



Division of Legislative Services

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Full Review: Public Integrity Commission (PIC)
Staff Presentation
April 17, 2025

Why We Did This Review

- **JLOSC selected full reviews in 2023 for boards and commissions created and never reviewed.**
 - Selected Public Integrity Commission for review on March 2, 2023.
- **Full reviews require self-report and entity presentation.**
 - Self-report available on JLOSC website.
- **Reviews entity performance with criteria established in JLOSC statute.**
 - Review criteria outlined in the report (objective, scope, and methodology), used a compilation of statutory review criteria (§ 12011(b), Title 29).
 - **Criteria #1** For licensing entities, the extent to which they have licensed qualified applicants. – Not a licensing entity, does not apply.
 - **Criteria #2** The extent to which the entity has served the public interest. – Reviewed main duties in Chapter 58, Title 29.
 - **Criteria #3** The extent to which the entity has recommended statutory changes. – Board self-report included recommendations including mandatory ethics training and penalties for Chapter 58 violations.
 - **Criteria #4** Review implementation of past JLOSC recommendations. – Does not apply to this review.



Brief History Public Integrity Commission

Public Integrity Act of 1994 established the Public Integrity Commission (PIC).

Prior Ethics Commissions:

- State Ethics Commission, created in 1990.
- State Personnel Commission, est. in 1974.



Commissioners



- 7 members appointed by Governor and confirmed by Senate.
- Serve single term of 7 years.
 - Until successor appointed.
 - Cannot serve additional terms.
- No more than 4 members can be from the same political party.
- Members cannot hold or run for political office or participate in campaigns.
- 17 statutory powers and duties.
- Paid \$100 for each day devoted to performing official duties.
 - Can be reimbursed for reasonable expenses (mileage).
- Hold regular monthly meetings in Dover.
- Commissioners can participate in voluntary training opportunities.

Staff



PIC under the Department of State for budgetary purposes.

- Staffed by 1 full-time attorney (Commission Counsel).
 - 9 statutory duties.
- Vacant administrative assistant III position.
 - Currently filled by Department of State with the Office of Unclaimed Property.
 - PIC did not fill this position when the former administrative assistant retired in 2017 citing “efficiencies in electronic recordkeeping and automated processes” made it unnecessary.
- PIC rules include staff duty information, last updated in December 2011.

[TITLE 29](#) > CHAPTER 58

LAWS REGULATING THE CONDUCT OF OFFICERS AND EMPLOYEES OF THE STATE

[Subchapter I. State Employees', Officers' and Officials' Code of Conduct](#)

[Subchapter II. Financial Disclosure](#)

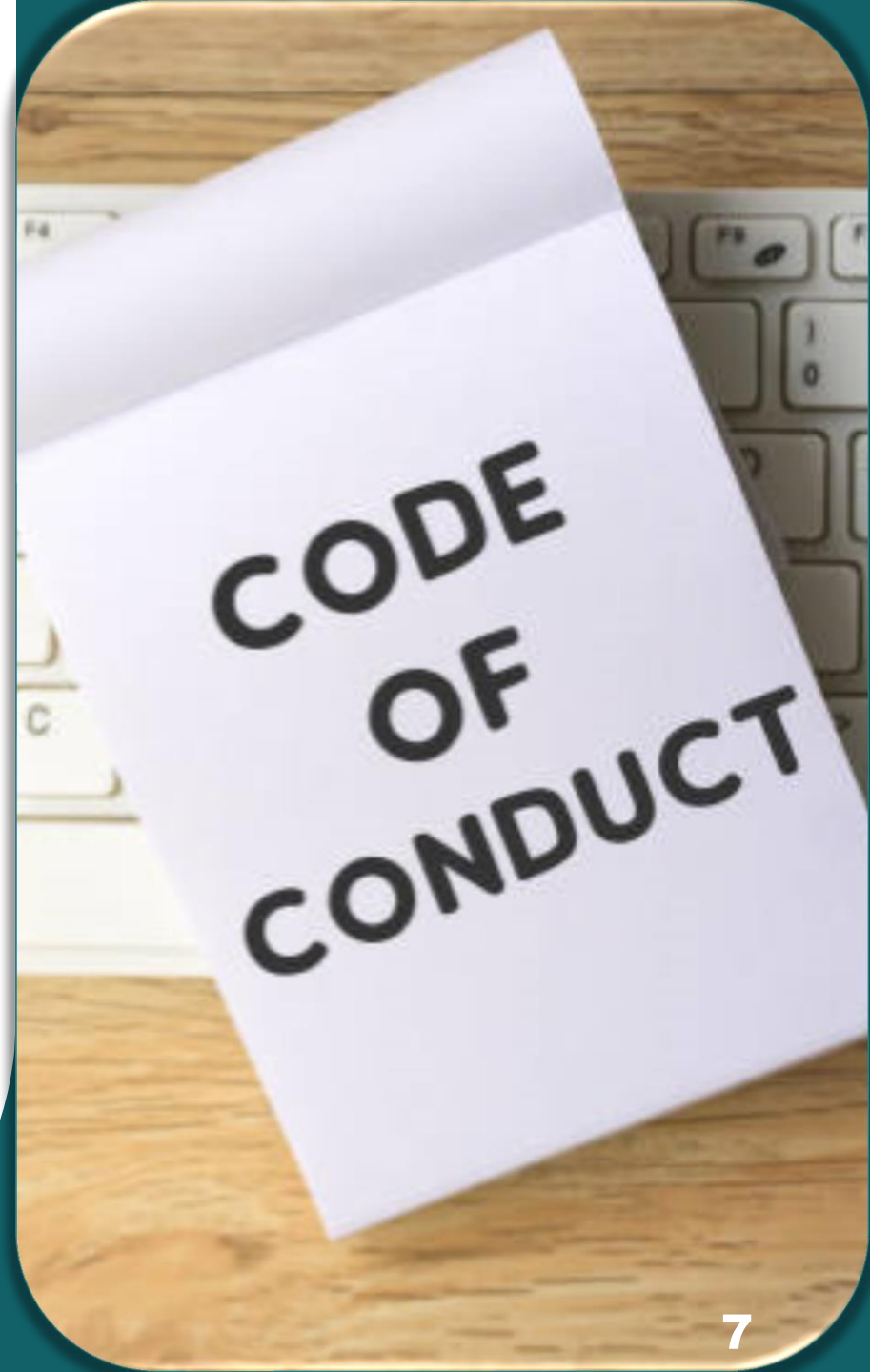
[Subchapter III. Compensation Policy](#)

[Subchapter IV. Registration of Lobbyists](#)

PIC Duties – Chapter 58

Code of Conduct

- Enforces, administers, and provides training on ethics laws for Delaware's executive branch, as well as county and municipal governments.
 - Waivers and advisory opinions.
 - Reviewed upon written request of state agencies, employees, or officers.
 - Protects from penalties if actions based on waiver, follow in good faith, and disclosed relevant facts.
- Waivers allow exceptions to certain rules if strict adherence is not necessary or causes undue hardship.
- Advisory opinions offer guidance on application of Code of Conduct in certain situations.



Confidentiality of Waivers and Advisory Opinions

- Waivers and advisory opinion proceedings held in executive session, confidential by statute.
- Written decisions not published online, limiting public access.
- Website includes limited code of conduct synopses of opinions spanning 32 years, difficult to navigate.
 - Also available are lobbying and financial disclosure opinion synopses, last updated 2022 but nothing issued in review period.



Code of Conduct Opinion Synopses

7 Categories Available:

1. Things of monetary value 1991-2023, 71 pages.
 2. Personal or private interest 1991-2023, 418 pages.
 3. Post-employment 1991-2023, 273 pages.
 4. Outside employment 1991-2023, 221 pages.
 5. Local codes of conduct 1991-2023, 8 pages.
 - Municipality names not redacted.
 6. Jurisdiction and procedure 1991-2022, 52 pages.
 7. Contacting with the state 1991-2023, pages unknown.
 - Unavailable document, website link retrieves the jurisdiction and procedure document.
- Difficult to navigate, especially if finding PIC in news media and wanting to find the advisory opinion or waiver.

Code of Conduct Opinion Synopsis



- Things of Monetary Value 1991-2023
- Personal or Private Interest 1991-2023
- Post Employment 1991-2023
- Outside Employment 1991-2023
- Local Codes of Conduct 1991-2023
- Jurisdiction & Procedure 1991-2022
- Contracting with the State 1991-2023

Note: If looking for specific term in a category, hit CTRL. Once you have opened the link

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PERSONAL OR PRIVATE INTEREST 1991-2023

23-39—Personal or Private Interest: [Employee] has been [a State official] since January 2022. Among other things, he is responsible for supervising, directing and accounting for the administration and operation of the Department, its offices, functions and employees. Those job duties include entering into contracts, hiring personnel, establishing appropriate regulations and preparing an annual budget.

[The private interest] is a non-profit organization. [One of their programs is licensed by the Employee's department].

[Employee] asked the Commission if accepting a role as a [non-profit] trustee would create a conflict of interest with his State job duties.

A. In their official capacity, state employees or officials may not review or dispose of matters if they have a personal or private interest in a matter before them. 29 Del. C. § 5805(a)(1).

A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter." As a matter of law, a person has a personal or private interest if any decision "with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent" than others similarly situated or if "the person or a close relative has a financial interest in a private enterprise which would be affected" by a decision on the matter to a greater or lesser degree than others similarly situated. "Close relative" is defined as "a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood."

A personal or private interest is not limited to narrow definitions such as "close relatives" and "financial interest." Instead, it recognizes that a State official can have a "personal or private interest" outside those limited parameters. It is a codification of the common law restriction on government officials. When there is a personal or private

Code of Conduct: Investigations and Enforcement

- Commission statutory duty to investigate complaints based on information for potential Chapter 58 violations.
 - Occurs less often than waivers and advisory opinions.
- Commission rules guide investigation process.
 - Last updated in December 2011.
 - Included in Appendix A of staff report.
- Proceedings are confidential unless:
 - Public disclosure is requested by the person charged.
 - The Commission determines after hearing a violation has occurred.
- Chapter 58 violations do not have penalties of meaning, such as civil financial penalty.
 - PIC can take only 3 actions:
 - Mainly used is written reprimand of person's conduct.
 - 2 include recommending removal or disciplinary actions (never used in review period).



Our Findings: Code of Conduct

#1 PIC and its Commission Counsel found to be completing statutory duties. Recommended to review current staffing needs.

#2. Public transparency in information, reports, waivers and advisory opinions is essential.

- This information should be made publicly accessible, and proceedings should occur in open public meetings.
 - States that have public reports and proceedings make confidentiality exceptions for some materials.
- Public proceedings and written decisions are part of educating the public, but only if the public gets to observe the process.
- JLOSC staff review of other state data and websites determine that at least 43 states and territories provide full access to advisory opinions online.

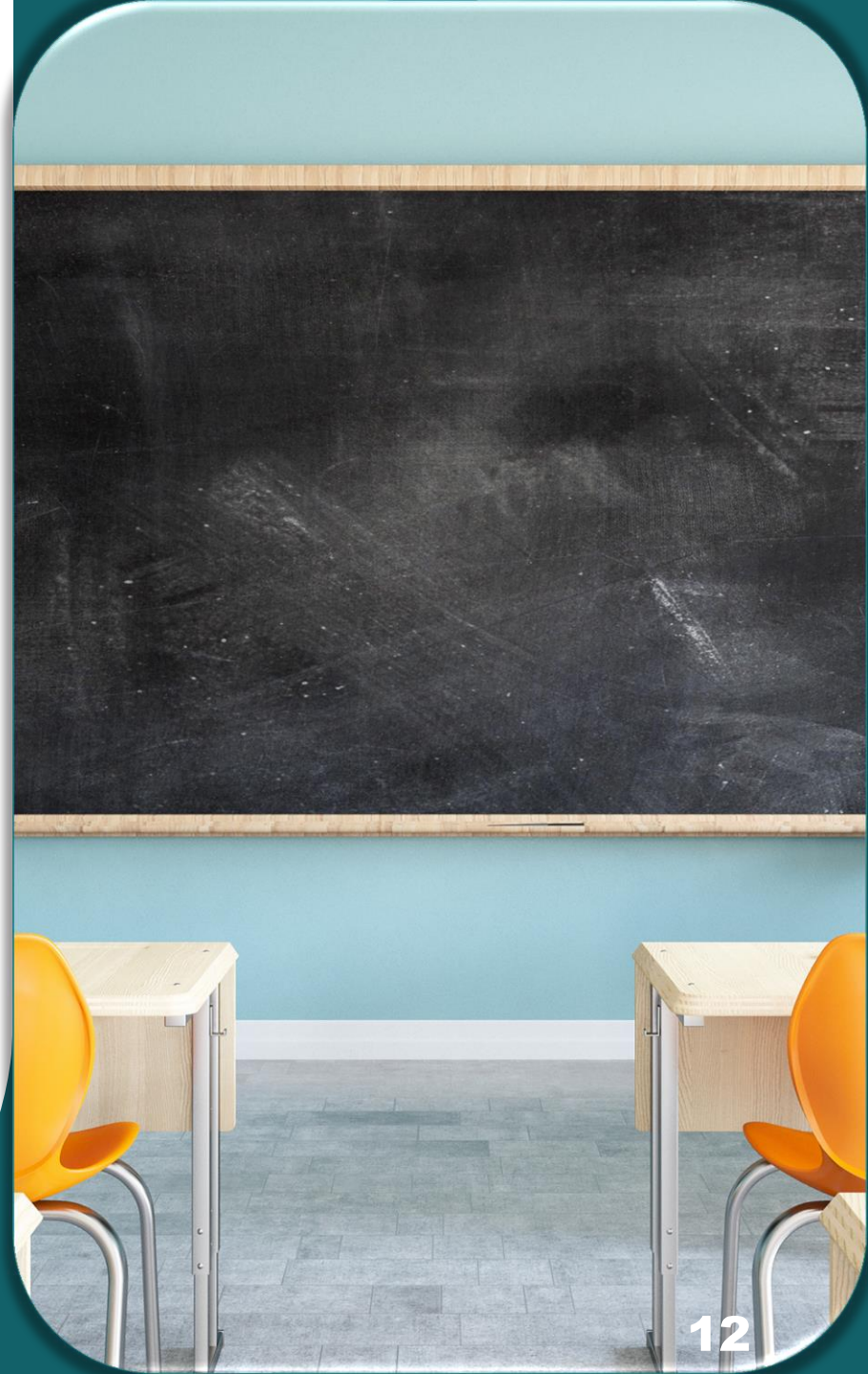
#10 Penalties for Chapter 58 violations seen as inadequate for deterring misconduct, with enforcement restricted to reprimands, disciplinary actions, or recommending removal of honorary officials.



Code of Conduct - Training

PIC provides ethics training, offers 2 courses.

- In-person/Virtual: Ethical Conduct in Government.
 - Available at request, taught by Commission's Counsel.
 - April 2022 – October 2023: 35 agencies received training.
- On-demand: Ethics Orientation for State Employees.
 - Department of Human Resources (DHR) Delaware Learning Center.
 - 45-minute webinar, 2023 update with Traliant.
 - Part of new hire series for state employees.
 - April 2022 – November 2023: 1,838 employees completed webinar.
 - No statutory ethics training mandate for state employees.
- Evaluation reports had positive feedback and reviews.
- PIC required to publish manuals and public information materials (1 of 17 statutory duties).



Code of Conduct: Addressing Code Violations

67% complete - 2 minutes and quiz remaining

▼ **Code of Conduct**
5 minutes - 66% complete■ **Addressing Code Violations**
4:36
► Read Description☑ **Final Quiz**

Addressing Code

Minor violations

- Often addressed informally
- Expectation that the offender can be resolved with relative ease
 - Conversations with leadership
 - Verbal or written warnings
 - Mandatory educational classes

Major violations

- Addressed formally
- Offending action or behavior damages repaired as quickly as possible
 - Written report of the violation
 - Shared with all relevant authorities

2025 Training Updates:

- **New webinars available in Delaware Learning Center covering ethics and code of conduct topics.**
 - “Ethics” search yields 105 results.
 - “Code of Conduct” search yields over 4K results.
- **This is a current training course slide and question from webinar titled: *Code of Conduct: Addressing Code Violations*.**
 - This has nothing to do with Chapter 58 covering state code of conduct.
 - Discusses code of conduct in general terms.
 - This could be confusing, PIC pointed out in review response that currently whistleblower protections do not cover Chapter 58.
- **PIC should discuss with DHR updates to course descriptions to identify PIC as the state’s ethics office and make clear that these courses are speaking in general terms, do not reference Chapter 58.**
 - PIC is only mentioned in the course details for the instructor led course, not mentioned in course details for the ethics orientation webinar.
 - Create a listing for the PIC as a course provider,
 - PIC’s 2 course offerings list the Statewide Training & Organizational Development as the provider.

Code of Conduct: Addressing Code Violations

99% complete - quiz remaining

▼ **Code of Conduct**
5 minutes - 100% complete✓ **Addressing Code Violations**
4:36☑ **Final Quiz**

Whistleblower protections are _____ and designed to _____.

- ☐ A. Not required by federal law; encourage employees to avoid code violations
- ☐ B. Mandated by the United Nations; require employees to report any suspicious activities happening at their place of business
- ☐ C. Part of federal law in most countries; protect employees who report possible ethical or legal violations at their place of business

Our Findings: Code of Conduct Training

#7. Ethics training is not required for public employees or officers by statute.

- 30 other states and City of Wilmington have ethics training requirements.
- A minimum requirement for ethics training should be explored to assist with awareness and decrease in violations.
 - DHR includes PIC ethics orientation webinar as new hire curriculum.
 - PIC is not listed as a course provider.
 - Other webinars that DHR offers on ethics or code of conduct **do not** clarify the role of PIC with state ethics or that these other courses generally cover these terms and are not Chapter 58 specific.

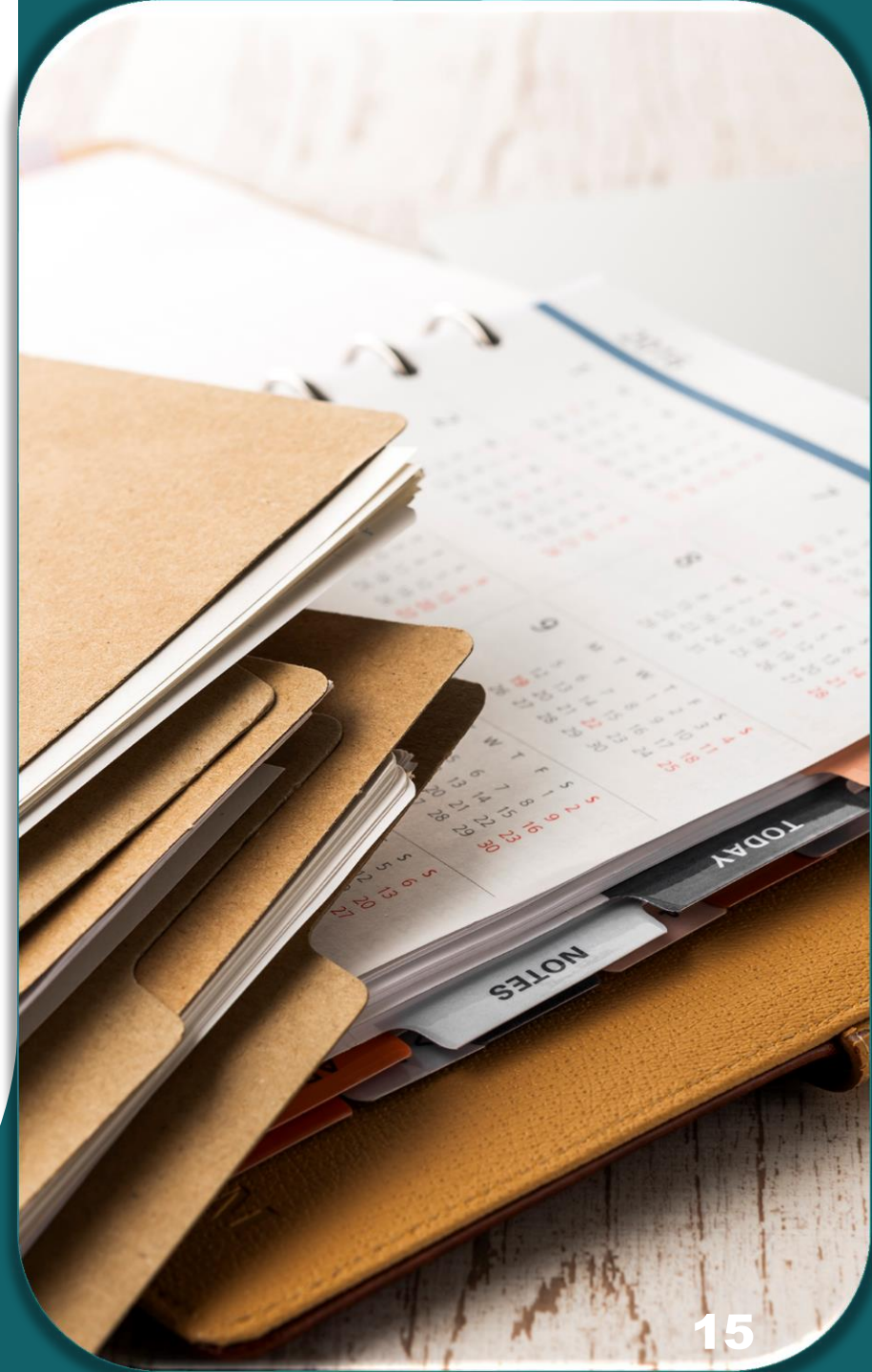
#8. PIC does not publish training manuals as required by statute.

- Explore if this is still a feasible requirement.
- Could work with DHR to create additional webinars and provide accessible training materials on their website.



Financial Disclosure and Lobbying

- **Chapter 58 requires financial disclosure reporting from public officers and candidates for state office.**
 - Must report items such as income, debt, professional organizations, management positions, and gifts received over \$250 in value.
 - File 14 days after becoming public officer and annually.
 - No penalty for late or missing reports.
 - Statute requires all reports publicly available.
 - PIC requires FOIA request.
 - In contrast, Department of Elections has online database for campaign finance reporting, similar statute requirements.
- **Chapter 58 requires lobbyists to register, employer authorization, and must report activities and expenses (including gifts over \$50).**
 - Public can download all lobbying data except for expense reports and gift information.
 - No lobbyist registration fee but **fees for late filed reports.**
 - \$25 fee day 1 and \$10 for each additional day, up to \$100 total.



Our Findings:

Financial Disclosure and Lobbying

#3. Timely filing of public officer financial disclosure reporting is not occurring.

- No enforcement mechanism or financial penalty.
 - Late lobbyist reports have a financial penalty.
 - Other states charge late fees.

#4. Financial disclosure and lobbyist expenditure reports are public documents in Chapter 58 but not available to public on PIC website.

- All other lobbyist reports and registrations are available online.
- Other states make this information readily available online.

#5 PIC collects financial disclosure and lobbyist expenditure reports both reporting gifts received over \$250 and \$50 respectively. These forms are not reviewed or compared.

- Also collect employer information on financial disclosure forms but there's no box to check for dual employment, not even an explanation on the form or in emailed instructions.

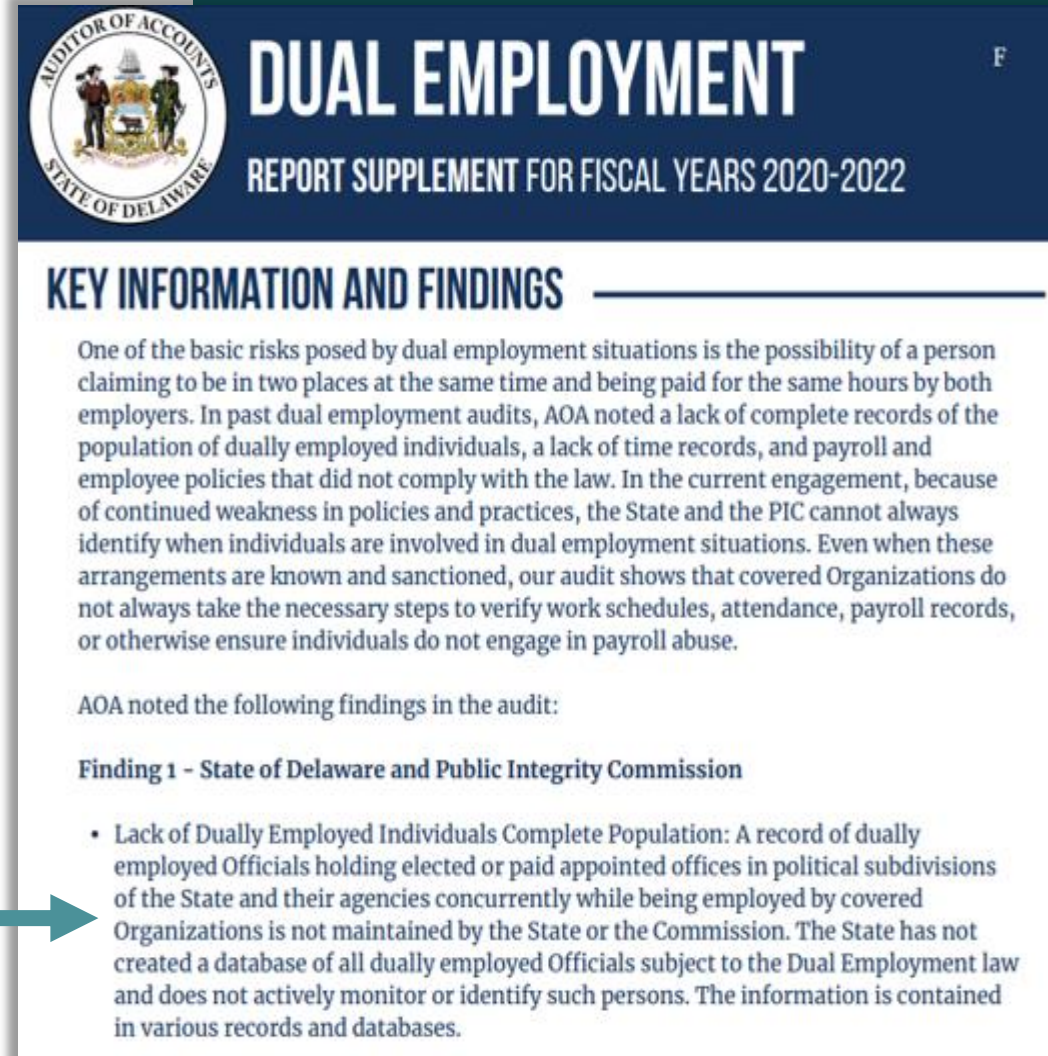
#9. Lobbyists are required to register and file reports. Communication could be strengthened regarding the registry and status of lobbyist reports.



Compensation Policy (Dual Compensation)

PIC plays a role in oversight of dual compensation.

- Role is driven by result of annual audit findings.
- Historic difficulty in annual audit due to lack of policies and procedures to identify and monitor individuals.
 - 2011 – 2018: Annual audit reported scope impairment.
- PIC stated they cannot determine who receives dual state income due to limited data.
 - PIC collects annual financial disclosure reporting that includes employment data, could create a dual employment check box.
- **State Auditor released audit on September 17, 2024.**
 - Audit report completed for July 1, 2019 – June 30, 2022.
 - Auditor's office worked with PIC.
 - Analyzed state payroll records to determine population.
 - **Finding 1 – No database of dually employed individuals, no active monitoring.**
 - Available on Delaware Office of Auditor of Accounts website: <https://auditor.delaware.gov>.



Our Findings: Compensation Policy (Dual Compensation)

#6. The Office of Auditor of Accounts recently completed a dual employment performance audit relating to compensation policy and corresponded with PIC regarding their findings.

- PIC's statutory duty is to review and investigate findings as notified by the State Auditor after audit is complete.
- Investigations would fall under Chapter 58 with associated penalties which are not sufficient.
- Annual financial disclosure forms not reviewed (finding #5), annual collection and review could include a checkbox for dual employment.
 - Store information in a spreadsheet to assist with audits.



Staff Recommendations Overview

- **Continue PIC.**
 - with statute revisions.
- **Update statute (Chapter 58, Title 29).**
 - Revisions developed with PIC staff, could include protections for retaliation as mentioned in their response.
- **Create minimum ethics training requirements for state employees, officers, and officials.**
- **Release from review.**
 - Upon enactment of legislation under recommendation #2 or further action of JLOSC.



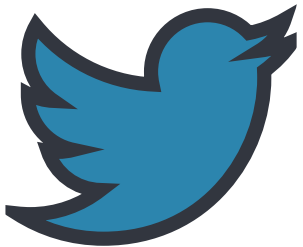


Joint Legislative Oversight & Sunset Committee

Stay Connected



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