiated in all of the matters.

► ALLEGED MISMANAGEMENT AND CONFLICT OF INTEREST (REFERRAL)

A discloser alleged that a senior public servant engaged in gross mismanagement by improperly disclosing confidential information about a ministry employee to their colleague and asking that colleague to investigate whether the employee was engaging in outside employment while on a leave of absence. It was also alleged that a second senior public servant engaged in gross mismanagement by creating a toxic work environment and also breached the Conflict of Interest Rules by hiring and managing a close personal friend. The Commissioner referred the matter to the deputy minister, who found that the evidence relating to the gross mismanagement allegation against the first senior public servant was inconclusive. The allegations against the second senior public servant were substantiated. The Commissioner was satisfied with the investigation conducted and did not commence his own investigation but made recommendations to the deputy minister to take additional measures to address workplace conduct and that the second senior public servant receive conflict of interest training.

▶ **ALLEGED CONFLICT OF INTEREST IN HIRING (REFERRAL)**

A discloser alleged that a senior public servant in a ministry breached the Conflict of Interest Rules by improperly hiring a relative for a summer intern position, later hiring the same relative on a short-term contract and giving them an opportunity for advancement to a position for which they were unqualified. The Commissioner referred the matter to the deputy minister, who found that although the allegations regarding the hiring of the relative were substantiated, the allegation regarding the opportunity for advancement was not. The deputy minister indicated that corrective action would be taken on the first finding. The Commissioner was satisfied with the investigation and the proposed corrective action and closed the file.

▶ **ALLEGED MISMANAGEMENT AND CREATION OF A GRAVE DANGER (REFERRAL)**

A discloser alleged that a ministry employee engaged in gross mismanagement and created a grave danger by failing to ensure the appropriate planning, training and resources existed to support an approved protocol. The Commissioner referred the matter to the deputy minister for investigation, who found that the allegation specific to the ministry employee was unsubstantiated and that there was no evidence found to substantiate the allegation of grave danger. However, the investigation did reveal that the gross

mismanagement allegation was substantiated at an institutional level. The investigation found that the substantiated allegations reflected a historical lack of investment in staffing resources, to which the deputy minister suggested a course of action. The Commissioner was satisfied with the investigation conducted and with the suggested course of action but asked that the deputy minister report back regarding the implementation of the recommendations.

▶ **ALLEGED PREFERENTIAL TREATMENT (REFERRAL)**

A discloser alleged that a senior public servant in an agency breached the Conflict of Interest Rules by giving, or appearing to give, preferential treatment to friends and associates. The Commissioner referred the matter to an appropriate Ethics Executive for investigation, who found evidence that the allegation was substantiated. The Ethics Executive proposed that the agency take specific actions in relation to the finding, including revising policies and increasing training on ethical conduct. The Commissioner was satisfied with the investigation conducted but asked that the agency provide an update regarding the outcome of the proposed actions.

LOBBYISTS REGISTRATION

YEAR IN REVIEW

For the first time in five years, the registry saw a slight decrease in year-over-year active registrations, with 3,234 registrations as of March 31, 2022, compared with 3,301 registrations in the previous year. This decrease may have been caused by the slowing of certain pandemic-related lobbying and by the upcoming election, since elections often result in the winding down of lobbying activity.

The number of registered lobbyists overall increased from 3,239 in the previous year to 3,401 this year. The increase came primarily from the adding of in-house lobbyists to registrations for businesses and organizations that lobby. The full statistics are further explained later in this section.

What We Do

- Administer and maintain an online public record of paid lobbyists and their lobbying activities
- Issue Advisory Opinions and Interpretation Bulletins
- Promote understanding about the *Lobbyists Registration Act, 1998*
- Investigate matters of potential non-compliance

Statistics

ACTIVE REGISTERED LOBBYISTS	3,401
ADVISORY OPINIONS	65
COMPLIANCE REVIEWS	206
INVESTIGATIONS OPENED	6
INVESTIGATIONS CONCLUDED	6

Outreach

In preparation for the provincial election, Office staff reviewed existing materials related to political activity and election-related obligations under the *Lobbyists Registration Act, 1998* and published two new resources for lobbyists — guidance on engaging in political activity and guidance for lobbyists during and after an election. These resources are available on the Office's redesigned website. You can find information about post-election obligations for lobbyists later in this section.

As in past years, the Office published six issues of its newsletter *ON Lobbying*. The issues covered different obligations under the Act, provided tips on navigating the registration system and highlighted new and existing resources available on the website. The free newsletter now has more than 775 subscribers.

The Integrity Commissioner and Office staff were invited to conduct training sessions and presentations about Ontario's lobbyist registration framework several times during the year. This included informal sessions for lobbying firms and registered entities, as well as a panel hosted by the Ontario Chapter of the Public Affairs Association of Canada with the federal Commissioner of Lobbying and the Lobbyist Registrar for the City of Toronto.



With both provincial and municipal elections taking place in 2022, the Commissioner, the Toronto Lobbyist Registrar and the Lobbyist Registrar (who is also the Integrity Commissioner) for the City of Ottawa prioritized organizing an online session to review election-related considerations and obligations in all three jurisdictions. The session was held in early March 2022. At the session, the Commissioner discussed the conflict of interest prohibition of the Act as it relates to offering gifts and participating in political activity while being a registered lobbyist.

Lobbyists Registrars and Commissioners Network

The registrars and commissioners responsible for administering lobbyist registration systems from across Canada held their annual meeting in September 2021. The meeting was held remotely again this year, as was a shorter mid-year meeting in March 2022.

The meetings allowed registrars and commissioners from the federal, provincial and municipal levels to discuss trends and emerging issues in their jurisdictions and to share updates on approaches to administering and regulating lobbyist registration.

Lobbying and Post-election Compliance

Consultant lobbyists and senior officers of businesses and organizations that lobby are responsible for ensuring their registrations are up to date at all times. An election, no matter the result, often leads to changes to ministerial and parliamentary responsibilities, which means that the lobbying targets in registrations will need to be updated.

Lobbyists should review their registrations after a new cabinet is named to ensure they accurately reflect the ministers' offices being lobbied. The structure and names of ministries can also change shortly after an election. If ministry names change, the Office will update the names in the registry list, but this can mean that the previous selections in a lobbyist's registration may be deleted.

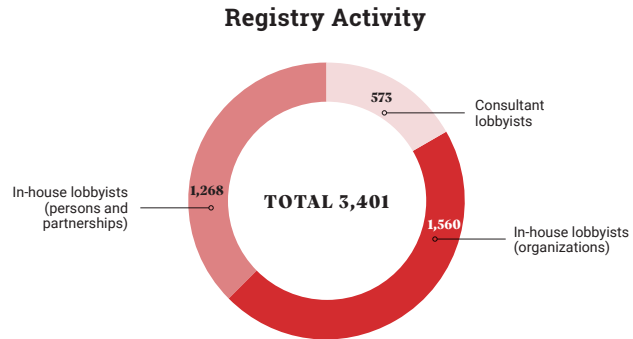
The Office will communicate with registered lobbyists and senior officers to remind them of their obligations under the Act, which includes updating their registrations within 30 days from any announcement about cabinet, ministries or legislative committees and responsibilities.

Additionally, any lobbyists who took part in political activity prior to the election should ensure they are complying with the conflict of interest prohibition in the Act. Seeking an Advisory Opinion from the Commissioner can assist lobbyists in understanding their obligations.

REGISTRY ACTIVITY

Ontario had 3,401 registered lobbyists on March 31, 2022.

Consultant lobbyists are required to have a registration for each client. In-house registrations are filed in the name of the senior officer of the organization (not-for-profit entity) or person and partnership (for-profit entity) and will list the names of all employees who lobby in one registration. Full lobbying statistics are available in real time on the Office website.



	March 31, 2021	March 31, 2022
Total active registrations	3,301	3,234
Registrations by type		
Consultant	2,752	2,671
In-House (Organizations)	332	335
In-House (Persons and Partnerships)	217	228



▶ LOBBYING SUBJECTS AND TARGETS

Registrations must include the subject matter of the lobbying activity, as well as the MPPs, ministers' offices, ministries and agencies that are being lobbied.

Top Three Subjects

- Economic development and trade: **1,420**
- Health: **1,156**
- COVID-19/Pandemic response: **1,018**

The figures listed here indicate the number of times the subject matter or lobbying target was selected in active registrations as of March 31, 2022.

TOP LISTED MEMBERS OF PROVINCIAL PARLIAMENT

	2020–2021	2021–2022
1. Office of the Member for Hamilton Centre	851	881
2. Office of the Member for Nickel Belt	955	880
3. Office of the Member for Flamborough–Glanbrook	946	879
4. Office of the Member for Mississauga–Streetsville Office of the Member for Ottawa South	950 931	878 878
5. Office of the Member for Sarnia–Lambton	931	875

TOP LISTED MINISTERS' OFFICES

	2020–2021	2021–2022
1. Office of the Premier and Cabinet Office	2,443	2,462
2. Office of the Minister of Finance	1,861	1,897
3. Office of the Minister of Economic Development, Job Creation and Trade	1,662	1,651
4. Office of the President of the Treasury Board	1,437	1,479
5. Office of the Minister of Health	1,196	1,188

TOP LISTED MINISTRIES

	2020–2021	2021–2022
1. Ministry of Finance	1,648	1,610
2. Ministry of Economic Development, Job Creation and Trade	1,425	1,420
3. Treasury Board Secretariat	1,139	1,134
4. Ministry of Health	1,084	1,065
5. Ministry of the Environment, Conservation and Parks	859	873

TOP LISTED AGENCIES

	2020–2021	2021–2022
1. Ontario Infrastructure and Lands Corporation (Infrastructure Ontario)	170	215
2. Independent Electricity System Operator	230	212
3. Metrolinx	181	202
4. Ontario Energy Board Ontario Health	219 190	183 183
5. Alcohol and Gaming Commission	135	146

Advisory Opinions

An Advisory Opinion is a written opinion by the Integrity Commissioner, as Lobbyist Registrar. Individuals who have questions about the *Lobbyists Registration Act, 1998* and how it applies to their lobbying activities can request an Advisory Opinion from the Commissioner.

The guidance is specific to the individual and considers the precise facts of the situation as they relate to the requirements of the Act. While the Commissioner takes care to ensure Advisory Opinions are accurate, they are

not binding and are not a substitute for independent legal advice.

The Commissioner provided 65 Advisory Opinions this year. The most popular topics were:

- Information to include in registrations
- Conflict of interest (non-gift related)
- Whether registration is required

COMPLIANCE ACTIVITY

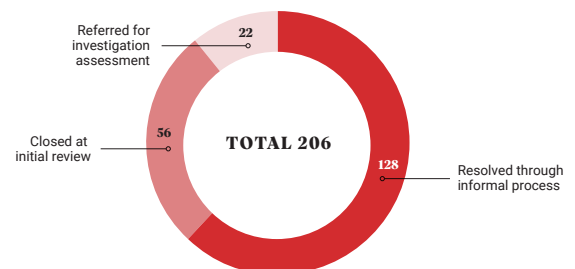
Individuals who lobby provincial public office holders are required to comply with the Act. While the onus to meet these obligations is on consultant lobbyists, in-house lobbyists and senior officers of firms, companies and organizations that lobby, the Office works to assist lobbyists by implementing measures that promote awareness of the Act and the registration requirements. Important components of this work are compliance reviews and the informal resolution process the Office has established for less serious non-compliance with the Act.

When reviewing initial registrations, renewals and updates, Office staff check the lobbyist's compliance with the registration timelines set out in the Act. For example, the Office reviews whether lobbyists have updated their registrations within 30 days after information changes, such as changes in the names of government ministries.

When it appears that a lobbyist has missed a deadline, the Office first assesses the matter through an informal resolution process. If a deadline was missed by a short period and the lobbyist has not had previous issues with non-compliance, the matter may be resolved with a letter from the Commissioner reminding the lobbyist of their responsibilities. The Commissioner may also request an explanation for the non-compliance.

The informal resolution process works to achieve compliance without using investigative resources that are better focused on more serious breaches of the Act. Over the last four years, total compliance reviews have steadily decreased as lobbyists have improved their adherence to the timelines.

Compliance Reviews in 2021–2022



INVESTIGATION ACTIVITY

	2020–2021	2021–2022
Investigations carried from previous year	12	3
Investigations commenced	10	6
Investigations concluded	18	6
Investigations resumed	0	0
Matters refused for investigation ¹	9	12
Matters referred to another person or body	0	0
Matters remaining under assessment at fiscal year-end	0	4

¹ Generally, matters that the Commissioner decides not to investigate will be dealt with through the informal resolution process in order to ensure future compliance with the Act.

INVESTIGATION SUMMARIES

This year the Commissioner concluded six investigations. Of these investigations, he identified two minor instances of non-compliance, which he addressed by sending a compliance letter to each respondent to encourage future adherence to the Act. The Commissioner made one finding of non-compliance under the Act but decided not to issue a penalty in this instance.

Completed investigations are anonymized and summarized below. Certain summaries reflect more than one investigation.

► CONSULTANT LOBBYISTS

Issue: Placing a public office holder in a conflict of interest and failure to update registrations

The Commissioner investigated to determine if a consultant lobbyist failed to comply with the Act

by knowingly placing a public office holder in a real or potential conflict of interest due to past political activity and offering the public office holder tickets to an event.

The consultant lobbyist held a senior and strategic role on a political campaign for a candidate. Shortly afterwards, the candidate became a public office holder, and the consultant lobbied their office for several clients. For these reasons, the Commissioner found that the public office holder may have felt a sense of obligation towards the consultant lobbyist, which could have caused the public office holder to

further the private interests of the consultant lobbyist and/or his clients improperly. This is contrary to the conflict of interest restrictions in the Act. However, the Commissioner found that the consultant lobbyist did not place a public office holder he was lobbying in a conflict of interest by offering tickets to an event because the public office holder had been invited to speak at the event, which meant that the ticket met the protocol, customs or social obligations exception under the *Members' Integrity Act, 1994*.

Additionally, the Commissioner found that in one instance, the consultant lobbyist did not meet the 30-day requirement in the *Lobbyists Registration Act, 1998* to update his registration to reflect his lobbying of a public office holder. Finally, the Commissioner found that for multiple clients, the consultant lobbyist did not meet the Act's 30-day requirement to update his registration to remove listed targets of lobbying that he was not actually lobbying.

The multiple breaches of the Act set out above weighed in favour of imposing a penalty. However, the Commissioner considered the fact that the lobbyist did not have any previous incident of non-compliance and that a penalty was not required to protect the public interest. Therefore, the Commissioner decided not to impose a penalty.

Issue: Placing a public office holder in a conflict of interest

The Commissioner investigated to determine if a consultant lobbyist failed to comply with the Act by knowingly placing a public office holder in a real or potential conflict of interest due to past political activity as well as a personal relationship with the public office holder. The lobbyist had lobbied the office of the public office holder on behalf of several clients.

The Commissioner determined that the lobbyist had not held a senior and strategic role on the political campaign for a candidate who subsequently became a public office holder. The investigation established that the lobbyist did not interact with, report to or have any one-on-one conversations with the candidate and did not take part in strategic planning discussions with senior members of the campaign. Further, while the lobbyist and the public office holder had personal interactions in 2017, there had been no significant personal contact since that time other than limited greetings at public events that did not have restricted attendance. Accordingly, the Commissioner did not have a belief the lobbyist had contravened the Act in relation to the allegation. The Commissioner ceased the investigation and closed the file.

Issue: Placing a public office holder in a conflict of interest and late to register

The Commissioner investigated to determine if a consultant lobbyist failed to comply with the Act by knowingly placing various public office holders in a real or potential conflict of interest due to past political activity and whether the lobbyist failed to adequately describe the lobbying goals in his registrations. During the investigation, the lobbyist self-disclosed that he was late to register for another client, which triggered a second investigation concerning the failure to register within the applicable timelines.

For the first investigation on the allegations of conflict of interest, the Commissioner determined that the lobbyist did not have close personal relationships with the public office holders and the lobbyist did not have a senior role in any of the public office holders' campaigns or advisory council meetings. The Commissioner determined that the lobbyist's past role in conducting training for new candidates

of a party did not create a risk of real or potential conflict of interest as the lobbyist did not have control or decision-making powers in this role. Concerning the allegations about the lobbyist's failure to adequately describe lobbying activities, the Commissioner determined that while the lobbyist's descriptions were vague, the lobbyist provided information about his lobbying goals and subject matter. The Commissioner ceased the investigation.

For the second investigation regarding the self-disclosed allegation that the lobbyist was late to register, the lobbyist was found to be around 250 days late to register as the lobbyist terminated his registration but continued to lobby at a later date. Because the lobbyist self-disclosed, had not lobbied for four of the months of the period in question and had taken steps to prevent this oversight in the future, the Commissioner accepted that the lobbyist thought he was registered at the time of lobbying, and he ceased the investigation.

Issue: Failure to provide information in registration

The Commissioner investigated to determine if a consultant lobbyist failed to comply with the Act by: 1) failing to adequately describe the lobbying goal and subject matter; 2) failing to provide particulars of any legislation or regulation; and, 3) failing to update the registration within 30 days of any change of information.

The Commissioner determined there was evidence that supported the lobbyist's position that his communications did not fall within the definition of lobbying, the lobbyist did not lobby with respect to legislation or regulation and voluntarily registered to provide transparency. The Commissioner advised

that despite voluntarily registering, the lobbyist must provide the same level of detail as required in a mandatory registration. The Commissioner ceased the investigation and asked the lobbyist to review all his current registrations to ensure that the details required by the Act have been fully described and that the details are fully described in all his future registrations.

Issue: Late to register

A consultant lobbyist advised the Commissioner that she was late to register her lobbying activity. It was determined that the lobbyist missed the required registration deadline by 162 days. Because this was the fourth instance of non-compliance by the lobbyist, the Commissioner began an investigation.

Upon receiving the notice of the investigation, the lobbyist advised the Office that she was no longer employed as a lobbyist and had deregistered all lobbying activities. Upon review of this information, the Commissioner decided to cease the investigation and send a compliance letter to the lobbyist. The Commissioner reminded her that prior to this investigation, the lobbyist had been sent three letters outlining the registration obligations under the Act. The Commissioner further advised that the current compliance notification and three previous compliance notifications will remain on record. The Commissioner wrote that if the lobbyist decides to register again in the future, she will be subject to the same obligations and requirements as before and should take steps to ensure that she is in compliance with all aspects of the Act.

FINANCIAL STATEMENT

	2021-2022
Salaries and Benefits	\$2,732,794
Transportation and Communication	\$49,649
Services	\$925,508
Supplies and Equipment	\$9,929
TOTAL	\$3,717,880

The Office of the Integrity Commissioner's fiscal year runs from April 1 to March 31.

Financial transactions are subject to audit by the Office of the Auditor General through the accounts of the Legislative Assembly.


You can find information about the Office's reporting under the *Public Sector Salary Disclosure Act, 1996* at www.ontario.ca/page/public-sector-salary-disclosure.

Proactive Disclosure

You can find expense claims for travel, meals and hospitality for the Office's senior management and for employees with claims exceeding \$5,000 at www.oico.on.ca.

This report is also available at www.oico.on.ca.
Cette publication est aussi disponible en français.

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The Office of the Integrity Commissioner of Ontario was established in 1988 to maintain high standards of ethical conduct in the Ontario Public Service. Independent of government, the Office strives to encourage and sustain a culture of integrity and accountability. The Office has seven mandates under five pieces of legislation.

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