

PUBLIC OFFICERS LAW

*and other State Ethics Laws related to
State Employees and Officials*



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EXECUTIVE LAW § 94

COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

(Effective July 8, 2022)

1. Commission established.

- (a) There is hereby established within the department of state, a commission on ethics and lobbying in government, an agency responsible for administering, enforcing, and interpreting New York state's ethics and lobbying laws. The commission shall have and exercise the powers and duties set forth in this section with respect to statewide elected officials, members of the legislature and employees of the legislature, and state officers and employees as defined in sections seventy-three, seventy-three-a, and seventy-four of the public officers law, candidates for statewide elected office and for the senate or assembly, and the political party chair as is defined in section seventy-three of the public officers law, lobbyists and the clients of lobbyists as defined in section one-c of the legislative law, and individuals who have formerly held such positions, were lobbyists or clients of lobbyists as defined in section one-c of the legislative law, or who have formerly been such candidates.
- (b) The commission shall provide for the transfer, assumption or other disposition of the records, property, and personnel affected by this section, and it is further provided, should any employees be transferred from the joint commission on public ethics ("JCOPE"), the predecessor ethics agency, to the commission, that such transfer will be without further examination or qualification and such employees shall retain their respective civil service classifications, status and collective bargaining agreements.
- (c) The commission shall review any pending inquiries or matters affected by this section and shall establish policies to address them.
- (d) The commission shall undertake a comprehensive review of all regulations in effect upon the effective date of this section; and review of all advisory opinions of predecessor ethics agencies, including JCOPE, the legislative ethics commission, the commission on public integrity, the state ethics commission, and the temporary lobbying commission, which will address the consistency of such regulations and advisory opinions among each other and with the new statutory language, and of the effectiveness of the existing laws, regulations, guidance and ethics enforcement structure.

- (e) This section shall not be deemed to have revoked or rescinded any regulations or advisory opinions in effect on the effective date of this section that were issued by predecessor ethics and lobbying bodies. The commission shall cooperate, consult, and coordinate with the legislative ethics commission, to the extent possible, to administer and enforce the laws under its jurisdiction.
- (f) The annual budget submitted by the governor shall separately state the recommended appropriations for the commission on ethics and lobbying in government. Upon enactment, these separately stated appropriations for the commission on ethics and lobbying in government shall not be decreased by interchange with any other appropriation, notwithstanding section fifty-one of the state finance law.

2. Definitions.

For the purposes of this section, the following terms shall have the following meanings:

- (a) "**commission**" means the commission on ethics and lobbying in government established pursuant to subdivision one of this section.
- (b) "**selection members**" means the governor, speaker of the assembly, temporary president of the senate, minority leader of the senate, minority leader of the assembly, comptroller, and the attorney general.
- (c) "**independent review committee**" means the committee of the American Bar Association accredited New York state law school deans or interim deans, or their designee who is an associate dean of their respective law school, tasked with reviewing, approving, or denying the members of the commission as nominated by the selection members and other tasks pursuant to this section.
- (d) "**respondent**" means the individual or individuals or organization or organizations subject to an inquiry, investigation, or enforcement action.
- (e) "**victim**" means any individual that has suffered or alleged to have suffered direct harm from any violation of law that is subject to investigation under the jurisdiction of the commission.

3. Nomination and appointment of the commission.

- (a) The commission shall consist of eleven members, to be nominated by the selection members as follows: three members by the governor; two members by the temporary president of the senate; one member by the minority leader of the senate; two members by the speaker of the assembly; one member by the minority leader of the assembly; one member by the attorney general; and one member by the comptroller.
- (b) The independent review committee shall within thirty days review the qualifications of the nominated candidates and approve or deny each candidate nominated by their respective selection member.
- (c) The independent review committee shall publish on its website a procedure by which it will review the qualifications of the nominated candidate and approve or deny each candidate.
- (d) Those candidates that the independent review committee deems to meet the qualifications necessary for the services required based on their background and expertise that relate to the candidate's potential service on the commission shall be appointed as a commission member. The nominating selection member shall nominate a new candidate for those that are denied by the independent review committee.
- (e) No individual shall be eligible for nomination and appointment as a member of the commission who is currently, or has within the last two years:
 - (i) been registered as a lobbyist in New York state;
 - (ii) been a member or employee of the New York state legislature, a statewide elected official, or a commissioner of an executive agency appointed by the governor;
 - (iii) been a political party chair, as defined in section seventy-three of the public officers law; or
 - (iv) been a state officer or employee as defined in section seventy-three of the public officers law.

- (f) The independent review committee shall convene as needed or as requested by the selection members. The chair of the independent review committee shall be elected from the members of the independent review committee.
- (g) Appropriate staffing and other resources shall be provided for in the commission's budget for the independent review committee to carry out its powers, functions, and duties. The independent review committee shall publish on the commission's website a procedure by which it will review and select the commission members and other processes to effectuate its responsibilities under this section.
- (h) The majority of the independent review committee shall constitute a quorum to hold a meeting and conduct official business.
- (i) During the pendency of the review and approval or denial of the candidates, the independent review committee shall be subject to and maintain confidentiality in all independent review committee processes, reviews, analyses, approvals, and denials. A member of the independent review committee may be removed by majority vote of the committee for substantial neglect of duty, misconduct, violation of the confidentiality restrictions set forth in this section, inability to discharge the powers or duties of the committee or violation of this section, after written notice and opportunity for a reply.
- (j) Upon the receipt of the selection members' appointments, members of the independent review committee shall disclose to the independent review committee any personal, professional, financial, or other direct or indirect relationships a member of the independent review committee may have with an appointee. If the independent review committee determines a conflict of interest exists, such independent review committee member shall, in writing, notify the other members of the independent review committee of the possible conflict. The member may recuse themselves from all subsequent involvement in the consideration of and action upon the appointment. If, after disclosure, the member does not recuse themselves from the matter, the independent review committee, by majority vote finding the disclosed information creates a substantial conflict of interest, may remove the conflicted member from further consideration of and action upon the appointment.
- (k) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the independent review committee shall be open to the public, except the

applicable records pertaining to the review and selection process for a member's seat shall be subject to disclosure pursuant to article six of the public officers law only after an individual member is appointed to the commission. Requests for such records shall be made to, and processed by, the commission's records access officer.

- (l) The independent review committee shall neither be public officers nor be subject to the requirements of the public officers law.

- (m) Notwithstanding subdivision (l) of this section, the independent review committee members shall be entitled to representation, indemnification, and to be held harmless to the same extent as any other person employed in service of the state and entitled to such coverage under sections seventeen and nineteen of the public officers law, provided however, that any independent review committee member removed due to a violation of paragraph (i) of this subdivision shall not qualify for such entitlements.

4. Commission.

- (a) The first class of members of the commission shall serve staggered terms to ensure continuity. For the first class of the commission, the governor's first appointee shall serve an initial term of four years, their second appointee shall serve an initial term of two years, and their third appointee shall serve an initial term of one year; the attorney general's appointee shall serve shall serve an initial term of four years; the comptroller's appointee shall serve an initial term of four years; the temporary president of the senate's first appointee shall serve an initial term of four years and their second appointee shall serve a term of two years; the minority leader of the senate's appointee shall serve an initial term of four years; the speaker of the assembly's first appointee shall serve initial terms of years and their second appointee shall serve a term of two years; and the minority leader of the assembly's appointee shall serve a term of four years. All subsequent members shall serve a term of four years. No member shall be selected to the commission for more than two full consecutive terms, except that a member who has held the position by filling a vacancy can only be selected to the commission for an additional two full consecutive terms.

- (b) The commission by majority vote shall elect a chairperson from among its members for a term of two years. A chairperson may be elected to no more than two terms for such office.

- (c) Members of the commission may be removed by majority vote of the commission for substantial neglect of duty, misconduct in office, violation of the confidentiality restrictions set forth in this section, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.
- (d) Any vacancy occurring on the commission shall be filled within thirty days of its occurrence in the same manner as a member is initially selected to complete the vacant term.
- (e) During the period of a member's service as a member of the commission, the member shall refrain from making, or soliciting from other persons, any contributions to candidates, political action committees, political parties or committees, newsletter funds, or political advertisements for election to the offices of governor, lieutenant governor, member of the assembly or the senate, attorney general or state comptroller.
- (f) Members of the commission shall receive a per diem allowance equal to the salary of a justice of the supreme court divided by two hundred twenty for each day or each pro-rated day actually spent in the performance of the member's duties under this section, and, in addition thereto, shall be reimbursed for all reasonable expenses actually and necessarily incurred by the member in the performance of the member's duties under this section. For the purposes of this subdivision, a day shall consist of at least seven and one-half hours spent in the performance of the member's duties under this section.
- (g) The commission shall meet at least quarterly and additionally as called by the chairperson, or upon the call of a majority of the members of the commission. The commission shall be subject to articles six and seven of the public officers law.
- (h) A majority of the members of the commission shall constitute a quorum, and the commission shall have the power to act by majority vote of the total number of members of the commission without vacancy.
- (i) The commission shall hold a public hearing at least once each calendar year to take testimony regarding the operation of the commission and solicit public input regarding potential or proposed changes in the laws under its jurisdiction.

5. Powers.

- (a) The commission has the authority to: (i) adopt, amend, and rescind any rules and regulations pertaining to section seventy-three, seventy-three-a or seventy-four of the public officers law, article one-A of the legislative law, or section one hundred seven of the civil service law; (ii) adopt, amend, and rescind any procedures of the commission, including but not limited to, procedures for advice and guidance, training, filing, review, and enforcement of financial disclosure statements, investigations, enforcement, and due process hearings; and (iii) develop and promulgate any programs for reviews, training, and guidance to carry out the commission's mission.
- (b) The commission shall adopt and post on its website guidance documents detailing the processes and procedures of an investigation, including the stages of an investigation; timelines, including the reasons for any potential delays in an investigation; the hearing and adjudication process; outcomes of an investigation; and, anything else the commission deems necessary to inform the public as well as relevant parties to an investigation including complainants, respondents, victims, if any, and witnesses as to such processes and procedures. The guidance documents shall delineate the processes and procedures that apply to the relevant parties, including, where applicable, the due process and any other rights or remedies that the relevant party may have under the commission's procedures or any other area of law. The guidance documents shall be provided to the relevant party of an investigation upon such party's involvement in such investigation.
- (c) The commission has the authority to compel the testimony of witnesses, and may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

6. Executive director and commission staff.

The commission shall:

- (a) (i) Appoint an executive director through a majority vote of the members of the commission, who shall act in accordance with the policies of the commission. The executive director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties assigned by this section, and meet the qualifications necessary for the services required based on their

background and expertise that relate to the candidate's potential service to the commission. No individual shall be eligible to be appointed as an executive director if the individual is currently, or within the last two years has been:

(1) registered as a lobbyist in New York state;

(2) a member or employee of the New York state legislature or a statewide elected official, or a commissioner of an executive agency appointed by the governor; or

(3) a political party chair, as defined in section seventy-three of the public officers law.

(ii) The appointment and removal of the executive director shall be made by a majority vote of the commission.

(iii) The term of office of the executive director shall be four years from the date of appointment. The salary of the executive director shall be determined by the members of the commission based on experience.

(iv) The commission may remove the executive director for neglect of duty, misconduct in office, violation of the confidentiality restrictions in this section, or inability or failure to discharge the powers or duties of office, including the failure to follow the lawful instructions of the commission.

(b) The commission may delegate authority to the executive director to act in the name of the commission between meetings of the commission provided such delegation is in writing, the specific powers to be delegated are numerated, and the commission shall not delegate any decisions specified in this section that require a vote of the commission.

(c) The commission, through the executive director, shall establish units within the commission to carry out its duties, including, but not limited to, (i) an advice and guidance unit, (ii) a training unit, (iii) a financial disclosure unit, (iv) a lobbying unit, and (v) an investigations and enforcement unit.

(d) The commission, through the executive director, shall appoint such other staff as are necessary to carry out its duties under this section, including, but not limited to, a deputy director of an

advice and guidance unit to provide timely confidential advice to persons subject to the commission's jurisdiction, a deputy director for training, a deputy director for investigations and enforcement, and a deputy director for lobbying.

- (e) In addition to meeting the qualifications necessary for the services required for the position, the deputy director for investigations and enforcement shall have completed substantial training and have experience in trauma-informed approaches to investigations and enforcement. The deputy director for investigations and enforcement shall complete a minimum of four hours of training annually in trauma-informed approaches to investigations and enforcement. Such trainings may include, but not be limited to, the impact of trauma, first impression matters, victim interviews, investigative strategies, and alcohol and drug facilitated cases.
- (f) The commission, through the executive director, shall review and approve a staffing plan provided and prepared by the executive director which shall contain, at a minimum, a list of the various units and divisions as well as the number of positions in each unit, titles and their duties, and salaries, as well as the various qualifications for each position.

7. Advice and guidance.

- (a) The commission shall establish a unit or units solely for ethics and lobbying guidance, and give such prompt, informal advice to persons whose conduct it oversees, except with respect to members of the legislature and legislative staff, who shall seek advice from the legislative ethics commission in the first instance.
- (b) Persons receiving such informal advice may rely on that advice absent misrepresentation or omission of material facts to the commission and such communications with the commission shall be treated as confidential, except as disclosure is needed to prevent or rectify a crime or fraud, or prevent a substantial threat to public health or safety or if required by court order.
- (c) The commission may also render, on written request or on its own initiative, advisory opinions, and may allow for public comment before issuance of an advisory opinion. Such an opinion rendered by the commission shall be relied on by those subject to the commission's jurisdiction and until, or unless, amended, superseded, or revoked. Such opinion may also be relied upon by any such person, and may be introduced and shall be a defense, in any criminal or civil action.

8. Training.

The commission shall establish a training unit and shall develop and administer an on-going program for the education and training in ethics and lobbying for those subject to the provisions of this section, as follows:

- (a) The commission shall develop and administer a comprehensive and interactive live-in person or live-online ethics training course and shall designate and train instructors to conduct such training. Such live course shall be designed to include practical application of the material covered and a question-and-answer participatory segment. Unless the commission grants an extension or waiver for good cause shown, statewide elected officials, members of the legislature and employees of the legislature, and state officers and employees as defined in sections seventy-three, seventy-three-a, and seventy-four of the public officers law, and the political party chair as is defined in section seventy-three of the public officers law, shall complete the live course within ninety days of appointment or employment and shall complete the live course every two years subsequently.
- (b) The commission shall develop and administer an online ethics refresher course for all individuals listed under subparagraph (i) of this paragraph who have previously completed the live course. Such refresher course shall be designed to include any changes in law, regulation, or policy or in the interpretation thereof, and practical application of the material covered. Unless the commission grants an extension or waiver for good cause shown, such individuals shall take such refresher course once every year after having completed the live course under paragraph (a) of this subdivision.
- (c) The commission shall develop and administer an online live question and answer course for agency ethics officers.
- (d) The commission shall develop and administer training courses for lobbyists and clients of lobbyists.
- (e) The provisions of this subdivision shall be applicable to the legislature except to the extent that an ethics training program is otherwise established by the assembly and/or senate for their respective members and employees and such program meets or exceeds each of the requirements set forth in this subdivision.

- (f) On an annual basis, the commission, in coordination with the legislative ethics commission, shall determine the status of compliance with the training requirements under this subdivision by each state agency and by the senate and the assembly. Such determination shall include aggregate statistics regarding participation in such training and shall be reported on a quarterly basis to the governor and the legislature in writing.

9. Financial disclosure statements.

- (a) The commission may delegate all or part of review, inquiry and advice in this section to the staff under the supervision of the executive director.
- (b) The commission shall make available forms for annual statements of financial disclosure required to be filed pursuant to section seventy-three-a of the public officers law.
- (c) The commission shall review the financial disclosure statements of the statewide elected officials and members of the legislature within sixty days of their filings to determine, among other things, deficiencies and conflicts.
- (d) The commission shall review on a random basis the financial disclosure statements for filers who are not statewide elected officials and members of the legislature.
- (e) The commission shall review financial disclosure statements filed in accordance with the provisions of this section and (i) inquire into any disclosed conflict to recommend how best to address such conflict; and (ii) ascertain whether any person subject to the reporting requirements of section seventy-three-a of the public officers law has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law.
- (f) If a person required to file a financial disclosure statement with the commission has failed to file a disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen-day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. This first notice of deficiency shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency (i) to the reporting person; (ii) in the case of a statewide elected official, to the chief of staff or counsel to the

statewide elected official; (iii) in the case of a member of the legislature or a legislative employee, to the temporary president of the senate and the speaker of the assembly; and (iv) in the case of a state officer, employee or board member, to the appointing authority for such person. Such notice of delinquency may be sent at any time during the reporting person's service as a statewide elected official, state officer or employee, member of the assembly or the senate, or a legislative employee or a political party chair or while a candidate for statewide office, or within one year after termination of such service or candidacy. A copy of any notice of delinquency or report shall be included in the reporting person's file and be available for public inspection and copying pursuant to the provisions of this section. The jurisdiction of the commission, when acting pursuant to this subdivision with respect to financial disclosure, shall continue for two years notwithstanding that the reporting person separates from state service, or ceases to hold public or political party office, or ceases to be a candidate, provided the commission notifies such person of the alleged failure to file or deficient filing pursuant to this subdivision.

- (g) The commission shall adopt a procedure whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, other than members of the legislature, candidates for members of the legislature and legislative employees, due to justifiable cause or undue hardship.
- (h) The commission may permit any person who is required to file a financial disclosure statement with the commission to request that the commission delete from the copy thereof made available for public inspection and copying one or more items of information which may be deleted by the commission upon a finding by the commission that the information which would otherwise be required to be made available for public inspection and copying will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the commission, in its notification of denial, shall inform the person of their right to appeal the commission's determination in a proceeding commenced against the commission, pursuant to article seventy-eight of the civil practice law and rules.
- (i) The commission may permit any person who is required to file a financial disclosure statement with the commission to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse, domestic partner, or

unemancipated children which item or items may be exempted by the commission upon a finding by the commission that the reporting individual's spouse, domestic partner, on their own behalf, or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported shall have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the commission, in its notification of denial, shall inform the person of their right to appeal the commission's determination, pursuant to article seventy-eight of the civil practice law and rules.

- (j) The commission may permit any person required to file a financial disclosure statement to request an exemption from any requirement to report the identity of a client pursuant to the question under subparagraph (b) of paragraph eight of subdivision three of section seventy-three-a of the public officers law in such statement based upon an exemption set forth in such question. The reporting individual need not seek an exemption to refrain from disclosing the identity of any client with respect to any matter where they or their firm provided legal representation to the client in connection with an investigation or prosecution by law enforcement authorities, bankruptcy, or domestic relations matters. In addition, clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or insurance brokering services need not be disclosed. Pending any application for deletion or exemption to the commission relating to the filing of a financial disclosure statement, all information which is the subject or part of the application shall remain confidential. Upon an adverse determination by the commission, the reporting individual may request, and upon such request the commission shall provide, that any information that is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns their office and holds no other office subject to the jurisdiction of the commission, the information shall not be made public and shall be expunged in its entirety.
- (k) The commission shall permit any person who has not been determined by the person's appointing authority to hold a policy-making position, but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the commission

deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the commission, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:

- (i) contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as such terms are defined in section seventy-three of the public officers law;
- (ii) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;
- (iii) the obtaining of grants of money or loans; or
- (iv) the adoption or repeal of any rule or regulation having the force and effect of law.

10. Investigation and enforcement.

- (a) The commission shall receive complaints and referrals alleging violations of section seventy-three, seventy-three-a or seventy-four of the public officers law, article one-A and section 5-b of the legislative law, or section one hundred seven of the civil service law.
- (b) Upon the receipt of a complaint, referral, or the commencement of an investigation, members of the commission shall disclose to the commission any personal, professional, financial, or other direct or indirect relationships a member of the commission may have with a complainant or respondent. If any commissioner determines a conflict of interest may exist, the commissioner shall, in writing, notify the other members of the commission setting forth the possible conflict of interest. The commissioner may recuse themselves from all subsequent involvement in the consideration and determination of the matter. If, after the disclosure, the commissioner does not recuse themselves from the matter, the commission, by a majority vote finding that the disclosed information creates a substantial conflict of interest, shall remove the conflicted commissioner from all subsequent involvement in the consideration and determination of the matter, provided the reason for the decision is clearly stated in the determination of the commission.

- (c) The commission shall conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the commission may administer oaths or affirmations, subpoena witnesses, compel their attendance and testimony, and require the production of any books or records which it may deem relevant or material. The commission may, by a majority vote and pursuant to regulations adopted pursuant to the state administrative procedure act, delegate to the executive director the authority to issue subpoenas, provided that the executive director first notify the chair of the commission.
- (d) The commission staff shall review and investigate, as appropriate, any information in the nature of a complaint or referral received by the commission or initiated by the commission, including through its review of media reports and other information, where there is specific and credible evidence that a violation of section seventy-three, seventy-three-a, or seventy-four of the public officers law, section one hundred seven of the civil service law or article one-A of the legislative law by a person or entity subject to the jurisdiction of the commission including members of the legislature and legislative employees and candidates for members of the legislature.
- (e) The commission shall notify the complainant, if any, that the commission has received their complaint.
- (f) If, following a preliminary review of any complaint or referral, the commission or commission staff decides to elevate such preliminary review into an investigation, written notice shall be provided to the respondent setting forth, to the extent the commission is able to, the possible or alleged violation or violations of such law and a description of the allegations against the respondent and the evidence, if any, already gathered pertaining to such allegations, provided however that any information that may, in the judgment of the commission or staff, either be prejudicial to the complainant or compromise the investigation shall be redacted. The respondent shall have fifteen days from receipt of the written notice to provide any preliminary response or information the respondent determines may benefit the commission or commission staff in its work. After the review and investigation, the staff shall prepare a report to the commission setting forth the allegation or allegations made, the evidence gathered in the review and investigation tending to support and disprove, if any, the allegation or allegations, the relevant law, and a recommendation for the closing of the matter as unfounded or unsubstantiated, for settlement, for guidance, or moving the matter to a

confidential due process hearing. The commission shall, by majority vote, return the matter to the staff for further investigation or accept or reject the staff recommendation.

- (g) In an investigation involving a victim the commission shall ensure that any interview of such victim is upon such victim's consent and that the investigator or investigators interviewing such victim have adequate trauma informed and victim centered investigative training. If a victim is requested to testify at a hearing, the commission shall provide sufficient notice to the victim of such request. Regardless of whether a victim is requested to or testifies at a hearing, the victim shall be informed as to how any statements made or information provided will be used in an investigation.
- (h) Upon the conclusion of an investigation, if the commission, after consideration of a staff report, determines by majority vote that there is credible evidence of a violation of the laws under its jurisdiction, it shall provide the respondent timely notice for a due process hearing. The commission shall also inform the respondent of its rules regarding the conduct of adjudicatory proceedings and appeals and the other due process procedural mechanisms available to the respondent. If after a hearing the complaint is unsubstantiated or unfounded, the commission shall provide written notice to the respondent, complainant, if any, and victim, if any, provided that such notice shall not include any personally identifying information or information tending to identify any party involved in an investigation.
- (i) The hearing shall be conducted before an independent arbitrator. Such hearing shall afford the respondent with a reasonable opportunity to appear in person, and by attorney, give sworn testimony, present evidence, and cross-examine witnesses.
- (j) The commission may, at any time, develop procedures and rules for resolution of de minimus or minor violations that can be resolved outside of the enforcement process, including the sending of a confidential guidance or educational letter.
- (k) The jurisdiction of the commission when acting pursuant to this section shall continue notwithstanding that a statewide elected official or a state officer or employee or member of the legislature or legislative employee separates from state service, or a political party chair ceases to hold such office, or a candidate ceases to be a candidate, or a lobbyist or client of a lobbyist ceases to act as such, provided that the commission notifies such individual or entity of the alleged violation of law within two years from the individual's separation from state

service or termination of party service or candidacy, or from the last report filed pursuant to article one-A of the legislative law. Nothing in this section shall serve to limit the jurisdiction of the commission in enforcement of subdivision eight of section seventy-three of the public officers law.

- (l) If the commission's vote to proceed to a due process hearing after the completion of an investigation does not carry, the commission shall provide written notice of the decision to the respondent, complainant, if any, and victim, if any, provided that such notice shall not include any personally identifying information or information tending to identify any party involved in an investigation.

- (m) If the commission determines a complaint or referral lacks specific and credible evidence of a violation of the laws under its jurisdiction, or a matter is closed due to the allegations being unsubstantiated prior to a vote by the commission, such records and all related material shall be exempt from public disclosure under article six of the public officers law, except the commission's vote shall be publicly disclosed in accordance with articles six and seven of the public officers law. The commission shall provide written notice of such closure to the respondent, complainant, if any, or victim, if any, provided that such notice shall not include any personally identifying information or information tending to identify any party involved in an investigation.

- (n)
 - (i) An individual subject to the jurisdiction of the commission who knowingly and intentionally violates the provisions of subdivisions two through five-a, seven, eight, twelve or fourteen through seventeen of section seventy-three of the public officers law, section one hundred seven of the civil service law, or a reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or fraudulent omission or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law, shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received as a result of such violation.

 - (ii) An individual who knowingly and intentionally violates the provisions of paragraph a, b, c, d, e, g, or i of subdivision three of section seventy-four of the public officers law,

shall be subject to a civil penalty in an amount not to exceed ten thousand dollars and the value of any gift, compensation or benefit received as a result of such violation.

- (iii) An individual subject to the jurisdiction of the commission who knowingly and willfully violates article one-A of the legislative law shall be subject to civil penalty as provided for in that article.
 - (iv) With respect to a potential violation of any criminal law where the commission finds sufficient cause by a majority vote, it shall refer such matter to the appropriate law enforcement authority for further investigation.
 - (v) In assessing the amount of the civil penalties to be imposed, the commission shall consider the seriousness of the violation, the amount of gain to the individual and whether the individual previously had any civil or criminal penalties imposed pursuant to this section, and any other factors the commission deems appropriate.
 - (vi) A civil penalty for false filing shall not be imposed under this subdivision in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated.
 - (vii) Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of subdivision six of section seventy-three of the public officers law or section one hundred seven of the civil service law, except that the commission may recommend that the individual in violation of such subdivision or section be disciplined.
- (o) The commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties or the recommendation of employee discipline herein authorized. Such rule shall provide for due process procedural mechanisms substantially similar to those set forth in article three of the state administrative procedure act but such mechanisms need not be identical in terms or scope.

- (p) (i) The commission shall have jurisdiction to investigate, but shall have no jurisdiction to impose penalties or discipline upon members of or candidates for member of the legislature or legislative employees for any violation of the public officers law or section one hundred seven of the civil service law. If, after investigation and a due process hearing, the commission has found, by a majority vote, a substantial basis to conclude that a member of the legislature or a legislative employee or candidate for member of the legislature has violated any provisions of such laws, it shall prepare a written report of its findings and provide a copy of that report to the legislative ethics commission, and to such individual in violation of such law. The commission shall provide to the legislative ethics commission copies of the full investigative file and hearing record.
- (ii) With respect to the investigation of any individual who is not a member of the legislature or a legislative employee or candidate for member of the legislature, if after its investigation and due process hearing, the commission has found, by a majority vote, a substantial basis to conclude that the individual or entity has violated the public officers law, section one hundred seven of the civil service law, or the legislative law, the commission shall determine whether, in addition to or in lieu of any fine authorized by this article, the matter should be referred to their employer for discipline with a warning, admonition, censure, suspension or termination or other appropriate discipline. With regard to statewide elected officials, the commission may not order suspension or termination but may recommend impeachment. The commission shall then issue a report containing its determinations including its findings of fact and conclusions of law to the complainant and respondent. The commission shall publish such report on its website within twenty days of its delivery to the complainant and respondent.

11. Confidentiality.

- (a) When an individual becomes a commissioner or staff of the commission, such individual shall be required to sign a non-disclosure statement.
- (b) Except as otherwise required or provided by law, or when necessary to inform the complainant or respondent of the alleged violation of law, if any, of the status of an investigation, testimony received, or any other information obtained by a commissioner or

staff of the commission, shall not be disclosed by any such individual to any person or entity outside of the commission during the pendency of any matter. Any confidential communication to any person or entity outside the commission related to the matters before the commission shall occur only as authorized by the commission. For the purposes of this paragraph, "matter" shall mean any complaint, review, inquiry, or investigation into alleged violations of this chapter.

- (c) The commission shall establish procedures necessary to prevent the unauthorized disclosure of any information received by any member of the commission or staff of the commission. Any breaches of confidentiality may be investigated by the New York state office of the inspector general, attorney general, or other appropriate law enforcement authority upon a majority vote of the commission to refer, and appropriate action shall be taken.
- (d) Any commission member or person employed by the commission who intentionally and without authorization releases confidential information received or generated by the commission shall be guilty of a class A misdemeanor.

12. Annual report.

- (a) The commission shall make an annual public report summarizing the activities of the commission during the previous year and recommending any changes in the laws governing the conduct of persons subject to the jurisdiction of the commission, or the rules, regulations and procedures governing the commission's conduct. Such report shall include, but is not limited to:
 - (i) information on the number and type of complaints received by the commission and the status of such complaints;
 - (ii) information on the number of investigations pending and nature of such investigations;
 - (iii) where a matter has been resolved, the date and nature of the disposition and any sanction imposed; provided, however, that such annual report shall not contain any information for which disclosure is not permitted pursuant to this section or other laws;
 - (iv) information regarding financial disclosure compliance for the preceding year; and

- (v) information regarding lobbying law filing compliance for the preceding year.
- (b) Such a report shall be filed in the office of the governor and with the legislature on or before the first day of April for the preceding year.

13. Website.

- (a) Within one hundred twenty days of the effective date of this section, the commission shall update JCOPE's publicly accessible website which shall set forth the procedure for filing a complaint with the commission, the filing of financial disclosure statements filed by state officers or employees or legislative employees, the filing of statements required by article one-A of the legislative law, and any other records or information which the commission determines to be appropriate.
- (b) The commission shall post on its website the following documents:
 - (i) the information set forth in an annual statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law except information deleted pursuant to paragraph (g) of subdivision nine of this section of statewide elected officials and members of the legislature;
 - (ii) notices of delinquency sent under subdivision nine of this section;
 - (iii) notices of civil assessments imposed under this section which shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the commission, and any sanction imposed;
 - (iv) the terms of any settlement or compromise of a complaint or referral which includes a fine, penalty or other remedy;
 - (v) those required to be held or maintained publicly available pursuant to article one-A of the legislative law; and
 - (vi) reports issued by the commission pursuant to this section.

14. Additional powers.

In addition to any other powers and duties specified by law, the commission shall have the power and duty to administer and enforce all the provisions of this section.

15. Severability.

If any part or provision of this section or the application thereof to any person or organization is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the application thereof to any other person or organization, but shall be confined in its operation to such part or provision.



LEGISLATIVE LAW SECTION 80

THE LEGISLATIVE ETHICS COMMISSION

(Effective July 8, 2022)

Legislative ethics commission; functions, powers and duties; review of financial disclosure statements; advisory opinions; imposition of penalties or other enforcement actions.

1. There is established a legislative ethics commission which shall consist of nine members. Four members shall be members of the legislature and shall be appointed as follows: one by the temporary president of the senate, one by the speaker of the assembly, one by the minority leader of the senate and one by the minority leader of the assembly. The remaining five members shall not be present or former members of the legislature, candidates for member of the legislature, employees of the legislature, political party chairmen as defined in paragraph (k) of subdivision one of section seventy-three of the public officers law, or lobbyists, as defined in section one-c of this chapter, or persons who have been employees of the legislature, political party chairmen as defined in paragraph (k) of subdivision one of section seventy-three of the public officers law, or lobbyists, as defined in section one-c of this chapter in the previous five years, and shall be appointed as follows: one by the temporary president of the senate, one by the speaker of the assembly, one by the minority leader of the senate, one by the minority leader of the assembly, and one jointly by the speaker of the assembly and majority leader of the senate. The commission shall serve as described in this section and have and exercise the powers and duties set forth in this section only with respect to members of the legislature, legislative employees as defined in section seventy-three of the public officers law, candidates for member of the legislature and individuals who have formerly held such positions or who have formerly been such candidates.
2. Members of the legislature who serve on the commission shall each have a two year term concurrent with their legislative terms of office. The members of the commission who are not members of the legislature and who are first appointed by the temporary president of the senate, speaker of the assembly, minority leader of the senate, and minority leader of the assembly shall serve one, two, three and four year terms, respectively. The member of the commission first appointed jointly by the temporary president of the senate and

speaker of the assembly shall serve a four year term. Each member of the commission who is not a member of the legislature shall be appointed thereafter for a term of four years.

3. The temporary president of the senate and the speaker of the assembly shall each designate one member of the commission as a co-chairperson thereof. The commission shall meet at least bi-monthly and at such additional times as may be called for by the co-chairpersons jointly or any five members of the commission.
4. Any vacancy occurring on the commission shall be filled within thirty days by the appointing authority.
5. Five members of the commission shall constitute a quorum, and the commission shall have power to act by majority vote of the total number of members of the commission without vacancy.
6. The members of the commission who are not members of the legislature shall be reimbursed for reasonable expenses and receive a per diem allowance in the sum of three hundred dollars for each day spent in the performance of their official duties.
7. The commission shall:
 - a. Appoint an executive director who shall act in accordance with the policies of the commission, provided that the commission may remove the executive director for neglect of duty, misconduct in office, or inability or failure to discharge the powers or duties of office;
 - b. Appoint such other staff as are necessary to assist it to carry out its duties under this section;
 - c. Adopt, amend, and rescind policies, rules and regulations consistent with this section to govern procedures of the commission which shall not be subject to the promulgation and hearing requirements of the state administrative procedure act;
 - d. Administer the provisions of this section;

- e. Specify the procedures whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted;
- f. Promulgate guidelines to assist appointing authorities in determining which persons hold policy-making positions for purposes of section seventy-three-a of the public officers law and may promulgate guidelines to assist firms, associations and corporations in separating affected persons from net revenues for purposes of subdivision ten of section seventy-three of the public officers law, and promulgate guidelines to assist any firm, association or corporation in which any present or former statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chair is a member, associate, retired member, of counsel or shareholder, in complying with the provisions of subdivision ten of section seventy-three of the public officers law with respect to the separation of such present or former statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chair from the net revenues of the firm, association or corporation. Such firm, association or corporation shall not be required to adopt the procedures contained in the guidelines to establish compliance with subdivision ten of section seventy-three of the public officers law, but if such firm, association or corporation does adopt such procedures, it shall be deemed to be in compliance with such subdivision ten;
- g. Make available forms for financial disclosure statements required to be filed pursuant to subdivision six of section seventy-three and section seventy-three-a of the public officers law as provided by the commission on ethics and lobbying in government;
- h. Review financial disclosure statements in accordance with the provisions of this section, provided however, that the commission may delegate all or part of the review function relating to financial disclosure statements filed by legislative

employees pursuant to sections seventy-three and seventy-three-a of the public officers law to the executive director who shall be responsible for completing staff review of such statements in a manner consistent with the terms of the commission's delegation;

- i. Upon written request from any person who is subject to the jurisdiction of the commission and the requirements of sections seventy-three, seventy-three-a and seventy-four of the public officers law, and section 5-b of this chapter render formal advisory opinions on the requirements of said provisions. A formal written opinion rendered by the commission, until and unless amended or revoked, shall be binding on the legislative ethics commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense in any criminal or civil action. The commission on ethics and lobbying in government shall not investigate an individual for potential violations of law based upon conduct approved and covered in its entirety by such an opinion, except that such opinion shall not prevent or preclude an investigation of and report to the legislative ethics commission concerning the conduct of the person who obtained it by the commission on ethics and lobbying in government for violations of section seventy-three, seventy-three-a or seventy-four of the public officers law and section 5-b of this chapter to determine whether the person accurately and fully represented to the legislative ethics commission the facts relevant to the formal advisory opinion and whether the person's conduct conformed to those factual representations. The commission on ethics and lobbying in government shall be authorized and shall have jurisdiction to investigate potential violations of the law arising from conduct outside of the scope of the terms of the advisory opinion; and
- j. Issue and publish generic advisory opinions covering questions frequently posed to the commission, or questions common to a class or defined category of persons, or that will tend to prevent undue repetition of requests or undue complication,

and which are intended to provide general guidance and information to persons subject to the commission's jurisdiction;

- k. Develop educational materials and training with regard to legislative ethics for members of the legislature and legislative employees including an online ethics orientation course for newly-hired employees and, as requested by the senate or the assembly, materials and training in relation to a comprehensive ethics training program; and
 - l. Prepare an annual report to the governor and legislature summarizing the activities of the commission during the previous year and recommending any changes in the laws governing the conduct of persons subject to the jurisdiction of the commission, or the rules, regulations and procedures governing the commission's conduct. Such report shall include: (i) a listing by assigned number of each complaint and report received from the commission on ethics and lobbying in government which alleged a possible violation within its jurisdiction, including the current status of each complaint, and (ii) where a matter has been resolved, the date and nature of the disposition and any sanction imposed, subject to the confidentiality requirements of this section. Such annual report shall not contain any information for which disclosure is not permitted pursuant to subdivision twelve of this section.
8. The jurisdiction of the commission to impose penalties when acting pursuant to this section shall continue notwithstanding that a member of the legislature or a legislative employee separates from state service, or a candidate for member of the legislature ceases to be a candidate, provided that such individual has been notified of the alleged violation of law within one year from his or her separation from state service or the termination of his or her candidacy.
 9.
 - a. An individual subject to the jurisdiction of the commission with respect to the imposition of penalties who knowingly and intentionally violates the provisions of subdivisions two through five-a, seven, eight, twelve, fourteen or fifteen of section seventy-three of the public officers law or a reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or

gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. Any such individual who knowingly and intentionally violates the provisions of paragraph a, b, c, d, e, g, or i of subdivision three of section seventy-four of the public officers law shall be subject to a civil penalty in an amount not to exceed ten thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. Assessment of a civil penalty hereunder shall be made by the commission with respect to persons subject to its jurisdiction. In assessing the amount of the civil penalties to be imposed, the commission shall consider the seriousness of the violation, the amount of gain to the individual and whether the individual previously had any civil or criminal penalties imposed pursuant to this section, and any other factors the commission deems appropriate. For a violation of this section, other than for conduct which constitutes a violation of subdivision twelve, fourteen or fifteen of section seventy-three or section seventy-four of the public officers law, the legislative ethics commission may, in lieu of or in addition to a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. Where the commission finds sufficient cause, it shall refer such matter to the appropriate prosecutor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of subdivision six of section seventy-three of the public officers law, except that the appointing authority may impose disciplinary action as otherwise provided by law. The legislative ethics commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties herein

authorized. Such rules, which shall not be subject to the promulgation and hearing requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the legislative ethics commission, pursuant to article seventy-eight of the civil practice law and rules.

- b. Not later than twenty calendar days after receipt from the commission on ethics and lobbying in government of a written substantial basis investigation report and any supporting documentation or other materials regarding a matter before the commission pursuant to section ninety-four of the executive law, unless requested by a law enforcement agency to suspend the commission's action because of an ongoing criminal investigation, the legislative ethics commission shall make public such report in its entirety; provided, however, that the commission may withhold such information for not more than one additional period of the same duration or refer the matter back to the commission on ethics and lobbying in government once for additional investigation, in which case the legislative ethics commission shall, upon the termination of such additional period or upon receipt of a new report by the commission on ethics and lobbying in government after such additional investigation, make public the written report and publish it on the commission's website. If the legislative ethics commission fails to make public the written report received from the commission on ethics and lobbying in government in accordance with this paragraph, the commission on ethics and lobbying in government shall release such report publicly promptly and in any event no later than ten days after the legislative ethics commission is required to release such report. The legislative ethics commission shall not refer the matter back to the commission on ethics and lobbying in government for additional investigation more than once. If the commission refers the matter back to the commission on ethics and lobbying in government for additional fact-

finding, the commission on ethics and lobbying in government's original report shall remain confidential.

10. Upon receipt of a written report from the commission on ethics and lobbying in government pursuant to subdivision fourteen-a of section seventy-three of the public officers law, the legislative ethics commission shall commence its review of the matter addressed in such report. No later than ninety days after receipt of such report, the legislative ethics commission shall dispose of the matter by making one or more of the following determinations:
 - a. whether the legislative ethics commission concurs with the commission on ethics and lobbying in government's conclusions of law and the reasons therefor;
 - b. whether and which penalties have been assessed pursuant to applicable law or rule and the reasons therefor; and
 - c. whether further actions have been taken by the commission to punish or deter the misconduct at issue and the reasons therefor. The commission's disposition shall be reported in writing and published on its website no later than ten days after such disposition unless requested by a law enforcement agency to suspend the commission's action because of an ongoing criminal investigation.
11. If the commission has a reasonable basis to believe that any person subject to the jurisdiction of another state oversight body may have violated section seventy-three or seventy-four of the public officers law, section one hundred seven of the civil service law, or article one-A of this chapter, it shall refer such violation to such oversight body unless the commission determines that such a referral would compromise the prosecution or confidentiality of its proceedings and, if so, shall make such a referral as soon as practicable. The referral by the commission shall include any information relating thereto coming into the custody or under the control of the commission at any time prior or subsequent to the time of the referral.
12.
 - a. Notwithstanding the provisions of article six of the public officers law, the only records of the commission which shall be available for public inspection and copying are:

- (1) the terms of any settlement or compromise of a complaint or referral or report which includes a fine, penalty or other remedy reached after the commission has received a report from the commission on ethics and lobbying in government pursuant to section ninety-four of the executive law;
 - (2) generic advisory opinions;
 - (3) all reports required by this section; and
 - (4) all reports received from the commission on ethics and lobbying in government pursuant to section ninety-four of the executive law and in conformance with paragraph (b) of subdivision nine of this section.
- b. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the commission shall be open to the public, except if expressly provided otherwise by this section or the commission.
13. Within one hundred twenty days of the effective date of this subdivision, the commission shall create and thereafter maintain a publicly accessible website which shall set forth the procedure for filing a complaint with the commission on ethics and lobbying in government, and which shall contain any other records or information which the commission determines to be appropriate.
14. This section shall not revoke or rescind any policies, rules, regulations or advisory opinions issued by the legislative ethics committee in effect upon the effective date of this subdivision, to the extent that such regulations or opinions are not inconsistent with any laws of the state of New York. The legislative ethics commission shall undertake a comprehensive review of all such policies, rules, regulations or advisory opinions which will address the consistency of such policies, rules, regulations or advisory opinions with the laws of the state of New York. The legislative ethics commission shall, before April first, two thousand eight, report to the governor and legislature regarding such review and shall propose any regulatory changes and issue any advisory opinions necessitated by such review.

15. Separability clause. If any part or provision of this section or the application thereof to any person is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the application thereof to any other person, but shall be confined to such part or provision.



LEGISLATIVE LAW ARTICLE 5-B

LIMIT ON OUTSIDE EARNED INCOME BY MEMBERS

1. Effective January first, two thousand twenty-five a member of the legislature receiving a salary for legislative work from the state of New York shall be permitted to earn outside income each year for performing fee for service activities and compensated outside activities approved under the permanent joint rules of the Senate and Assembly in an amount totaling no greater than the earning limitations for retired persons in positions of public service allowed for the same year under subdivision two of section two hundred twelve of the retirement and social security law. Compliance with the limit on outside earned income described in this section shall be a condition precedent to receiving a salary for legislative activities from the state of New York, and voting as a member of the legislature of the state of New York.

2. a. For purposes of this section, the term "outside earned income" shall mean wages, salaries, fees and other forms of compensation for services actually rendered.

(b) For the purposes of this section, the term "outside earned income" shall not include:
 - (1) salary, benefits and allowances paid by the state;
 - (2) income and allowances attributable to service in the reserves of the armed forces of the United States, national guard or other active military service;
 - (3) copyright royalties, fees, and their functional equivalent, from the use of copyrights, patents and similar forms of intellectual property rights, when received from established users or purchasers of such rights;
 - (4) income from retirement plans of the state of New York or the city of New York, private pension plans or deferred compensation plans (e.g., 401, 403(b), 457, etc.) established in accordance with the internal revenue code;
 - (5) income from investments and capital gains, where the member's services are not a material factor in the production of income;

- (6) income from a trade or business in which a member of their family holds a controlling interest, where the member's services are not a material factor in the production of income; and
 - (7) compensation from services actually rendered prior to January first, two thousand twenty-five, or prior to being sworn in as a member of the legislature.
3. A member of the legislature who knowingly and intentionally violates the provisions of this section shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received in connection with such violation. Assessment of a civil penalty shall be made by the legislative ethics commission.



PUBLIC OFFICERS LAW § 73

BUSINESS OR PROFESSIONAL ACTIVITIES BY STATE OFFICERS AND EMPLOYEES AND PARTY OFFICERS

(Effective July 8, 2022)

1. As used in this section:

- (a) The term "**compensation**" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles as defined by the commission on ethics and lobbying in government or legislative ethics commission in relation to persons subject to their respective jurisdictions.
- (b) The term "**licensing**" shall mean any state agency activity, other than before the division of corporations and state records in the department of state, respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency as defined herein, which in the absence of such license, permit or other form of permission would be prohibited.
- (c) The term "**legislative employee**" shall mean any officer or employee of the legislature but it shall not include members of the legislature.
- (d) The term "**ministerial matter**" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- (e) The term "**regulatory agency**" shall mean the department of financial services, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of the executive law.

- (f) The term "**representative capacity**" shall mean the presentation of the interests of a client or other person pursuant to an agreement, express or implied, for compensation for services.
- (g) The term "**state agency**" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges of the state university of New York and the independent institutions operating statutory or contract colleges on behalf of the state.
- (h) The term "**statewide elected official**" shall mean the governor, lieutenant governor, comptroller or attorney general.
- (i) The term "**state officer or employee**" shall mean:
 - (i) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;
 - (ii) officers and employees of statewide elected officials;
 - (iii) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and
 - (iv) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.
- (j) The term "**city agency**" shall mean a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include the board of education, the board of higher education,

school boards, city and community colleges, community boards, the New York city transit authority, the New York city housing authority and the Triborough bridge and tunnel authority, but shall not include any court or corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

(k) The term "**political party chairman**" shall mean:

- (i) the chairman of the state committee of a party elected as provided in section 2-112 of the election law and his or her successor in office;
- (ii) the chairman of a county committee elected as provided in section 2-112 of the election law and his or her successor in office from a county having a population of three hundred thousand or more or who receives compensation or expenses, or both, during the calendar year aggregating thirty thousand dollars or more; and
- (iii) that person (usually designated by the rules of a county committee as the "county leader" or "chairman of the executive committee") by whatever title designated, who pursuant to the rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person was elected from a county having a population of three hundred thousand or more or was a person who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:
 - (A) the principal political, executive and administrative officer of the county committee;
 - (B) the power of general management over the affairs of the county committee;
 - (C) the power to exercise the powers of the chairman of the county committee as provided for in the rules of the county committee;

- (D) the power to preside at all meetings of the county executive committee, if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de facto the power of general management over the affairs of the county committee at times when the county committee is not in actual session;
 - (E) the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee pursuant to the rules of the county committee, for the purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law; or
 - (F) the power to direct the treasurer of the party to expend funds of the county committee. The terms "constituted committee" and "political committee", as used in this paragraph (k), shall have the same meanings as those contained in section 14-100 of the election law.
- (l) A person has a "**financial interest**" in any entity if that person:
- (i) owns or controls ten percent or more of the stock of such entity (or one percent in the case of a corporation whose stock is regularly traded on an established securities exchange); or
 - (ii) serves as an officer, director or partner of that entity.
- (m) The "**relative**" of any individual shall mean any person living in the same household as the individual and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant.
- (n) The term "**domestic partner**" shall mean a person who, with respect to another person, is formally a party in a domestic partnership or similar relationship with the other person, entered into pursuant to the laws of the United States or of any state, local or foreign jurisdiction, or registered as the domestic partner of the other person with any registry

- maintained by the employer of either party or any state, municipality, or foreign jurisdiction.
2. In addition to the prohibitions contained in subdivision seven of this section, no statewide elected official, state officer or employee, member of the legislature or legislative employee shall receive, or enter into any agreement express or implied for, compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, or any executive order, or any legislation or resolution before the state legislature, whereby his or her compensation is to be dependent or contingent upon any action by such agency or legislature with respect to any license, contract, certificate, ruling, decision, executive order, opinion, rate schedule, franchise, legislation, resolution or other benefit; provided, however, that nothing in this subdivision shall be deemed to prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
 3. (a) No statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another against the interest of the state in relation to any case, proceeding, application or other matter before, or the transaction of business by himself, herself or another with, the court of claims.

(b) No state officer or employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this article, and is not otherwise subject to the provisions of this section, shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another against the interest of the state agency by which he or she is employed or affiliated in relation to any case, proceeding, application or other matter before, or the transaction of business by himself, herself or another with, the court of claims.
 4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or

provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(b) No political party chairman of a county wholly included in a city with a population of more than one million, or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any city agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised directly or indirectly, by a city agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(c) For purposes of this subdivision, the term "services" shall not include employment as an employee.

5. No statewide elected official, state officer or employee, individual whose name has been submitted by the governor to the senate for confirmation to become a state officer or employee, member of the legislature or legislative employee shall, directly or indirectly:

(a) solicit, accept or receive any gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part. No person shall, directly or indirectly, offer or make any such gift to a statewide elected official, or

- any state officer or employee, member of the legislature or legislative employee under such circumstances.
- (b) solicit, accept or receive any gift, as defined in section one-c of the legislative law, from any person who is prohibited from delivering such gift pursuant to section one-m of the legislative law unless under the circumstances it is not reasonable to infer that the gift was intended to influence him or her; or
 - (c) permit the solicitation, acceptance, or receipt of any gift, as defined in section one-c of the legislative law, from any person who is prohibited from delivering such gift pursuant to section one-m of the legislative law to a third party including a charitable organization, on such official's designation or recommendation or on his or her behalf, under circumstances where it is reasonable to infer that the gift was intended to influence him or her.
- 5-a. (a) For the purpose of this subdivision only, the term "honorarium" shall mean any payment made in consideration for any speech given at a public or private conference, convention, meeting, social event, meal or like gathering.
- (b) No statewide elected official or head of any civil department shall, directly or indirectly, solicit, accept or receive any honorarium while holding such elected office or appointed position.
 - (c) No member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any honorarium while holding such elected office or employment, other than honorarium paid in consideration for a speech given on a topic unrelated to the individual's current public employment or as earned income for personal services that are customarily provided in connection with the practice of a bona fide business, trade or profession, such as teaching, practicing law, medicine or banking, unless the sole or predominant activity thereof is making speeches.
6. (a) Every legislative employee not subject to the provisions of section seventy-three-a of this chapter shall, on and after December fifteenth and before the following January fifteenth, in each year, file with the commission on ethics and lobbying in government and the legislative ethics commission a financial disclosure statement of

- (1) each financial interest, direct or indirect of himself or herself, his or her spouse or domestic partner and his or her unemancipated children under the age of eighteen years in any activity which is subject to the jurisdiction of a regulatory agency or name of the entity in which the interest is had and whether such interest is over or under five thousand dollars in value.
 - (2) every office and directorship held by him or her in any corporation, firm or enterprise which is subject to the jurisdiction of a regulatory agency, including the name of such corporation, firm or enterprise.
 - (3) any other interest or relationship which he or she determines in his or her discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed.
- (b) Copies of such statements shall be open for public inspection and copying.
- (c) Any such legislative employee who knowingly and willfully with intent to deceive makes a false statement or gives information which he or she knows to be false in any written statement required to be filed pursuant to this subdivision, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty shall be made by the legislative ethics commission in accordance with the provisions of subdivision ten of section eighty of the legislative law. For a violation of this subdivision, the commission may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.
7. (a) No statewide elected official, or state officer or employee, other than in the proper discharge of official state or local governmental duties, or member of the legislature or legislative employee, or political party chairman shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another in relation to any case, proceeding, application or other matter before a state agency where such appearance or rendition of services is in connection with:

- (i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;
 - (ii) any proceeding relating to rate making;
 - (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
 - (iv) the obtaining of grants of money or loans;
 - (v) licensing; or
 - (vi) any proceeding relating to a franchise provided for in the public service law.
- (b) No political party chairman in a county wholly included in a city having a population of one million or more shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another in relation to any case, proceeding, application or other matter before any city agency where such appearance or rendition of services is in connection with:
- (i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;
 - (ii) any proceeding relating to ratemaking;
 - (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
 - (iv) the obtaining of grants of money or loans;
 - (v) licensing. For purposes of this paragraph, the term "licensing" shall mean any city agency activity respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business

or activity regulated by a regulatory agency of a city agency which in the absence of such license, permit or other form of permission would be prohibited; and

- (vi) any proceeding relating to a franchise.

- (c) Nothing contained in this subdivision shall prohibit a statewide elected official, or a state officer or employee, unless otherwise prohibited, or a member of the legislature or legislative employee, or political party chairman, from appearing before a state agency in a representative capacity if such appearance in a representative capacity is in connection with a ministerial matter.

- (d) Nothing contained in this subdivision shall prohibit a member of the legislature, or a legislative employee on behalf of such member, from participating in or advocating any position in any matter in an official or legislative capacity, including, but not limited to, acting as a public advocate whether or not on behalf of a constituent. Nothing in this paragraph shall be construed to limit the application of the provisions of section seventy-seven of this chapter.

- (e) Nothing contained in this subdivision shall prohibit a state officer or employee from appearing before a state agency in a representative capacity on behalf of an employee organization in any matter where such appearance is duly authorized by an employee organization.

- (f) Nothing contained in this subdivision shall prohibit a political party chairman from participating in or advocating any matter in an official capacity.

- (g) Nothing contained in this subdivision shall prohibit internal research or discussion of a matter, provided, however, that the time is not charged to the client and the person does not share in the net revenues generated or produced by the matter.

- (h) Nothing contained in this subdivision shall prohibit a state officer or employee, unless otherwise prohibited, from appearing or rendering services in relation to a case, proceeding, application or transaction before a state agency, other than the agency in which the officer or employee is employed, when such appearance or rendition of services is made while carrying out official duties as an elected or appointed official, or employee of a local government or one of its agencies.

- 7-a. No member of the legislature, legislative employee, statewide elected official, or state officer or employee shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the rendering of consulting, representational, advisory or other services by himself or herself or another in connection with any proposed or pending bill or resolution in the senate or assembly.
8. (a) (i) No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.
- (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.
- (iii) No person who has served as a member of the legislature shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature. No legislative employee shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to appear, practice or directly communicate before either house of the legislature to promote or oppose the passage of bills or resolutions by either house of the legislature.

- (iv) No person who has served as an officer or employee in the executive chamber of the governor shall within a period of two years after termination of such service appear or practice before any state agency.

- (b) (i) The provisions of subparagraph (i) of paragraph (a) of this subdivision shall not apply to any state officer or employee whose employment was terminated on or after January first, nineteen hundred ninety-five and before April first, nineteen hundred ninety-nine or on or after January first, two thousand nine and before April first, two thousand fourteen because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force. On or before the date of such termination of employment, the state agency shall provide to the terminated employee a written certification that the employee has been terminated because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force, and that such employee is covered by the provisions of this paragraph. The written certification shall also contain a notice describing the rights and responsibilities of the employee pursuant to the provisions of this section. The certification and notice shall contain the information and shall be in the form set forth below:

CERTIFICATION AND NOTICE

TO: Employee's Name: _____

State agency: _____

Date of Termination: _____

I, (name and title) of (state agency), hereby certify that your termination from State service is because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the State work force. Therefore, you are covered by the provisions of paragraph (b) of subdivision eight of section seventy-three of the Public Officers Law.

You were designated as a policy maker: YES ___ NO ___

(TITLE)

TO THE EMPLOYEE:

This certification affects your right to engage in certain activities after you leave state service.

Ordinarily, employees who leave State service may not, for two years, appear or practice before their former agency or receive compensation for rendering services on a matter before their former agency. However, because of this certification, you may be exempt from this restriction.

If you were not designated as a Policymaker by your agency, you are automatically exempt. You may, upon leaving State service, immediately appear, practice or receive compensation for services rendered before your former agency.

If you were designated as a Policymaker by your agency, you are eligible to apply for an exemption to the Commission on Public Integrity at 540 Broadway, Albany, New York 12207.

Even if you are or become exempt from the two year bar, the lifetime bar of the revolving door statute will continue to apply to you. You may not appear, practice, communicate or otherwise render services before any State agency in relation to any case, proceeding, application or transaction with respect to which you were directly concerned and in which you personally participated during your State service, or which was under your active consideration.

If you have any questions about the application of the post-employment restrictions to your circumstances, you may contact the Commission on Public Integrity at (518) 408-3976 or 1-800-87ETHIC (1-800-873-8442).

- (ii) The provisions of subparagraph (i) of this paragraph shall not apply to any such officer or employee who at the time of or prior to such termination had served in

a policymaking position as determined by the appointing authority, which determination had been filed with the state ethics commission or the commission on public integrity, provided that such officer or employee may so appear or practice or receive such compensation with the prior approval of the state ethics commission or the commission on public integrity. In determining whether to grant such approval the state ethics commission or the commission on public integrity shall consider:

- A. whether the employee's prior job duties involved substantial decision-making authority over policies, rule or contracts;
 - B. the nature of the duties to be performed by the employee for the prospective employer;
 - C. whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee;
 - D. whether the prospective employment may be beneficial to the state or the public; and
 - E. the extent of economic hardship to the employee if the application is denied.
- (c) The provisions of paragraph (b) of this subdivision shall not apply to employees whose employment has been discontinued as a result of retirement or to employees who, prior to termination, have declined to exercise a right to another position with a state agency unless such position would require the employee to travel more than thirty-five miles in each direction to the new position or accept a reduction in base salary of more than ten per centum.
- (d) Nothing contained in this subdivision shall prohibit any state agency from adopting rules concerning practice before it by former officers or employees more restrictive than the requirements of this subdivision.

- (e) This subdivision shall not apply to any appearance, practice, communication or rendition of services before any state agency, or either house of the legislature, or to the receipt of compensation for any such services, rendered by a former state officer or employee or former member of the legislature or legislative employee, which is made while carrying out official duties as an elected official or employee of a federal, state or local government or one of its agencies.
- (f) Nothing in this subdivision shall be deemed to prevent a former state officer or employee who was employed on a temporary basis to perform routine clerical services, mail services, data entry services or other similar ministerial tasks, from subsequently being employed by a person, firm, corporation or association under contract to a state agency to perform such routine clerical services, mail services, data entry services or other similar ministerial tasks; provided however, this paragraph shall in no event apply to any such state officer or employee who was required to file an annual statement of financial disclosure pursuant to section seventy-three-a of this article.
- (g) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the state ethics commission that the services of such former officer or employee are required in connection with the agency's efforts to address the state's year 2000 compliance problem.
- (h) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the commission on ethics and lobbying in government that the services of such former officer or employee are required in connection with the agency's response to a disaster emergency declared by the governor pursuant to section twenty-eight of the executive law.
- (i) The provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision shall not apply to any person as a result of his or her temporary employment by the New York state department of agriculture and markets in the civil service title of

veterinarian one or animal health inspector one and their service, in that capacity, as a member of the New York state emergency veterinary corps.

8-a. The provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section shall not apply to any such former state officer or employee engaged in any of the specific permitted activities defined in this subdivision that are related to any civil action or proceeding in any state or federal court, provided that the attorney general has certified in writing to the commission on ethics and lobbying in government, with a copy to such former state officer or employee, that the services are rendered on behalf of the state, a state agency, state officer or employee, or other person or entity represented by the attorney general, and that such former state officer or employee has expertise, knowledge or experience which is unique or outstanding in a field or in a particular matter or which would otherwise be generally unavailable at a comparable cost to the state, a state agency, state officer or employee, or other person or entity represented by the attorney general in such civil action or proceeding. In those instances where a state agency is not represented by the attorney general in a civil action or proceeding in state or federal court, a former state officer or employee may engage in permitted activities provided that the general counsel of the state agency, after consultation with the commission on ethics and lobbying in government, provides to the commission on ethics and lobbying in government a written certification which meets the requirements of this subdivision. For purposes of this subdivision the term "permitted activities" shall mean generally any activity performed at the request of the attorney general or the attorney general's designee, or in cases where the state agency is not represented by the attorney general, the general counsel of such state agency, including without limitation:

- (a) preparing or giving testimony or executing one or more affidavits;
- (b) gathering, reviewing or analyzing information, including documentary or oral information concerning facts or opinions, attending depositions or participating in document review or discovery;
- (c) performing investigations, examinations, inspections or tests of persons, documents or things;
- (d) performing audits, appraisals, compilations or computations, or reporting about them;

- (e) identifying information to be sought concerning facts or opinions; or
- (f) otherwise assisting in the preparation for, or conduct of, such litigation.

Nothing in this subdivision shall apply to the provision of legal representation by any former state officer or employee.

8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency if, prior to engaging in such service, the agency head certifies in writing to the commission on ethics and lobbying in government that such former officer or employee has expertise, knowledge or experience with respect to a particular matter which meets the needs of the agency and is otherwise unavailable at a comparable cost. Where approval of the contract is required under section one hundred twelve of the state finance law, the comptroller shall review and consider the reasons for such certification. The commission on ethics and lobbying in government must review and approve all certifications made pursuant to this subdivision.

8-c. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee who, prior to his or her separation from state service, was employed as a health care professional and, in conjunction with his or her state duties, provided treatment and/or medical services to individuals residing in or served by a state-operated facility is not barred from rendering services to such individuals in their care prior to leaving state service, at the state-operated facility which employed the former state officer or employee.

* NB There are 2 sub 8-c's

8-c. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee who, prior to his or her separation from state service, was employed performing direct care, clinical care, case management, service coordination or other related support duties with the state of New York is not barred from rendering such services in the future to individuals who were receiving such services from that individual prior to leaving the state service.

* NB There are 2 sub 8-c's

9. No party officer while serving as such shall be eligible to serve as a judge of any court of record, attorney-general or deputy or assistant attorney-general or solicitor general, district attorney or assistant district attorney. As used in this subdivision, the term "party officer" shall mean a member of a national committee, an officer or member of a state committee or a county chairman of any political party.

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chair, member of the legislature or legislative employee is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a state agency, or a city agency with respect to a political party chair in a county wholly included in a city with a population of more than one million, otherwise proscribed by this section, the judiciary law, the education law or any other law or disciplinary rule with respect to such official, member of the legislature or officer or employee, or political party chair, where such statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chair does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the commission on ethics and lobbying in government or by the legislative ethics commission in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined; nor shall anything contained in this section, the judiciary law, the education law or any other law or disciplinary rule be construed to prohibit any firm, association or corporation in which any present or former statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this article is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, the court of claims, where such statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this

article does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the commission on ethics and lobbying in government or by the legislative ethics commission in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined.

11. Notwithstanding any provision of the judiciary law, the education law or any other law or disciplinary rule to the contrary:
 - (a) Conduct authorized pursuant to subdivision eight of this section by a person who has served as a member of the legislature or as a legislative employee shall not constitute professional misconduct or grounds for disciplinary action of any kind;
 - (b) No member of the legislature or former member of the legislature shall be prohibited from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, any state agency solely by reason of any vote or other action by such member or former member in respect to the confirmation or election of any member, commissioner, director or other person affiliated with such state agency, but nothing in this paragraph shall limit the prohibition contained in subdivision eight of this section;
 - (c) The appearance, practice, communication or rendition of services in relation to any matter before, or transaction of business with a state agency, or with the court of claims, or the promotion or opposition to the passage of bills or resolutions by either house of the legislature, by a member, associate, retired member, of counsel or shareholder of a firm, association or corporation, in accordance with subdivision ten of this section, is hereby authorized and shall not constitute professional misconduct or grounds for disciplinary action of any kind solely by reason of the professional relationship between the statewide elected official, state officer or employee, political party chairman, member of the legislature, or legislative employee and any firm, association, corporation or any member, associate, retired member, of counsel, or shareholder thereof, or by reason of the appearance created by any such professional relationship.

12. A statewide elected official, state officer or employee, or a member of the legislature or legislative employee, or political party chairman, who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation which is appearing or rendering services in connection with any case, proceeding, application or other matter listed in paragraph (a) or (b) of subdivision seven of this section shall not orally communicate, with or without compensation, as to the merits of such cause with an officer or an employee of the agency concerned with the matter.
13. For the purposes of this section, a statewide elected official or state officer or employee or member of the legislature or legislative employee or political party chairman who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation shall not be deemed to have made an appearance under the provisions of this section solely by the submission to a state agency or city agency of any printed material or document bearing his or her name, but unsigned by him or her, such as by limited illustrations the name of the firm, association or corporation or the letterhead of any stationery, which pro forma serves only as an indication that he or she is such a member, associate, retired member, of counsel to, or shareholder.
14.
 - (a) No statewide elected official, state officer or employee, member of the legislature or legislative employee may participate in any decision to hire, promote, discipline or discharge a relative for any compensated position at, for or within any state agency, public authority or the legislature.
 - (b) This paragraph shall not apply to (i) the hiring of a relative by a legislator with a physical impairment, for the sole purpose of assisting with that impairment, as necessary and otherwise permitted by law; (ii) the temporary hiring of legislative pages, interns and messengers; or (iii) responding to inquiries with respect to prospective hires related to an individual covered by this paragraph.
15. No statewide elected official, state officer or employee, member of the legislature or legislative employee shall:
 - (a) participate in any state contracting decision involving the payment of more than one thousand dollars to that individual, any relative of that individual, or any entity in which that individual or any relative has a financial interest; or

- (b) participate in any decision to invest public funds in any security of any entity in which that individual or any relative of that individual has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.
16. (a) No statewide elected official, state officer or employee involved in the awarding of state grants or contracts may ask a current or prospective grantee or contractor, or any officer, director or employee thereof, to disclose: (i) the party affiliation of such grantee or contractor, or any officer, director or employee thereof; (ii) whether such grantee or contractor, or any officer, director or employee thereof, has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether such grantee or contractor, or any officer, director or employee thereof, cast a vote for or against any elected official, candidate or political party.
- (b) No statewide elected official or state officer or employee may award or decline to award any state grant or contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective grantee's or contractor's refusal to answer any inquiry prohibited by paragraph (a) of this subdivision, or giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
17. (a) No statewide elected official, or state officer or employee may during the consideration of an employment decision ask any applicant for public employment to disclose:
- (i) the political party affiliation of the applicant;
 - (ii) whether the applicant has made campaign contributions to any party, elected official, or candidate for elective office; or
 - (iii) whether the applicant cast a vote for or against any elected official, candidate or political party. The provisions of this paragraph shall not apply where (1) such inquiry is necessary for the proper application of any state law or regulation; or (2) such inquiry is consistent with publicly disclosed policies or practices of any state agency or public authority, whose purpose is to ensure the representation of more than one political party on any multi-member body.

- (b) No statewide elected official or state officer or employee may decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any state official or employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry prohibited by paragraph (a) of this subdivision, or for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- (c) No state officer or employee shall, directly or indirectly, use his or her official authority to compel or induce any other state officer or employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.
18. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates the provisions of subdivisions two through five, seven, seven-a, eight, twelve or fourteen through seventeen of this section shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received in connection with such violation. Assessment of a civil penalty hereunder shall be made by the state oversight body with jurisdiction over such person. A state oversight body acting pursuant to its jurisdiction, may, in lieu of a civil penalty, with respect to a violation of subdivisions two through five, seven or eight of this section, refer a violation of any such subdivision to the appropriate prosecutor and upon such conviction such violation shall be punishable as a class A misdemeanor.



PUBLIC OFFICERS LAW § 73-A FINANCIAL DISCLOSURE.

(Effective July 8, 2022)

1. As used in this section:

- (a) The term "**statewide elected official**" shall mean the governor, lieutenant governor, comptroller, or attorney general.
- (b) The term "**state agency**" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges of the state university of New York and the independent institutions operating statutory or contract colleges on behalf of the state.
- (c) The term "**state officer or employee**" shall mean:
 - (i) heads of state departments and their deputies and assistants;
 - (ii) officers and employees of statewide elected officials, officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies, who receive annual compensation in excess of the filing rate established by paragraph (l) of this subdivision or who hold policy-making positions, as annually determined by the appointing authority and set forth in a written instrument which shall be filed with the commission on ethics and lobbying in government established by section ninety-four of the executive law during the month of February, provided, however, that the appointing authority shall amend such written instrument after such date within thirty days after the undertaking of policy-making responsibilities by a new employee or any other employee whose name did not appear on the most recent written instrument; and
 - (iii) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of

whose members is appointed by the governor, and employees of such authorities, corporations and commissions who receive annual compensation in excess of the filing rate established by paragraph (l) of this subdivision or who hold policy-making positions, as determined annually by the appointing authority and set forth in a written instrument which shall be filed with the commission on ethics and lobbying in government established by section ninety-four of the executive law during the month of February, provided, however, that the appointing authority shall amend such written instrument after such date within thirty days after the undertaking of policy-making responsibilities by a new employee or any other employee whose name did not appear on the most recent written instrument.

- (d) The term "**legislative employee**" shall mean any officer or employee of the legislature who receives annual compensation in excess of the filing rate established by paragraph (l) below or who is determined to hold a policy-making position by the appointing authority as set forth in a written instrument which shall be filed with the legislative ethics commission and the commission on ethics and lobbying in government.
- (d-1) A financial disclosure statement required pursuant to section seventy-three of this article and this section shall be deemed "filed" with the commission on ethics and lobbying in government upon its filing, in accordance with this section, with the legislative ethics commission for all purposes including, but not limited to, section ninety-four of the executive law, subdivision nine of section eighty of the legislative law and subdivision four of this section.
- (e) The term "**spouse**" shall mean the husband or wife of the reporting individual unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (i) a judicial order, decree or judgment, or (ii) a legally binding separation agreement.
- (e-1) The term "**domestic partner**" shall mean a person who, with respect to another person, is formally a party in a domestic partnership or similar relationship with the other person, entered into pursuant to the laws of the United States or any state, local or foreign jurisdiction, or registered as the domestic partner of the other person with any

registry maintained by the employer of either party or any state, municipality, or foreign jurisdiction.

- (f) The term "**relative**" shall mean such individual's spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.
- (g) The term "**unemancipated child**" shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the reporting individual.
- (h) The term "**political party chairman**" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this article.
- (i) The term "**local agency**" shall mean:
 - (i) any county, city, town, village, school district or district corporation, or any agency, department, division, board, commission or bureau thereof; and
 - (ii) any public benefit corporation or public authority not included in the definition of a state agency.
- (j) The term "**regulatory agency**" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this article.
- (k) The term "**ministerial matter**" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this article.
- (l) The term "**filing rate**" shall mean the job rate of SG-24 as set forth in paragraph a of subdivision one of section one hundred thirty of the civil service law as of April first of the year in which an annual financial disclosure statement shall be filed.
- (m) The term "**lobbyist**" shall have the same meaning as ascribed to such term in subdivision (a) of section one-c of the legislative law.

2. (a) Every statewide elected official, state officer or employee, member of the legislature, legislative employee and political party chair and every candidate for statewide elected office or for member of the legislature shall file an annual statement of financial disclosure containing the information and in the form set forth in subdivision three of this section. On or before the fifteenth day of May with respect to the preceding calendar year:
 - (1) every member of the legislature, every candidate for member of the legislature and legislative employee shall file such statement with the legislative ethics commission which shall provide such statement along with any requests for exemptions or deletions to the commission on ethics and lobbying in government for filing and rulings with respect to such requests for exemptions or deletions, on or before the thirtieth day of June; and
 - (2) all other individuals required to file such statement shall file it with the commission on ethics and lobbying in government, except that:
 - (i) a person who is subject to the reporting requirements of this subdivision and who timely filed with the internal revenue service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to file such financial disclosure statement on or before May fifteenth but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplementary statement of financial disclosure, which shall be filed on or before the seventh day after the expiration of the period of such automatic extension of time within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this section respecting annual statements of financial disclosure as if such supplementary statement were an annual statement;

- (ii) a person who is required to file an annual financial disclosure statement with the commission on ethics and lobbying in government, and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship, in accordance with required rules and regulations adopted pursuant to section ninety-four of the executive law shall file such statement within the additional period of time granted; and the legislative ethics commission shall notify the commission on ethics and lobbying in government of any extension granted pursuant to this paragraph;
- (iii) candidates for statewide office who receive a party designation for nomination by a state committee pursuant to section 6-104 of the election law shall file such statement within ten days after the date of the meeting at which they are so designated;
- (iv) candidates for statewide office who receive twenty-five percent or more of the vote cast at the meeting of the state committee held pursuant to section 6-104 of the election law and who demand to have their names placed on the primary ballot and who do not withdraw within fourteen days after such meeting shall file such statement within ten days after the last day to withdraw their names in accordance with the provisions of such section of the election law;
- (v) candidates for statewide office and candidates for member of the legislature who file party designating petitions for nomination at a primary election shall file such statement within ten days after the last day allowed by law for the filing of party designating petitions naming them as candidates for the next succeeding primary election;
- (vi) candidates for independent nomination who have not been designated by a party to receive a nomination shall file such statement within ten days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates in the next succeeding general or special election;

- (vii) candidates who receive the nomination of a party for a special election shall file such statement within ten days after the date of the meeting of the party committee at which they are nominated;
 - (viii) a candidate substituted for another candidate, who fills a vacancy in a party designation or in an independent nomination, caused by declination, shall file such statement within ten days after the last day allowed by law to file a certificate to fill a vacancy in such party designation or independent nomination;
 - (ix) with respect to all candidates for member of the legislature, the legislative ethics commission shall within five days of receipt provide the commission on ethics and lobbying in government the statement filed pursuant to subparagraphs (v), (vi), (vii) and (viii) of this paragraph.
- (b) As used in this subdivision, the terms "**party**", "**committee**" (when used in conjunction with the term "party"), "designation", "primary", "primary election", "nomination", "independent nomination" and "ballot" shall have the same meanings as those contained in section 1-104 of the election law.
- (c) If the reporting individual is a senator or member of assembly, candidate for the senate or member of assembly or a legislative employee, such statement shall be filed with both the legislative ethics commission established by section eighty of the legislative law and the commission on ethics and lobbying in government in accordance with paragraph (d-1) of subdivision one of this section. If the reporting individual is a statewide elected official, candidate for statewide elected office, a state officer or employee or a political party chair, such statement shall be filed with the commission on ethics and lobbying in government established by section ninety-four of the executive law.
- (d) The commission on ethics and lobbying in government shall obtain from the state board of elections a list of all candidates for statewide office and for member of the legislature, and from such list, shall determine and publish a list of those candidates who have not, within ten days after the required date for filing such statement, filed the statement required by this subdivision.

- (e) Any person required to file such statement who commences employment after May fifteenth of any year and political party chair shall file such statement within thirty days after commencing employment or of taking the position of political party chair, as the case may be. In the case of members of the legislature and legislative employees, such statements shall be filed with the legislative ethics commission within thirty days after commencing employment, and the legislative ethics commission shall provide such statements to the commission on ethics and lobbying in government within forty-five days of receipt.
- (f) A person who may otherwise be required to file more than one annual financial disclosure statement with both the commission on ethics and lobbying in government and the legislative ethics commission in any one calendar year may satisfy such requirement by filing one such statement with either body and by notifying the other body of such compliance.
- (g) A person who is employed in more than one employment capacity for one or more employers certain of whose officers and employees are subject to filing a financial disclosure statement with the same ethics commission, as the case may be, and who receives distinctly separate payments of compensation for such employment shall be subject to the filing requirements of this section if the aggregate annual compensation for all such employment capacities is in excess of the filing rate notwithstanding that such person would not otherwise be required to file with respect to any one particular employment capacity. A person not otherwise required to file a financial disclosure statement hereunder who is employed by an employer certain of whose officers or employees are subject to filing a financial disclosure statement with the commission on ethics and lobbying in government and who is also employed by an employer certain of whose officers or employees are subject to filing a financial disclosure statement with the legislative ethics commission shall not be subject to filing such statement with either such commission on the basis that his aggregate annual compensation from all such employers is in excess of the filing rate.

- (h) A statewide elected official or member of the legislature, who is simultaneously a candidate for statewide elected office or member of the legislature, shall satisfy the filing deadline requirements of this subdivision by complying only with the deadline applicable to one who holds a statewide elected office or who holds the office of member of the legislature.
 - (i) A candidate whose name will appear on both a party designating petition and on an independent nominating petition for the same office or who will be listed on the election ballot for the same office more than once shall satisfy the filing deadline requirements of this subdivision by complying with the earliest applicable deadline only.
 - (j) A member of the legislature who is elected to such office at a special election prior to May fifteenth in any year shall satisfy the filing requirements of this subdivision in such year by complying with the earliest applicable deadline only.
 - (k) The commission on ethics and lobbying in government shall post for at least five years beginning for filings made on January first, two thousand thirteen the annual statement of financial disclosure and any amendments filed by each person subject to the reporting requirements of this subdivision who is an elected official on its website for public review within thirty days of its receipt of such statement or within ten days of its receipt of such amendment that reflects any corrections of deficiencies identified by the commission or by the reporting individual after the reporting individual's initial filing. Except upon an individual determination by the commission that certain information may be deleted from a reporting individual's annual statement of financial disclosure, none of the information in the statement posted on the commission's website shall be otherwise deleted.
3. The annual statement of financial disclosure shall contain the information and shall be in the form set forth hereinbelow:

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE - (For calendar year _____)

1. Name _____

2. (a) Title of Position _____

(b) Department, Agency or other Governmental Entity _____

(c) Address of Present Office _____

(d) Office Telephone Number _____

3. (a) Marital Status _____. If married, please give spouse's full name.

(b) Full name of domestic partner (if applicable).

(c) List the names of all unemancipated children.

Answer each of the following questions completely, with respect to calendar year _____, unless another period or date is otherwise specified. If additional space is needed, attach additional pages.

Whenever a "**value**" or "**amount**" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories in Table I or Table II of this subdivision as called for in the question: A reporting individual shall indicate the Category by letter only.

Whenever "**income**" is required to be reported herein, the term "income" shall mean the aggregate net income before taxes from the source identified.

The term "**calendar year**" shall mean the year ending the December 31st preceding the date of filing of the annual statement.

4. (a) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the reporting individual with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Organization	State or Local Agency

- (b) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the spouse, domestic partner or unemancipated child of the reporting individual, with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Organization	State or Local Agency

5. (a) List the name, address and description of any occupation, employment (other than the employment listed under Item 2 above), trade, business or profession engaged in by the reporting individual. If such activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency

- (b) If the spouse, domestic partner or unemancipated child of the reporting individual was engaged in any occupation, employment, trade, business or profession which activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name, address and description of such occupation, employment, trade, business or profession and the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency

6. List any interest, in EXCESS of \$1,000, held by the reporting individual, such individual's spouse, domestic partner or unemancipated child, or partnership of which any such person is a member, or corporation, 10% or more of the stock of which is owned or controlled by any such person, whether vested or contingent, in any contract made or executed by a state or local agency and include the name of the entity which holds such interest and the relationship of the reporting individual or such individual's spouse, domestic partner or such child to such entity and the

interest in such contract. Do NOT include bonds and notes. Do NOT list any interest in any such contract on which final payment has been made and all obligations under the contract except for guarantees and warranties have been performed, provided, however, that such an interest must be listed if there has been an ongoing dispute during the calendar year for which this statement is filed with respect to any such guarantees or warranties. Do NOT list any interest in a contract made or executed by a local agency after public notice and pursuant to a process for competitive bidding or a process for competitive requests for proposals.

Self, Spouse, Domestic Partner or Child	Entity Which Held Interest in Contract	Relationship to Entity and Interest in Contract	Contracting State or Local Agency	Category of Value of Contract (In Table II)

7. List any position the reporting individual held as an officer of any political party or political organization, as a member of any political party committee, or as a political party district leader. The term "party" shall have the same meaning as "party" in the election law. The term "political organization" means any party or independent body as defined in the election law or any organization that is affiliated with or a subsidiary of a party or independent body.

8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, or works as a member or employee of a firm required to register pursuant to section one-e of the legislative law as a lobbyist, describe the services rendered for which compensation was paid including a general description of the principal subject areas of matters undertaken by such

individual and principal duties performed. Specifically state whether the reporting individual provides services directly to clients. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of principal subject areas of matters undertaken by such firm or corporation.

(b) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE AND BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE AND BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN:

If the reporting individual personally provides services to any person or entity, or works as a member or employee of a partnership or corporation that provides such services (referred to hereinafter as a "firm"), then identify each client or customer to whom the reporting individual personally provided services, or who was referred to the firm by the reporting individual, and from whom the reporting individual or his or her firm earned fees in excess of \$10,000 during the reporting period for such services rendered in direct connection with:

- (i) A contract in an amount totaling \$50,000 or more from the state or any state agency for services, materials, or property;
- (ii) A grant of \$25,000 or more from the state or any state agency during the reporting period;
- (iii) A grant obtained through a legislative initiative during the reporting period; or
- (iv) A case, proceeding, application or other matter that is not a ministerial matter before a state agency during the reporting period.

For purposes of this question, "referred to the firm" shall mean: having intentionally and knowingly taken a specific act or series of acts to intentionally procure for the reporting individual's firm or knowingly solicit or direct to the reporting individual's firm in whole or substantial part, a person or entity that becomes a client of that firm for the purposes of representation for a matter as defined in subparagraphs (i) through (iv) of this paragraph, as the result of such procurement, solicitation or direction of the reporting individual. A reporting individual need not disclose activities performed while lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivision seven of section seventy-three of this article.

The disclosure requirement in this question shall not require disclosure of clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or insurance brokering services from the reporting individual or his or her firm. The reporting individual need not identify any client to whom he or she or his or her firm provided legal representation with respect to investigation or prosecution by law enforcement authorities, bankruptcy, or domestic relations matters. With respect to clients represented in other matters, where disclosure of a client's identity is likely to cause harm, the reporting individual shall request an exemption from the commission on ethics and lobbying in government pursuant to section ninety-four of the executive law, provided, however, that a reporting individual who first enters public office after July first, two thousand twelve, need not report clients or customers with respect to matters for which the reporting individual or his or her firm was retained prior to entering public office.

Client	Nature of Services Provided

(b-1) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR FOR NEW

MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN (FOR PURPOSES OF THIS QUESTION, "SERVICES" SHALL MEAN CONSULTATION, REPRESENTATION, ADVICE OR OTHER SERVICES):

If the reporting individual receives income from employment reportable in question 8(a) and personally provides services to any person or entity, or works as a member or employee of a partnership or corporation that provides such services (referred to hereinafter as a "firm"), the reporting individual shall identify each client or customer to whom the reporting individual personally provided services, or who was referred to the firm by the reporting individual, and from whom the reporting individual or his or her firm earned fees in excess of \$10,000 during the reporting period in direct connection with:

- (i) A contract in an amount totaling \$10,000 or more from the state or any state agency for services, materials, or property;
- (ii) A grant of \$10,000 or more from the state or any state agency during the reporting period;
- (iii) A grant obtained through a legislative initiative during the reporting period; or
- (iv) A case, proceeding, application or other matter that is not a ministerial matter before a state agency during the reporting period.

For such services rendered by the reporting individual directly to each such client, describe each matter that was the subject of such representation, the services actually provided and the payment received. For payments received from clients referred to the firm by the reporting individual, if the reporting individual directly received a referral fee or fees for such referral, identify the client and the payment so received.

For purposes of this question, "referred to the firm" shall mean: having intentionally and knowingly taken a specific act or series of acts to intentionally procure for the reporting individual's firm or having knowingly solicited or directed to the reporting individual's firm in whole or substantial part, a person or entity that becomes a client of that firm for the purposes of representation for a matter as defined in clauses (i) through (iv) of this subparagraph, as the result of such procurement, solicitation or direction of the reporting individual. A reporting individual need not disclose

activities performed while lawfully acting in his or her capacity as provided in paragraphs (c), (d), (e) and (f) of subdivision seven of section seventy-three of this article.

Client	Matter	Nature of Services Provided	Category of Amount (in Table I)

(b-2) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN (FOR PURPOSES OF THIS QUESTION, "SERVICES" SHALL MEAN CONSULTATION, REPRESENTATION, ADVICE OR OTHER SERVICES):

- (i) With respect to reporting individuals who receive ten thousand dollars or more from employment or activity reportable under question 8(a), for each client or customer NOT otherwise disclosed or exempted in question 8 or 13, disclose the name of each client or customer known to the reporting individual to whom the reporting individual provided services: (A) who paid the reporting individual in excess of five thousand dollars for such services; or (B) who had been billed with the knowledge of the reporting individual in excess of five thousand dollars by the firm or other entity named in question 8(a) for the reporting individual's services.

Client	Services Actually Provided	Category of Amount (in Table I)

FOLLOWING IS AN ILLUSTRATIVE, NON-EXCLUSIVE LIST OF EXAMPLES OF DESCRIPTIONS OF "SERVICES ACTUALLY PROVIDED":

- REVIEWED DOCUMENTS AND CORRESPONDENCE;
- REPRESENTED CLIENT (IDENTIFY CLIENT BY NAME) IN LEGAL PROCEEDING;
- PROVIDED LEGAL ADVICE ON CLIENT MATTER (IDENTIFY CLIENT BY NAME);
- CONSULTED WITH CLIENT OR CONSULTED WITH LAW PARTNERS/ASSOCIATES/MEMBERS OF FIRM ON CLIENT MATTER (IDENTIFY CLIENT BY NAME);
- PREPARED CERTIFIED FINANCIAL STATEMENT FOR CLIENT (IDENTIFY CLIENT BY NAME);
- REFERRED INDIVIDUAL OR ENTITY (IDENTIFY CLIENT BY NAME) FOR REPRESENTATION OR CONSULTATION;
- COMMERCIAL BROKERING SERVICES (IDENTIFY CUSTOMER BY NAME);
- PREPARED CERTIFIED ARCHITECTURAL OR ENGINEERING RENDERINGS FOR CLIENT (IDENTIFY CUSTOMER BY NAME);
- COURT APPOINTED GUARDIAN OR EVALUATOR (IDENTIFY COURT NOT CLIENT).

- (ii) With respect to reporting individuals who disclosed in question 8(a) that the reporting individual did not provide services to a client but provided services to a firm or business, identify the category of amount received for providing such services and describe the services rendered.

Services Actually Provided	Category of Amount (in Table I)

A reporting individual need not disclose activities performed while lawfully acting in his or her capacity as provided in paragraphs (c), (d), (e) and (f) of subdivision seven of section seventy-three of this article.

The disclosure requirement in questions (b-1) and (b-2) shall not require disclosing clients or customers receiving medical, pharmaceutical or dental services, mental health services, or residential real estate brokering services from the reporting individual or his or her firm or if federal law prohibits or limits disclosure. The reporting individual need not identify any client to whom he or she or his or her firm provided legal representation with respect to investigation or prosecution by law enforcement authorities, bankruptcy, family court, estate planning, or domestic relations matters, nor shall the reporting individual identify individuals represented pursuant to an insurance policy but the reporting individual shall in such circumstances only report the entity that provides compensation to the reporting individual; with respect to matters in which the client's name is required by law to be kept confidential (such as matters governed by the family court act) or in matters in which the reporting individual represents or provides services to minors, the client's name may be replaced with initials. To the extent that the reporting individual, or his or her firm, provided legal representation with respect to an initial public offering, and professional disciplinary rules, federal law or regulations restrict the disclosure of information relating to such work, the reporting individual shall (i) disclose the identity of the client and the services provided relating to the initial public offering to the office of court administration, who will maintain

such information confidentially in a locked box; and (ii) include in his or her response to questions (b-1) and (b-2) that pursuant to this paragraph, a disclosure to the office of court administration has been made. Upon such time that the disclosure of information maintained in the locked box is no longer restricted by professional disciplinary rules, federal law or regulation, the reporting individual shall disclose such information in an amended disclosure statement in response to the disclosure requirements in questions (b-1) and (b-2). The office of court administration shall develop and maintain a secure portal through which information submitted to it pursuant to this paragraph can be safely and confidentially stored. With respect to clients represented in other matters not otherwise exempt, the reporting individual may request an exemption to publicly disclosing the name of that client from the commission on ethics and lobbying in government pursuant to section ninety-four of the executive law, or from the office of court administration. In such application, the reporting individual shall state the following: "My client is not currently receiving my services or seeking my services in connection with:

- (i) A proposed bill or resolution in the senate or assembly during the reporting period;
- (ii) A contract in an amount totaling \$10,000 or more from the state or any state agency for services, materials, or property;
- (iii) A grant of \$10,000 or more from the state or any state agency during the reporting period;
- (iv) A grant obtained through a legislative initiative during the reporting period; or
- (v) A case, proceeding, application or other matter that is not a ministerial matter before a state agency during the reporting period."

In reviewing the request for an exemption, the commission on ethics and lobbying in government or the office of court administration may consult with bar or other professional associations and the legislative ethics commission for individuals subject to its jurisdiction and may consider the rules of professional conduct. In making its determination, the commission on ethics and lobbying in government or the office of court administration shall conduct its own inquiry and shall consider factors including, but not limited to: (i) the nature and the size of the client; (ii) whether the client has any business before the state; and if so, how significant

the business is; and whether the client has any particularized interest in pending legislation and if so how significant the interest is; (iii) whether disclosure may reveal trade secrets; (iv) whether disclosure could reasonably result in retaliation against the client; (v) whether disclosure may cause undue harm to the client; (vi) whether disclosure may result in undue harm to the attorney-client relationship; and (vii) whether disclosure may result in an unnecessary invasion of privacy to the client.

The commission on ethics and lobbying in government or, as the case may be, the office of court administration shall promptly make a final determination in response to such request, which shall include an explanation for its determination. The office of court administration shall issue its final determination within three days of receiving the request. Notwithstanding any other provision of law or any professional disciplinary rule to the contrary, the disclosure of the identity of any client or customer in response to this question shall not constitute professional misconduct or a ground for disciplinary action of any kind, or form the basis for any civil or criminal cause of action or proceeding. A reporting individual who first enters public office after January first, two thousand sixteen, need not report clients or customers with respect to matters for which the reporting individual or his or her firm was retained prior to entering public office.

(c) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, OR FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN:

If the reporting individual receives income of ten thousand dollars or greater from any employment or activity reportable under question 8(a), identify each registered lobbyist who has directly referred to such individual a client who was successfully referred to the reporting individual's business and from whom the reporting individual or firm received a fee for services in excess of five thousand dollars. Report only those referrals that were made to a reporting individual by direct communication from a person known to such reporting individual to be a registered lobbyist at the time the referral is made. With respect to each such referral, the reporting individual shall identify the client, the registered lobbyist who has made the referral, the category of value of the compensation received and a general description of the type of matter so referred. A reporting individual

need not disclose activities performed while lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivision seven of section seventy-three of this article. The disclosure requirements in this question shall not require disclosing clients or customers receiving medical, pharmaceutical or dental services, mental health services, or residential real estate brokering services from the reporting individual or his or her firm or if federal law prohibits or limits disclosure. The reporting individual need not identify any client to whom he or she or his or her firm provided legal representation with respect to investigation or prosecution by law enforcement authorities, bankruptcy, family court, estate planning, or domestic relations matters, nor shall the reporting individual identify individuals represented pursuant to an insurance policy but the reporting individual shall in such circumstances only report the entity that provides compensation to the reporting individual; with respect to matters in which the client's name is required by law to be kept confidential (such as matters governed by the family court act) or in matters in which the reporting individual represents or provides services to minors, the client's name may be replaced with initials. To the extent that the reporting individual, or his or her firm, provided legal representation with respect to an initial public offering, and federal law or regulations restricts the disclosure of information relating to such work, the reporting individual shall (i) disclose the identity of the client and the services provided relating to the initial public offering to the office of court administration, who will maintain such information confidentially in a locked box; and (ii) include in his or her response a statement that pursuant to this paragraph, a disclosure to the office of court administration has been made. Upon such time that the disclosure of information maintained in the locked box is no longer restricted by federal law or regulation, the reporting individual shall disclose such information in an amended disclosure statement in response to the disclosure requirements of this paragraph. The office of court administration shall develop and maintain a secure portal through which information submitted to it pursuant to this paragraph can be safely and confidentially stored. With respect to clients represented in other matters not otherwise exempt, the reporting individual may request an exemption to publicly disclosing the name of that client from the commission on ethics and lobbying in government pursuant to section ninety-four of the executive law, or from the office of court administration. In such application, the reporting individual shall state the following: "My client is not currently receiving my services or seeking my services in connection with:

- (i) A proposed bill or resolution in the senate or assembly during the reporting period;
- (ii) A contract in an amount totaling \$10,000 or more from the state or any state agency for services, materials, or property;
- (iii) A grant of \$10,000 or more from the state or any state agency during the reporting period;
- (iv) A grant obtained through a legislative initiative during the reporting period; or
- (v) A case, proceeding, application or other matter that is not a ministerial matter before a state agency during the reporting period."

In reviewing the request for an exemption, the commission on ethics and lobbying in government or the office of court administration may consult with bar or other professional associations and the legislative ethics commission for individuals subject to its jurisdiction and may consider the rules of professional conduct. In making its determination, the commission on ethics and lobbying in government or the office of court administration shall conduct its own inquiry and shall consider factors including, but not limited to: (i) the nature and the size of the client; (ii) whether the client has any business before the state; and if so, how significant the business is; and whether the client has any particularized interest in pending legislation and if so how significant the interest is; (iii) whether disclosure may reveal trade secrets; (iv) whether disclosure could reasonably result in retaliation against the client; (v) whether disclosure may cause undue harm to the client; (vi) whether disclosure may result in undue harm to the attorney-client relationship; and (vii) whether disclosure may result in an unnecessary invasion of privacy to the client.

The commission on ethics and lobbying in government or, as the case may be, the office of court administration shall promptly make a final determination in response to such request, which shall include an explanation for its determination. The office of court administration shall issue its final determination within three days of receiving the request. Notwithstanding any other provision of law or any professional disciplinary rule to the contrary, the disclosure of the identity of any client or customer in response to this question shall not constitute professional misconduct or a ground for disciplinary action of any kind, or form the basis for any civil or criminal cause of action or proceeding. A reporting individual who first enters

public office after December thirty-first, two thousand fifteen, need not report clients or customers with respect to matters for which the reporting individual or his or her firm was retained prior to entering public office.

Client	Name of Lobbyist	Description of Matter	Category of Amount (in Table I)

(d) List the name, principal address and general description or the nature of the business activity of any entity in which the reporting individual or such individual's spouse or domestic partner had an investment in excess of \$1,000 excluding investments in securities and interests in real property.

- List each source of gifts, EXCLUDING campaign contributions, in EXCESS of \$1,000, received during the reporting period for which this statement is filed by the reporting individual or such individual's spouse, domestic partner or unemancipated child from the same donor, EXCLUDING gifts from a relative. INCLUDE the name and address of the donor. The term "gifts" does not include reimbursements, which term is defined in item 10. Indicate the value and nature of each such gift.

Self, Spouse, Domestic Partner or Child	Name of Donor	Address	Nature of Gift	Category of Value of Gift (in Table I)

10. Identify and briefly describe the source of any reimbursements for expenditures, EXCLUDING campaign expenditures and expenditures in connection with official duties reimbursed by the state, in EXCESS of \$1,000 from each such source. For purposes of this item, the term "reimbursements" shall mean any travel-related expenses provided by nongovernmental sources and for activities related to the reporting individual's official duties such as, speaking engagements, conferences, or factfinding events. The term "reimbursements" does NOT include gifts reported under item 9.

Source	Description

11. List the identity and value, if reasonably ascertainable, of each interest in a trust, estate or other beneficial interest, including retirement plans (other than retirement plans of the state of New York or the city of New York), and deferred compensation plans (e.g., 401, 403(b), 457, etc.) established in accordance with the internal revenue code, in which the REPORTING INDIVIDUAL held a beneficial interest in EXCESS of \$1,000 at any time during the preceding year. Do NOT report interests in a trust, estate or other beneficial interest established by or for, or the estate of, a relative.

Identity	Category of Value* (in Table II)

* The value of such interest shall be reported only if reasonably ascertainable.

12. (a) Describe the terms of, and the parties to, any contract, promise, or other agreement between the reporting individual and any person, firm, or corporation with respect to the employment of such individual after leaving office or position (other than a leave of absence).

(c) Describe the parties to and the terms of any agreement providing for continuation of payments or benefits to the REPORTING INDIVIDUAL in EXCESS of \$1,000 from a prior employer OTHER THAN the State. (This includes interests in or contributions to a pension fund, profit-sharing plan, or life or health insurance; buy-out agreements; severance payments; etc.)

13. List below the nature and amount of any income in EXCESS of \$1,000 from EACH SOURCE for the reporting individual and such individual's spouse or domestic partner for the taxable year last occurring prior to the date of filing. Each such source must be described with particularity. Nature of income includes, but is not limited to, all income (other than that received from the employment listed under Item 2 above) from compensated employment whether public or private, directorships and other fiduciary positions, contractual arrangements, teaching income, partnerships, honorariums, lecture fees, consultant fees, bank and bond interest, dividends, income derived from a trust, real estate rents, and recognized gains from the sale or exchange of real or other property. Income from a business or profession and real estate rents shall be reported with the source identified by the building address in the case of real estate rents and otherwise by the name of the entity and not by the name of the individual customers, clients or

tenants, with the aggregate net income before taxes for each building address or entity. The receipt of maintenance received in connection with a matrimonial action, alimony and child support payments shall not be listed.

Self/Spouse or Domestic Partner	Source	Nature	Category of Amount (in Table I)

14. List the sources of any deferred income (not retirement income) in EXCESS of \$1,000 from each source to be paid to the reporting individual following the close of the calendar year for which this disclosure statement is filed, other than deferred compensation reported in item 11 hereinabove. Deferred income derived from the practice of a profession shall be listed in the aggregate and shall identify as the source, the name of the firm, corporation, partnership or association through which the income was derived, but shall not identify individual clients.

Source	Category of Value* (in Table I)

15. List each assignment of income in EXCESS of \$1,000, and each transfer other than to a relative during the reporting period for which this statement is filed for less than fair consideration of an interest in a trust, estate or other beneficial interest, securities or real property, by the reporting individual, in excess of \$1,000, which would otherwise be required to be reported herein and is not or has not been so reported.

Item Assigned or Transferred	Assigned or Transferred to	Category of Amount (in Table I)

16. List below the type and market value of securities held by the reporting individual or such individual's spouse or domestic partner from each issuing entity in EXCESS of \$1,000 at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed ONLY IF the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse or domestic partner has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to the reporting individual. Securities of which the reporting individual or the reporting individual's spouse or domestic partner is the owner of record but in which such individual or the reporting individual's spouse or domestic partner has no beneficial interest shall not be listed. Indicate percentage of ownership ONLY if the reporting person or the reporting person's spouse or domestic partner holds more than five percent (5%) of the stock of a corporation in which the stock is publicly traded or more than ten percent (10%) of the stock of a corporation in which the stock is NOT publicly traded. Also list securities owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse or domestic partner. For the purpose of this item the term "securities" shall mean mutual funds, bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits (CDs) and such other evidences of indebtedness and certificates of interest as are usually referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed in item 8 (a)

or if the security is corporate stock, NOT publicly traded, in a trade or business of a reporting individual or a reporting individual's spouse or domestic partner.

Self/Spouse or Domestic Partner	Issuing Entity	Type of Security	Percentage of corporate stock owned or controlled (if more than 5% of publicly traded stock, or more than 10% if stock not publicly traded, is held)	Category of Market Value as of the close of the taxable year last occurring prior to the filing of this statement (In Table II)

17. List below the location, size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in EXCESS of \$1,000 is held by the reporting individual or the reporting individual's spouse or domestic partner. Also list real property owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse or domestic partner. Do NOT list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse or domestic partner, except where there is a co-owner who is other than a relative.

Self/Spouse/ Domestic Partner/Corporation	Location	Size	General Nature	Acquisition Date	Percentage of Ownership	Category of Market Value (In Table II)

18. List below all notes and accounts receivable, other than from goods or services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in EXCESS of \$1,000, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported in item 16 hereinabove. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported.

Name of Debtor	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount (in Table II)

19. List below all liabilities of the reporting individual and such individual's spouse or domestic partner, in EXCESS of \$10,000 as of the date of filing of this statement, other than liabilities to a relative. Do NOT list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or domestic partner or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse or domestic partner has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse or domestic partner. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

Name of Creditor or Guarantor	Type of Liability and Collateral, if any	Category of Amount (in Table II)

The requirements of law relating to the reporting of financial interests are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with these requirements.

 (Signature of Reporting Individual)

 Date (month/day/year)

TABLE I

Category A	none
Category B	\$ 1 to under \$ 1,000
Category C	\$ 1,000 to under \$ 5,000
Category D	\$ 5,000 to under \$ 20,000
Category E	\$ 20,000 to under \$ 50,000
Category F	\$ 50,000 to under \$ 75,000
Category G	\$ 75,000 to under \$ 100,000
Category H	\$ 100,000 to under \$ 150,000
Category I	\$ 150,000 to under \$ 250,000
Category J	\$ 250,000 to under \$ 350,000
Category K	\$ 350,000 to under \$ 450,000
Category L	\$ 450,000 to under \$ 550,000
Category M	\$ 550,000 to under \$ 650,000
Category N	\$ 650,000 to under \$ 750,000
Category O	\$ 750,000 to under \$ 850,000
Category P	\$ 850,000 to under \$ 950,000
Category Q	\$ 950,000 to under \$1,050,000
Category R	\$1,050,000 to under \$1,150,000
Category S	\$1,150,000 to under \$1,250,000
Category T	\$1,250,000 to under \$1,350,000
Category U	\$1,350,000 to under \$1,450,000

Category V	\$1,450,000 to under \$1,550,000
Category W	\$1,550,000 to under \$1,650,000
Category X	\$1,650,000 to under \$1,750,000
Category Y	\$1,750,000 to under \$1,850,000
Category Z	\$1,850,000 to under \$1,950,000
Category AA	\$1,950,000 to under \$2,050,000
Category BB	\$2,050,000 to under \$2,150,000
Category CC	\$2,150,000 to under \$2,250,000
Category DD	\$2,250,000 to under \$2,350,000
Category EE	\$2,350,000 to under \$2,450,000
Category FF	\$2,450,000 to under \$2,550,000
Category GG	\$2,550,000 to under \$2,650,000
Category HH	\$2,650,000 to under \$2,750,000
Category II	\$2,750,000 to under \$2,850,000
Category JJ	\$2,850,000 to under \$2,950,000
Category KK	\$2,950,000 to under \$3,050,000
Category LL	\$3,050,000 to under \$3,150,000
Category MM	\$3,150,000 to under \$3,250,000
Category NN	\$3,250,000 to under \$3,350,000
Category OO	\$3,350,000 to under \$3,450,000
Category PP	\$3,450,000 to under \$3,550,000
Category QQ	\$3,550,000 to under \$3,650,000

Category RR	\$3,650,000 to under \$3,750,000
Category SS	\$3,750,000 to under \$3,850,000
Category TT	\$3,850,000 to under \$3,950,000
Category UU	\$3,950,000 to under \$4,050,000
Category VV	\$4,050,000 to under \$4,150,000
Category WW	\$4,150,000 to under \$4,250,000
Category XX	\$4,250,000 to under \$4,350,000
Category YY	\$4,350,000 to under \$4,450,000
Category ZZ	\$4,450,000 to under \$4,550,000
Category AAA	\$4,550,000 to under \$4,650,000
Category BBB	\$4,650,000 to under \$4,750,000
Category CCC	\$4,750,000 to under \$4,850,000
Category DDD	\$4,850,000 to under \$4,950,000
Category EEE	\$4,950,000 to under \$5,050,000
Category FFF	\$5,050,000 to under \$5,150,000
Category GGG	\$5,150,000 to under \$5,250,000
Category HHH	\$5,250,000 to under \$5,350,000
Category III	\$5,350,000 to under \$5,450,000
Category JJJ	\$5,450,000 to under \$5,550,000
Category KKK	\$5,550,000 to under \$5,650,000
Category LLL	\$5,650,000 to under \$5,750,000
Category MMM	\$5,750,000 to under \$5,850,000

Category NNN	\$5,850,000 to under \$5,950,000
Category OOO	\$5,950,000 to under \$6,050,000
Category PPP	\$6,050,000 to under \$6,150,000
Category QQQ	\$6,150,000 to under \$6,250,000
Category RRR	\$6,250,000 to under \$6,350,000
Category SSS	\$6,350,000 to under \$6,450,000
Category TTT	\$6,450,000 to under \$6,550,000
Category UUU	\$6,550,000 to under \$6,650,000
Category VVV	\$6,650,000 to under \$6,750,000
Category WWW	\$6,750,000 to under \$6,850,000
Category XXX	\$6,850,000 to under \$6,950,000
Category YYY	\$6,950,000 to under \$7,050,000
Category ZZZ	\$7,050,000 to under \$7,150,000
Category AAAA	\$7,150,000 to under \$7,250,000
Category BBBB	\$7,250,000 to under \$7,350,000
Category CCCC	\$7,350,000 to under \$7,450,000
Category DDDD	\$7,450,000 to under \$7,550,000
Category EEEE	\$7,550,000 to under \$7,650,000
Category FFFF	\$7,650,000 to under \$7,750,000
Category GGGG	\$7,750,000 to under \$7,850,000
Category HHHH	\$7,850,000 to under \$7,950,000
Category IIII	\$7,950,000 to under \$8,050,000

Category JJJJ	\$8,050,000 to under \$8,150,000
Category KKKK	\$8,150,000 to under \$8,250,000
Category LLLL	\$8,250,000 to under \$8,350,000
Category MMMM	\$8,350,000 to under \$8,450,000
Category NNNN	\$8,450,000 to under \$8,550,000
Category OOOO	\$8,550,000 to under \$8,650,000
Category PPPP	\$8,650,000 to under \$8,750,000
Category QQQQ	\$8,750,000 to under \$8,850,000
Category RRRR	\$8,850,000 to under \$8,950,000
Category SSSS	\$8,950,000 to under \$9,050,000
Category TTTT	\$9,050,000 to under \$9,150,000
Category UUUU	\$9,150,000 to under \$9,250,000
Category VVVV	\$9,250,000 to under \$9,350,000
Category WWWW	\$9,350,000 to under \$9,450,000
Category XXXX	\$9,450,000 to under \$9,550,000
Category YYYY	\$9,550,000 to under \$9,650,000
Category ZZZZ	\$9,650,000 to under \$9,750,000
Category AAAAA	\$9,750,000 to under \$9,850,000
Category BBBBB	\$9,850,000 to under \$9,950,000
Category CCCCC	\$9,950,000 to under \$10,000,000
Category DDDDD	\$10,000,000 or over

TABLE II

Category A	none
Category B	\$1 to under \$1,000
Category C	\$1,000 to under \$5,000
Category D	\$5,000 to under \$20,000
Category E	\$20,000 to under \$50,000
Category F	\$50,000 to under \$75,000
Category G	\$75,000 to under \$100,000
Category H	\$100,000 to under \$150,000
Category I	\$150,000 to under \$250,000
Category J	\$250,000 to under \$500,000
Category K	\$500,000 to under \$750,000
Category L	\$750,000 to under \$1,000,000
Category M	\$1,000,000 to under \$1,250,000
Category N	\$1,250,000 to under \$1,500,000
Category O	\$1,500,000 to under \$1,750,000
Category P	\$1,750,000 to under \$2,000,000
Category Q	\$2,000,000 to under \$2,250,000
Category R	\$2,250,000 to under \$2,500,000
Category S	\$2,500,000 to under \$2,750,000
Category T	\$2,750,000 to under \$3,000,000
Category U	\$3,000,000 to under \$3,250,000

Category V	\$3,250,000 to under \$3,500,000
Category W	\$3,500,000 to under \$3,750,000
Category X	\$3,750,000 to under \$4,000,000
Category Y	\$4,000,000 to under \$4,250,000
Category Z	\$4,250,000 to under \$4,500,000
Category AA	\$4,500,000 to under \$4,750,000
Category BB	\$4,750,000 to under \$5,000,000
Category CC	\$5,000,000 to under \$5,250,000
Category DD	\$5,250,000 to under \$5,500,000
Category EE	\$5,500,000 to under \$5,750,000
Category FF	\$5,750,000 to under \$6,000,000
Category GG	\$6,000,000 to under \$6,250,000
Category HH	\$6,250,000 to under \$6,500,000
Category II	\$6,500,000 to under \$6,750,000
Category JJ	\$6,750,000 to under \$7,000,000
Category KK	\$7,000,000 to under \$7,250,000
Category LL	\$7,250,000 to under \$7,500,000
Category MM	\$7,500,000 to under \$7,750,000
Category NN	\$7,750,000 to under \$8,000,000
Category OO	\$8,000,000 to under \$8,250,000
Category PP	\$8,250,000 to under \$8,500,000
Category QQ	\$8,500,000 to under \$8,750,000

Category RR \$8,750,000 to under \$9,000,000

Category SS \$9,000,000 to under \$9,250,000

Category TT \$9,250,000 to under \$9,500,000

Category UU \$9,500,000 or over

4. A reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this section shall be subject to a civil penalty in an amount not to exceed forty thousand dollars. Assessment of a civil penalty hereunder shall be made by the commission on ethics and lobbying in government or by the legislative ethics commission, as the case may be, with respect to persons subject to their respective jurisdictions. The commission on ethics and lobbying in government acting pursuant to subdivision fourteen of section ninety-four of the executive law or the legislative ethics commission acting pursuant to subdivision eleven of section eighty of the legislative law, as the case may be, may, in lieu of or in addition to a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. The commission on ethics and lobbying in government and the legislative ethics commission shall each be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a

proceeding commenced against the commission on ethics and lobbying in government or the legislative ethics commission, pursuant to article seventy-eight of the civil practice law and rules.

5. Nothing contained in this section shall be construed as precluding any public authority or public benefit corporation from exercising any authority or power now or hereafter existing to require any of its members, directors, officers or employees to file financial disclosure statements with such public authority or public benefit corporation that are the same as, different from or supplemental to any of the requirements contained herein and to provide only for internal employment discipline for any violation arising out of such internal filing.
6. Notwithstanding any other provision of law or any professional disciplinary rule to the contrary, the disclosure of the identity of any client or customer on a reporting individual's annual statement of financial disclosure shall not constitute professional misconduct or a ground for disciplinary action of any kind, or form the basis for any civil or criminal cause of action or proceeding.
7. With respect to an application to either the commission on ethics and lobbying in government or the office of court administration for an exemption to disclosing the name of a client or customer in response to questions 8 (b-1), 8 (b-2) and 8 (c), all information which is the subject of or a part of such application shall remain confidential. The name of the client need not be disclosed by the reporting individual unless and until the commission on ethics and lobbying in government or the office of court administration formally advises the reporting individual that he or she must disclose such names and the reporting individual agrees to represent the client. Any commissioner or person employed by the commission on ethics and lobbying in government or any person employed by the office of court administration who, intentionally and without authorization from a court of competent jurisdiction releases confidential information related to a request for an exemption received by the commission or the office of court administration shall be guilty of a class A misdemeanor.



PUBLIC OFFICERS LAW §74

CODE OF ETHICS

(Effective July 8, 2022)

1. Definition.

As used in this section: The term "**state agency**" shall mean any state department, or division, board, commission, or bureau of any state department or any public benefit corporation or public authority at least one of whose members is appointed by the governor or corporations closely affiliated with specific state agencies as defined by paragraph (d) of subdivision five of section fifty-three-a of the state finance law or their successors.

The term "**legislative employee**" shall mean any officer or employee of the legislature but it shall not include members of the legislature.

2. Rule with respect to conflicts of interest.

No officer or employee of a state agency, member of the legislature or legislative employee should 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.

3. Standards.

- a. No officer or employee of a state agency, member of the legislature or legislative employee should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.
- b. No officer or employee of a state agency, member of the legislature or legislative employee should accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.
- c. No officer or employee of a state agency, member of the legislature or legislative employee should disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests.

- d. No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the state for private business or other compensated non-governmental purposes.
- e. No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the state with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.
- f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.
- g. An officer or employee of a state agency should abstain from making personnel investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.
- h. An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.
- i. No officer or employee of a state agency employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer or employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the state agency in which such officer or employee serves or is employed.

4. Violations.

In addition to any penalty contained in any other provision of law any such officer, member or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law. Any such individual who knowingly and intentionally violates the provisions of paragraph b, c, d or i of subdivision three of this section shall be subject to a civil penalty in an amount not to exceed ten thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. Any such individual who knowingly and intentionally violates the provisions of paragraph a, e or g of subdivision three of this section shall be subject to a civil penalty in an amount not to exceed the value of any gift, compensation or benefit received as a result of such violation.



PUBLIC OFFICERS LAW §§ 74-A – 79

§ 74-a. Duty of public officers regarding the physically handicapped.

It shall be the duty of each public officer responsible for the scheduling or siting of any public hearing to make reasonable efforts to ensure that such hearings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.

§ 75. Bribery of members of the legislature.

A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or to a person who has been elected a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence such a member or person to give or withhold his vote, or to absent himself from the house of which he is, or is to become, a member, or from any committee thereof, is punishable by imprisonment for not more than ten years, or by a fine of not more than five thousand dollars, or by both.

§ 75-a. Appearance by a person convicted of a crime of corruption.

Upon conviction for any of the following crimes: bribery in the first degree, bribery in the second degree, bribery in the third degree, rewarding official misconduct in the first degree, rewarding official misconduct in the second degree, giving unlawful gratuities, and when any such crime is committed for the purpose of corrupting a public office, agency or public official of the state, or any political subdivision, public authority, or public benefit corporation of the state, in the performance of public duty, such public office, agency or public official of the state, or any political subdivision or public authority may bar that person or entity convicted of such enumerated crimes from appearing before the affected public office, agency or public official of the state, or any such political subdivision or public authority in any professional or representative capacity. Such bar shall be for a period of five years from the date of judgment for such conviction.

§ 76. Receiving bribes by members of legislature.

A member of either of the houses composing the legislature of this state, or a person elected to become a member thereof, who asks, receives, or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, shall be guilty of a class D felony.

§ 77. Unlawful fees and payments.

A member of the legislature or any officer or employee of the legislature who asks or receives or consents or agrees to receive any emolument, gratuity or reward or any promise of emolument, gratuity or reward or any money, property or thing of value or of personal advantage, except such as may be authorized by law, for doing or omitting to do any official act, or for performing or omitting to perform any act whatsoever directly or indirectly related to any matter in respect to which any duty or discretion is by or in pursuance of law imposed upon or vested in him, or may be exercised by him by virtue of his office, or appointment or employment or his actual relation to the matter including, without limiting the generality of the foregoing, approving or promoting the passage of legislation or resolutions or the confirmation of appointees, or the conduct of investigations, and a person who shall directly or indirectly offer or make such a transfer to any member of the legislature or any officer or employee of the legislature shall be guilty of a felony punishable by imprisonment for not more than ten years or by a fine of not more than five thousand dollars, or both.

§ 77-a. Members of the legislature liable to forfeiture of office.

The conviction of a member of the legislature or any officer or employee of the legislature of any of the crimes defined in sections seventy-five, seventy-six or seventy-seven of this chapter, shall involve as a consequence in addition to the punishment provided in any such section a forfeiture of his office; and shall disqualify him from ever afterwards holding any office under this state.

§ 78. Certification of members, officers and employees.

On or before the tenth day after any member, officer or employee commences the performance of his duties as such, he shall file, with the secretary of the senate, if a member, officer or employee of that house, or with the clerk of the assembly, if a member, officer or employee of that house, or with the secretary of state if an officer or employee of a state agency, a certificate acknowledging receipt of a copy of sections seventy-three, seventy-three-a, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight of this chapter together with such other material as the secretary of the senate, the clerk of the assembly or the secretary of state may prepare related thereto, that he has read the same and undertakes to conform to the provisions, purposes and intent thereof and to the norms of conduct for members, officers and employees of the legislature and state agencies.

§ 79. Fine in certain cases.

Where an officer or a member of a board or other body has without just cause refused or neglected to perform a public duty enjoined upon him by a special provision of law, a court may impose a fine, not exceeding two hundred fifty dollars, upon the officer or member who has so refused or neglected, to be paid into the treasury of the state.



CIVIL SERVICE LAW § 107

PROHIBITION AGAINST CERTAIN POLITICAL ACTIVITIES; IMPROPER INFLUENCE

(Effective July 8, 2022)

1. Recommendations based on political affiliations.

No recommendation or question under the authority of this chapter shall relate to the political opinions or affiliations of any person whatever; and no appointment or selection to or removal from an office or employment within the scope of this chapter or the rules established thereunder, shall be in any manner affected or influenced by such opinions or affiliations. No person in the civil service of the state or of any civil division thereof is for that reason under any obligation to contribute to any political fund or to render any political service, and no person shall be removed or otherwise prejudiced for refusing so to do. No person in the said civil service shall discharge or promote or reduce, or in any manner change the official rank or compensation of any other person in said service, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose. No person in said service shall use his official authority or influences to coerce the political action of any person or body or to interfere with any election.

2. Inquiry concerning political affiliations.

No person shall directly or indirectly ask, indicate or transmit orally or in writing the political affiliations of any employee in the civil service of the state or of any civil division thereof or of any person dependent upon or related to such an employee, as a test of fitness for holding office. A violation of this subdivision shall be deemed a misdemeanor and conviction thereof shall subject the person convicted to a fine of not less than one hundred dollars nor more than five hundred dollars or to imprisonment for not less than thirty days nor more than six months, or to both such fine and imprisonment. Nothing herein contained shall be construed to prevent or prohibit inquiry concerning the activities, affiliation or membership of any applicant or employee in any group or organization which advocates that the government of the United States or of any state or of any political subdivision thereof should be overturned by force, violence or any unlawful means.

3. Political assessments.

No officer or employee of the state or any civil division thereof shall, directly or indirectly, use his authority or official influence to compel or induce any other officer or employee of the state or any civil division thereof, to pay or promise to pay any political assessment, subscription or contribution. Every officer or employee who may have charge or control in any building, office or room occupied for any governmental purpose is hereby authorized to prohibit the entry of any person, and he shall not knowingly permit any person to enter the same for the purpose of making, collecting, receiving or giving notice therein, of any political assessment, subscription or contribution; and no person shall enter or remain in any such office, building or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding or collecting a political assessment; nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription or contribution. No person shall prepare or take any part in preparing any political assessment, subscription or contribution with the intent that the same shall be sent or presented to or collected of any officer or employee subject to the provisions of this chapter, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment of any said officer or employee. Any person violating any provision of this subdivision shall be guilty of a misdemeanor.

4. Prohibition against promise of influence.

Any person, who while holding any public office, or in nomination for, or while seeking a nomination or appointment for any public office, shall corruptly use or promise to use, whether directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon the consideration that the vote or political influence or action of the last-named person, or any other, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery or an attempt at bribery. Any public officer, or any person having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer, who shall corruptly use, or promise, or threaten to use any such authority or influence, directly or indirectly in order to coerce or persuade the vote or political action of any citizen or the removal, discharge or promotion of any officer or public employee, or upon any other corrupt consideration shall also be guilty of bribery or of an attempt

at bribery. Every person found guilty of such bribery, or an attempt to commit the same, as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars nor more than three thousand dollars, or to imprisonment for not less than ten days nor more than two years, or to both such fine and imprisonment in the discretion of the court.

5. Violation of this section.

Complaints alleging a violation of this section by a statewide elected official or a state officer or employee, as defined in section seventy-three of the public officers law, may be directed to the commission on public integrity.



RETIREMENT AND SOCIAL SECURITY LAW ARTICLE 3-B PENSION FORFEITURE FOR PUBLIC OFFICIALS

§156. Definitions.

The following words and phrases, as used in this article, shall have the following meanings, unless a different meaning is plainly required by the context:

1. **"Crime related to public office"** shall mean any of the following criminal offenses whether committed in this state or in any other jurisdiction by a public official through the use of his or her public office or by the individual representing that he or she was acting with the authority of any governmental entity, and acting as a public official:
 - (a) a felony for committing, aiding or abetting a larceny of public funds from the state or a municipality;
 - (b) a felony committed in direct connection with service as a public official; or
 - (c) a felony committed by such person who, with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain or advantage for himself or herself or for some other person, through the use or attempted use of the power, rights, privileges or duties of his or her position as a public official.
2. **"Chief administrator of the retirement system"** shall mean the comptroller of the state of New York with respect to the New York state and local employees' retirement system and the boards of trustees with respect to the other public retirement systems and pension funds of the state and the city of New York.
3. **"Defendant"** shall mean a state or local officer against whom a forfeiture action is commenced.
4. **"Dependent person"** shall mean and include:
 - (a) any child of a public official or other person for whom such person is legally responsible to provide support;
 - (b) any present or former spouse or domestic partner of a public official;

- (c) any family or household member of a public official, regardless of such person's age, where such person has a disability, as defined in subdivision twenty-one of section two hundred ninety-two of the executive law; and
 - (d) any person to whom a public official has provided support.
5. **"Pension"** shall mean the annual allowance for life, payable in monthly installments, derived from contributions made by a public official to the appropriate pension accumulation fund of a retirement system pursuant to applicable law.
6. (a) **"Public official"** shall mean any of the following individuals who were not members of any retirement system prior to the effective date of the chapter of the laws of two thousand eleven which added this article but who have become members of a covered retirement system on or after the effective date of the chapter of the laws of two thousand eleven which added this article:
- (i) the governor, lieutenant governor, comptroller or attorney general;
 - (ii) members of the state legislature;
 - (iii) state officers and employees including:
 - (A) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;
 - (B) officers and employees of statewide elected officials;
 - (C) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies; and
 - (D) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, and employees of such authorities, corporations and commissions;
 - (iv) judges, justices and employees of the unified court system;
 - (v) officers and employees of the legislature; and

(vi) paid municipal officers and employees including an officer or employee of a municipality, paid members of any administrative board, commission or other agency thereof and in the case of a county, shall be deemed to also include any officer or employee paid from county funds.

(b) A person who receives no compensation or is compensated on a per diem basis for his or her duties as a public official shall not be deemed a public official pursuant to this subdivision.

7. **"Retirement system"** shall mean the New York state and local employees' retirement system, and the New York city employees' retirement system.

§157. Pension forfeiture.

1. Notwithstanding any other law to the contrary, it shall be a term and condition of membership for every public official who becomes a member of any retirement system on or after the effective date of the chapter of the laws of two thousand eleven which added this article, that such public official's rights to a pension in a retirement system that accrue in such retirement system after his or her date of initial membership in the retirement system shall be subject to the provisions of this article.
2. In the case of a public official who stands convicted, by plea of nolo contendere or plea of guilty to, or by conviction after trial, of any crime related to public office, an action may be commenced in supreme court of the county in which such public official was convicted of such felony crime, by the district attorney having jurisdiction over such crime, or by the attorney general if the attorney general brought the criminal charge which resulted in such conviction, for an order to reduce or revoke the pension to which such public official is otherwise entitled for service as a public official. Such complaint shall specify with particularity which category of felony pursuant to subdivision one of section one hundred fifty-six of this article the defendant has committed, and all other facts that are alleged to qualify such crime as a felony crime related to public office subject to pension reduction or revocation pursuant to this article, and the amount of pension reduction or revocation requested. Such action shall be commenced within six months after such conviction.
3. Before commencing an action described in subdivision two of this section, the district attorney or the attorney general, as the case may be, shall serve written notice on the chief administrator of the defendant's retirement system stating that he or she has reason to believe that the person convicted committed the crime related to public office in the performance of or failure to perform

the public official's duties and responsibilities. Such notice shall specify with particularity which category of felony pursuant to subdivision one of section one hundred fifty-six of this article the defendant has committed. Within twenty days after receipt of such notice, the chief administrator of the defendant's retirement system shall submit a notice of applicability to the district attorney or the attorney general as the case may be. The notice of applicability shall contain a statement specifying whether the person convicted is or has been a member or retired member of a retirement system and shall describe the portion of such rights and benefits to which such person is or will be entitled to solely from service as such a public official.

4. No forfeiture action may be commenced by the district attorney or the attorney general until such district attorney or the attorney general, as the case may be, has received and served on the defendant the notice of applicability as set forth in subdivision three of this section.
5. The district attorney or the attorney general, or any interested party, may seek, or the court on its own motion may order, that some or all of the pension that would otherwise be reduced or revoked pursuant to this article be paid for the benefit of any dependent persons, as may be in the interests of justice.
6. The defendant shall have the right to a hearing.
7. The burden of proof shall be upon the district attorney or the attorney general, as the case may be, to prove by clear and convincing evidence the facts necessary to establish a claim of pension forfeiture. The district attorney or the attorney general as the case may be must, at the time of the hearing, prove by clear and convincing evidence that the defendant knowingly and intentionally committed the crime related to public office.
8. In determining whether the pension shall be reduced or revoked, the supreme court shall consider and make findings of fact and conclusions of law that include, but shall not be limited to, a consideration of the following factors:
 - (a) Whether the defendant stands convicted of such a felony of a crime related to public office, and the specific paragraph or paragraphs of subdivision one of section one hundred fifty-six of this article that have been proven or not proven;
 - (b) The severity of the crime related to public office of which the defendant stands convicted;

- (c) The amount of monetary loss suffered by such state or municipality as a result of such crime related to public office;
 - (d) The degree of public trust reposed in the public official by virtue of the person's position as a public official;
 - (e) If the crime related to public office was part of a fraudulent scheme against the state or a municipality, the role of the public official in such fraudulent scheme against such state or a municipality;
 - (f) The defendant's criminal history, if any;
 - (g) The impact of forfeiture, in whole or in part, on defendant's dependents, present or former spouses, or domestic partners;
 - (h) The proportionality of forfeiture of all or part of the pension to the crime committed; and
 - (i) Any such other factors as, in the judgment of the supreme court, justice may require.
9. At any time during the pendency of a forfeiture action, the court may dismiss the action if it finds that such relief is warranted by the existence of some compelling factor, consideration or circumstance or other information or evidence which demonstrates that forfeiture would not serve the ends of justice. The court may order that some or all of the reduced or revoked pension be paid to satisfy the terms of any existing order for the payment of maintenance, child support or restitution or for the benefit of any dependent persons, as may be in the interests of justice, after taking into consideration the financial needs and resources available for support of such persons.
10. Upon a finding by the court by clear and convincing evidence that the defendant knowingly and intentionally committed a crime related to public office, the court may issue an order to the appropriate retirement system to reduce or revoke the defendant's pension to which he or she is otherwise entitled as such a public official. All orders and findings made by the court pursuant to this section shall be served by the attorney general or the district attorney, as the case may be upon the chief administrator of the defendant's retirement system and the defendant.
11. The court shall issue a written decision including findings of fact and conclusions of law that are the basis for any order issued pursuant to this section.

12. Upon a final determination that reverses or vacates the conviction or convictions of a crime related to public office, or reduces such crime to a violation, misdemeanor or other criminal act that is not a crime related to public office, the public official, or if he or she shall be deceased, his or her estate, shall have such pension retroactively restored upon application to the court with jurisdiction over the forfeiture action. Such court, upon finding that such a final determination has occurred, shall issue an order retroactively restoring such pension, together with such other relief deemed appropriate.
13. A final judgment entered pursuant to this article may be appealed pursuant to subdivision (a) of section fifty-seven hundred one and section fifty-six hundred two of the civil practice law and rules.
14. Except as otherwise provided by this article, the civil practice law and rules shall govern the procedure in all actions commenced pursuant to this article, except where the action is specifically regulated by any inconsistent provisions herein.

§158. Pension contributions returned.

1. Any public official whose pension is reduced or revoked pursuant to this article shall be entitled to a return of his or her contribution paid into the relevant retirement system, without interest.
2. Notwithstanding the provisions of subdivision one of this section, no payments in return of contributions shall be made or ordered unless and until the supreme court determines that the public official whose pension has been reduced or revoked has satisfied in full any judgments or orders rendered by any court of competent jurisdiction for the payment of restitution to the state or a municipality for losses incurred as a result of such crime related to public office. If the supreme court determines that such public official whose pension is to be reduced or revoked has failed to satisfy any outstanding judgment or order of restitution rendered by a court of competent jurisdiction, it may order that any funds otherwise due to such public official as a return of contribution, or any portion thereof, be paid in satisfaction of such judgment or order.

§159. Miscellaneous.

The remedies provided for in this article are not intended to substitute for, limit or supersede the lawful authority of any public officer, agency or other person to enforce any other right or remedy provided for by law.



TITLE 19 NYCRR PART 930

HONORARIA

(Effective June 18, 2014)

Title 19 NYCRR Part 930 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

930.1 Purpose and Effect of Regulations.

- (a) The purpose of these regulations is to establish the procedures and conditions for approval and acceptance of Honoraria by specified New York State officials and employees.
- (b) The effect of these regulations is to supersede prior regulations and any Advisory Opinions or other guidance issued by predecessor agencies to the Commission on Ethics and Lobbying in Government to the extent such Advisory Opinions and guidance are inconsistent with this Part.

930.2 Definitions.

- (a) **Approving Authority** for a State Officer or Employee shall mean the head of a State agency or appointing authority, or his or her appropriate designee. In the case of a Statewide Elected Official, the head of a Civil Department or the head of a State Agency, it shall mean the New York State Commission on Ethics and Lobbying in Government.
- (b) **Civil Department** shall have the same meaning as set forth in Article V, Section 2 of the New York State Constitution.
- (c) **Commission** shall mean the New York State Commission on Ethics and Lobbying in Government.

(d) **Covered Person** shall mean:

- (1) Head of a Civil Department as defined in subdivision (b) of this section;
- (2) State Officer or Employee as defined in subdivision (j) of this section;
- (3) Statewide Elected Official as defined in subdivision (k) of this section.

(e) **Honorarium** shall mean:

- (1) Any payment, which may take the form of a fee or any other compensation, made to a Covered Person in consideration for a service performed that is not part of his or her official duties. Such service includes, but is not limited to, delivering a speech, writing, or publishing an article, or participating in any public or private conference, convention, meeting, or similar event. Honorarium shall also include expenses incurred for travel, lodging, and meals related to the service performed.
- (2) Honorarium shall not mean a payment provided to a Covered Person who provides services for or acts on behalf of an employee organization certified or recognized under Article 14 of the Civil Service Law to represent such Covered Person.

(f) **Honorarium Approval** shall mean a record created by the Approving Authority in accordance with section 930.4(c) of this Part.

(g) **Interested Source** shall mean any person or entity who on his or her own behalf, or on behalf of an entity, that satisfies any one of the following:

- (1) is regulated by, negotiates with, appears before in other than a Ministerial Matter, seeks to contract with or has contracts with, or does other business with: (i) the Covered Person, in his or her official capacity; (ii) the State Agency with which the Covered Person is employed or affiliated; or (iii) any other State Agency when the Covered Person's agency is to receive the benefits of the contract; or
- (2) is required to be listed on a statement of registration pursuant to § 1-e(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of the State Agency with which the Covered Person is employed or affiliated; or

- (3) is the spouse or unemancipated child of any individual satisfying the requirements of section 930.2(g)(2); or
 - (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Covered Person in his or her official capacity; or (ii) the State Agency with which the Covered Person is employed or affiliated; or
 - (5) has received or applied for funds from the State Agency with which the Covered Person is employed or affiliated at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the Honorarium.
- (h) **Ministerial Matter** shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- (i) **State Agency** shall mean any Civil Department; State department; or division, board, commission, or bureau of any State department or Civil Department; any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.
- (j) **State Officer(s) or Employee(s)** shall mean:
- (1) Statewide Elected Officials;
 - (2) Heads of Civil Departments and State departments and their respective deputies and assistants other than members of the board of regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis;
 - (3) Officers and employees of statewide elected officials;
 - (4) Officers and employees of State departments, boards, bureaus, divisions, commissions, councils, or other State Agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis;

(5) Employees of public authorities (other than multi-state authorities), public benefit corporations, and commissions at least one of whose members of such public authorities, public benefit corporations, and commissions is appointed by the governor; and

(6) Members or directors of public authorities (other than multi-state authorities), public benefit corporations, and commissions identified in section 930.2(j)(5) who receive compensation other than on a per diem basis.

(k) *Statewide Elected Official* shall mean the Governor, Lieutenant Governor, Comptroller, or Attorney General.

930.3 Certain Covered Persons Prohibited from Receiving Payment for Speeches.

Notwithstanding any other provision of this Part and pursuant to Public Officers Law § 73(5-a)(b), no Statewide Elected Official or any head of a Civil Department shall, directly or indirectly, solicit, accept, or receive any payment made in consideration for any speech given at a public or private conference, convention, meeting, social event, meal, or like gathering.

930.4 Approval Procedures.

(a) An Honorarium must be approved by the Covered Person's Approving Authority in accordance with this Part.

(b) Within a reasonable period of time prior to the performance of the service for which an Honorarium is offered, or to the receipt of the Honorarium, a Covered Person shall submit to his or her Approving Authority a written request for approval to accept the Honorarium.

(c) The Approving Authority shall review and approve a request to accept an Honorarium in accordance with the procedures and conditions set forth in sections 930.4 and 930.5 of this Part. The Honoraria Approval shall contain the information set forth in (1) through (5) of this subdivision:

(1) The name of the Covered Person accepting the Honorarium;

(2) Identity of the offeror and nature of the offeror's business;

- (3) A detailed description of the service for which the Honorarium is offered, including the date and location where the service will be performed;
 - (4) The amount of the Honorarium and, where applicable, and itemization of amounts paid for the service, attendance, registration, travel, lodging, and meals; and
 - (5) A statement that the Approving Authority has approved the Honorarium in accordance with the conditions set forth in section 930.5 of this Part.
- (d) The Approving Authority shall retain all completed and signed Honorarium Approvals for a period of three years from the receipt date of the Honorarium and shall be made available to the Commission upon its request.
- (e) The Approving Authority shall provide the Covered Person with a copy of the Honorarium Approval.

930.5 Conditions for Approval.

- (a) An Approving Authority may approve a request to accept an Honorarium provided the following conditions are met:
- (1) State personnel, equipment, and time are not used in preparing the service for which an Honorarium is offered;
 - (2) No State funds (including funds from any New York State public authority or any public benefit corporation) are used to pay the Covered Person's attendance, registration, travel, lodging, or meal expenses related to the service for which an Honorarium is offered;
 - (3) If the service is to be performed during the Covered Person's official work day, he or she must charge accrued leave (other than sick leave) to perform such service;
 - (4) If the Honorarium is offered by or on behalf of an Interested Source, all of the following criteria must be met:
 - (i) It is not reasonable, under the circumstances, to infer that the Honorarium was intended to influence the Covered Person in the performance of his or her official duties.

- (ii) The Honorarium could not, under the circumstances, reasonably be expected to influence the Covered Person in the performance of his or her official duties.
 - (iii) The Honorarium is not, under the circumstances, intended as a reward for any official action on his or her part.
- (5) The Approving Authority determines that the offeror is not being used to conceal that the Honorarium is actually offered or paid by an Interested Source; and
- (6) Performing the service for which the Honorarium is offered and accepting the Honorarium do not violate Public Officers Law § 74.

930.6 Minimum Requirements.

Nothing contained in this Part shall prohibit any State Agency from adopting or implementing its own rules, regulation or procedures governing Honoraria that are more restrictive than the requirements of this Part.

930.7 Exemption.

A member of the faculty (including an adjunct member of the faculty) at the State University of New York and the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State, and a State Officer or Employee serving in the title of *Research Scientist, Cancer Research Scientist, Research Physician, Research Psychiatrist or Psychiatrist*, is exempt from sections 930.4 and 930.5, provided the service performed by such member of the faculty is within the subject matter of his or her official academic discipline.

930.8 Enforcement.

The Commission is authorized pursuant to Executive Law § 94 to investigate possible violations of Public Officers Law § 73 and § 74 and their corresponding regulations and take appropriate action as authorized in these statutes.

930.9 Reporting.

Any Covered Person who is required to file a financial disclosure statement pursuant to § 73-a of the Public Officers Law, including those persons qualifying for an exemption under section 930.7, shall report any Honorarium in excess of \$1,000 (or all Honoraria the aggregate total of which exceed \$1,000 received from a single offeror) in his or her financial disclosure statement for the applicable year.



TITLE 19 NYCRR PART 931

OFFICIAL ACTIVITY EXPENSE PAYMENTS AND SERVICE PAYMENTS TO THE STATE: LIMITATIONS AND APPROVAL

(Effective June 18, 2014)

Title 19 NYCRR Part 931 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

931.1 Purpose and Effect of Regulations.

- (a) The purpose of these regulations is to establish the procedures and conditions for approval and acceptance of payments related to the attendance, registration, travel, lodging, and food for specified New York State officials and employees when such persons are engaged in activities, or are providing services, that are part of their official duties.
- (b) The effect of these regulations is to supersede prior regulations and any Advisory Opinions or other guidance issued by predecessor agencies to the Commission on Ethics and Lobbying in Government to the extent such Advisory Opinions and guidance are inconsistent with this Part.

931.2 Definitions.

- (a) ***Approving Authority*** for a State Officer or Employee shall mean the head of a State Agency or appointing authority or his or her appropriate designee. In the case of a Statewide Elected Official and the head of a State Agency, it shall mean the New York State Commission on Ethics and Lobbying in Government.
- (b) ***Commission*** shall mean the New York State Commission on Ethics and Lobbying in Government.

(c) **Covered Person** shall mean:

- (1) A State Officer or Employee as defined in subdivision (l) of this section;
- (2) A Statewide Elected Officials as defined in subdivision (m) of this section.

(d) **Interested Source**. The term Interested Source shall mean any person or entity, on his or her own behalf or on behalf of an entity, that:

- (1) is regulated by, negotiates with, appears before in other than a Ministerial Matter, seeks to contract with or has contracts with, or does other business with: (i) the Covered Person, in his or her official capacity; (ii) the State Agency with which the Covered Person is employed or affiliated; or (iii) any other State Agency when the Covered Person's agency is to receive the benefits of the contract; or
- (2) is required to be listed on a statement of registration pursuant to § 1-e(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of the State Agency with which the Covered Person is employed or affiliated; or
- (3) is the spouse or unemancipated child of any individual satisfying the requirements of section 931.2(d)(2); or
- (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Covered Person in his or her official capacity; or (ii) the State Agency with which the Covered Person is employed or affiliated; or
- (5) has received or applied for funds from the State Agency with which the Covered Person is employed or affiliated at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the Official Activity Payment and/or Service Payment.

(e) **Ministerial Matter** shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

- (f) **Official Activity** shall mean a Covered Person's attendance or Service at a meeting, conference, seminar, convention, or professional program that is part of his or her official duties and benefits the Covered Person's State Agency.
- (g) **Official Activity Expense Payment** shall mean a payment or reimbursement for the cost of attendance, registration, travel, food, or lodging related to a Covered Person's Official Activity as defined in subdivision (f) of this section. Official Activity Expense Payment does not include (1) any payment or reimbursement for such costs when they have been bargained for by a State Agency, or (2) a Service Payment.
- (h) **Official Activity Approval** shall mean a completed and signed record created by the Approving Authority in accordance with section 931.3(c) of this Part.
- (i) **Service** shall mean any action or service performed by a Covered Person that is part of his or her official duties and benefits the Covered Person's State Agency. Such action may include, but is not limited to, delivering a speech, writing or publishing an article, or making a presentation.
- (j) **Service Payment** shall mean any payment of money made in consideration for a Service provided.
- (k) **Service Payment Approval Record** shall mean, for any Service Payment that has been approved by an Approving Authority, a completed and signed record created by the Approving Authority in accordance with section 931.5 of this Part.
- (l) **State Agency** shall mean any civil department; State department; or division, board, commission, or bureau of any State department or civil department; any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.
- (m) **State Officer(s) or Employee(s)** shall mean:
- (1) Statewide Elected Officials;

- (2) Heads of civil departments and State departments and their respective deputies and assistants other than members of the board of regents of the university of the State of New York who receive no compensation or are compensated on a per diem basis;
- (3) Officers and employees of statewide elected officials;
- (4) Officers and employees of state departments, boards, bureaus, divisions, commissions, councils, or other State Agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis;
- (5) Employees of public authorities (other than multi-state authorities), public benefit corporations, and commissions at least one of whose members of such public authorities, public benefit corporations, and commissions is appointed by the governor; and
- (6) Members or directors of public authorities (other than multi-state authorities), public benefit corporations, and commissions identified in section 931.2(m)(5) who receive compensation other than on a per diem basis.

(n) ***Statewide Elected Officials*** shall mean the Governor, Lieutenant Governor, Comptroller, or Attorney General.

931.3 Approval Procedures.

- (a) An Official Activity Expense Payment or a Service Payment must be approved by the Covered Person's Approving Authority in accordance with this Part.
- (b) Within a reasonable period of time prior to engaging in the Official Activity, a Covered Person shall submit to his or her Approving Authority a written request to approve an Official Activity Expense Payment or Service Payment.
- (c) The Approving Authority shall review a request for an Official Activity Expense Payment or Service Payment in accordance with the procedures and conditions set forth in section 931.3 and 931.4 of this Part. If approved, the Official Activity Approval shall contain the information set forth in (1) through (5) of this subdivision:
 - (1) The name of the Covered Person to whom, or on behalf of whom, the Official Activity Expense Payment or Service Payment is offered;

- (2) Identity of the offeror and nature of the offeror's business;
 - (3) A detailed description of the Official Activity or Service, including date and location;
 - (4) The amount of the Official Activity Expense Payment and, where applicable, an itemization of costs for the attendance, registration, travel, lodging, and meals, and the amount of a Service Payment, if any; and
 - (5) A statement that the Approving Authority has approved the Official Activity Expense Payment and Service Payment, if any, in accordance with the conditions set forth in section 931.4 of this Part.
- (d) The Approving Authority shall retain all completed and signed Official Activity Approvals for a period of three years from the date of the Official Activity for which an Official Activity Expense Payment or Service Payment, if any, is offered and shall be made available to the Commission upon its request.
- (e) The Approving Authority shall provide the Covered Person with a copy of the Official Activity Approval.

931.4 Conditions for Approval.

- (a) An Approving Authority may approve a request for an Official Activity Expense Payment or Service Payment provided the following conditions are met:
- (1) The Official Activity Expense Payment or Service Payment covers only the period of time that the Covered Person is reasonably required to be present for such Official Activity.
 - (2) If the Official Activity Expense Payment or Service Payment is offered by or on behalf of an Interested Source, all of the following criteria must be met:
 - (i) It is not reasonable, under the circumstances, to infer that the Official Activity Expense Payment or Service Payment was intended to influence the Covered Person in the performance of his or her official duties.

- (ii) The Official Activity Expense Payment or Service Payment could not, under the circumstances, reasonably be expected to influence the Covered Person in the performance of his or her official duties.
 - (iii) The Official Activity Expense Payment or Service Payment is not, under the circumstances, intended as a reward for any official action on his or her part.
 - (3) The Official Activity Expense Payment, if not made by the offeror, could be lawfully paid by the State Agency in accordance with its travel policy.
 - (4) The Official Activity Expense Payment is made on behalf of the Covered Person at a rate not greater than the rate at which the State Agency would pay or reimburse the Covered Person under its travel policy.
 - (5) The Approving Authority determines that the offeror is not being used to conceal that the Official Activity Expense Payment or Service Payment is actually offered or paid by an Interested Source.
 - (6) The Official Activity and the corresponding Official Activity Expense Payment or Service Payment is consistent with Public Officers §74.
- (b) If a Covered Person's Official Activity includes a Service and an offer for a Service Payment, in connection with such Official Activity, the Approving Authority shall approve the Service Payment provided such Official Activity comports with the conditions set forth in section 931.4 of this Part. The Approving Authority shall direct that such Service Payment shall be made directly to the general fund of the State or to such fund as is appropriate for a public authority, public benefit corporation, or commission not funded through State general fund appropriation.

931.5 Minimum Requirements.

Nothing contained in this Part shall prohibit any State Agency from adopting or implementing its own rules, regulations, or procedures governing Official Activity Expense Payments for Official Activities that are more restrictive than the requirements of this Part.

931.6 Enforcement.

The Commission is authorized pursuant to Executive Law §94 to investigate possible violations of Public Officers Law § 73 and § 74 and their corresponding regulations and take appropriate action as authorized in these statutes.

931.7 Reporting.

Any Covered Person who is required to file a financial disclosure statement pursuant to § 73-a of the Public Officers Law shall report any Official Activity Expense Payment in excess of \$1,000 (or all Official Activity Expense Payments the aggregate total of which exceed \$1,000 received from a single offeror) in his or her statement of financial disclosure for the applicable year.



TITLE 19 NYCRR PART 932

OUTSIDE ACTIVITY RESTRICTIONS AND APPROVAL PROCEDURES

(Effective July 22, 2015)

Title 19 NYCRR Part 931 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

932.1 Purpose of Regulations.

The purpose of these regulations is to effectuate the conflicts of interests provisions of the Public Officers Law and to provide an approval procedure for outside activities by Policy makers, heads of State Agencies, and Statewide Elected Officials.

932.2 Definitions.

- (a) ***Approving Authority***, for a Policy Maker, shall mean (i) the head of a State Agency employing such Policy Maker; (ii) the appropriate designee of the head of such State Agency; (iii) the individual or body that has the authority to appoint such Policy Maker to a position; or (iv) the appropriate designee of such individual or body.
- (b) ***Commission*** shall mean the New York State Commission on Ethics and Lobbying in Government and, where applicable, its predecessor agencies.
- (c) ***Compensation*** shall mean the financial consideration received in exchange for services rendered, e.g., wages, salaries, benefits, professional fees, royalties, bonuses, or commissions on sales. Compensation shall also include income received from any business venture, whether or not incorporated, that is owned or controlled by an individual who is subject to this Part. Notwithstanding the foregoing, income received from transactions involving such individual's own securities, personal property, or real estate is not included in the term Compensation.

- (d) **Outside Activity Approval Form** shall mean a form designated by the Commission as the Outside Activity Approval Form and available on the Commission’s website.
- (e) **Party** shall mean (i) any organization which at the last preceding election for governor of the State of New York polled at least fifty thousand votes for its candidate for governor; or (ii) the national political entity affiliated with such organization.
- (f) **Party Committee** shall mean any State committee, county committee, and such other committee (including national committee) as the rules of the Party may allow.
- (g) **Policy Maker** shall mean an officer, employee, director, commissioner, or member of a State Agency (other than a multi-state authority) who has been determined to hold a policy-making position pursuant to Public Officers Law § 73-a(1)(c).
- (h) **Political Organization** shall mean any organization that is affiliated with, or subsidiary to, a Party. The term does not include campaign or fundraising committees.
- (i) **State Agency** shall mean any State department, or division, board, commission, or bureau of any State department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.
- (j) **Statewide Elected Official** shall mean the Governor, Lieutenant Governor, Attorney General, or Comptroller of the State of New York.

932.3 General Standard for All Persons Subject to Public Officers Law § 74.

No individual who is subject to Public Officers Law § 74, shall engage in any outside activity which interferes or substantially conflicts with the proper and effective discharge of such individual’s official State duties or responsibilities.

932.4 Restrictions on Certain Political Activities.

- (a) No head of a State Agency, Statewide Elected Official, or Policy Maker (regardless of whether the person serves on an unpaid or per diem basis) shall serve as an officer, director, or board member of any Party or Political Organization.
- (b) No head of a State Agency, Statewide Elected Official, or Policy Maker (regardless of whether the person serves on an unpaid or per diem basis) shall serve as a member, officer, director, board member, or district leader of any Party Committee.
- (c) Nothing in this section shall prohibit a head of a State Agency, Statewide Elected Official, or Policy Maker from serving as a delegate to a State or national Party convention.

932.5 Required Prior Approval for Salaried Policy Makers, Heads of State Agencies, and Statewide Elected Officials.

- (a) A Policy Maker who serves the State on other than a unpaid or per diem basis, shall obtain the following approvals prior to engaging in the activities listed below:

Outside Activity	Required Approvals / Actions
A job, employment (including public employment), or business venture that generates, or is expected to generate, between \$1,000 and \$5,000 in Compensation annually	Approving Authority must approve
A job, employment (including public employment), or business venture that generates, or is expected to generate, more than \$5,000 in Compensation annually	Approving Authority <u>and</u> the Commission must approve
Holding elected or appointed public office (regardless of Compensation) as an outside activity	Approving Authority <u>and</u> the Commission must approve
Serving as a director or officer of a for-profit entity (regardless of Compensation)	Approving Authority <u>and</u> the Commission must approve

Outside Activity	Required Approvals / Actions
Serving as a director or officer of a not-for-profit entity	
(a) Compensation is \$0 - \$999 annually	Approval not required, but must notify Approving Authority in writing prior to commencing service
(1) Compensation is between \$1,000 and \$5,000 annually	Approving Authority must approve
(2) Compensation is more than \$5,000 annually	Approving Authority and the Commission must approve

(b) A head of a State Agency or a Statewide Elected Official shall obtain approval from the Commission prior to engaging in the outside activities listed in Section 932.5(a).

932.6 Approval Procedures.

(a) A Policy Maker who requires approval pursuant to Part 932.5(a) from his Approving Authority only, shall submit to the Approving Authority a written approval request prior to commencing the outside activity.

(1) The Approving Authority shall make its determination based on its interpretation of whether the proposed outside activity is in accordance with the applicable provisions of the Public Officers Law, Commission Advisory Opinions, pertinent State Agency policies, procedures, or regulations governing employee conduct, and such other factors as the Approving Authority may deem appropriate.

(b) A Policy Maker who also requires Commission approval pursuant to Part 932.5(a) shall submit to the Commission a request on the Outside Activity Approval Form. The form must be completed in full, including signatures from the individual and the Approving Authority. The Commission will not consider requests without a completed Outside Activity Approval Form.

- (c) A head of a State Agency or Statewide Elected Official who requires Commission approval pursuant to Part 932.5(b) shall submit to the Commission a request on the outside Activity Approval Form. The Commission will not consider requests without a completed Outside Activity Approval Form.
- (d) With respect to outside activity requests that require Commission approval, the Commission shall make its determination based on its interpretation of whether the proposed outside activity is in accordance with the applicable provisions of the Public Officers Law, Commission Advisory Opinions, regulations, and policies. The Commission may require additional information as it deems appropriate.

932.7 Previously Approved Outside Activity: Annual Disclosure and Material Changes.

- (a) Once an outside activity has been approved pursuant to Part 932.6 it shall remain effective unless and until there is a material change in the individual's State responsibilities or in the outside activity, at which point the individual must submit a new request for approval in accordance with Parts 932.5 and 932.6.
- (b) On an annual basis, an individual who has received approval for an outside activity pursuant to Part 932.6, or has otherwise disclosed the not-for-profit board service pursuant to Part 932.5, must inform, in writing, his Approving Authority (or, in the case of a head of a State Agency or a Statewide Elected Official, that State Agency's ethics officer or other designated individual) if the individual is still engaged in the outside activity for which approval was granted. The Approving Authority (or, in the case of a head of a State Agency or a Statewide Elected Official, that State Agency's ethics officer or other designated individual) shall determine the time and manner in which such annual disclosure is to be made.

932.8 Enforcement.

In addition to any penalty contained in any other provision of law, an individual's performance of an outside activity that is in violation of Public Officers Law § 73 or § 74 may subject him to a civil penalty or other Commission action. Nothing herein shall limit or prohibit the State Agency, Approving Authority, or other appropriate entity from taking disciplinary action with respect to violations of this Part of the Public Officers Law, including a fine, suspension without pay, or removal from office or employment in the manner provided by law, regulation, or collective bargaining agreement.

932.9 Codes of Ethics for Uncompensated and Per Diem Directors, Members and Officers.

The boards or councils whose officers or members are subject to § 73-a of the Public Officers Law and are not subject to § 73 of such law by virtue of their uncompensated or per diem compensation status and the commissions, public authorities, and public benefit corporations whose member or directors are subject to § 73-a of the public Officers Law and are not subject to § 73 by virtue of their uncompensated or per diem compensation status shall adopt a code of ethical conduct covering conflicts of interest and business and professional activities, including outside activities, of such directors, members, or officers both during and after service with such boards, councils, commissions, public authorities, and public benefit corporations. Such codes of ethical conduct shall be filed with the Commission.

932.10 Agencies Permitted More Restrictive Rules.

Nothing contained in this Part shall prohibit any State Agency from adopting or implementing its own rules, regulations, or procedures with regard to outside activities that are more restrictive than the requirements of this Part.



TITLE 19 NYCRR PART 933 GIFTS. (PURSUANT TO PUBLIC OFFICERS LAW)

(Effective June 18, 2014)

Title 19 NYCRR Part 933 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

933.1 Purpose and Effect of Regulations.

- (a) The purpose of these regulations is to effectuate the statutory provisions of Public Officers Law § 73(5), which incorporates the provisions of Section 1-c(j) of Article 1-A of the Legislative Law.
- (b) The effect of these regulations is to supersede prior Advisory Opinions issued by predecessor agencies to the Commission on Ethics and Lobbying in Government to the extent they are inconsistent with this Part.

933.2 Definitions.

- (a) ***Bona Fide Charitable Event*** shall mean a function the primary purpose of which is to provide financial support to a Charitable Organization.
- (b) ***Bona Fide Political Event*** shall mean a function the primary purpose of which is to provide financial support to Political Organization(s) or Political Candidate(s).
- (c) ***Charitable Organization*** shall mean:
 - (1) an entity as defined in Executive Law § 171-a (1) that is registered with the Office of the Attorney General, as required by Executive Law § 172, unless otherwise exempted from filing pursuant to Executive Law § 172-a; or

- (2) an entity organized and operated exclusively for charitable purposes and qualified as an exempt organization by the United States Department of Treasury under section 501(c)(3) of the Internal Revenue Code; or
- (3) a person who requests contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are paid to or for the benefit of the named beneficiary, provided the individual has submitted a form entitled “Charitable Solicitation for the Relief of an Individual” with the Charities Bureau of the Office of Attorney General prior to the event.
- (d) **Client** shall mean every person or organization as defined in § 1-c(b) of article 1-A of the Legislative Law.
- (e) **Commission** shall mean the New York State Commission on Ethics and Lobbying in Government..
- (f) **Complimentary Attendance** shall mean the waiver of all or part of a registration or admission fee, or waiver of all or part of a fee or charge for the provision of food, beverages, entertainment, instruction, or materials. “Complimentary Attendance” shall include the awarding of continuing education credits or certification for attendance at a program provided such credits or certification are offered to all attendees. “Complimentary Attendance” shall not include travel, lodging, or items of more than Nominal Value. For a State Officer or Employee (as defined in subdivision (v) of this section), the acceptance of payment or reimbursement for travel or lodging is governed by 19 NYCRR Part 931.
- (g) **Covered Person** shall mean:
- (1) State Officer or Employee as defined in subdivision (v) of this section;
 - (2) Legislative Employee as defined in subdivision (m) of this section; or
 - (3) Legislative Member as defined in subdivision (n) of this section.
- (h) **Educational Program** shall mean formal instruction provided to attendees. Factors to be considered in assessing whether a program is educational include, but are not limited to: the curriculum; whether the entity providing the program, or the instructors, are accredited, certified, or otherwise qualified to provide the program; to whom the program is presented to; and where and how the program is presented.

- (i) **Family Member** of any Covered Person shall have the same meaning as the term Relative set forth in Public Officers Law § 73(1)(m).
- (j) **Gift** shall mean anything of more than Nominal Value in any form including, but not limited to: money; service; loan; travel; lodging; meals; refreshments; entertainment; discount; or a forbearance of an obligation or a promise that has a monetary value. Notwithstanding the preceding sentence, the exclusions contained in section 933.4 are not Gifts and do not need to be analyzed under section 933.3.
- (k) **Informational Event** shall mean an event or meeting the primary purpose of which is to provide information about a subject or subjects related to a Covered Person's official responsibilities.
- (l) **Interested Source** shall mean any person or entity who on his or her own behalf, or on behalf of an entity, satisfies any one of the following:
 - (1) is regulated by, negotiates with, appears before in other than a Ministerial Matter, seeks to contract with or has contracts with, or does other business with: (i) the Legislative Member, the Legislative Employee, or the State Officer or Employee, in his or her official capacity; (ii) the State Agency with which the State Officer or Employee is employed or affiliated; or (iii) any other State Agency when the State Officer or Employee's agency is to receive the benefits of the contract; or
 - (2) with respect to a Legislative Member or a Legislative Employee, is required to be listed on a statement of registration pursuant to § 1-e(a)(1) of article 1-A of the Legislative Law, or is the spouse or unemancipated child of any person required to be listed on a statement of registration pursuant to § 1-e(a)(1) of article 1-A of the Legislative Law; or
 - (3) with respect to State Officers and Employees, is required to be listed on a statement of registration pursuant to § 1-e(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of the State Agency with which the State Officer or Employee is employed or affiliated; or
 - (4) with respect to State Officers and Employees, is the spouse or unemancipated child of any individual satisfying the requirements of section 933.2(1)(3); or

- (5) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the State Officer or Employee in his or her official capacity; or (ii) the State Agency with which the State Officer or Employee is employed or affiliated; or
- (6) has received or applied for funds from the State Agency with which the Covered Person is employed or affiliated at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the item or service of more than Nominal Value.
- (m) **Legislative Employee** shall mean any officer or employee of the New York State Legislature but it shall not include any Legislature Member.
- (n) **Legislative Member** shall mean any elected member of the New York State Legislature.
- (o) **Lobbyist** shall mean every person or organization as defined in § 1-c(a) of article 1-A of the Legislative Law.
- (p) **Ministerial Matter** shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- (q) **Nominal Value** is not defined in the Public Officers Law or Legislative Law Article One-A. The Commission, however, generally deems an item or service with a fair market value of fifteen dollars or less as having a Nominal Value.
- (r) **Political Candidate** shall mean any individual meeting any of the requirements in Public Officers Law §§ 73-a(2)(a)(iii)-(viii), including the current office holder.
- (s) **Political Organization** shall mean any entity that is affiliated with or a subsidiary of a political party including, without limitation, a partisan political club or committee, or a campaign or fund-raising committee for a political party or Political Candidate.
- (t) **Professional Program** shall mean a program that provides information, such as trends in an industry or discipline, which would benefit the administration or operation of the State and would enable a Covered Person to perform his or her duties more effectively. It shall not include a program, the primary purpose of which is the promotion or marketing of products or services for purchase or lease by the State.

(u) **State Agency** shall mean any civil department; State department; or division, board, commission, or bureau of any State department or civil department; any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.

(v) **State Officer(s) or Employee(s)** shall mean:

- (1) Statewide elected officials (Governor, Lieutenant Governor, Comptroller, and Attorney General of the State of New York);
- (2) Heads of civil departments and State departments and their respective deputies and assistants other than members of the Board of Regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis;
- (3) Officers and employees of statewide elected officials;
- (4) Officers and employees of state departments, boards, bureaus, divisions, commissions, councils, or other State Agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis;
- (5) Employees of public authorities (other than multi-state authorities), public benefit corporations, and commissions at least one of whose members of such public authorities, public benefit corporations, and commissions is appointed by the Governor; and
- (6) Members or directors of public authorities (other than multi-state authorities), public benefit corporations, and commissions identified in section 933.2(v)(5) who receive compensation other than on a per diem basis.

(w) **Widely Attended Event** shall mean an event as defined in Section 933.4(a)(7)(i).

933.3 Gifts.

- (a) If the item, service, or any other thing of value solicited, received, or accepted by a Covered Person meets the definition of Gift and is from an Interested Source, it is presumptively impermissible. Such Gift is only permissible if, under the circumstances, all of the following criteria are met:
- (1) it is not reasonable to infer that the Gift was intended to influence the Covered Person; and
 - (2) the Gift could not reasonably be expected to influence the Covered Person in the performance of his or her official duties; and
 - (3) it is not reasonable to infer that the Gift was intended as a reward for any official action on the Covered Person's part.
- (b) If the item, service, or any other thing of value solicited, received, or accepted by a Covered Person meets the definition of Gift and is not from an Interested Source, then the Gift is permissible unless, under the circumstances, any one of the following criteria is met:
- (1) it could reasonably be inferred that the Gift was offered or given with the intent to influence the Covered Person, or
 - (2) the Gift could reasonably be expected to influence the Covered Person in the performance of his or her official duties, or
 - (3) it could reasonably be inferred that the Gift was offered or given with the intent to reward the Covered Person for any official action on his or her part.
- (c) Multiple Gifts. Nothing in this Part shall be construed as relieving a Covered Person's obligations under Public Officers Law § 74 with respect to the solicitation, receipt, or acceptance of multiple items, services, or any other things of value that, individually, are permissible Gifts under sections 933.3(a) or (b).
- (d) Directing Impermissible Gifts to Third Parties Prohibited. A Covered Person may not direct a Gift that is impermissible under sections 933.3(a) or (b) to any third party, including a Charitable Organization.

- (e) A Gift that is permissible under sections 933.3(a) or (b) satisfies the Covered Person's obligations under Public Officers Law §§ 73 and 74 with respect to such Gift.

933.4 Exclusions.

- (a) The following are not Gifts:
- (1) Anything for which a Covered Person has paid fair market value.
 - (2) Anything for which the State has paid or secured by State contract.
 - (3) Rewards or prizes given to competitors in contests or events (including random drawings) offered to the general public or a segment of the general public defined on a basis other than status as a Covered Person.
 - (4) Contributions reportable under article fourteen of the Election Law, including contributions made in violation of that article of the Election Law.
 - (5) Food or beverage valued at fifteen dollars or less per occasion.
 - (6) Complimentary Attendance (including food and beverage) at a Bona Fide Charitable Event or a Bona Fide Political Event.
 - (7) Complimentary Attendance (including food and beverage) offered by the sponsor of a Widely Attended Event.
 - (i) Widely Attended Event shall mean an event:
 - (A) which at least twenty-five individuals other than members, officers, or employees from the governmental entity in which the Covered Person serves attend or were, in good faith, invited to attend in person;
 - and
 - (B) which is related to the attendee's duties or responsibilities or allows the Covered Person to perform a ceremonial function appropriate to his or her position. For the purposes of this exclusion, a Covered Person's duties or responsibilities shall include but not be limited to:

(1) For elected Covered Persons (or their staff attending with or on behalf of such elected officials) only, attending an event or a meeting at which more than one-half of the attendees, or persons invited in good faith to attend in person, are residents of the county, district, or jurisdiction from which the elected Covered Person was elected

or

(2) For all Covered Persons, attending an event or a meeting at which a speaker or attendee addresses an issue of public interest or concern as a significant activity at such event or meeting.

(I) For the purposes of Section 933.4(a)(7)(i)(B), Complimentary Attendance does not include registration or admission without charge to any entertainment, recreational, or sporting activity unless the presentation addressing the public interest or concern that is made by the speaker or attendee is delivered at such entertainment, recreational, or sporting activity.

(II) For the purposes of Section 933.4(a)(7)(i)(B), Complimentary Attendance does not include food and beverage unless such food or beverage are available to all participants as part of the Widely Attended Event.

(ii) Prior Written Notification Required for State Officers or Employees.

A State Officer or Employee shall, prior to the Widely Attended Event, notify in writing the head of his or her State Agency (or such person's appropriate designee for the State Officer or Employee involved) of the State Officer's or Employee's intention to accept an invitation for Complimentary Attendance from the sponsor of a Widely Attended Event. The written notification shall contain pertinent details demonstrating that the criteria for a Widely Attended Event, contained in Section 933.4(a)(7)(i), are satisfied.

(8) Awards, Plaques, and Other Ceremonial Items.

Awards, plaques, and other ceremonial items must be publicly presented, or intended to be publicly presented, and in recognition of service related to a Covered Person's official duties and responsibilities. Additionally, such awards, plaques, and other ceremonial items must be of the type customarily bestowed at similar ceremonies and be otherwise reasonable under the circumstances.

(9) Honorary degrees bestowed upon a Covered Person by a public or private college or university.

(10) Promotional Items.

Items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an entity's name, logo, or message in a manner which promotes the entity's cause.

(11) Goods and Services and Discounts for Goods and Services.

(i) Goods and services, or discounts for goods and services, must be offered to the general public or a segment of the general public defined on a basis other than status as a Covered Person and offered on the same terms and conditions as the goods and services are offered to the general public or segment thereof.

(ii) Notwithstanding section 933.4(a)(11)(i), discounts made available to all Covered Persons fall within this exclusion.

(iii) Notwithstanding section 933.4(a)(11)(i), discounts made to a select group of Covered Persons may fall within this exclusion. The following non-exhaustive list of factors shall be considered when any discount is made available to a select group of Covered Persons to determine whether the discount would fall within this exclusion:

(A) the scope of the class of Covered Persons who are offered the discount;

(B) the amount and duration of the discount;

(C) whether the criterion for the offer is based on factors other than the Covered Person's official duties and responsibilities; and

(D) For State Officers and Employees, whether the offeror is an Interested Source.

(12) Gifts from Friends or Family Members.

(i) Gifts from a Family Member or a person with a personal relationship with a Covered Person when it is reasonable to infer that the Gift was primarily motivated by the family or personal relationship. Personal Gifts may include an invitation to attend a personal or family social event.

(ii) In determining whether the Gift was primarily motivated by a family or personal relationship, the factors to be considered include but are not limited to:

(A) the history and nature of the relationship between the individual offering the Gift and the recipient, including whether items have previously been exchanged;

(B) whether the item was purchased by the individual offering the Gift; and

(C) whether the individual offering the Gift at the same time gave similar items to other Covered Persons.

(iii) The Gift shall not be considered to be motivated by a family or personal relationship if the individual or entity seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client.

(13) Reimbursement of Expenses for Speakers at Informational Events.

Travel reimbursement or payment for transportation, meals, and accommodations for an attendee, panelist, or speaker at an Informational Event when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus, provided, however, that the Covered Person may only accept lodging from an institution of higher education:

(a) at a location on or within close proximity to the host campus; and (b) for the night

preceding and the nights of the days on which the attendee, panelist, or speaker actually attends the Informational Event.

(14) Provision of Local Transportation to Inspect Facilities.

(i) Provision of local transportation to inspect or tour facilities, operations, or property located in New York State, when such inspection or tour is related to the Covered Person's official duties or responsibilities.

(ii) The payment or reimbursement for expenses for lodging or travel expenses to and from the locality where such facilities, operations, or property are located is not covered by this exclusion. The acceptance of such payment or reimbursement is governed by Part 931.

(15) Meals for Participants at a Professional or Educational Program.

Receipt of food and beverages when participating in a Professional Program or Educational Program as a part of a Covered Person's official duties, provided the food or beverages are available to all participants.

(b) With respect to the solicitation, acceptance, or receipt of items and services identified in sections 933.4(a)(5)-(15), nothing in this Part shall be construed as relieving a Covered Person's obligations under Public Officers Law §74 with respect to such items or services.

933.5 Multiple Non-Gifts.

Nothing in this Part shall be construed as relieving a Covered Person's obligations under Public Officers Law § 74 with respect to the solicitation, receipt, or acceptance of multiple items, services, or any other things of value that, individually, are not Gifts solely because each has less than Nominal Value.

933.6 Enforcement.

The Commission is authorized pursuant to Executive Law § 94 to investigate possible violations of Public Officers Law § 73 and § 74 and their corresponding regulations and take appropriate action as authorized in these statutes.

933.7 Minimum Requirements.

Nothing contained in this Part shall prohibit any State Agency from adopting or implementing its own rules, regulations, or procedures that are more restrictive than the requirements of this Part.



TITLE 19 NYCRR PART 934

GIFTS (PURSUANT TO LEGISLATIVE LAW ARTICLE 1-A)

(Effective June 18, 2014)

Title 19 NYCRR Part 934 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

934.1 Purpose and Effect of Regulation.

- (a) The purpose of these regulations is to effectuate the statutory provisions of § 1-c(j) and § 1-m of article 1-A of the Legislative Law.
- (b) The effect of these regulations is to supersede prior Advisory Opinions issued by predecessor agencies to the Commission on Ethics and Lobbying in Government to the extent they are inconsistent with this Part.

934.2 Definitions.

- (a) ***Bona Fide Charitable Event*** shall mean a function the primary purpose of which is to provide financial support to a Charitable Organization.
- (b) ***Bona Fide Political Event*** shall mean a function the primary purpose of which is to provide financial support to Political Organization(s) or Political Candidate(s).
- (c) ***Charitable Organization*** shall mean:
 - (1) an entity as defined in Executive Law § 171-a (1) that is registered with the Office of the Attorney General, as required by Executive Law § 172, unless otherwise exempted from filing pursuant to Executive Law § 172-a; or

- (2) an entity organized and operated exclusively for charitable purposes and qualified as an exempt organization by the United States Department of Treasury under section 501(c)(3) of the Internal Revenue Code; or
- (3) a person who requests contributions for the relief of any individual, specified by name at the time of the solicitation, if all of the contributions collected, without any deductions whatsoever, are paid to or for the benefit of the named beneficiary, provided the individual has submitted a form entitled “Charitable Solicitation for the Relief of an Individual” with the Charities Bureau of the Office of Attorney General prior to the event.
- (d) **Client** shall mean every person or organization as defined in § 1-c(b) of article 1-A of the Legislative Law.
- (e) **Commission** shall mean the New York State Commission on Ethics and Lobbying in Government.
- (f) **Complimentary Attendance** shall mean the waiver of all or part of a registration or admission fee, or waiver of all or part of a fee or charge for the provision of food, beverages, entertainment, instruction, or materials. “Complimentary Attendance” shall include the awarding of continuing education credits or certification for attendance at a program provided such credits or certification are offered to all attendees. “Complimentary Attendance” shall not include travel, lodging, or items of more than Nominal Value.
- (g) **Educational Program** shall mean formal instruction provided to attendees. Factors to be considered in assessing whether a program is educational include, but are not limited to: the curriculum; whether the entity providing the program, or the instructors, are accredited, certified, or otherwise qualified to provide the program; who the program is presented to; and where and how the program is presented.
- (h) **Family Member** of any Public Official shall have the same meaning as the term Relative set forth in Public Officers Law § 73(1)(m).
- (i) **Gift** shall mean anything of more than Nominal Value in any form including, but not limited to: money; service; loan; travel; lodging; meals; refreshments; entertainment; discount; or a forbearance of an obligation or a promise that has a monetary value. Notwithstanding the preceding sentence, the exclusions contained in section 934.4 are not Gifts and do not need to be analyzed under section 934.3.

- (j) **Informational Event** shall mean an event or meeting the primary purpose of which is to provide information about a subject or subjects related to a Public Official's official responsibilities.
- (k) **Lobbyist** shall mean every person or organization as defined in § 1-c(a) of article 1-A of the Legislative Law.
- (l) **Ministerial Matter** shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- (m) **Nominal Value** is not defined in the Public Officers Law or Legislative Law Article One-A. The Commission, however, generally deems an item or service with a fair market value of fifteen dollars or less as having a Nominal Value.
- (n) **Political Candidate** shall mean any individual meeting any of the requirements in Public Officers Law §§ 73-a(2)(a)(iii)-(viii), including the current office holder.
- (o) **Political Organization** shall mean any entity that is affiliated with or a subsidiary of a political party including, without limitation, a partisan political club or committee, or a campaign or fund-raising committee for a political party or Political Candidate.
- (p) **Professional Program** shall mean a program that provides information, such as trends in an industry or discipline, which would benefit the administration or operation of the State or the Public Official's applicable governmental entity, and would enable a Public Official to perform his or her duties more effectively. It shall not include a program, the primary purpose of which is the promotion or marketing of products or services for purchase or lease by the State or the Public Official's applicable governmental entity.
- (q) **Public Official(s)** shall mean:
- (1) Statewide elected officials (the Governor, Lieutenant Governor, Comptroller, or Attorney General of the State of New York) and their officers and employees;
 - (2) Members, officers, and employees of the New York State Legislature;
 - (3) Heads of State departments and their deputies and assistants other than members of the Board of Regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis;

- (4) Officers and employees of state departments, boards, bureaus, divisions, commissions, councils, or other state agencies;
- (5) Members, directors, and employees of public authorities (other than multi-state authorities), public benefit corporations, and commissions at least one of whose members is appointed by the Governor; and
- (6) Municipal officers and employees (including officers or employees of a municipality as defined § 1-c(k) of article 1-A of the Legislative Law), whether paid or unpaid. Municipal officers and employees also includes members of any administrative board, commission, or other agency thereof, and in the case of a county, shall include any officer or employee paid from county funds. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.

(r) ***Widely Attended Event*** shall mean an event as defined in Section 934.4(a)(4)(i).

934.3 Gifts.

- (a) It is presumptively impermissible for a Lobbyist or Client to offer or give a Gift to any Public Official. Such a Gift is only permissible if, under the circumstances, all of the following criteria are met:
 - (1) it is not reasonable to infer that the Gift was intended to influence the Public Official; and
 - (2) the Gift could not reasonably be expected to influence the Public Official, in the performance of his or her official duties; and
 - (3) it is not reasonable to infer that the Gift was intended as a reward for any official action on the Public Official's part.
- (b) The offering or giving of a Gift from a Lobbyist or a Client to the spouse or unemancipated child of a Public Official is permissible unless, under the circumstances, any one of the following criteria is met:
 - (1) it could reasonably be inferred that the Gift was offered or given with the intent to influence the Public Official; or

- (2) the Gift could reasonably be expected to influence the Public Official in the performance of his or her official duties; or
 - (3) it could reasonably be inferred that the Gift was offered or given with the intent to reward the Public Official for any official action on his or her part.
- (c) The offering or giving of a Gift from a spouse or unemancipated child of a Lobbyist or a Client to a Public Official is permissible unless, under the circumstances, any one of the following criteria is met:
 - (1) it could reasonably be inferred that the Gift was offered or given with the intent to influence the Public Official; or
 - (2) the Gift could reasonably be expected to influence the Public Official in the performance of his or her official duties; or
 - (3) it could reasonably be inferred that the Gift was offered or given with the intent to reward the Public Official for any official action on his or her part.
- (d) Notwithstanding sections 934.3(a), (b), and (c), nothing in this Part shall apply to Gifts to officers, members, or directors of boards, commissions, councils, public authorities, or public benefit corporations who receive no compensation or are compensated on a per diem basis if the Lobbyist or Client giving or offering such Gift does not appear, and does not have any matters pending before, the entity on which the recipient sits.
- (e) No Lobbyist or Client shall offer or give a Gift to a third party, including a Charitable Organization:
 - (1) on behalf of a Public Official (or a Public Official's spouse or unemancipated child), when such Gift cannot be offered or given to such Public Official (or the spouse or unemancipated child of such Public Official) under section 934.3(a); or
 - (2) at the designation or recommendation of a Public Official (or a Public Official's spouse or unemancipated child), when such Gift cannot be offered or given to such Public Official (or the spouse or unemancipated child of such Public Official) under section 934.3(a).

- (f) Multiple Gifts. A Gift that is otherwise permissible under sections 934.3(a), (b), or (c) may be prohibited if it is one of multiple Gifts from the same person, entity, or organization if, under the circumstances, it could be reasonable to infer that the multiple Gifts, collectively, (i) were given with the intent to influence the Public Official; or (ii) could reasonably be expected to influence the Public Official in the performance of his or her official duties; or (iii) were offered or given with the intent to reward the Public Official for any official action on his or her part.

934.4 Exclusions.

- (1) The following are not Gifts:

- (1) Contributions reportable under article fourteen of the Election Law, including contributions made in violation of that article of the Election Law.
- (2) Food or beverage valued at fifteen dollars or less per occasion.
- (3) Complimentary Attendance (including food and beverage) at a Bona Fide Charitable Event or a Bona Fide Political Event.
- (4) Complimentary Attendance (including food and beverage) offered by a Lobbyist or Client who is the sponsor of a Widely Attended Event.

- (i) Widely Attended Event shall mean an event:

(A) which at least twenty-five individuals other than members, officers, or employees from the governmental entity in which the Public Official serves attend or were, in good faith, invited to attend in person;

and

(B) which is related to the attendee's duties or responsibilities or allows the Public Official to perform a ceremonial function appropriate to his or her position. For the purposes of this exclusion, a Public Official's duties or responsibilities shall include but not be limited to:

- (1) For an elected Public Official (or his or her staff attending with or on behalf of such elected official) only, attending an event or a meeting at which more than one-half of the attendees, or persons invited in good

faith to attend in person, are residents of the county, district, or jurisdiction from which the elected Public Official was elected.

or

(2) For all Covered Persons, attending an event or a meeting at which a speaker or attendee addresses an issue of public interest or concern as a significant activity at such event or meeting.

- i. For the purposes of Section 934.4(a)(4)(i)(B), Complimentary Attendance does not include registration or admission without charge to any entertainment, recreational, or sporting activity unless the presentation addressing the issue of public interest or concern that is made by the speaker or attendee is delivered at such entertainment, recreational, or sporting activity.
- ii. For the purposes of Section 934.4(a)(4)(i)(B), Complimentary Attendance does not include food and beverage unless such food or beverage are available to all participants as part of the Widely Attended Event.

(5) Awards, Plaques, and Other Ceremonial Items.

Awards, plaques, and other ceremonial items must be publicly presented, or intended to be publicly presented, and in recognition of service related to a Public Official's official duties and responsibilities. Additionally, such awards, plaques, and other ceremonial items must be of the type customarily bestowed at similar ceremonies and be otherwise reasonable under the circumstances.

(6) Honorary degrees bestowed upon a Public Official by a public or private college or university.

(7) Promotional Items.

Items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an entity's name, logo, or message in a manner which promotes the entity's cause.

(8) Goods and Services and Discounts for Goods and Services.

(i) Goods and services, or discounts for goods and services, must be offered to the general public or a segment of the general public defined on a basis other than status as a Public Official and offered on the same terms and conditions as the goods and services are offered to the general public or segment thereof.

(ii) Notwithstanding section 934.4(a)(8)(i), discounts made available to all Public Officials fall within this exclusion.

(iii) Notwithstanding section 934.4(a)(8)(i), discounts made to a select group of Public Officials may fall within this exclusion. The following non-exhaustive list of factors shall be considered when any discount is made available to a select group of Public Officials to determine whether the discount would fall within this exclusion:

(A) the scope of the class of Public Officials who are offered the discount;

(B) the amount and duration of the discount; and

(C) whether the criterion for the offer is based on factors other than the Public Official's official duties and responsibilities.

(9) Gifts from Friends or Family Members.

(i) Gifts, including an invitation to attend a personal or family social event, from a Client or Lobbyist (or the Client's or Lobbyist's spouse or unemancipated child) when all of the following criteria are met:

(A) the Client or Lobbyist (or the Client's or Lobbyist's spouse or unemancipated child) is a Family Member or a person with a personal relationship with a Public Official; and

(B) it is reasonable to infer that the Gift was primarily motivated by the family or personal relationship.

(ii) In determining whether the Gift was primarily motivated by a family or personal relationship, the factors to be considered include but are not limited to:

(A) the history and nature of the relationship between the individual offering the Gift and the recipient, including whether items have previously been exchanged;

(B) whether the item was purchased by the individual offering the Gift; and

(C) whether the individual offering the Gift at the same time gave similar items to other Public Officials.

(iii) The Gift shall not be considered to be motivated by a family or personal relationship if the individual or entity seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client.

(10) Reimbursement of Expenses for Speakers at Informational Events.

Travel reimbursement or payment for transportation, meals, and accommodations for an attendee, panelist, or speaker at an Informational Event when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus, provided, however, that the Public Official may only accept lodging from an institution of higher education: (a) at a location on or within close proximity to the host campus; and (b) for the night preceding and the nights of the days on which the attendee, panelist, or speaker actually attends the Informational Event.

(11) Provision of Local Transportation to Inspect Facilities.

(i) Provision of local transportation to inspect or tour facilities, operations, or property located in New York State, when such inspection or tour is related to the Public Official's official duties or responsibilities.

(ii) The payment or reimbursement for expenses for lodging or travel expenses to and from the locality where such facilities, operations, or property are located is not covered by this exclusion.

(12) Meals for Participants at a Professional or Educational Program.

Receipt of food and beverages when participating in a Professional Program or Educational Program as a part of a Public Official's official duties, provided the food or beverages are available to all participants.

934.5 Enforcement.

The Commission is authorized pursuant to Executive Law §94 to investigate possible violations of § 1-m of article 1-A of the Legislative Law and its corresponding regulations and take appropriate action as authorized in these statutes.



TITLE 19 NYCRR PART 935

PROCEDURE FOR REQUESTING AN EXEMPTION FROM FILING A FINANCIAL DISCLOSURE STATEMENT

(Effective June 6, 2018)

Title 19 NYCRR Part 935 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

935.1 Definitions.

- (a) ***Annual Compensation*** shall mean that basic annual salary that an individual receives to perform the duties of the position in which he or she serves. Payment of overtime, a one-time bonus, a performance award that does not become part of the basic annual salary, a lump sum payment for whatever purpose including retroactive payment for a salary increase, uniform or clothing allowance, tuition reimbursement or payment or similar one-time payment that does not become part of the individual's basic annual salary shall not be included in determining Annual Compensation.
- (b) ***Appointing Authority*** shall mean that individual or body that has the authority by law, rule or regulation to appoint a person to a position, or that individual or body to whom such authority may be properly delegated by law, rule or regulation.
- (c) ***Commission*** shall mean the New York State Commission on Ethics and Lobbying in Government.
- (d) ***Employee*** shall mean a State officer or employee of a State Agency, as defined in subdivision (h) of this Section, who serves in a position that has not been designated policymaking pursuant to section 73-a of the Public Officers Law and who earns Annual Compensation in excess of the Filing Rate.
- (e) ***Exemption*** shall mean a waiver from filing a Financial Disclosure Statement pursuant to section 73-a of the Public Officers Law.

- (f) **Filing Rate** shall mean the job rate of SG-24 as set forth in section 130 (1) (a) of the Civil Service Law as of April 1 of the year in which an annual Financial Disclosure Statement shall be filed.
- (g) **Financial Disclosure Statement** shall mean the annual statement that must be filed pursuant to section 73-a of the Public Officers Law.
- (h) **State Agency** shall mean any State department, or division, board, commission, or bureau of any State department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the Governor, or the State University of New York or the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State.
- (i) **Title** shall mean the name of the position or job in which an Employee serves.
- (j) **Job Classification** shall mean a series of Titles that may be included under one classification standard or may be part of a promotional series that may be considered for Exemption.
- (k) **Employee Organization** shall mean an employee organization that is recognized or certified pursuant to section 204 of the Civil Service Law to represent public employees of a public employer.

935.2 Procedure.

- (a) A person who is an Employee or becomes qualified as an Employee as defined in Section 935.1(d) prior to May 15 in any year shall file a Financial Disclosure Statement for the preceding year on or before May 15. Pursuant to Executive Law section 94(9)(k), the Commission permits such an Employee to request an Exemption from this filing requirement in accordance with this Section. If requesting an Exemption, such Employee shall file the Exemption request with the Commission on or before May 15.
- (b) A person who qualifies as an Employee as defined in this Section 935.1(d) after May 15 of any year shall file the Financial Disclosure Statement for the preceding year within 30 days of commencing the qualifying employment. Pursuant to Executive Law section 94(9)(k), the Commission permits such an Employee to request an Exemption from this filing requirement in accordance with this Section. If requesting an Exemption, such Employee shall file the Exemption request with the Commission within 30 days of commencing the qualifying employment.

- (c) The Exemption request shall be in writing and sent to the Commission via mail, email or facsimile.
- (d) The Exemption request may be filed by the Employee individually, or by the Employee Organization or State Agency on behalf of persons who share the same Title or Job Classification.
- (e) Pending the Commission's determination of an Exemption request, such Employee is not required to file the Financial Disclosure Statement. If the Commission denies the Exemption request, such Employee has 15 days from receipt of the denial to file the Financial Disclosure Statement with the Commission.
- (f) The request for Exemption shall include the following information:
 - (1) name and address of the Employee, if the request is on an individual basis, or the name of the Employee Organization filing or the name of State Agency filing and the address and name of the individual authorized to file on behalf of the Employee Organization or State Agency;
 - (2) the Title(s) of the position(s) or the Job Classification(s) and a list of each State Agency where such Title(s) or Job Classification(s) is located, if known;
 - (3) a copy of the duties and specifications of the Title(s) or Job Classification(s) for which an Exemption is requested; and
 - (4) a statement to support the position of the filing individual or entity that the Title(s) or Job Classification(s) do not involve the duties that would otherwise preclude an Exemption from filing a Financial Disclosure Statement.
- (g) The request for Exemption must be signed by the individual requesting such Exemption or by the authorized representative of the Employee Organization or State Agency that is requesting such an Exemption on behalf of Title(s) or Job Classification(s).
- (h) (1) An individual who files a request for Exemption, must also file a copy of such request with his or her Appointing Authority and an Employee Organization that files a request for Exemption must also file a copy with all agencies where the Title(s) or Job Classification(s) are located.

- (2) The Appointing Authority, or any State Agency where the Title or Job Classification exists, within seven working days, may file a written objection to such a request with the Commission based solely on the grounds that the duties of the Title(s) or Job Classification(s) do not permit an Exemption to be granted. The objection shall also be filed with the individual or Employee Organization, as appropriate.
- (3) The individual or Employee Organization, as appropriate, may, within seven working days, file a written response to the objection of the Appointing Authority or State Agency with the Commission. The written response shall also be filed with the Appointing Authority.
- (4) Should no filing under paragraph (2) or (3) of this Subpart occur within the time limits provided, the Commission may act upon the request for Exemption based on the material available to it.

935.3 Commission action.

- (a) Upon receipt of a request for an Exemption from filing a Financial Disclosure Statement, the Commission shall review the material filed to determine whether the duties of the Title(s) or Job Classification(s) include any of the duties that are set forth in section 94(9)(k) of the Executive Law, without further inquiry. If no further information is required, the Commission shall render its decision on the request before it.
- (b)
 - (1) Upon a determination that the Title(s) or Job Classification(s) do not include the duties that would otherwise exclude such an Exemption, the Commission shall, if it determines it is in the public interest, grant such Exemption on an individual, Title or Job Classification basis as requested, except as provided in paragraph (3) of this subdivision.
 - (2) Upon a determination that the Title(s) or Job Classification(s) do include such duties, the Commission shall deny the request for an Exemption.
- (c) The Commission shall notify the requesting individual or the Employee Organization or State Agency, as appropriate, of its determination on a request for Exemption.
- (d) Once an Exemption has been granted to an individual, or to a Title or Titles, or to a Job Classification, an individual, as long as he or she serves in that Title or Job Classification, will not be required to submit a Financial Disclosure Statement in any subsequent year for which one would otherwise be required unless:

- (1) the individual is appointed or promoted to a new Title or Job Classification in which such a filing is required; or
- (2) the duties of the Title or Job Classification change to include duties that would preclude an Exemption from filing a Financial Disclosure Statement; or
- (3) the individual serves in a position that is designated as policymaking by his or her Appointing Authority; or
- (4) the Commission, upon review of its determination to grant such exception, determines the Exemption is no longer appropriate under the law or this rule and regulation.



TITLE 19 NYCRR PART 936

PROCEDURE FOR EXTENSION OF TIME FOR FILING A FINANCIAL DISCLOSURE STATEMENT DUE TO JUSTIFIABLE CAUSE OR UNDUE HARDSHIP OR AUTOMATIC EXTENSION OF TIME TO FILE

(Effective June 6, 2018)

Title 19 NYCRR Part 935 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

936.1 Applicability.

This part shall apply to the following individuals:

- (a) The four statewide elected officials;
- (b) State officers or employees; and
- (c) Political party chairmen;

who are required to file an annual statement of financial disclosure pursuant to section 73-a of the Public Officers Law.

936.2 Definitions.

- (a) **Commission** shall mean the New York State Commission on Ethics and Lobbying in Government.
- (b) **Covered Individual** shall mean an individual who is required to file an annual statement of financial disclosure with the Commission pursuant to section 73-a of the Public Officers Law.
- (c) **Filing Rate** shall mean the job rate of SG-24 as set forth in section 130(1)(a) of the Civil Service Law as of April first of the year in which a Financial Disclosure Statement shall be filed.

- (d) **Financial Disclosure Statement** shall mean the annual statement of financial disclosure required to be filed pursuant to section 73-a of the Public Officers Law.
- (e) **Political Party Chairman** shall have the same meaning ascribed to such term by section 73 (1)(k) of the Public Officers Law.
- (f) **State Officer or Employee** shall mean:
- (1) Heads of State departments and their deputies and assistants;
 - (2) Officers and employees of statewide elected officials, officers and employees of State departments, boards, bureaus, divisions, commissions, councils or other State agencies, who:
 - (i) receive annual compensation in excess of the Filing Rate; and
 - (ii) have not been exempted from filing a Financial Disclosure Statement; or
 - (iii) hold policymaking positions as determined by the appropriate appointing authority; and
 - (3) Members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the Governor, and those employees of such authorities, corporations and commissions, who:
 - (i) receive annual compensation in excess of the Filing Rate; and
 - (ii) have not been exempted from filing a Financial Disclosure Statement; or
 - (iii) who hold policymaking positions as determined by the appropriate appointing authority.
- (g) **Statewide Elected Official** shall mean the Governor, Lieutenant Governor, Comptroller and Attorney General.

936.3 Basis for extension.

A Covered Individual may be granted an extension of time within which to file a Financial Disclosure Statement with the Commission only upon a showing of:

- (a) Justifiable cause; or
- (b) Undue hardship.

936.4 Procedure.

- (a) A covered individual may request an extension of time within which to file the Financial Disclosure Statement by sending a written request to the Commission via mail, email or facsimile in accordance with this Section.
- (b) A person who is or becomes a Covered Individual on or before May 15 of any year shall file the extension request with the Commission on or before May 15 of the same year. If the Commission grants the extension, such Covered Individual shall file the Financial Disclosure Statement no later than June 30 of the same year.
- (c) A person who becomes a Covered Individual after May 15 of any year shall file the extension request with the Commission within 30 days of becoming a Covered Individual. If the Commission grants the extension, such Covered Individual shall file the Financial Disclosure Statement within 45 days of the date that the statement is otherwise required.
- (d) The extension request must contain the following information:
 - (1) The name of the Covered Individual, home address and work address;
 - (2) The title(s) of the position or job classification(s) under which the individual is employed, and the appropriate title code; and
 - (3) Documentation of justifiable cause or undue hardship in the form of a written statement with copies of any necessary supporting documents the Covered Individual wishes the Commission to consider in granting or denying the request.
- (e) Justifiable cause or undue hardship shall not include periods of vacation, attendance at conferences or meetings or other prescheduled or voluntary absences.

936.5 Commission action.

- (a) Upon receipt of a timely request from a Covered Individual for an extension in which to file a Financial Disclosure Statement, the Commission shall review the material filed to determine whether there has been a showing of justifiable cause or undue hardship.
- (b) The Commission may request additional information from the Covered Individual who submitted the request. Such individual shall submit the additional information to the Commission within seven business days. In the event the Commission does not receive the additional information within 7 business days, the Commission may make a determination on the basis of the information it has available.
- (c) The Commission shall notify the Covered Individual of its determination on the request for extension to file the Financial Disclosure Statement.
 - (1) If the Commission approves the extension request, the Covered Individual shall file the Financial Disclosure Statement within the applicable time period set forth in 936.4 (b) or (c) of this Section.
 - (2) If the Commission denies the extension request, such Financial Disclosure Statement shall be filed with the Commission within 15 days from receipt of such denial.

936.6 Automatic extension.

- (a) In the event a Covered Individual timely filed with the Internal Revenue Service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year, such individual shall file with the Commission, with respect to any item of the annual statement, a written statement that such information is lacking from such annual statement but will be supplied in a supplementary Financial Disclosure Statement on or before the seventh day after the expiration of the period of such automatic extension of time to file such income tax return.
- (b) The written statement filed with the Commission concerning an automatic extension of time to file must contain the following information:
 - (1) The name of the Covered Individual, home address and work address;

- (2) The title(s) of the position or job classification(s) under which the individual is employed, and the appropriate title code;
 - (3) A copy of the application for automatic extension to file an income tax return; and
 - (4) A description of the information that is lacking in the filed annual statement due to the application of an automatic extension to file an income tax return with the Internal Revenue Service.
- (c) An individual who is entitled to an automatic extension to file his or her income tax return with the Internal Revenue Service must file his or her annual Financial Disclosure Statement on or before May 15 containing all the information required by the annual statement except for the information that is lacking due to such automatic extension to file the income tax return.
- (d) Failure to file such supplementary statement or filing an incomplete or deficient supplementary filing shall be subject to the notice and penalty provisions of the Public Officers Law and the Executive Law as if such supplementary statement were an annual Financial Disclosure Statement.



TITLE 19 NYCRR PART 937

ACCESS TO PUBLICLY AVAILABLE RECORDS

(Revised 08/09/2023)

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

PART 937

Section 937.1 Purpose and Scope

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Section 947.3 Records Access

Section 937.4 Designation of Records Access Officer

Section 937.5 Location and Hours for Public Inspection of Records

Section 937.6 Requests for Public Access to Records

Section 937.7 Subject Matter List

Section 937.8 Denial of Access to Records

Section 937.9 Fees

Section 937.10 Public Notice

Section 937.11 Severability

937.1 Purpose and Scope

This Part contains information concerning the information, documents and records that are made publicly available by the Commission on Ethics and Lobbying in Government (the “Commission”) and sets forth the procedures by which such records and information may be obtained from the Commission pursuant to Executive Law §94 and article six of Public Officers Law, known as the Freedom of Information Law.

937.2 Information and Documents Publicly Available

- (a) Pursuant to Executive Law section 94(13)(b), the following documents of the Commission are available on the Commission’s website:
- (1) The information set forth in annual statements of financial disclosure filed by statewide elected officials and members of the State legislature pursuant to Public Officers Law §73-a, except information that has been deleted pursuant to Executive Law § 94(9)(h);
 - (2) Notices of Delinquency issued pursuant to Executive Law § 94(9);
 - (3) Notices of Civil Assessments imposed pursuant to Executive Law § 94, which include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the Commission, and any sanction imposed;
 - (4) The terms of any Settlement Agreement or compromise of a complaint or referral that includes a fine, penalty, or other remedy;
 - (5) Those documents required to be held or maintained publicly available pursuant to article one-A of the Legislative Law; and
 - (6) Non-confidential reports issued by the Commission pursuant to Executive Law § 94.
- (b) In addition to the documents enumerated in subdivision (a) of this section, the Commission, at its discretion, may make additional documents available on the Commission’s website.
- (c) In addition to the documents available pursuant to subdivision (a) of this section, the following additional information related to annual statements of financial disclosure is available upon request:

(1) With respect to a particular annual statement of financial disclosure:

(i) The date of submission;

(ii) Whether deletions have been made to the filing pursuant to Executive Law § 94(9)(h);

(a) This will not include information that is routinely redacted from all annual statements of financial disclosure by the Commission as a matter of course such as addresses of primary residence, names of minor children, email addresses, and account numbers.

(iii) If a particular filing is unavailable, the status of that filing, *i.e.*, whether it is pending, overdue, or unavailable for some other reason such as an extension of time to file, an exemption from filing, or a pending application for deletion or exemption pursuant to Executive Law § 94(9).

(2) With respect to a particular individual, whether such individual is required to file an annual statement of financial disclosure, including:

(i) Whether the individual has been designated a Policy Maker or meets the filing rate pursuant to Public Officers Law § 73-a.

(a) This shall include the date that the reporting individual's appointing authority amended the written instrument required under Public Officers Law § 73-a(1)(c)(ii) to include the individual as a required filer.

(ii) Whether such individual has sought or received an exemption from filing pursuant to Executive Law § 94(9)(k).

NB: responses to subparagraphs (i) and (ii) of paragraph (2) may vary depending on the filing year in question.

(3) For a specific state agency (as defined by subsection 1(b) of Public Officers Law § 73-a), a list of individuals who are required to submit an annual statement of financial disclosure and whether each individual has been designated as a Policy Maker by their appointing authority.

(4) A list of job titles and employment classifications that have been exempted from the requirement to file an annual statement of financial disclosure pursuant to Executive Law § 94(9)(k).

(d) In addition to the documents enumerated in subdivision (a) of this section, the Commission shall make available, pursuant to a request for information and/or request for records in accordance with this Part, the name, public office address, title and salary of all Commission staff.

(e) Requests for information, documents and/or records pursuant to this section shall be recorded in a Record Access Request Log, which shall include the date of the request, the identity of the individual or entity that made such request, the identity of the Commission staff recording the request, and identify the record or records requested and provided. The Record Access Request Log shall be made available upon a request for information and/or access to records in accordance with this Part.

937.3 Records Access

(a) In addition to documents and information referenced in section 937.2 of this Part, other records, as defined in Public Officers Law § 86(4), may be made available for public inspection pursuant to article six of the Public Officers Law, subject to the exemptions and exceptions therein.

(b) Pursuant to Public Officers Law § 87(2), records and/or information made confidential or otherwise exempted or excepted from disclosure pursuant to Executive Law §§ 94(6)(d), (7)(b), 94(9)(f), 94(9)(g), 94(9)(j), 94(10)(m) and 94(11)(b) shall not be available for public inspection.

937.4 Designation of Records Access Officer

(a) The Commission shall designate an individual to be the Commission's records access officer.

(b) The records access officer shall within five business days of receipt of a request:

(1) approve the request and authorize inspection and copying of the record and certification of correctness of such copy; or

(2) deny the request and state the reason therefor; or

(3) if requested records are maintained on the internet, inform the requester that the records are accessible via the internet and in printed form either on paper or other information storage medium; or

(4) if the request does not clearly identify the records sought, seek additional information from the requester; or

(5) acknowledge receipt of the request and provide a statement of the approximate date when the request will be granted or denied in whole or in part.

(c) If receipt of the request was acknowledged by the records access officer in writing with a stated date by which the request would be granted or denied in whole or in part, but circumstances prevent the records access officer from doing so on or before the stated date, the records access officer shall, on or before such stated date, provide a written statement specifying the reason for the delay and provide a further date, within a reasonable period under the circumstances of the request, by which the request will be granted or denied in whole or in part.

(d) The records access officer shall, in authorizing issuance of copies of records, direct such omissions or redactions as may be required to protect the personal privacy of individuals in accordance with the requirements of the Freedom of Information Law, or any other applicable law, or regulation, including the provisions of section 94 of the Executive Law and of this Part.

937.5 Location and Hours for Public Inspection of Records

(a) Records shall be available for public inspection and copying on days that the Commission is regularly open for business between the hours of 9:00 am and 4:00 pm at:

*The Commission on Ethics and Lobbying in Government
540 Broadway
Albany, NY 12207*

(b) Records shall be available for public inspection and copying by appointment at:

*The Commission on Ethics and Lobbying in Government
25 Beaver Street, 5th Floor
New York, NY 10004*

- (c) Requesters reviewing records onsite shall create a list, for the Commission to retain, of any records the requester copies, including photographs taken on a personal device.

937.6 Requests for Public Access to Records

- (a) A requester shall submit a request for records by completing the Records Request Form on the Commission's website or by other writing. A request shall reasonably describe the information or record sought and the medium in which the requestor would like to receive such records Oral requests for records will not be accepted.
- (b) If records cannot be released in the medium requested, the Records Access Officer will assist the requestor with identifying a reasonable alternative for access to such records.

937.7 Subject Matter List

The Commission shall develop a record finding list in conformity with the requirements of the Freedom of Information Law.

937.8 Denial of Access to Records

- (a) A denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the Executive Director of the Commission or their designee.
 - (1) The Executive Director or their designee shall determine appeals regarding denial of access to records under the Freedom of Information Law. The request for an appeal shall be sent to:

The Commission on Ethics in Lobbying in Government
540 Broadway
Albany, NY 12207
 - (2) Any person denied access to records may appeal, in writing, within thirty days of a denial.
 - (3) The written appeal shall include:
 - (i) the date of request for records;
 - (ii) a description, to the extent possible, of the records that were denied; and
 - (iii) the name and return address of the person denied access.

- (4) The time for deciding an appeal shall commence upon receipt of a written appeal.
- (5) Copies of all appeals shall be transmitted to the Committee on Open Government upon receipt.
- (6) The appellant and the Committee on Open Government shall be informed in writing of the determination of the appeal within ten business days of receipt of such appeal.

937.9 Fees

- (a) No photocopy charge will be made for the first five pages not larger than 9 inches by 14 inches. No charge will be made to certify a record or to certify a denial of a request for a record and the reason therefor.
- (b) A charge will be made of 25 cents per page of photocopy of pages not larger than 9 inches by 14 inches apart from the aforementioned five pages furnished without charge.
- (c) Charges for materials or services not specified by statute or regulation shall be based on the actual cost thereof to the department.
- (d) Payment for information services should be made by check or money order payable to "New York State Commission on Ethics and Lobbying in Government."
- (e) Where it is anticipated that the fees chargeable for records on a single request will amount to more than \$25 and the requester has not indicated in advance their willingness to pay fees in such amount, the requester shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. Such notice shall offer to the requester an opportunity to confer with Commission personnel in order to revise the request if they so desire.
- (f) The Commission may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.
- (g) Upon affirmation of financial hardship, the Commission may waive an otherwise imposed fee in whole or in part when making copies of records available.

937.10 Public Notice

The Commission's website shall contain the contact information for the records access officer, the procedure for appeal of a records request, and the location where records can be viewed.

937.11 Severability

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.



TITLE 19 NYCRR PART 938 SOURCE OF FUNDING REGULATIONS

(Effective March 15, 2023)

Title 19 NYCRR Part 938 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

938.1 Intent and Purpose.

- (a) The Public Integrity Reform Act of 2011 (“PIRA”) (Chapter 399, Laws of 2011) established the Commission on Ethics and Lobbying in Government (“Commission”). The Commission regulates lobbyists and their clients in New York State through the disclosure and enforcement provisions set in Legislative Law article one-A. PIRA amended Legislative Law article one-A by enacting unprecedented disclosure requirements to better inform the public about efforts to influence governmental decision-making through increased transparency, including the source of funding disclosure requirement set forth in Legislative Law § 1-h(c)(4) and § 1-j(c)(4). Effective June 1, 2012, the source of funding amendments required lobbyists who lobby on their own behalf and clients, who devote substantial resources to lobbying activity in New York State, to make publicly available each source of funding over \$5,000 for such lobbying. The legislation intended for these new disclosures to provide the public with more information regarding the actual entities and individuals that support lobbying campaigns in New York State.
- (b) PIRA also required that the Commission issue regulations implementing the new law’s source of funding provisions. These regulations will clarify the source of funding reporting requirements, the procedure by which individuals and organizations may apply to the Commission for an exemption from disclosure, and the procedure by which they may appeal the Commission’s denial from exemption through a review by an independent judicial hearing officer. To fulfill the

legislative intent, the Commission has sought the broadest determination possible of what must be disclosed pursuant to statute and as allowed by law.

- (c) Part D of S.8160/A.10742 (2016) decreases the filing threshold for total lobbying expenditures to \$15,000, from \$50,000, and the minimum contribution amount for disclosing a source to \$2,500, from \$5,000. Further, it excluded funds received for membership dues, fees, and assessments from the contributions that must be disclosed, while continuing to require the donor to be identified as a source.
- (d) The provisions of section 938.11 of this Part apply only to the Client Semi-Annual Report due January 15, 2017. For purposes of the January 15, 2017 Client Semi-Annual Report, all definitions and provisions of section 938.11 of this Part supersede any parallel definitions or provisions contained in this Part.
- (e) The amended terms of this regulation shall become effective upon the effective date of Part D, S. 8160/A.10742 (2016).

938.2 Definitions.

For purposes of this Part:

- (a) ***Affiliate Relationship*** shall mean:
 - (1) Two or more persons whom the Client Filer has actual knowledge live in the same household.
 - (2) Two or more corporations, partnerships, organizations, or other entities that the Client Filer has actual knowledge or reason to know have any of the following relationships: parent/subsidiary; subsidiaries with the same corporate parent; national or regional organization and their local chapter(s); local chapters of the same national or regional organization.
 - (3) A sole proprietorship and its sole proprietor if the Client Filer knows or has reason to know of the relationship.

- (4) Whether a Client Filer has “reason to know” of the relationships listed in paragraphs (2) and (3) of this subdivision is based on an examination of the totality of the facts and circumstances. If a reasonable person, looking at all the facts and circumstances, would conclude that a Client Filer should know of the existence of one or more of these relationships, then the “reason to know” standard has been satisfied.
- (b) **Client Filer** shall mean:
- (1) A Beneficial Client, as defined in section 3 of Part 943 of this Title, other than a Public Corporation; or
- (2) Any lobbyist registered pursuant to Legislative Law §1-e whose lobbying activity is performed on its own behalf and not pursuant to retention by a client. (Such a lobbyist is considered its own client for reporting purposes.)
- (c) **Client Semi-Annual Report** shall mean the semi-annual reports filed with the Commission pursuant to Legislative Law § 1-j.
- (d) **Coalition** shall have the meaning described in section 9 of Part 943 of this Title.
- (e) **Contribution** shall mean any payment to, or for the benefit of, the Client Filer and which is intended to fund, in whole or in part, the Client Filer’s activities or operations. Contribution shall include equity investments in limited liability companies, general partnerships, and corporations; provided, however, Contribution shall not include publicly traded stocks or shares. Contribution shall not mean: (i) a payment in exchange for goods or services rendered or delivered directly to the individual or entity making the payment; and (ii) a payment that: (a) is earmarked and conditioned by the payor such that it may only be used for a specific purpose other than lobbying activity in New York; and (b) is maintained in a segregated bank account solely for the specific purpose and unavailable for general operating expenses. For example, an organization that maintains a separate segregated bank account for a lobbying initiative in California need not report a payment earmarked by the payor for this initiative, provided however, that funds from this account may not be used for operating expenses or any other reason other than the California initiative.
- (1) Records of such payments must be retained for a period of three years and may be requested by the Commission to verify qualification for this exclusion.

- (2) To qualify for the exclusion in subparagraph (ii) above, it is not sufficient for a payor to restrict a payment from being used for lobbying in New York; the payor must earmark the payment for the specific purpose stated in (ii)(a).

(f) **Expenditure Threshold** consists of the following two requirements:

- (1) The Client Filer has spent in excess of \$15,000 in Reportable Compensation and/or Expenses for lobbying in New York State during the Expenditure Threshold Period; and
- (2) The Client Filer’s Reportable Compensation and Expenses constitute at least 3% of the Client Filer’s Total Expenditures during the Expenditure Threshold Period.

A Client Filer who is a member of a Coalition must include all amounts it has contributed to the Coalition when determining whether such Client Filer has exceeded the Expenditure Threshold.

(g) **Expenditure Threshold Period** is determined according to the following:

- (1) **Twelve-Month Calculation:** the 12-month period preceding and including the last day of the applicable client semi-annual reporting period.
- (2) **Calendar-Year Calculation:** January 1st to the last day of the applicable client semi-annual reporting period.

Any Client Filer that does not meet the Expenditure Threshold using the Twelve-Month Calculation must then determine whether it has met the Expenditure Threshold using the Calendar-Year Calculation, and if it has, then the Client Filer is deemed to have met the statutory Expenditure Threshold. To illustrate for the 2016 Client Semi-Annual Reports:

Client Semi-Annual Filing Date	Twelve-Month Calculation Dates	Calendar Year Calculation Dates
January 15, 2016 (covering July 1, 2015 – December 31, 2015)	January 1, 2015 – December 31, 2015	January 1, 2015 – December 31, 2015
July 15, 2016 (covering January 1, 2016 – June 30, 2016)	July 1, 2015 – June 30, 2016	January 1, 2016 – June 30, 2016

(h) **Reportable Amount of Contribution(s)** shall mean, for each Contribution not specifically designated for lobbying in New York, the product of:

- (1) The dollar amount of the Contribution; and
- (2) Reportable Compensation and Expenses divided by Total Expenditures.

The Reportable Amount of Contribution shall also include, in addition to the amount yielded by this formula, any Contribution specifically designated for lobbying in New York. The Reportable Amount of Contribution shall not include any amounts contributed for membership dues, fees, or assessments.

(i) **Reportable Compensation and Expenses:** the phrase “reportable compensation and expenses” shall mean “compensation” and “expenses,” devoted to lobbying in New York, as those terms are defined below:

(1) **Compensation:** shall have the same meaning as is in Legislative Law § 1-c(h), i.e. any salary, fee, gift, payment, benefit, loan, advance or any other thing of value paid, owed, given or promised to the lobbyist (retained or employed) by the Client Filer for lobbying but shall not include contributions reportable pursuant to article fourteen of the Election Law.

(2) **Expenses:**

(i) For any Client Filer who lobbies on its own behalf, the term “expenses” shall have the same meaning as in Legislative Law § 1-c(g), i.e., any expenditures incurred by or reimbursed to the employed or designated lobbyist for lobbying but shall not include contributions reportable pursuant to article fourteen of the election law.

(ii) For all other Client Filers, the term “expenses” shall mean any expenditure reimbursed to the lobbyist for lobbying, but shall not include contributions reportable pursuant to article fourteen of the Election Law.

(j) **Responsible Party** shall mean the Client Filer’s Chief Administrative Officer or designee who is responsible for filing the Client Semi-Annual Reports and/or Source of Funding Disclosure with the Commission.

- (k) **Source** shall mean any person, corporation, partnership, organization, or entity that makes a Contribution. A Source includes any persons, corporations, partnerships, organizations, or entities with an Affiliate Relationship. To determine if reporting is required pursuant to section 938.3 of this Part, a Client Filer shall aggregate the Contributions from each person, corporation, partnership, organization, or entity with an Affiliate Relationship. If such reporting is required, the Client Filer shall report, consistent with section 938.3 of this Part, Contributions from each person, corporation, partnership, organization, or entity with the Affiliate Relationship.
- (l) **Source of Funding Disclosure** shall mean the section within the Client Semi-Annual Report completed by Client Filers who serve only as a Beneficial Client and, thus, are only responsible for the source of funding disclosure section of the Client Semi-Annual Report, as prescribed by subsection 943.9(h) of this Title.
- (m) **Total Expenditures** shall mean the sum of any and all payments of cash or cash equivalents made in the ordinary course of business, or a charge against available funds in settlement of an obligation made in the ordinary course of business. Total expenditures also includes a promise to pay, or a promise of a payment or a transfer of anything of value made in the ordinary course of business for goods and services that have been provided or performed.

938.3 Contribution Reporting Requirements.

- (a) Commencing with the Client Semi-Annual Report due on January 15, 2013, and for each Client Semi-Annual Report thereafter, a Client Filer is required to disclose Contributions received in accordance with the provisions of subdivisions (b), (c) (d), and (e) of this section.
- (b) For the purpose of satisfying Legislative Law § 1-h(c)(4), a Client Filer whose lobbying activity is performed on its own behalf and not pursuant to retention by a client need only report Contribution(s) received from each Source in a Client Semi-Annual Report and is not additionally required to report such Contribution(s) on a Lobbyist Bi-Monthly Report.
- (c) When a Client Filer has met the Expenditure Threshold during the first client semi-annual reporting period of the calendar year (January 1st - June 30th), the Client Filer shall aggregate all such Contributions, regardless of the amount, received from each Source. If the sum of such Contributions is more than \$2,500, then a Client Filer is required to disclose the information in subdivision (e) of this section for each Contribution. If the sum of the Contributions received from each Source is \$2,500 or less, then a Client Filer is not required to disclose any Contribution(s)

from the Source in the Client Semi-Annual Report that covers the first reporting period of the calendar year.

(d) When a Client Filer has met the Expenditure Threshold during the second client semi-annual reporting period of a calendar year (July 1st - December 31st), the Client Filer uses the following to determine whether any Contribution(s) received from a Source shall be disclosed in the Client Semi-Annual Report covering the second reporting period of the calendar year:

(1) if during the previous reporting period (January 1st - June 30th), the Client Filer did not meet the Expenditure Threshold, then no Contribution(s) received from any Source during that first reporting period are to be added to Contribution(s) received from any Source during the second reporting period.

(2) if during the previous reporting period (January 1st - June 30th), the Client Filer did not receive any Contribution(s) from the Source, a Client Filer shall add all Contributions, regardless of the amount, received from the Source during the second reporting period of the calendar year. If the sum of such Contributions is more than \$2,500, then a Client Filer is required to disclose the information in subdivision (e) of this section for each Contribution. If the sum of the Contributions received from a Source is \$2,500 or less, then a Client Filer is not required to disclose any Contribution(s) from the Source in the Client Semi-Annual Report that covers the second reporting period of the calendar year;

(3) if during the previous reporting period (January 1st - June 30th), the Client Filer met the Expenditure Threshold and received Contributions(s) from a Source in excess of \$2,500, then the Client Filer shall disclose all Contributions, regardless of the amount, received from the Source during the second client semi-annual reporting period of the calendar year;

(4) if during the previous reporting period (January 1st - June 30th), the Client Filer met the Expenditure Threshold and received Contributions(s) from a Source in an amount totaling \$2,500 or less, then the Client Filer shall add all Contributions, regardless of the amount, received from a Source over the calendar year. If the sum of such Contributions is more than \$2,500, then a Client Filer is required to disclose the information in subdivision (e) of this section for each Contribution received during the calendar year. If the sum of the

Contributions received from each Source is \$2,500 or less, then a Client Filer is not required to disclose any Contribution(s) from the Source.

Example 1: Jane Doe contributes \$1,000 on May 4, 2017 to Client Filer. Source Jim Smith, contributes \$2,000 on October 30, 2017. Client Filer knows that Jane and Jim live in the same household.

For the purpose of filing the Client Semi-Annual Report due on July 16, 2017 (covering the period January 1, 2017 through June 30, 2017), Client Filer is not required to report the Contribution from Jane Doe.

For the purpose of filing the Client Semi-Annual Report due on January 15, 2018 (covering the period July 1, 2017 through December 31, 2017), if the Client Filer met the Expenditure Threshold during both reporting periods, the Client Filer must aggregate the Contributions from Jane Doe and Jim Smith as one Source because they have an Affiliate Relationship.

The two Contributions exceed \$2,500 when aggregated, therefore the Client Filer must disclose each Contribution in the Client Semi-Annual Report due on January 15, 2018.

Example 2: XYZ Corp. contributes \$1,500 on March 3, 2017. ABC Corp is XYZ Corp's parent and contributes \$1,500 on May 6, 2017. On November 12, 2017, ABC Corp contributes an additional \$500. On December 2, 2017, XYZ Corp. contributes an additional \$1,500. The Client Filer is aware of the corporate relationship between ABC Corp and XYZ Corp.

For the purpose of filing the Client Semi-Annual Report due on July 15, 2017 (covering the period January 1, 2017 through June 30, 2017), XYZ Corp and ABC Corp have an Affiliate Relationship and therefore are deemed a Source. The Contributions from XYZ Corp and ABC Corp must be aggregated. The sum of the Contributions received from the one Source consisting of ABC Corp and XYZ Corp between January 1, 2017 and June 30, 2017 exceeds \$2,500. Therefore, if the Client Filer met the Expenditure Threshold for this period, it must disclose both the Contributions received on March 3 and May 6 in the Client Semi-Annual Report due on July 15, 2017.

For the purpose of filing the Client Semi-Annual Report due on January 15, 2018 (covering the period July 1, 2017 through December 31, 2017), if the Client Filer met the Expenditure Threshold for this second period, the Client Filer must disclose the November 12 and December 2 Contributions even though these two Contributions are less than \$2,500 individually and in total.

The requirement to disclose the November 12 and December 2 Contributions arises from the facts that (i) the Source (comprised of XYZ Corp and ABC Corp, because they have an Affiliate Relationship) made aggregate Contributions in excess of \$2,500 during the prior reporting period in the same calendar year and (ii) the Client Filer met the Expenditure Threshold during both reporting periods in the calendar year. Therefore, the Client Filer must list as one Source each of those two Contributions made by XYZ Corp and ABC Corp in the second reporting period of the calendar year on the Client Semi-Annual Report, together with the information required in 938.3(e).

If the Client Filer did not meet the Expenditure Threshold during the second reporting period of the calendar year, then the Client Filer is not required to disclose the November 12 and December 2 Contributions.

(e) Each Contribution required to be disclosed in any Client Semi-Annual Report on the form provided by the Commission shall contain the information identified below:

(1) Information Required to be Disclosed:

(i) The name of the Source;

(a) A disclosure that identifies an intermediary or any other entity that obscures the name of the person, corporation, partnership, organization, or entity actually making the Contribution, does not qualify as the Source; and

(b) The name of a Source cannot be reported as “anonymous” unless the Client Filer affirms to the Commission that the Client Filer is not able to determine the identity of the Source.

(ii) Name and address of principal place of business, if any;

(iii) Date the Client Filer received the Contribution(s); and

(iv) Reportable Amount of the Contribution(s).

Note: If a contribution includes only membership dues, fees, or assessments, the Client Filer should disclose the contribution as \$0. If membership dues, fees, or assessments make up a portion of a contribution, the Reportable Amount of the Contribution is calculated as described in section 938.2 of this Part.

(2) When a Source is comprised of more than one person, corporation, partnership, organization, or entity with an Affiliate Relationship, the required information must be supplied for each such person, corporation, partnership, organization, or entity.

(3) When a corporation, partnership, organization, or entity is a Source whose Contribution is required to be disclosed, and meets any one of the requirements in paragraph (4) of this subdivision, the Client Filer must disclose, in addition to the information in paragraph (1) of this subdivision, the following:

- (i) name, address and principal place of business of at least one natural person (such as an officer, director, partner or proprietors) who shares or exercises discretion or control over the activities of the corporation, partnership, organization, or entity; or
- (ii) the sources of the funds contributed by the corporation, partnership, organization, or entity to the Client Filer.

(4) Conditions for Additional Required Disclosure

- (i) The Client Filer makes decisions or establishes policy for the corporation, partnership, organization, or entity;
- (ii) The corporation, partnership, organization, or entity makes decisions or establishes policy for the Client Filer;
- (iii) The Client Filer has the authority to hire, appoint, discipline, discharge, demote, remove, or otherwise influence other persons who make decisions or establish policies for the corporation, partnership, organization, or entity;
- (iv) The corporation, partnership, organization, or entity has the authority to hire,

appoint, discipline, discharge, demote, remove, or otherwise influence other persons who make decisions or establish policies for the Client Filer; or

- (v) The Client Filer and the corporation, partnership, organization, or entity, share a majority of directors on their governing boards, or share a majority of executive management, or maintain bank accounts with shared signatories.

- (f) Pursuant to sections 1-h(c)(4) and 1-j(c)(4) of the Lobbying Act, source of funding disclosure shall not apply to any corporation registered pursuant to article seven-A of the executive law that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(3) (a “501(c)(3)”); provided, however, that this disclosure shall apply to any in-kind donations of staff, staff time, personnel, offices, office supplies, financial support of any kind or any other resources to any corporation or entity that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. 501(c)(4) when such in-kind donations are over two thousand five hundred dollars and from any corporation or entity that is qualified as a 501(c)(3). In such case the entity receiving such in-kind donations shall disclose the fair market value and identify the 501(c)(3) entity providing such in-kind donations as a Source. Nothing contained herein shall require 501(c)(3) entities to disclose their Sources to the Commission.

938.4 Standard for Reviewing an Application for Exemption.

- (a) Exemption for a particular source(s) of funding. The Commission shall grant an exemption to disclose a Source of a Contribution, if the Client Filer shows that disclosure of the Source may cause harm, threats, harassment or reprisals to the Source or individuals or property affiliated with the Source. Factors the Commission will consider when determining whether this showing has been made include, but are not limited to, those identified in section 938.4(c) of this Title.

- (b) Exemption from reporting sources for certain organizations. The Commission shall grant an exemption to disclose all Sources of Contributions to a Client Filer, if:
 - (1) the Client Filer has exempt status under I.R.C. §501(c)(4); and

 - (2) the Client Filer shows that its primary activities involve areas of public concern that create a substantial likelihood that disclosure of its Source(s) will cause harm, threats, harassment or reprisals to the Source(s) or individuals or property affiliated with the

Source(s). Factors the Commission will consider when determining whether this showing has been made include, but are not limited to, the factors identified in section 938.4(c) of this Title.

(c) Factors. When evaluating an application for exemption from disclosure of a source or sources of funding under section 938.4(a) or (b), the Commission will consider the following factors to determine whether the requisite showing has been made:

- (1) Specific evidence of past or present harm, threats, harassment or reprisals to the Source(s) or Client Filer or individuals or property affiliated with the Source(s) or Client Filer.
- (2) The severity, number of incidents, and duration of past or present harm, threats, harassment or reprisals of the Source(s) or Client Filer or individuals or property affiliated with the Source(s) or Client Filer.
- (3) A pattern of threats or manifestations of public hostility against the Source(s) or Client Filer or individuals or property affiliated with the Source(s) or Client Filer.
- (4) Evidence of harm, threats, harassment or reprisals directed against organizations or individuals holding views similar to those of the Source(s) or Client Filer.
- (5) The impact of disclosure on the ability of the Source(s) or Client Filer to maintain ordinary business operations and the extent of resulting economic harm.

938.5 Procedure for applying for an exemption.

- (a) The Client Filer seeking to exempt from disclosure a Contribution from a Source shall make an application to the Commission on the form supplied by the Commission together with any supporting materials signed by the Client Filer's Responsible Party.
- (b) A request for exemption shall be submitted no later than two days prior to the due date for the applicable Client Semi-Annual Report.
- (c) An application for an exemption from disclosure for one or more Sources of Contributions does not relieve the Client Filer from its obligation to timely file the Client Semi-Annual Report including disclosure of Sources of Contributions for which the Client Filer has not sought an exemption.

- (d) The Commission shall inform the Client Filer, in writing, whether the application for exemption has been granted or denied. Any denial issued by the Commission shall include a statement of findings and conclusions, and the reasons or basis for the denial.
- (e) If a request for an exemption is denied, and the Client Filer does not appeal, the Client Filer shall, within 15 business days of the date of denial, amend the Client Semi-Annual Report to include required information relating to the subject of the application for exemption.

938.6 Appeals.

An appeal of a denial of an application for exemption to a judicial hearing officer, pursuant to section 18 of Part 941 of this Title, is available only to a Client Filer who submitted an application under section 938.4(a) of this Part. A Client Filer who submitted an application under section 938.4(b) of this Part is not entitled to such an appeal.

938.7 Public Disclosure of Exemption-Related Information.

- (a) The Commission shall publicly disclose the fact that a Client Filer has submitted one or more applications for an exemption or that one or more of a Client Filer's requests for an exemption has been granted or denied. Information submitted in connection with an application for exemption or in support of an appeal from a denial of an exemption shall be publicly disclosed. Notwithstanding the foregoing, Executive Law § 94(13)(b)(v), Legislative Law §1-s, and any corresponding regulations, the Commission may, in its discretion, grant a request from a Client Filer to keep confidential certain exemption-related information when particular circumstances merit confidential treatment of such information, including, but not limited to, an ongoing investigation by a governmental body or an unwarranted invasion of personal privacy. The Commission may, nevertheless, disclose such information:
 - (1) to the judicial hearing officer assigned to an appeal of a determination under subsection 938.4(a) of this Title;
 - (2) to a court in a judicial review; or
 - (3) in response to any subpoena or court order.

938.8 Enforcement.

A late filing of a Client Semi-Annual Report, or failure to file a Client Semi-Annual Report in accordance with these regulations, or the filing of a Client Semi-Annual Report that contains false, misleading or knowingly inaccurate statements are violations of either Legislative Law § 1-j or § 1-o and subject a Client Filer to the fines and penalties prescribed therein.

938.9 Duty to Correct.

As with any filing required to be submitted to the Commission, Client Filers have a duty to file accurate and complete reports. Client Filers therefore have a duty to correct any oversights or inaccuracies within 10 days of discovery.

938.10 Miscellaneous Provisions

This disclosure shall not apply to:

- (a) any corporation registered pursuant to article seven-A of the executive law has exempt status under § 501(c)(3), provided, however, that this disclosure shall apply to any in-kind donations of staff, staff time, personnel, offices, office supplies, financial support of any kind or any other resources to any corporation or entity that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(4) when such in-kind donations are over two thousand five hundred dollars and from any corporation or entity that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(3). In such case the entity receiving such in-kind donations shall disclose the fair market value and identify the I.R.C. § 501(c)(3) entity providing such in-kind donations and give notice within a reasonable time to the § 501(c)(3) entity that it shall be required to file a report with the department of law pursuant to section one hundred seventy-two-e of the executive law; and
- (b) any governmental entity.

938.11 Special Filing Rules for the Client Semi-Annual Report Due January 17, 2017.

The provisions of this section apply only for purposes of the Client Semi-Annual Filing due January 17, 2017 (covering the period July 1, 2016 – December 31, 2016), and supersede any parallel provisions found in this Part. Notwithstanding the definition of “Reportable Amount of Contribution” in section 938.2(g), contribution amounts attributable to membership dues, fees or assessments shall be disclosed for all contributions received prior to September 23, 2016.

(a) Definitions.

(1) ***Expenditure Threshold*** consists of the following two requirements:

(i) For the Expenditure Threshold Period of January 1, 2016 – December 31, 2016:

(a) the Client Filer has spent in excess of \$50,000 in Reportable Compensation and/or Expenses for lobbying in New York State during the Expenditure Threshold Period; and

(b) The Client Filer’s Reportable Compensation and Expenses constitute at least 3% of the Client Filer’s Total Expenditures during the Expenditure Threshold Period.

(ii) For the Expenditure Threshold Period of September 23, 2016 – December 31, 2016:

(a) the Client Filer has spent in excess of \$15,000 in Reportable Compensation and/or Expenses for lobbying in New York State during the Expenditure Threshold Period; and

(b) The Client Filer’s Reportable Compensation and Expenses constitute at least 3% of the Client Filer’s Total Expenditures during the Expenditure Threshold Period.

(2) ***Expenditure Threshold Period*** is determined according to the following:

(i) Full Year Calculation: January 1, 2016 – December 31, 2016.

(ii) Special Period Calculation: September 23, 2016 – December 31, 2016.

Any Client Filer that does not meet the Expenditure Threshold using the Full Year Calculation must then determine whether it has met the Expenditure Threshold using the

Special Period Calculation, and if it has, then the Client Filer is deemed to have met the statutory Expenditure Threshold.

(b) Contribution Reporting Requirements for Entities Exceeding the Expenditure Threshold in this section.

(1) If a Client Filer met the Expenditure Threshold during the first client semi-annual reporting period (January 1 - June 30) based on the provisions of section 938.3 of this Part in effect at the time, and thus was required to disclose Sources of Funding in the July 15, 2016 Client Semi-Annual Report, the Client Filer shall disclose the information in section 938.3(e) of this Part for:

- (i) all contributions received during the second client semi-annual reporting period from a source who was previously disclosed in the first client semi-annual report;
- (ii) all contributions received during the year from a source who was not previously disclosed in the first client semi-annual reporting period, if the total of such contributions is in excess of \$5,000; and
- (iii) all contributions received from September 23, 2016 – December 31, 2016 from a source who was not previously disclosed in the first client semi-annual reporting period, if the total of contributions received from September 23, 2016 – December 31, 2016 is in excess of \$2,500.

(2) If a Client Filer did not meet the Expenditure Threshold during the first client semi-annual reporting period (January 1 - June 30) based on the provisions of section 938.3 of this Part in effect at the time, and thus was not required to disclose Sources of Funding in the July 15, 2016 Client Semi-Annual Report, the Client Filer shall disclose the information in section 938.3(e) of this Part for:

- (i) all contributions received from July 1, 2016 – December 31, 2016 from a source, if the total of contributions given by a source from July 1, 2016 – December 31, 2016 is in excess of \$5,000; and
- (ii) all contributions received from September 23, 2016 – December 31, 2016 from a source, if the total of such contributions is in excess of \$2,500.



TITLE 19 NYCRR PART 941

ADJUDICATORY PROCEEDINGS AND APPEALS

PROCEDURES

(Effective 7/19/2023)

Title 19 NYCRR Part 941 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

941.1 Intent and purpose.

Executive Law § 94(10)(o) authorizes the Commission on Ethics and Lobbying in Government to adopt rules governing the conduct of adjudicatory proceedings and appeals consistent with the New York State Administrative Procedure Act (“SAPA”). Moreover, the Commission on Ethics and Lobbying in Government’s proceedings are otherwise subject to SAPA. These regulations set forth rules for adjudicatory proceedings and appeals relating to: potential violations of the law that fall within the Commission on Ethics and Lobbying in Government’s jurisdiction, including investigatory matters pursuant to Executive Law § 94(10); appeals taken from denials of requests to delete or exempt certain information from a financial disclosure statement pursuant to Executive Law §§ 94(9)(h) or (i); or Public Officers Law § 73-a(3)(8)(b-1), (b-2), or (c); exempt certain individuals from filing a financial disclosure statement pursuant to Executive Law § 94(9)(k); and appeals taken from denials of applications for exemptions under Article 1-A of the Legislative Law §§ 1-h, 1-j and 19 NYCRR Part 938.6.

941.2 Definitions.

- (a) **Agency** shall have the same meaning as “state agency” in Public Officers Law §§ 73, 73-a and 74 and Article 1-a of the Legislative Law.
- (b) **Appellant** shall mean the recipient of a denial by the Executive Director for deletion or exemption of certain information from a financial disclosure statement or for exemption from filing a financial disclosure statement who wishes to appeal or has appealed that denial to the members of the Commission.

(c) **Client Filer** shall mean:

(1) Any client retaining or designating a lobbyist that is required to file a semi-annual report pursuant to Legislative Law § 1-j; or

(2) Any lobbyist registered pursuant to Legislative Law § 1-e whose lobbying activity is performed on its own behalf and not pursuant to retention by a client. (Such a lobbyist is considered its own client for reporting purposes.)

(d) **Complainant** shall mean an individual who submits a tip or complaint to the Commission regarding a violation of Public Officers Law §§ 73, 73-a or 74, Civil Service Law § 107 or Article 1-A of the Legislative Law.

(e) **Executive director** shall mean executive director of the Commission on Ethics and Lobbying in Government as appointed pursuant to Executive Law § 94(6)(a).

(f) **Financial disclosure** statement shall mean annual statement of financial disclosure which is required to be filed pursuant to Public Officers Law § 73-a.

(g) **Hearing officer** shall mean the independent hearing officer presiding over adjudicatory hearings designated pursuant to this Part and in accord with SAPA and shall include, and is synonymous with, the “independent arbitrator” referred to in Executive Law § 94(10)(i).

(h) **Hearing** shall mean any adjudicatory proceeding held by the Commission to determine whether a violation of Public Officers Law §§ 73, 73-a or 74, Civil Service Law § 107 or Article 1-A of the Legislative Law has occurred.

(i) **Commission on Ethics and Lobbying in Government, Commission, or COELIG** shall mean the members of the New York State Commission on Ethics and Lobbying in Government established pursuant to Executive Law § 94, which is authorized to delegate the authority to act as provided in the Executive Law to its Executive Director.

(j) **Respondent** shall mean Statewide elected officials, any State officer or employee, members of the legislature or legislative employees, candidates for legislative and statewide offices, and political party chairs covered by Public Officers Law §§ 73, 73-a or 74 or Civil Service Law § 107, or any lobbyist or client, as such terms are defined in Article 1-A of the Legislative Law, who receives a written notice from the Commission pursuant to Section 941.3 of this Part.

(k) **Subject** shall mean any individual or entity identified in a tip, complaint, referral or in a matter initiated by the Commission as allegedly having violated or being in violation of Public Officers Law §§ 73, 73-a or 74, Civil Service Law § 107 or Article 1-A of the Legislative Law.

(l) **Victim** shall mean any individual who has suffered or is alleged to have suffered direct harm from any violation of law that is subject to investigation under the jurisdiction of the Commission.

(1) The victim may also be, though is not necessarily, the same as, the “complainant.”

(2) Direct harm, as it applies to this Part, means harm of any kind, including physical, emotional or reputational injury or loss, from any violation of law that is subject to investigation under the jurisdiction of the Commission.

941.3 Notices.

(a) Notice of Allegations (“15-Day Letter”). If following a preliminary review, the Commission or Commission staff decides to elevate such preliminary review into an investigation pursuant to Executive Law § 94(10)(f) the Commission shall provide written notice to the respondent individual or entity setting forth, to the extent the Commission is able to do so, the possible or alleged violation or violations of law and a description of the allegations against the respondent and the evidence, if any, already gathered pertaining to such allegations. Any information that may, in the judgment of the Commission or staff, either be prejudicial to the complainant or victim, or compromise the investigation, shall be redacted.

(1) The 15-Day Letter shall provide the individual or entity with a fifteen-day period from the receipt of the 15-day Letter in which to submit a written preliminary response or information the respondent determines may benefit the Commission or Commission staff in its work, including any evidence, statements, and proposed witnesses, and setting forth information relating to the activities cited as possible or alleged violation(s) of law.

(i) While any response submitted will be reviewed by the Commission and/or Commission staff, Commission staff is not precluded from recommending and the Commission is not precluded from voting to close or settle the matter, to advance it to a confidential due process hearing or to return it to staff for further investigation prior to receiving a Respondent’s written response.

(ii) An extension of time to respond may be available to Respondent upon request.

(2) The 15-Day Letter shall include a copy of the Commission’s rules regarding the conduct of adjudicatory proceedings and appeals and shall also contain a plain language summary of the rules contained in this Part.

(3) Pursuant to Executive Law § 94(10)(k), the 15-Day Letter continues the Commission’s jurisdiction over the Respondent.

(b) Notice of Hearing.

(1) If following presentation of the matter to the Commission pursuant to Executive Law §94(10)(f), the Commission has determined by majority vote to proceed to a hearing, having found that there is credible evidence of a violation under the Commission’s jurisdiction, notice shall be provided to the Respondent to inform Respondent of their right to be heard and appear in person and by attorney at a confidential hearing and to give sworn testimony, present evidence, and cross examine witnesses. The notice shall contain the following:

- (i) the alleged violations of law and the factual basis for those allegations;
- (ii) a statement of the time and place of the hearing;
- (iii) the hearing officer who will preside over the matter and instructions for the submission of any notices, filings, or other papers;
- (iv) a statement for hearing impaired parties and participants concerning the provision of deaf interpretation without charge;
- (v) notice to the Respondent that failure to appear will not preclude the hearing officer or Commission from proceeding with the scheduled hearing; and
- (vi) any other information deemed necessary or appropriate.

(2) The notice of hearing shall include a copy of the Commission’s rules regarding the conduct of adjudicatory proceedings and appeals and shall also contain a plain language summary of the rules in this Part.

(c) Notice of Closure, Continued Investigations or Guidance. If following presentation of the matter to the Commission pursuant to Executive Law §94(10)(f), the Commission decides, by majority vote, to return the matter to the staff for further investigation, close the matter, or authorizes the resolution of the matter by guidance to the subject, or if the Commission's vote to proceed to a due process hearing does not carry, the Commission shall, within 60 days of such determination, provide written notice of its decision as follows:

- (1) to the Complainant and/or Victim if any;
- (2) to the Subject or Respondent if they have been notified, by the Commission or otherwise, of a complaint or allegations against them;
- (3) to any Agency that made a referral to the Commission or otherwise, notified the Commission of the allegations, or any Agency which employs the Subject or Respondent.
- (4) At the discretion of the Commission, written notice shall be provided to a Subject who has not been previously notified of the allegations against them or other interested parties, including but not limited to witnesses.
- (5) Pursuant to §94(10)(l), where the Commission's vote to proceed to a due process hearing has not carried, the notice shall not include any personally identifying information or information tending to identify any party involved in the investigation.

941.3-a Subpoenas and other process; delegation.

(a) In accordance with Executive Law § 94(10)(c), and to facilitate the expeditious and efficient performance of its duties under section 94 of the Executive Law, the Commission on Ethics and Lobbying in Government ("COELIG" or "the Commission") may by majority vote delegate to the Executive Director the power and the authority to administer oaths or affirmations, to subpoena witnesses, compel their attendance and testimony, and to require the production of any books or records that the Commission or the Executive Director may deem relevant or material when, pursuant to Executive Law § 94(10), the Commission or COELIG staff decides to conduct an investigation necessary to carry out the provisions of Executive Law § 94 or to elevate a preliminary review of any complaint or referral received or initiated by COELIG into an investigation pursuant to Executive Law § 94(10)(f).

(b) Any delegation made pursuant to subdivision (a) shall be in writing and shall:

(1) specify whether it is general or limited to a specifically stated subject matter, transaction or transactions, complaint, referral or staff, or Commission-initiated matter; and

(2) require that the chair of the Commission be notified prior to the issuance of any subpoena by the Executive Director pursuant thereto, and that the Commission be informed thereof and of the status of the matter at its next meeting occurring thereafter.

(c) In connection with, and for the purposes of, the preliminary review and investigation, called for by Executive Law § 94(10)(d), of information in the nature of a complaint or referral received by the Commission or initiated by the Commission, and of determining whether there is specific and credible evidence that a violation of section seventy-three, seventy-three-a, or seventy-four of the Public Officers Law, section one hundred seven of the Civil Service Law or article one-A of the Legislative Law by a person or entity subject to the jurisdiction of the Commission including members of the legislature and legislative employees and candidates for members of the legislature, the Executive Director and Commission staff are authorized, pursuant to Executive Law § 94(10)(d) and (11)(b), to disclose confidentially to persons or entities outside the Commission testimony or confidential information related to matters pending before the Commission solely to the extent necessary to conduct such preliminary review and investigation and to make such determination, provided that the chair of the Commission is notified prior to any such disclosure or communication occurring, and that the Commission is informed of such disclosure and of the status of the matter or matters under review and investigation at its next meeting occurring thereafter.

941.4 Time and place of hearing and service of filings.

(a) The Commission shall determine the time and place of hearing and shall, as practicable, take into account the convenience of the parties and the availability of witnesses.

(b) The time and place of hearing shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in section 941.8 of this Part and the hearing officer determines that sufficient cause has been set forth for such a change of time and place in a timely manner.

- (c) Any written notice or filing by the Respondent shall be served upon the hearing officer and the Commission at the offices of the Commission as specified in the notice of substantial basis investigation and hearing.

941.5 Representation.

- (a) Any person compelled to appear in person or who voluntarily appears in any hearing herein described shall be accorded the right to be accompanied, represented and advised by counsel. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others in any hearing. However, any person appearing before the Commission in a representative capacity will be required to establish his or her authority to act in such capacity.
- (b) Any counsel or attorney for the Respondent shall file with the Commission a Notice of Appearance in a form provided by the Commission.

941.6 Selection of hearing officer.

- (a) The Commission shall maintain a list of independent hearing officers in accordance with the Commission's policies and procedures.
- (b) The Commission shall select at random from the list of independent hearing officers a hearing officer to preside over each hearing or appeal, when applicable. In the event the independent hearing officer so selected is unavailable or unable for any reason to sit as a hearing officer in the matter, the Commission shall select at random from the list of independent hearing officers another hearing officer to preside over the hearing or appeal, as applicable.
- (c) Such hearing officer shall not have any conflict of interest in the matter being heard before him or her. The hearing officer shall not sit as a hearing officer in a matter to which he or she is a party; or in which he or she has been attorney or counsel; or in which he or she is interested; or if he or she is related to any party or witness in the matter; or in any circumstance where there is conflict of interest.
- (d) In the event of a hearing officer's death, resignation, removal, termination of employment, disability, or inability or failure to make a written finding and recommendation within the time

period allowed after the completion of the hearing, the Commission may direct that all of the evidence taken at the hearing be submitted to the Commission for decision.

941.7 Powers and duties of hearing officers.

(a) A hearing officer is authorized to do the following in any hearing to which the hearing officer is assigned:

(1) Administer oaths or affirmations.

(2) Sign and issue subpoenas in the name of the Commission, at the request of any party or the direction of the Commission, requiring attendance and testimony by witnesses at the confidential hearing and the production of books, papers, documents and other evidence at such hearing. Subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the authority of an attorney for a party to issue subpoenas under the provisions of the Civil Practice Law and Rules requiring attendance and testimony by witnesses at the confidential hearing and the production of books, papers, documents and other evidence at such hearing.

(3) When there is good cause to believe that the testimony of a potential witness will be unavailable at the time of hearing, testimony may be taken by deposition. The hearing officer shall allow the use of such depositions at the hearing.

(4) Regulate the course of the hearings, set the time and place for continued hearings and fix the time for filing of briefs and other documents for review by the hearing officer prior to the issuance of findings of fact and recommendations.

(5) Direct the parties to appear for pre-hearing conference and confer to consider the simplification or settlement of the issues and/or stipulations as to the underlying facts by consent of the parties.

(b) A hearing officer is authorized, in any hearing or appeal to which the hearing officer is assigned, to issue findings of fact, conclusions of law, and recommendations, as may be appropriate.

941.8 Adjournment.

- (a) A hearing officer shall grant an adjournment of any hearing conducted pursuant to these rules only for good cause.
- (b) Unless for good cause shown, written requests for adjournment shall be submitted to the hearing officer of record in the hearing and a copy provided to the other party no later than five (5) business days preceding the hearing date. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request for such adjournment.
- (c) No request for adjournment shall be considered granted until approved by the hearing officer.

941.9 Time limits.

- (a) At least seven (7) days before the hearing, or at such earlier time as the parties may agree or the hearing officer may direct, the Commission shall provide to the Respondent any additional evidence supporting the allegations that was not previously described in the notice sent pursuant to Executive Law § 94(10)(f) and subsection 941.3(a) in sufficient detail to enable the Respondent to respond at the hearing.
- (b) At least seven (7) days before the hearing, or at such earlier time as the parties may agree or the hearing officer may direct, the Respondent shall provide the Commission and hearing officer a list of possible witnesses and notice of any defenses to be presented, and supporting evidence, in sufficient detail to permit the Staff of the Commission to prepare for the hearing.
- (c) Any other papers, statements, proofs, and evidence shall be provided to the other party and the hearing officer, in the hearing officer's discretion and at a time to be designated by the hearing officer. The hearing officer, Executive Director or the Commission may grant an extension of time for filing such matters only upon formal request.
- (d) Except by consent of the parties, every hearing conducted pursuant to these rules shall be concluded within 180 days of the date of the hearing specified in the Notice of Hearing. An adjournment or continuance granted by the hearing officer at the request of the Respondent or by mutual consent of the parties will extend the period of time for conclusion by the length of time the adjournment or continuance is granted.

- (e) The Commission, the Executive Director, or the hearing officer may, at any time before the time limits delineated above expire, extend such time period by making a determination that the time provided is insufficient to complete the hearing and shall state sufficient reasons therefor. Except for good cause shown, this extension shall not be for a period longer than 90 days after the expiration of the original 180-day period during which the hearing should have been concluded.
- (f) Failure by the hearing officer, the Executive Director or the Commission to adhere to time limits established by this section shall be reviewable under Article 78 of the Civil Practice Law and Rules in a proceeding in the nature of mandamus.

941.10 Conduct of hearings.

- (a) All hearings and proceedings before the hearing officer or Commission related thereto commenced under these rules are confidential in accordance with Executive Law § 94(10)(f) and (11).
- (b) The Respondent shall not be deprived of the opportunity to appear; however, failure to appear after service of notice shall not preclude a decision by the hearing officer and the Commission, upon proof of service, to proceed with the scheduled hearing. Proof of service shall consist of a certified mail receipt or affidavit of service.
- (c) The hearing officer shall conduct all hearings under these rules and shall exercise the power and authority of presiding officers or hearing officers as defined by SAPA, any other pertinent statute and these regulations.
- (d) The hearing officer may exclude from the hearing room or from further participation in the proceeding any person who engages in contemptuous conduct before the hearing officer.

941.11 Oaths.

- (a) All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.
- (b) Oaths shall be administered to all witnesses who testify or appear in any hearing conducted pursuant to these rules.

941.12 Evidence and proof.

- (a) The formal rules of evidence do not apply with respect to any hearings under the Commission's jurisdiction. Objections to evidentiary offers may be made and shall be a part of the record. Subject to these rules, any party may, for the purpose of expediting the hearing, and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.
- (b) The introduction of cumulative or irrelevant evidence shall be avoided and the hearing officer may curtail the testimony of any witness which he or she judges to be merely cumulative or irrelevant; however, the party offering such testimony may make a short avowal of the testimony which would be given and if the witness asserts that such avowal is true, this avowal shall be made part of the record.
- (c) All evidence appearing in the record shall be deemed to have been validly introduced.
- (d) The burden of proof shall be on the Commission unless otherwise provided by statute.
- (e) Each party shall have the right to give sworn testimony, to produce witnesses, to present documentary evidence and to examine opposing witnesses and evidence.
- (f) The parties may, by agreement, stipulate as to any facts involved in the proceeding, provided that such stipulation is duly noted in the record.
- (g) Official notice may be taken of all facts of which judicial notice could be taken and of other facts within the specialized knowledge of the Commission. When official notice is taken, every party shall be given notice thereof and shall on timely request be afforded an opportunity prior to decision to dispute the fact or its materiality.

941.13 Proposed Findings of Fact and Recommendation, Substantial Basis Report, and Notice of Civil Assessment and/or Other Penalty.

- (a) Within sixty (60) days of the conclusion of the hearing, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty to be assessed or any other action to be taken. The hearing officer shall transmit the proposed findings of fact and recommendation to the Respondent and his or her representative and to the Commission. The hearing officer may request from the Commission an extension of time in which to transmit the proposed findings of fact and recommendation. The Commission shall notify the hearing officer and all parties and their representatives should it grant an extension.

- (b) Within thirty (30) days of the hearing officer's transmittal of the findings of fact and recommendation, the following shall occur:
 - (1) The Respondent shall have an opportunity to respond in writing, in the form of a brief directed to the Commission, to the findings of fact and recommendation of the hearing officer. The brief may not include or discuss evidence which is not a part of the official record of the hearing.

 - (2) The Commission's staff shall have an opportunity to respond in writing, in the form of a brief directed to the Commission, to the findings of fact and recommendation of the hearing officer, and shall submit a proposed Substantial Basis Report to the Commission for its consideration.

- (c) The Commission shall have sixty (60) days from receipt of the proposed Substantial Basis Report, or as soon thereafter as possible, in which to vote on whether or not to issue a Substantial Basis Report and issue a Notice of Civil Assessment and/or Other Penalty. In the Substantial Basis Report, the Commission may adopt the findings of fact and recommendation of the hearing officer in whole or in part, or it may reverse, remand and/or dismiss the hearing officer's finding of fact and recommendation based upon the record produced at the hearing.

- (d) With respect to the investigation of a Respondent subject to the jurisdiction of the Commission, other than a member of the legislature or a legislative employee or candidate for member of the legislature, if after its investigation and the hearing the Commission has found by a majority vote a substantial basis to conclude that Respondent violated the Public Officers Law, Civil Service

Law or the Legislative Law, the Commission shall issue a report containing its determinations, including its findings of fact and conclusions of law, to the complainant, if any, and respondent.

- (e) The Commission shall release such report publicly and publish it on its website within twenty days of its delivery to the complainant, if any, and the respondent.
- (f) A report issued pursuant to Executive Law § 94(10)(p)(i) shall be delivered to the Legislative Ethics Commission and to the individual who is the subject of the report, and shall be made public in accordance with and otherwise be governed by Legislative Law §80. The Commission shall provide to the Legislative Ethics Commission copies of the full investigative file and hearing record.
- (g) The Commission shall mail or deliver to each party to the hearing and to its representatives of record a copy of all findings of the hearing officer and all final decisions including a Notice of Civil Assessment, if any, of the Commission.

941.14 Fines, penalties.

- (a) The Commission’s assessment of civil assessments and other penalties made pursuant to Executive Law § 94(10) shall not preclude its referral of violations of law to a prosecutor for criminal prosecution in accordance with the provisions of Executive Law 94(10)(n)(iv).
- (b) If the alleged violation has been established, and the Commission determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty, the Commission, in its discretion, may take such other action as appropriate including, but not limited to, a written admonition or a recommendation that disciplinary action be taken. The Commission may forward a copy of such admonition or recommendation for disciplinary action to the individual’s appointing authority, as appropriate.

941.15 Record of hearing.

- (a) The record in hearings under these rules shall include:
 - (1) all notices, pleadings, motions, and intermediate rulings;
 - (2) evidence presented;

- (3) a statement of matters officially noticed except matters so obvious that a statement of them would serve no useful purpose;
 - (4) questions and offers of proof, objections thereto, and rulings thereon;
 - (5) proposed findings and exceptions, if any; and
 - (6) any decision, determination, opinion, order or report rendered.
- (b) The Commission shall make available a complete record of all hearings in which the Commission has issued a final decision to any party to that hearing. The Commission shall make this record available upon reasonable notice and written request before the commencement of any judicial review. The Commission shall charge the reasonable cost of preparing such record to the requesting party.
- (c) A written transcript for all hearings conducted pursuant to these rules shall be provided to any party to a hearing. This transcript shall be made available upon reasonable notice and written request following the conclusion of the hearing. The Commission shall charge the requesting party for the reasonable cost of preparing such transcript.

941.16 Privacy/confidentiality.

- (a) Executive Law § 94 provides that proceedings, as well as information and evidence obtained, relating to the Commission’s determination as to whether a substantial basis exists that there has been a violation of the laws it enforces are confidential while a matter is pending and unless and until the Commission issues a report, except that the Commission may authorize the disclosure of such information to the extent necessary in furtherance of its investigations.
- (b) Notwithstanding any other provision of law, pursuant to Executive Law 94(11) the Commission, by majority vote of the full Commission in accordance with section 94(4)(h), may disclose to any person or entity outside the Commission any testimony or information obtained by a Commissioner or staff upon a determination that such disclosure is in the public interest as set forth below. Disclosure so authorized may be by full public release or to designated persons or entities as directed by the Commission. The Commission may further direct that disclosure to designated persons or entities be conditioned upon the recipient’s agreement to maintain confidentiality and to limit further dissemination.

(c) In determining whether release or disclosure of information relating to a matter is in the public interest, the Commission may consider any one or more of the following criteria:

- (1) Whether the Complainant, Victim, Subject or Respondent has made public statements relating to an allegation submitted to the Commission;
- (2) Whether the Complaint itself or the allegations therein have been publicly disclosed by the Complainant, Victim, or others;
- (3) Whether the identity of the Complainant or Victim is a matter of public knowledge;
- (4) Whether the fact of the Commission's inquiry or investigation is public knowledge;
- (5) Whether the matter, in the judgment of or as determined by the Commission, is, or involves facts or issues that are, of significant public concern;
- (6) Whether disclosure relating to the matter will address public safety concerns;
- (7) Whether there are public calls for an investigation;
- (8) Whether there is a need for public assurance that the Commission is or has considered the matter;
- (9) Whether there have been any inaccurate or misleading statements made publicly about the Commission's action or inaction with respect to the matter;
- (10) Whether the allegation is an attempt to utilize the Commission for partisan political or electoral gain;
- (11) Whether there is pending civil litigation that is related, directly or indirectly, to the allegations, and if so, whether the information will be used to impact the litigation in a manner that is relevant to the proceedings or appears to be aimed at harassment of a party;
- (12) Whether a prosecutor has asked the Commission to defer action, and if so, whether in the view of the requesting prosecutor disclosure would adversely affect the criminal action;

- (13) Whether there are alleged victims who have a particular interest in the proceeding;
 - (14) Whether the Commission's ability to proceed is inhibited because of a lack of jurisdiction over the Subject or conduct; and
 - (15) Any other factor the Commission deems relevant to determining whether the release of such information is in, or would otherwise serve, the public interest.
- (d) In accordance with this section, the Commission has also delegated to staff the authority to consider the criteria in subdivision (c) of this section, and upon a determination that disclosure is in the public interest, staff shall:
- (1) Publicly acknowledge receipt of a complaint. However, the complaint itself, including the identity of the Complainant or Victim, if not public, shall not be made public absent a vote of the Commission;
 - (2) Publicly acknowledge that a matter is "pending before the Commission" until such time as the matter has been closed for any reason;
 - (3) Publicly acknowledge that a matter is "no longer pending before the Commission" after the matter has been closed for any reason; and
 - (4) Publicly acknowledge if the Commission has received a request from law enforcement to defer the Commission's inquiry, and whether such deferral is in place.
- (e) Pursuant to this section, the Commission has determined that it is in the public interest to publicly release information relating to investigative and enforcement matters as follows:
- (1) its annual report, in accordance with the requirements in Executive Law § 94(12), shall include:
 - (i) a listing by assigned number of each complaint and referral received which alleged a possible violation within the Commission's jurisdiction, including the current status of each complaint; and

- (ii) where a matter has been resolved, the date and nature of the disposition and any sanction imposed, with redactions, as necessary, to protect the identity of the Subject, Respondent, Victim, and Complainant as required under the confidentiality requirements in Executive Law § 94.
- (2) its website shall include, within sixty days of resolution or closure of a matter for any reason other than issuance of a substantial basis investigation report or settlement, a listing by assigned case number, setting forth the nature of the matter, the alleged violation of law, and the date and nature of the disposition, with redactions, as necessary, to protect the identity of the Subject, Respondent, Victim, and Complainant under the confidentiality requirements in Executive Law § 94 and in accordance with these regulations.
- (3) Information relating to an investigation or enforcement proceeding that would otherwise be confidential pursuant to Executive Law § 94, when a legal proceeding is initiated in court by the Subject or Respondent of such investigation, as deemed necessary by counsel representing the Commission in furtherance of its interests in such legal proceeding. With respect to other legal proceedings, the Commission may release such information by majority vote of the full Commission, in accordance with Executive Law section 94(4)(h), that such disclosure is in the public interest considering the criteria set forth in subdivision (c) of this section.

941.17 Appeals from Executive Director’s denials related to financial disclosure statements.

(a) Grounds for appeal.

- (1) Any person required to file a financial disclosure statement whose written request for deletion of one or more items of information as provided in Executive Law § 94(9)(h) has been denied in writing by the Executive Director, may file a written appeal of such denial, called a notice of appeal, as provided in Subpart 941.17(d) of this Title.
- (2) Any person required to file a financial disclosure statement whose written request for exemption from any requirement to report one or more items of information that pertain to such person’s spouse, domestic partner, or unemancipated children as provided in Executive Law § 94(9)(i) has been denied in writing by the Executive Director, may file a

written appeal of the denial, called a notice of appeal, as provided in Subpart 941.17(d) of this Title.

(3) Any person required to file a financial disclosure statement whose written request for exemption from any requirement to report items of information that pertain to representation of a client as provided in Public Officers Law § 73-a(3)(8)(b-1), (b-2), or (c) has been denied in writing by the Executive Director, may file a written appeal of the denial, called a notice of appeal, as provided in Subpart 941.17(d) of this Title.

(4) Any person eligible under Executive Law § 94(9)(k) to apply for an exemption from filing a financial disclosure statement whose written request for exemption from such filing requirement has been denied in writing by the Executive Director, may file a written appeal of the denial, called a notice of appeal, as provided in Subpart 941.17(d) of this Title.

(b) Confidentiality of information related to the Executive Director's denials.

(1) Pending any application for deletion or exemption to the Executive Director or notice of appeal filed with the members of the Commission, all information which is the subject or a part of the application or appeal shall remain confidential. Upon an adverse determination by the members of the Commission, the reporting individual may request, within five (5) calendar days of receipt of an adverse determination, and upon such request the Commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty (30) days from the date of notice of such determination. In the event that the reporting individual resigns from office and holds no other office subject to the jurisdiction of the Commission, the information shall not be made public and shall be expunged in its entirety from (or in the case of client information, not made part of) the financial disclosure statement.

(c) Requirement to file a financial disclosure statement pending the Commission's consideration of the appeal of a request for exemption from the requirement to file, pursuant to Part 935 of this Title.

(1) Pending any notice of appeal filed with the members of the Commission, the applicant or appellant is not required to file the financial disclosure statement.

(d) Notice and procedure for appeal.

- (1) A notice of appeal must be filed with the Commission within fifteen (15) calendar days of receipt by the appellant of a denial by the Executive Director. The notice of appeal must be in writing, must provide a clear statement of the reasons for appeal, and shall be addressed to the chairman of the Commission at the address provided on a document accompanying the denial by the Executive Director which shall include such information and the procedure for appeals.
- (2) Upon receipt of the notice of appeal by the Commission, the Chair, or his/her designee, shall issue a notice of docketing which sets forth a time and date for submitting written arguments and documentary evidence in support of the appellant's position that shall be no sooner than fifteen (15) days after receipt of the notice of appeal and no later than thirty (30) days thereafter.

(e) Record on appeal.

- (1) The members of the Commission shall consider the record provided by the Executive Director and the written submissions of the appellant in making a determination on the appeal of the Executive Director's denial. The members of the Commission may request the appellant to file additional information.
- (2) The formal rules of evidence shall not apply in the appeals process.
- (3) The burden is on the appellant to show that the Executive Director made an erroneous determination in deciding not to grant appellant's deletion or exemption request.

(f) Decision on appeal.

- (1) The members of the Commission shall review the written appeal filed pursuant to these rules, and shall render a decision by a majority vote of the total number of members of the Commission without vacancy. Such decision shall be based upon the entire record submitted to the executive director and the written submission of the appellant.

- (2) The written decision of the members of the Commission shall affirm, reverse, remand and/or dismiss the decision of the Executive Director and, as appropriate, shall set forth a concise statement of the reasons for the Commission's decision and shall be issued within sixty (60) days of the receipt of the written notice of appeal filed with the Commission pursuant to these rules, or as soon thereafter as possible.

941.18 Appeals from denial of an application for exemptions under Article 1-A of the Legislative Law §§1-h, 1-j and 19 NYCRR Part 938.6.

- (a) An appeal of a denial of an application for exemption to a judicial hearing officer, pursuant to Article 1-A of the Legislative Law § 1-h and 19 NYCRR Part 938, is available only to a Client Filer who submitted an application under 19 NYCRR Part 938.4(a). A Client Filer who submitted an application under 19 NYCRR Part 938.4(b) is not entitled to such an appeal.
- (b) A Client Filer may appeal a denial of an application for exemption. A notice of appeal must be in writing and include the original application for exemption together with any supporting materials that were submitted pursuant to 19 NYCRR Part 938.5. The written notice of appeal must be received by the Commission no later than fifteen (15) business days after the date of the denial. Any notice of appeal received by the Commission later than fifteen (15) business days after the date of the denial will not be considered and the Client Filer will be deemed to have waived the right to appeal.
- (c) If the Client Filer appeals and such appeal is denied, the Client Filer shall, within five (5) business days of the date of the denial of the appeal, amend the Client Semi-Annual Report to include the required information relating to the subject of the application for exemption.
- (d) Appeal Procedure and Standard of Review
 - (1) Upon receipt of a notice of appeal in accordance with Section 941.18(b), the Commission shall assign the matter to a hearing officer.
 - (2) The hearing officer shall review the entire record, which shall consist of the original application for exemption together with any supporting materials that were submitted pursuant to Section 941.18(b) and the Commission's written denial.
 - (3) The hearing officer may reverse the Commission's denial only if such denial is clearly erroneous in view of the evidence in the record.

(4) The hearing officer's final decision shall be in writing and shall affirm, reverse, or remand the decision of the Commission and shall set forth a concise statement of the reasons for the judicial hearing officer's decision. The hearing officer shall issue the final decision within fifteen (15) business days of the hearing officer's receipt of the materials identified in this section.

(5) A decision by the hearing officer to affirm or reverse the Commission's denial of an exemption shall be considered a final determination by the Commission.

941.19 General provisions.

(a) All final recommendations of the hearing officer and all of the decisions of the Executive Director and the Commission shall be in writing or stated in the record and shall include findings of fact, conclusions of law, reasons for the decision and, when appropriate, direct that specific action be taken by the Commission. The final decisions of the Commission shall be binding upon the Commission.

(b) Except in matters *ex parte*, members or employees of the Commission assigned to make, or assist in making, a decision or findings of fact and conclusions of law in any hearing shall not communicate, directly or indirectly, in connection with any issue of law with any person, party or its representative of record, except upon notice and opportunity for all parties to participate. Any such member or employee may communicate with other Commission members or employees and may seek the aid and advice of agency staff, including counsel to the Commission, other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or factually related case.

(c) The Commission shall maintain all substantial basis reports and notices of civil assessments and make them publicly available as required by law.

941.20 Savings Clause.

All matters where the Commission has issued a Substantial Basis Report will be governed by the laws and adjudicatory rules in effect when such Substantial Investigation Report was issued. All other matters and investigations will be governed by the provisions of this Part.



TITLE 19 NYCRR PART 942

PROCEDURE FOR REQUESTING AN EXEMPTION FROM PUBLICLY DISCLOSING CLIENT INFORMATION PURSUANT TO QUESTIONS 8(B-1), 8(B-2) OR 8(C) ON A FINANCIAL DISCLOSURE STATEMENT

(Effective 4/12/17)

Title 19 NYCRR Part 942 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT

942.1 Preamble

The purpose of this Part is to implement the legislative direction set forth in Chapter 56 of the Laws of 2015 that the Commission on Ethics and Lobbying in Government receive and determine requests for exemption from the duty to publicly disclose client information in response to certain questions on the financial disclosure statement that must be filed in accordance with section 73-a of the Public Officers Law. Specifically, the statute carves out a limited exception to the general rule mandating disclosure of client information and permits a filer to ask either the Office of Court Administration or the Commission on Ethics and Lobbying in Government for authority not to disclose client information in responding to questions 8(b-1), (b-2) and (c) of section 73-a(3). The statute also provides that disclosure of client information is not required in certain categories of cases delineated therein. With respect to clients represented in matters not otherwise exempt, this Part provides a procedure to request an exemption from publicly disclosing such clients and related information.

942.2 Definitions.

- (a) **Commission** shall mean the New York State Commission on Ethics and Lobbying in Government.

- (b) **Covered Person** shall mean any individual who is required to file a Financial Disclosure Statement pursuant to section 73-a of the Public Officers Law and is required to disclose Client Information pursuant to questions 8(b-1), 8(b-2) or 8(c) of the Financial Disclosure Statement.
- (c) **Exemption** shall mean a waiver from publicly disclosing Client Information pursuant to questions 8(b-1), 8(b-2) or 8(c) of the Financial Disclosure Statement.
- (d) **Financial Disclosure Statement** shall mean the annual statement that must be filed pursuant to section 73-a of the Public Officers Law.
- (e) **Client Information** shall mean the identity of a Client, customer, person or entity, and other related information required to be publicly disclosed in response to questions 8(b-1), 8(b-2) and 8(c) on the Financial Disclosure Statement.
- (f) **Client** shall mean the specific client, customer, person or entity referenced in Section 942.2(e).
- (g) **Ministerial Matter** shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- (h) **Title** shall mean the name of the position or job in which a Covered Person serves or, in the case of a Covered Person who is a candidate for statewide office or a member of the legislature, the name of the office for which the Covered Person is a candidate.
- (i) **State Agency** shall mean any State department, or division, board, commission, or bureau of any State department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.

942.3 Procedure.

- (a) Pursuant to Executive Law § 94(9) and questions 8(b-1), 8(b-2) and 8(c) on the Financial Disclosure Statement set forth in Public Officers Law §73-a, the Commission permits a Covered Person to make a confidential request, in accordance with this Section, for an Exemption from the requirement to publicly disclose Client Information. If requesting an Exemption from the Commission, such Covered Person shall file the Exemption request with the Commission on or

before the deadline to file a Financial Disclosure Statement that applies to said Covered Person pursuant to Public Officers Law section 73-a(2). A Covered Person may not file an Exemption request with the Commission for a Client matter which the Covered Person has previously addressed in an Exemption request filed with the Office of Court Administration.

- (b) The filing of an Exemption request pursuant to this Part shall not toll a deadline to file a Financial Disclosure Statement. A Financial Disclosure Statement filed during the pendency of a request for Exemption shall include all required information except the Client Information.
- (c) In response to questions 8(b-1), 8(b-2) and 8(c) of the Financial Disclosure Statement, a Covered Person need not report Clients or customers with respect to matters for which the Covered Person (or his or her firm) was retained before entering public office in accordance with § 73-a(3)(8) of the Public Officers Law.
- (d) The Exemption request shall be made in writing, signed by the Covered Person requesting such Exemption, and sent to the Commission via email at FDSHelpDesk@ethics.ny.gov. The Exemption request shall be deemed to be a part of his or her Financial Disclosure Statement and subject to all applicable enforcement and penalty provisions of Public Officers Law § 73-a, including without limitation subdivisions 4 and 6 of said section, and Executive Law § 94.
- (e) In the request for Exemption, the Covered Person shall state that:

“My Client is not currently receiving my services or seeking my services in connection with:

- (1) A proposed bill or resolution in the senate or assembly during the reporting period;
- (2) A contract in an amount totaling \$10,000 or more from the state or any state agency for services, materials, or property;
- (3) A grant of \$10,000 or more from the state or any state agency during the reporting period;
- (4) A grant obtained through a legislative initiative during the reporting period; or
- (5) A case, proceeding, application or other matter that is not a Ministerial Matter before a state agency during the reporting period,” and

- (f) The request for Exemption should include but need not be limited to the following information:
- (1) the name and work address of the Covered Person;
 - (2) the Title of the Covered Person;
 - (3) a description of the specific duties and responsibilities of the Covered Person;
 - (4) the Client Information for which the Covered Person seeks an Exemption, and with respect to each matter on which the Covered Person has provided or will provide services to the Client, a description of the services rendered or to be rendered, the actual or estimated fee amount, and the actual or estimated duration of such services;
 - (5) a general description of the business activities in which the Client engages;
 - (6) to the best of the Covered Person's knowledge, a description of any specific business the Client has before the state;
 - (7) to the best of the Covered Person's knowledge, a description of any particularized interest the Client has in any pending legislation;
 - (8) if applicable, a description of any action taken by the Covered Person relating to the Client and any interaction the Covered Person has had with the Client in the course of performing the Covered Person's official duties;
 - (9) a statement explaining why the Covered Person should receive the requested Exemption rather than be required to disclose the Client Information;
 - (10) a description of any public disclosure of the Client Information in any other public filing or public appearance including regulatory filings and litigation papers and appearances;
 - (11) a description of any prior applications submitted by the Covered Person to the Commission or the Office of Court Administration for an Exemption from public disclosure of Client Information for the Client on any matter (including pending applications) and the results of such applications; and

(12) any other relevant information which may support the Exemption request.

942.4 Commission action.

- (a) All requests for Exemption shall be reviewed and decided in the initial instance by the Executive Director. A denial of a request for Exemption may be appealed to the Commission for reconsideration in accordance with the provisions of Part 941.17 of this Title.
- (b) Upon receipt of a request for Exemption, the Executive Director shall review the material filed to determine whether the Exemption shall be granted. If no further information is required, the Executive Director shall render decision on the material.
- (c) In reviewing a request for an Exemption, the Executive Director shall conduct its inquiry and, being mindful of the need to preserve the confidentiality of Client Information prior to public disclosure, may consult with bar or other professional associations, or with the office of court administration or the legislative ethics commission in the case of individuals subject to the Commission's jurisdiction, and may consider rules of professional conduct.
- (d) The factors the Executive Director shall consider in determining a request for Exemption shall include, but not be limited to:
 - (1) the nature and the size of the Client;
 - (2) whether the Client has any business before the state; and if so, how significant the business is; and whether the Client has any particularized interest in pending legislation and if so how significant the interest is;
 - (3) whether disclosure may reveal trade secrets;
 - (4) whether disclosure could reasonably result in retaliation against the Client;
 - (5) whether disclosure may cause undue harm to the Client;
 - (6) whether disclosure may result in undue harm to the attorney-client relationship;
 - (7) whether disclosure may result in an unnecessary invasion of privacy to the Client; and
 - (8) any other factors that the Executive Director deems relevant to the Exemption request.

- (e) The Executive Director shall grant the Exemption request upon a finding that, under the totality of the circumstances, the interests in nondisclosure of the Client Information (including the general interests served by principles of Client confidentiality) outweigh the interests served by disclosure; otherwise the Executive Director shall deny the Exemption request.
- (f) The determination of the Executive Director shall be set forth in writing and provided to the Covered Person. Any denial shall include an explanation for the determination. The Executive Director shall provide the Commission with information regarding the nature and number of Exemption applications received and disposition thereof.
- (g) If the Covered Person receives an exemption, no Client Information that was part of the request, nor the fact that an exemption has been sought and granted, need be included on the Financial Disclosure Statement.
- (h) If the Executive Director or Office of Court Administration denies the request for Exemption, or if the Commission denies an appeal of a denial of the Executive Director pursuant to Part 941.17 of this Title, and the Covered Person agrees to represent the Client, such Covered Person must include the Client Information in his or her Financial Disclosure Statement when it is due, or, if his or her Financial Disclosure Statement was filed during the pendency of a request for Exemption, such Covered Person must file with the Commission an amended Financial Disclosure Statement that includes the Client Information within 15 days from receipt of the denial.
- (i) Where the Executive Director or Office of Court Administration denies a request for Exemption, or if the Commission denies an appeal of a denial of the Executive Director pursuant to Part 941.17 of this Title, and thereafter there occurs a material change of facts or circumstances, including a change in the Covered Person's Title or duties, a change in the nature of the services provided to the Client, or a change in the nature of the Client's business, a Covered Person may seek reconsideration of that denial following the procedures set forth in section 942.3.
- (j) An Exemption, once granted, shall remain in effect in each subsequent year in which such disclosure would otherwise be required unless and until:
 - (1) the Covered Person is appointed or promoted to a new Title in which such a filing is

required; or

(2) there is a material change in the duties of the Covered Person; or

(3) there is a material change in the nature of the Client's business before the State, if applicable.

(k) If the Executive Director receives new facts or other information relevant to the Exemption, he may reconsider a prior determination to grant such Exemption.