
Enforcement of Ethics Rules by State Ethics Agencies

UNPACKING THE S.W.A.M.P. INDEX

Coalition for Integrity





The Coalition for Integrity is a non-profit, non-partisan 501(c)(3) organization. We work in coalition with a wide range of individuals and organizations to combat corruption and promote integrity in the public and private sectors. www.coalitionforintegrity.org

Every effort has been made to verify the accuracy of the information contained in this report.

© 2019 Coalition for Integrity. All rights reserved.

Enforcement of Ethics Rules by State Ethics Agencies

UNPACKING THE S.W.A.M.P. INDEX

Researched and Produced by



Coalition for Integrity © 2019

Table of Contents

Enforcement of Ethics Rules by State Ethics Agencies	1
Executive Summary	1
Why This Project?	3
Background	4
Enforcement Statistics Chart	6
What Questions Did We Ask?	6
Enforcement Efforts Findings.....	8
Question 1: How many complaints were filed?.....	13
Question 2: How many complaints were dismissed?.....	13
Question 3: How many cases were resolved with a finding of no ethics violation? ...	13
Question 4: How many cases were resolved with a finding of an ethics violation? ...	14
Question 5: What sanction was adopted?	14
Why Not Rank States on Enforcement Efforts?	15
Transparency Scoring Chart	17
What Questions Did We Ask?	18
Transparency Scoring Chart	19
Overview	19
Overall Findings.....	20
Specific Findings	21
Question 1: Is an annual or biennial report produced by the agency publicly available?	21
Question 2: Can we determine the number of complaints filed?.....	22
Question 3: Can we determine the number of complaints that were dismissed?	24

Question 4: Can we determine the number of cases resolved with a finding of no ethics violation?	26
Question 5: Can we determine the number of cases resolved with a finding of an ethics violation?	28
Question 6: Are the decisions publicly available?	31
Notable Findings from Excluded Ethics Agencies.....	31
Summary	32
Best Practices	32
Recommendations.....	33
Conclusion and Areas for Further Research	34
Appendix A: State Transparency Ranking of 43 States	35
Appendix B: Agency Transparency Ranking of 50 Agencies	36
Appendix C: List of Agencies Analyzed	38
Agencies Analyzed in Transparency Ranking.....	38
Agencies with Limited Powers Excluded from Ranking.....	39
Acknowledgements	40

Enforcement of Ethics Rules by State Ethics Agencies

EXECUTIVE SUMMARY

The project asks the question: How do state ethics agencies implement their enforcement and sanctioning powers? This report analyzes and provides findings on both the enforcement statistics of the ethics agencies of the 50 states and the District of Columbia with jurisdiction over legislative and executive branch officials, as well as the transparency and availability of information regarding those actions.

Investigations and sanctions administered by state ethics agencies are extremely important and a key part of a healthy ethics regime. Enforcement of ethics laws should be the duty of each state ethics agency; the degree of enforcement can dramatically impact the spread of corruption. In addition to meaningful enforcement actions, state ethics agencies should strive to be transparent and produce publicly available information wherever possible. Transparency both deters future violations and provides the public with the tools needed to assess the strength of their ethics agencies and call for reforms where necessary.

There is tremendous variation in the enforcement powers of state ethics agencies and how they implement that power, as well as a lack of transparency in the process. Many state ethics agencies do not publish annual or biennial reports or publish their decisions on their website. Some agencies do not have websites. Too many states apply a confidentiality standard that is not warranted once probable cause of an ethics violation has been found.

Based on our review of enforcement actions and transparency, we have several recommendations.

- ▶ A toothless ethics agency serves no purpose. Agencies need wide powers to investigate and sanction all government personnel.
 - ▶ Currently, seven agencies have limited or no investigative or sanctioning power.
-

-
- ▶ Proceedings of the ethics agency should be open to the public once there is a determination that probable cause exists that a violation has occurred. In 2018:
 - ▶ 24 ethics agencies did not publish information on the number of complaints filed;
 - ▶ 30 ethics agencies did not publish information on complaints dismissed;
 - ▶ 24 ethics agencies did not publish information on complaints resolved with a finding of no ethics violation;
 - ▶ 15 ethics agencies published no information on complaints resolved with a finding of an ethics violation.
 - ▶ If an ethics agency determines that a violation has occurred, its findings and sanctions should be publicly available. Confidential letters of reprimand carry little weight in deterring behavior.
 - ▶ 18 ethics agencies did not make their decisions or sanctions publicly available in 2018.
 - ▶ To increase incentives for compliance, penalties should be meaningful. Fines of \$100 or \$200 do not provide a deterrent. Most states have the authority to impose significant fines but do not do so. A few states are limited by statute and, in these cases, the amount of the fines allowed should be increased via legislation to meaningful amounts.
 - ▶ Only the Florida Commission on Ethics and the Hawaii State Ethics Commission have recommended that officials be removed from office for ethics violations.
 - ▶ 16 out of 50 ethics agencies issued fines of over \$10,000.
 - ▶ The Minnesota Campaign Finance and Public Disclosure Board can only impose a fee of \$5 a day, not to exceed \$100, for failure to file financial disclosure reports on time. The Connecticut Office of State Ethics and the Alaska Public Offices Commission can only impose fines of \$10 a day for late-filed financial disclosure forms.
 - ▶ Every ethics agency should publish annual reports on their enforcement efforts, even if not required to do so by statute. Doing so demonstrates a commitment to effective enforcement and provides a deterrent to improper behavior.
 - ▶ 31 of 50 ethics agencies do not publish such reports.
-

Why This Project?

Enforcement actions taken by ethics agencies are a key part of a healthy ethics regime and individuals should be able to easily access information on violations committed by public officials and related enforcement efforts. In our [S.W.A.M.P. Index Report](#), we stated that “effective enforcement is crucial to deter wrongdoing and provide a meaningful incentive to public officials to refrain from improper conduct.” Both enforcement actions and the transparency of those actions enable more effective ethics regimes that can credibly deter corruption.

Enforcement actions generally are necessary to ensure continued compliance with ethics rules and regulations. Some state ethics agencies do not have any investigative power; others have only limited sanctioning authority. State ethics agencies often have discretion over the degree of enforcement and our investigation into the number of cases these agencies process shows that some agencies use this discretion to actively enforce, while others appear not to.

Our findings on enforcement actions and enforcement statistics, however, remain incomplete because many state ethics agencies do not provide comprehensive, publicly available information. Some provide absolutely no information. In some cases, this is due to an overly broad application of confidentiality, whether required by statute or agency rules. While it is reasonable to keep initial complaints confidential, once an agency determines there is probable cause to proceed, there is no justification for confidentiality.

The overuse of confidentiality and lack of transparency weakens the effectiveness and efficiency of an ethics agency. Transparency of enforcement both enables public engagement and deters future wrongdoing. Public information is a prerequisite to a more informed electorate and, further, is crucial when reviewing an ethics agency’s policies and actions. State ethics agencies are designed to hold public officials to higher standards of ethical behavior and transparency. They should be subject to the same degree of scrutiny. Without comprehensive knowledge of an ethics agency’s enforcement actions, the public is unlikely to fully understand the purpose and effectiveness of their state ethics agency, and

will be unable to advocate for needed reforms or increased budgetary expenditures on ethics enforcement.

Outside of the value of public information, transparent enforcement actions are more effective at deterring future instances of unethical behavior. Transparency increases the visibility of the ethics agency and helps spread awareness about the laws and regulations that public officials are subject to. In addition, public officials may be more likely to pay attention and abide by laws and regulations governing ethical behavior if the details of an ethics agency's decisions are public and easily accessible.

Background

This project builds on the Coalition for Integrity's (C4I) report, the States With Anti-Corruption Measures for Public Officials ([S.W.A.M.P.\) Index](#), which is a comparative scorecard that ranks the 50 states and the District of Columbia based on the laws and regulations governing ethics and transparency in the executive and legislative branches.¹ The S.W.A.M.P. Index specifically focused on the existence and scope of ethics agencies, the powers of those agencies, acceptance and disclosure of gifts by public officials, and the transparency of funding independent expenditures and client disclosure by legislators.

Having established the legal authority and powers of state ethics agencies² in the S.W.A.M.P. Index, this project asks: Does the ethics agency actually use the powers it has been granted? Researching enforcement efforts, however, is not the same as reviewing the actual laws. The laws are an objective quantity – a law either exists or does not. For example, there either is subpoena power or there is not. Enforcement is more subjective and difficult to quantify. Some states have a single ethics agency; other states have separate ethics agencies for the legislative and executive branches, and the jurisdiction and powers of these agencies differ markedly. Some agencies have no enforcement powers; others only enforce financial disclosure reporting requirements; the jurisdiction of others is

¹ The S.W.A.M.P. Index 2018, COALITION FOR INTEGRITY, <http://swamp.coalitionforintegrity.org/>.

² This report focuses on “independent” ethics agencies – that is, agencies whose governing body is not composed of persons who are subject to the jurisdiction of that agency.

limited to narrow sub-sets of public officials and employees. Many agencies are also charged with enforcing rules regarding lobbyists and campaign finance.

This project produced state reports for the 50 states and the District of Columbia, as well as two different charts. The Enforcement Statistics Chart contains the data we have collected from the ethics agencies, while the Transparency Scoring Chart ranks the relevant states and agencies based on transparency and availability of information. The report covers 57 ethics agencies.

- ▶ Five states were excluded from this report because they did not have any independent ethics agency from 2016 – 2018. These states are Arizona, Idaho, New Mexico, North Dakota, Wyoming.³
- ▶ Three states were excluded from the Transparency Scoring Chart because their ethics agencies do not have meaningful enforcement powers. These states are Utah, Virginia and Vermont.
- ▶ South Dakota is excluded from the Transparency Scoring Chart for 2016 because its ethics agency became operational in 2017.

Thus, the total number of states analyzed for the purpose of the Transparency Scoring Chart is 42 in 2016 and 43 in 2017 and 2018. The total number of ethics agencies analyzed is 49 in 2016 and 50 in 2017 and 2018.

The report explores our two major findings areas – enforcement efforts and transparency of enforcement actions – explaining what questions we asked and presenting our main findings. The report concludes with an overview of some of the best practices that we found and our recommendations and areas for further research.

³ North Dakota and New Mexico created ethics agencies via constitutional amendment in 2018. Implementing legislation was adopted in 2019. However, these agencies are not yet operational as of the date of this report's publication.

Enforcement Statistics Chart

WHAT QUESTIONS DID WE ASK?

For each ethics agency, we attempt to answer the following six questions for 2016, 2017, and 2018:

1. How many complaints were filed?
2. How many complaints were dismissed?
3. How many cases were resolved with a finding of no ethics violation?
4. How many cases were resolved with a finding of an ethics violations?
5. What sanction was adopted?
6. Are the decisions publicly available?

These questions provide an overview of the enforcement process by an ethics agency and give readers a basic understanding of what the agency is doing. Since state ethics agencies vary widely in their process of handling and investigating complaints, we developed a variety of definitions to standardize our research. These include:

- ▶ **Complaints filed:** This refers to the total number of complaints received by the agency before any determination of validity or probable cause.⁴
- ▶ **Complaints dismissed:** This refers to the total number of complaints dismissed before a full-scale investigation occurs. There are a variety of reasons why the complaints may be dismissed including lack of probable cause, lack of jurisdiction, or failure to allege a violation. These complaints may undergo a preliminary review before they are dismissed.

⁴ Agencies can receive complaints in multiple ways. Some agencies can only investigate complaints that are formally filed while others can initiate their own investigations. Generally, in annual reports and agency website databases, it is not clear how complaints originated so complaints initiated by an agency would likely be included in our reported number of complaints filed.

- ▶ **A finding of no ethics violation:** This refers to the total number of complaints dismissed after an investigation or comparable proceeding due to a finding of no ethics violation.
- ▶ **A finding of an ethics violation:** This refers to the total number of complaints where a violation was found through a formal hearing, investigation, or other comparable proceeding, or where a settlement or stipulation with sanctions was adopted.
- ▶ **Decisions publicly available:** This question asks whether final decisions of the ethics body regarding violations of the ethics rules are available on the agency website.

As this enforcement project builds on the S.W.A.M.P. Index, the state reports attempt to capture violations allegedly committed by employees and elected and appointed officials in the executive and legislative branches. Therefore, wherever possible, we have excluded from reported statistics complaints related to lobbying, campaign finance or the judicial branch.

ENFORCEMENT EFFORTS FINDINGS

Our findings related to enforcement statistics for 2018 are summarized in Table 1 by state agency. The five states that did not have an independent ethics agency in 2018 are listed as “No Agency”.⁵ The independent agencies which have no or limited enforcement powers are listed as such.⁶ A dash means that no information on the enforcement efforts of the ethics agency is available.

Instead of a ranking, we have compiled statistics on the number of complaints filed, dismissed, resolved with a finding of no ethics violation, resolved with a finding of an ethics violation and the sanctions adopted for 2016, 2017, and 2018. This information elucidates what an ethics agency is doing, how it resolves complaints and how it exercises its sanctioning powers.

⁵ These five states are Arizona, Idaho, New Mexico, North Dakota and Wyoming.

⁶ There are seven agencies in four states: the New York Legislative Ethics Commission, Utah Legislative Ethics Commission, Utah Executive Branch Ethics Commission, Vermont State Ethics Commission, Virginia Conflict of Interest and Ethics Advisory Council, Virginia House Advisory Panel, and the Virginia Senate Advisory Panel.

Table 1: Enforcement Statistics Chart, 2018

State Agency	No. of Complaints Filed	No. of Complaints Dismissed	No. of Cases Resolved with a Finding of No Ethics Violation	No. of Cases Resolved with a Finding of an Ethics Violation	Types of Sanctions Adopted	Largest Fine Imposed
AL Ethics Commission**	502	254	139	-	Fines	-
AK Public Offices Commission	0	-	0	0	None	None
AK State Personnel Board	-	-	-	-	-	-
AK Select Committee of Legislative Ethics	-	-	1	1	Fine	\$100
AZ	No Agency	No Agency	No Agency	No Agency	No Agency	No Agency
AR Ethics Commission	104	11	44	42	Public letters, fines	\$11,000
CA Fair Political Practices Commission	345	269	67	233	Warning letters, fines	\$400
CO Independent Ethics Commission	37	32	0	0	None	None
CT Office of State Ethics	40	-	-	4	Fines	\$5,000
DC Board of Ethics and Government Accountability	56	8	-	5	Fines, Admonitions	\$3,000
DE Public Integrity Commission	6	4	2	0	None	None
FL Commission on Ethics	188	165	0	16	Civil Penalties, Censures, Reprimands, Removal from Office	\$5,000
GA Government Transparency and Campaign Finance Commission	-	-	0	5	Fines, civil penalties	\$775
HI State Ethics Commission	67	-	-	10	Administrative Penalties, Removal from Office	\$15,000
ID	No Agency	No Agency	No Agency	No Agency	No Agency	No Agency
IL Legislative Ethics Commission	24	-	1	0	None	None
IL Executive Ethics Commission	-	-	-	3	Fines	\$1,500

<i>State Agency</i>	<i>No. of Complaints Filed</i>	<i>No. of Complaints Dismissed</i>	<i>No. of Cases Resolved with a Finding of No Ethics Violation</i>	<i>No. of Cases Resolved with a Finding of an Ethics Violation</i>	<i>Types of Sanctions Adopted</i>	<i>Largest Fine Imposed</i>
IN State Ethics Commission	341	271	-	-	Fines, restitution	\$14,964
IA Ethics and Campaign Disclosure Board	34	19	4	5	Admonishment, Reprimands, Civil Penalties	\$500
KS Governmental Ethics Commission	0	0	0	0	None	None
KY Legislative Ethics Commission	3	2	0	1	Reprimand and civil penalty	\$1,000
KY Executive Branch Ethics Commission	-	-	-	20	Fines, reprimands, injunctions	\$6,000
LA Board of Ethics	345	-	3	169	Fines	\$10,000
ME Commission on Governmental Ethics and Election Practices	0	0	0	0	None	None
MD State Ethics Commission	42	-	-	1	Reprimand and fee	\$2,000
MA State Ethics Commission	1,003	744	0	23	Public education letters and fine	\$8,000
MI Civil Service Commission - State Board of Ethics	-	-	0	0	None	None
MN Campaign Finance and Public Disclosure Board	0	0	0	33	Fines	-
MS Ethics Commission	-	-	-	-	-	-
MO Ethics Commission	-	0	52	3	Fines	\$14,872
MT Commissioner of Public Practices	2	0	1	1	Fine	\$3,000
NE Accountability and Disclosure Commission	18	11	1	3	Fine	\$5,000
NV Commission on Ethics	55	39	-	16	Fines, letters of caution	\$2,159
NH Legislative Ethics Committee	6	3	1	1	Informal Proceedings, Letter of Caution	None



State Agency	No. of Complaints Filed	No. of Complaints Dismissed	No. of Cases Resolved with a Finding of No Ethics Violation	No. of Cases Resolved with a Finding of an Ethics Violation	Types of Sanctions Adopted	Largest Fine Imposed
NH Executive Branch Ethics Committee	3	2	-	-	-	-
NJ State Ethics Commission	-	-	6	7	Fine	\$4,500
NJ Joint Legislative Committee on Ethical Standards	-	-	-	-	-	-
NM	No Agency	No Agency	No Agency	No Agency	No Agency	No Agency
NY Joint Commission on Public Ethics	257	-	-	6	Fines	\$9,000
NY Legislative Ethics Commission	None or Limited Power	None or Limited Power	None or Limited Power	0	None	None
NC Ethics Commission	-	-	-	-	-	-
ND	No Agency	No Agency	No Agency	No Agency	No Agency	No Agency
OH Ethics Commission	417	220	18	64	Settlement, Censure and Prosecutions	None
OK Ethics Commission	7	0	5	0	None	None
OR Government Ethics Commission	115	31	28	21	Letters of Education, fines	\$20,000
PA State Ethics Commission	462	410	2	19	Fines	-
RI Ethics Commission	29	8	0	18	Fines	\$1,500
SC State Ethics Commission	-	-	-	-	-	-
SD Government Accountability Board	4	3	-	-	-	-
TN Ethics Commission	-	-	-	-	-	-
TX Ethics Commission**	374	242	24	140	Fines	\$15,000
UT Legislative Ethics Commission	-	-	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power
UT Executive Branch Ethics Commission	-	-	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power
VT State Ethics Commission	36	8	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power

<i>State Agency</i>	<i>No. of Complaints Filed</i>	<i>No. of Complaints Dismissed</i>	<i>No. of Cases Resolved with a Finding of No Ethics Violation</i>	<i>No. of Cases Resolved with a Finding of an Ethics Violation</i>	<i>Types of Sanctions Adopted</i>	<i>Largest Fine Imposed</i>
VA Conflict of Interest and Ethics Advisory Council	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power
VA House Advisory Panel	-	-	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power
VA Senate Advisory Panel	-	-	None or Limited Power	None or Limited Power	None or Limited Power	None or Limited Power
WA Legislative Ethics Board	7	5	-	2	Fine	\$2,000
WA Executive Ethics Board	67	-	42	27	Fines	\$30,000
WV Ethics Commission	76	32	37	9	Fines, Reimbursements, Restitution, Public Reprimands, Compliance with Cease and Desist Orders, Mandatory Ethics Trainings	\$6,168
WI Ethics Commission	-	-	-	-	-	-
WY	No Agency	No Agency	No Agency	No Agency	No Agency	No Agency

****NOTE ON ALL STATES:** States differ on whether they report their data on a Calendar Year or Fiscal Year basis. For the purposes of the Enforcement Statistics Chart, we have compiled the data in the way that each individual state reports it for each year.

****NOTE ON ALABAMA:** The Alabama data includes complaints relating to violations of the lobbying law.

****NOTE ON TEXAS:** The Texas Ethics Commission has jurisdiction over financial disclosure reporting, lobbying and campaign finance. It does NOT have jurisdiction over violations of conflicts of interest or other ethics rules. The Commission does not publish disaggregated enforcement statistics, so the numbers in the chart include violations of financial disclosure reporting, lobbying and campaign finance rules.

Question 1: How many complaints were filed?

- ▶ The agencies with the largest number of complaints during 2016 – 2018 were the Massachusetts State Ethics Commission and the Alabama Ethics Commission.
 - ▶ Massachusetts State Ethics Commission stands out for the number of complaints received in fiscal years 2016 and 2017 – 1,617 cases in total. During that period, the Commission found 24 violations, imposed fines between \$100 and \$12,500, and issued public education letters. In 2018, the Massachusetts State Ethics Commission received 1,003 complaints.
 - ▶ Alabama Ethics Commission received 502 complaints in 2018. In 2018, the Commission initially dismissed 254 of these complaints and found no violations in 139 cases.

Question 2: How many complaints were dismissed?

- ▶ The agencies with the most complaints filed often have the most dismissals.
 - ▶ Massachusetts State Ethics Commission dismissed the most complaints in 2016, 2017, and 2018, with 714, 520, and 744 dismissals, respectively.
 - ▶ Pennsylvania State Ethics Commission also dismissed many cases. In 2016, it received 340 complaints and dismissed 299. In 2017, it received 457 complaints and dismissed 290; and in 2018, 462 complaints and 410 dismissals.

Question 3: How many cases were resolved with a finding of no ethics violation?

- ▶ The cases resolved with a finding of no ethics violation are more difficult to ascertain than other questions. The Alabama Ethics Commission stands out in this metric and in its transparency regarding these cases.
 - ▶ It processed a total of 1,385 complaints in 2016, 2017 and 2018. During that period, it resolved 375 cases with a finding of no ethics violation.
-

Question 4: How many cases were resolved with a finding of an ethics violation?

- ▶ The agency with the most cases resolved with a finding of an ethics violation was the California Fair Political Practices Commission. Another notable agency is Louisiana Board of Ethics.
 - ▶ The California Fair Political Practices Commission processed hundreds of complaints between 2016 and 2018, dismissing the bulk of them for lack of jurisdiction or failure to state a claim. In 2016, it found 344 violations of ethics rules and in 2017, violations in 334 cases. In 2018, the Commission found 233 violations of ethics rules. During this time period, it issued warning letters and fines ranging from \$3,000 to \$21,000.
 - ▶ Louisiana Board of Ethics processed 1,060 complaints in fiscal years 2016, 2017 and 2018, finding violations in 526 cases. It imposed sanctions ranging from \$200 to \$15,000.

Question 5: What sanction was adopted?

- ▶ Most sanctions consisted of fines, which ranged from a minimal amount⁷ to significant penalties.
 - ▶ 16 ethics agencies imposed fines of \$10,000 or more.⁸ The Hawaii State Ethics Commission imposed a fine of \$25,000 and the Alaska Public Offices Commission imposed a fine of \$21,890 in one case.
 - ▶ The Washington Executive Ethics Board imposed significant fines in at least two cases – one of \$30,000 and the other of \$50,000 – and the New York Legislative Ethics Commission imposed a fine of \$100,000, each of which were significantly higher than in other states.

⁷ The Minnesota Campaign Finance and Public Disclosure Board can only impose a fee of \$5 a day, not to exceed \$100, for failure to file financial disclosure reports on time. The Connecticut Office of State Ethics and the Alaska Public Offices Commission can only impose fines of \$10 a day for late-filed financial disclosure forms.

⁸ Alaska Public Offices Commission, Arkansas Ethics Commission, California Fair Political Practices Commission, Connecticut Office of State Ethics, Florida Commission on Ethics, Hawaii State Ethics Commission, Indiana State Ethics Commission, Louisiana Board of Ethics, Massachusetts State Ethics Commission, Missouri Ethics Commission, New Jersey State Ethics Commission, New York Legislative Ethics Commission, Oregon Government Ethics Commission, Texas Ethics Commission, Washington Executive Ethics Board, and West Virginia Ethics Commission.

- ▶ Few ethics agencies adopted personnel actions in response to a finding of an ethics violation. In almost all cases those actions were limited to warning letters or a reprimand.
 - ▶ The Florida Commission of Ethics stands out for being one of the few states to recommend removal from office in three cases.
 - ▶ The Hawaii State Ethics Commission recommended removal from office in one case.
 - ▶ Very few ethics agencies have the authority to directly remove a government official for an ethics violation and no agency exercised that power during the period of review.

Why Not Rank States on Enforcement Efforts?

Some ethics agencies stand out for active enforcement of their ethics laws – California Fair Political Practices Commission, Connecticut Office of State Ethics, District of Columbia Board of Ethics and Government Accountability, Florida Commission on Ethics, Hawaii State Ethics Commission, Kentucky Executive Branch Ethics Commission, Louisiana Board of Ethics, Massachusetts State Ethics Commission, Nevada Commission on Ethics, Oregon Government Ethics Commission, Pennsylvania State Ethics Commission, Washington Executive Ethics Board and West Virginia Ethics Commission.⁹ However, it is not possible to rank agency performance or compare state enforcement efforts. There are many reasons for this.

- ▶ State agencies have different budgetary and human resources at their disposal, affecting the number of cases and depth of investigations pursued. These factors

⁹ The Texas Ethics Commission is not included in this list because it is not possible to disaggregate its enforcement statistics, which include violations of financial disclosure reporting, lobbying and campaign finance rules.

are often influenced by other legislative priorities and not the ethics agency themselves.¹⁰

- ▶ Processing many cases is not necessarily equivalent to robust enforcement. An agency might choose to open numerous small investigations targeting lower-level government employees as opposed to pursuing a few larger cases relating to higher level government officials.
- ▶ State laws creating ethics agencies vary greatly. As noted, at least seven have no enforcement powers. Others are limited in scope to elected officials and do not govern public employees. In other cases, the agency has jurisdiction over only financial disclosure reporting and not issues such as conflict of interest.
- ▶ Some state ethics agencies also have jurisdiction over campaign finance and lobbying. Of these, a few do not maintain publicly available statistics by subject matter so violations relating to ethics cannot be disaggregated from overall violations or are difficult to ascertain.
- ▶ Penalties are not standard – only a handful of ethics agencies can take direct personnel actions, while others can only impose fines, which in many cases are minor.
- ▶ States with larger populations and those with more economic activity have more opportunities for corruption. One would expect the ethics agency in New York or California to have more complaints than Rhode Island. Ranking states based on enforcement statistics would not necessarily capture the degree of enforcement. Having many complaints filed does not mean that a state is effectively enforcing its ethics code.
- ▶ State ethics agencies maintain their statistics in different ways. Some use a fiscal year, and some operate using calendar year.
- ▶ Some state ethics agencies publish annual reports on a timely basis, while others either are not required to or lag significantly in publication. Others publish no information whatsoever.

¹⁰ Adriana Cordis & Jeffrey Milyo, Measuring Public Corruption in the United States: Evidence from Administrative Records of Federal Prosecutions 129 (University of Missouri Department of Economics, Working Paper No. 1322). *Oklahoma Ethics Commission Sues State for Underfunding*, U.S. NEWS AND WORLD REPORT (June 27, 2018, 3:37 PM), <https://www.usnews.com/news/best-states/oklahoma/articles/2018-06-27/oklahoma-ethics-commission-sues-state-for-underfunding>.

WHAT QUESTIONS DID WE ASK?

In contrast to actual enforcement, it is possible to compare the transparency of the enforcement process and rank states accordingly. For each of 2016, 2017 and 2018, we asked:

1. Is an annual or biennial report produced by the agency publicly available?
2. Can we determine the number of complaints filed?
3. Can we determine the number of complaints that were dismissed?
4. Can we determine the number of cases resolved with a finding of no ethics violation?
5. Can we determine the number of cases resolved with a finding of an ethics violation?
6. Are the decisions publicly available?

These questions address the availability of information pertaining to enforcement actions as well as the availability of annual/biennial reports and final decisions of the ethics agency.¹¹ To answer the questions, C4I reviewed annual/biennial reports, complaint or decision databases on agency websites, other reports produced by state ethics agencies, meeting minutes, and information provided to C4I by agencies that is not publicly available elsewhere.

C4I used a [Scoring Rubric](#) available on our website to calculate the score assigned to each state agency for each question. In general, we have assigned full credit if the ethics agency published statistics on enforcement actions in annual reports or comparable documents, partial credit if C4I had to compile the information from databases on an agency's website, and minimal credit if information was provided to C4I upon request that is not otherwise publicly available.

Capturing these distinctions is important because sources such as meeting minutes containing enforcement information are not as easy for citizens to use. C4I expended significant effort going through state agency website databases and meeting minutes, noting each case and reading each decision to determine the outcome so that we could clearly state the total number of cases dismissed, resolved, etc. The amount of time and effort

¹¹ The decisions of the ethics body regarding violation whether resulting from a hearing or settlement.

required for an individual to answer our questions using uncompiled information found in agency website databases would likely be prohibitive. Thus, our ranking captures not only the transparency but also the accessibility of information provided by ethics agencies by assigning points based on both whether information exists and the source of the information.

TRANSPARENCY SCORING CHART

Overview

This report on enforcement is a state-based project and, as such, the final scores are reported on a state by state basis. Nine states, however, have more than one ethics agency: Illinois, Kentucky, New Hampshire, New Jersey, New York, Utah, and Washington have two ethics agencies and Alaska and Virginia have three agencies. With the exception of New York,¹² we scored each agency individually and averaged the scores to come to the final state score.

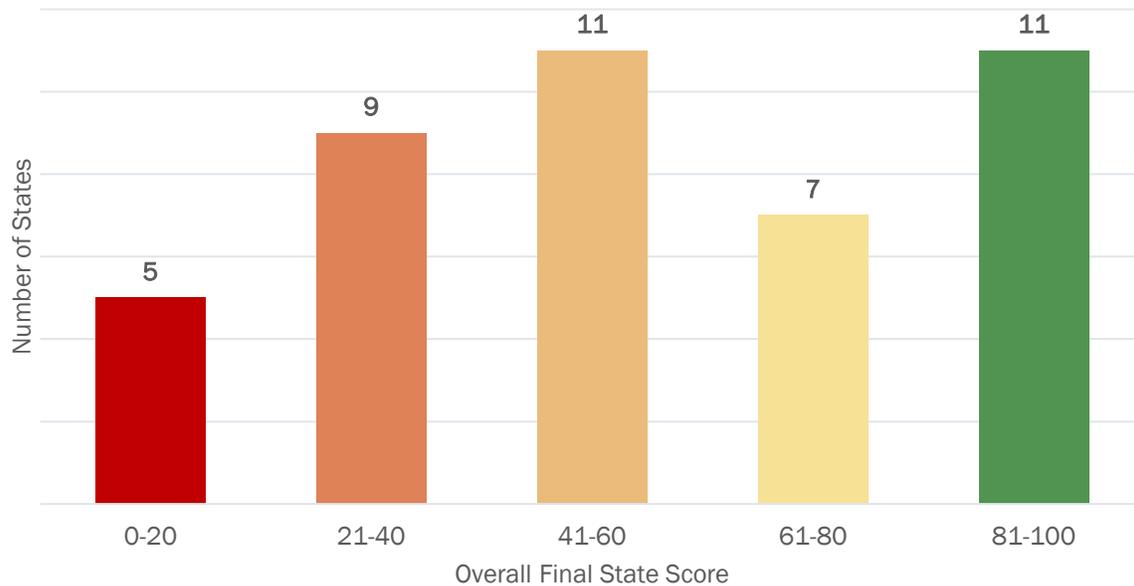
The Rankings do not include the five states which had no independent ethics agency at any point during the period analyzed. Nor do they include South Dakota for 2016 because its ethics agency began operations in 2017. The Rankings also do not include the seven state agencies in four states that have limited or no investigative or sanctioning powers.

Thus, the total number of states (including the District of Columbia) ranked is 43 and the total number of agencies analyzed is 50. The overall findings are reported on a state basis while the specific findings are reported on an agency basis. For agency findings, there are 49 agencies ranked in 2016 and 50 agencies ranked in 2017 and 2018.

¹² New York's Joint Legislative Ethics Commission has no investigative powers, so the final state score in New York is based on the Joint Commission on Public Ethics.

Overall Findings

**FIGURE 1: DISTRIBUTION OF FINAL STATE SCORES:
ENFORCEMENT RANKING**



The final scores for each state can be found in the Transparency Scoring Chart.

- ▶ Four states, Colorado, Florida, Minnesota and Rhode Island received a score of 100. Their ethics agencies produce annual reports which compile statistics on the number of complaints received, dismissed, resolved with a finding of no ethics violation, resolved with a finding of an ethics violation, and they make the decisions of the ethics agency publicly available in easily accessible fashion.
- ▶ The distribution of state scores is detailed in Figure 1. Eleven states received scores in the top 20th percentile, however, there is still room for improvement.¹³
- ▶ 14 states received a score below 40, while a majority of states analyzed (23) score at or below 50.
- ▶ The ethics agencies in two states, Mississippi and North Carolina, have absolutely no publicly available information regarding their enforcement actions and did not respond to requests for information.

¹³ Colorado, Florida, Minnesota, Rhode Island, Massachusetts, West Virginia, California, Delaware, Kansas, Nevada, and Texas.

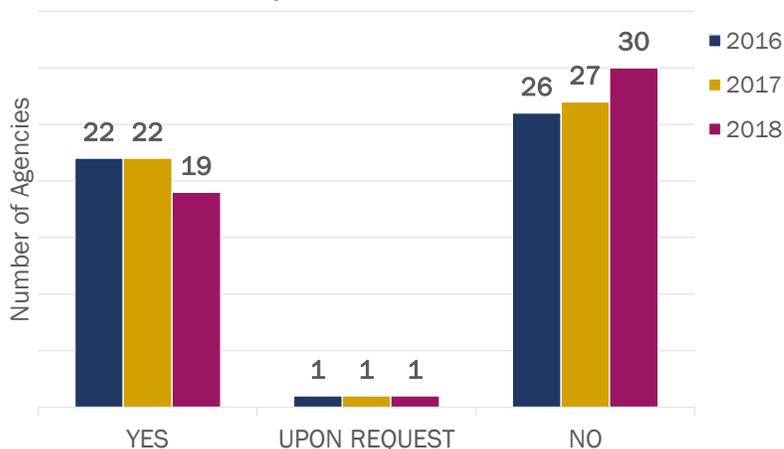
Specific Findings

Question 1: Is an annual or biennial report produced by the agency publicly available?

Publishing an annual report is an important component of transparency and while many states do publish them, there is often a significant lag-time. Biennial and even triennial reports are accounted for in the same way as annual reports, as long as they contain information about the relevant year.

- ▶ 18 agencies published annual or biennial reports in all three years analyzed or in all the years they were operational.¹⁴ These states received a score of 9 out of 9 on Question 1.
- ▶ West Virginia produced annual reports for 2017 and 2018 but did not produce a report in 2016.
- ▶ Connecticut provided their annual reports to us upon request for 2016, 2017, and 2018.
- ▶ Several agencies have published annual or biennial reports in 2016 and 2017, but fewer agencies had published their 2018 annual reports by June 30, 2019.
- ▶ Finally, as shown in Figure 2, a majority of agencies do not produce annual or biennial reports or have not done so in years. For example, Missouri has not produced an annual report for 2017 or 2018.

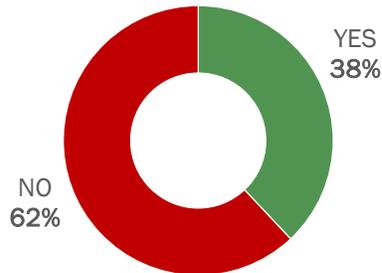
FIGURE 2: HAVE AGENCIES PUBLISHED ANNUAL/BIENNIAL REPORTS?



¹⁴ Alabama Ethics Commission, California Fair Political Practices Commission, Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Indiana State Ethics Commission, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Maryland State Ethics Commission, Massachusetts State Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Nevada Commission on Ethics, New York Joint Commission on Public Ethics, Rhode Island Ethics Commission, South Dakota Government Accountability Board, Texas Ethics Commission, Washington Executive Ethics Board, and Wisconsin Ethics Commission.

Question 2: Can we determine the number of complaints filed?

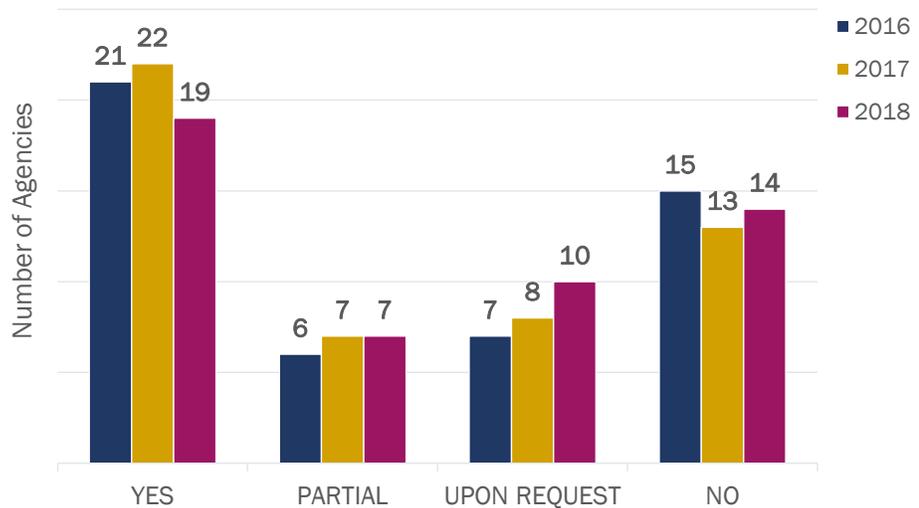
FIGURE 3: PERCENT OF AGENCIES WITH A SCORE OF 9 OUT OF 9 ON QUESTION #2



This question analyzes whether there is publicly available information on the number of complaints filed. Overall, there were 19 agencies that received a score of 9 out of 9 on this question.¹⁵ This means they published statistics on the number of complaints filed for their agency in publicly available annual reports for all three years analyzed or for all years their agency was operational. The percent of agencies with this score is detailed in Figure 3.

Figure 4 shows the trends in availability of information for 2016, 2017, and 2018. Generally, the information available has remained fairly consistent from year to year with fewer annual reports in 2018.

FIGURE 4: IS INFORMATION AVAILABLE ON THE NUMBER OF COMPLAINTS FILED IN 2016, 2017, AND 2018?



¹⁵ Alabama Ethics Commission, California Fair Political Practices Commission, Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Hawaii State Ethics Commission, Indiana State Ethics Commission, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Maryland State Ethics Commission, Massachusetts State Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Nevada Commission on Ethics, New York Joint Commission on Public Ethics, Rhode Island Ethics Commission, South Dakota Government Accountability Board (only operational 2017 and 2018), Texas Ethics Commission, Washington Executive Ethics Board, and West Virginia Ethics Commission.

FIGURE 5: IS INFORMATION AVAILABLE ON THE NUMBER OF COMPLAINTS FILED IN 2018?

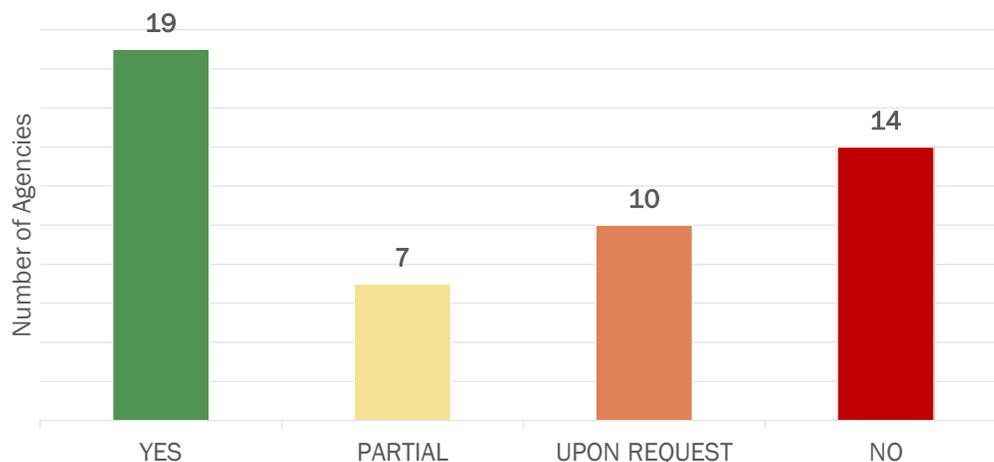


Figure 5 focuses on information available for 2018.

- ▶ 19 agencies published the number of complaints filed in their publicly available annual report. They received a score of 3 out of 3 for this question.¹⁶
- ▶ C4I was able to determine the number of complaints filed with seven agencies for 2018 by reviewing agency website databases or meeting minutes.¹⁷ These agencies received a score of 2 out of 3.
- ▶ 10 agencies provided C4I with data on the number of complaints via email that is not otherwise publicly available.¹⁸ They received a score of 1 out of 3 for this question and are listed as ‘upon request’.
- ▶ 14 agencies did not publish or provide any data on the number of complaints filed. They received a score of 0 out of 3.

¹⁶ Alabama Ethics Commission, California Fair Political Practices Commission, Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Hawaii State Ethics Commission, Indiana State Ethics Commission, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Maryland State Ethics Commission, Massachusetts State Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Nevada Commission on Ethics, New York Joint Commission on Public Ethics, Rhode Island Ethics Commission, South Dakota Government Accountability Board – only operational 2017 and 2018, Texas Ethics Commission, Washington Executive Ethics Board, and West Virginia Ethics Commission.

¹⁷ Alaska Public Offices Commission, District of Columbia Board of Ethics and Government Accountability, Illinois Legislative Ethics Commission, Iowa Ethics and Campaign Disclosure Board, Montana Commissioner of Political Practices, Oregon Government Ethics Commission, and Washington Legislative Ethics Board.

¹⁸ Arkansas Ethics Commission, Connecticut Office of State Ethics, Louisiana Board of Ethics, Maine Commission on Governmental Ethics and Election Practices, Nebraska Accountability and Disclosure Commission, New Hampshire Legislative Ethics Committee, New Hampshire Executive Branch Ethics Committee, Ohio Ethics Commission, Oklahoma Ethics Commission, and Pennsylvania State Ethics Commission.

Question 3: Can we determine the number of complaints that were dismissed?

This question analyzes whether there is publicly available information on the number of complaints that are dismissed before a full-scale investigation occurs. There are a variety of reasons why complaints are dismissed after a preliminary review, including lack of jurisdiction or lack of probable cause. Overall, there were 14 agencies that received a score of 9 out of 9 on this question.¹⁹ This means they published statistics on the number of complaints dismissed by their agency in their publicly available annual reports in all three years analyzed, or in all years they were operational. The percent of agencies with this score is detailed in Figure 6.

FIGURE 6: PERCENT OF AGENCIES WITH A SCORE OF 9 OUT OF 9 ON QUESTION #3

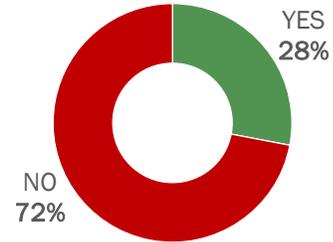
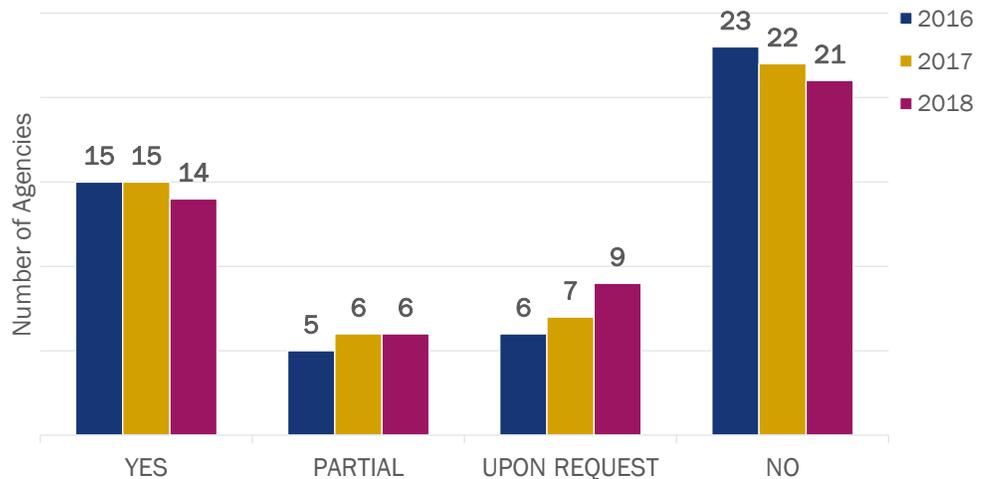


Figure 7 shows the trends in the availability of information from year to year. The trends are fairly consistent from year to year, but when comparing Figure 4 and 7 it is clear that there is generally less information available on the number of complaints dismissed when compared to the number of complaints initially filed.

FIGURE 7: DO AGENCIES HAVE INFORMATION AVAILABLE ON THE NUMBER OF COMPLAINTS DISMISSED IN 2016, 2017, AND 2018?



¹⁹ Alabama Ethics Commission, California Fair Political Practices Commission, Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Indiana State Ethics Commission, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Massachusetts State Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Nevada Commission on Ethics, Rhode Island Ethics Commission, Texas Ethics Commission, and West Virginia Ethics Commission.

FIGURE 8: DO AGENCIES HAVE INFORMATION AVAILABLE ON THE NUMBER OF COMPLAINTS DISMISSED IN 2018?



Figure 8 looks directly at the information for 2018. It shows:

- ▶ 14 agencies published the number of complaints dismissed in their publicly available annual report.²⁰ They received a score of 3 out of 3 for this question.
- ▶ 6 agencies published data containing information on dismissals in their website databases or meeting minutes that C4I had to compile to determine the total number of complaints. They received a score of 2 out of 3 on this question and are listed as ‘partial’.²¹
- ▶ 9 agencies provided C4I with data on the number of dismissals via email that is not otherwise publicly available and are listed as ‘upon request’. They received a score of 1 out of 3 for this question.²²
- ▶ 21 agencies did not publish or provide any data on the number of complaints that were dismissed. They received a score of 0 out of 3 for this question.

²⁰ Alabama Ethics Commission, California Fair Political Practices Commission, Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Indiana State Ethics Commission, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Massachusetts State Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Nevada Commission on Ethics, Rhode Island Ethics Commission, Texas Ethics Commission, and West Virginia Ethics Commission.

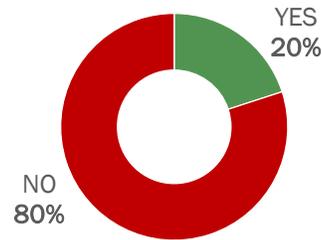
²¹ District of Columbia Board of Ethics and Government Accountability, Iowa Ethics and Campaign Disclosure Board, Montana Commissioner of Political Practices, Oregon Government Ethics Commission, South Dakota Government Accountability Board, and Washington Legislative Ethics Board.

²² Arkansas Ethics Commission, Maine Commission on Governmental Ethics and Election Practices, Missouri Ethics Commission, Nebraska Accountability and Disclosure Commission, New Hampshire Legislative Ethics Committee, New Hampshire Executive Branch Ethics Committee, Ohio Ethics Commission, Oklahoma Ethics Commission, and Pennsylvania State Ethics Commission.

Question 4: Can we determine the number of cases resolved with a finding of no ethics violation?

This question analyzes whether there is publicly available information on the number of cases that were dismissed after an investigation, formal hearing, or comparable proceeding. Overall, there were 10 agencies that received a score of 9 out of 9 on this

FIGURE 9: PERCENT OF AGENCIES WITH A SCORE OF 9 OUT OF 9 ON QUESTION #4



question.²³ This means they published statistics on the number of cases resolved with a finding of no ethics violation in their publicly available annual reports in all three years analyzed or all years they were operational.

FIGURE 10: DO AGENCIES HAVE INFORMATION AVAILABLE ON THE NUMBER OF CASES RESOLVED WITH A FINDING OF NO ETHICS VIOLATION IN 2016, 2017, AND 2018?

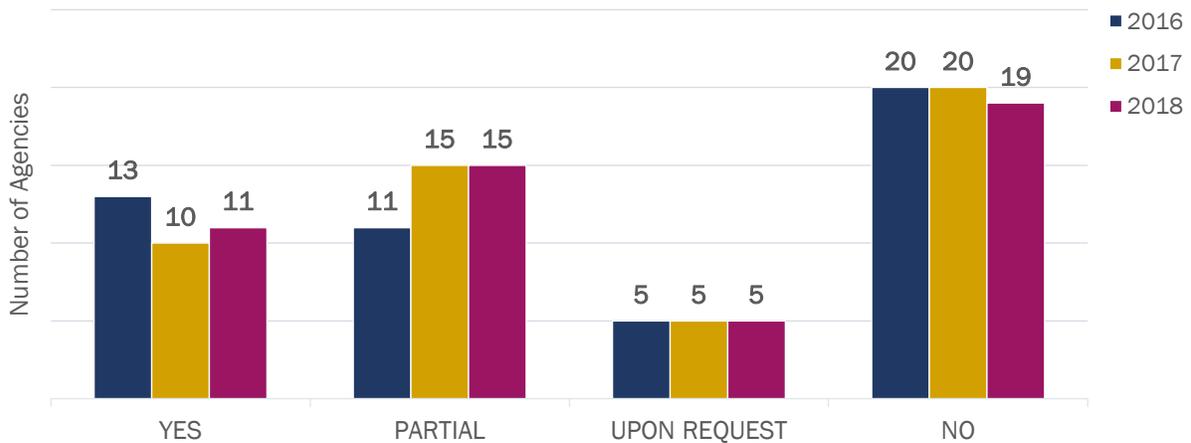


Figure 10 shows the trends in the availability of information from year to year. Interestingly, there was an increase in the number of agencies that provide information via uncompiled statistics (listed as partial) as opposed to compiled statistics published in annual reports (listed as yes) between 2016 and 2017. When comparing Figures 4, 7, and 10 it is clear that there is generally less information available on the number of cases resolved with a finding of no ethics violation.

²³ Alabama Ethics Commission, Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Kansas Governmental Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Rhode Island Ethics Commission, Texas Ethics Commission, Washington Executive Ethics Board, and West Virginia Ethics Commission.

FIGURE 11: DO AGENCIES HAVE INFORMATION AVAILABLE ON THE NUMBER OF CASES RESOLVED WITH A FINDING OF NO ETHICS VIOLATION IN 2018?

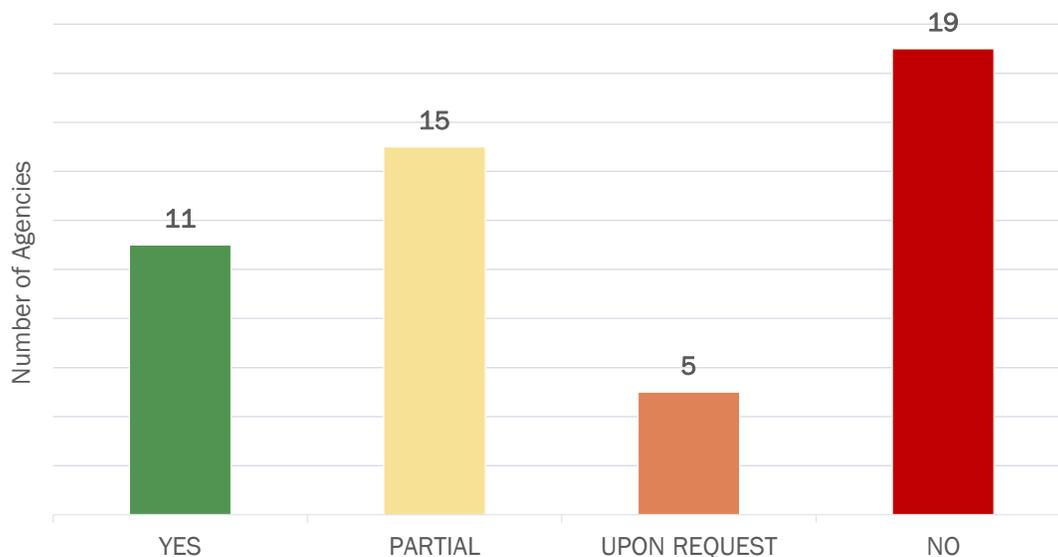


Figure 11 looks directly at the information for 2018. It shows:

- ▶ 11 agencies published the number of cases resolved with a finding of no ethics violation in their publicly available annual report. They received a score of 3 out of 3 for this question.²⁴
- ▶ 15 agencies published data containing information on the cases resolved with a finding of no ethics violation in website databases or meeting minutes that C4I had to compile to determine the total number of cases resolved with a finding of no ethics violation. They received a 2 out of 3 on this question and are listed as ‘partial’.²⁵

²⁴ Alabama Ethics Commission, Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Rhode Island Ethics Commission, Texas Ethics Commission, Washington Executive Ethics Board, and West Virginia Ethics Commission.

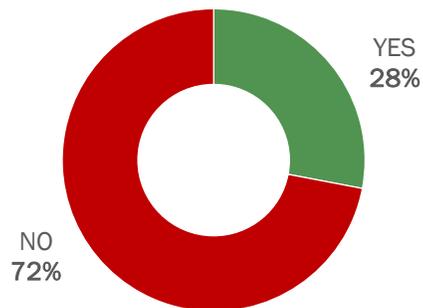
²⁵ Alaska Public Offices Commission, Alaska Select Committee on Legislative Ethics, California Fair Political Practices Commission, Georgia Government Transparency and Campaign Finance Commission, Illinois Legislative Ethics Commission, Iowa Ethics and Campaign Disclosure Board, Louisiana Board of Ethics, Massachusetts State Ethics Commission, Michigan Civil Service Commission – State Board of Ethics, Missouri Ethics Commission, Montana Commissioner of Political Practices, Nebraska Accountability and Disclosure Commission, New Hampshire Legislative Ethics Committee, New Jersey State Ethics Commission, and Oregon Government Ethics Commission.

-
- ▶ Five agencies provided C4I with data on the number of cases resolved with a finding of an ethics violation via email that is not otherwise publicly available. They received a score of 1 out of 3 and are listed as ‘upon request’.²⁶
 - ▶ 19 agencies did not publish or provide any data on the number of complaints resolved with a finding of no ethics violation. They received a score of 0 out of 3 for this question.

Question 5: Can we determine the number of cases resolved with a finding of an ethics violation?

This question analyzes whether there is publicly available information on the number of cases that were resolved through a formal hearing, investigation, or other comparable proceeding, or where a settlement or stipulation with sanctions was adopted. Overall, there were 14 agencies that received a score of 9 out of 9 on this question.²⁷ This means they published statistics on the number of cases resolved with a finding of an ethics violation in their publicly available annual reports for all three years analyzed or all years they were operational.

FIGURE 12: PERCENT OF AGENCIES WITH A SCORE OF 9 OUT OF 9 ON QUESTION #5



²⁶ Arkansas Ethics Commission, Maine Commission on Governmental Ethics and Election Practices, Ohio Ethics Commission, Oklahoma Ethics Commission, and Pennsylvania State Ethics Commission.

²⁷ Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Maryland State Ethics Commission, Massachusetts State Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Nevada Commission on Ethics, New York Joint Commission on Public Ethics, Rhode Island Ethics Commission, Texas Ethics Commission, Washington Executive Ethics Board and West Virginia Ethics Commission.

FIGURE 13: DO AGENCIES HAVE INFORMATION AVAILABLE ON THE NUMBER OF CASES RESOLVED WITH A FINDING OF AN ETHICS VIOLATION IN 2016, 2017, AND 2018?

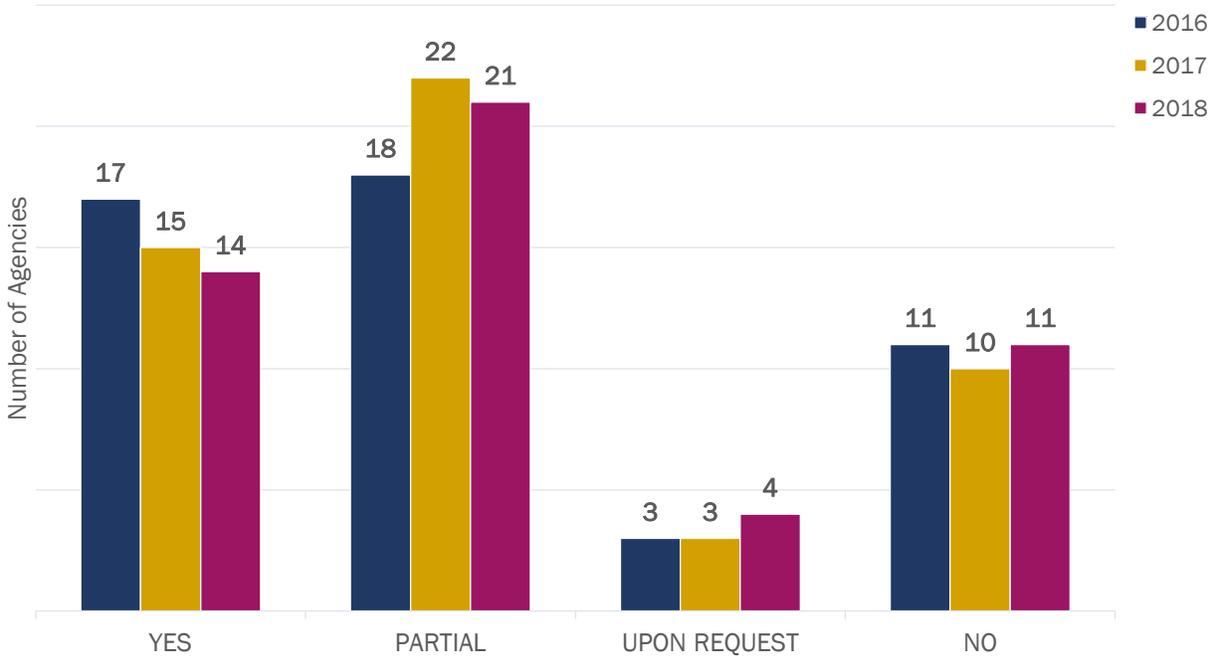
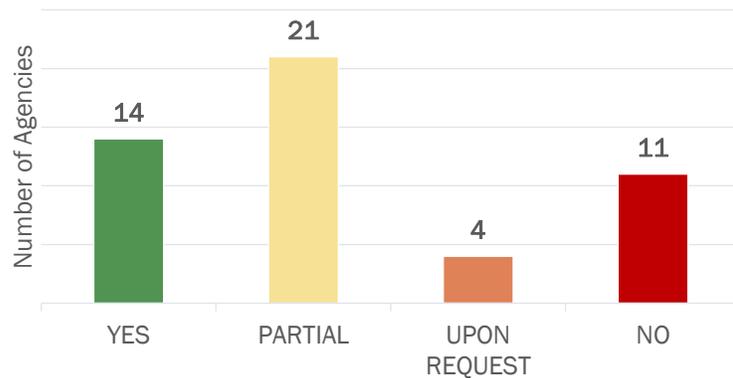


Figure 13 shows the trends in the availability of information from year to year. There is quite a bit of variation in the source of information on cases resolved with a finding of a violation, but there is also significantly more information available generally. This makes sense as agencies should at the very least be able to provide information on the instances where they found a violation. Even so, multiple agencies have no information on cases where a violation was found.

Figure 14 looks directly at the information for 2018. It shows:

- ▶ 14 agencies published the number of cases resolved with a finding of an ethics violation in their publicly available annual report. They received a score of 3 out of 3 for this question.²⁸
- ▶ 21 agencies published data containing information on the cases resolved with a finding of an ethics violation in their website databases or meeting minutes that C4I had to compile to determine the total number of cases resolved with a finding of an ethics violation. They received a score of 2 out of 3 on this question and are listed as 'partial'.²⁹
- ▶ Four agencies provided C4I with data on the number of cases resolved with a finding of an ethics violation via email that is not otherwise publicly available. They received a score of 1 out of 3 and are listed as 'upon request'.³⁰
- ▶ 11 agencies did not publish or provide any data on the number of complaints resolved with a finding of an ethics violation. They received a score of 0 out of 3 for this question.

FIGURE 14: DO AGENCIES HAVE INFORMATION AVAILABLE ON THE NUMBER OF CASES RESOLVED WITH A FINDING OF AN ETHICS VIOLATION IN 2018?



²⁸ Colorado Independent Ethics Commission, Delaware Public Integrity Commission, Florida Commission on Ethics, Kansas Governmental Ethics Commission, Kentucky Legislative Ethics Commission, Maryland State Ethics Commission, Massachusetts State Ethics Commission, Minnesota Campaign Finance and Public Disclosure Board, Nevada Commission on Ethics, New York Joint Commission on Public Ethics, Rhode Island Ethics Commission, Texas Ethics Commission, Washington Executive Ethics Board, and West Virginia Ethics Commission.

²⁹ Alaska Public Offices Commission, Alaska Select Committee on Legislative Ethics, Arkansas Ethics Commission, California Fair Political Practices Commission, Connecticut Office of State Ethics, District of Columbia Board of Ethics and Government Accountability, Georgia Government Transparency and Campaign Finance Commission, Hawaii State Ethics Commission, Illinois Legislative Ethics Commission, Illinois Executive Ethics Commission, Iowa Ethics and Campaign Disclosure Board, Kentucky Executive Branch Ethics Commission, Louisiana Board of Ethics, Michigan Civil Service Commission – State Board of Ethics, Missouri Ethics Commission, Montana Commissioner of Political Practices, Nebraska Accountability and Disclosure Commission, New Hampshire Legislative Ethics Committee, New Jersey State Ethics Commission, Oregon Government Ethics Commission, and Washington Legislative Ethics Board.

³⁰ Maine Commission on Governmental Ethics and Election Practices, Ohio Ethics Commission, Oklahoma Ethics Commission, and Pennsylvania State Ethics Commission.

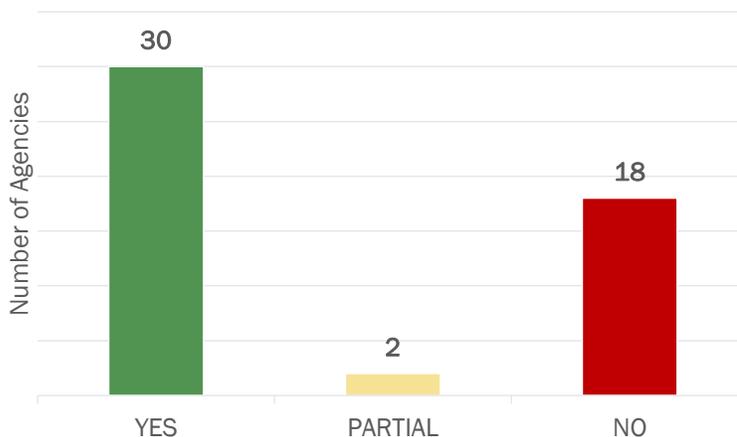
Question 6: Are the decisions publicly available?

Our final question analyzes whether the decisions of an agency are publicly available on the agency’s website.

Figure 15 shows that in 2018:

- ▶ 30 agencies have published decisions on their website. They receive a score of 3 out of 3 for this question.³¹
- ▶ Two agencies have decisions published on their website, but the agencies have discretion on whether or not to publish all decisions. They received a score of 1.5 out of 3 for this question and are listed as ‘partial’.³²
- ▶ 18 agencies have no published decisions on their website. They received a score of 0 out of 3 for this question.

FIGURE 15: ARE DECISIONS PUBLICLY AVAILABLE FOR 2018?



Notable Findings from Excluded Ethics Agencies

We excluded seven ethics agencies because they are statutorily limited in ways that would prevent them from producing information for one or more of our questions. However, they do provide some relevant information, and some are more transparent than others.

³¹ Alaska Public Offices Commission, Alaska Select Committee on Legislative Ethics, Arkansas Ethics Commission, California Fair Political Practices Commission, Colorado Independent Ethics Commission, Connecticut Office of State Ethics, District of Columbia Board of Ethics and Government Accountability, Florida Commission on Ethics, Georgia Government Transparency and Campaign Finance Commission, Hawaii State Ethics Commission, Kentucky Executive Branch Ethics Commission, Louisiana Board of Ethics, Maryland State Ethics Commission, Massachusetts State Ethics Commission, Michigan Civil Service Commission – State Board of Ethics, Minnesota Campaign Finance and Public Disclosure Board, Missouri Ethics Commission, Montana Commissioner of Political Practices, Nebraska Accountability and Disclosure Commission, Nevada Commission on Ethics, New Hampshire Legislative Ethics Committee, New Jersey State Ethics Commission, New York Joint Commission on Public Ethics, Oklahoma Ethics Commission, Oregon Government Ethics Commission, Pennsylvania State Ethics Commission, Rhode Island Ethics Commission, Washington Legislative Ethics Board, Washington Executive Ethics Board, and West Virginia Ethics Commission.

³² Illinois Legislative Ethics Commission and Illinois Executive Ethics Commission.

-
- ▶ Two agencies produced annual reports for all years they were operational – the Vermont State Ethics Commission and the Virginia Conflict of Interest and Ethics Advisory Council.
 - ▶ The Vermont State Ethics Commission published statistics on the number of complaints filed in its 2018 annual report and the number dismissed because there was no state authority to which the complaint could be referred.

Summary

While several ethics agencies provide information on the number of complaints filed initially and the number of complaints resolved with a finding of an ethics violation, there is a lack of transparency throughout the process. For example, there is not much information available on the cases dismissed, and 18 agencies do not publish their final decisions on their website. For many agencies, the information is not easily accessible, requiring a case-by-case review. To improve trust in the ethics process, all ethics agencies should compile information on the complaints received, cases resolved, and sanctions adopted at least on an annual basis. This would help interested stakeholders, both in the public and government, better understand the state of enforcement and increase support for the agencies.

BEST PRACTICES

The **West Virginia Ethics Commission** enforces and administers the Governmental Ethics Act, which applies to all public officials and public employees in all branches and levels of state, county and municipal government. It has authority to impose a variety of sanctions, ranging from a public reprimand, cease-and-desist orders and fines of up to \$5,000 per violation. It can also recommend to the appropriate authority termination of employment or removal from office, though it did not do so in the 2016-2018 period. The Commission's enforcement efforts are transparent. It publishes an annual report in a timely fashion which describes these efforts in detail, including the sanctions imposed, and makes its decisions available on its website.

The **Massachusetts State Ethics Commission** has jurisdiction over state ethics law, which applies to all appointed and elected executive branch officials, state legislators and public

employees in policy-making positions. It can issue cease-and-desist orders, fines of up to \$10,000 a violation and public education letters. Its annual reports are clear, with statistics on each step of the process and its website contains copies of its decisions.

The **Washington State Executive Ethics Board** has jurisdiction over elected and appointed executive branch officials and public employees. It can issue public reprimands, make recommendations to the appropriate authority for other personnel actions, issue fines of up to \$5,000, recoup financial damage to the state and charge reasonable investigative costs. The Board's annual reports provide significant detail about each step of the enforcement process and a list of decisions. It also posts decisions on its website.

RECOMMENDATIONS

Based on our review, we have several recommendations.

- ▶ A toothless ethics agency serves no purpose. Agencies need wide powers to investigate and sanction all government personnel.
- ▶ Proceedings of the ethics agency should be open to the public once there is a determination that probable cause exists that a violation has occurred. There should be no difference in terms of transparency between a criminal indictment, which is public, and a finding of probable cause of an ethics violation.
- ▶ If an ethics agency determines that a violation has occurred, its findings and sanctions should be publicly available. Confidential letters of reprimand carry little weight in deterring behavior.
- ▶ To increase incentives for compliance, penalties should be meaningful. Fines of \$100 or \$200 do not provide a deterrent. Most states have the authority to impose significant fines but do not do so. A few states are limited by statute and, in these cases, the amount of the fines allowed should be increased via legislation to meaningful amounts.
- ▶ Every ethics agency should publish annual reports on their enforcement efforts, even if not required to do so by statute. Doing so demonstrates a commitment to effective enforcement and provides a deterrent to improper behavior.

Conclusion and Areas for Further Research

Analyzing enforcement by ethics agencies is time consuming and frustrating. There is a huge variation in the jurisdiction of state ethics agencies. A number of them regulate only a small slice of the executive and legislative branches, with authority for ethics violations residing in other state agencies. Sanctioning authority is limited in many states to minimal levels of fines or financial penalties, with very few agencies having direct authority to take direct personnel actions, such as suspension, termination, reduction in pay. Many state agencies regulate lobbyists and campaign finance, in addition to ethics, making it difficult to single out ethics enforcement.

Too much information is hidden under the guise of confidentiality. An allegation of an ethics violation does not deserve secrecy if the agency has found probable cause to proceed with an investigation or hearing. It is particularly not warranted if the agency makes a determination of an ethics violation. It is in the public's interest to know how government officials are acting and what the ethics agency response is.

Where information is available, it often has to be compiled by reading through agency minutes or website databases. This makes it hard for the public to get a picture of how enforcement is proceeding. It could also adversely affect funding and legislative support if it is not clear that the agency is producing results.

Too many ethics agencies make no information available. At a time when trust in government has diminished and budgets are tight, state ethics agencies should be making an extra effort to publicize their enforcement efforts. Even if not statutorily required, an agency should publicize its work on an annual basis.

There are many issues that impact an ethics agency's enforcement efforts, most importantly the availability of funding and staffing. A lack of support from the legislature or the Governor is difficult to quantify but has a tremendous effect on enforcement efforts. One avenue of further research is funding and staffing of state ethics agencies to see if there is a correlation with enforcement efforts. This research could also provide state ethics agencies with information on how they compare with other state agencies.

Appendix A: State Transparency Ranking of 43 States

RANKING	STATE	FINAL STATE SCORE
1	Colorado	100
1	Florida	100
1	Minnesota	100
1	Rhode Island	100
5	Massachusetts	94
5	West Virginia	94
7	California	93
8	Delaware	83
8	Kansas	83
8	Nevada	83
8	Texas	83
12	Kentucky	69
13	Alabama	67
13	Maryland	67
13	New York*	67
13	Washington	67
17	Pennsylvania	65
18	Montana	61
19	South Dakota	56
20	Missouri	54
21	District of Columbia	50
21	Hawaii	50
21	Indiana	50
24	Oregon	48
25	Nebraska	46
26	Arkansas	44
26	Iowa	44
26	Louisiana	44
29	Connecticut	42
30	Georgia	39
30	Michigan	39
32	Alaska	32
33	Oklahoma	28
34	New Hampshire	27
35	Illinois	23
36	Maine	22
36	Ohio	22
36	Tennessee	22
39	New Jersey	19
40	Wisconsin	17
41	South Carolina	4
42	Mississippi	0
42	North Carolina	0

*With the exception of New York, we scored each agency individually and averaged the scores to come to the final state score. New York's state score reflects only the score of the New York Joint Commission on Public Ethics because the New York Legislative Ethics Commission is a limited power ethics agency.

Appendix B: Agency Transparency

Ranking of 50 Agencies

RANKING	AGENCY	FINAL AGENCY SCORE
1	Colorado Independent Ethics Commission	100
1	Florida Commission on Ethics	100
1	Minnesota Campaign Finance and Public Disclosure Board	100
1	Rhode Island Ethics Commission	100
5	Massachusetts State Ethics Commission	94
5	West Virginia Ethics Commission	94
7	California Fair Political Practices Commission	93
8	Delaware Public Integrity Commission	83
8	Kansas Governmental Ethics Commission	83
8	Nevada Commission on Ethics	83
8	Texas Ethics Commission	83
8	Washington Executive Ethics Board	83
13	Kentucky Legislative Ethics Commission	78
14	Alabama Ethics Commission	67
14	Maryland State Ethics Commission	67
14	New York Joint Commission on Public Ethics	67
17	Pennsylvania State Ethics Commission	65
18	Kentucky Executive Branch Ethics Commission	61
18	Montana Commissioner of Political Practices	61
20	South Dakota Government Accountability Board	56
21	Missouri Ethics Commission	54
22	Alaska Public Offices Commission	50
22	Hawaii State Ethics Commission	50
22	Indiana State Ethics Commission	50
22	New Hampshire Legislative Ethics Committee	50
22	District of Columbia Board of Ethics and Government Accountability	50
22	Washington Legislative Ethics Board	50
28	Oregon Government Ethics Commission	48
29	Nebraska Accountability and Disclosure Commission	46
30	Arkansas Ethics Commission	44
30	Iowa Ethics and Campaign Disclosure Board	44
30	Louisiana Board of Ethics	44
33	Connecticut Office of State Ethics	42

34	Alaska Select Committee on Legislative Ethics	39
34	Georgia Government Transparency and Campaign Finance Commission	39
34	Michigan Civil Service Commission – State Board of Ethics	39
34	New Jersey State Ethics Commission	39
38	Oklahoma Ethics Commission	28
39	Illinois Legislative Ethics Commission	27
40	Maine Commission on Governmental Ethics and Election Practices	22
40	Ohio Ethics Commission	22
40	Tennessee Ethics Commission	22
43	Illinois Executive Ethics Commission	19
44	Wisconsin Ethics Commission	17
45	Alaska State Personnel Board	7
46	New Hampshire Executive Branch Ethics Committee	4
46	South Carolina State Ethics Commission	4
48	Mississippi Ethics Commission	0
48	New Jersey Joint Legislative Committee on Ethical Standards	0
48	North Carolina Ethics Commission	0

Appendix C: List of Agencies Analyzed

Agencies Analyzed in Transparency Ranking

1. Alabama Ethics Commission
2. Alaska Public Offices Commission
3. Alaska State Personnel Board
4. Alaska Select Committee on Legislative Ethics
5. Arkansas Ethics Commission
6. California Fair Political Practices Commission
7. Colorado Independent Ethics Commission
8. Connecticut Office of State Ethics
9. Delaware Public Integrity Commission
10. District of Columbia Board of Ethics and Government Accountability
11. Florida Commission on Ethics
12. Georgia Government Transparency and Campaign Finance Commission
13. Hawaii State Ethics Commission
14. Illinois Legislative Ethics Commission
15. Illinois Executive Ethics Commission
16. Indiana State Ethics Commission
17. Iowa Ethics and Campaign Disclosure Board
18. Kansas Governmental Ethics Commission
19. Kentucky Legislative Ethics Commission
20. Kentucky Executive Branch Ethics Commission
21. Louisiana Board of Ethics
22. Maine Commission on Governmental Ethics and Election Practices
23. Maryland State Ethics Commission
24. Massachusetts State Ethics Commission
25. Michigan Civil Service Commission – State Board of Ethics
26. Minnesota Campaign Finance and Public Disclosure Board
27. Mississippi Ethics Commission
28. Missouri Ethics Commission

29. Montana Commissioner of Political Practices
30. Nebraska Accountability and Disclosure Commission
31. Nevada Commission on Ethics
32. New Hampshire Legislative Ethics Committee
33. New Hampshire Executive Branch Ethics Committee
34. New Jersey State Ethics Commission
35. New Jersey Joint Legislative Committee on Ethical Standards
36. New York Joint Commission on Public Ethics
37. North Carolina Ethics Commission
38. Ohio Ethics Commission
39. Oklahoma Ethics Commission
40. Oregon Government Ethics Commission
41. Pennsylvania State Ethics Commission
42. Rhode Island Ethics Commission
43. South Carolina State Ethics Commission
44. South Dakota Government Accountability Board
45. Tennessee Ethics Commission
46. Texas Ethics Commission
47. Washington Legislative Ethics Board
48. Washington Executive Ethics Board
49. West Virginia Ethics Commission
50. Wisconsin Ethics Commission

Agencies with Limited Powers Excluded from Ranking

1. New York Legislative Ethics Commission
 2. Utah Legislative Ethics Commission
 3. Utah Executive Branch Ethics Commission
 4. Vermont State Ethics Commission
 5. Virginia Conflict of Interest and Ethics Advisory Council
 6. Virginia House Advisory Panel
 7. Virginia Senate Advisory Panel
-

Acknowledgements

This report was prepared by the Coalition for Integrity. The project was managed by Shruti Shah, President and CEO of the Coalition for Integrity. The research team was led by Laurie Sherman, Policy Advisor at the Coalition for Integrity. We would like to recognize the contributions of Alex Amico, Indraa Batbayar, Jenna Bauer, Emily Christophersen, and Kisa Motiwala.

We would also like to thank Kevin Davis, Beller Family Professor of Business Law, New York University School of Law, and Member of the Coalition for Integrity Board of Directors, who provided valuable insights and guidance.

While Coalition for Integrity benefited greatly from the work provided by the foregoing persons, this report, including its conclusions and recommendations, represents the views of the Coalition for Integrity and does not necessarily reflect the views of those that provided advice, time and services to the report.

