



# Ethics Handbook



Plain Language Guide to the Public Officers Law and Related Ethics Laws



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### **Disclaimer**

The information included in this publication is for educational purposes only and not intended to replace legal advice. You should contact your agency's Ethics Officer or Commission legal staff to obtain advice related to a particular issue or problem.





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## Commission on Ethics and Lobbying in Government



The Commission on Ethics and Lobbying in Government ('COELIG') was established by the Ethics Commission Reform Act of 2022 to oversee and regulate public ethics and lobbying in New York State.

The Commission has broad regulatory authority and oversight over officers and employees at State agencies and departments including commissions, boards, State public benefit corporations, public authorities, SUNY, CUNY, certain corporations that are closely-affiliated with State agencies; the four statewide elected officials, members of the Legislature and candidates for those offices; legislative employees; certain political party chairpersons; and registered lobbyists and clients.

The Commission provides education and guidance regarding current ethics and lobbying laws; promotes compliance through audits, investigations, and enforcement proceedings; issues advisory opinions; and implements regulations on the applicable laws.



### What is a regulation?

A regulation is designed to provide further guidance about how the ethics and lobbying laws are applied.

Finally, the Commission promotes transparency in government by making information publicly available, such as annual financial disclosure statements filed by more than 36,000 state employees in addition to compensation and expense information reported by over 10,000 lobbyists and clients.

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*For the purposes of this guide, 'State employee' or 'employee' is used to describe State officers and employees who are subject to the rules of Public Officers Law and any applicable regulations.*

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## Statewide Ethics Training Initiative

Executive Law § 94(8) requires that all State employees complete annual ethics training as part of the Ethics Commission Reform Act of 2022. COELIG's Education Team is responsible for creating the training materials and courses to fulfill this important mandate. Ethics training is the foundation of state service and ensures that all state employees are provided with the necessary tools and information to avoid potential conflicts of interest while performing their State job.

**The following courses comprise the statewide ethics training initiative:**

### On-Demand Ethics Training

- The COELIG Education Team has created an online on-demand ethics training available on the Statewide Learning Management System ('SLMS') in order to assist our partner agencies in the statewide ethics training initiative.

### Comprehensive Ethics Training Course (CETC)

- The CETC is a live, instructor-led training. New hires are required to complete the CETC within the first 90 days of beginning their state employment.
- Live ethics training is required to be completed every other year. Please contact your Ethics Officer for training availability at your agency or view the COELIG open training schedule [here](#).

### Online Ethics Refresher Course

- In addition to the live CETC, you are required to complete an Online Ethics Refresher Course every other year—those alternating years during which you are not completing the CETC. The Online Ethics Refresher Course is an update on any changes in the applicable laws, regulations, and policies. Employees have the option of taking a live CETC to satisfy the Ethics Refresher course or can take the on-demand ethics training course.

## Public Officers Law § 74 | The Code of Ethics

The Code of Ethics is the foundation of the ethics laws. The Code of Ethics is intended to prevent you from using your State job and official position to benefit yourself or someone else.

The Code of Ethics not only addresses actual conflicts of interest, but also the appearance of such conflicts when performing your State job.



### **New York State officers and employees and Legislative members and employees shall not...**

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“have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.”

The General Rule: Public Officers Law § 74(2)

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### **Who does the Code of Ethics apply to?**

The Code of Ethics applies to the following different types of state employees:

- Statewide elected officials
- Legislative members and employees
- Employees of any State agency, department, division, board, commission, or any public benefit corporation or public authority at least one of whose members is appointed by the Governor, including unpaid and per diem officers and members of such entities.
- Employees of the following specific “closely affiliated corporations:” Youth Research Inc., The Research Foundation for Mental Hygiene, Inc., Health Research Inc., The Research Foundation of the State University of New York, and Welfare Research Inc.



## Standards of Conduct | Overview

The Code of Ethics contains nine standards of conduct. Each standard examines the types of conflicts that State officers and employees are prohibited from engaging in while in State service.

## Standards of Conduct | Defined

- **Standard A | Impartiality:** maintaining independent judgment with respect to your state job.
- **Standards B and C | Confidentiality:** understanding the types of information you are authorized to share with colleagues or members of the public, as well as not using confidential information to benefit yourself or someone else.
- **Standard D | Special Privileges and Protecting the Resources of the State:** refraining from using your state position to secure special privileges (or exemptions) for yourself or others. In addition, protecting the resources of the state that are available to you as part of your job duties. You may not use the property, services, or resources of the state for your own personal use, private business, or paid (compensated) purposes.
- **Standards E and G | Financial conflicts:** making sure that any personal investments do not conflict with your state job, and avoiding any business arrangements or transactions with organizations that may present a financial conflict of interest. *For example*, you are prohibited from approving an agency bid for equipment if your spouse's company submitted a bid for that contract.
- **Standards F | Integrity standard:** not giving the public the impression that anyone can improperly influence you in the performance of your state job, or that you can be influenced by someone else's familial relationships, authority, rank, or position.
- **Standards H | Integrity standard:** avoiding situations in which it may appear you could be influenced or would attempt to influence someone else and conducting yourself in a manner that does not raise suspicion among the public that you are personally benefitting from your official position.

- **Standard I | Business with the State:** employees with outside private businesses are restricted from contracting for work and/or providing goods and services to organizations that are licensed or regulated by your agency. Circumstances do exist that may allow you to simultaneously work as an employee for both – a conversation with COELIG staff or your ethics officer should take place before you proceed.

## **Standards of Conduct | Civil Penalties and Violations**

### **Civil Penalties Associated with Violations of the Standards of Conduct are:**

Public Officers Law §§ 74(3) (a), (b), (c), (d), (e), (g), and (i):

- Civil penalty of up to \$10,000 and the value of any gift, compensation, or benefit received.
- Violations of §§ 74(3)(f) and (h) of the '**integrity standards**' carry no monetary civil penalty under the Public Officers Law. COELIG may refer a violation to your agency which could take disciplinary action including a fine, garnishment, or termination from State employment.

## Public Officers Law § 74 | Employment Related Conflicts

### Reverse Two-Year Bar and Former Business Relationships

Former private sector employees, entering state service for the first time, need to be aware of the 'Reverse Two-Year Bar'. The purpose of the Reverse two-year bar is to ensure that you do not provide preferential treatment to your former employer (or create the appearance that you could do so). Depending on the circumstances, you may be recused for a period of up to two years from any work matters that involve your former employer. Your ethics officer or COELIG is your best resource to determine if your job duties may be impacted by the reverse two-year bar.

### Info Center | Advisory Opinions

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The Commission interpreted Public Officers Law § 74 to contain this “reverse two-year bar” in Advisory Opinion Nos. 98-09 and 07-04.



#### What is recusal?

Recusal means removing yourself from a vote, project, or other work matter to prevent a conflict of interest.

## Public Officers Law § 74 | Negotiation of Future Employment Solicited and Unsolicited Job Offers

As a State employee, you are certainly permitted to look for other work but there are restrictions if you decide to negotiate future employment with an organization or individual that is waiting on a business decision from you.

If you receive an unsolicited job offer that you wish to follow up or are interested in discussing employment opportunities with an individual or organization that has pending business before you in your State capacity, you must wait until 30 days have elapsed since:

- The date the matter before you is closed; or

- The date on which you notified your supervisor and Ethics Officer of your intent to pursue a job offer and recused yourself from the matter and any further contact with the entity or individual.



If the \_\_\_\_\_ outside entity or individual has no business pending before you in your State capacity, then these requirements do not apply.

Depending on the circumstances, failure to follow these requirements could result in a violation of Public Officers Law § 74 of the Code of Ethics and/or the gift restrictions found in Public Officers Law § 73(5), since a job offer can be seen as a gift.



## **Public Officers Law § 73 | Overview**

Public Officers Law § 73 broadly defines the rules involving business or professional activities by State officers and employees and political party officers.

### **Who does Public Officers Law § 73 apply to?**

- Statewide elected officials
- Legislative members and employees
- Employees of NYS departments, boards, bureaus, divisions, commissions, councils, or other State agencies (*other than* unpaid and per diem officers of such boards, commissions, or councils)
- Members, directors, and employees of NYS public authorities and public benefit corporations (*other than* unpaid and per diem members and directors of such entities)

Note that unpaid and per diem employees are excluded from Public Officers Law § 73; however, they are still bound by the Code of Ethics found in Public Officers Law § 74.

**Public Officers Law § 73 | Subject Matter and Related Commission Regulation**

COELIG regulations are organized by subject matter and can be found on the commission website ([ethics.ny.gov](http://ethics.ny.gov)). From the 'Laws' main menu item, select 'Commission Regulations'. Note that there are no Commission regulations related to the Post-Employment Restrictions and Nepotism.

**19 NYCRR Part 930**

- **Honoraria**

**19 NYCRR Part 931**

- **Official Activity Expense Payments (Travel Payments)**

**19 NYCRR Part 932**

- **Outside Employment and Professional Activities**
- **Restrictions on Political Activities**

**19 NYCRR Part 933**

- **Gifts**

## Public Officers Law § 73 | Outside Activities

### What is an outside activity?

An outside activity is any interest or activity not related to your State employment including an occupation, whether paid or unpaid, membership on a board, volunteer work, etc. State employees are permitted to have outside activities, but an outside activity can only occur after your State work hours; in addition, you cannot use State resources to benefit or assist the outside activity.



Before you accept or begin any outside activity, please seek advice from your agency ethics officer or COELIG to help you safely navigate any potential conflicts of interest.



### What is a Policymaker?

Policymakers are generally individuals in positions that involve high-level decision making centered around agency operations and policies. Your agency, not COELIG, determines which titles are involved in policymaking decisions. Your agency ethics officer will notify you if you are in a policymaker title and are also required to file Financial Disclosure Statements with COELIG.

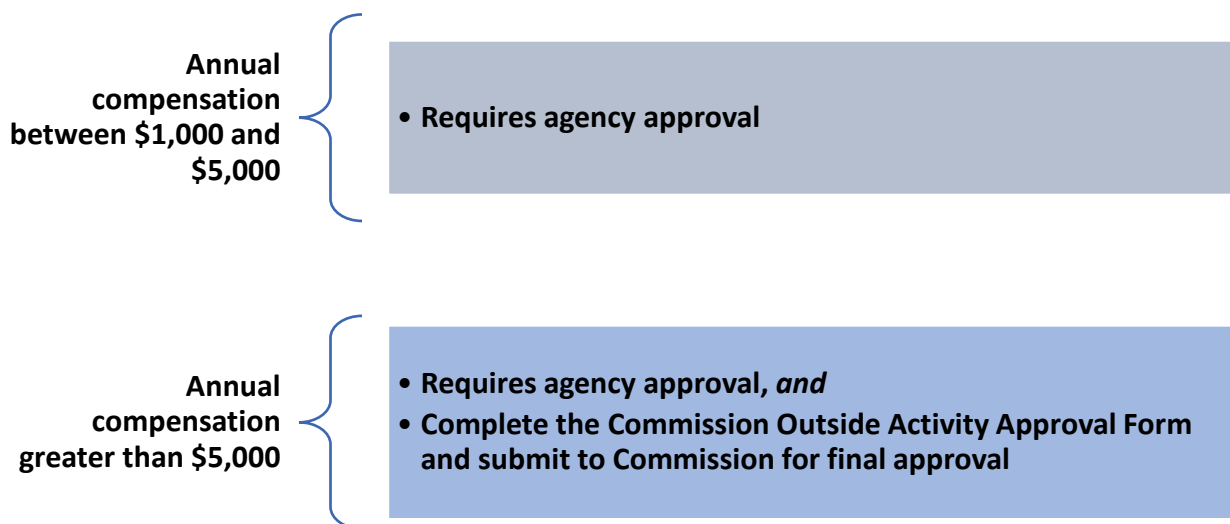
## 19 NYCRR Part 932 | Approval Procedures for Policymakers for Outside Activities

Policymakers may require approval from their agency, COELIG, or both before pursuing an outside activity. In general, the requirement for approval is based on how much you anticipate earning through your intended outside activity. Depending on the circumstances, you may need to complete and submit an [Outside Activity Approval Form](#), available on the Commission's website.

### Who approves my outside activity?

- **For Policymakers** (other than unpaid or per diem officers), the approving authority is the agency or appointing authority you work for.
- **For statewide elected officials and State agency heads**, the approving authority is the Commission.

### Annual Compensation Threshold Amounts



Although only Policymakers are required to seek Commission approval for outside activities, both Policymakers and non-Policymakers need to ensure the outside activity follows the rules outlined in Public Officer Law § 73 and is not a potential conflict of interest outlined in Public Officers Law § 74.



## Quick Reference Guide | Outside Activity Approvals



- **A job (including public employment), or business venture where you earn (or are expected to earn) between \$1,000 and \$5,000 a year.**
  - ✓ Requires your Agency approval
- **A business venture where you earn (or are expected to earn) between \$1,000 and \$5,000 a year.**
  - ✓ Requires your Agency **and** COELIG approval
- **Holding elected or appointed public office (regardless of compensation) as an outside activity**
  - ✓ Requires your Agency **and** COELIG approval
- **Serving as a director or officer of a for-profit entity (regardless of compensation)**
  - ✓ Requires your Agency **and** COELIG approval
- **Serving as a director or officer of a not-for-profit entity:**

Annual Compensation Amount	Approvals Required
\$0 - \$999	Approval <b>not</b> required – you must notify your agency ethics officer prior to the outside activity.
Between \$1,000 and \$5,000	Your agency must approve
More than \$5,000	Requires your agency <b>and</b> COELIG approval

## 19 NYCRR Part 942 | Restrictions on Political Activities

***Policymakers, including those in an unpaid or per diem position, cannot serve:***

- As an officer of any political party or political organization. A political organization does not include campaign or fundraising committees.
- As a member of any political party committee. This prohibition covers, for example, serving as a political party district leader or a member of a local committee of a political party.

## Public Officers Law § 73(4) | Restrictions for State Employees who own Private Businesses

State employees (and companies they control) cannot sell goods or services valued at more than \$25 to *any* State agency unless the state conducts a public competitive bidding and procurement process.



### Example:

You are a Department of Labor employee. You also have a seasonal snow plowing business. You would be allowed to provide snow plowing services to a State entity as an outside activity if you had been awarded the contract through a competitive bidding process.

## Public Officers Law § 73(7) | Restrictions on Rendering Services to State Agencies

You may not be paid or receive compensation in any form to to engage in any activity before any State agency that relates to any of the following:

- The purchase, sale, rental, or lease of real property, or goods or services;
- Any proceeding relating to rate making;
- The adoption or repeal of any rule or regulation having the force and effect of law;
- The obtaining of grants of money or loans;
- Licensing or permitting; or
- Any proceeding relating to a franchise provided for in the Public Service Law.

## Public Officers Law § 73(7-a) | Restrictions on Influencing Legislation

Employees subject to the rules of Public Officers Law § 73 cannot receive any compensation, in whatever form, for any of the following activities:

- consulting, representation, advisory, or other services in connection with any proposed or pending bill or resolution in the Senate or Assembly.

## Nepotism

Nepotism is unfairly using your position or authority to provide special benefits to members of your family within the workplace. Nepotism affects decisions to hire, promote, supervise, discipline or discharge certain relatives. The nepotism rules apply to anyone living in your household – this includes individuals who are not directly related to you.



### Definition | Relative

Any person living in the same household as the covered individual or any person who is a direct descendant of that covered individual's grandparents or the spouse of such descendant.

### Public Officers Law § 73(1)(m)

Family members are permitted to work in the same workplace as long as the proper hiring procedures are conducted, and, once hired, their work is not subject to your direction, supervision, or review. As a best practice, always consult with your ethics officer or COELIG prior to engaging in personnel decisions or contract negotiations involving a relative or even someone with whom you are acquainted, to avoid a potential conflict of interest.

**§ 73(14)** | State employees cannot participate in any decision to hire, promote, discipline, or discharge a relative.

**§ 73(15)** | State employees are prohibited from awarding contracts to a relative or investing public funds in any security in which a relative has a financial interest.



**COELIG Best Practice:** Recuse yourself from any personnel decisions that involve a family member or close personal friend.

## Gift Restrictions | **Avoiding Conflicts of Interests**

Generally, you may accept anything valued at \$15 or less unless your agency has stricter rules on what you may accept as a gift. Generally, gifts offered by an “Interested Source,” cannot be accepted. This includes transferring or offering the gift to someone else if you are unable to accept it.



### What is a Gift?

A gift is anything of more than “nominal value” -- An item or service that has a fair market value of \$15 or less is considered to be of “nominal value.”

A Gift includes, but is not limited to, money, services, loans, travel, lodging, meals, refreshments, entertainment, forbearance, or a promise having a monetary value.



## What is an Interested Source

An **Interested Source** is a person or entity that has a vested interest in influencing you or your agency.

### Agency Policy

Keep in mind that every State agency is empowered to implement policies on the acceptance of gifts that are more restrictive.

### Who is giving the gift?

An “**Interested Source**” is a person or entity that:

- Is regulated by or appears before you or your agency
- Has contracts with, or seeks contracts with, you or your agency
- Is a registered lobbyist or client of a lobbyist that lobbies your agency
- Is the spouse or the minor child of a registered lobbyist or client of a lobbyist that lobbies your agency
- Is involved in ongoing litigation that is adverse to you or your agency
- Has received or applied for funds from your agency at any time during the previous year up to and including the date of the proposed or actual receipt of the gift
- Attempts to influence you or your agency in an official action



A gift from an **Interested Source** is presumptively prohibited. This means that it will not be permitted unless, under the circumstances, there is *no* reasonable basis to believe that the gift is intended to influence the public employee, or that the gift *would* influence the public employee, or that the gift is intended as a reward for official action already taken.

### Items that are not “Gifts”

The following items are not considered “Gifts” under the regulations. You may accept these items provided that your acceptance does not otherwise violate the conflict-of-interest rules in the Code of Ethics. In other words, you may accept these items or services from anyone (including an Interested Source) as long as the acceptance does not create an actual or apparent conflict of interest or give the impression of improper influence.

-  Awards or plaques in recognition of public service
-  Honorary degrees
-  Promotional items with no resale value
-  Discounts available to the general public
-  Gifts from family and friends
-  Campaign Donations
-  Meals and beverages provided at professional and educational programs
-  Local travel payments related to your state job
-  Food or beverage valued at \$15 or less per occasion



## Exceptions to the Gift Restrictions | **Events and Professional Functions**

### **Events and Professional Functions you are allowed to attend**

You may accept payment and/or reimbursement of travel, food, and lodging expenses to attend or speak at informational events when a governmental entity or in-state accredited institution of higher learning is paying the expenses or reimbursing the costs.

Complimentary attendance, including food and beverage, is allowed at a Bona Fide Charitable Event or a Bona Fide Political Event

- **Bona Fide Charitable Event** – the event’s primary purpose must be to provide financial support to an organization that is either registered as a charity with the Attorney General’s Office (unless exempt) or qualified under section 501(c)(3) of the Internal Revenue Code.
- **Bona Fide Political Event** – the event’s primary purpose must be to provide financial support to a political organization or a candidate for public office (as defined in the Public Officers Law).

### **Complimentary Attendance at a Widely Attended Event**

You will need to inform your agency Ethics Officer in writing and receive approval before you are able to attend a “widely attended event.” Your agency’s Ethics Officer will determine if the event meets the requirements outlined in the gift regulations for Widely Attended Events.

**Your agency ethics officer will need to know the following information to conduct a gift analysis before you may attend:**

1. Was complimentary admission offered by the sponsor of the event?
  2. Have 25 individuals who are not from your agency been invited to attend or are expected to attend?
  3. Does the event relate to your job duties?
    - ***Is the event related to your official duties or responsibilities?***  
If a speaker at the event will address an issue of public interest or concern – then you may be allowed to attend.
- or**
- ***Does the event allow you to perform a ceremonial function appropriate to your position?*** Ribbon cuttings, presentations or award ceremonies are some examples.

Note that an event, the primary purpose of which is to promote networking, will not meet the requirements of a Widely Attended Event.



**Definition | Event Sponsor**

The sponsor of the event is the person or organization that directly committed money and other resources to an event in exchange for promotional benefits. You cannot accept complimentary admission if an individual or organization other than the event sponsor purchases a table at an event and offers you a seat.

**Things you should know | Catered Widely Attended Events**



Food and beverages offered to you at a Widely Attended Events can be accepted if they are offered to all participants. If you are offered any 'upgraded' or 'VIP' perks – those must be declined since it may appear to the public that you are being offered the 'upgrades' as a way to influence your performance as a State employee.

**Additional 'upgrades' or 'perks' you'll need to decline include:**

Any entertainment, recreational, or sporting activities that are offered as part of the Widely Attended Event; but do not serve the public interest or concern. For example, a free round of golf, tickets to a concert, or box seats at a sporting event must be declined. If the presentation addressing the public interest or concern is being held at one of these events, your agency ethics officer will help you determine if you may attend.

**Gifts to Third Parties | When 'regifting' can create an ethics conflict**

The ethics rules not only prevent you from accepting certain gifts, they also prevent you from being able to 'regift' that item to a third party, including your spouse, child or a charitable organization.

**Multiple Gifts from same source**

You cannot accept multiple Gifts valued at less than \$15 if the total value of the gifts exceeds \$15. This amount includes taxes and tips.

**The Code of Ethics and the Gift Analysis**

The gift rules, which are based on the conflict-of-interest provisions found in the Code of Ethics (Public Officers Law § 74), apply to all State employees, including those in unpaid and per diem positions. Please seek guidance from your agency Ethics Officer or the Commission to determine whether the acceptance of a gift is a violation of the standards of conduct.



## Honoraria | Overview, Restrictions and Approval Process

### What is an honorarium?

Honoraria are payments or other forms of compensation that are offered to you in exchange for a professional service or activity that is not part of your State job. Examples include giving a speech, writing an article, or serving on a panel at a seminar or conference.

### What expenses are included?

Travel expenses, hotel accommodations and meal expenses are included as long as these expenses are directly related to the professional service or activity you are being asked to perform as part of the honorarium.



### Restrictions on Honoraria

- **State Resources:** You cannot use any state resources including state personnel, equipment, and time.
- **State Funds:** Your attendance, registration, travel, lodging, or meal expenses cannot be paid for with state funds.
- **Leave Accruals:** If the honorarium is scheduled during your regular work hours, you must charge personal or vacation time to attend – you may not use sick leave to perform the honorarium.
- **Interested Source Analysis:** If the honorarium is offered by or on behalf of an Interested Source, your agency ethics officer will need to ensure the honorarium is not intended to influence or reward you – or could potentially be a violation of the Code of Ethics (Public Officers Law § 74).

### What is the approval process?

You must submit a formal request in writing to your agency Ethics Officer or other designated person before performing the service or activity. Statewide elected officials and

State agency heads (including Civil Department Heads) must submit an approval request to the Commission.



### **Special Exemptions for SUNY and CUNY Faculty Members**

Faculty members of SUNY and CUNY, and State employees with the following titles, are exempt from the honoraria approval procedures (including the conditions for approval) as long as the subject matter of the honorarium relates to their official academic or research discipline:

- Research Scientist
- Cancer Research Scientist
- Research Physician
- Research Psychiatrist
- Psychiatrist

### **FDS and Honoraria Reporting Requirements**

Employees who are required to file a Financial Disclosure Statement, even those exempt from the honoraria approval procedures, are required to disclose any honorarium payments over a \$1,000 (this includes single payments or multiple payments that total over a \$1,000) in their FDS forms.

### **Special ban on paid speeches**

Statewide elected officials and Civil Department Heads cannot accept an honorarium for any speech. Please note that not all State agencies are considered Civil Departments. See Article 5, Section 2 of the New York State Constitution.

### **Official Activity Expense Payments | Rules related to travel expenses and reimbursements**

Travel payments and reimbursements from third parties can be accepted for an official activity – an activity that is related to your State job – referred to as an Official Activity Expense Payment. The rules for accepting these types of payments are outlined in the Commission's regulation 19 NYCRR Part 931.

## Official Activity Expense Payment | Approval Process

- **Agency Approval:** You are required to submit a formal request in writing to your agency Ethics Officer (or their designee) before you can perform the activity and accept the expense payment.
- **Payment Approval:** Payments and/or reimbursements must be approved by your agency.
- **COELIG Approval:** Statewide elected officials and State agency heads must submit requests to the Commission.



## Official Activity Expense Payment | Additional Considerations

- **Agency Travel Policy:** Travel arrangements and related expenses must comply with your agency's existing travel policy. First-class travel arrangements are not allowed if those arrangements are not already allowed by your agency's travel policy.
- **Interested Source Analysis:** Payment or reimbursement from an "**Interested Source**" is generally not allowed to be accepted.
- **FDS Reporting:** Payment or reimbursement of more than \$1,000 must be reported on an FDS.
- **Approval Requests:** Your agency is required to maintain records of each approved Official Activity request. Approval forms are available on the Commission website.

## Post-Employment Restrictions | Things to consider when you leave state service

Post-employment restrictions, also



known as the “revolving door” restrictions, apply to all State officers and employees subject to Public Officers Law § 73 – including part-time and seasonal employees. These restrictions apply equally to all employees who are subject to Public Officers Law § 73, regardless of their position or length of State service.

The two main restrictions include the Two-Year Bar and the Lifetime Bar.

### Two-Year Bar: § 73(8)(a)(i)

The purpose of the two-year bar is to prevent you from using the expertise you acquired during your state career to either benefit yourself or someone else by using that knowledge to inappropriately influence a decision or action by your former agency.

The two-year bar contains two clauses – the appear or practice prohibition and the backroom services prohibition. These restrictions begin immediately after you leave state service – which is generally the last day you are on a state payroll.

### Two-Year Bar | Appear or Practice Prohibition

You may not appear or practice before your former agency, regardless of whether you are

paid to do so. Some examples of prohibited appearances or practices are:

- negotiating a contract with a former agency
- submitting a grant proposal or application to a former agency
- representing a client in an audit before a former agency
- seeking information not normally released to the public

### **Two-Year Bar | Backroom Services Prohibition**

You are prohibited from being paid to perform certain services on behalf of a client that are in relation to a matter before your former agency, even if your former agency does not know that you are involved in the matter. This prohibition applies only to paid work. There is no prohibition on performing backroom services for no compensation. Some examples of prohibited backroom services are:

- preparing documents for a private firm when it is reasonably foreseeable that the documents will be reviewed by your former agency
- assisting another person in the creation or development of an application to be submitted to your former agency
- assisting another person in the creation or development of a plan or strategy for influencing a decision of your former agency

### **Public Officers Law § 73(8)(a)(iv) | Special Two-Year Bar for Executive Chamber Employees**

Former Executive Chamber employees are prohibited from appearing or practicing before all State agencies, not just the Executive Chamber, regardless of compensation.

They may, however, perform backroom services for compensation in relation to matters that are before State agencies other than the Executive Chamber.



### **The Lifetime Bar - § 73(8)(a)(ii)**

“No person who has served as a State officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any State agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration.”

### **What you need to know - The Lifetime Bar**

The lifetime bar restricts you from rendering services in connection with any specific case, proceeding, application, or transaction that you were substantially involved with while in State service:

- You are prohibited from rendering services or appearing before any State agency in connection with the same matter, regardless of whether you are compensated.
- If the same matter is not before a New York State agency, you may perform services on the same matter provided you receive no compensation.

In accordance with Advisory Opinion 18-01, the Commission will consider circumstances on a case-by-case basis to determine whether a large, extensive project is a single transaction for lifetime bar purposes. The Commission will consider a list of factors to determine whether the lifetime bar applies.

**Not sure if you are lifetime-barred from a matter?**

Prior to leaving State service and accepting new private employment, please contact the Commission for guidance.



### Three Common Exceptions to the Post-Employment Restrictions:



**Government to Government:** Accepting a position as an employee of a Federal, State, or local government entity. Exception does not apply to independent contractors retained by such government entities, or employees of corporations closely affiliated with any such entity.



**Continuity of Care for Health Care Professionals:** Former State-employed health care professionals may continue to treat former patients and clients at the State facility which formerly employed the health care professional. They may not treat new patients at such facility.



**Public Officers Law § 73(8-b) Certificate of Exemption:** The Commission is able to grant is an exemption to the post-employment rules that would allow an agency to pay or contract with a former employee. These certificates are granted only if the agency can certify the former employee has knowledge or experience in a particular subject that would result in considerable costs to the agency if contracted elsewhere.

## Political Activity in the workplace | Civil Service Law §107 and Public Officers Law § 73(17)

### Defining Political activity in the workplace

Political activities are actions intended toward the success or failure of a political party, candidate for partisan political office (e.g., President, senator, representative, State or local legislature or office), or partisan political group (e.g., Republican, Democratic, Conservative).



### Political Activity | Restrictions for Hiring Professionals

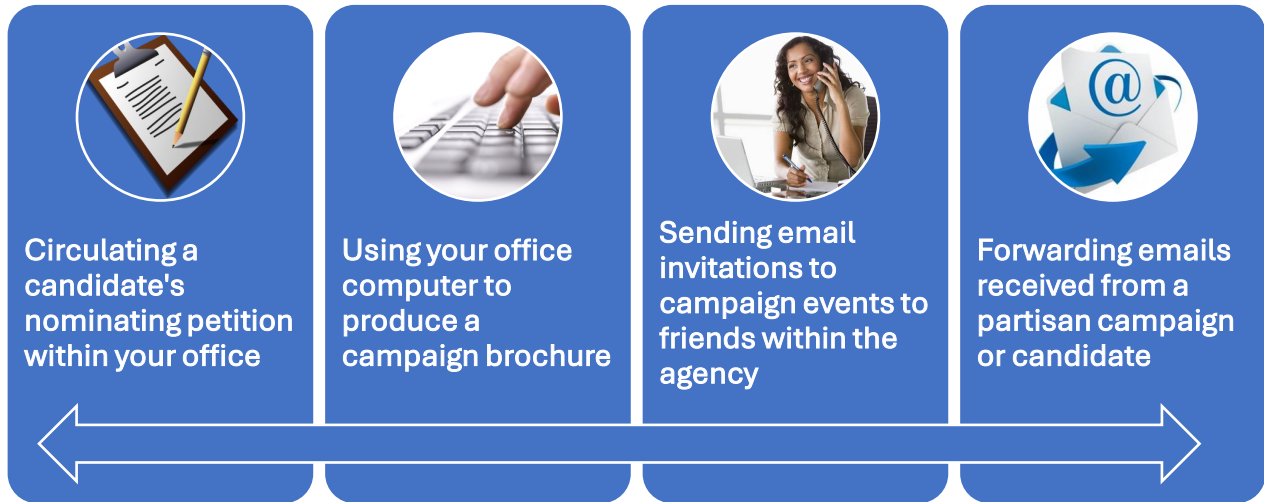
During the hiring process, potential state employees cannot:

- be questioned, directly or indirectly, about their political affiliation as a condition of employment, or
- be asked about their political party affiliation, whether that applicant made any political contributions, or how that applicant voted.

### Political Activity | General Workplace Restrictions

- You cannot collect, request, or receive political contributions in State office buildings.
- You cannot use your official State position to coerce, intimidate, or influence other State employees for any political purpose, action, or contribution, or interfere with any election.
- No State employee shall corruptly use or promise to use any official authority or influence in exchange for political action on another's part.

**Examples of political activity that would violate Public Officers Law § 74 if done while on duty or using State property include:**



**Violations of Public Officers Law § 73 and Civil Service Law § 107**

Violations of the following sections of law provide for a civil penalty of up to \$40,000 plus the value of any gift, compensation, or benefit received:

- § 73(4) Selling goods or services to State agencies
- § 73(5) Gifts
- § 73(7) Rendering services before State agencies
- § 73(8)(a) Post-employment Restrictions
- § 73(14) and § 73(15) Nepotism
- Civil Service Law §107

**Financial Disclosure | Public Officers Law § 73-a**

**What is a Financial Disclosure Statement?**

An annual Financial Disclosure Statement (FDS) is a publicly available record containing financial and professional information about the FDS filer and their spouse or domestic partner.

The purpose of the FDS is to provide transparency in order to prevent conflicts of interest between an employee's professional duties and their private financial interests and affiliations.

### **Who is required to file?**

- The four statewide elected officials (Governor, Lieutenant Governor, Comptroller, and Attorney General), Legislators, and candidates for those offices
- Officers, members, directors, and employees of any State agency, public authority, public benefit corporation, commission, or legislative employees who are:
  - Designated as "Policymakers" by their State agency, or
  - Threshold Filers: those who have an annual salary rate (known as the filing rate) in excess of a CSEA salary grade 24
- Political Party Chairpersons as defined in Public Officers Law § 73(k)

### **What is disclosed?**

- Offices or any positions of authority held in a business entity or organization, political party, or political organization
- Ownership in, or professional affiliation with, any business entity
  - If the business entity renders services related to certain State work, such as procurement contracts, legislative lobbying, grants, or other matters before State agencies, additional disclosures may be required.
- Ownership in, and income from, financial interests, investments, securities, real property, and other assets
- Debts, liens, mortgages, and other financial obligations
- Certain gifts, honoraria, and other payments

## Privacy concerns

- FDSs for the four statewide elected officials and legislators are posted on the Commission's website.
- Copies of FDSs for all other State officers and employees are made available upon request.
- The Commission automatically redacts the name of any minor child from the copy of the FDS that is made publicly available.
- The FDS form asks for a business address only. Please ensure that you do not inadvertently provide the address of your primary residence.
- For other FDS questions related to real property, you may disclose the general location of your primary residence in lieu of the physical address.

## When are the filing due dates?



### **New Filers**

New State employees or officials whose wages exceed the salary threshold or who are deemed Policymakers after May 15 must file within 30 days of the change in salary or Policymaker designation.

Members of the Legislature, legislative employees, and candidates for the Legislature should refer to the Legislative Ethics Commission for filing deadlines and procedures.

## Existing Filers



### **May 15<sup>th</sup>**

Statewide elected officials, State officers, political party chairs, Policymakers, as well as State employees with an annual salary rate in excess of the job rate of a CSEA equivalent SG-24.



### **November 15<sup>th</sup>**

Academic employees (professors) at SUNY and CUNY who meet the filing threshold requirements.

## FDS | Exemption and Extension Requests

### Exemptions

If you are not a Policymaker (i.e., you are required to file an FDS solely due to your salary level), the Commission has the discretion to exempt you from filing an FDS if:

- The public interest does not require you to file; and
- Your duties do not involve the negotiation, authorization, or approval of:
  - contracts, leases, franchises, revocable consents, concessions, variances, permits, or licenses;
  - the purchase, sale, rental, or lease of real property, goods or services, or a contract therefor;
  - the obtaining of grants of money or loans; or
  - the adoption or repeal of any rule or regulation having the force and effect of law

An exemption from filing an FDS may be requested by an individual or by an agency on behalf of a class of individuals in the same position.

Exemptions may be requested through the FDS Online Filing System or by completing and submitting a writeable PDF form found on the Commission website, which must be received or postmarked on or before the filing due date.

The procedure for requesting an exemption from filing is found in the regulation - 19 NYCRR Part 935.

### **Extensions**

You may request an extension of time to file an FDS on the basis of justifiable cause or undue hardship. Extensions may be requested through the FDS Online Filing System or by completing and submitting a writeable PDF form found on the Commission website, which must be received or postmarked on or before the filing due date.

Procedures for requesting an extension are found in the regulation - 19 NYCRR Part 936.

### **Exemption and Extension due dates:**

- All Applicable FDS Filers: May 15<sup>th</sup>
- SUNY/CUNY Academic Filers: November 15<sup>th</sup>

### **What if I don't file on time?**

If you fail to file your FDS, or if you file a deficient FDS by either not answering a question or failing to answer a question with the required specificity, the Commission will notify you.

If you continue to fail to comply, the Commission will send you and your agency a Notice of Delinquency that advises you of fees and penalties. Notices of Delinquency are publicly available on the Commission's website.

If you still fail to file your FDS, you may be subject to a civil penalty up to \$40,000 after a hearing.

In lieu of a civil penalty or in addition to such penalty, the Commission may refer a violation to the appropriate prosecutor for criminal prosecution as a misdemeanor offense.

## **Investigation and Enforcement**

Executive Law § 94 grants COELIG the authority to investigate potential violations of the State's ethics laws (Public Officers Law §§ 73, 73-a, and 74), Civil Service Law § 107, and the Lobbying Act (Legislative Law Article 1-a) as they apply to State legislators, candidates for the Legislature and legislative employees, as well as the four statewide elected officials, candidates for those offices, executive branch employees, certain political party chairs, and lobbyists and their clients.

Enforcement proceedings are confidential until there is a finding (or settlement) against the subject. Notice to the subject is not required in the early phases before the Commission issues a letter that notifies you of an investigation and provides the subject an opportunity to respond.

## **Advice and Guidance**

Commission legal staff is available to address your questions and concerns about how ethics laws and regulations apply to your circumstances. Written guidance is provided as either a formal or informal advisory opinion. The Commission also provides advice and guidance by phone and e-mail.

### **An informal advisory opinion**

Commission staff attorneys issue written guidance, in the form of an informal opinion, on your specific question or set of circumstances related to application of the ethics laws. Informal opinions are based on established precedent.

### **A formal advisory opinion**

Formal advisory opinions can be issued in cases where the situation is not covered by existing precedent or the subject seeks review of a staff informal opinion. All formal advisory opinions are publicly posted on the Commission's website, although identifying information is removed to preserve confidentiality.



## Agency Ethics Officers

Most State agencies have a designated Ethics Officer. Your agency's Ethics Officer is the first point of contact for ethics-related questions or concerns. Your human resources department or counsel's office can provide you with the contact information for your agency Ethics Officer.

For your information, all applicable ethics laws, regulations, advisory opinions, policies, and guidance documents within the Commission's jurisdiction are set forth in their entirety on the agency's website at [www.ethics.ny.gov](http://www.ethics.ny.gov).



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