



2022-2023 ANNUAL REPORT



Office of the
Senate Ethics Officer
Bureau du
conseiller sénatorial
en éthique

Annual Report of the Senate Ethics Officer 2022-2023

Print copies of this publication may be obtained at the following address:

Office of the Senate Ethics Officer
90 Sparks Street, Room 526
Ottawa, Ontario K1P 5B4

Tel.: (613) 947-3566
Fax: (613) 947-3577
e-mail: cse-seo@sen.parl.gc.ca

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Senate Ethics
Officer
Conseiller sénatorial
en éthique

June 2023

The Honourable Raymonde Gagné
Speaker of the Senate
Room A108, Senate of Canada Building
Parliament Buildings
Ottawa, Ontario K1A 0A4

Dear Madam Speaker:

It is my honour and pleasure to submit to you the Eighteenth Annual Report of the Office of the Senate Ethics Officer, pursuant to section 20.7 of the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, as amended. by S.C. 2004, c.7; S.C. 2006, c.9. It covers the period from April 1, 2022 to March 31, 2023.

Yours sincerely,

A blue ink signature, appearing to be 'P. Legault', written in a cursive style.

Pierre Legault

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MESSAGE FROM THE SENATE ETHICS OFFICER

This is my sixth annual report since my appointment as Senate Ethics Officer (SEO) in January 2018.

This past year, as in all other years since my appointment, I have continued to fulfil my mandate under the *Ethics and Conflict of interest Code for Senators* (Code), with the assistance of my Office.

We have provided personalized and tailor-made opinions and advice to senators with a view to informing them on their obligations under the Code and to preventing conflicts of interest from arising rather than addressing them once they have arisen.

We have administered the annual disclosure process and the Public Registry in a manner that ensures as much transparency as the Code permits. Some senators were late in fulfilling their disclosure obligations under the Code – an unusual occurrence. As we entered in a new phase of the pandemic, we saw an increase in the number of sponsored travels by senators. Senators have also been active outside of the Senate and the number of Statements of Material Change, particularly in relation to outside activities, has increased yet again.

Six new senators were appointed during the past year. I met all of them shortly after their appointment and all were briefed about their obligations under the Code. All fulfilled their disclosure obligations. Some of their Public Disclosure Summaries had not yet been posted in the Public Registry at year end.

We have continued to improve our practices, tools, and processes to assist senators in fulfilling their disclosure obligations under the Code. We have introduced new tools to better inform senators and the public. The *Guideline on Outside Activities*, our third guideline under the Code, was published in February 2023. This guideline provides general information to senators and the public and it helps to better understand the Code and how we interpret and apply it. We also advanced considerably on a project to create an online portal that senators will use to fulfil their disclosure obligations under the Code.

This annual report provides details on these and other issues.

The Office continued to rely on the Senate Administration for the provision of security, finance, information technology and human resources services under a cost-recovery agreement. I would like to thank them for their services and support.

I remain profoundly thankful and grateful to the employees of my Office who have continuously demonstrated considerable resilience, adaptability and commitment.



MANDATE OF THE SENATE ETHICS OFFICER

The position of Senate Ethics Officer (SEO) was created under the *Parliament of Canada Act* (the Act). The SEO performs the duties and functions assigned by the Senate for governing the conduct of senators. The SEO is responsible for the interpretation, administration and application of the *Ethics and Conflict of Interest Code for Senators* (the Code). The Code defines a set of principles and rules which guide senators in the exercise of their functions. It also provides a means by which to maintain and enhance public confidence and trust in the integrity of senators and the Senate. The Code ensures that questions related to the conduct of senators may be addressed by an independent, non-partisan advisor. It was adopted by the Senate in May 2005, and was revised in 2008, in 2012, twice in 2014 and, again twice in 2021.

The SEO is supported by the Office of the Senate Ethics Officer (the Office).

After consulting the SEO, the *Standing Committee on Ethics and Conflict of Interest for Senators* (the Committee) may give general directives to the SEO on the interpretation, application, and administration of the Code, but not as it relates to the circumstances of a particular senator.

Three Major Functions

The mandate of the SEO includes three major functions: providing opinions and advice to senators, administering the annual disclosure process and conducting preliminary reviews and inquiries.

Opinions and Advice

The first of the SEO's major functions is to provide advice and guidance to senators with respect to the Code, and, in particular, to assist them in understanding their obligations under the Code and identifying ethics and conflict of interest issues – real, potential and apparent – that could be relevant to their circumstances.

This advisory function is essential to the success of an ethics and conflict of interest regime. It provides a means by which legislators can better understand how ethics and conflict of interest rules apply to their individual circumstances, especially when their application may not be so clear.

Senators are encouraged to seek advice before acting, and to avail themselves of the SEO's advice in order to effectively prevent ethics and conflict of interest issues from arising. This approach best serves the public interest because it avoids costly and time-consuming inquiries. It also ensures that the focus is not on addressing conflicts once they have arisen, but rather on preventing them from arising.

The Code provides that written opinions and advice are to be kept confidential, but they may be made public by the senators to whom they relate, or by the SEO with the particular senator's written consent. However, some opinions related to contracts with the federal government must be made public.



Annual Disclosure Process

The SEO is also responsible for administering the annual disclosure process, which is an essential feature of any ethics and conflict of interest regime. It ensures a measure of transparency and accountability which, in turn, inspires public confidence in the system.

The Code provides that senators must annually file, within 30 days of the anniversary of their summons to the Senate, a Confidential Disclosure Statement. Newly appointed senators must file their initial statements within 60 days after being summoned to the Senate.

These disclosure statements include information concerning senators' activities outside their parliamentary duties and functions, their assets and liabilities over \$10,000, their sources of income over \$2,000, and any federal government contracts, as well as the activities and financial interests of their spouses or common-law partners. The Code sets out the list of interests that senators are required to report confidentially to the SEO.

The SEO provides each senator with a letter, which draws attention to any provisions of the Code that are relevant to their circumstances. Where senators have specific questions about a particular situation, they should raise the matter with the SEO and provide the necessary information to assist the latter in formulating useful advice.

The Office also prepares a Public Disclosure Summary for each senator based on the information that was provided in the senator's Confidential Disclosure Statement. The Code sets out the list of interests that must be publicly disclosed. Again, this list includes senators' activities outside their parliamentary duties and functions, as well as their income over \$2,000, and their assets and liabilities valued at over \$10,000. The information about spouses and common-law partners is not publicly disclosed.

Senators are then required to review their Public Disclosure Summaries, sign and return them to the Office. These summaries are then placed in the paper Public Registry located in the Office. They are also published in an online Public Registry available on the Office's website. This registry contains all the information that is required to be made public under the Code.

In addition, senators are required to annually file a Statement of Compliance confirming that they have read the Code within the last 30 days and that, to the best of their knowledge and belief, they are in compliance with the Code as of the day the statement is filed.

The disclosure process is an ongoing process that continues throughout the year, even after completion of the annual Confidential Disclosure Statements and their publication in the Public Registry. Senators are required to ensure that their Confidential Disclosure Statements are kept up to date throughout the year by filing material change forms with the Office within 30 days after any material changes occur in their circumstances. These forms are included within each senator's public disclosure file. They are published as soon as possible after they are received.

In addition, senators must file a Statement of Gifts or Other Benefits with the SEO for any gift or benefit received as a normal expression of courtesy or protocol, or that is within the customary standards of hospitality that normally accompany the senator's position, if the value of the gift or benefit (or the cumulative value of all gifts or benefits received from one source in a 12-month period) exceeds \$500. The Statement of Gifts or Other Benefits is placed in the senator's public disclosure file.

It should be noted that courtesy gifts are exceptions to the general prohibition concerning senators receiving gifts and other benefits that could reasonably be considered to relate to a senator's position.



Similarly, sponsored travel must be reported in a statement which forms part of a senator's public disclosure file if the travel costs exceed \$500.

Over the course of the year, senators must also publicly declare any private interests that may be affected by matters before the Senate, or a committee of the Senate of which they are members. These public declarations are also placed in the public disclosure files of senators.

The following information about a senator must be disclosed publicly:

- employment outside the Senate, a profession, or a business;
- a senator's positions in corporations, income trusts and trade unions, associations and not-for-profit organizations;
- the source and nature, but not the amount, of any income over \$2,000 that senators have received in the last 12 months, or are likely to receive in the next 12 months;
- the nature, but not the value, of any assets and liabilities over \$10,000;
- the source and nature, but not the value, of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body involving a senator or the senator's family, directly or indirectly, through a subcontract or by virtue of a partnership or significant interest in a private corporation;
- a trust in which a senator could derive an income or other benefit;
- any Declarations of Private Interests;
- any Statements of Gifts or Other Benefits and Sponsored Travel; and
- any Statements of Material Change.

Preliminary Reviews and Inquiries

It is also the SEO's responsibility to conduct inquiries in order to determine whether senators have complied with their obligations under the Code where there are allegations of non-compliance. Below is an explanation of the process regarding preliminary reviews and inquiries.

First, the SEO must conduct a preliminary review – which is distinct from an inquiry – if the SEO has reasonable grounds to believe that a senator has not complied with their obligations under the Code or receives a request to conduct an inquiry from a senator who has reasonable grounds to believe that another senator has not complied with their obligations under the Code.

A request by a senator to the SEO to conduct an inquiry must be in writing and signed by the senator. It must identify the alleged non-compliance and the reasonable grounds for the belief the Code has not been complied with.





The SEO must afford the senator who is the subject of a preliminary review an opportunity to respond within 15 days. This period may be extended by the SEO depending on circumstances. The SEO must provide the senator with a preliminary determination letter that includes the SEO's reasoned decision as to whether an inquiry is warranted.

A preliminary review is conducted confidentially pursuant to the Code. However, where the SEO determines that an inquiry is not warranted, the preliminary determination letter is made public (unless the matter is not in the public domain) when the Committee tables it in the Senate. If the SEO determines that an inquiry is warranted, the matter remains confidential until the inquiry report of the SEO is tabled in the Senate.

The Code does not provide a mechanism for the public to trigger a preliminary review or an inquiry. However, the SEO examines all information pertaining to a senator provided by members of the public, including the media, and may self-initiate a preliminary review under the Code as described above.

Second, the Code provides that the SEO must conduct an inquiry in either of the following circumstances: where the SEO determines that an inquiry is warranted after conducting a preliminary review; or where the senator who was the subject of a preliminary review requests that an inquiry be conducted because the SEO has made a finding that an obligation under the Code may have been breached but has determined that an inquiry is not warranted.

The SEO must give the senator who is the subject of an inquiry access to information about the relevant facts, access to documents, and a reasonable opportunity to make representations in writing or in person and to be represented at the various stages of the inquiry process. What is reasonable is at the discretion of the SEO.

This process may often be lengthy and includes inviting the senator to attend an initial interview to ascertain facts and obtain evidence. The senator testifies under oath. Witnesses are also identified and invited to provide their testimony under oath.

The SEO may seek information and documents from the senator, the witnesses and others.

The senator who is the subject of the inquiry will be invited to a second interview towards the end of the process -- the final interview in the inquiry process -- where they will have an opportunity to respond to the allegations and to make representations on the testimony of witnesses and the documentary evidence. The senator will be offered a final opportunity to make representations when the senator is invited to read parts of the draft inquiry report, ordinarily on the process, the allegations and the findings of fact.

The length of an inquiry is the result of a combination of factors. Some of these factors are related to the very nature of an inquiry, to the circumstances of a particular inquiry (these are normally identified in inquiry reports), or to factors external to the inquiries. Examples of these factors include the following:

- An inquiry is a complex, impartial and objective process that is meant to balance the rights and privileges of the Senate to discipline its own members and the right of individual senators to a fair process.
- The Code requires that senators who may be the subject of an inquiry be given information and reasonable opportunities to make representations at various stages of the inquiry process. Senators who are the subject of an inquiry and other participants to an inquiry can be, and often are, represented by counsel. The inquiry process established by the SEO must be fair and follow due process. Giving senators a reasonable time and multiple opportunities during the various stages of an inquiry to make representations lengthens the time required to complete the process.



- An inquiry is a process for gathering evidence and facts, testimony and documents against which the provisions of the Code will be applied. Gathering these should be, but is often not, a straightforward process. The scheduling of witnesses depends on the availability of senators and others who, due to the parliamentary calendar, are sometimes unavailable during parliamentary breaks, which sometimes extend for months at a time. Information and documents, both written and electronic, should be made readily available without delay and without raising questions but, often, they are not. The time required to establish contacts with witnesses and to obtain documents may be lengthy. In addition, the evidence obtained throughout the course of an inquiry may lead to the need to interview more witnesses and to obtain and assess additional documents and evidence.
- The Office of the SEO was created in 2005. The first inquiry was initiated in 2013. Up until 2014, the Code was singularly focused on conflicts of interest. In 2014, the Code was amended to add broad ethics rules (sections 7.1 and 7.2). The number of inquiries, while still limited in number, started to increase at that time as did their complexity.

Harassment and Violence

The SEO also has a role to play in harassment and violence cases. In this regard, there were a number of changes made to the Code in 2021. The SEO's involvement in such cases, however, is limited to transmitting an investigation report under the *Senate Harassment and Violence Prevention Policy* to the Committee; and to recommend remedial, corrective, or disciplinary measures in such cases based on the report of the investigator, if the Committee directs the SEO to do so. In other words, the SEO no longer has the mandate to conduct preliminary reviews and inquiries in matters pertaining to harassment and violence.

Other Rules and Laws

The SEO's jurisdiction is limited to the Code. The Code, however, is not the only set of rules that governs the conduct of senators. Senators are subject to a number of other rules and laws, which are outside the purview of the SEO.

Senators are subject to the *Senate Administrative Rules* and other Senate policies and directives relating to the proper allocation and use of Senate resources. These rules, policies and directives are within the jurisdiction of the Standing Senate Committee on Internal Economy, Budgets and Administration.

Senators are also subject to section 16 of the *Parliament of Canada Act*, which prohibits a senator from receiving or agreeing to receive outside compensation, whether directly or indirectly, for services rendered or to be rendered to any person, either by the senator or another person, in relation to any matter before the Senate or the House of Commons or any of their committees, or for the purpose of influencing or attempting to influence any member of either House.

In addition, sections 119, 121 and 122 of the *Criminal Code* are other examples of laws that apply to senators relating to the misuse of a public office. Section 119 deals with offences that relate to bribery. Section 121 concerns frauds on the government and is aimed, in part, at influence peddling. Section 122 creates offences relating to fraud and breach of trust.



Independence of the Senate Ethics Officer

The SEO is an independent, non-partisan Officer of the Senate. This independence is essential in order to ensure public confidence and credibility in the Senate ethics and conflict of interest regime. A number of provisions of the Act and of the Code confer this status of independence and autonomy on the SEO, including the provisions in the Act concerning the appointment process, the security of tenure, financial autonomy, and the management of the Office.

For example, the Act ensures that the SEO alone has “the control and management of the Office”. In fact, the Office is a separate employer distinct from the Senate and does not fall under its jurisdiction. It provides that the SEO is responsible for preparing the estimate of the budget for the Office. This estimate is separate and apart from the estimates of the Senate. The estimate of the SEO is provided to the Speaker of the Senate who, after considering it, transmits it to the President of the Treasury Board who, in turn, lays it before the House of Commons with the estimates of the Government of Canada for the fiscal year.

The independence of the SEO in respect of opinions and advice given to individual senators is also clear and is expressly provided for in the Code. This independence also applies to any preliminary reviews, inquiries, and any inquiry reports.

These, and other provisions, ensure that the SEO is able to carry out the functions of the SEO in an impartial manner, free from any outside influence or coercion.





Provisions of the Parliament of Canada Act on the independence of the Senate Ethics Officer

- The SEO is appointed by the Governor in Council, by Commission under the Great Seal, after consultation with the leader of every party in the Senate and after approval of the appointment by resolution of the Senate. This is to ensure that the appointment has the broadest support of the Senate, irrespective of political party line. The SEO has the same privileges and immunities as senators.
- The SEO is appointed for a term of seven years as an Officer of the Senate and may be removed from office only for cause, by the Governor in Council, on address of the Senate. These provisions again confer on the SEO a status of independence and autonomy and they provide an effective shield against improper or inappropriate influence.
- The SEO has the rank of a deputy head of a department of the Government of Canada and has the control and the management of the Office, which is run independently from the Senate and its Internal Economy Committee. Any staff for the Office is hired by the SEO.
- The SEO has the responsibility for preparing the estimate of the sums required to pay the charges and expenses of the Office. This estimate is separate from the estimates of the Senate. The Speaker of the Senate, after considering the estimate, transmits it to the President of the Treasury Board who lays it before the House of Commons with the estimates of the Government of Canada for the fiscal year. The Senate reviews the SEO's proposed budget as a part of the annual review of the Main Estimates. This procedure ensures the independence of the SEO and places the responsibility for the estimates of the Office on the SEO. It also emphasizes the direct relationship that Parliament has established between the SEO and the Senate itself, to which the SEO ultimately reports.
- The SEO is required, within three months after the end of each fiscal year, to submit a report of the Office to the Speaker of the Senate, who must table the report in the Senate.



THE YEAR IN REVIEW: 2022-2023

During the course of 2022-2023, the SEO delivered on the mandate of the SEO by providing opinions and advice to senators and administering the annual disclosure process. In addition, the SEO engaged in outreach activities with senators, including retiring senators, the media, the public and officials and organizations who have an interest in ethics and conflict of interest.

Opinions and Advice

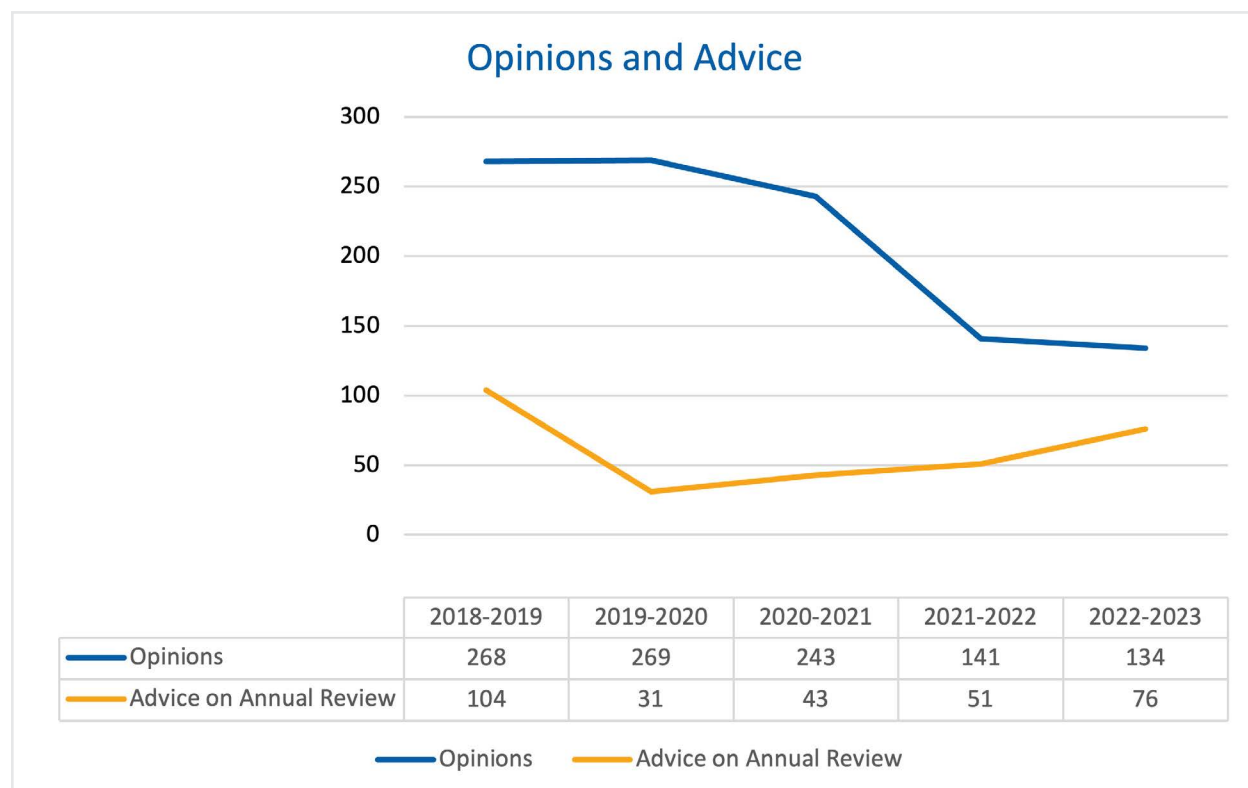
Senators are encouraged at any time to consult the SEO on any concerns or questions relating to their obligations under the Code in order to promote continued compliance with the Code.

The SEO responds to these requests as promptly as their nature, complexity and the workload permit. Some requests may require more research and consideration than others. The opinions and advice are kept confidential, unless the senators who made the requests decide to release them to the public or provide written consent for the SEO to release them.

Senators continue to reach out to the SEO for advice and opinions, as well as to ask for clarifications and to raise questions concerning their obligations under the Code.

This year, we provided 134 verbal and written opinions and advice to senators. This is a slight decline from the previous year during which time 141 opinions were provided.

We also responded to 76 requests for clarification from senators related to the Annual Disclosure Process. In 2021-2022, the Office received 51 such requests and 43 requests in 2020-2021, 31 requests in 2019-2020 and 104 requests in 2018-2019.





Annual Disclosure Process

Every year, senators are subject to a disclosure process (annual disclosure process), whereby they must disclose to the SEO, by means of a Confidential Disclosure Statement, information relating to their particular circumstances, such as their activities outside of the Senate and those of their spouse (e.g. their employment and any director or officer positions in for profit or not-for-profit organizations), as well as their income, assets and liabilities, and those of their spouses.

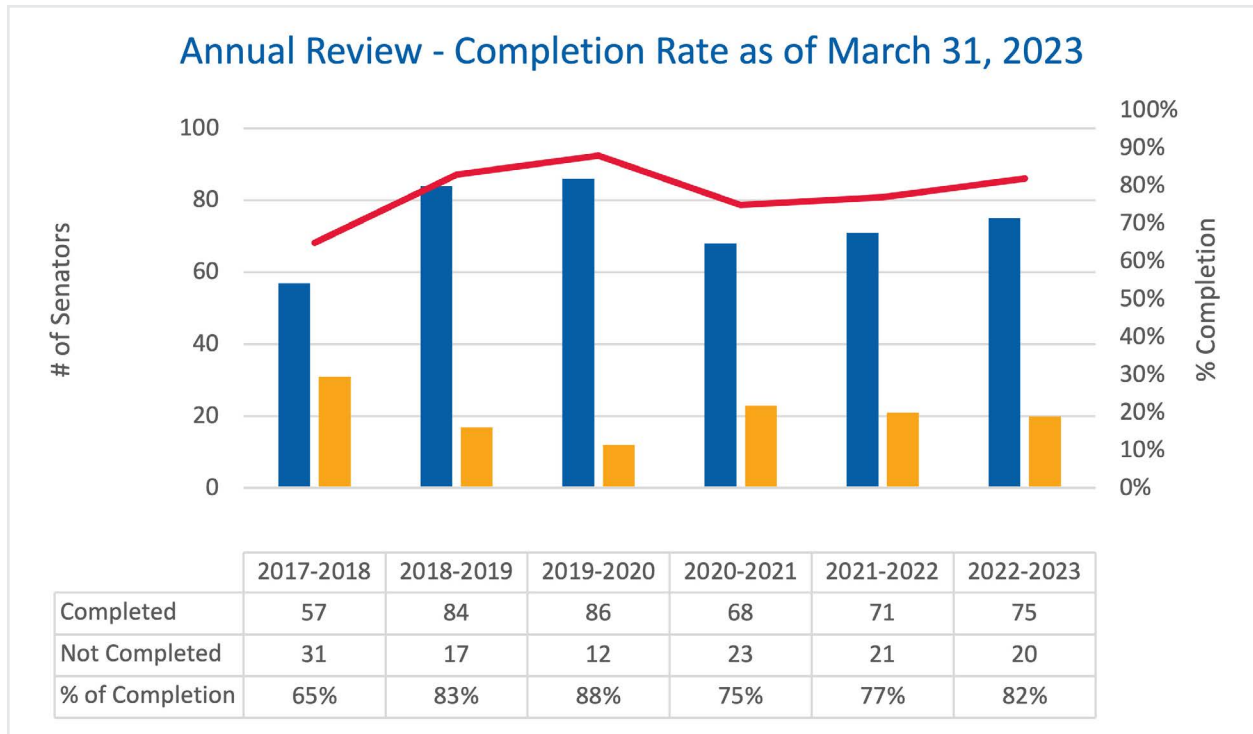
Upon receiving the Confidential Disclosure Statements, the SEO reviews the information and provides senators with a written opinion or advice relating to their particular circumstances. Following this review, the SEO prepares a Public Disclosure Summary containing information related to a senator, which is required to be published under the Code. Senators must examine the information and sign the Public Disclosure Summary prior to the document being placed in the Public Registry. As part of this process, senators must also sign a Statement of Compliance confirming that they have read the Code within the last 30 days, and that they are, to the best of their knowledge, in compliance with the Code.

At any point during this annual disclosure process, should the SEO have questions related to the information in a senator's Confidential Disclosure Statement, the SEO may request clarifications from a senator. There may be more than one such request made to a senator. Each time a request for information is made, a senator has 30 days to respond to the SEO. This may have an impact on the overall processing time for a Confidential Disclosure Statement.

Since Fiscal Year 2019-2020, senators were required to file their statements on the anniversary dates of their appointment to the Senate. However, since 2021-2022, senators are required to file them within 30 days of their anniversary dates.

As of March 31, 2023, the Annual Disclosure Process was completed for 75 senators (or 82%). Files for 20 senators (or 18%) remained outstanding. These numbers do not include senators who retired during the year.

By comparison, in 2021-2022, the Annual Disclosure Process was completed for 71 senators (or 77%). Files for 21 senators (or 23%) remained outstanding. In 2020-2021, the Annual Disclosure Process was completed for 68 senators (or 75%) while files for 23 senators remained outstanding. In 2019-2020, the process was completed for 86 senators (or 87.8%) while files for 12 senators remained outstanding. In 2018-2019, the process was completed for 84 senators (83%) with 17 outstanding files. In 2017-2018, 57 files of senators were completed (65%) and 31 were outstanding (or 35%).



The decline in the completion rate in 2020-2021 was attributed to the impact of the pandemic. There was an increase in the completion rate the following two fiscal years. However, it is unlikely that this will improve substantially in future years. The reason is that the Senate amended the Code in June 2021 to require senators to file their annual Confidential Disclosure Statements within 30 days of the anniversary date of their summons to the Senate, rather than on the anniversary date of their summons. The practical impact of this modification is that some senators now file their Confidential Disclosure Statements the following fiscal year while for others whose anniversary date is later in the fiscal year, the examination of their Confidential Disclosure Statements and the time allocated by the Code to senators to review and sign their Public Disclosure Summaries are such that they cannot be completed during the year.

Five senators were late in filing their Confidential Disclosure Statements and their Statements of Compliance on or before their due dates. This is unprecedented; these two statements are ordinarily filed on time by senators. As a courtesy, it is the practice of the Office to send senators reminders by email and by telephone of any upcoming due dates. When senators are late in filing these statements, the Code imposes an obligation on the SEO to submit the names of the non-complying senators to the Committee. As is required under the Code, this was done soon after the senators in question failed to meet a deadline. All the non-complying senators filed their statements within 24 hours of the Committee being notified. A failure to disclose could otherwise have triggered preliminary reviews.

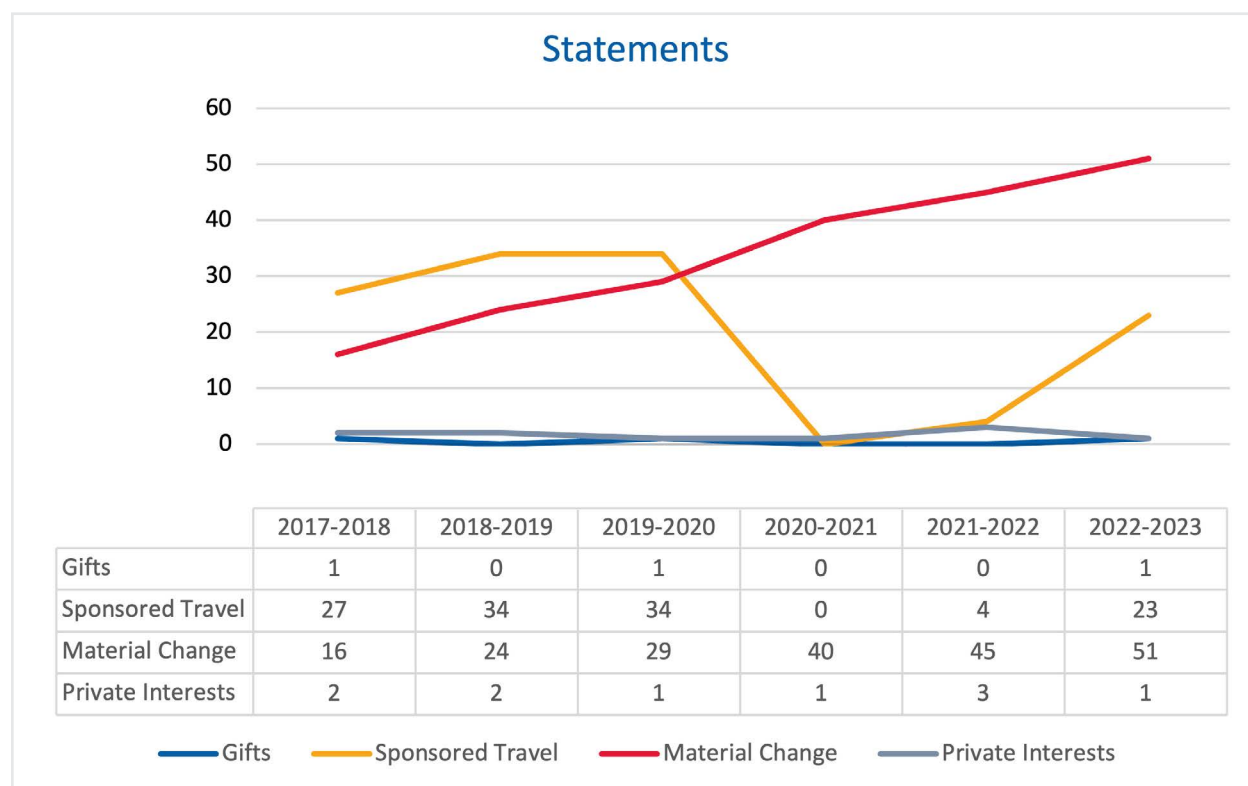


Of the Confidential Disclosure Statements received during the year, 68% were incomplete or lacked information at the time they were submitted. One Confidential Disclosure Statement was sufficiently lacking that the SEO asked the senator to resubmit it in its entirety. With respect to the others, the Office addressed the issue of the incomplete information in one of two ways, depending on the nature of the missing information: (1) by sending formal clarification requests for relevant information; or (2) by asking senators to confirm assumptions made by the Office based on past filings. In either case, senators have an additional 30 days under the relevant provisions of the Code to either provide the information sought in the clarification requests or confirm directly or indirectly the assumptions made by the Office. The volume of incomplete statements results in a more labour intensive and time-consuming review of these files and ultimately leads to a prolonged annual review overall, which in turn affects the completion rate for the year.

Over the course of the year, senators must also report any sponsored travel or gifts they received, as well as changes to their Confidential Disclosure Statements, to the SEO. In addition, they are required to report any declarations of private interests in the Senate or in committees when they have reasonable grounds to believe that they or their family members have a private interest that might be affected by a matter that is before the Senate or a committee of the Senate in which they are members.

This year, there was one Statement of Gifts or Other Benefits (none in 2021-2022 and in 2020-2021 and one in 2019-2020). There were 23 Statements of Sponsored Travel (four in 2021-2022, none in 2020-2021, 34 in 2019-2020 and 2018-2019 and 27 in 2017-2018). There was one Declaration of a Private Interest in 2022-2023 (three in 2021-2022, one in 2020-2021, one in 2019-2020). Finally, there were 51 Statements of Material Change throughout the year (45 in 2021-2022, 40 in 2020-2021, 29 in 2019-2020 and 24 in 2018-2019).

As the pandemic entered a new phase, senators have accepted more sponsored travel and have been more active outside the Senate. We expect this trend to continue in 2023-2024.





Preliminary Reviews and Inquiries

Although the Office received a number of requests for inquiries during the year 2022-2023, these matters are not in the public domain and, as such, cannot be disclosed at this time in light of the Office's confidentiality obligations imposed under the Code.

It should be noted that some of these complaints were made by senators while others were made by members of the public. As already noted earlier in this report, while the public does not have standing to file complaints under the Code, the SEO is authorized to self-initiate a preliminary review of a matter where the SEO has reasonable grounds to believe that a senator has not complied with their obligations under the Code. The information the public provides may be sufficient to provide reasonable grounds.

Harassment and Violence

No cases were referred to the SEO involving harassment and violence during the year 2022-2023.

Outreach

Outreach to Senators

Ordinarily, the SEO meets with senators individually to discuss the Code in order to give senators the opportunity to raise concerns or in order for the SEO to provide feedback on a number of issues, including questions related to the particular circumstances of senators. Senators have continued to consult with the SEO by email, by phone and by video calls throughout the year. As of March 31, 2023, the SEO had 81 consultations with senators.

The SEO meets all new senators upon their appointment. This year, six senators were appointed to the Upper Chamber (eight were appointed in 2021-2022, none were appointed in 2020-2021, three senators were appointed in 2019-2020 and 16 senators were appointed in 2018-2019). The SEO met and briefed the new senators on their obligations under the Code, including their responsibility to file an initial Confidential Disclosure Statement within 60 days of their appointment, and annually thereafter. The SEO provided advice on the individual circumstances of these senators and answered their questions. Senators are informed of the need to disclose to the SEO any changes to their Confidential Disclosure Statements throughout the year and within the timeline prescribed by the Code. They are also made aware that the Code requires that certain information be publicly disclosed. The onboarding process for each senator can be an extensive one over a number of months depending on their affairs and other circumstances.

Four senators left the Senate on or prior to their mandatory retirement age of 75. When this occurs, the SEO communicates with these senators prior to their leaving the Senate to inform them that they may request the return of their confidential documents, pursuant to the provisions of the Code. He also informs them that the Code will no longer apply to them after their retirement from the Senate and that it does not contain post-employment obligations. Of course, this was done in the case of the four senators referred to above. Under the Code, any confidential documents that are not claimed by senators are destroyed after one year and the public documents pertaining to them are sent to the Senate Archives.

Outreach to Ethics and Conflict of Interest Officials and Others

The Office participates in seminars, conferences and events in order to exchange information about ethics and conflict of interest with other experts in the field, to remain current on recent developments in these areas, and to educate and inform others on the work of the Office and of the Code.



The SEO is a member of the Canadian Conflict of Interest Network (CCOIN). CCOIN is a key organization in the area of ethics and conflict of interest related to members of legislative bodies in Canada. It is comprised of the various ethics and conflict of interest commissioners from across the country. CCOIN not only provides a useful resource for sharing information and practices, but it is also a key resource throughout the year for ethics and conflict of interest commissioners to seek members' views and information on related issues while maintaining the confidentiality of the information they are entrusted with. For the first time since the beginning of the pandemic, the annual CCOIN conference took place in person in September 2022, in Yellowknife. In addition, the SEO, along with his federal, provincial and territorial colleagues, attended a mid-year virtual meeting in March 2023.

The Office is one of the founding members of the “Réseau francophone de l'éthique et de la déontologie parlementaires.” The Réseau is an international non-profit association of parliamentary ethics organizations in francophone jurisdictions. It was created at the instigation of the “Assemblée parlementaire de la Francophonie.” The Réseau promotes exchanges between francophone parliaments and entities responsible for ethics oversight. Together, they focus on ethics issues and on promoting them throughout the international parliamentary francophone community. For the first time since the beginning of the pandemic, the 2022-2023 annual general meeting of the Réseau took place in person, in Paris, in November 2022. The SEO was a director of the Réseau during the past fiscal year.

The SEO is a member of the Council on Governmental Ethics Law (COGEL), an international organization whose members work in the fields of government ethics, elections, lobbying, and campaign finance across North America. The SEO and a member of the Office attended the in-person annual COGEL conference, in Montréal, in December 2022.

In May 2022, the SEO met with members of the Library of Parliament to explain the role and mandate of the SEO and to describe the Code to them.

In June 2022, the SEO and the Assistant Senate Ethics Officer (ASEO) met with the external members of the Senate Standing Committee on Audit and Oversight to explain the role and mandate of the SEO and to describe the Code to them.

Finally, and of particular note, the SEO and the ASEO appeared before the Committee a number of times.

Media and the Public

The Office frequently receives requests from the media and comments from the public.

The public generally raises complaints concerning senators, requests inquiries and asks that sanctions be imposed on certain senators. Over the past year, the main area of concern from the public remained the behaviour of certain senators, particularly their use of social media and the statements they make publicly.

It should be noted that the Code does not provide a formal complaints mechanism for the general public. However, the SEO always welcomes and carefully considers all feedback and information from the public, as well as from the media.

If the SEO has reasonable grounds to believe that a senator has not complied with their obligations under the Code, the SEO may self-initiate a preliminary review which may lead to an inquiry.



Even if the SEO does not initiate a preliminary review as a result of a media or public complaint, the SEO may, in that context, provide advice to a senator on the senator's obligations under the Code.

Members of the public often expect the SEO to follow up with them concerning their requests. The media seek information concerning the circumstances of particular senators or the status of an inquiry as well. However, the Code imposes strong confidentiality obligations on the SEO and the Office, which precludes the SEO from commenting or providing information on individual senators. This includes informing others about the actions taken in relation to each complaint or providing a status update on an inquiry. The only exception in terms of confidentiality with respect to an inquiry is that the SEO may officially acknowledge its existence if the SEO believes it is in the public interest to do so, and this has been done in the past.

The Office continues to respond to requests for information from senators, their staff, the media and the general public, as promptly as circumstances permit. The number of requests for information varies each year.

There were no requests for information from the media in 2022-2023 as compared with two such requests received in 2021-2022, none received in 2020-2021, 21 requests received in 2019-2020 and 53 requests received in 2018-2019. The Office received 32 comments and requests for information from the public in 2022-2023 compared to 61 received in 2021-2022, 77 received in 2020-2021, 72 received in 2019-2020 and 114 received in 2018-2019.

The Year in Numbers

1	Statement of Gifts or Other Benefits
23	Statements of Sponsored Travel
1	Declaration of Private Interests
51	Statements of Material Change
-	Inquiries
-	Preliminary Reviews
0	Media Request
32	Public Requests and comments
134	Opinions and Advice



Administration of the Office

Budget and Administration

The Office is a public, independent, separate employer. It is a very small one with limited personnel, yet it has all the same obligations as any employer in the public service.

With the exception of one additional position in recent years (the additional position was not staffed in 2022-2023), the Office has the same number of employees as it had in 2005 when it was created. Yet, the administrative burden has increased over the years. Despite this, the Office has continued to deliver on the SEO core mandate. Also, the Office did not conduct any inquiries prior to 2013. Inquiries are formal, resource intensive activities that the Office has managed with its core resources. The resources of the Office are seriously strained when more than one inquiry or major project is underway.

For the year 2022-2023, the Office's total budget was \$1,408,848. The actual expenditures were \$956,258. An important portion of the operating budget of the Office is to augment the operational capacity of the Office if and when there is a surge in work required as a result of inquiries, major projects or for other reasons. This, and prudent management, explains why our budget was not fully expended last year.

The Office continues to rely on the Senate Administration for the provision of security, finance, information technology and human resources services under a cost-recovery agreement. These services are provided to the Office under the direction of the SEO, not of the Senate.

The Office's financial statements for the year 2022-2023 will be audited by an independent accounting firm. As of March 31, 2023, the Office was preparing to run a competitive process to retain a firm given that the last contract had expired. The financial statements form part of the Public Accounts. The financial statements are posted on the Office's website once their audit is completed.

Activities of the Office

In 2022-2023, the Office's employees have worked remotely, save for increasing attendance at our office and at in-person meetings as we entered into a new phase of the pandemic.

Two years ago, the Office reported that the changing environment due to the pandemic had resulted in a streamlining of the processes and the workflow, as well as the adoption of new tools used in the Annual Review. As the Office reported last year, while these changes were initially viewed as a temporary adaptation borne out of immediate necessity, they have in fact become part of permanent procedures and practices, given that they have resulted in a more efficient and more streamlined annual review.

The Office has continued the renewal exercise that it had begun more than three years ago.

It restructured and updated the annual reports beginning with the 2019-2020 Annual Report, while using new branding for the first time. In the summer of 2020, the Office fully operationalized its new branding throughout our processes and in our communications tools. It completely rebuilt the Office's website and launched it in March 2020. The new website included FAQs to better inform senators and the public on the Code and its administration and it subsequently added new FAQs with the aim of keeping them current and responsive to any issues it identifies. The Office has also modified its website to add greater research capabilities to the Public Registry.



The first ever guidelines under the Code, the *Guideline on Gifts and Other Benefits* and the *Guideline on Sponsored Travel*, were published in 2021-2022 after receiving the Committee's approval, which is required under the Code, and were posted on our website. The guidelines were important new tools to assist senators and the public in understanding how the Code is interpreted and administered, resulting in a more transparent approach. The Office published a new *Guideline on Outside Activities* In 2022-2023. It too was approved by the Committee and posted on our website.

In last year's Annual Report, the Office wrote that it was planning on holding information sessions on the Code for senators and, subsequently, for their staff. It expected these sessions to be delivered in late 2022-2023. Unfortunately, this was not possible for this past year but information sessions on the new *Guideline on Outside Activities* are currently scheduled for the first quarter of 2023-2024.

The combination of the new website and the information it contains, the FAQs, and the new guidelines created over the past years represent a substantial increase in the tools made available to senators and to the public to better inform themselves on the Code and its administration. The Office will continue to update the content of these tools in the future.

The Office previously reported that an electronic disclosure system that would offer an integrated, safe, and durable way for senators to fulfil their disclosure obligations under the Code was necessary. It also reported that it had undertaken a project to achieve these goals. Spurred on by the pandemic, the Senators' Disclosure Portal will allow senators to securely file all their statements online rather than by mail using a paper-based approach. The Portal will be more efficient and will make it easier and faster for senators to file their statements while doing so with greater accuracy. It will also facilitate the work and turnaround time of the Office. Finally, the Portal will interface with the Public Registry to facilitate the public posting of information disclosed by senators. The Office spent considerable time and effort to finalize the Portal over the past year and it is now ready to be deployed. Under the Code, the Committee must approve the use of the Portal and the forms it contains before it is deployed.



Appendix

*SUMMARY OF KEY OBLIGATIONS OF SENATORS IN THE CONTEXT
OF THE ETHICS AND CONFLICT OF INTEREST CODE FOR SENATORS*



SUMMARY OF KEY OBLIGATIONS OF SENATORS IN THE CONTEXT OF THE ETHICS AND CONFLICT OF INTEREST CODE FOR SENATORS

- Senators are required to give **precedence to their parliamentary duties and functions** over any other duty or activity.
- Senators are expected to arrange their private affairs so that **foreseeable real or apparent conflicts of interest may be prevented from arising**, and, if such a conflict does arise, to resolve it in a way that protects the public interest.
- Senators are required to **uphold the highest standards of dignity** inherent to the position of senator.
- Senators must refrain from acting in a way that could **reflect adversely on the position of senator or the institution of the Senate**.
- Senators must **perform** their parliamentary duties and functions **with dignity, honour and integrity**.
- Senators may not act in any way to further their private interests, or those of their family members, or to improperly further another person's or entity's private interests when performing parliamentary duties and functions.
- Senators may not use their position to **influence** a decision of another person in order to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests.
- Senators may not use **information that is generally not available to the public** to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests.
- Senators are required to make a **declaration**, orally or in writing, when they have reasonable grounds to believe that they or their family members have a private interest that might be affected by a matter that is before the Senate or a committee of the Senate in which they are members. They may not participate in debate on that matter, nor are they permitted to vote, though they may abstain. In the case of committees, senators must also withdraw



from the proceedings. With respect to senators who are only participating in committee proceedings, but are not formal members, they too must refrain from participating in debate on any matter in which they have reasonable grounds to believe they have a private interest and they too must withdraw from the proceedings in question.

- Senators may not accept, nor may a family member accept, **any gifts or other benefits** that could reasonably be considered to relate to their position, except as permitted under the Code. Gifts, benefits and sponsored travel that are acceptable under the Code must be declared to the Senate Ethics Officer if they exceed \$500 in value and these must be publicly declared.
- Senators may not be parties to, or have interests in corporations or partnerships that are parties to, **contracts with the Government of Canada** under which they receive a benefit, unless specifically authorized by the Senate Ethics Officer.
- Senators must file a **Confidential Disclosure Statement** with the Senate Ethics Officer on an annual basis disclosing their private interests, and those interests that are required to be publicly disclosed under the Code are then made public via the Office website and also in paper format at the Office of the Senate Ethics Officer.
- Senators must file a **Statement of Compliance**, annually, confirming that they have read the Code within the last 30 days and that, to the best of their knowledge and belief, they are in compliance with the Code as of the day the statement is filed.
- Senators must report to the Senate Ethics Officer any **material change** to the information in their Confidential Disclosure Statements, within the prescribed time.
- Senators must cooperate with the Senate Ethics Officer with regard to **any preliminary review and any inquiry, and respect their confidentiality.**



Office of the
Senate Ethics Officer
Bureau du
conseiller sénatorial
en éthique