

## Public Comments Received on Virginia Conflict of Interest and Ethics Advisory Council Proposed Forms

<b>Date Received:</b>	<b>Name of Commenter:</b>	<b>Comment:</b>
August 18, 2016	Rosanna Benccoach General Registrar, City of Charlottesville	<p>I learned from the Virginia Municipal League's weekly newsletter that the draft Statement of Economic Interests forms had been posted and that the Ethics Commission was seeking input. I am required by city ordinance to file statements. I also receive the statements filed by non-incumbent, local candidates.</p> <p>I found the draft <i>State and Local Statement of Economic Interests</i> form unnecessarily confusing in its design. Someone who is required to file, but has no economic interests which must be reported, would complete and file two pages using the current form. Those two pages are conveniently placed near the beginning of the package, and the subsequent pages with reporting schedules for the details can then be ignored.</p> <p>Using the new form, the mandatory filer with nothing to declare would file pages: 4, 5, 6, 11, 13, 15, 16, 18, 20, and 24. Unless the filer prints out the 24 pages single-sided, pulling out only those they need, what they file on paper will be a mess, or (more likely) would include all 24 pages with most of them blank. I have a small office and already have a shortage of filing space. Going from a 2-page minimum to 10 pages (but, more likely 24), for 17 local offices and seats, maintained through the appropriate retention period(s), will increase my costs.</p> <p>The new format mixes the screening questions with the reporting schedules. It is much more difficult to read and understand. Filers will miss questions, costing staff time to review the document and have the filer submit an amended form. In offices (like mine) which receive statements but are not charged with reviewing them, incomplete forms will go unnoticed until a reporter, political opponent or member of the public discovers the error and turns it into an issue in the media. Good people will have their reputations tarnished because of poor form design.</p> <p>Some filers, especially those using the new form for the first time, will fill out and sign page 4 and think that they are finished. In fact, the language of the new form would lead them to think that it is the last thing to complete because the affirmation they are signing attests that "the foregoing information is full, true, and correct[.]". On the new form, the foregoing information is only the identifying information. On the old form, that affirmation was placed after all of the screening questions and instructions to complete the appropriate schedule(s).</p> <p>The new format only makes sense for those filing online, when unneeded pages would be hidden (and provided that instructions are added on page 4 telling the filer to complete the rest of the questions and appropriate schedules after signing there). Online filing is not an option for those of us who do not file directly with the Commission, or who are required to receive paper filings.</p> <p><u>No matter what you decide to do for online filers, I urge you to retain the current, familiar format of the printable report for paper filers, only making any needed updates in the language or schedules.</u></p> <p>Thank you for taking my comments into consideration.</p>
August 19, 2016	Paige Rice Clerk of Council  Charlottesville, Virginia	I share the concerns Ms. Benccoach outlined below. Also, I hope all local officials and board members required to file with the Clerk of Council are able to do so electronically. This would make for a smoother process for everyone involved and would create a cleaner record.

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<b>Date Received:</b>	<b>Name of Commenter:</b>	<b>Comment:</b>
August 21, 2016	Victoria Nicholls	<p>Thank you for this work. I think it is excellently done</p>
August 23, 2016	JD Wagoner Martinsville, VA	<p>Please accept the following comments as it relates to the Conflicts and Ethics Disclosure filings. In the interest of disclosure, I am NOT in a position that requires me to complete any of the filings.</p> <p>1) Make the online submission available to everyone required to submit the disclosures. Currently, local officials can not file the disclosure electronically. This creates undue, repeated paperwork for local officials and clerks.</p> <p>2) Ensure the online system allows recall of previous submission, requiring the official to only update the information and re-certify to its accuracy.</p>
August 26, 2016	Trish Cronin, CMC Deputy Clerk County Administrator's Office County of Gloucester	<p>Thank you for providing an opportunity to comment on the proposed forms for annual conflict of interest filing. I have the following comments for the forms for local filers.</p> <p>Statement of Economic Interests</p> <p>1. I think it is a mistake to move the questions out to each schedule. I have filers that only had to submit the first two pages of the old form as the answers were all "no" and now they will have to submit the entire package.</p> <p>2. On page 4 of the new form for state and local filers, it indicates that the statement will be available to the public via the searchable database. This statement would not apply to those still filing with the local clerk of the governing body. The statement should be modified to indicate where that non-state filers forms are available from the clerks.</p> <p>Disclosure of Real Estate Holdings</p> <p>1. On page 1 of the form it states "This Financial Disclosure Statement is open for public inspection". Shouldn't this be "This Disclosure of Real Estate Holdings is open for public inspection"?</p>

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Date Received:	Name of Commenter:	Comment:
September 2, 2016	David Poole, Executive Director, Virginia Public Access Project	<p>Re: Session Gift Report</p> <p>As you create this new form, I would encourage the Council to keep in mind its goals of uniformity and electronic filing.</p> <p><b>Lack of Uniformity</b></p> <p>In terms of uniformity, one goal I've heard articulated from legislators is to make the information disclosed by legislators similar to what lobbyists report. Unfortunately, this draft continues down the path of having the two types of disclosures talk past each other.</p> <p>If history is any guide, you can anticipate that the majority of entries on the Session Gift Report will be meals. But the form is not set up for entertainment. An improvement would be to break the field "exact gift or event" into several fields:</p> <ul style="list-style-type: none"> <li>• Gift/Event (select one)</li> <li>• Description</li> <li>• Venue of Event (event only)</li> <li>• City/State of Event (event only)</li> </ul> <p>Adding these fields above would bring the form in greater uniformity with the Schedule A of the annual Lobbyist Disclosure Reports.</p> <p><b>Paper Document Paradigm</b></p> <p>The policy of the Ethics Council is that all these documents will be e-filed. This creates a real opportunity to improve the user experience of the person who fills out the document as well as providing the public with more clear information.</p> <p>The draft is presented on paper, which locks you into the format of a traditional form that is filled out by hand. I would encourage the Ethics Council to format this document more like the process flow for an electronic form. Using the example above, if the user indicated the gift was an item (instead of a meal), the form would reset so boxes for venue and city/state would disappear.</p>
September 7, 2016	David Poole, Executive Director, Virginia Public Access Project	<p>Re: Public Comment on Draft General Assembly SEI Forms</p> <p>The Ethics Council may want to consider these changes as a way to make the resulting information more uniform and understandable.</p> <p><b>Cover Sheet</b></p> <p>Names of Immediate Family Members: This is one of the most confusing portions of the existing forms. Typically, someone might list family members as "Jane, William and Susan" -- leaving the reader unclear the nature of the relationship? Is Jane the spouse and William and Susan children? There is no way to know. I would modify the form so that each entry would have a "Name" and "Relationship."</p> <p><b>Schedule C - Securities</b></p> <p>Responsive Design: This form is on paper, of course, but the users will be filling out these forms online. As you build the web data-entry screens, I would encourage you to take advantage of responsive designs that would adapt and change the form, depending on options selected. In this case, if the user selected "mutual fund" he might be prompted with a different set of fields to fill out than if he had selected "stock."</p> <p>The Utility of More Detail: The fields offered on the draft are identical to those in the current forms, which result in</p>

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confusion for the official filling out the form and the public trying to make sense of the information. The problem is that a single description field is inadequate to convey describe certain securities, particularly mutual funds. Imagine a situation where someone had an IRA at Vanguard in which they held at least \$5,001 in a mutual funds, "Fidelity Total Return." If the past is any guide, users might variously respond with "Vanguard", "Fidelity", "Total Return" or (this happens a lot) simply "IRA". The result is a lack of clarity and uniformity. I would suggest providing the user with additional fields other than "Name of Issuer" to describe a mutual fund. Here are some suggestions how the form might look given the example above:

- Institution Where Funds Held in Trust: Vanguard
- Fund Family: Fidelity
- Name of Mutual Fund: Total Return
- Fund Symbol (optional)
- Tax Status: IRA (this would be pulldown menu including "401K", "IRA", etc.)

I think the additional information would be a small price to pay for the added clarity for officials who have to fill out the form and for the public reading them.

### Schedule E - Real Estate

Street Addresses of Property: Many members traditionally list street addresses. I would suggest keeping the warning about addresses won't be redacted, but remove the instructions specifically telling them not to list a street address. This will preserve their ability to list an address, if they so choose.

### Schedule F - Payments for Talks

"Source" -- You should consider a different term than "source" to indicate the name of organization or person who provided payment. Perhaps "Payment Received From"

Need for a "Notes" field: It is my experience that legislators sometimes like to provide additional information about these events, such as "I gave a presentation at 8 a.m. and then left before the banquet." On the web form, you should give members the flexibility to provide any description or extenuating circumstances.

### Schedule G - Gifts

Change Name of Form: You might consider "Gifts and Entertainment" given the fact that most items disclosed fall into category of meals or receptions, not tangible gifts.

Lack of Uniformity: In terms of uniformity, one goal I've heard articulated from legislators is to make the information disclosed by legislators similar to what lobbyists report. Unfortunately, this draft continues down the path of having the two types of disclosures talk past each other.

If history is any guide, you can anticipate that the majority of entries on the Session Gift Report will be meals. But the form is not set up for entertainment. An improvement would be to break the field "exact gift or event" into several fields:

- Gift/Event (select one)
- Description
- Venue of Event (event only)
- City/State of Event (event only)

Adding these fields above would bring the form in greater uniformity with the Schedule A of the annual Lobbyist Disclosure Reports.

### Schedule H - Payments for Representation

Header "Type of Business" in Table 1: To be consistent with past policy, I would have expected the first column in Table 1 to be "Name of Client." Is "Type of Business" the intended header?

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September 11, 2016	Terrill Ramsey	<p>1. <b>Completeness Control of Pages Filed</b> – The instructions on page 1 indicate that Schedules A through I are to be completed only if answer “Yes” to any of the questions on the Schedules. I believe these schedules should also be completed if a person answers “No” to any of the questions to ensure you have a record that the person answered “No.” The current forms have page 1 as a control sheet that provides a record on which Schedules were completed or that they answered “No.” This control sheet does not exist on the draft so it would be difficult to determine whether a schedule was not filed because not required or lost by the clerk with whom filed. Also the public wishing to view or requesting a copy would have no way of knowing they were provided everything that was filed. Multiple pages need to include sufficient information to ensure they “can be put back together” if separated, e.g., Name of Filer, Office, Locality, Reporting Period.</p> <p>2. <b>Date Received</b> – Recommend the forms include a place for the local clerk to indicate the date and time received and who received the form. Since there is a penalty for late filing, important for all parties to clearly document the filing date on the form.</p> <p>3. <b>Reporting Period Date of Schedules</b> – Each schedule should include the applicable reporting period so that if pages were later separated, they could be clearly matched to the original document.</p> <p>4. <b>Fillable PDF Form</b> – Recommend the Ethics Advisory Council (Council) make the forms available in fillable PDF to facilitate filing the forms in print rather than harder to read hand writing. Also, fillable PDF would allow the Name and Reporting Period Date to be automatically inserted on all schedules.</p> <p>5. <b>Accountability When the Clerk Is Also a Filer</b> – Provision needs to be made for when the filer is also the recipient and custodian of the forms to ensure integrity over the process and protect the filer from a false accusation that a person who is both filer and custodian changed their own form after the original filing. For example, I expect in some Counties the County Administrator also serves as the clerk or the clerk is a direct report to the County Administrator.</p> <p>6. <b>Filer Name and Names of Immediate Family Formatting</b> – Suggest formatting for first name, middle initial/name, and last name. I am sure in many cases the members of the immediate family would not have the same last name.</p> <p>7. <b>Names of Members of Immediate Family</b> – Suggest adding more space to list the family members and format to include first name, middle initial/name, and last name.</p> <p>8. <b>Availability of Searchable Database</b> – First page of form states: “... the Statement of Economic Interests will be available on a searchable database . . .“ Is this correct for the filings with the local clerk as 2.2-2115.D appears to indicate that the forms will be maintained at the local level? Controls over the forms would be stronger if the Council maintained a control copy of each form, even better if collected electronically, but I recognize that may be a significant scope of work expansion for the Council.</p> <p>9. <b>Schedule A – Officers and Directors (State Code Schedule A)</b> <ul style="list-style-type: none"> <li>a. Recommend a separate table under each of the two questions to show whether the person is an officer or director as the “Position Held” alone may not be sufficient to identify officers and directors as different corporate articles of incorporation and bylaws may treat position titles</li> </ul> </p>

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		<p>differently. The State Code appears to require specific identification of paid officers and directors vs. others paid by an entity.</p> <p>b. Question whether the form provides sufficient space to legibly write/type the information requested.</p> <p><b>10. Schedule D – Business Interests and Rental Property (State Code Schedule F)</b></p> <p>a. Table 2 – Instructions are not clear as third line says “List each rental property individually” and later in bold type states “DO NOT LIST the street address for any rental property.” Unclear whether the bold type applies only to property owned in a corporate name or not. For example, if I own 10 rental properties titled in the exact same name, located in the same locality which are required to be listed, would I list the same information 10 times? I believe it is important for the SEI to include specific reference to the individual properties and suggest the form include tax map numbers as properties without buildings often do not have a 911 or street address. This is both for the benefit of the public to know of potential conflicts as well as the benefit of the filer that they have clearly disclosed all properties and potential conflicts. For example, I recently saw in a local government where one member of the Board of Supervisors negotiated a real estate transaction on behalf of the County for a parcel that adjoined this Supervisor’s property and the Supervisor had not listed that adjoining property on their SEI. I do not believe under the proposed form it would be clear whether or not the property was listed.</p> <p>b. Table 1 and 2 – Instructions state to list with a value in excess of \$5,000, however form provides blocks to check related to gross income. I note this is the same on the current forms and unclear why the inconsistency.</p> <p><b>11. Schedule E- Real Estate (State Code Schedule F)</b></p> <p>a. Same comment as above, for the benefit of the public and protection of the filer specific identification of each real estate parcel should be listed with specific identification, e.g., tax map number.</p> <p>b. The first column requests “Type of Real Estate” but no guideline are examples are provided for what is meant by type? For example, are the expected Types? Guidelines are needed to promote consistency of filed data.</p> <p>c. Unclear why the instructions specifically state “Do not to list any street address.” Including addresses on the form would be useful to the public. The information is not sensitive as is publicly available in the localities real estate assessment records and often available online. This comment also applies to Schedule D. For consistency only, unclear why this form states not to list any street address and the form for filing under 2.2-3115.G does not.</p> <p>d. Comment 11.a and 11.b above also apply to the Disclosure of Real Estate Holdings under 2.2-3115.G.</p> <p><b>12. Schedule F – Payments for Talks, Meetings, and Conferences (State Code Schedule D)</b></p> <p>a. I note that the Code asks for reporting within the last six months (unsure why not asking for the full</p>
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reporting period) and the instructions do not indicate the date. Statement on page 1 states “... as of the date of this report unless otherwise stated” which appears incorrect for this and other questions as noted below. Recommend the instructions be clear on the from/through period for all reporting. This also applies to Schedule G.

- b. Question whether the space in the table gives room to provide the requested information.
- c. In instructions for clarity suggest replacing the word “agency” with “Governmental Agency” in order to use the defined term.
- d. Not clear why “Publications” is omitted as included in State Code from the website <http://law.lis.virginia.gov/vacode>.

**13. Schedule G- Gifts (State Code Schedule E)**

- a. Instructions use terms of “lobbyist, lobbyist’s principle, and contractor” while State Code for Schedule D uses terms of “business, government, or individual.” Unclear why different terms are used.
- b. Clarify in the instructions that gifts with a value of less than \$20 are not subject to aggregation.

**14. Schedule H – Payments for Representation and Other Services Generally (State Code G Schedules)**

- a. All Tables – Tables uses in excess of \$5,000 and State Code for “G Tables” appears to use a \$1,000 threshold. Unclear the reason for the difference. As reference, I am using State Code downloaded 8/15/2016.
- b. Table 3 - Since the State Code lists specific Business Categories, appears that the same categories should be either listed in the Table or in the instructions.
- c. Table 3 – State Code refers to past six months and instructions are not clear.
- d. Word “completing” is misspelled in first line under “Questions” and elsewhere in the schedule.

**15. Schedule I – Real Estate Contracts with Governmental Agencies (State Code item 10 and Schedule I)**

- a. State Code in Schedule I appears to ask for more specific information than the Table in the proposed form, e.g., “describe any management role and the percentage of ownership interest.”
- b. Unclear why the table includes a column for State Governmental Agency and not for Local Governmental Agency.
- c. State Code in Schedule I uses different dollar thresholds than table. Reason for the difference is unclear.
- d. State Code refers to past six months and instructions are not clear on reporting period.

**16. Schedule Titles** – Beginning with Schedule D, the schedule letter titles do not match the titles in 2.2-3117. This difference is for no apparent reason and makes it more difficult for the filer and the public to refer to the State Code for additional information as the instructions are often a summary of the State Code. Recommend using the same schedule letter titles as the State Code or if not indicate on the form the reference to the corresponding schedule in the law.

**17. Additional Explanatory Information** – Instructions should indicate that filer may attach additional explanatory information consistent with language in 2.2-3117.

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		<p>18. <b>Financial Disclosure Forms</b> – I have not reviewed these forms closely but believe many of the above comments also apply to them.</p> <p>19. <b>Amended Forms</b> – Forms and instructions do not appear to tell how amendments to the forms should be handled. When amendments are made there should be a clear public trail of the original, what was amended and when, as well as a new signing affirmation that the amendments are full, true, and correct. A trail is needed as both the original form and amendments are public record.</p> <p>20. <b>Review of Actual Forms Filed for Local Officials</b> – If you have not done so, I recommend you review some actual forms filed by local officials so you may where there are issues related to clarity, completeness, readability, etc. Below is a list of some observations. I am sending examples to help show the need to review actual filings as part of forms design process:</p> <ul style="list-style-type: none"> <li>a. Name of locality not included</li> <li>b. For stocks, bonds, mutual funds name of issuer is not clear and appears only the name of the brokerage firm is listed and not the individual securities.</li> <li>c. Immediate family only lists first names which is insufficient identification of the family.</li> <li>d. Pages beyond first do not include the name of the filer.</li> <li>e. Pages are not numbered.</li> <li>f. Affirmation signed but not dated.</li> <li>g. Schedule A marked applicable but nothing listed on the schedule.</li> <li>h. Pages included that were not required to be included</li> </ul>
September 13, 2016	Glen A. Huff, Chief Judge Court of Appeals of Virginia	<p>Section II "Business Interests" requires disclosure of business ownership interests having a value of \$5,000 or more. I assume that this would include, therefore, a listing of all stock holdings, ownership interests in LLCs, mutual funds etc, having a value of \$5,000 or more, but not bonds, loans or indentures. I do not understand the distinction being made. Also, identifying the "location of business (city or county, and state)" could be a very unwieldy task.</p> <p>My stock accounts are managed by brokers who make buy and sell decisions on their own, without involvement from me (other than my stating my risk tolerance). In those instances, a 10 page listing of holdings at some point in time seems like a meaningless requirement.</p> <p>If the purpose is to know whether I have equity accounts in excess of \$5,000, I would think that asking that question would be the better way to proceed.</p>
September 13, 2016	Paige Rice Clerk of Council Charlottesville, Virginia On behalf of: Councilor Galvin and Councilor Fenwick	Upon review, I have received feedback from Councilor Galvin and Councilor Fenwick. Both Councilors concur that the new forms are unnecessarily cumbersome in that they require the filers to print and mark every page instead of the first two pages, as was the case with the prior forms.

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September 14, 2016	Bill Zimmerman Covington City Councilman	<p>I believe that immediate relatives of Council Members or Board of Supervisors should list the school boards, social services and any other agencies in which their relatives are employed. This also includes relatives who are employed by the municipality. If there is a monetary arrangement with these entities, then members of each City, Town or County should be aware of a potential conflict of interest, inform the citizens, and abstain from voting.</p>
September 15, 2016	Phyllis A Errico, Esq., CAE General Counsel Virginia Association of Counties	<p><b>LOCAL GOVERNMENT COMMENTS ON COIA COUNCIL DRAFT FORMS</b></p> <p>VML and VACo appreciate the opportunity to comment on the draft forms and commend the Conflict of Interest and Ethics Advisory Council staff for their work on these forms. It is particularly helpful to have clarifying language within the schedules as it makes it easier to understand where items need to be disclosed on the forms.</p> <p>As a global comment to the process itself, the large number of localities in Virginia and the differences between staffing, budgets, technology and size make it important for localities to be able to continue to file their forms locally and VML and VACo strongly support maintaining the current process for local filing.</p> <p>Below are comments from our organizations and from some local governments.</p> <p><b>STATE AND LOCAL STATEMENT OF ECONOMIC INTERESTS</b></p> <ul style="list-style-type: none"> <li>• Instructions, page 1. Says, that “state and local officers and employees and candidates for such offices are required to complete and file” the Statement. Because not all officials and employees must file, we would recommend replacing that sentence with text from the current form saying that [certain persons] “designated to file by the Code of Virginia or by their governing ordinance” are required to file.</li> <li>• Instructions, page 1. Says “The filing deadline is January 15 for the prior calendar year.” For January 2017 filing, should the reporting period be adjusted to May 1, 2016, to December 31, 2016? If not, will filers have to refile the information contained in the previous filing?</li> <li>• Definition of “close financial association.” The word “legislators” should say “filers.” This definition is applicable to Schedule H, relevant parts of which use the defined term. Locals are required to complete parts of Schedule H.</li> <li>• Definition of “gift.” Exception (v) substitutes the word “legislator” for “an officer or employee.” Suggestion is to substitute “filer.”</li> <li>• Definition of “immediate family.” Word “legislator” appears in two places; should say “officer or employee” or “filer.”</li> <li>• Suggestion that the numbering start at page 1 of the form. Numbering the instructions and including them as part of the form results in filers filing the forms with the instructions attached. This adds bulk to what the Clerk has to maintain.</li> </ul>

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- The bolded notice immediately following the identifying information should indicate that locally-filed forms are not available to the public via the Council's website but rather in the local clerk's office.
- SCHEDULE A: Current schedule asks if the filer is a "paid" officer or director. The draft form asks if filer receives "remuneration, benefits, or compensation for service." This is confusing and will likely generate questions. For example, if lunch is routinely served at the meetings, is that a benefit? If the question is intended to encompass everything, should it ask what the remuneration, benefits or compensation is, so that the public can distinguish cash payments from sandwiches and coffee? Or is there a threshold value under which the benefits don't need to be reported? If the threshold for salary is \$5,000, would "remuneration, benefits or compensation" have to be disclosed if the value is less than that amount?
- SCHEDULE C: Page 12 (page with the table) says "list separately each security held in an ... [type of investment]." This appears to be inconsistent with other verbiage and with the table, which says to list each type of security.
- SCHEDULE E: Page 15. Why are locals required to disclose real estate holdings not in their localities? Those persons required to report on the Real Estate Disclosure forms only have to report real estate holdings in their own jurisdictions. Similarly, persons required to report securities holdings only have to report holdings with companies that do business in Virginia.
- SCHEDULES F AND G:  
The interplay between these two schedules has been a recurring question for local governments. Local government officials commonly attend events that mix meetings or presentations with a meal. An example is a dinner given by a local nonprofit organization to give speeches about their accomplishments and present awards. Local government officials may be given complimentary tickets. The sequence of these two schedules suggest that the decision tree for gifts of tickets to events of this nature is to look first at whether it should be reported as a meeting or event, and to consider it under the "gift" rules only if the answer is no. However, it is anomalous to report "things of value" on Schedule F that the definition of "gift" specifically excludes. In the example above, if the gift exclusion for "food and beverages consumed while attending an event at which the filer is performing official duties related to his public service" should the filer still report it as on Schedule F if the value exceeds \$100? If the overall value of the event is less than the \$100 reporting threshold after the food and beverages are subtracted based on the exclusion, does that mean the filer doesn't have to report it on Schedule F? If the decision path is to first evaluate whether the "thing of value" is a gift, and the answer is "no" because it comes within the scope of an exclusion, then the sequence of these 2 schedules should be switched.
- SCHEDULE F: "Payment for Talks, Meetings, and Conferences." How does "participation in a meeting" in the first bullet differ from "attendance at a meeting" where the attendance meets the criteria specified? Can the second bullet eliminate the word "meeting" (and limit its scope to

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		<p>conferences or events) to simplify the schedule?</p> <ul style="list-style-type: none"><li>• <b>SCHEDULE F:</b> It would be helpful to add language of what is a gift and what is not a gift here so that filers will know what schedule to use to report various payments and reimbursements for meetings, conferences and events. It would also be helpful to have the language: “Do not report payments or reimbursements you received from the Commonwealth or its political subdivisions. Do not report business or employer identified in section I of this disclosure statement” as found on the financial disclosure Statement”.</li><li>• <b>SCHEDULE G:</b><ol style="list-style-type: none"><li>a. On page 19, the instruction uses shorthand “contractor.” For clarity, this should say “Disclose each person or entity that comes within categories (i), (ii), (iii) or (iv) on the previous page that, during the prior calendar year, gave....” Categories (iii) and (iv) include more than current contractors.</li><li>b. Current form says “Do not list business entertainment related to the private profession or occupation of you or the member of your immediate family who received such business entertainment.” This form does not include that admonition. Was it simply considered redundant because the definition of “gift” excludes “any gift related to the private profession or occupation of a legislator (sic) or of a member of his immediate family”?</li><li>c. The last column in the table on page 19 needs another box for travel waiver. *It would be helpful to have the language of what is not a gift here so that filers will know that they should list reimbursements or payments that are not gifts elsewhere such as schedule F. * There is still confusion about the \$20 and \$50 dollar gift limits.</li></ol></li></ul>
		<ul style="list-style-type: none"><li>• <b>SCHEDULE H:</b> Table 3 (for local filers) doesn’t distinguish between services rendered by the filer and services rendered by persons with whom the filer has a close financial association. The corresponding tables for state filers break those out. Why?</li><li>• <b>SCHEDULE I:</b> This schedule does not consistently say what needs to be reported. The instructions direct the filer to disclose if the filer’s interest exceeds \$5,000, elsewhere it says that the filer reports if the contract value exceeds \$5,000.</li><li>• With regard to the state and local statement of economic interest’s draft, it seems that “local” is missing in some areas. First in the definition of “close financial association” and what it does not mean - there is no mention of local governmental agency or local government official. The disclosures listed in VA Code Section 2.2-3115 seem to require locals to disclose close financial associations as well – so this language may need to be cleaned up. It seems like there are several pages to look at after the definitions, pages 20, 21, 22 and then it is clarified on page 24?</li></ul>

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		<p><b>FINANCIAL DISCLOSURE &amp; DISCLOSURE OF REAL ESTATE FORMS</b></p> <ul style="list-style-type: none"> <li>The Financial Disclosure Statement draft asks for real estate owned in the locality and any contiguous locality. The Disclosure of Real Estate Holdings draft asks for real estate in the respective locality. The State and Local Statement of Economic Interest asks for a disclosure of all real estate. This doesn't seem to make sense for local officials. Why is the language different on each form?</li> </ul> <p><b>THE LOBBYIST DISCLOSURE FORM</b></p> <ul style="list-style-type: none"> <li>The Language on part III Expenditure totals should be more descriptive. It would be helpful for the language to match the schedule it is referring to. For example a. would be called Events, Entertainment, Meals and Travel expenses to match Schedule A. It would also be helpful to include the language regarding what is a gift and what is not a gift.</li> </ul> <p><b>GENERAL ASSEMBLY STATEMENT OF ECONOMIC INTEREST</b></p> <ul style="list-style-type: none"> <li>It would be helpful if the categories for the General Assembly Statement of Economic Interest more closely related to the Lobbyist Disclosure reporting categories. For example a lobbyist will be reporting under Schedule A-- Entertainment items that may be properly reported under schedule F- payments for Talks, Meetings and Conferences on the General Assembly Statement of Economic Interest.</li> </ul>
September 16, 2016	Andrew Newby Assistant County Attorney County of Henrico	<p><b>Comments applicable to all forms</b></p> <ul style="list-style-type: none"> <li>Fillable PDF – it would be helpful for local filers to have the forms available as fillable PDFs. That way, the forms could be typed, instead of handwritten. This could also help the public because some handwritten forms are difficult to read.</li> </ul> <p><b>State and Local Statement of Economic Interests</b></p> <ul style="list-style-type: none"> <li>Instructions (page 1) <ul style="list-style-type: none"> <li>First paragraph – the statement that “State and local officers and employees and candidates for such offices are REQUIRED to complete and file the Statement of Economic Interests” is false because not all local officers and employees are required to complete and file this form.</li> <li>Third paragraph – this paragraph should include information on where local filers must file their completed forms. Such information is included in the draft financial disclosure form and real estate holdings disclosure form.</li> </ul> </li> <li>Affirmation page (page 4) – the statement that the completed form will be available to the public via the searchable database on the Council website is false for local filers. If a member of the public wants to see the form for a local filer, they must contact the appropriate local clerk.</li> </ul> <p><b>Financial Disclosure Form</b></p> <ul style="list-style-type: none"> <li>Page 1, fifth paragraph – the phrase “unless otherwise stated” is unnecessary. The rule announced in this paragraph is not “otherwise stated” anywhere in the form.</li> </ul>

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		<ul style="list-style-type: none"> <li>• Page 2, definitions             <ul style="list-style-type: none"> <li>○ The definitions and explanations of “close financial association” and “contingent debt” should be removed because those terms do not appear in the form.</li> <li>○ The definition of “trust” should be added because that term is used on page 6. The statement of economic interests contains a definition of “trust” that could also apply to the financial disclosure form.</li> </ul> </li> <li>• Page 6, Part Three, first paragraph – The phrase “during the prior calendar year” should be added, otherwise the reporting period is unbounded.</li> </ul> <p><b>Real Estate Disclosure Form</b></p> <ul style="list-style-type: none"> <li>• Page 1, second paragraph – the phrase “unless otherwise stated” is unnecessary. The rule announced in this paragraph is not “otherwise stated” anywhere in the form.</li> </ul>
September 16, 2016	Celeste Heath, CMC City Clerk City of Falls Church	<p>Thank you for the opportunity to comment on the new COIA guidelines and forms. My comments generally pertain to local (paper) filers.</p> <p>I have provided minor comments on two of the forms. See comments on page 1 of the Financial Disclosure form and on pages 1,4,5, and 13 of the Economic Interest form (both attached).</p> <p>General comments:</p> <ul style="list-style-type: none"> <li>• I appreciate that the forms haven’t changed dramatically, it will be easier to help people in filling them out.</li> <li>• If possible, please provide the Economic Interest form in a portrait format for paper filers. Producing the form in landscape has separated the instructions from the tables on some pages and has added more pages to print.</li> <li>• I have concerns about the extremely short deadline to receive paper filings from our boards and commissions. I think the short deadline might be manageable for those filing online, but paper filers have to physically deliver their forms to me and in many cases I must track down the filers. Local filers should be given additional time to file until there is universal online filing.</li> <li>• Finalized forms should be available to local clerks as soon as possible so we have time to prepare and deliver paper forms and instructions. When the forms were previously due on January 15, the updated forms were available by November 1. This gave my office time to prepare the paper forms and send them out. I have 58 paper filers in my jurisdiction, so as much lead time as possible is appreciated.</li> <li>• Finally, I would ask that you keep in mind that the processes you put in place impact local (paper) filers differently than state (online) filers. I would also encourage an expedited move toward universal online filing.</li> </ul>
September 16, 2016	Michelle R. Robl, Prince William County Attorney	<p>The purpose of this letter is to provide the Council with comments regarding the draft State and Local Statement of Economic Interests (Statement).</p> <ul style="list-style-type: none"> <li>• Page 1 of 24             <ul style="list-style-type: none"> <li>○ Comment – Clarify that a local officer’s filing of a single, applicable Statement satisfies the Statement filing requirement for all applicable offices and positions held during that reporting period. (<i>See Virginia Code § 2.2-3118.1</i>)</li> </ul> </li> <li>• Page 4 of 24 – The draft Statement states that “[t]his Statement of Economic Interests will be available to the public via the searchable database on the Virginia Conflict of Interest and Ethics</li> </ul>

## Public Comments Received on Virginia Conflict of Interest and Ethics Advisory Council Proposed Forms

		<p>Advisory Council website.”</p> <ul style="list-style-type: none"> <li>○ Comment – Clarify that this only applies to state officers, employees, and candidates, and does not apply to local officers and employees, who continue to file with the clerk of their local governing body. (<i>See</i> Virginia Code § 2.2-3115(D)).</li> <li>● Page 12 of 24 – Schedule C, Securities – The draft Statement states “[l]ist each security held in an IRA, defined contribution plan, or other type of investment account, if such security is valued in excess of \$5,000.”</li> <li>○ Comment – Expressly exclude “IRA” and “defined contribution plan” from this requirement or materially increase the monetary disclosure threshold for these types of accounts. The draft Statement does not reflect the general purpose, operation, size, and asset allocation for these types of accounts. Generally, these are not the type of investment tool that someone uses to “play the market” or to accumulate a sizeable investment in a specific company(ies). Other than choosing the investment company and general type of investment account, the individual account-holder may have no role in the selection of the individual investments held in the account. The specific investments are chosen by professional investment managers/advisors. Also, many IRAs and defined contribution accounts are now age or retirement-based, in which case the individual chooses the account that best correlates to their age or expected retirement date. These types of accounts are generally risk-based and generally less focused on specific companies. This requirement also does not reflect the differing amount of account information which is provided to customers by the various investment companies and the manner in which that information is provided or readily available to the average investor; it may be more or less difficult for an individual to ensure compliance with this requirement based solely on which investment company they happen to use. Finally, this requirement does not reflect the fluid nature of these types of investments and accounts, the composition and value of which may change significantly in a matter of hours, let alone days or weeks. The draft Statement only reflects the value at the time that it’s signed, not later that day, week, or month. In conclusion, any value added by this requirement does not sufficiently outweigh the significant increase in time and resources required to by an individual in order to comply with it.</li> </ul>
September 18, 2016	Lola Rodriguez Perkins Senior Deputy City Attorney City of Hampton	<p>Thank you for the opportunity to comment on the revised forms. Overall both I and the local elected officials I represent found the revised forms to be clearer and more user-friendly. Below are comments/questions pertaining to the Statement of Economic Interests:</p> <ul style="list-style-type: none"> <li>· The definitions section for the state and local officers use terms that more properly related to General Assembly members and forms. For example, in the definition of what is not a gift: “(v) any gift related to the private profession or occupation of a legislator or of a member of his immediate family”. Another example is the definition of immediate family: “means (i) a spouse and (ii) any other person who resides in the same household as the legislator and who is a dependent of the legislator.” Adding the term “officer” or “employee” to help non-legislator filers to also know what does/does not apply to them would be helpful. In the alternative, the term legislator could be replaced with “filer”.</li> </ul>

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	<ul style="list-style-type: none"><li>· The immediate family definition could use greater clarity. If there is someone living in your home, for example your sister, but she is not a dependent, is your sister an immediate family member for the purpose of the statement of economic interests?</li><li>· Define the term contingent debt found in Schedule B.</li><li>· For the Schedule B definitions for Tables 2A, 2B, 2C, I suggest the following small change: If a member of your immediate family has incurred a debt jointly with another person not yourself who is not a member of your immediate family, disclose only your immediate family member's share of the debt.</li><li>· Schedule F states: "Disclose any lodging, transportation, money, or other thing of value received that does not satisfy the criteria listed above as a gift on Schedule G." However, Schedule G is limited to gifts from a lobbyist, lobbyist's principal, or contractor so there could be several situations that do not satisfy the criteria in Schedule F but also do not fit into Schedule G. This could be confusing to a filer.</li><li>· Schedule G limits the gift disclosure to those received from a lobbyist, lobbyist's principal or contractor. What about the following situation: A representative of a developer with a pending rezoning invites a Councilmember out to lunch to try to convince the Councilmember to vote in favor of the rezoning when it comes before Council. The representative is not a lobbyist, lobbyist principal, nor seeking to become a party to a contract with the City. The cost of the lunch exceeds \$20. Does this need to be disclosed as a gift on Schedule G?</li><li>· Schedule G specifically states that gifts under \$20 should not be included. However, if multiple under \$20 gifts from the same person accumulate to over \$50, the gifts would need to be disclosed. Is that correct? I recommend clarifying that under \$20 gifts do count towards the cumulative gift amount.</li></ul>
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Concerns over the draft Conflict of Interest and Ethics Advisory Council forms received Friday, September 30, 2016 received from Sharon Pandak and Walter Erwin on behalf of local government colleagues

- The Statement of Economic Interest Schedule G specifically states that gifts under \$20 should not be included. However, if multiple under \$20 gifts from the same person accumulate to over \$50, the gifts would need to be disclosed. Is that correct? I recommend clarifying that under \$20 gifts do count towards the cumulative gift amount.
- There is a discrepancy between VA Code Section 2.2-3115(g), the Financial Disclosure Statement, the Statement of Economic Interest and the Disclosure of Real Estate Holdings related to which types of real estate should be disclosed. The code and the Disclosure of Real Estate Holdings states that it is the real estate in the locality where you are “elected, appointed, or employed.” The Financial Disclosure Statement includes those listed AND real estate in contiguous localities. The Statement of Economic Interest Schedule D & E does not limit the property to any locality and asks for disclose of other states and countries.

At the very least these need to be consistent, but any additional information other than what is listed in 2.2-3115(g) is a policy decision which should be made by the Council.

- The definition of “immediate family” and “relative” is confusing. The definition of “immediate family” can be found in VA Code Section 2.2-3101; but relative which was previously found in the forms (VA Code Section 2.2-3117) is no longer defined in the VA Code but is still used in the draft forms. This again is a policy decision which should be made by the Council.
- Clarify in the forms that a local officer’s filing of a single, applicable Statement of Economic Interest satisfies the Statement filing requirement for all applicable offices and positions held during that reporting period. (VA Code Section 2.2-3118.1)

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