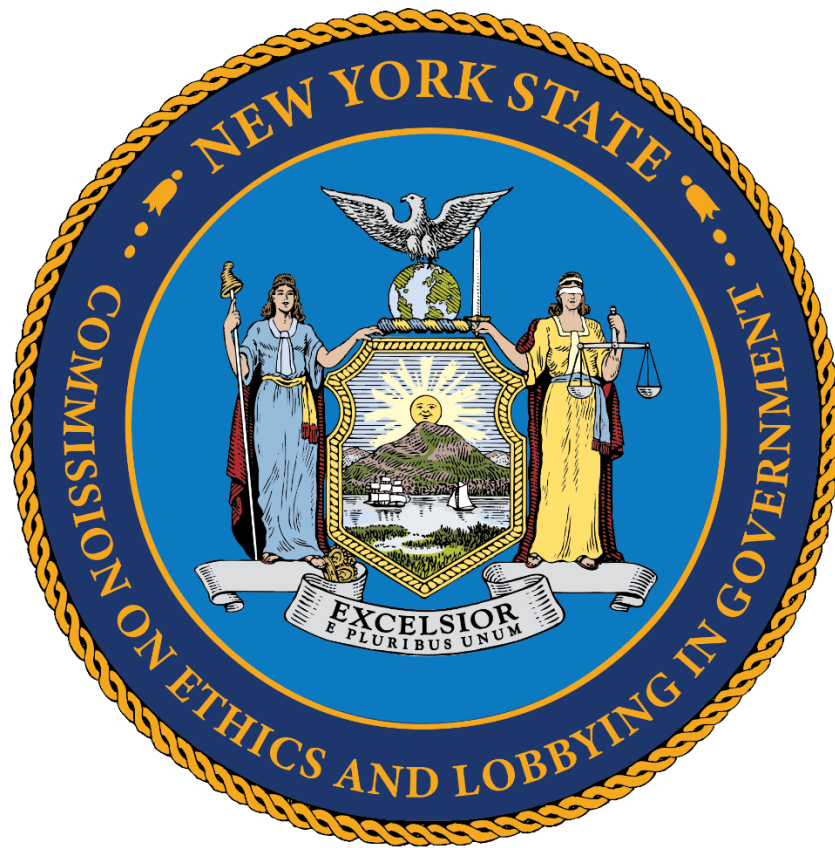


# PUBLIC OFFICERS LAW

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



**2022 EDITION**



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## § 94. Commission on Ethics and Lobbying in Government.

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1. (a) **Commission established.** 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, five members shall serve a term of four years, three members shall serve a term of two years, and one member shall serve a term of one year. 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 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 Article 5 § 80.

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*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, 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 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.





## Public Officers § 73. Business or professional activities by state officers and employees and party officers.

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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.





## § 73-a. Financial disclosure.

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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.
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- (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)
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- (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.
9. 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).

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- (b) 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.)

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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

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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 BBBB	\$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

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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

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## Code of Ethics.

### 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

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### **§ 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

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### *Prohibition against certain political activities; improper influence.*

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.





## Legislative Law Article 1-A

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**§ 1-a. Legislative declaration.**

The legislature hereby declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to appropriate officials their opinions on legislation and governmental operations; and that, to preserve and maintain the integrity of the governmental decision-making process in this state, it is necessary that the identity, expenditures and activities of persons and organizations retained, employed or designated to influence the passage or defeat of any legislation by either house of the legislature or the approval, or veto, of any legislation by the governor and attempts to influence the adoption or rejection of any rule or regulation having the force and effect of law or the outcome of any rate making proceeding by a state agency, and the attempts to influence the passage or defeat of any local law, ordinance, or regulation be publicly and regularly disclosed.

**§ 1-b. Short title.**

This article shall be known and may be cited as the "Lobbying act".

**§ 1-c. Definitions.**

As used in this article unless the context otherwise requires:

- (a) The term "**lobbyist**" shall mean every person or organization retained, employed or designated by any client to engage in lobbying. The term "lobbyist" shall not include any officer, director, trustee, employee, counsel or agent of the state, or any municipality or subdivision thereof of New York when discharging their official duties; except those officers, directors, trustees, employees, counsels, or agents of colleges, as defined by section two of the education law.
- (i) Any individual who stands convicted of a felony defined in article two hundred or four hundred ninety-six or section 195.20 of the penal law may not be retained, employed or designated by any client to engage in lobbying for compensation.

- (ii) Any individual who stands convicted of a misdemeanor defined in article two hundred, article four hundred ninety-six, section 195.00 or an attempt to commit a violation of section 195.20 of the penal law may not be retained, employed or designated by any client to engage in lobbying for compensation for a period of five years from the date of conviction, provided that in the event such conviction is the result of a plea agreement resulting in a plea to such charge in lieu of a plea or conviction of a felony defined in section 195.20, article two hundred or article four hundred ninety-six of the penal law, all parties to such agreement may agree that the period of such bar may be for a period of up to ten years from the date of conviction.
- (b) The term "**client**" shall mean every person or organization who retains, employs or designates any person or organization to carry on lobbying activities on behalf of such client.
- (c) The term "**lobbying**" or "**lobbying activities**" shall mean and include any attempt to influence:
  - (i) the passage or defeat of any legislation or resolution by either house of the state legislature including but not limited to the introduction or intended introduction of such legislation or resolution or approval or disapproval of any legislation by the governor;
  - (ii) the adoption, issuance, rescission, modification or terms of a gubernatorial executive order;
  - (iii) the adoption or rejection of any rule or regulation having the force and effect of law by a state agency;
  - (iv) the outcome of any rate making proceeding by a state agency;
  - (v) any determination: (A) by a public official, or by a person or entity working in cooperation with a public official related to a governmental procurement, or (B) by an officer or employee of the unified court system, or by a person or entity working in cooperation with an officer or employee of the unified court system related to a governmental procurement;
  - (vi) the approval, disapproval, implementation or administration of tribal-state compacts, memoranda of understanding, or any other tribal-state agreements and any other state actions related to Class III gaming as provided in 25 U.S.C. § 2701, except to the extent designation of

such activities as "lobbying" is barred by the federal Indian Gaming Regulatory Act, by a public official or by a person or entity working in cooperation with a public official in relation to such approval, disapproval, implementation or administration;

(vii) the passage or defeat of any local law, ordinance, resolution, or regulation by any municipality or subdivision thereof;

(viii) the adoption, issuance, rescission, modification or terms of an executive order issued by the chief executive officer of a municipality;

(ix) the adoption or rejection of any rule, regulation, or resolution having the force and effect of a local law, ordinance, resolution, or regulation; or

(x) the outcome of any rate making proceeding by any municipality or subdivision thereof.

The term "**lobbying**" shall not include:

(A) Persons engaged in drafting, advising clients on or rendering opinions on proposed legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, procurement contracts, or tribal-state compacts, memoranda of understanding, or any other tribal-state agreements or other written materials related to Class III gaming as provided in 25 U.S.C. § 2701, when such professional services are not otherwise connected with state or municipal legislative or executive action on such legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, procurement contracts, or tribal-state compacts, memoranda of understanding, or any other tribal-state agreements or other written materials related to Class III gaming as provided in 25 U.S.C. § 2701;

(B) (i) Newspapers and other periodicals and radio and television stations, and owners and employees thereof, provided that their activities in connection with proposed legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, tribal-state compacts, memoranda of understanding or other tribal-state agreements related to Class III gaming as provided in 25 U.S.C. § 2701, or procurement contracts by a state agency, municipal agency, local legislative body, the state

legislature, or the unified court system, are limited to the publication or broadcast of news items, editorials or other comments, or paid advertisements;

(ii) Communications with a professional journalist, or newscaster, including an editorial board or editorial writer of a newspaper, magazine, news agency, press association or wire service, relating to news, as these terms are defined in section seventy-nine-h of the civil rights law, and communications relating to confidential and non-confidential news as described in subdivisions (b) and (c) of section seventy-nine-h of the civil rights law respectively and communications made pursuant to community outreach efforts for broadcast stations required by federal law.

(C) Persons who participate as witnesses, attorneys or other representatives in public proceedings of a state or municipal agency with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation;

(D) Persons who attempt to influence a state or municipal agency in an adjudicatory proceeding, as "adjudicatory proceeding" is defined by section one hundred two of the state administrative procedure act;

(E) Persons who prepare or submit a response to a request for information or comments by the state legislature, the governor, or a state agency or a committee or officer of the legislature or a state agency, or by the unified court system, or by a legislative or executive body or officer of a municipality or a commission, committee or officer of a municipal legislative or executive body;

(F) Any attempt by a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a federal income tax return under paragraph 2(A)(i) of section 6033(a) of Title 26 of the United States Code or a religious order that is exempt from filing a federal income tax return under paragraph (2)(A)(iii) of such section 6033(a) to influence passage or defeat of a local law, ordinance, resolution or regulation or any rule or regulation having the force and effect of a local law, ordinance or regulation;

(G) Any activity relating to governmental procurements made under section one hundred sixty-two of the state finance law undertaken by (i) the non-profit-making agencies appointed pursuant to

paragraph e of subdivision six of section one hundred sixty-two of the state finance law by the commissioner of the office of children and family services, the commission for the blind, or the commissioner of education, and (ii) the qualified charitable non-profit-making agencies for the blind, and qualified charitable non-profit-making agencies for other severely disabled persons as identified in subdivision two of section one hundred sixty-two of the state finance law; provided, however, that any attempt to influence the issuance or terms of the specifications that serve as the basis for bid documents, requests for proposals, invitations for bids, or solicitations of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract with a state agency, the state legislature, the unified court system, a municipal agency or local legislative body shall not be exempt from the definition of "lobbying" or "lobbying activities" under this subparagraph;

- (H) Participants, including those appearing on behalf of a client, in a conference provided for in a request for proposals, invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract;
- (I) Offerers who have been tentatively awarded a contract and are engaged in communications with a state agency, either house of the state legislature, the unified court system, a municipal agency or local legislative body solely for the purpose of negotiating the terms of the procurement contract after being notified of such award or, when a state agency, either house of the state legislature, the unified court system, a municipal agency or local legislative body is purchasing an article of procurement pursuant to an existing state procurement contract, offerers who are engaged in communications with the procuring entity solely for the purpose of negotiating terms applicable to that purchase; or persons who currently hold a franchise and who are engaged in negotiating the terms of a tentative franchise renewal contract with a municipality, but such negotiations, which do not constitute lobbying, do not include communications to the local legislative body that must approve the contract;
- (J) (i) Offerers or other persons who are a party to a protest, appeal or other review proceeding (including the apparent successful bidder or proposer and his or her representatives) before the

governmental entity conducting the procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or

(ii) Offerers or other persons who bring complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction; or

(iii) Offerers or other persons who submit written protests, appeals or complaints to the state comptroller's office during the process of contract approval, where the state comptroller's approval is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to section one hundred sixty-three of the state finance law; or

(iv) Offerers or other persons who bring complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office; provided, however, that nothing in this paragraph shall be construed as recognizing or creating any new rights, duties or responsibilities or abrogating any existing rights, duties or responsibilities of any governmental entity as it pertains to implementation and enforcement of article eleven of the state finance law or any other provision of law dealing with the governmental procurement process;

(K) The submission of a bid or proposal (whether submitted orally, in writing or electronically) in response to a request for proposals, invitation for bids or any other method for soliciting a response from offerers intending to result in a procurement contract;

(L) Offerers submitting written questions to a designated contact of a state agency, either house of the state legislature, the unified court system, a municipal agency or local legislative body set forth in a request for proposals, or invitation for bids or any other method for soliciting a response from offerers intending to result in a procurement contract, when all written questions and responses are to be disseminated to all offerers who have expressed an interest in the request for proposals, or

invitation for bids, or any other method for soliciting a response from offerers intending to result in a procurement contract;

(M) Contacts during governmental procurements between designated staff of a state agency, either house of the state legislature, the unified court system, a municipal agency or local legislative body involved in governmental procurements and officers or employees of bidders or potential bidders, or officers or employees of subcontractors of bidders or potential bidders, who are charged with the performance of functions relating to contracts and who are qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an article of procurement. Such authorized contacts shall: (i) be limited to providing information to the staff of a state agency, either house of the state legislature, the unified court system, a municipal agency and local legislative body to assist them in understanding and assessing the qualities, characteristics or anticipated performance of an article of procurement; (ii) not include any recommendations or advocate any contract provisions; and (iii) occur only at such times and in such manner as authorized under the procuring entity's solicitation or guidelines and procedures. For the purposes of this paragraph, the term "technical services" shall be limited to analysis directly applying any accounting, engineering, scientific, or other similar technical disciplines;

(N) Applications for licenses, certificates, and permits authorized by statutes or local laws or ordinances;

(O) The activities of persons who are commission salespersons with respect to governmental procurements;

(P) Communications made by an officer or employee of the offerer after the award of the procurement contract when such communications are in the ordinary course of providing the article of procurement provided by the procurement contract and in the ordinary course of the assigned duties of the officer or employee; provided, however, that nothing herein shall exempt: (i) an officer or employee whose primary purpose of employment is to engage in lobbying activities with regard to governmental procurements, or (ii) an agent or independent contractor hired by an offerer and



whose primary duty is to engage in lobbying activities with regard to governmental procurements;  
and

(Q) Persons who communicate with public officials where such communications are limited to obtaining factual information related to benefits or incentives offered by a state or municipal agency and where such communications do not include any recommendations or advocate governmental action or contract provisions, and further where such communications are not otherwise connected with pending legislative or executive action or determinations; provided, however, that any person who is otherwise required to file a statement or report pursuant to this article by virtue of engaging in lobbying activities as defined in this section shall not be deemed to fall within the exception provided for under this paragraph.

(d) The term "**organization**" shall mean any corporation, company, foundation, association, college as defined by section two of the education law, labor organization, firm, partnership, society, joint stock company, state agency or public corporation.

(e) The term "**state agency**" shall mean any department, board, bureau, commission, division, office, council, committee or officer of the state, whether permanent or temporary, or a public benefit corporation or public authority at least one of whose members is appointed by the governor, authorized by law to make rules or to make final decisions in adjudicatory proceedings but shall not include the judicial branch or agencies created by interstate compact or international agreement.

(f) The term "**commission**" shall mean the commission on ethics and lobbying in government created by section ninety-four of the executive law.

(g) The term "**expense**" or "**expenses**" shall mean any expenditures incurred by or reimbursed to the lobbyist for lobbying but shall not include contributions reportable pursuant to article fourteen of the election law.

(h) The term "**compensation**" shall mean any salary, fee, gift, payment, benefit, loan, advance or any other thing of value paid, owed, given or promised to the lobbyist by the client for lobbying but shall not include contributions reportable pursuant to article fourteen of the election law.

- (i) The term "**public corporation**" shall mean a municipal corporation, a district corporation, or a public benefit corporation as defined in section sixty-six of the general construction law.
- (j) The term "**gift**" shall mean anything of more than nominal value given to a public official in any form including, but not limited to money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance, or promise, having a monetary value. The following are excluded from the definition of a gift:
  - (i) complimentary attendance, including food and beverage, at bona fide charitable or political events;
  - (ii) complimentary attendance, food and beverage offered by the sponsor of a widely attended event. The term "**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, and (B) which is related to the attendee's duties or responsibilities or which 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 either (1) 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; or (2) for elected public officials, or their staff attending with or on behalf of such elected officials, attending an event or a meeting at which more than one-half of the attendees, or persons invited in good faith to attend, are residents of the county, district or jurisdiction from which the elected public official was elected;
  - (iii) awards, plaques, and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph;
  - (iv) an honorary degree bestowed upon a public official by a public or private college or university;

- (v) promotional items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo, or message in a manner which promotes the organization's cause;
- (vi) goods and services, or discounts for goods and services, 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 or services are offered to the general public or segment thereof;
- (vii) gifts from a family member, member of the same household, or person with a personal relationship with the public official, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor; in determining motivation, the following factors shall be among those considered: (A) the history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged; (B) whether the item was purchased by the donor; and (C) whether or not the donor at the same time gave similar items to other public officials; the transfer shall not be considered to be motivated by a family, household, or personal relationship if the donor seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client;
- (viii) contributions reportable under article fourteen of the election law, including contributions made in violation of that article of the election law;
- (ix) travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event or informational meeting 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 event or meeting;

- (x) provision of local transportation to inspect or tour facilities, operations or property located in New York state, provided, however, that such inspection or tour is related to the individual's official duties or responsibilities and that payment or reimbursement for expenses for lodging or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise permitted under this subdivision;
  - (xi) meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants; and
  - (xii) food or beverage valued at fifteen dollars or less.
- (k) The term "**municipality**" shall mean any jurisdictional subdivision of the state, including but not limited to counties, cities, towns, villages, improvement districts and special districts, with a population of more than five thousand, and industrial development agencies in jurisdictional subdivisions with a population of more than five thousand; and public authorities, and public corporations.
- (l) The term "**public official**" shall mean:
- (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,

- (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;
- (i) officers and employees of the legislature; and
- (ii) municipal officers and employees including an officer or employee of a municipality, whether paid or unpaid, including 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. 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.
- (m) The term "**restricted period**" shall mean the period of time commencing with the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract with a state agency, either house of the state legislature, the unified court system, or a municipal agency, as that term is defined by paragraph (ii) of subdivision (s) of this section, and ending with the final contract award and approval by the state agency, either house of the state legislature, the unified court system, or a municipal agency, as that term is defined by paragraph (ii) of subdivision (s) of this section, and, where applicable, the state comptroller.
- (n) The term "**revenue contract**" shall mean any written agreement between a state or municipal agency or a local legislative body and an offerer whereby the state or municipal agency or local legislative body gives or grants a concession or a franchise.
- (o) The term "**article of procurement**" shall mean a commodity, service, technology, public work, construction, revenue contract, the purchase, sale or lease of real property or an acquisition or granting of other interest in real property, that is the subject of a governmental procurement.
- (p) The term "**governmental procurement**" shall mean: (i) the public announcement, public notice, or public communication to any potential vendor of a determination of need for a procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, request

for proposals, or evaluation criteria for a procurement contract, (ii) solicitation for a procurement contract, (iii) evaluation of a procurement contract, (iv) award, approval, denial or disapproval of a procurement contract, or (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the procurement contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a procurement contract, or any other material change in the procurement contract resulting in a financial benefit to the offerer.

- (q) The term "**offerer**" shall mean the individual or entity, or any employee, agent or consultant of such individual or entity, that contacts a state agency, either house of the state legislature, the unified court system, a municipal agency or local legislative body about a governmental procurement provided, however, that a governmental agency or its employees that communicate with the procuring agency regarding a governmental procurement in the exercise of its oversight duties shall not be considered an offerer.
- (r) The term "**procurement contract**" shall mean any contract or other agreement, including an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract as it was finally awarded or approved by the comptroller, as applicable), for an article of procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars. Grants, article XI-B state finance law contracts, program contracts between not-for-profit organizations, as defined in article XI-B of the state finance law, and the unified court system, intergovernmental agreements, railroad and utility force accounts, utility relocation project agreements or orders, contracts governing organ transplants, contracts allowing for state participation in trade shows, and eminent domain transactions shall not be deemed procurement contracts.
- (s) The term "**municipal agency**" shall mean: (i) any department, board, bureau, commission, division, office, council, committee or officer of a municipality, whether permanent or temporary; or (ii) an industrial development agency, located in a jurisdictional subdivision of the state with a population of more than fifty thousand, or local public benefit corporation, as that term is defined in section sixty-six of the general construction law.

- (t) The term "**local legislative body**" shall mean the board of supervisors, board of aldermen, common council, council, commission, town board, board of trustees or other elective governing board or body of a municipality now or hereafter vested by state statute, charter or other law with jurisdiction to initiate and adopt local laws, ordinances and budgets, whether or not such local laws, ordinances or budgets require approval of the elective chief executive officer or other official or body to become effective.
- (u) The term "**commission salesperson**" shall mean any person the primary purpose of whose employment is to cause or promote the sale of, or to influence or induce another to make a purchase of an article of procurement, whether such person is an employee (as that term is defined for tax purposes) of or an independent contractor for a vendor, provided that an independent contractor shall have a written contract for a term of not less than six months or for an indefinite term, and which person shall be compensated, in whole or in part, by the payment of a percentage amount of all or a substantial part of the sales which such person has caused, promoted, influenced or induced, provided, however, that no person shall be considered a commission salesperson with respect to any sale to or purchase by a state agency, either house of the state legislature, the unified court system, a municipal agency or local legislative body if the percentage amount of any commission payable with respect to such sale or purchase is substantially in excess of any commission payable with respect to any comparable sale to a purchaser that is not a state agency, either house of the state legislature, the unified court system, a municipal agency or local legislative body; further, provided, however, that any person that is required to file a statement or report pursuant to this article by virtue of engaging in lobbying activities as defined in paragraphs (i) through (iv) and (vi) through (x) of subdivision (c) of this section shall not be deemed to be a "**commission salesperson**" for purposes of this article.
- (v) The term "**unified court system**" shall, for the purposes of this article only, mean the unified court system of the state of New York, or the office of court administration, where appropriate, other than town and village justice courts in jurisdictions with a population under fifty thousand, when it acts solely in an administrative capacity to engage in governmental procurements and shall not include the unified court system or any court of the state judiciary when it acts to hear and decide cases of original or appellate jurisdiction or otherwise acts in its judicial, as opposed to administrative, capacity.

- (w) The term "**reportable business relationship**" shall mean a relationship in which compensation is paid by a lobbyist or by a client of a lobbyist, in exchange for any goods, services or anything of value, the total value of which is in excess of one thousand dollars annually, to be performed or provided by or intended to be performed or provided by (i) any statewide elected official, state officer, state employee, member of the legislature or legislative employee, or (ii) any entity in which the lobbyist or the client of a lobbyist knows or has reason to know the statewide elected official, state officer, state employee, member of the legislature or legislative employee is a proprietor, partner, director, officer or manager, or 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).

**§ 1-d. Lobby-related powers of the commission.**

In addition to any other powers and duties provided by section ninety-four of the executive law, the commission shall, with respect to its lobbying-related functions only, have the power and duty to:

- (a) administer and enforce all the provisions of this article;
- (b) conduct a program of random audits subject to the terms and conditions of this section. Any such program shall be carried out in the following manner:
  - (i) The commission may randomly select reports or registration statements required to be filed by lobbyists or clients pursuant to this article for audit. Any such selection shall be done in a manner pursuant to which the identity of any particular lobbyist or client whose statement or report is selected for audit is unknown to the commission, its staff or any of their agents prior to selection.
  - (ii) The commission shall develop protocols for the conduct of such random audits. Such random audits may require the production of books, papers, records or memoranda relevant and material to the preparation of the selected statements or reports, for examination by the commission. Any such protocols shall ensure that similarly situated statements or reports are audited in a uniform manner.
  - (iii) The commission shall contract with an outside accounting entity, which shall monitor the process pursuant to which the commission selects statements or reports for audit and carries out the



provisions of paragraphs (i) and (ii) of this subdivision and certifies that such process complies with the provisions of such paragraphs.

- (iv) Upon completion of a random audit conducted in accordance with the provisions of paragraphs (i), (ii) and (iii) of this subdivision, the commission shall determine whether there is reasonable cause to believe that any such statement or report is inaccurate or incomplete. Upon a determination that such reasonable cause exists, the commission may require the production of further books, records or memoranda, subpoena witnesses, compel their attendance and testimony and administer oaths or affirmations, to the extent the commission determines such actions are necessary to obtain information relevant and material to investigating such inaccuracies or omissions;
- (c) conduct hearings pursuant to article seven of the public officers law. Any hearing may be conducted as a video conference in accordance with the provisions of subdivision four of section one hundred four of the public officers law;
- (d) prepare uniform forms for the statements and reports required by this article;
- (e) meet at least once during each bi-monthly reporting period of the year as established by subdivision (a) of section one-h of this article and may meet at such other times as the commission, or the chair and vice-chair jointly, shall determine;
- (f) issue advisory opinions to those under its jurisdiction. Such advisory opinions, which shall be published and made available to the public, shall not be binding upon such commission except with respect to the person to whom such opinion is rendered, provided, however, that a subsequent modification by such commission of such an advisory opinion shall operate prospectively only; and
- (g) submit by the first day of March next following the year for which such report is made to the governor and the members of the legislature an annual report summarizing the commission's work, listing the lobbyists and clients required to register pursuant to this article and the expenses and compensation reported pursuant to this article and making recommendations with respect to this article. The commission shall make this report available free of charge to the public.

- (h) provide an online ethics training course for individuals registered as lobbyists pursuant to section one-e of this article. The curriculum for the course shall include, but not be limited to, explanations and discussions of the statutes and regulations of New York concerning ethics in the public officers law, the election law, the legislative law, summaries of advisory opinions, underlying purposes and principles of the relevant laws, and examples of practical application of these laws and principles. The commission shall prepare those methods and materials necessary to implement the curriculum. Each individual registered as a lobbyist pursuant to section one-e of this article shall complete such training course at least once in any three-year period during which he or she is registered as a lobbyist.

**§ 1-e. Statement of registration.**

- (a) (1) Every lobbyist shall annually file with the commission, on forms provided by the commission, a statement of registration for each calendar year; provided, however, that the filing of such statement of registration shall not be required of any lobbyist who (i) in any year does not expend, incur or receive an amount in excess of two thousand dollars for years prior to two thousand six and in excess of five thousand dollars in the year two thousand six and the years thereafter of reportable compensation and expenses, as provided in paragraph five of subdivision (b) of section one-h of this article, for the purposes of lobbying or (ii) is an officer, director, trustee or employee of any public corporation, when acting in such official capacity; provided however, that nothing in this section shall be construed to relieve any public corporation of the obligation to file such statements and reports as required by this article. The amounts expended, incurred, or received of reportable compensation and expenses for lobbying activities shall be computed cumulatively for all lobbying activities when determining whether the thresholds set forth in this section have been met.
- (2) (i) Through calendar year two thousand three, such filing shall be completed on or before January first by those persons who have been retained, employed or designated as lobbyist on or before December fifteenth who reasonably anticipate that in the coming year they will expend, incur or receive combined reportable compensation and expenses in an amount in excess of two thousand dollars; for those lobbyists retained, employed or designated after December fifteenth, and for those lobbyists who subsequent to their retainer, employment or designation reasonably

anticipate combined reportable compensation and expenses in excess of such amount, such filing must be completed within fifteen days thereafter, but in no event later than ten days after the actual incurring or receiving of such reportable compensation and expenses.

(ii) For calendar year two thousand four, such filings shall be completed on or before January first by those persons who have been retained, employed or designated as lobbyist on or before December fifteenth, two thousand three who reasonably anticipate that in the coming year they will expend, incur or receive combined reportable compensation and expenses in an amount in excess of two thousand dollars; for those lobbyists retained, employed or designated after December fifteenth, two thousand three, and for those lobbyists who subsequent to their retainer, employment or designation reasonably anticipate combined reportable compensation and expenses in excess of such amount, such filing must be completed within fifteen days thereafter, but in no event later than ten days after the actual incurring or receiving of such reportable compensation and expenses.

(3) Commencing calendar year two thousand five and thereafter every lobbyist shall biennially file with the commission, on forms provided by the commission, a statement of registration for each biennial period beginning with the first year of the biennial cycle commencing calendar year two thousand five and thereafter; provided, however, that the biennial filing of such statement of registration shall not be required of any lobbyist who (i) in any year prior to calendar year two thousand six does not expend, incur or receive an amount in excess of two thousand dollars of reportable compensation and expenses, as provided in paragraph five of subdivision (b) of section one-h of this article, for the purposes of lobbying and commencing with calendar year two thousand six does not expend, incur or receive an amount in excess of five thousand dollars of reportable compensation, as provided in paragraph five of subdivision (b) of section one-h of this article for the purposes of lobbying or (ii) is an officer, director, trustee or employee of any public corporation, when acting in such official capacity; provided however, that nothing in this section shall be construed to relieve any public corporation of the obligation to file such statements and reports as required by this article.

- (4) Such biennial filings shall be completed on or before January first of the first year of a biennial cycle commencing in calendar year two thousand five and thereafter, by those persons who have been retained, employed or designated as lobbyist on or before December fifteenth of the previous calendar year and who reasonably anticipate that in the coming year they will expend, incur or receive combined reportable compensation and expenses in an amount in excess of two thousand dollars in years prior to calendar year two thousand six and five thousand dollars commencing in two thousand six; for those lobbyists retained, employed or designated after the previous December fifteenth, and for those lobbyists who subsequent to their retainer, employment or designation reasonably anticipate combined reportable compensation and expenses in excess of such amount, such filing must be completed within fifteen days thereafter, but in no event later than ten days after the actual incurring or receiving of such reportable compensation and expenses.
- (b) (i) Such statements of registration shall be kept on file for a period of three years for those filing periods where annual statements are required, and shall be open to public inspection during such period;
- (ii) Biennial statements of registration shall be kept on file for a period of three biennial filing periods where biennial statements are required, and shall be open to public inspection during such period.
- (c) Such statement of registration shall contain:
- (1) the name, address and telephone number of the lobbyist, and if the lobbyist is an organization the names, addresses and telephone numbers of any officer or employee of such lobbyist who engages in any lobbying activities or who is employed in an organization's division that engages in lobbying activities of the organization;
- (2) the name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated;

- (3) if such lobbyist is retained or employed pursuant to a written agreement of retainer or employment, a copy of such shall also be attached and if such retainer or employment is oral, a statement of the substance thereof; such written retainer, or if it is oral, a statement of the substance thereof, and any amendment thereto, shall be retained for a period of three years;
- (4) a written authorization from the client by whom the lobbyist is authorized to lobby, unless such lobbyist has filed a written agreement of retainer or employment pursuant to paragraph three of this subdivision;
- (5) the following information on which the lobbyist expects to lobby: (i) a description of the general subject or subjects, (ii) the legislative bill numbers of any bills, (iii) the numbers or subject matter (if there are no numbers) of gubernatorial executive orders or executive orders issued by the chief executive officer of a municipality, (iv) the subject matter of and tribes involved in tribal-state compacts, memoranda of understanding, or any other state-tribal agreements and any state actions related to class III gaming as provided in 25 U.S.C. § 2701, (v) the rule, regulation, and ratemaking numbers of any rules, regulations, rates, or municipal ordinances and resolutions, or proposed rules, regulations, or rates, or municipal ordinances and resolutions, and (vi) the titles and any identifying numbers of any procurement contracts and other documents disseminated by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body in connection with a governmental procurement;
- (6) the name of the person, organization, or legislative body before which the lobbyist is lobbying or expects to lobby;
- (7) if the lobbyist is retained, employed or designated by more than one client, a separate statement of registration shall be required for each such client.
- (8) (i) the name and public office address of any statewide elected official, state officer or employee, member of the legislature or legislative employee and entity with whom the lobbyist has a reportable business relationship;

- (ii) a description of the general subject or subjects of the transactions between the lobbyist or lobbyists and the statewide elected official, state officer or employee, member of the legislature or legislative employee and entity; and
  - (iii) the compensation, including expenses, to be paid and paid by virtue of the business relationship.
- (d) Any amendment to the information filed by the lobbyist in the original statement of registration shall be submitted to the commission on forms supplied by the commission within ten days after such amendment, however, this shall not require the lobbyist to amend the entire registration form.
- (e) (i) The first statement of registration filed annually by each lobbyist for calendar years through two thousand three shall be accompanied by a registration fee of fifty dollars except that no registration fee shall be required of a public corporation. A fee of fifty dollars shall be required for any subsequent statement of registration filed by a lobbyist during the same calendar year; (ii) The first statement of registration filed annually by each lobbyist for calendar year two thousand four shall be accompanied by a registration fee of one hundred dollars except that no registration fee shall be required from any lobbyist who in any year does not expend, incur or receive an amount in excess of five thousand dollars of reportable compensation and expenses, as provided in paragraph five of subdivision (b) of section one-h of this article, for the purposes of lobbying or of a public corporation. A fee of one hundred dollars shall be required for any subsequent statement of registration filed by a lobbyist during the same calendar year; (iii) The first statement of registration filed biennially by each lobbyist for the first biennial registration requirements for calendar years two thousand five and two thousand six and thereafter, shall be accompanied by a registration fee of two hundred dollars except that no registration fee shall be required from any lobbyist who in any year does not expend, incur or receive an amount in excess of five thousand dollars of reportable compensation and expenses, as provided in paragraph five of subdivision (b) of section one-h of this article, for the purposes of lobbying or of a public corporation. A fee of two hundred dollars shall be required for any subsequent statement of registration filed by a lobbyist during the same biennial period; (iv) The statement of registration filed after the due date of a biennial registration shall be

accompanied by a registration fee that is prorated to one hundred dollars for any registration filed after January first of the second calendar year covered by the biennial reporting requirement. In addition to the fees authorized by this section, the commission may impose a fee for late filing of a registration statement required by this section not to exceed twenty-five dollars for each day that the statement required to be filed is late, except that if the lobbyist making a late filing has not previously been required by statute to file such a statement, the fee for late filing shall not exceed ten dollars for each day that the statement required to be filed is late.

**§ 1-f. Monthly registration docket.**

It shall be the duty of the commission to compile a monthly docket of statements of registration containing all information required by section one-e of this article. Each such monthly docket shall contain all statements of registration filed during such month and all amendments to previously filed statements of registration. Copies shall be made available for public inspection.

**§ 1-g. Termination of retainer, employment or designation.**

Upon the termination of a lobbyist's retainer, employment or designation, such lobbyist and the client on whose behalf such service has been rendered shall both give written notice to the commission within thirty days after the lobbyist ceases the activity that required such lobbyist to file a statement of registration; however, such lobbyist shall nevertheless comply with the bi-monthly reporting requirements up to the date such activity has ceased as required by this article and both such parties shall each file the semi-annual report required by section one-j of this article. The commission shall enter notice of such termination in the appropriate monthly registration docket required by section one-f of this article.

**§ 1-h. Bi-monthly reports of certain lobbyists.**

- (a) Any lobbyist required to file a statement of registration pursuant to section one-e of this article who in any lobbying year reasonably anticipates that during the year such lobbyist will expend, incur or receive combined reportable compensation and expenses in an amount in excess of five thousand dollars, as provided in paragraph five of subdivision (b) of this section, for the purpose of lobbying,

shall file with the commission a bi-monthly written report, on forms supplied by the commission, by the fifteenth day next succeeding the end of the reporting period in which the lobbyist was first required to file a statement of registration. Such reporting periods shall be the period of January first to the last day of February, March first to April thirtieth, May first to June thirtieth, July first to August thirty-first, September first to October thirty-first and November first to December thirty-first.

(b) Such bi-monthly report shall contain:

- (1) the name, address and telephone number of the lobbyist;
- (2) the name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated;
- (3) the following information on which the lobbyist has lobbied: (i) a description of the general subject or subjects, (ii) the legislative bill numbers of any bills, (iii) the numbers or subject matter (if there are no numbers) of gubernatorial executive orders or executive orders issued by the chief executive officer of a municipality, (iv) the subject matter of and tribes involved in tribal-state compacts, memoranda of understanding, or any other state-tribal agreements and any state actions related to class III gaming as provided in 25 U.S.C. § 2701, (v) the rule, regulation, and ratemaking or municipal ordinance or resolution numbers of any rules, regulations, or rates or ordinance or proposed rules, regulations, or rates or municipal ordinances or resolutions, and (vi) the titles and any identifying numbers of any procurement contracts and other documents disseminated by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body in connection with a governmental procurement;
- (4) the name of the person, organization, or legislative body before which the lobbyist has lobbied;
- (5) (i) the compensation paid or owed to the lobbyist, and any expenses expended, received or incurred by the lobbyist for the purpose of lobbying.



- (ii) expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate if seventy-five dollars or less and if more than seventy-five dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expense is more than seventy-five dollars on behalf of any one person, the name of such person shall be listed.
  - (iii) for the purposes of this paragraph, expenses shall not include:
    - (A) personal sustenance, lodging and travel disbursements of such lobbyist;
    - (B) expenses, not in excess of five hundred dollars in any one calendar year, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.
  - (iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.
  - (v) expenses of more than fifty dollars shall be paid by check or substantiated by receipts and such checks and receipts shall be kept on file by the lobbyist for a period of three years.
- (c) (1) All such bi-monthly reports shall be subject to review by the commission.
- (2) Such bi-monthly reports shall be kept on file for three years and shall be open to public inspection during such time.
- (3) In addition to the filing fees authorized by this article, the commission may impose a fee for late filing of a bi-monthly report required by this section not to exceed twenty-five dollars for each day that the report required to be filed is late, except that if the lobbyist making a late filing has not previously been required by statute to file such a report, the fee for late filing shall not exceed ten dollars for each day that the report required to be filed is late.
- \* (4) Any lobbyist registered pursuant to section one-e of this article whose lobbying activity is performed on its own behalf and not pursuant to retention by a client:

- (i) that has spent over fifty thousand dollars for reportable compensation and expenses for lobbying either during the calendar year, or during the twelve-month period, prior to the date of this bi-monthly report, and
- (ii) at least three percent of whose total expenditures during the same period were devoted to lobbying in New York shall report to the commission the names of each source of funding over five thousand dollars from a single source that were used to fund the lobbying activities reported and the amounts received from each identified source of funding.

This disclosure shall not require disclosure of the sources of funding whose disclosure, in the determination of the commission based upon a review of the relevant facts presented by the reporting lobbyist, may cause harm, threats, harassment, or reprisals to the source or to individuals or property affiliated with the source. The reporting lobbyist may appeal the commission's determination and such appeal shall be heard by a judicial hearing officer who is independent and not affiliated with or employed by the commission, pursuant to regulations promulgated by the commission. The reporting lobbyist shall not be required to disclose the sources of funding that are the subject of such appeal pending final judgment on appeal.

The disclosure shall not apply to:

- (i) 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);
- (ii) 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)(4) and whose primary activities concern any area of public concern determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals to a source of funding or to individuals or property affiliated with such source,

including but not limited to the area of civil rights and civil liberties and any other area of public concern determined pursuant to regulations promulgated by the commission to form a proper basis for exemption on this basis from this disclosure requirement; or

(iii) any governmental entity.

The commission on ethics and lobbying in government shall promulgate regulations to implement these requirements.

\* NB Effective until September 23, 2016

\* (4) Any lobbyist registered pursuant to section one-e of this article whose lobbying activity is performed on its own behalf and not pursuant to retention by a client:

- (i) that has spent over fifteen thousand dollars in the aggregate for reportable compensation and expenses for lobbying, either during the calendar year, or during the twelve-month period, prior to the date of this bi-monthly report, and
- (ii) at least three percent of whose total expenditures during the same period were devoted to lobbying in New York shall report to the commission the names of each source of funding that has contributed over two thousand five hundred dollars from a single source that were used to fund the lobbying activities reported and the amount of each contribution received from each identified source of funding; provided, however, that amounts received from each identified source of funding shall not be required to be disclosed if such amounts constitute membership dues, fees, or assessments charged by the reporting entity to enable an individual or entity to be a member of the reporting entity.

This disclosure shall not require disclosure of the sources of funding whose disclosure, in the determination of the commission based upon a review of the relevant facts presented by the reporting lobbyist, may cause harm, threats, harassment, or reprisals to the source or to individuals or property affiliated with the source. The reporting lobbyist may appeal the commission's determination and such appeal shall be heard by a judicial hearing officer who

is independent and not affiliated with or employed by the commission, pursuant to regulations promulgated by the commission. The reporting lobbyist shall not be required to disclose the sources of funding that are the subject of such appeal pending final judgment on appeal.

The disclosure shall not apply to:

- (i) 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); 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;
- (ii) 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)(4) and whose primary activities concern any area of public concern determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals to a source of funding or to individuals or property affiliated with such source, including but not limited to the area of civil rights and civil liberties and any other area of public concern determined pursuant to regulations promulgated by the commission to form a proper basis for exemption on this basis from this disclosure requirement; or

(iii) any governmental entity.

The commission on ethics and lobbying in government shall promulgate regulations to implement these requirements.

\* NB Effective September 23, 2016

**§ 1-i. Bi-monthly reports of public corporations.**

(a) Every public corporation required to file a statement of registration pursuant to section one-e of this article which in any lobbying year reasonably anticipates that during the year it will expend or incur expenses in an amount in excess of five thousand dollars, as provided in paragraph six of subdivision (b) of this section, for the purpose of lobbying shall file with the commission a bi-monthly written report, on forms supplied by the commission, by the fifteenth day next succeeding the end of the reporting period in which the public corporation was first required to file a statement of registration. Such reporting periods shall be the period of January first to the last day of February, March first to April thirtieth, May first to June thirtieth, July first to August thirty-first, September first to October thirty-first and November first to December thirty-first.

(b) Such bi-monthly report shall contain:

- (1) the name, address and telephone number of such public corporation;
- (2) the name, address and telephone number of each lobbyist retained, employed or designated by such public corporation;
- (3) copies of any amendments relating to a retainer, employment or designation, as filed in the original statement of registration pursuant to section one-e of this article;
- (4) a description of the general subject or subjects, the legislative bill numbers of any bills and the rule, regulation, and ratemaking numbers of any rules, regulations, or rates or proposed rules, regulations, or rates on which the lobbyist has lobbied, and on which such public corporation has lobbied;

- (5) the name of the person, organization or legislative body before which the public corporation, or its lobbyists, has lobbied;
- (6) (i) the compensation paid or owed to the lobbyist and any expenses expended, received or incurred by the lobbyist for the purpose of lobbying; provided, however, any such expenses paid by such public corporation to a lobbyist for the purpose of lobbying on behalf of such public corporation shall be itemized in the same manner as if such public corporation had directly paid or incurred such expenses.
  - (ii) any expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate if seventy-five dollars or less and if more than seventy-five dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expenses are more than seventy-five dollars on behalf of any one person, the name of such person shall be listed.
  - (iii) for the purposes of this paragraph, expenses shall not include:
    - (A) personal sustenance, lodging and travel disbursements of each such lobbyist;
    - (B) expenses, not in excess of five hundred dollars in any one calendar year, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.
  - (iv) expenses paid or incurred for compensation other than that of each lobbyist shall be listed in the aggregate.
  - (v) expenses of more than fifty dollars must be paid by check or substantiated by receipts and such checks and receipts shall be kept on file by such public corporation for a period of three years.
- (c) (1) All such bi-monthly reports shall be subject to review by the commission.

- (2) Such bi-monthly reports shall be kept on file for a period of three years and shall be open to public inspection during such period.
- (3) In addition to the filing fees authorized by this article, the commission may impose a fee for late filing of a bi-monthly report required by this section not to exceed twenty-five dollars for each day that the report required to be filed is late, except that if the public corporation making a late filing has not previously been required by statute to file such a report, the fee for late filing shall not exceed ten dollars for each day that the report required to be filed is late.

**§ 1-j. Semi-annual reports.**

- (a) Semi-annual reports shall be filed by any client retaining, employing or designating a lobbyist or lobbyists, whether or not any such lobbyist was required to file a bi-monthly report, if such client reasonably anticipates that during the year such client will expend or incur an amount in excess of five thousand dollars of combined reportable compensation and expenses, as provided in paragraph five of subdivision (c) of this section, for the purposes of lobbying.
- (b) Such report shall be filed with the commission, on forms supplied by the commission, by the fifteenth day of July of the year and by the fifteenth day of January next following the year for which such report is made and shall contain:
  - (1) the name, address and telephone number of the client;
  - (2) the name, address and telephone number of each lobbyist retained, employed or designated by such client;
  - (3) the following information on which each lobbyist retained, employed or designated by such client has lobbied, and on which such client has lobbied: (i) a description of the general subject or subjects, (ii) the legislative bill numbers of any bills, (iii) the numbers or subject matter (if there are no numbers) of gubernatorial executive orders or executive orders issued by the chief executive officer of a municipality, (iv) the subject matter of and tribes involved in tribal-state compacts, memoranda of understanding, or any other state-tribal agreements and any state

actions related to class III gaming as provided in 25 U.S.C. 2701, (v) the rule, regulation, and ratemaking or municipal resolution or ordinance numbers of any rules, regulations, or rates, or municipal resolutions or ordinances or proposed rules, regulations, or rates, or municipal ordinances or resolutions and (vi) the titles and any identifying numbers of any procurement contracts and other documents disseminated by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body in connection with a governmental procurement;

- (4) the name of the person, organization, or legislative body before which such client has lobbied;
- (5) (i) the compensation paid or owed to each such lobbyist, and any other expenses paid or incurred by such client for the purpose of lobbying.
  - (ii) any expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate if seventy-five dollars or less and if more than seventy-five dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expenses are more than seventy-five dollars on behalf of any one person, the name of such person shall be listed.
  - (iii) for the purposes of this paragraph, expenses shall not include:
    - (A) personal sustenance, lodging and travel disbursements of such lobbyist and client;
    - (B) expenses, not in excess of five hundred dollars, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.
  - (iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.
  - (v) expenses of more than fifty dollars must be paid by check or substantiated by receipts and such checks and receipts shall be kept on file by such client for a period of three years.



- (6) (i) the name and public office address of any statewide elected official, state officer or employee, member of the legislature or legislative employee and entity with whom the client of a lobbyist has a reportable business relationship;
  - (ii) a description of the general subject or subjects of the transactions between the client of a lobbyist and the statewide elected official, state officer or employee, member of the legislature or legislative employee and entity; and
  - (iii) the compensation, including expenses, to be paid and paid by virtue of the business relationship.
- (c) (1) All such semi-annual reports shall be subject to review by the commission.
- (2) Such semi-annual reports shall be kept on file for a period of three years and shall be open to public inspection during such period.
- (3) Each semi-annual report filed by a client pursuant to this section shall be accompanied by a filing fee of fifty dollars. In addition to the filing fees authorized by this article, the commission may impose a fee for late filing of a semi-annual report required by this section not to exceed twenty-five dollars for each day that the report required to be filed is late, except that if the client making a late filing has not previously been required by statute to file an annual or semi-annual report, the fee for late filing shall not exceed ten dollars for each day that the report required to be filed is late.
- \* (4) Any client of a lobbyist that is required to file a semi-annual report and:
- (i) that has spent over fifty thousand dollars for reportable compensation and expenses for lobbying either during the calendar year, or during the twelve-month period, prior to the date of this semi-annual report, and
  - (ii) at least three percent of whose total expenditures during the same period were devoted to lobbying in New York shall report to the commission the names of each source of funding

over five thousand dollars from a single source that were used to fund the lobbying activities reported and the amounts received from each identified source of funding.

This disclosure shall not require disclosure of the sources of funding whose disclosure, in the determination of the commission based upon a review of the relevant facts presented by the reporting client or lobbyist, may cause harm, threats, harassment, or reprisals to the source or to individuals or property affiliated with the source. The reporting lobbyist may appeal the commission's determination and such appeal shall be heard by a judicial hearing officer who is independent and not affiliated with or employed by the commission, pursuant to regulations promulgated by the commission. The reporting lobbyist shall not be required to disclose the sources of funding that are the subject of such appeal pending final judgment on appeal.

The disclosure shall not apply to:

- (i) 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);
- (ii) 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)(4) and whose primary activities concern any area of public concern determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals to a source of funding or to individuals or property affiliated with such source, including but not limited to the area of civil rights and civil liberties and any other area of public concern determined pursuant to regulations promulgated by the commission to form a proper basis for exemption on this basis from this disclosure requirement; or
- (iii) any governmental entity.

The commission on ethics and lobbying in government shall promulgate regulations to implement these requirements.

\* NB Effective until September 23, 2016

\* (4) Any client of a lobbyist that is required to file a semi-annual report and:

- (i) that has spent over fifteen thousand dollars in the aggregate for reportable compensation and expenses for lobbying, either during the calendar year, or during the twelve-month period, prior to the date of this semi-annual report, and
- (ii) at least three percent of whose total expenditures during the same period were devoted to lobbying in New York shall report to the commission the names of each source of funding that has contributed over two thousand five hundred dollars from a single source that were used to fund the lobbying activities reported and the amount of each contribution received from each identified source of funding; provided, however, that amounts received from each identified source of funding shall not be required to be disclosed if such amounts constitute membership dues, fees, or assessments charged by the reporting entity to enable an individual or entity to be a member of the reporting entity.

This disclosure shall not require disclosure of the sources of funding whose disclosure, in the determination of the commission based upon a review of the relevant facts presented by the reporting client or lobbyist, may cause harm, threats, harassment, or reprisals to the source or to individuals or property affiliated with the source. The reporting lobbyist may appeal the commission's determination and such appeal shall be heard by a judicial hearing officer who is independent and not affiliated with or employed by the commission, pursuant to regulations promulgated by the commission. The reporting lobbyist shall not be required to disclose the sources of funding that are the subject of such appeal pending final judgment on appeal.

The disclosure shall not apply to:

- (i) 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); 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;
- (ii) 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)(4) and whose primary activities concern any area of public concern determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals to a source of funding or to individuals or property affiliated with such source, including but not limited to the area of civil rights and civil liberties and any other area of public concern determined pursuant to regulations promulgated by the commission to form a proper basis for exemption on this basis from this disclosure requirement; or
- (iii) any governmental entity.

The commission on ethics and lobbying in government shall promulgate regulations to implement these requirements.

\* NB Effective September 23, 2016

**§ 1-k. Contingent retainer.**

- (a) No client shall retain or employ any lobbyist for compensation, the rate or amount of which compensation in whole or part is contingent or dependent upon:
  - (1) (A) the passage or defeat of any legislative bill or the approval or veto of any legislation by the governor, (B) the terms, issuance, modification or rescission of a gubernatorial executive order, (C) the terms, approval or disapproval, or the implementation and administration of tribal-state compacts, memoranda of understanding, or any other tribal-state agreements and any state actions related to class III gaming as provided in 25 U.S.C. 2701, or (D) the adoption or rejection of any code, rule or regulation having the force and effect of law or the outcome of any rate making proceeding by a state agency;
  - (2) (A) the passage or defeat of any local law, ordinance, regulation or resolution by any municipality or subdivision thereof, (B) the terms, issuance, modification or rescission of an executive order issued by the chief executive officer of a municipality, or (C) the adoption, rejection or implementation of any rule, resolution or regulation having the force and effect of a local law, ordinance or regulation or any rate making proceeding by any municipality or subdivision thereof;
  - (3) any determination by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body with respect to a governmental procurement or a grant, loan or agreement involving the disbursement of public monies.
- (b) No person shall accept such a retainer or employment. Any person who violates this section shall be subject to a civil penalty not to exceed the greater of ten thousand dollars or the value of the contingent fee, and such violation shall be a class A misdemeanor.

**§ 1-1. Reports of lobbying involving disbursement of public monies.**

- (a) Any lobbyist required to file a statement of registration pursuant to section one-e of this article who in any lobbying year reasonably anticipates that during the year they will expend, incur or receive combined reportable compensation and expenses in an amount in excess of five thousand dollars shall file with the commission, on forms supplied by the commission, a report of any attempts to influence a determination by a public official, or by a person or entity working in cooperation with a public official, with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies in excess of fifteen thousand dollars other than a governmental procurement as defined in section one-c of this article.
- (b) Such public monies lobbying reports shall contain:
  - (i) the name, address and telephone number of the lobbyist and the individuals employed by the lobbyist engaged in such public monies lobbying activities;
  - (ii) the name, address and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated on whose behalf the lobbyist has engaged in lobbying reportable under this paragraph;
  - (iii) a description of the grant, loan, or agreement involving the disbursement of public monies on which the lobbyist has lobbied;
  - (iv) the name of the person, organization, or legislative body before which the lobbyist has engaged in lobbying reportable under this paragraph; and
  - (v) the compensation paid or owed to the lobbyist, and any expenses expended, received or incurred by the lobbyist for the purpose of lobbying reportable under this paragraph.
- (c) Public monies lobbying reports required pursuant to this section shall be filed in accordance with the schedule applicable to the filing of bi-monthly reports pursuant to section one-h of this article and shall be filed not later than the fifteenth day next succeeding the end of such reporting period.

- (d) In addition to any other fees authorized by this section, the commission may impose a fee for late filing of a report required by this subdivision not to exceed twenty-five dollars for each day that the report required to be filed is late, except that if the lobbyist making a late filing has not previously been required by statute to file such a report, the fee for late filing shall not exceed ten dollars for each day that the report required to be filed is late.
- (e) All reports filed pursuant to this subdivision shall be subject to review by the commission. Such reports shall be kept in electronic form by the commission and shall be available for public inspection.

**§ 1-m. Prohibition of gifts.**

No individual or entity required to be listed on a statement of registration pursuant to this article shall offer or give a gift to any public official as defined within this article, unless under the circumstances it is not reasonable to infer that the gift was intended to influence such public official. No individual or entity required to be listed on a statement of registration pursuant to this article shall offer or give a gift to the spouse or unemancipated child of any public official as defined within this article under circumstances where it is reasonable to infer that the gift was intended to influence such public official. No spouse or unemancipated child of an individual required to be listed on a statement of registration pursuant to this article shall offer or give a gift to a public official under circumstances where it is reasonable to infer that the gift was intended to influence such public official. This section shall not 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, unless the person listed on the statement of registration appears or has matters pending before the board, commission or council on which the recipient sits.

**§ 1-n. Restricted contacts.**

1. During the restricted period, no person or organization required to file a statement or report pursuant to this article shall engage in lobbying activities concerning a governmental procurement by a state agency, either house of the state legislature, the unified court system, or a municipal agency,

as that term is defined by paragraph (ii) of subdivision (s) of section one-c of this article, by contacting a person within the procuring entity who has not been designated pursuant to section one hundred thirty-nine-j of the state finance law to receive communications relative to the governmental procurement. Further, during the restricted period, no person or organization required to file a statement or report pursuant to this article shall engage in lobbying activities concerning a governmental procurement by contacting any person in a state agency other than the state agency conducting the governmental procurement about that governmental procurement. The prohibitions set forth in this subdivision shall not apply to any contacts described in subdivision two or three of this section.

2. A complaint by an offerer regarding the failure of the person or persons designated by the procuring entity pursuant to section one hundred thirty-nine-j of the state finance law to respond in a timely manner to authorized offerer contacts shall not be deemed to be "lobbying" or "lobbying activities" and shall be exempt from the provisions of subdivision one of this section and shall be made in writing to the office of general counsel of the state agency, either house of the state legislature or the unified court system that is conducting the procurement. Further, the following contacts shall not be deemed to be "lobbying" or "lobbying activities" and shall be exempt from the provisions of subdivision one of this section:
  - (a) contacts by offerers in protests, appeals or other review proceedings (including the apparent successful bidder or proposer and his or her representatives) before the governmental entity conducting the procurement seeking a final administrative determination, or in a subsequent judicial proceeding; or
  - (b) complaints of alleged improper conduct in a governmental procurement to the attorney general, inspector general, district attorney, or court of competent jurisdiction; or
  - (c) written protests, appeals or complaints to the state comptroller's office during the process of contract approval, where the state comptroller's approval is required by law, and where such communications and any responses thereto are made in writing and shall be entered in the procurement record pursuant to section one hundred sixty-three of the state finance law; or



(d) complaints of alleged improper conduct in a governmental procurement conducted by a municipal agency or local legislative body to the state comptroller's office; provided, however, that nothing in this subdivision shall be construed as recognizing or creating any new rights, duties or responsibilities or abrogating any existing rights, duties or responsibilities of any governmental entity as it pertains to implementation and enforcement of article eleven of the state finance law or any other provision of law dealing with the governmental procurement process.

3. Nothing in this section shall be deemed to prohibit a person or organization required to file a statement or report pursuant to this article from contacting a member of the state legislature concerning a governmental procurement in a state agency, the unified court system, or a municipal agency, as that term is defined by paragraph (ii) of subdivision (s) of section one-c of this article.

#### **§ 1-o. Penalties.**

- (a) (i) Any lobbyist, public corporation, or client who knowingly and wilfully fails to file timely a report or statement required by this section or knowingly and wilfully files false information or knowingly and wilfully violates section one-m of this article shall be guilty of a class A misdemeanor; and
- (ii) any lobbyist, public corporation, or client who knowingly and wilfully fails to file timely a report or statement required by this section or knowingly and wilfully files false information or knowingly and wilfully violates section one-m of this article, after having previously been convicted in the preceding five years of the crime described in paragraph (i) of this subdivision, shall be guilty of a class E felony. Any lobbyist convicted of or pleading guilty to a felony under the provisions of this section may be barred from acting as a lobbyist for a period of one year from the date of the conviction. For the purposes of this subdivision, the chief administrative officer of any organization required to file a statement or report shall be the person responsible for making and filing such statement or report unless some other person prior to the due date thereof has been duly designated to make and file such statement or report.

- (b) (i) A lobbyist, public corporation, or client who knowingly and wilfully fails to file a statement or report within the time required for the filing of such report or knowingly and wilfully violates section one-m of this article shall be subject to a civil penalty for each such failure or violation, in an amount not to exceed the greater of twenty-five thousand dollars or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, to be assessed by the commission.
- (ii) A lobbyist, public corporation, or client who knowingly and wilfully files a false statement or report shall be subject to a civil penalty, in an amount not to exceed the greater of fifty thousand dollars or five times the amount the person failed to report properly, to be assessed by the commission.
- (iii) (A) A lobbyist or client who knowingly and wilfully violates the provisions of subdivision one of section one-n of this article shall be subject to a civil penalty not to exceed ten thousand dollars for an initial violation.  
  
(B) If, after a lobbyist or client has been found to have violated subdivision one of section one-n of this article, a lobbyist or client knowingly and wilfully violates the provisions of subdivision one of section one-n of this article within four years of such finding, the lobbyist or client shall be subject to a civil penalty not to exceed twenty-five thousand dollars.
- (iv) Any lobbyist or client that knowingly and wilfully fails to file a statement or report within the time required for the filing of such report, knowingly and wilfully files a false statement or report, or knowingly and wilfully violates section one-m of this article, after having been found by the commission to have knowing and wilfully committed such conduct or violation in the preceding five years, may be subject to a determination that the lobbyist or client is prohibited from engaging in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article, for a period of one year.

- (v) Any lobbyist or client that knowingly and wilfully engages in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article, during the period in which they are prohibited from engaging in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article pursuant to this subdivision, may be subject to a determination that the lobbyist or client is prohibited from engaging in lobbying activities, as that term is defined in paragraph (v) of subdivision (c) of section one-c of this article, for a period of up to four years, and shall be subject to a civil penalty not to exceed fifty thousand dollars, plus a civil penalty in an amount equal to five times the value of any gift, compensation or benefit received as a result of the violation.
- (vi) A lobbyist, public corporation, or client who knowingly and wilfully fails to retain their records pursuant to paragraph three of subdivision (c) of section one-e of this article, subparagraph (v) of paragraph five of subdivision (b) of section one-h of this article, or paragraph five of subdivision (b) of section one-j of this article shall be subject to a civil penalty in an amount of two thousand dollars per violation to be assessed by the commission.
- (c) (i) Any assessment or order to debar shall be determined only after a hearing at which the party shall be entitled to appear, present evidence and be heard. Any assessment or order to debar pursuant to this section may only be imposed after the commission sends by certified and first-class mail written notice of intent to assess a penalty or order to debar and the basis for the penalty or order to debar. Any assessment may be recovered in an action brought by the attorney general.

(ii) In assessing any fine or penalty pursuant to this section, the commission shall consider: (A) as a mitigating factor that the lobbyist, public corporation or client has not previously been required to register, and (B) as an aggravating factor that the lobbyist, public corporation or client has had fines or penalties assessed against it in the past. The amount of compensation expended, incurred or received shall be a factor to consider in determining a proportionate penalty.

(iii) Any lobbyist, public corporation or client who receives a notice of intent to assess a penalty for knowingly and wilfully failing to file a report or statement pursuant to subdivision (b) of this section and who has never previously received a notice of intent to assess a penalty for failing to file a report or statement required under this section shall be granted fifteen days within which to file the statement of registration or report without being subject to the fine or penalty set forth in subdivision (b) of this section. Upon the failure of such lobbyist, public corporation or client to file within such fifteen day period, such lobbyist, public corporation or client shall be subject to a fine or penalty pursuant to subdivision (b) of this section.

(d) All moneys recovered by the attorney general or received by the commission from the assessment of civil penalties authorized by this section shall be deposited to the general fund.

**§ 1-p. Enforcement.**

(a) All statements and reports required under this article shall be subject to a declaration by the person making and filing such statement and report that the information is true, correct and complete to the best knowledge and belief of the signer under the penalties of perjury.

(b) The commission shall be charged with the duty of reviewing all statements and reports required under this article for violations, and it shall be their duty, if they deem such to be wilful, to report such determination to the attorney general or other appropriate authority.

(c) Upon receipt of notice of such failure from the commission, the attorney general or other appropriate authority shall take such action as he deems appropriate to secure compliance with the provisions of this article.

**§ 1-q. Record of appearances.**

The commission shall promulgate all rules or regulations and any procedures, forms, or instructions necessary to implement the provisions of section one hundred sixty-six of the executive law relating to the quarterly filing of the record of appearances before regulatory agencies.

**§ 1-r. Publication of statement on lobbying regulations.**

The commission shall publish a statement on lobbying regulations setting forth the requirements of this article in a clear and brief manner. Such statement shall contain an explanation of the registration and filing requirements and the penalties for violation thereof, together with such other information as the commission shall determine, and copies thereof shall be made available to the public at convenient locations throughout the state.

**§ 1-s. Public access to records; format of records and reports.**

The commission shall make information furnished by lobbyists and clients available to the public for inspection and copying in electronic and paper formats. Access to such information shall also be made available for remote computer users through the internet network.

**§ 1-t. Advisory council on procurement lobbying.**

(a) There is hereby established an advisory council on procurement lobbying. The council shall be composed of eleven members as follows:

- (1) the commissioner of the office of general services, or his or her designee, who shall be chair;
- (2) the commissioner of the state department of transportation, or his or her designee;
- (3) the director of the division of the budget, or his or her designee;
- (4) three members appointed by the governor as follows: (i) one member shall be representative of public authorities or public benefit corporations, (ii) one member shall be a representative of local governments, and (iii) one member shall be a representative of the contracting community;
- (5) one member appointed by the temporary president of the senate;
- (6) one member appointed by the speaker of the assembly;
- (7) one member appointed by the chief judge of the court of appeals;

- (8) the state comptroller, or his or her designee;
- (9) one member appointed by the mayor of the city of New York.
- (b) The members of the council shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.
- (c) The council shall provide advice to the commission with respect to the implementation of the provisions of this article as such provisions pertain to procurement lobbying.
- (d) The council shall annually report to the legislature any problems in the implementation of the provisions of this article as such provisions pertain to procurement lobbying. The council shall include in the report any recommended changes to increase the effectiveness of that implementation.
- (e) The council may, pursuant to section one hundred thirty-nine-j of the state finance law, establish model guidelines for:
  - (1) contacts during the restricted period between designated staff of a state agency, either house of the state legislature, the unified court system, or a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of this article, involved in governmental procurements and officers or employees of offerers, or officers or employees of subcontractors of offerers, who are charged with the performance of functions relating to contracts and who are qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an article of procurement. Such authorized contacts shall: (i) be limited to providing information to staff of a state agency, either house of the state legislature, the unified court system, or a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of this article, to assist them in understanding and assessing the qualities, characteristics or anticipated performance of an article of procurement, (ii) not include any recommendations or advocate any contract provisions, and (iii) occur only at such times and in such manner as authorized under the procuring entity's solicitation or guidelines and procedures. For the purposes of this paragraph, the term "technical services" shall be limited to analysis directly applying any accounting, engineering, scientific, or other similar technical disciplines;

- (2) contacts between offerers and public officials and officers or employees of the unified court system during the preparation of specifications, bid documents or request for proposals, invitation for bids, or any other method for soliciting a response from offerers for a procurement contract prior to the restricted period.
- (f) The council shall: (1) by December thirty-first, two thousand five submit a preliminary report to the governor and legislature on potential implementation issues arising out of the procurement lobbying provisions as set forth in this article that were added by a chapter of the laws of two thousand five that added this section that are to take effect on January first, two thousand six, and (2) by October thirtieth, two thousand seven, submit a report to the governor and legislature on the effects of the procurement lobbying provisions as set forth in this article including but not limited to any changes in the number and nature of offerers after January first, two thousand six.

**§ 1-u. Applicability of certain laws.**

The provisions of this article including, but not limited to, any proceeding or hearing conducted pursuant hereto, shall be subject to the applicable provisions of the state administrative procedure act and section seventy-three of the civil rights law.

**§ 1-v. Separability clause.**

If any part or provision of this article or the application thereof to any person or organization is adjudged by a court of competent jurisdiction to be unconstitutional, 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 the part, provision, person or organization directly involved in the controversy in which such judgment shall have been rendered.





## Retirement and Social Security Law Article 3-B

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### 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

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### **Honoraria. *Final Rule (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. JOINT COMMISSION ON PUBLIC ETHICS

### **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 Joint Commission on Public Ethics 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 Joint Commission on Public Ethics.
- (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 Joint Commission on Public Ethics.
- (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

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### *Official Activity Expense Payments and Service Payments to the State: Limitations and Approval. Final Rule (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. JOINT COMMISSION ON PUBLIC ETHICS

#### **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 Joint Commission on Public Ethics 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 Joint Commission on Public Ethics.
- (b) **Commission** shall mean the New York State Joint Commission on Public Ethics.

(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.

**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.

- (l) **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.
- (m) **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

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### *Outside activity restrictions and approval procedures. (Effective July 22, 2015)*

#### Sections

932.1	Purpose of Regulations
932.2	Definitions
932.3	General Standard for All Persons Subject to Public Officers Law §74
932.4	Restrictions on Certain Political Activities
932.5	Required Prior Approval for Salaried Policy Makers, Heads of
932.6	State Agencies, and Statewide Elected Officials
932.7	Approval Procedures
932.8	Previously Approved Outside Activity: Annual Disclosure and
932.9	Material Changes
932.10	Enforcement
932.11	Codes of Ethics for Uncompensated and Per Diem Directors,
932.12	Members and Officers
932.13	Agencies Permitted More Restrictive Rules

#### **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 Joint Commission on Public Ethics 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
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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
Serving as a director or officer of a not-for-profit entity	
➤ Compensation is \$0 - \$999 annually	Approval not required, but must notify Approving Authority in writing prior to commencing service
➤ Compensation is between \$1,000 and \$5,000 annually	Approving Authority must approve
➤ 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

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## Gifts. (Pursuant to Public Officers Law) Final Rule (*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. JOINT COMMISSION ON PUBLIC ETHICS

### 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 Joint Commission on Public Ethics, including Advisory Opinion Nos. 94-16, 96- 28, 97-03, and 08-01 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 Joint Commission on Public Ethics.
- (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(l)(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

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### *Gifts. (Pursuant to Legislative Law Article 1-A) Final Rule*

*(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. JOINT COMMISSION ON PUBLIC ETHICS

#### **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 Joint Commission on Public Ethics 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 Joint Commission on Public Ethics.
  - (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.**

(a) 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

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### *Procedure for Requesting an Exemption from Filing a Financial Disclosure Statement. (Effective June 6, 2018)*

#### Sections

#### 935.1 Definitions

#### 935.2 Procedure

#### 935.3 Commission Action

#### 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 Public Integrity.
- (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(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

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### *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)*

#### Sections

#### **936.1 Applicability**

#### **936.2 Definitions**

#### **936.3 Basis for extension**

#### **936.4 Procedure**

#### **936.5 Commission action**

#### **936.6 Automatic extension**

#### **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 Public Integrity.

- (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

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## *Access to Publicly Available Records (Revised 11/3/2021)*

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

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX JOINT COMMISSION OF PUBLIC ETHICS

PART 937

ACCESS TO PUBLICLY AVAILABLE RECORDS

### **§ 937.1 Scope and purpose**

These regulations provide information concerning the procedures by which records of the Joint Commission on Public Ethics ("Commission") shall be available for public inspection and copying.

(a) Pursuant to Executive Law section 94(19)(a) the following records of the Commission shall be available for public inspection and copying:

- (1) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except the categories of value or amount, which shall remain confidential, and any other item of information deleted pursuant to Section 94(9)(h) of the Executive Law (Effective for filings due before January 1, 2013);
- (2) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except information deleted pursuant Section 94 (9)(h) of the Executive Law (Effective for filings due after January 1, 2013);
- (3) Notices of Delinquency sent pursuant to section 94(12) of the Executive Law;
- (4) Notices of Civil Assessments imposed pursuant to section 94(14) of the Executive Law that

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;

- (5) The terms of any Settlement Agreement or compromise of a complaint or referral that includes a fine, penalty or other remedy;
  - (6) Those records required to be held or maintained publicly available pursuant to article one-A of the Legislative Law; and
  - (7) Substantial basis investigation reports issued by the Commission pursuant to section 94 (14-a) and (14-b) of the Executive Law. With respect to reports concerning members of the Legislature or legislative employees or candidates for member of the Legislature, the Commission shall not publicly disclose or otherwise disseminate such reports except in conformance with the requirements of section 80(9)(b) of the Legislative Law.
- (b) In addition to the records in paragraphs (1) and (2) of subdivision (a) the following information related to annual statements of financial disclosure shall be available pursuant to a request for information and/or access to records in accordance with this Part:
- (1) With respect to a particular annual statement of financial disclosure:
    - (a) The date of submission.
    - (b) Whether deletions have been made to the filing pursuant to Executive Law §§ 94(9)(h).
      - (i) 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.
    - (c) If a particular filing is unavailable: the status of that filing (whether it is pending, overdue, or unavailable for some other reason such as an extension of time to file pursuant to

Executive Law § 94(9)(c), an exemption from filing pursuant to Executive Law § 94(9)(k), or a pending application for deletion or exemption pursuant to Executive Law §§ 94(9)(h), (i) or (i-1)).

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

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

(i) 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)(2) to include the individual as a required filer.

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

*NB: responses to subparagraphs (a) and (b) 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).

(5) The application (including all associated materials) for exemption, deletion and extension pursuant to Executive Law §§ 94(9)(c), (h), (i), (i-1), and (k), and the Commission's regulations, shall be exempt from the provisions of this subdivision and not subject to disclosure.

- (c) In addition to the records in subdivision (a) of this section the Commission shall make available, pursuant to a request for information and/or access to records in accordance with this Part, the name, title and salary of all Commission staff.
- (d) As of January 1, 2022 requests for information and/or records pursuant to this section shall be recorded in a Record Access Request Log, which shall include the date of the request and the identity of the individual or entity that made 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.

### **§ 937.2 Designation of records access officer.**

- (a) The Commission designates its Public Information Officer to act as the Records Access Officer.
- (b) The Records Access Officer is responsible for ensuring compliance with the regulations herein.
- (c) The Records Access Officer is responsible for ensuring that Commission staff perform the following actions:
  - (1) assist the requester in identifying the record and information sought, if necessary;
  - (2) upon locating the requested record:
    - (i) make the record available for inspection in accordance with Subparts 937.3 and 937.4 herein; or
    - (ii) make copies free of charge unless the request is for more than 40 pages, in which case the Commission shall charge \$ 0.25 per copy or the cost of electronic reproduction.

### **§ 937.3 Requests for information and access to publicly available records**

- (a) A request for information and/or access to records pursuant to this part shall be in writing on a form

provided by the Commission.

- (b) A request shall reasonably describe the information or record sought. To the extent possible, a requesting person should supply identifying details of the information or record, such as the name of the person, entity or title associated with the information or record sought and dates or filing period.
- (c) A response to a request that reasonably describes the information or record sought shall be made within five business days of receipt of the request by:
  - (1) granting access to the record;
  - (2) providing the information sought;
  - (3) acknowledging the receipt of the request in writing, including an approximate date when the request will be granted, which shall be reasonable under the circumstances and shall not be more than twenty business days after the date of the acknowledgement, or providing a statement in writing indicating the reason for the inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted; or
  - (4) if receipt of the request was acknowledged in writing and included an approximate date when the request would be granted within twenty business days of such acknowledgement, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgement specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted.

#### **§ 937.4 Location of records for inspection**

- (a) Once granted, access to records will be arranged by the Records Access Officer, and the records will be made available in a convenient and appropriate manner.
- (b) Appointments for public inspection of records at the Commission's office shall be arranged on days

that the Commission is regularly open for business and during the hours of 9 a.m.- 4:30 p.m.

**§ 937.5 Deletion and exemption of certain items of information from financial disclosure statements.**

- (a) Prior to making any financial disclosure statement publicly available, the Records Access Officer shall delete any other item of information that the Commission has determined to delete pursuant to section 94 of the Executive Law, and for filings due prior to January 1, 2013, the categories of value and amount.
- (b) In accordance with the rules set forth in 19 NYCRR 941.17(b)(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 on appeal by the members of the Commission, the reporting individual may request, within five 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 days following notice of such determination. In the event that the reporting individual resigns from office prior to the issuance of a determination 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.

**§ 937.6 Records access appeals**

- (a) The Director of Ethics or his or her designee shall act as the Records Access Appeals Officer.
- (b) Any person denied access in whole or in part to a record or records pursuant to subdivision (a) or (d) of section 937.1 of this part or information requested pursuant to subdivision (b) or (c) of section 937.1 may within thirty days appeal in writing such denial to the Records Access Appeals Officer who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record or information the reasons for further denial, or provide access to the information or record sought. This shall constitute the final determination of the Commission.



# Title 19 NYCRR Part 938

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## Source of Funding Regulations (*Effective January 1, 2021*)

**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. JOINT COMMISSION ON PUBLIC ETHICS PART 938

SOURCE OF FUNDING REGULATIONS

### **938.1 Intent and Purpose.**

- (a) The Public Integrity Reform Act of 2011 (“PIRA”) (Chapter 399, Laws of 2011) established the Joint Commission on Public Ethics (“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	January 1, 2015 –	January 1, 2015 –

(covering July 1, 2015 – December 31, 2015)	December 31, 2015	December 31, 2015
<b>July 15, 2016</b> (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(19)(a)(5), 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 940

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### *Public Service Announcements with Covered Officials: Permissible and Proper Usage. (Effective July 24, 2014)*

Title 19 NYCRR Part 940 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. JOINT COMMISSION ON PUBLIC ETHICS

#### **940.1 Purpose.**

Pursuant to Executive Law § 94(9)(d-1), the Joint Commission on Public Ethics shall adopt, amend, and rescind rules and regulations “defining the permissible use of and promoting the proper use of public service announcements.” The purpose of these regulations is to: (a) provide guidance as to what constitutes, for the purposes of the Public Officers Law, a public service announcement; (b) clarify that an appearance in a public service announcement does not ordinarily constitute a “gift” under Public Officers Law § 73(5), Legislative Law Article 1-A, Title 19 NYCRR Part 933, and Title 19 NYCRR Part 934; and (c) place limitations on when certain individuals – referred to as “Covered Officials” – who are also Candidates may appear in public service announcements.

Public service announcements in which no Covered Official appears, is named, or is otherwise identified or referenced are not covered by these regulations.

#### **940.2 Definitions.**

- (a) **Appear** shall mean to appear (by likeness, picture, or voice), be named, or otherwise identified or referenced.

- (b) **Candidate** shall have the same meaning as that term is defined in New York Election Law § 14-100.
- (c) **Covered Official** shall mean an individual who holds any one of the following positions or offices: Governor, Lieutenant Governor, Comptroller, or Attorney General of the State of New York; any Member of the New York State Legislature; or any head and/or executive director of a State Agency.
- (d) **Party** shall have the same meaning as that term is defined in New York Election Law § 1-104(3).
- (e) **Party Committee** shall have the same meaning as that term is defined in New York Election Law § 14-100.
- (f) **Publish or Publishing** shall mean publication, dissemination, broadcast, or on-line posting through any print or electronic media, including television, radio, and the Internet.
- (g) **State Agency** shall mean any civil department; 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.

### 940.3 Public Service Announcements.

- (a) A Public Service Announcement is a communication that meets all of the following criteria:
  - (1) The communication (i) is designed to promote programs, activities, or services of nonprofit organizations or federal, state or local governments; or (ii) imparts information generally regarded as serving the public interest;
  - (2) The communication is sponsored or paid for by (i) a person or (ii) an organization or entity with a mission or history that includes providing outreach and public service announcements to the community;

- (3) The communication is subject to the public service announcement policies, if any, of the entity publishing the communication;
  - (4) The communication does not advertise a commercial product or service;
  - (5) The communication is not paid for or controlled by a Covered Official who is a Candidate and who Appears in the communication, or his or her Party or Party Committee, or any organization affiliated with the Covered Official or his or her Party or Party Committee;
  - (6) The communication does not constitute “lobbying” or “lobbying activities,” as those terms are defined in Legislative Law Article 1-A;
  - (7) The communication (i) does not promote or support a Covered Official who is a Candidate or criticize or oppose an individual running against such Covered Official; (ii) could not reasonably be interpreted to be an appeal to vote for such Covered Official or to vote against an individual running opposed to such Covered Official; (iii) does not include any personal, political or campaign information, and (iv) does not link or refer to any websites created or operated by a campaign or any campaign-related entity, including a campaign committee, Party, or Party Committee.
  - (8) The communication is of primary interest to the general public or a segment of the general public.
- (b) Examples of Public Service Announcements include, but are not limited to, communications regarding nonprofit or governmental outreach or awareness activities such as: breast cancer screening; heart disease prevention; domestic violence awareness and prevention; energy conservation; organ donation; emergency or other disaster relief; programs designed to encourage reading; job training and job fairs; and fund drives for charitable activities.
- (c) The following is a non-exhaustive list of communications that are not regulated or otherwise restricted by this Part:
- (1) News, Editorials, or Opinions in which a Covered Official Appears that are Published in a News Medium that is not controlled by the Covered Official or his or her Party or Party Committee;

- (i) “News Medium” means an entity that regularly Publishes news to either the public- at-large or to subscribers.
  - (ii) “News” means information that is about current events or that would be of current interest to the public and that, through the use of editorial skills, is turned into a distinct work that is Published to an audience.
  - (iii) “Editorial” means a communication that provides an opinion of the news medium that is Publishing the communication.
  - (iv) “Opinion” means a communication, including but not limited to, a column, a letter to the editor, or blog or comment on a blog, expressing a viewpoint and is authored by an individual or entity other than the news medium that is Publishing the communication.
- (2) State Agency websites; official websites of, and communications from, Members of the New York State Legislature;
  - (3) A Covered Official’s personal communications, including but not limited to, letters, emails, and postings on social media pages.

#### **940.4 Public Service Announcements Excluded as Gifts Under Parts 933 and 934.**

Notwithstanding any provision of Public Officers Law § 73(5), Legislative Law Article 1-A, Part 933, and Part 934, paying for the production or Publishing of a Public Service Announcement does not constitute a “gift” as that term is defined or otherwise used in Public Officers Law § 73(5), Legislative Law Article 1-A, Part 933, and Part 934.

#### **940.5 Appearance by a Covered Official in a Public Service Announcement in the Ninety Days Prior to an Election.**

- (a) Notwithstanding any other provision of this Part, a determination made pursuant to the provisions of Executive Law §§ 94(13), (14) that a Covered Official knowingly and intentionally Appeared in a Public Service Announcement that, with the knowledge that such Public Service Announcement would be

Published in the ninety calendar days prior to any election in which the Covered Official was a Candidate, shall be a violation of Public Officers Law § 74(3)(d), in addition to any other applicable provisions, and subject the Covered Official to the penalties contained therein.

- (b) An Appearance as described in Part 940.5(a) shall not be a violation of Public Officers Law § 74 when the Appearance occurs during a declared state of emergency where the Public Service Announcement relates to such emergency.





# Title 19 NYCRR Part 941

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**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. JOINT COMMISSION ON PUBLIC ETHICS**

**PART 941 ADJUDICATORY PROCEEDINGS AND APPEALS PROCEDURES**

*Effective 1/25/2022*

## **Section 941.1 Intent and purpose.**

Executive Law § 94(14) authorizes the Joint Commission on Public Ethics to adopt rules governing the conduct of adjudicatory proceedings and appeals consistent with the New York State Administrative Procedure Act (“SAPA”). Moreover, the Joint Commission on Public Ethics’ 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 Joint Commission on Public Ethics’ jurisdiction, including investigatory matters pursuant to Executive Law § 94(13); 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.

## **Section 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 Joint Commission on Public Ethics as appointed pursuant to Executive Law § 94(9)(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 presiding officer in adjudicatory hearings conducted pursuant to this Part and in accord with SAPA.
- (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) **The Joint Commission on Public Ethics, Commission or JCOPE** shall mean the members of the New York State Joint Commission on Public Ethics 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.

#### Section 941.3 Notices.

- (a) **Notice of Allegations** (“15-Day Letter”). If the Commission receives a sworn complaint or a referral alleging that a person or entity subject to the jurisdiction of the Commission has violated a law that the Commission is authorized to enforce or if a reporting individual has filed a statement that reveals a possible violation of such laws, or if the Commission determines on its own initiative to investigate a possible violation, the Commission shall notify the subject individual or entity in writing, describe the possible or alleged violation of such laws, and provide a description of the allegations against them and the evidence, if any, supporting such allegations; provided however that the Commission shall redact any information that, in the judgment of the Commission, may be prejudicial to either the Complainant or the investigation.
  - (1) The 15-Day Letter shall provide the individual or entity with a fifteen-day period in which to submit a written response - including any evidence, statements, and proposed witnesses - 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, the Commission is not precluded from voting to commence a substantial basis investigation prior to receiving a Respondent’s written response.

- (ii) An extension of time to respond may be available to Respondent upon request; however, if the requested extended deadline will lapse after the next scheduled meeting of the Commission, the Respondent must waive any claims or defenses against the Commission for failure to act in a timely manner.
  - (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(13)(c), the 15-Day Letter continues the Commission's jurisdiction over the Respondent.
- (b) **Notice of Commission Vote.** (1) Within sixty calendar days after a sworn complaint or a referral is received or an investigation is initiated on the Commission's own initiative, the Commission shall vote on whether to commence a full investigation of the matter under consideration to determine whether a substantial basis exists to conclude that a violation of law has occurred. The Commission shall provide written notice of its decision in accordance with this section.
- (i) When an investigation is initiated on the Commission's own initiative, the date from which the sixty days will run is the date on which the Commission sent the 15-Day Letter to Respondent.
    - (ii) Within the statutorily required sixty-day period, the Commission may vote not to commence a substantial basis investigation and reserve the right to reconsider the matter as alleged in the 15-Day Letter; at any time thereafter, the Commission may vote to commence a full investigation of the matter under consideration to determine whether a substantial basis exists to conclude a violation of law has occurred. The Commission shall provide written notice of any such decision.
  - (2) Within sixty days of such vote, the Commission shall provide written notice of its decision as follows:

- (i) to the Complainant, if any;
- (ii) to the Subject or Respondent, if the Subject or Respondent has been notified of the allegations against them;
- (iii) 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; and
- (iv) at the discretion of the Commission, written notice may be provided to a Subject who has not been previously notified of the allegations against them or to other interested parties, including but not limited to witnesses.

(c) **Notice of Hearing.** (1) At any time after commencing a substantial basis investigation, notice shall be provided to the Respondent to inform Respondent of their right to be heard and appear by attorney at a confidential hearing to be held within thirty (30) days of such written notice. 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.
- (d) **Notice of Closure.** If, upon receipt and review of a matter, it is determined at any stage that there is no violation, that any potential violation has been rectified, or if the matter is closed for any other reason, the Commission shall provide written notice as follows:
  - (1) to the Complainant, 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.

#### **Section 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.

**Section 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.

**Section 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.
- (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.

**Section 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 and the production of books, papers, documents and other evidence. 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 such subpoenas under the provisions of the Civil Practice Law and Rules.
  - (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.

#### **Section 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.

**Section 941.9 Time limits.**

- (a) At least seven (7) days before the hearing, 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(13)(a) and subsection 941.8(c) in sufficient detail to enable the Respondent to respond at the hearing.
- (b) At least seven (7) days before the hearing, 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 substantial basis investigation and hearing. An adjournment or continuance granted 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. 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.

#### **Section 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(13(b)).
- (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.

#### **Section 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.

#### **Section 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.

**Section 941.13 Proposed Findings of Fact and Recommendation, Substantial Basis Investigation Report, and Notice of Civil Assessment.**

- (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 Investigation Report to the Commission for its consideration.
- (c) The Commission shall have sixty (60) days from receipt of the proposed Substantial Basis Investigation Report, or as soon thereafter as possible, in which to vote on whether or not to issue a Substantial Basis Investigation Report and issue a Notice of Civil Assessment. In the Substantial Basis Investigation 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) The Commission shall release such report publicly within forty-five days of its issuance.
- (e) 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 a substantial basis to conclude that Respondent violated the Public Officers Law, Civil Service Law or the Legislative Law, the Commission shall send a Substantial Basis Investigation Report containing its findings of fact and conclusions of law to the individual or entity.
- (f) A substantial basis investigation report issued pursuant to Executive Law § 94(14-a) shall be delivered to the Legislative Ethics Commission and to the individual who is the subject of the report, and shall be made public and otherwise be governed by Legislative Law §80.

- (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.

#### **Section 941.14 Fines, penalties.**

- (a) The Commission's assessment of civil penalties made pursuant to Executive Law § 94(14) shall not preclude its referral of violations of law to a prosecutor for criminal prosecution.
- (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.

#### **Section 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.

#### **Section 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 substantial basis investigation 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 (9-a)(b), the Commission, by majority vote of the full Commission in accordance with section 94(6), 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, 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 or others;
- (3) Whether the identity of the Complainant 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, if not public, shall not be made public absent a vote of the Commission;
  - (2) Publicly acknowledge that a matter is “pending before JCOPE” until such time as the matter has been closed for any reason;
  - (3) Publicly acknowledge that a matter is “no longer pending before JCOPE” 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 (9)(l), 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, 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 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(6), that such disclosure is in the public interest considering the criteria set forth in subdivision (c) of this section.

#### **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 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.

**Section 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.

#### **Section 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 investigation reports and notices of civil assessments and make them publicly available as required by law.

#### **Section 941.20 Savings Clause.**

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

## Title 19 NYCRR Part 942

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**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. JOINT COMMISSION ON PUBLIC ETHICS

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

### 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 Joint Commission on Public Ethics 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 Joint Commission on Public Ethics 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 Joint Commission on Public Ethics.

- (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.



**942.2 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 [jcope@jcope.ny.gov](mailto:jcope@jcope.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.

#### **942.2 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.



## Title 19 NYCRR Part 943

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**Title 19 NYCRR Part 943 is added to read as follows:**

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

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. JOINT COMMISSION ON PUBLIC ETHICS

*Effective January 1, 2021*

### **PART 943: LOBBYING**

**943.1 Purpose and Effect of Regulations**

**943.2 General Provisions**

**943.3 Definitions**

**943.4 Statutory Exceptions**

**943.5 Lobbying Activities – General Provisions and Restrictions**

**943.6 Direct Lobbying**

**943.7 Grassroots Lobbying**

**943.8 Procurement Lobbying**

**943.9 Reportable Lobbying Activity**

**943.10 Lobbyist Statement of Registration**

**943.11 Lobbyist Bi-Monthly Report**

**943.12 Client Semi-Annual Report**

**943.13 Lobbyist Disbursement of Public Monies Report**

**943.14 Reportable Business Relationships**

### 943.1 Purpose and Effect of Regulations.

- (a) The purpose of these regulations is to provide those regulated by the Joint Commission on Public Ethics (“Commission”), as well as the public, a consolidated resource for understanding and complying with the requirements of Article 1-A of the Legislative Law (the “Lobbying Act”), as authorized by section 94 of the Executive Law and the Lobbying Act. These regulations also serve to codify the constitutional authority to regulate grassroots lobbying that was recognized in *United States v. Harriss* (347 U.S. 612) in 1954, and exercised by the Commission’s predecessor agencies in accordance with the 1982 decision in *New York State Temporary Commission on Lobbying v. CICU* (534 F. Supp. 489).
- (b) These regulations consider, reflect and, in part, are based upon and in many instances codify this Commission’s and its predecessors’ earlier advisory opinions, guidelines, instructions, and practices. They also set forth the Commission’s positions on issues not previously addressed by those authorities. Thus, individuals and entities subject to the Lobbying Act should consider any earlier precedents as superseded by these regulations in the event any such prior guidelines, opinions, instructions or practices are inconsistent with this Part.

### 943.2 General Provisions.

- (a) The Commission has jurisdiction over Lobbyists, Clients of Lobbyists, and Public Corporations pursuant to section 1-d of the Lobbying Act and section 94 of the Executive Law.
- (b) Pursuant to section 1-s of the Lobbying Act, all documents submitted as part of a Lobbyist or Client Statement or Report are available for public inspection.

### 943.3 Definitions.

The following definitions are applicable throughout Part 943, unless otherwise specified:

- (a) **Advisory Board** means a board, task force, commission, or other body that carries out a governmental or quasi-governmental function, but is not empowered to make binding recommendations or take actions that carry the force and effect of law.



- (b) **Affiliated** means two or more corporations, partnerships, organizations, or other entities that have any of the following relationships: parent/subsidiary; subsidiaries with the same parent entity; or national or regional organization.
- (c) **Attempt to Influence** means an activity intended to support, oppose, modify, delay, expedite, or otherwise affect an action enumerated in sections 1-c(c)(i)-(x) of the Lobbying Act.
- (d) **Beneficial Client** means the specific individual or organization on whose behalf and at whose request or behest Lobbying Activity is conducted.
- (1) Members of the general public, for example, would not constitute a Beneficial Client.
  - (2) If an organization engages in Lobbying for the benefit of the members of a population or class, the members of the population or class are not Beneficial Clients.
  - (3) An individual or organization that lobbies on its own behalf is the Beneficial Client.
  - (4) While a Contractual and Beneficial Client must be identified for every lobbying arrangement, the Contractual Client may also be the Beneficial Client.
- (e) **Client** means a person or organization that retains, employs or designates a person or organization to lobby; and includes both Contractual Clients and Beneficial Clients.
- (f) **Contractual Client** means an individual or organization that retains the services of a Lobbyist for the benefit of itself or another.
- (1) A Contractual Client is the individual or organization that signs and/or enters into a lobbying agreement with a Lobbyist;
  - (2) Compensation and Expenses are typically, but not necessarily, paid for or incurred by the Contractual Client.
- (g) **Designated Lobbyist** means a person who is selected, appointed, named or otherwise chosen to Lobby on behalf of a Client, and is not Retained or Employed as defined in this subsection. This includes:

- (1) A person Lobbying on behalf of themselves; and
  - (2) A board member, director, or officer of a Client, whether compensated or uncompensated, selected, appointed, named or otherwise chosen to Lobby on such Client's behalf.
- (h) **Employed Lobbyist** means a person who lobbies on behalf of the organization by which he is employed.
- (1) A person who is paid by a Lobbying Organization as an independent contractor may be considered an Employed Lobbyist if such person meets the following criteria:
    - (i) The independent contractor's only source of Lobbying compensation is the Lobbying Organization;
    - (ii) The independent contractor's Lobbying Activities are supervised by the Lobbying Organization; and
    - (iii) The independent contractor is not otherwise identified as an Individual Lobbyist on any other Statement of Registration.
  - (2) A person who is paid by a Lobbying Organization as an independent contractor but does not meet the criteria in paragraph (1) above is a Retained Lobbyist.
- (i) **Individual Lobbyist** means a person who is an Employed, Retained or Designated Lobbyist.
- (j) **Lobbying or Lobbying Activity** means an Attempt to Influence activity set forth in Section 1- c(c) of the Lobbying Act, and includes both Direct and Grassroots Lobbying.
- (k) **Lobbying Act** means Article 1-A of the Legislative Law.
- (l) **Lobbying Organization** means a company, firm, entity, or other organization (including a Coalition, as described in section 943.9(h)) that utilizes Employed or Designated Lobbyists to Lobby on its behalf, or incurs Lobbying Expenses on its own behalf.

- (1) Lobbying Organization can include a corporate entity, e.g., a limited liability company, formed by an individual for advocacy purposes.
- (m) **Lobbyist** means a person or organization who engages in Lobbying Activity and includes Retained, Employed, and Designated Lobbyists. Lobbyist includes officers, directors, trustees, employees, counsels, or agents of colleges, as defined by section two of the education law, but does not include any other officer, director, trustee, employee, counsel or agent of the State of New York, or any municipality or subdivision thereof when discharging his or her official duties.
- (n) (1) **Municipal Officers and Employees** include:
- (i) An officer or employee of a Municipality, whether paid or unpaid;
  - (ii) Local elected officials; and
  - (iii) Members of a board (other than an Advisory Board), commission, or other agency of a Municipality; and
  - (iv) In the case of a county, an officer or employee paid from county funds.
- (2) No individual shall be deemed a Municipal Officer and Employee solely based on service on an Advisory Board.
- (3) 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.
- (o) **Municipality** means a jurisdictional subdivision of the State, including:
- (1) Counties, cities, towns, villages, improvement districts, and special districts with a population of more than 5,000;
  - (2) Industrial development agencies in jurisdictional subdivisions with a population of more than 5,000;

- (3) Public authorities;
- (4) Public Corporations, except for those types of entities referenced in paragraphs (1) and (2) of this subdivision with a population of 5,000 or less; and
- (5) School districts of any size.

Note: Additional discussion of the activities of industrial development agencies can be found in Section 943.9(j) below.

(p) **Principal Lobbyist** includes:

- (1) In the case of a Retained Lobbyist, the entity that has entered into an agreement with a Client to provide Lobbying services;
- (2) In the case of an Employed Lobbyist, the name of the employer Lobbying Organization; and
- (3) In the case of a Designated Lobbyist, the individual who has designated themselves or the Lobbying Organization that has designated the Lobbyist.

(q) **Public Corporation** shall have the same meaning as provided in Section 66 of the General Construction Law.

(r) **Public Official** means:

- (1) The governor, lieutenant governor, comptroller, or attorney general;
- (2) Members of the State legislature;
- (3) Officers and employees of the legislature;
- (4) State officers and employees; and
- (5) Municipal officers and employees.

No individual shall be deemed a Public Official solely based on service on an Advisory Board.

- (s) **Responsible Party** means the Lobbyist or Client's Chief Administrative Officer, or a designee, who is responsible for filing the Statements or Reports required under the Lobbying Act.
- (t) **Retained Lobbyist** means a person or organization engaged to lobby for the benefit of an unaffiliated Client, and any person who is paid by a Lobbying Organization as an independent contractor but does not meet the criteria in paragraph (h) of this subpart.
- (u) **Social Media** means any mobile or internet-based platform designed to enable and facilitate communication and sharing of information among multiple users.
- (v) **State Agency** shall mean:
  - (1) A department, board, bureau, commission, division, office, council, committee, or officer of the State, whether permanent or temporary, a public benefit corporation or a public authority at least one of whose members is appointed by the governor, authorized by law to make rules or to make final decisions in adjudicatory proceedings.
  - (2) State agency does not include the judicial branch or agencies created by interstate compact or international agreement.
- (w) **State Officers and Employees** includes:
  - (1) 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;
  - (2) Officers and employees of statewide elected officials;
  - (3) Officers and employees of State departments, boards, bureaus, divisions, commissions, councils, or other State agencies; and

- (4) 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.

No individual shall be deemed a State Officer and Employee solely based on service on an Advisory Board.

#### 943.4 Statutory Exceptions.

The following activities are not Lobbying Activities:

(a) *Non-lobbying legal services.*

- (1) Services by persons engaged in drafting, advising clients on or rendering opinions on proposed legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, Procurement Contracts, or tribal-state compacts, memoranda of understanding, or any other tribal-state agreements or other written materials related to Class III gaming as provided in 25 U.S.C. § 2701, when such professional services are not otherwise connected with State or municipal legislative or executive action on such legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, Procurement Contracts, or tribal-state compacts, memoranda of understanding, or any other tribal-state agreements or other written materials related to Class III gaming as provided in 25 U.S.C. § 2701.
  - (i) For example, a lawyer who provides a Client with an analysis of a pending piece of legislation, but does not otherwise attempt to influence such legislation, has not performed reportable Lobbying Activity, per this exception. If the lawyer subsequently meets at the Client's request with a member of the legislature to advocate for or against such legislation, both the preliminary bill analysis and the subsequent advocacy meeting constitute reportable Lobbying.
- (2) If an organization or firm provides both Lobbying and non-lobbying legal services to a Client, the Statement of Registration should only identify as Individual Lobbyists those persons who

performed Lobbying services, however, all services related to the Lobbying Activity provided by the organization or firm are reportable expenses.

**(b) *News gathering and publication.***

Newspapers and other periodicals and radio and television stations, and owners and employees thereof, provided that their activities in connection with proposed legislation, rules, regulations or rates, municipal ordinances and resolutions, executive orders, tribal- state compacts, memoranda of understanding or other tribal-state agreements related to Class III gaming as provided in 25 U.S.C. § 2701, or Procurement Contracts by a State Agency, Municipal Agency, Local Legislative Body (as defined in section 943.8), the State legislature, or the Unified Court System, are limited to the publication or broadcast of news items, editorials or other comments, or paid advertisements.

**(c) *Contacts with the media.***

Communications with a professional journalist, or newscaster, including an editorial board or editorial writer of a newspaper, magazine, news agency, press association or wire service, relating to news, as these terms are defined in section seventy-nine-h of the civil rights law, and communications relating to confidential and non-confidential news as described in subdivisions (b) and (c) of section seventy-nine-h of the civil rights law respectively and communications made pursuant to community outreach efforts for broadcast stations required by federal law.

**(d) *Participation at certain public proceedings.***

Persons who participate as witnesses, attorneys or other representatives in public proceedings of a State or Municipal Agency (as defined in Section 943.8 of this Title) with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation.

**(e) *Adjudicatory Proceedings.***

Persons who attempt to influence a Public Official in an adjudicatory proceeding, as defined by section one hundred two of the state administrative procedure act.

(f) *Response to requests for information/comments.*

- (1) Persons who prepare or submit a response to a specific request for information or comments by the State legislature, the governor, or a State Agency or a committee or officer of the legislature or a State Agency, or by the Unified Court System, or by a legislative or executive body or officer of a Municipality or a commission, committee or officer of a municipal legislative or executive body.
- (2) This exception applies only if the person did not urge the requesting party to make the request.
- (3) This exception applies to and includes, but is not limited to, participation in legislative hearings.

(g) *Local lobbying by IRC Section 6033(a) religious organizations.*

Any attempt by a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a federal income tax return under paragraph 2(A)(i) of section 6033(a) of Title 26 of the United States Code or a religious order that is exempt from filing a federal income tax return under paragraph (2)(A)(iii) of such section 6033(a) to influence passage or defeat of a local law, ordinance, resolution or regulation or any rule or regulation having the force and effect of a local law, ordinance or regulation.

(h) *Licenses and Permitting.*

- (1) Applications for licenses, certificates, and permits authorized by statutes or local laws or ordinances.
- (2) This exception includes applications for special permits, variances, and revocable consents.

### **943.5 Lobbying Activities – General Provisions and Restrictions.**

(a) **General Provisions**

- (1) All Lobbying Activities are either Direct or Grassroots Lobbying.



- (2) All Lobbying Activity is conducted by a Lobbyist for the benefit of a Beneficial Client, but a Lobbyist and Beneficial Client can be the same person or organization.
- (3) All Lobbying Activity is conducted by a Lobbyist that has been retained, employed, or designated by a Client. This includes the person or Lobbying Organization that designates themselves to lobby on their own behalf.
- (4) Reporting requirements under the Lobbying Act are not necessarily triggered by engaging in Lobbying Activity alone, but rather when the criteria established in subsection 943.9(a)(1) have been satisfied.

**(b) Online Ethics Training**

- (1) All Individual Lobbyists listed on a Statement of Registration must complete an online ethics training, as provided by the Commission;
- (2) Such training must be completed by an Individual Lobbyist once every three years, as follows:
  - (i) Complete the training within 60 days of initial registration;
  - (ii) Complete the training again within three years of the date the Lobbyist first or subsequently completed the training, if such Lobbyist is still registered to lobby at such time; and/or
  - (iii) If there is a lapse in a Lobbyist's registration, complete the training again within 60 days of re-registration to lobby or three years from the date such Lobbyist last completed such training, whichever is later.

**(c) Restrictions**

- (1) All individuals or entities required to be listed on a Statement of Registration are subject to the Gift restrictions set forth in Part 934 of this Title.
  - (i) This prohibition applies to both the Contractual Client and Beneficial Client.

- (2) Pursuant to section 1-k of the Lobbying Act prohibiting contingent retainers, no Client may pay and no Lobbyist may receive Compensation in which the amount or rate is contingent on the outcome or terms of any Attempt to Influence an activity listed in sections 1-c(c)(i)-(x) of the Lobbying Act.
  - (i) This prohibition applies to both the Contractual Client and Beneficial Client.
- (3) Stock or equity payments for Lobbying Activity are presumed impermissible when paid to Retained Lobbyists, and, absent a showing in (i), below, are *per se* a violation of the contingent retainer prohibition in Section 1-k of the Lobbying Act.
  - (i) Except as provided in (ii), below, this presumption can be overcome by a showing that the value of stock or equity is not directly dependent on the outcome of the governmental action.
  - (ii) The presumption cannot be overcome if:
    - (a) the number of shares or the size of the equity interest offered depends on the outcome of the lobbying; or
    - (b) any aspect of the retained lobbyist's shareholder rights- including seniority, conversion and other options- depend on the outcome of the lobbying.
  - (iii) Application to the Commission is required to approve any such stock or equity payments for Lobbying Activity. The Commission shall respond to an application within 30 days or soon thereafter and, in rendering a decision, consider factors including:
    - (a) The diversity of product or business lines in the Beneficial Client's operations and the relative size or importance- to the Beneficial Client- of the product or business that will be impacted by the governmental action;

- (b) The specific governmental action in Lobbying Act section 1-c(c) that the Lobbyist is attempting to influence;
  - (c) If the Lobbying Activity includes any attempt to influence a state or municipal Governmental Procurement:
    - (1) the value of the procurement relative to the total capitalization of the Beneficial Client;
    - (2) any history of being awarded similar procurements.
  - (d) Whether stock is publicly traded or closely held;
  - (e) Whether the Lobbying Activity addresses a Lobbying firm's entry or continued access to a geographic, demographic or product market;
  - (f) The impact of the governmental action on the Beneficial Client versus on similarly-situated competitors;
  - (g) Any significant trading activity or changes in price, appraisal, or valuation over the preceding 12 months; and
  - (h) Other such factors as determined by the Commission.
- (4) Stock or equity compensation to Employee or Designated Lobbyists is permissible, unless the number of shares, relative size of the equity interest offered, or any aspect of the lobbyist's shareholder rights – including seniority, conversion and other options – depend on the outcome of the lobbying.

## 943.6 Direct Lobbying

(a) **Principles.**

- (1) While Grassroots Lobbying attempts to influence a Public Official indirectly, or through another, Direct Lobbying attempts to influence a Public Official through Direct Contact.
- (2) Direct Lobbying generally requires the identification of an Individual Lobbyist(s) on the filings of an organization or person.

(b) **Definitions.** All definitions in section 943.3 are in effect unless otherwise noted below.

(1) ***Direct Contact***

- (i) Means any communication or interaction directed to a Public Official, including, but not limited to:

(a) Verbal communications;

(b) Written communications;

(c) Electronic communications, including electronic mail, Social Media communications, and Internet communications;

(d) Attendance at a meeting with a Public Official; or

(e) Presence on a phone call with a Public Official, when the Official is aware of such presence;

- (ii) Direct Contact with a Public Official also includes direct contact with the members of the Public Official's staff.

- (iii) Direct Contact does not include any communication that is directed to a group of which a Public Official is incidentally a member, or is intended for the public. For example, the following generally will not constitute Direct Contact:

- (a) An opinion piece published in a newspaper;
  - (b) A statement made to a reporter that is published or broadcast by a media outlet;
  - (c) A blog post;
  - (d) Attendance at a speech or public meeting; or
  - (e) A speech to a group or at a public meeting.
- (iv) Mere attendance by a person at a lobby day does not constitute Direct Contact unless they speak to a Public Official or their staff on behalf of an organization or employer.
- (2) **Preliminary contact** includes any of the following, when the Lobbyist knows or has reason to know that the Client will Attempt to Influence a Public Official on a matter covered by the Lobbying Act:
- (i) Scheduling a meeting or telephone call with a Public Official and a Client;
  - (ii) Introducing a Client to a Public Official; or
  - (iii) Any other contact with a Public Official on behalf of a Client.

Note: A person who schedules a meeting or places a call in a purely administrative capacity is not required to be identified as an Individual Lobbyist; such activity is attributable to the person who directed that the call be made or that the meeting be set up.

**(c) Direct Lobbying.**

- (1) A person is engaged in Direct Lobbying and must be listed as an Individual Lobbyist on a lobbying filing when the person:
- (i) Has Direct Contact with a Public Official to Attempt to Influence an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act; or

- (ii) Has Direct or Preliminary Contact with a Public Official to enable or facilitate an Attempt to Influence.
- (2) A person is not engaged in Direct Lobbying when the person:
  - (i) Attends a meeting with a Public Official simply to provide technical information or address technical questions;
  - (ii) Attends a meeting to provide clerical or administrative assistance (including audio/visual, translation or interpretation, and sign language); or
  - (iii) Attends a meeting to observe for educational purposes; and
  - (iv) Plays no role in the strategy, planning, messaging or other substantive aspect of the overall lobbying effort.
- (3) Direct Lobbying can include Direct Contact with a Public Official who supports the position being advocated by the Lobbyist or his Client.
- (4) Direct Lobbying of a Public Official can occur in a variety of settings, including but not limited to, face-to-face interaction, direct written communication, social media posts (subject to the limitations set forth in subsection (d) of this section), and at a lobby day coordinated by an organization or person lobbying on their own behalf.
- (5) Any Individual Lobbyist who engages in Direct Lobbying must be listed on lobbying filings. This would not include volunteers or mere members of a Lobbying Organization.
- (6) Examples of Reportable Expenses of Lobbying Organizations or Individuals Lobbying on their Own Behalf:
  - (i) A Lobbying Organization or individual must disclose reportable Expenses, as defined in subdivision (e) of section 943.9, related to Direct Lobbying, which may include, as applicable, but are not limited to:

- (a) time spent by employees engaging in Lobbying Activities (even if such employees are not required to be identified as Individual Lobbyists) if such employees are compensated for their time;
- (b) staff time allocated to planning Lobbying Activities;
- (c) expenses related to placards, signs, t-shirts or other advocacy paraphernalia;
- (d) expenses related to Social Media activities, as set forth in subdivision (d) of this section; and
- (e) expenses related to transportation of volunteers and other individuals not identified as Lobbyists, including, for example, transportation of volunteers to a lobby day.

**(d) Direct Lobbying through Social Media**

- (1) A Social Media communication that Attempts to Influence an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act constitutes Direct Contact for purposes of Direct Lobbying if such communication:
  - (i) Is directly sent to a Social Media account known to be owned or controlled by a Public Official; or
  - (ii) Creates a direct electronic link to any Social Media account known to be owned or controlled by a Public Official.
- (2) Direct Contact with a Public Official through a Social Media communication also includes contact that is targeted and directed to members of the Public Official's staff through a Social Media communication and done with the knowledge that such persons are members of the Public Official's staff.

- (3) When Direct Contact with a Public Official through a Social Media communication is undertaken by an organization, *through the organization's Social Media account(s)*, such activity is reportable Lobbying Activity by the organization.
  - (i) An Individual Lobbyist, however, need not be listed based on this activity alone.
- (4) When Direct Contact with a Public Official through a Social Media communication is undertaken by an individual, *through their personal social media account(s)*, this activity is **not** reportable Lobbying Activity unless such individual is specifically retained by a Client for such Social Media activity.
  - (i) In this case, the individual should register as a Lobbyist on behalf of the paying Client, listing themselves as an Individual Lobbyist;
  - (ii) Any expenses incurred to create, promote, place or otherwise highlight an individual's *personal* Social Media activity that are reportable pursuant to paragraph (4) above, are reportable by the party incurring the expenses.
- (5) Reportable Expenses related to Direct Lobbying via Social Media.
  - (i) Reportable expenses attributable to a Principal Lobbyist's Social Media activities that constitute Direct Lobbying may include, but are not limited to: consulting services, staff time allocated to planning and posting, search engine optimization and sponsoring, and advertising.
  - (ii) A reasonable methodology used by a Principal Lobbyist in good faith to calculate lobbying expenses related to Direct Lobbying via Social Media is acceptable.
- (6) Examples
  - (i) Any of the following could be Direct Lobbying through Social Media:



- (a) A direct message sent to a Public Official through Social Media (e.g., through Facebook Messenger, Twitter Direct Message);
- (b) A post on a Public Official's Social Media page;
- (c) A post on a person's own Social Media page that tags a Public Official if such person has specifically been hired by a Client for their personal Social Media activity; or
- (d) A tweet tagging a Public Official, using the organization's twitter handle.

### 943.7 Grassroots Lobbying

(a) **Principles.**

- (1) While Direct Lobbying attempts to influence a Public Official through a Direct Contact by the Lobbyist, Grassroots Lobbying attempts to influence a Public Official indirectly, or through another.
- (2) A Grassroots Lobbyist is a person or organization who solicits another to deliver a message to a Public Official; the audience or recipients of grassroots communications who voluntarily (and without compensation) subsequently deliver the message to the Public Official are not Grassroots Lobbyists.
- (3) Every Grassroots Lobbying Communication is attributable to a Lobbyist, which may be the organization as a whole.
- (4) Grassroots Lobbying does not require the identification of an Individual Lobbyist(s) on lobbying reports unless the individual engaged in Grassroots Lobbying is a Retained Lobbyist, as set forth in subdivision (e) of this section, or is retained or compensated specifically for their social media activities, as set forth in subdivision (f)(2)(ii) of this section.

(b) **Definitions.**

- (1) **Grassroots Lobbying** means an attempt to indirectly influence an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act through a Grassroots Lobbying Communication, which may be communicated via various forms, including, but not limited to, those listed in subsection 943.7(g).
- (2) **Grassroots Lobbying Communication** means a communication that:
  - (i) References or otherwise implicates an action enumerated in section 1-c(c)(i)-(x) of the Lobbying Act;
  - (ii) Takes a clear position on that action; and
  - (iii) Includes a Call to Action.
- (3) **Call to Action** means:
  - (i) A solicitation, exhortation, or encouragement to the public, a segment of the public, or an individual to: (1) directly contact a Public Official; or (2) solicit, exhort, or encourage others to directly contact a Public Official. To qualify as a Call to Action, the communication need not specify the form the contact must take;
  - (ii) The inclusion of an address, email address, website address, phone number or similar contact information for a Public Official even if the communication does not specifically exhort the public to contact the Public Official; or
  - (iii) The inclusion of a paper or electronic petition, text message, social media communication, or similar material (or electronic link to such petition or material) for the recipient to use to communicate with a Public Official even if the communication does not specifically exhort the public to use such material.

**(c) Grassroots Lobbying and the Individual**

- (1) A person who publishes a Grassroots Lobbying Communication is engaged in Grassroots Lobbying on their own behalf and acting as their own Designated Lobbyist.
  - (i) For example, a person who buys billboard space that includes a Grassroots Lobbying Communication is engaging in Grassroots Lobbying on their own behalf.
- (2) A person who engages in Grassroots Lobbying on their own behalf acting as their own Designated Lobbyist is the Principal Lobbyist but is not required to list themselves as an Individual Lobbyist unless such person also engages in Direct Lobbying.

**(d) Grassroots Lobbying and the Lobbying Organization**

- (1) An organization engages in Grassroots Lobbying on its own behalf when a Grassroots Lobbying Communication is issued by the organization, including when an employee or Designated Lobbyist of the organization delivers a Grassroots Lobbying Communication at the direction of the organization.

For example, an organization that includes a Grassroots Lobbying Communication on its website is engaging in Grassroots Lobbying on its own behalf.

An organization that issues a press release on its own letterhead that includes a Grassroots Lobbying Communication is engaging in Grassroots Lobbying on its own behalf.
- (2) Employed and Designated Lobbyists are not required to be listed as Individual Lobbyists by organizations based on Grassroots Lobbying.
- (3) Expenses incurred by an organization acting as its own Grassroots Lobbyist shall be attributable to such organization.

**(e) Grassroots Lobbying and the Retained Lobbyist.**

(1) A Retained Lobbyist's activities on behalf of a Client constitute Grassroots Lobbying and an Individual Lobbyist must be listed on lobbying reports if the Retained Lobbyist delivers a Grassroots Lobbying Communication and can be identified as speaking for, representing, or endorsing the position of the Client.

(i) A person is not required to be identified as an Individual Lobbyist solely by being included as a contact person on a Client's Grassroots Lobbying Communication on Client letterhead.

(ii) For example, the owner of a billboard is not speaking for, representing, or endorsing the position taken by the Client that has rented space on the billboard.

However, an individual who is paid to speak on behalf of a Client and delivers a Grassroots Lobbying Communication should be identified as an Individual Lobbyist.

**(f) Grassroots Lobbying through Social Media.**

(1) A Social Media communication constitutes a Grassroots Lobbying Communication when it satisfies the criteria set forth in subpart 943.7(b)(2).

(2) Attribution of Social Media activities and expenses to Principal Lobbyists.

(i) When Grassroots Lobbying through a Social Media communication is undertaken by an organization, *through the organization's Social Media account(s)*, this activity is reportable Lobbying Activity by the organization.

(a) No Individual Lobbyists are required to be listed on lobbying filings based on this activity alone.

(ii) When Grassroots Lobbying through a Social Media communication is undertaken by an individual, *through their personal social media account(s)*, this activity is ***not***

reportable Lobbying Activity unless such individual is specifically retained by a Client for such Social Media activity.

(a) In this case, the individual should register as a Lobbyist on behalf of the paying Client, listing themselves as an Individual Lobbyist.

(b) Any expenses incurred to create, promote, place or otherwise highlight an individual's *personal* Social Media activity that are reportable pursuant to subparagraph (ii) above, are reportable by the party incurring the expenses.

(iii) Reportable expenses attributable to an organization's or individual's Grassroots Lobbying via Social Media may include, but are not limited to: consulting services, sponsoring posts, staff time allocated to planning and posting, search engine optimization and sponsoring, and advertising.

(iv) A reasonable methodology used in good faith to calculate lobbying expenses related to Grassroots Lobbying via Social Media is acceptable.

**(g) General Grassroots Lobbying Examples.**

(1) Any of the following could involve Grassroots Lobbying, as defined herein, if the required elements of a Grassroots Lobbying Communication are otherwise present:

- (i) Rallies;
- (ii) Billboards;
- (iii) Print media advertisements;
- (iv) Websites;
- (v) Social Media communications;
- (vi) Television and radio commercials;

- (vii) Letter writing campaigns; or
- (viii) Personal requests by a Lobbyist for another person to contact a Public Official.
- (2) The following functions or roles, standing alone, would not constitute Grassroots Lobbying:
  - (i) Owners of billboards or signs;
  - (ii) Copy editing;
  - (iii) Advertisement writers;
  - (iv) Storyboard artists;
  - (v) Film crews;
  - (vi) Photographers;
  - (vii) Video editors;
  - (viii) Website managers, hosts, or internet service providers;
  - (ix) Media outlets or broadcasters;
  - (x) Media buyers or placement agents;
  - (xi) Delivery services; or
  - (xii) Secretaries, clerical, and ministerial staff.

## 943.8 Procurement Lobbying

### (a) Definitions.

- (1) **Procurement Lobbying** means an Attempt to Influence a determination related to a Governmental Procurement by:
  - (i) A Public Official, or a person or entity working with a Public Official; or
  - (ii) An officer or employee of the Unified Court System, or a person or entity working with an officer or employee of the Unified Court System.
- (2) **Procurement Contract** means a contract or other agreement, including an amendment, extension, renewal, or change order to an existing contract (other than amendments, extensions, renewals, or change orders that are authorized and payable under the terms of the contract as it was finally awarded or approved by the comptroller, as applicable), for an Article of Procurement involving an estimated annualized expenditure of more than \$15,000, but does not include:
  - (i) Grants;
  - (ii) Article XI-B State Finance Law contracts;
  - (iii) Program contracts between not-for-profit organizations, as defined in article XI-B of the State Finance Law, and the Unified Court System;
  - (iv) Intergovernmental agreements;
  - (v) Railroad and utility force accounts;
  - (vi) Utility relocation project agreements or orders;
  - (vii) Contracts governing organ transplants;
  - (viii) Contracts allowing for State participation in trade shows; or

- (ix) Eminent domain transactions.
- (3) ***Governmental Procurement*** means any activity that occurs during the:
  - (i) public announcement, public notice, or public communication to any potential vendor of a Determination of Need for a procurement, which shall include, but not be limited to, the public notification of the specifications, bid documents, request for proposals, or evaluation criteria for a Procurement Contract;
  - (ii) solicitation for a Procurement Contract;
  - (iii) evaluation of a Procurement Contract;
  - (iv) award, approval, denial or disapproval of a Procurement Contract; or
  - (v) approval or denial of an assignment, amendment (other than amendments that are authorized and payable under the terms of the Procurement Contract as it was finally awarded or approved by the comptroller, as applicable), renewal or extension of a Procurement Contract, or any other material change in the Procurement Contract resulting in a financial benefit to the Offerer.
- (4) ***Article of Procurement*** means a:
  - (i) commodity;
  - (ii) service;
  - (iii) technology;
  - (iv) public work;
  - (v) construction;
  - (vi) revenue contract;



- (vii) purchase, sale, or lease of real property; or
  - (viii) granting or acquisition of other interest in real property that is the subject of a Governmental Procurement.
- (5) **Determination of Need** means a public communication of a decision by a governmental entity to procure an Article of Procurement. A governmental entity may also communicate a Determination of Need privately, but only the recipient of private communication is subject to lobbying regulation until the public announcement occurs. Determination of Need may be indicated by the governmental entity's preparation of one or more of the following:
- (i) specifications;
  - (ii) bid documents;
  - (iii) requests for proposals;
  - (iv) evaluation criteria; or
  - (v) statements of intent to proceed with a Procurement.

In the event a party seeks to extend or amend an existing procurement contract, the fact that a governmental entity is discussing terms is an indication of a Determination of Need.

- (6) **Local Legislative Body** means the board of supervisors, board of aldermen, common council, council, commission, town board, board of trustees, or other elective governing board or body of a Municipality now or hereafter vested by State statute, charter, or other law with jurisdiction to initiate and adopt local laws and ordinances, whether or not such local laws or ordinances require approval of the elective chief executive officer or other official or body to become effective.

- (7) **Municipal Agency** means: (i) a department, board, bureau, commission, division, office, council, committee, or officer of a Municipality, whether permanent or temporary; or (ii) an industrial development agency located in a jurisdictional subdivision of the State with a population of more than 50,000, or a local public benefit corporation, as that term is defined in section 66 of the general construction law.
- (8) **Offerer** means the individual or entity, or employee, agent, or consultant of such individual or entity, that contacts a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body about a Governmental Procurement.
- (i) Offerer does not include a governmental agency or its employees that communicate with the procuring agency regarding a Governmental Procurement in the exercise of the governmental agency's oversight duties.
- (9) **Restricted Period** means the period of time commencing with the earliest posting, on a governmental entity's website, in a newspaper of general circulation, or in the procurement opportunities newsletter in accordance with article four-c of the economic development law of a written notice, advertisement, or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract with a State Agency, either house of the State legislature, the Unified Court System, or a Municipal Agency, and ending with the final contract award and approval by the State Agency, either house of the State legislature, the Unified Court System, or a Municipal Agency, and, where applicable, the State comptroller.

The Restricted Period is not identical to the longer time frame of a Governmental Procurement as defined in this subpart.

- (10) **Revenue Contract** means a written agreement between a State or Municipal Agency or a Local Legislative Body and an Offerer, whereby the State or Municipal Agency or Local Legislative Body gives or grants a concession or a franchise.

- (11) *Unified Court System* means the unified court system of the State of New York, or the office of court administration, where appropriate, other than town and village justice courts in jurisdictions with a population under 50,000, when it acts solely in an administrative capacity to engage in Governmental Procurements. Unified Court System does not include the Unified Court System or any court of the State judiciary when it acts to hear and decide cases of original or appellate jurisdiction or otherwise acts in its judicial, as opposed to administrative, capacity.

**(b) Restricted period.**

- (1) Prohibited contacts

During the Restricted Period, no Lobbying Activity is permitted in relation to the governmental procurement except as authorized in paragraph (3) below. This prohibition includes contact with the following in connection with such lobbying:

- (i) A person within the procuring entity who has not been designated pursuant to section 139-j of the State Finance Law to receive communications relative to the Governmental Procurement; or
  - (ii) A person in a State Agency other than the State Agency conducting the Governmental Procurement.
- (2) The prohibitions set forth in paragraph (1) apply to municipal agencies only when the municipal agency meets the definition in paragraph (a)(7)(ii) of this subdivision.
- (3) Nothing contained in this section shall be deemed to prohibit a person engaged in Procurement Lobbying from contacting a member of the State legislature concerning a Governmental Procurement by a State Agency, the unified court system, or a Municipal Agency. Such Lobbying must be disclosed in accordance with these regulations.

- (c) Exceptions. The following do not constitute Procurement Lobbying or Lobbying Activities:

- (1) ***Pre-determination of need.*** Contacts that occur before a governmental entity has made a Determination of Need, including:
  - (i) A contact intended to generate interest in an Offerer's product or service that occurs before the governmental entity has made a Determination of Need for the product or service; and
  - (ii) An inquiry as to whether a governmental entity has made a Determination of Need.
- (2) ***Commission Salespersons.*** The activities of persons who are commission salespersons with respect to Governmental Procurements.
  - (i) ***Commission Salesperson*** means a person who meets the following criteria:
    - (a) The primary purpose of the person's employment is to cause or promote the sale of, or influence or induce another to make a purchase of, an Article of Procurement;
    - (b) The person is an employee (as that term is defined for tax purposes) of a vendor, or an independent contractor for a vendor, pursuant to a written contract for a term of not less than six months or an indefinite term;
    - (c) The person is compensated or intended to be compensated, in whole or in part, by the payment of a percentage amount of all or a substantial part of the sales of an Article of Procurement that the person has caused, promoted, influenced, or induced.
      - (1) The term "substantial part of the sales", as used in subsection 943.8(c)(2)(i)(c) above, means at least 50 percent of the number of sales the person has caused, promoted, influenced, or induced;
    - (d) The percentage amount of commissions payable to the person for sales or purchases to a State Agency, either house of the State legislature, the Unified Court System, a

Municipal Agency, or Local Legislative Body, is not substantially greater than any commission payable for comparable sales by another purchaser; and

(e) The person is not otherwise required to file a statement or report by virtue of engaging in lobbying activities set forth in section 1-c(c)(i)-(iv) and (vi)-(x) of the Lobbying Act.

(3) ***Complaints and Appeals.***

- (i) Complaints by an Offerer regarding the failure of the person or persons designated by the procuring entity pursuant to section 139-j of the state finance law to respond in a timely manner to authorized Offerer contacts, provided that such complaints are made in writing and addressed only to the office of general counsel of the State Agency, either house of the State legislature, or the Unified Court System that is conducting the procurement;
- (ii) Contacts by Offerers in protests, appeals, or other review proceedings (including the apparent successful bidder or proposer and that person's representatives) before the procuring entity seeking a final administrative determination, or in a subsequent judicial proceeding;
- (iii) Complaints of alleged improper conduct in a Governmental Procurement to the Attorney General, inspector general, district attorney, or court of competent jurisdiction; or
- (iv) Protests, appeals, or complaints to the State Comptroller's office during the process of contract approval, where the State Comptroller's approval is required by law, provided that such protests, appeals, or complaints are made in writing and are required to be entered in the procurement record pursuant to section 163 of the state finance law; or
- (v) Complaints of alleged improper conduct in a Governmental Procurement conducted by a Municipal Agency or Local Legislative Body to the State comptroller's office.

(4) ***State Finance Law Section 162 preferred service provider contracts.***

(i) Any activity relating to Governmental Procurements made under section one hundred sixty-two of the state finance law undertaken by:

(a) the non-profit-making agencies appointed pursuant to paragraph e of subdivision six of section one hundred sixty-two of the state finance law by the commissioner of the office of children and family services, the commission for the blind and visually handicapped, or the commissioner of education; and

(b) the qualified charitable non-profit-making agencies for the blind, and qualified charitable non-profitmaking agencies for other severely disabled persons as identified in subdivision two of section one hundred sixty-two of the state finance law.

(ii) Any attempt to influence the issuance or terms of the specifications that serve as the basis for bid documents, requests for proposals, invitations for bids, or solicitations of proposals, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract with a State Agency, the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body *shall not be exempt* from the definition of ‘Lobbying’ or ‘Lobbying Activities’ under this subpart.

(5) ***Bidders’ Conferences.*** Participants, including those appearing on behalf of a Client, in a conference provided for in a request for proposals, invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract.

(6) ***Post-award Negotiations.***

(i) Offerers who have been tentatively awarded a contract and are engaged in communications with a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body solely for the purpose of negotiating the terms of the Procurement Contract after being notified of such award

or, when a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body is purchasing an Article of Procurement pursuant to an existing State Procurement Contract;

- (ii) Offerers who are engaged in communications with the procuring entity solely for the purpose of negotiating terms applicable to that purchase; or
- (iii) Persons who currently hold a franchise and who are engaged in negotiating the terms of a tentative franchise renewal contract with a Municipality, but such negotiations, which do not constitute Lobbying, do not include communications to the Local Legislative Body that must approve the contract.

(7) ***Submission of bids.***

- (i) The submission of a bid or proposal (whether submitted orally, in writing or electronically) in response to a request for proposals, invitation for bids or any other method for soliciting a response from Offerers intending to result in a Procurement Contract.
- (ii) This exclusion applies to preparation and associated costs with the bid. Any activity beyond what is required to submit a bid will not qualify for the exclusion.

(8) ***Public communications to agencies.*** Offerers submitting written questions to a designated contact of a State Agency, either house of the State legislature, the Unified Court System, a Municipal Agency or Local Legislative Body set forth in a request for proposals, or invitation for bids or any other method for soliciting a response from Offerers intending to result in a Procurement Contract, when all written questions and responses are to be disseminated to all Offerers who have expressed an interest in the request for proposals, or invitation for bids, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract.

- (9) **Technical Experts.** Contacts during Governmental Procurements between designated staff of a State Agency, either house of the State legislature, the Unified Court system, a Municipal Agency or Local Legislative Body involved in Governmental Procurements and officers or employees of bidders or potential bidders, or officers or employees of subcontractors of bidders or potential bidders, who are charged with the performance of functions relating to contracts and who are qualified by education, training or experience to provide technical services to explain, clarify or demonstrate the qualities, characteristics or advantages of an Article of Procurement.
- (i) Such authorized contacts shall:
- (a) be limited to providing information to the staff of a State Agency, either house of the State legislature, the unified court system, a Municipal Agency and Local Legislative Body to assist them in understanding and assessing the qualities, characteristics or anticipated performance of an Article of Procurement;
- (b) not include any recommendations or advocate any contract provisions; and
- (c) occur only at such times and in such manner as authorized under the procuring entity's solicitation or guidelines and procedures.
- (ii) For the purposes of this paragraph, the term 'technical services' shall be limited to analysis directly applying any accounting, engineering, scientific, or other similar technical disciplines.
- (10) **Post-award communications.**
- (i) Communications made by an officer or employee of the Offerer after the award of the Procurement Contract when such communications are in the ordinary course of providing the Article of Procurement provided by the Procurement Contract and in the ordinary course of the assigned duties of the officer or employee; provided, however, that nothing herein shall exempt:



- (a) an officer or employee whose primary purpose of employment is to engage in Lobbying Activities with regard to Governmental Procurements, or
    - (b) an agent or independent contractor hired by an Offerer and whose primary duty is to engage in Lobbying Activities with regard to Governmental Procurements.
  - (ii) This exception does not apply to an officer, employee, agent, or independent contractor who is registered as a Lobbyist because of that person's Procurement Lobbying Activity.
- (11) ***Benefits and Incentives.*** Persons who communicate with Public Officials where such communications are limited to obtaining factual information related to benefits or incentives offered by a State or Municipal Agency and where such communications do not include any recommendations or advocate governmental action or contract provisions, and further where such communications are not otherwise connected with pending legislative or executive action or determinations; provided, however, that any person who is otherwise required to file a statement or report pursuant to this article by virtue of engaging in Lobbying Activities as defined in this section shall not be deemed to fall within the exception provided for under this paragraph.

The exceptions set forth in the preceding paragraphs (1) - (11) shall not be construed as recognizing or creating any new rights, duties, or responsibilities or abrogating any existing rights, duties, or responsibilities of any governmental entity as it pertains to implementation and enforcement of Article 11 of the State Finance Law or any other provision of law dealing with the Governmental Procurement process.

(d) RESERVED.

### 943.9 Reportable Lobbying Activity

**(a) General Reporting Obligations.**

- (1) The Lobbying Act requires public disclosure of the identities, activities and expenditures of Lobbyists and Clients. To constitute reportable Lobbying, there must be (1) an attempt to influence an activity listed in §1-c(c) of the Lobbying Act, and (2) the cumulative Compensation and Expenses received, expended or incurred for any such activities must exceed \$5,000 in any calendar year during a biennial period.
- (2) Lobbying Activity is either Direct or Grassroots Lobbying.
- (3) Lobbying Activity that includes only Grassroots Lobbying does not require the identification or disclosure of any Individual Lobbyists except as set forth in subdivisions (e) and (f) of section 943.7.
- (4) Once a person or entity has triggered the requirement to register and file reports as a Lobbyist, both Direct and Grassroots Lobbying Activities are reportable, even if expenditures were only incurred for one type of lobbying.
- (5) An organization lobbying on its own behalf has designated itself as its own Lobbyist and, if it meets the requirements in subsection (1), must register and file applicable lobbying reports.
- (6) A person lobbying on their own behalf has designated themselves as their own Lobbyist and, if they meet the requirements in subsection (1), must register and file applicable lobbying reports.

**(b) Obligations of the Responsible Party.**

- (1) All Statements or Reports required under the Lobbying Act or set forth in the Commission's regulations must be signed by the Responsible Party for the Lobbyist or Client, as applicable, or another who has been designated to sign and file such required Statement or Report. Such a designation must be signed by the Responsible Party and Designee, completed and submitted to the Commission before the due date of such Statements or Reports.

(c) **Cumulative threshold.** For purposes of calculating total Compensation and Expenses received, expended or incurred by a Lobbyist or Client, the \$5,000 annual threshold shall be computed cumulatively for all Lobbying Activities undertaken by the Lobbyist or Client (whether as a Beneficial Client or Contractual Client).

(d) **Accounting Methods.**

- (1) All Compensation and Expenses associated with Lobbying Activity should be accounted for using accrual basis accounting, i.e., costs are reported in the period in which they are incurred.
- (2) A Lobbyist or Client has a duty to amend a Bi-Monthly or Client Semi-Annual Report after a previously reported payment is written down, written off, or otherwise modified for bookkeeping purposes.

(e) **Expenses.**

- (1) Definition

An *Expense* is any cost of Lobbying Activity that is not Lobbyist Compensation.

- (i) An Expense can only be incurred in connection with a Lobbying Activity.

- (2) Types

- (i) Non-lobbying staff salaries. Non-lobbying staff salaries include Compensation paid to those professional and clerical employees who do not engage in Direct or Grassroots Lobbying Activity.

*(a)* Salaries of non-lobbying staff should be reported in the aggregate.

*(b)* Lobbyist filer should have a good faith methodology that demonstrates how the allocation of non-lobbying staff time was reached.

- (ii) Aggregated. Expenses of \$75 or less may be reported as a single aggregate total.

- (iii) Itemized. Expenses valued at more than \$75 must be itemized – reporting the payee, the nature of the expense, and the value.
    - (a) Client Filer should indicate if the Expense was a reimbursement to the Lobbyist.
    - (b) Lobbyist filer should indicate whether the Expense was reimbursed by the Client.
  - (iv) Reimbursed. Lobbyist should report the aggregate value of all Expenses (regardless of value of the individual Expenses) that were reimbursed by the Client.
- (3) Exclusions. The following are not reportable Expenses:
  - (i) State or local lobbying filing fees;
  - (ii) Printing or postage that does not exceed \$500 in the aggregate;
  - (iii) Travel, lodging, or meals for a Lobbyist;
  - (iv) Any expense that is incurred in the ordinary course of business, regardless of the nature of business - for example, rent, utilities, telephones, computers; and
  - (v) Any amount reportable as a contribution under article fourteen of the election law.
- (f) **Compensation.** *Compensation* means all direct or indirect payments of salaries or other things of value provided to a Lobbyist in exchange for Lobbying or services that are otherwise in furtherance of Lobbying Activity, including year-end or other bonuses but not fringe benefits.
- (g) **Record Keeping.**
  - (1) All expenditures of \$50 or more related to Lobbying Activity must be paid by check or supported by receipt.
  - (2) Such checks or receipts must be maintained for three years from the date the expense was required to be reported.

**(h) Filing Requirements for Multi-Party Lobbying Relationships and Coalitions.**

Some Lobbyist/Client relationships include multiple Lobbyists, multiple Clients, or multiple entities comprising a single Client, and all of these entities must be disclosed in Lobbying reports filed with the Commission.

**(1) Requirements relating to Contractual vs. Beneficial Clients.**

- (i)** All reports requiring disclosure of the Client must include both the Contractual and Beneficial Client(s).
- (ii)** The Contractual Client is responsible for filing Client Semi-Annual Reports, except for the Source of Funding Disclosure section of such Report, as set forth in subparagraph (iii) of this paragraph and Part 938 of this Title.
- (iii)** The Beneficial Client is responsible for the Source of Funding Disclosure section of the Client Semi-Annual Report, as set forth in Part 938 of this Title.
- (iv)** Contractual Clients and Beneficial Clients are each responsible for disclosing Reportable Business Relationships, as set forth in section 943.14 of this Part.

**(2) Multiple Lobbyists.** All reports must disclose all Lobbyists performing services, whether on a single contract or through a subcontracting relationship.

**(i) Subcontracting.**

**(a)** A Lobbyist who, after entering into a Lobbying agreement with a Contractual Client, retains the services of another to perform a portion of the services within the scope of the agreement, is a Prime Lobbyist.

**(b)** A Lobbyist who is engaged to perform services by a Prime Lobbyist, as part of an agreement between the Prime Lobbyist and the Contractual Client, is a Sub-Lobbyist.

- (c) A Prime Lobbyist and Sub-Lobbyist are both subject to the reporting requirements of the Lobbying Act, to be filed on forms provided by the Commission, but are only required to disclose the Lobbying Activity and Compensation and Expenses related to the services they each provided, respectively.
  - (d) On any Bi-Monthly Report or Statement of Registration, the Prime Lobbyist must identify the Client, itself and all Sub-Lobbyists engaged on behalf of the Client.
  - (e) On any Bi-Monthly Report or Statement of Registration, the Sub-Lobbyist need only identify itself, the Prime Lobbyist and the Beneficial Client.
- (ii) Co-Lobbyist.

All Lobbyists who are retained by a Client on the same single retainer agreement or contract are Co-Lobbyists, and must file individual Lobbying reports with the Commission. Co-Lobbyists must identify other Co-Lobbyists but need disclose only their own Lobbying Activity and Compensation and Expenses.

(3) Coalitions.

- (i) Policy. This paragraph sets forth the filing requirements for groups that qualify as a Coalition. Depending on the nature of a Coalition, as set forth in subparagraph (iii) below, a Coalition (that spends more than \$5,000 on lobbying) must file its own Lobbying reports or its members (who spend more than \$5,000 on lobbying) must disclose their Coalition Contributions in their own lobbying reports.
- (ii) Definition.
  - (a) **Coalition** means a group of otherwise-unaffiliated entities or members that pool funds or resources for the primary purpose of engaging in Lobbying Activities on behalf of the members of the Coalition and have not incorporated or otherwise created a legal entity.

- (b) *Member* of a Coalition includes any person or entity that makes a Contribution, as defined in subparagraph (d) of this subdivision, to the Coalition.
    - (c) *Affiliated* has the meaning described in section 943.3 of this Title.
    - (d) *Contribution* to a Coalition means the provision of funds or resources to the Coalition, including, but not limited to, the donation of services, and the incurrence of expenses on behalf of the Coalition.
- (iii)
  - (a) A Coalition that designates an individual to serve as its President, Treasurer, or in such capacity, is considered a Structured Coalition and must file its own lobbying reports, as set forth in subparagraph (iv) below. One such designated individual(s) shall serve as the Responsible Party for the Coalition's filings.
  - (b) A Coalition that has not designated such an individual to serve as its President, Treasurer, or in such capacity, is considered an Unstructured Coalition and shall not file its own lobbying reports; instead, its Members shall disclose their Contributions to the Coalition in their own lobbying reports as set forth in subparagraph (v) below.
- (iv) A Structured Coalition shall comply with the following:
  - (a) The Structured Coalition shall file a Lobbying report with the Commission identifying itself as a Lobbyist and/or a Client and report all of the Coalition's Lobbying Activity.
  - (b) The Structured Coalition must adhere to the reporting requirements set forth in this Part, including disclosing Compensation and Expenses related to the Structured Coalition.
    - (1) In addition to all Expenses incurred by the Structured Coalition on its own behalf, the Structured Coalition must disclose any Expenses incurred by a Member on behalf of the Structured Coalition.

- (c) Any associated filings involving the Structured Coalition (including filings by Lobbyists retained by the Structured Coalition and/or filings by the Structured Coalition itself) shall list the Structured Coalition as the Contractual Client and Beneficial Client.
  - (d) Members of a Structured Coalition are not required to be listed as Beneficial Clients.
  - (e) A Structured Coalition Member's Contribution(s) is not considered a Lobbying Expenditure for purposes of the Member determining whether it has met the \$5,000 threshold triggering reportable lobbying.
  - (f) Members of a Structured Coalition shall not report any Contributions to the Coalition on their own filings.
- (v) A Member of an Unstructured Coalition shall disclose their Coalition Contribution(s) in their own Lobbying reports and comply with the following:
  - (a) A Member's Contribution(s) is considered a Lobbying Expenditure for purposes of the Member determining whether it has met the \$5,000 threshold triggering reportable lobbying.
  - (b) Each Member who meets the \$5,000 threshold (either through their Contribution(s) to such Unstructured Coalition(s) and/or other Lobbying Activity engaged in by the Member) and who is thereby required to file a Lobbying report, must disclose in such report any Unstructured Coalition Contributions.
  - (c) If a Member currently files a Lobbying Report, it shall disclose its Unstructured Coalition Contributions in that report. If a Member does not currently file a Lobbying Report and its Contribution to such an Unstructured Coalition triggers reportable Lobbying, it must register as its own Lobbyist and file Bi-Monthly and Client Semi-Annual Reports that disclose the Member's Unstructured Coalition



Contributions in accordance with this subparagraph, and identify itself as the Contractual Client and Beneficial Client.

(d) Members shall disclose the following in the Expense section of their Lobbying reports:

(1) the name of the Unstructured Coalition;

(2) all Contributions made by the Member to the Unstructured Coalition; and

(3) any Expenses incurred by the Member on behalf of the Unstructured Coalition, which can be from the Member's own direct Contributions and/or from the Unstructured Coalition's pool of funds. Members must include the following information related to such incurred Expense:

(i) the purpose of the incurred Expense; and

(ii) whether it was incurred using 100% of such Member's own funds (also considered a direct Contribution) or whether it was incurred using part of such Member's funds (such portion also considered a direct Contribution) and part of the Unstructured Coalition's pooled funds.

(e) Lobbyists retained, by a Member of an Unstructured Coalition, to lobby on behalf of a Coalition pursuant to this subparagraph shall disclose such Member as the Contractual Client and the Beneficial Client.

(f) Each Member's Contribution to an Unstructured Coalition is considered a Lobbying expenditure for purposes of determining whether the Member is subject to the Source of Funding disclosure requirements set forth in Part 938 of this Title.

(i) Except as otherwise provided in this Part, all references to Lobbyists and Clients include Public Corporations.

**(j) Industrial Development Agencies Representing Populations Exceeding 5,000.**

- (i) Real property purchase, sale, or lease agreements, including purchase- leaseback, lease-leaseback, and other hybrid agreements by Industrial Development Agencies representing populations exceeding 5,000 are Procurement Contracts, and as a result, Attempts to Influence a determination by a Public Official regarding such a Procurement Contract constitute Reportable Lobbying. This includes the inclusion of or terms to an agreement for Payments in Lieu of Taxes.
- (ii) Resolutions of an Industrial Development Agency (representing a population of more than 5,000) are covered activities under Section 1-c(c) of the Lobbying Act, and as a result, attempts to influence such a resolution can constitute Reportable Lobbying. This includes the inclusion of, or terms to an agreement for Payments in lieu of Taxes.

**943.10 Lobbyist Statement of Registration**

- (a) Purpose. The purpose of the Statement of Registration is to memorialize the engagement of the Lobbyist by the Client, and should reflect the then-current terms of the engagement at any point in time.
- (b) Reporting Threshold.
  - (1) Pursuant to section 1-e of the Lobbying Act, every Lobbyist that incurs, expends, or receives or reasonably anticipates incurring, expending, or receiving more than \$5,000 in combined Reportable Compensation and Expenses for Lobbying Activity on a State and/or local level, in any calendar year during the biennial period, must file a biennial Statement of Registration with the Commission.
  - (2) For purposes of determining whether the thresholds have been met, the amounts incurred, expended or received shall be computed cumulatively for all Lobbying Activities.
- (c) For purposes of this section, “biennial” shall mean every two-year period commencing with the January 1, 2005 – December 31, 2006 period, and so on thereafter.

(d) Once a Lobbyist meets or anticipates meeting the cumulative \$5,000 threshold, a Lobbyist must file a Statement of Registration for every Client for whom the Lobbyist lobbies, regardless of Compensation or Expenses paid by each Client individually.

(1) A Statement of Registration must be filed for each Lobbyist/Client relationship emanating from the same lobbying agreement or authorization to lobby for the same purpose.

(e) Due Dates. All Statements of Registration must be filed on a biennial basis by the following deadlines (“Due Dates”):

(1) January 1st of the first year of the biennial period if:

- (i) the Lobbyist is providing services under an agreement that is in effect both before December 15th of the year immediately preceding the first year of a biennial registration period and after January 1st of the first year of a biennial registration period; and
- (ii) the Lobbyist reasonably anticipates combined Reportable Compensation and Expenses in excess of \$5,000 for Lobbying Activities to be undertaken in the coming year.

(2) Within 15 days of being retained, employed, or designated to Lobby, if:

- (i) the Lobbyist has been retained, employed, or designated to Lobby after December 15th of the year preceding the first year of the biennial period, for activity in either year of the biennial period.

(a) Such Statement of Registration should be filed within 15 days of the date on which the Lobbyist has agreed to – or been authorized to – begin Lobbying Activity.

(b) The Commission considers such date to be the start date provided in the Lobbying Agreement or authorization, not the date of execution.

(c) No later than 10 days after exceeding the \$5,000 threshold, if the Lobbyist actually incurs or receives combined Compensation and Expenses in excess of \$5,000 before filing a Statement of Registration.

- (f) A Statement of Registration is not deemed to be received unless and until the Statement is complete and includes the filing fee and all the required elements set forth in subsection 943.10(j).
- (g) (1) Any submitted Statement of Registration that is not timely filed will be subject to the late fee schedule set forth below:

DAYS LATE	ACTION	
	First-Time Filer	All Other Filers
<b>1 – 7 days</b>	Grace Period/No Late Fee	
<b>8 – 14 days</b>	\$75 flat late fee	\$150 flat late fee
<b>15 – 30 days</b>	\$150 flat late fee	\$300 flat late fee
<b>31 – 90 days</b>	\$300 flat late fee	\$500 flat late fee
<b>91 – 180 days</b>	\$500 flat late fee	\$1,000 flat late fee
<b>181 days and more</b>	\$1,000 flat late fee	\$2,000 flat late fee

A Lobbyist is considered a First-Time Filer only when the Lobbyist is required to file a Statement of Registration for the first time. First-Time Filer status applies to the first Statement of Registration received by the Commission from such Lobbyist and any other Statements received from such Lobbyist on that same day.

- (2) **Un-Executed Lobbying Agreement Form.** A lobbyist who is prepared to register, but is awaiting the return of an executed lobbying agreement back from a Client may avoid the statutory late fees, provided the following criteria are met:

- (i) A Statement of Registration or amendment is otherwise filed completely and timely with: (a) a copy of the un-executed Agreement that was provided to the Client for signature; and (b) a completed Un-Executed Lobbying Agreement form, as provided by the Commission;
  - (ii) No lobbying occurs and no compensation is received or billed until the executed Agreement is provided to the Commission;
  - (iii) The Agreement is executed within 30 days of the original submission of the Statement of Registration or amendment.
    - (a) An amended Statement of Registration that includes the executed Agreement must be submitted within 10 days of the execution date; and
  - (iv) The lobbyist has not previously received an extension from the Commission related to that particular Statement of Registration or amendment.
- (h) If the Commission determines that the Lobbyist had access to the information that was not filed, and knowingly and willfully failed to include the information, the Lobbyist may be subject to a civil penalty not to exceed \$25,000 for a failure to timely file a complete and accurate statement.
- (i) **Filing Fee.**
- (1) A \$200 filing fee (payable in U.S. dollars) must be submitted with each Statement of Registration for the biennial period that the Lobbyist reasonably anticipates exceeding \$5,000 in combined Reportable Compensation and Expenses for any year in the biennial period. A Statement of Registration submitted without such a filing fee shall be deemed incomplete.
  - (2) No fee is required if the Lobbyist will not exceed \$5,000 in such Compensation and Expenses for that Client, however, a fee is required if the Lobbyist later exceeds the \$5,000 threshold.
  - (3) Any biennial Statement of Registration submitted to cover Lobbying conducted only during the second year of the biennial period shall be accompanied by a prorated registration fee of \$100.

- (4) Statement of Registrations that are filed late and cover either the entire biennial period or a portion of both years within the biennial period shall not be prorated.
- (5) No filing fee is required of any Public Corporations required to file a biennial public corporation registration statement.
- (6) Filings fees are non-refundable.

**(j) Required Contents of a Statement of Registration.**

Every Statement of Registration filed shall include the following:

- (1) An executed Lobbying Agreement form, as provided by the Commission, or a copy of a signed, written Lobbying agreement or written authorization.

Note: When a Lobbying contract or agreement exists, a Lobbyist may either submit such contract/agreement with a Statement of Registration or use the Lobbying Agreement form provided by the Commission; in such a case, however, a Lobbyist may not submit a written authorization in lieu of the contract/agreement.

- (i) Copies of Lobbying agreements or written authorizations must contain the following:
  - (a) A start date, which is the first date the Lobbyist has agreed to or been authorized to Lobby;
  - (b) Signatures of the Responsible Party for the Contractual Client and Lobbyist, or another person with the authority to enter the Lobbyist into a binding contract;
  - (c) The date(s) of execution;
  - (d) A statement indicating that other services will be provided in addition to Lobbying, if applicable;

- (e) A termination date, which is the last date the Lobbyist has agreed to or been authorized to Lobby;
- (1) in the case of a month-to-month agreement, the termination date shall be presumed to be the end of the current biennial period, unless otherwise specified; and
- (f) The Compensation to be paid specifically for Lobbying services, including pay frequency and/or rate of pay.
  - (1) If the Lobbyist is retained for Lobbying, the actual Compensation must be reported.
  - (2) If the retainer is based on a daily or hourly rate, the fee per day or per hour must be reported.
  - (3) If multiple parties with multiple hourly rates will be covered by the retainer, all rates shall be disclosed.
  - (4) If the Lobbyist is an Employed Lobbyist, as defined in Part 943.3(h), the Lobbyist's prorated salary for Lobbying Activity must be reported.
- (ii) If the Lobbyist is retained under terms of an oral agreement, a written summary of such terms may be submitted with a Statement of Registration. In addition to the requirements listed in subsection 943.10(j)(1) such authorization must be signed by Responsible Party.
- (2) The name of the Principal Lobbyist.
  - (i) If an individual Lobbyist is an employee or partner of an organization or firm, the organization or firm should always be identified as the Principal Lobbyist unless the individual has been retained in his individual capacity.

- (ii) The Principal Lobbyist should only be listed as an individual if the Lobbyist conducts business in his own name.
  - (iii) A Public Corporation that lobbies on its own behalf is the Principal Lobbyist.
- (3) The name of all Individual Lobbyists to perform lobbying services on behalf of the Client; provided, however:
  - (i) in the case of a Lobbying Organization that incurs no Compensation for Individual Lobbyists and only Expenses, no Individual Lobbyists need be identified on the Statement of Registration;
  - (ii) in the case of a Statement of Registration by a Public Corporation, in addition to any Individual Lobbyists, list any officer or employee of such Public Corporation who engages in any Lobbying Activities.
  - (iii) an independent contractor may only be identified as an Employed Lobbyist if the person meets the criteria established in subsection 943.3(h);
- (4) The subject matter on which the Lobbyist expects to Lobby;
- (5) The target(s) of the expected Lobbying, including the person, organization, entity, or legislative body before which the Lobbyist intends to Lobby;
- (6) The government activity on which the Lobbying is expected to occur, which shall include the following, as known at the time of filing:
  - (i) bill, rule, regulation, rate number or brief description relative to the introduction or intended introduction of legislation or a resolution;
  - (ii) the title and identifying numbers of Procurement Contracts/documents or a general description of the Procurement;



- (iii) the number or subject matter of an Executive Order of the Governor or Municipality;  
and
  - (iv) the subject matter of and tribes involved in tribal-state compacts;
- (7) Client information for all Contractual and Beneficial Clients, which shall include the Clients' names, business addresses, phone and email contacts, the nature of business, and the Chief Administrative Officers' names and titles.
  - (i) if the Registration relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v).
- (8) The level of government expected to be lobbied which shall indicate whether the expected Lobbying will be State lobbying, local Lobbying or both;
- (9) The identities of any Co-Lobbyists or Sub-Lobbyists, as described in subsection 943.9(h), if applicable; and
- (10) Any Reportable Business Relationships in accordance with and as defined in section 943.14.

**(k) Amendments to Lobbyist Statement of Registration.**

- (1) Except as provided in subsection 943.10(k)(3), any change – permanent or temporary – to the terms of an agreement or authorization for Lobbying requires an amended Lobbyist Statement of Registration form, which must be completed and filed with the Commission within 10 days of such change. Such amendment must include:
  - (i) The name of the Lobbyist and Client;
  - (ii) The new or changed information; and
  - (iii) The signature of the Responsible Party or designee, if applicable.

- (2) A Lobbyist must, within 10 days of the change, amend a Statement of Registration to reflect any changes to the:
  - (i) Individual Lobbyists authorized to Lobby for the Client;
  - (ii) Level of Lobbying (State vs. local);
  - (iii) Terms of Compensation; or
  - (iv) Engagement start and termination dates, including when the parties wish to continue the lobbying arrangement beyond the termination date.

Failure to make such amendments are subject to the imposition of late fees as set forth in subsection 943.10(g).

- (3) Changes to the subject matter or targets of Lobbying do not require an amended Statement of Registration.
- (4) No filing fee is required for a Registration Amendment provided the original Statement of Registration filing fee has already been paid for the applicable biennial period.
- (5) *After* the termination of the Agreement, any decision by a Lobbyist to waive, write- down, or otherwise reduce the prior Compensation and Expenses owed to the Lobbyist by the Client does not require an Amended Statement of Registration.

**(l) Termination of Lobbying Agreement/Authorization.**

- (1) If a Lobbying agreement or authorization terminates on the date specified in the agreement or authorization, then neither the Lobbyist or the Client must notify the Commission in writing of such termination. Likewise, if the termination takes effect at the end of the biennial registration cycle, written notification of termination is not required. However, if the agreement or authorization is terminated before the termination date, both the Lobbyist and the Client must notify the Commission in writing within 30 days after the Lobbyist ceases Lobbying Activity.

(m) **Withdrawals.**

- (1) A Lobbyist may request that a Statement of Registration be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.
- (2) A Statement of Registration that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.

### 943.11 Lobbyist Bi-Monthly Reports

- (a) **Purpose.** Lobbyist Bi-Monthly Reports record all actual Lobbying Activity during the relevant filing period.
- (b) Any Lobbyist required to file a Statement of Registration for a Client for any biennial period must also file Bi-Monthly Reports in accordance with this section, regardless of Compensation, Expenses, or Lobbying Activity.
- (c) **Due date.**
  - (1) Lobbyists must file a Bi-Monthly Report by the 15th of the month following the end of the bi-monthly reporting period in which the Lobbyist was first required to register. A schedule of the bi-monthly reporting periods is set forth below:
    - (i) January/February, Due March 15th
    - (ii) March/April, Due May 15th
    - (iii) May/June, Due July 15th
    - (iv) July/August, Due September 15th
    - (v) September/October, Due November 15th
    - (vi) November/December, Due January 15th

- (2) All reports must be received by the Commission on or before the due date.
- (3) If a report is due on a weekend or a State holiday, it must be received by the Commission on the first business day following the weekend or State holiday.
- (d) Any Bi-Monthly Report that is not timely filed will be subject to the late fee schedule set forth below:

DAYS LATE	ACTION	
	First-Time Filer	All Other Filers
1 – 7 days	Grace Period/No Late Fee	
8 – 14 days	\$75 flat late fee	\$150 flat late fee
15 – 30 days	\$150 flat late fee	\$300 flat late fee
31 – 90 days	\$300 flat late fee	\$500 flat late fee
91 – 180 days	\$500 flat late fee	\$1,000 flat late fee
181 days and more	\$1,000 flat late fee	\$2,000 flat late fee

A Lobbyist is considered a First-Time Filer only when the Lobbyist is required to file a Bi- Monthly Report for the first time. First-Time Filer status applies to the first Bi-Monthly Report received by the Commission from such Lobbyist and any other Reports received from such Lobbyist on that same day.

- (e) **Filing Fee.** There is no filing fee for a Lobbyist Bi-Monthly Report.
- (f) **Contents.** All Bi-Monthly Reports must include the following information to the maximum extent practicable:

- (1) The name, address, e-mail address, and telephone number of the Principal Lobbyist;
- (2) The names of all Individual Lobbyists who personally engaged in Lobbying Activity during the filing period;
- (3) The name, address, e-mail address, and contact information of all Contractual and Beneficial Clients
  - (i) If the Report relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v);
- (4) The identities of any Co-Lobbyists or Sub-Lobbyists, as described in subsection 943.9(h), if applicable;
- (5) The subject matter(s) on which Lobbying occurred; and
- (6) The governmental action that the Lobbyist Attempted to Influence which shall include the following, as applicable:
  - (i) The bill, rule, regulation, or rate number, if available, on which Lobbying occurred;
  - (ii) The title and identifying numbers of Procurement Contracts/documents on which Lobbying occurred;
  - (iii) The number or subject matter of an Executive Order of the Governor or Municipality on which Lobbying occurred;
  - (iv) The subject matter of and tribes involved in tribal-state compacts on which Lobbying occurred; and/or
  - (v) In the event Lobbying is conducted in order to influence the introduction, intended introduction, or issuance of State legislation or a State resolution, a brief description of such activity.

(7) The name of the person, organization, or legislative body before which the Lobbyist has lobbied:

- (i) In the case of Direct Lobbying, the name of the Public Official or Public Official's office or the legislative committee, as applicable, with whom the Lobbyist engaged in direct communication;

For example, if a Lobbyist lobbies a Senator on one occasion and also sends out memos in support of a bill to all members of a legislative committee of which the Senator is a part, such Lobbyist would disclose the Senator's name and the name of the legislative committee.

If a Lobbyist meets with the Commissioner of Taxation and Finance as well as a staff member of the Office of Real Property Tax Services, such Lobbyist would disclose the Commissioner's title and agency and disclose that they met with a staff member of the named unit or department within the agency (the Office of Real Property Tax Services).

- (ii) In the case of Grassroots Lobbying, the intended target of the Lobbying Activity, which may be a person, State Agency, Municipality or legislative body.

(8) All reportable Lobbying Compensation and Expenses (as defined in section 943.9) paid or owed by the Client for the current period only.

- (i) Any reportable Compensation and Expenses incurred by a Lobbying Organization must be included in the Bi-Monthly Report, regardless of whether the Lobbying Organization also files a Client Semi-Annual Report.

(g) If the first required Bi-Monthly Report filed by a Lobbyist for a calendar year is not the Report covering the January-February period (due March 15), the Report should disclose all Lobbying Activities engaged in, Compensation received, and expenditures incurred during the year up to and including the period covered by the Report.

**For example:** if a Lobbyist does not anticipate receiving \$5,000 in Compensation and Expenses before the start of the calendar year, but does exceed \$5,000 on April 15, the first

required Bi-Monthly Report is the Report due May 15, covering the March- April Bi-Monthly Period. The March-April Report should thus include all Lobbying Activity, Compensation, and Expenses for the calendar year, from January 1 until the end of the March-April Bi-Monthly Period, i.e., April 30.

(h) **Public Corporations.** Notwithstanding the provisions in this section, a Public Corporation that is required to file a Statement of Registration under section 1-e of the Lobbying Act must also include information pertaining to the Activity, Compensation and Expenses for any Retained Lobbyists in the Bi-Monthly Report.

(i) **Withdrawals.**

(1) A Lobbyist may request that a Bi-monthly Report be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.

(2) A Bi-monthly Report that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.

(j) A Lobbyist has a duty to amend a Bi-Monthly Report after a change to the information filed, including when a previously reported payment is written down, written off, or otherwise modified for bookkeeping purpose. However, *after* the termination of the Agreement, any decision by a Lobbyist to write down, write off, or otherwise modify a previously reported payment does not require an Amended Bi-Monthly Report.

### 943.12 Client Semi-Annual Report

(a) **Reporting Periods and Due Dates.** The two reporting periods for Client Semi-Annual Reports are as follows:

(1) January 1 – June 30, for which the Report is due by July 15th; and

(2) July 1 – December 31, for which the Report is due by January 15th.

- (b) **Late Fees and Penalties.** Failure to file a Client Semi-Annual Report in a timely manner as required by this section subjects the Client to civil penalties as prescribed by section 1-o(b)(i) of the Lobbying Act and/or late fees as prescribed in section 1-j(c)(iii) of the Lobbying Act. In addition, the submission of false filings subjects the Lobbyist or Client to a civil penalty as prescribed by section 1-o(b)(ii) of the Lobbying Act.

Any Client Semi-Annual Report that is not timely filed will be subject to the late fee schedule set forth below:

DAYS LATE	ACTION	
	First-Time Filer	All Other Filers
1 – 7 days	Grace Period/No Late Fee	
8 – 14 days	\$75 flat late fee	\$150 flat late fee
15 – 30 days	\$150 flat late fee	\$300 flat late fee
31 – 90 days	\$300 flat late fee	\$500 flat late fee
91 – 180 days	\$500 flat late fee	\$1,000 flat late fee
181 days and more	\$1,000 flat late fee	\$2,000 flat late fee

A Client is considered a First-Time Filer only when the Client is required to file a Client Semi-Annual Report for the first time.

- (c) **Filing Fee.** Each Client Semi-Annual Report must be accompanied by a \$50 non- refundable filing fee (payable in US dollars). No additional filing fee is required for amended Client Semi-Annual Reports provided an original fee is on file for that period.



(d) **When Required.**

- (1) A Client Semi-Annual Report must be filed by any Client retaining, employing or designating a Lobbyist or Lobbyists, whether or not any such Lobbyist was required to file a Statement of Registration or Bi-Monthly Report, if it is reasonably anticipated that during the year an amount in excess of \$5,000 in combined Reportable Compensation and Expenses for Lobbying will be expended or incurred.

N If a Client is required to file a Client Semi-Annual Report *solely* by virtue of its status as a Lobbying Organization, i.e., through its use of Employed or Designated Lobbyists, and the Client has filed Lobbyist Bi-Monthly Reports for the bi-monthly reporting periods that fall in the same Client semi-annual reporting period, then no Client Semi-Annual Report is required, other than source of funding disclosures prescribed by Part 938 of this Title and section 1-j(c)(4) of the Lobbying Act.

- (2) If the \$5,000 reporting threshold is exceeded in the January/June period, then a July/December Client Semi-Annual Report must be filed even if no further monies are expended, unless the written agreement or authorization with the Client's Lobbyist is terminated on or before June 30th.
- (3) If a January/June Client Semi-Annual Report is filed and the \$5,000 reporting threshold has not been met for the year, then a July/December Client Semi-Annual Report is not required.

(e) **Responsible Party.** The Responsible Party of the Client or another duly designated and reported to the Commission (prior to the due date for such Report) is responsible for signing and filing all Client reports. Any such designation must be signed by the Responsible Party and Designee.

(f) **Contents of a Client Semi-Annual Report.** A Client Semi-Annual Report must include the following information:

- (1) The type of Lobbying which shall indicate whether the Lobbying involved non-procurement Lobbying, Procurement Lobbying or both;

- (2) The Client Information which shall include the Client's name, address, e-mail address, and business and fax numbers
  - (i) If the Report relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v);
- (3) The Lobbyist Information which shall include the type of Lobbyist, level of government lobbying (State and/or local), Lobbyist name and address;
- (4) All Reportable Expenses (as defined in section 943.9) expended, received or incurred for Lobbying for the current period only;
- (5) All Reportable Lobbying Compensation (as defined in section 943.9) paid or owed to Lobbyists, including Retained Lobbyists, Employed Lobbyists, and Designated Lobbyists, for the current period only;
- (6) The identities of any Co-Lobbyists or Sub-Lobbyists as described in subsection 943.9(h), if applicable;
- (7) The subject matter(s) on which Lobbying occurred;
- (8) The governmental action that the Client or the Client's Lobbyist Attempted to Influence which shall include the following, as applicable:
  - (i) The bill, rule, regulation, or rate number, if available, on which Lobbying occurred;
  - (ii) The title and identifying numbers of Procurement Contracts/documents on which Lobbying occurred;
  - (iii) The number or subject matter of an Executive Order of the Governor or Municipality on which Lobbying occurred;

- (iv) The subject matter of and tribes involved in tribal-state compacts on which Lobbying occurred; and/or
    - (v) In the event Lobbying is conducted in order to influence the introduction, intended introduction, or issuance of State legislation or a State resolution, a brief description of such activity.
  - (9) The name of the person, organization, or legislative body before which the Client or Client's Lobbyist has lobbied:
    - (i) In the case of Direct Lobbying, the name of the Public Official or Public Official's office or the legislative committee, as applicable, with whom the Client or Client's Lobbyist engaged in direct communication;
    - (ii) In the case of Grassroots Lobbying, the intended target of the Lobbying Activity, which may be a person, State Agency, Municipality or legislative body;
  - (10) Any Reportable Business Relationships in accordance with and as defined in section 943.14, provided, however, Clients who Lobby on their own behalf need only report such relationships in their Lobbyist Statement of Registration; and
  - (11) Any Sources of Funding, if applicable, in accordance with Part 938 of this Title.
- (g) **Public Corporations.** Notwithstanding the provisions of this section, a Public Corporation that is required to file a Statement of Registration under section 1-e of the Lobbying Act is required to file Bi-Monthly Reports that disclose information on any Retained Lobbyists; as a result, the Public Corporation is not required to file a Client Semi-Annual Report.
- (h) **Withdrawals.**
- (1) A Client may request that a Semi-annual Report be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.

- (2) A Semi-Annual Report that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.
- (i) A Client has a duty to amend a Semi-Annual Report *after* a change to the information filed, including when a previously reported payment is written down, written off, or otherwise modified for bookkeeping purposes. However, *after* the termination of the Agreement, any decision by a Lobbyist to write down, write off, or otherwise modify a previously reported payment does not require an Amended Semi-Annual Report.

### 943.13 Lobbyist Disbursement of Public Monies Report

- (a) **Public Monies** means funds that have been designated for programs, grants or discretionary funds, but which have not been allocated by law to specific recipients and are not part of a Governmental Procurement (as defined in subsection 943.8(a)(3)).
- (b) **Required Filers.** A Disbursement of Public Monies Report is only required of a Lobbyist who is otherwise already required to file a Statement of Registration and who in any calendar year reasonably anticipates that they will expend, incur or receive combined Reportable Compensation and Expenses in an amount in excess of \$5,000 in connection with any Attempts to Influence a determination by a Public Official, or by a person or entity working in cooperation with a Public Official, with respect to the solicitation, award or administration of a grant, loan or agreement involving the disbursement of Public Monies in excess of \$15,000.
- (c) **Threshold for Filing.** Disbursement of Public Monies Reports are only required if Attempts to Influence the disbursement have occurred during the relevant filing period.
- (d) **Due Dates.** Disbursement of Public Monies Reports are to be filed bi-monthly in accordance with the same schedule applicable to the filing of Bi-Monthly Reports provided in section 943.11.
- (e) **Filing Fee.** There is no filing fee for a Disbursement of Public Monies Report.
- (f) **Contents.** Each Disbursement of Public Monies Report must include:

- (1) the name, address, e-mail address, and telephone number of the Lobbyist and the individuals employed by the Lobbyist engaged in such Public Monies Lobbying Activities;
- (2) the name, address, e-mail address, and telephone number of the Client by whom or on whose behalf the Lobbyist is retained, employed or designated on whose behalf the Lobbyist has engaged in Lobbying reportable under this subdivision
  - (i) If the Report relates to Lobbying on behalf of a Structured Coalition or a Member of an Unstructured Coalition, the Client information for Contractual and Beneficial Clients shall be governed by the rules set forth in Section 943.9(h)(3)(iv) and (v);
- (3) the identities of any Co-Lobbyists or Sub-Lobbyists, as described in subsection 943.9(h), if applicable;
- (4) a description of the grant, loan, or agreement involving the disbursement of Public Monies on which the Lobbyist has lobbied;
- (5) the name of the person, organization, or legislative body before which the Lobbyist has engaged in Lobbying reportable under this subdivision; and
- (6) all reportable Compensation paid or owed to the Lobbyist, and any Expenses expended, received or incurred by the Lobbyist for the purpose of Lobbying Activities related to disbursements of public monies, reportable under this section.

**(g) Withdrawals.**

- (1) A Lobbyist may request that a Disbursement of Public Monies Report be withdrawn, provided the request is made consistent with and meets the criteria set forth in procedures implemented by the Commission.
- (2) A Disbursement of Public Monies Report that has been withdrawn pursuant to this subpart is not considered information provided by a Lobbyist under Section 1-s of the Lobbying Act.

- (h) A Lobbyist has a duty to amend a Disbursement of Public Monies Report after a change to the information filed, including when a previously reported payment is written down, written off, or otherwise modified for bookkeeping purposes.

#### 943.14 Reportable Business Relationships

- (a) **Purpose.** Disclosure of business relationships between Lobbyists or Clients of Lobbyists and State Persons will increase transparency in government.

(b) **Definitions.**

- (1) **Client** includes every person or organization that retains, employs or designates any person or organization to carry on Lobbying Activities on behalf of such Client. With respect to an organization, the term Client also includes High-Level Individuals of the organization. Client includes Contractual Clients and Beneficial Clients.
- (2) **Compensation** means any salary, fee, gift, payment, benefit, loan, advance or any other thing of value. It does *not* include commercially available consumer and business loans or lines of credit as available to the general public, goods and services and discounts available to the general public, dividends or payments related to stock purchases, or contributions reportable under Article 14 of the New York State Election Law.
- (3) **High-Level Individual** means a proprietor, partner, director, trustee or person within the executive management of a Client organization.
  - (i) When a college, as defined under Section 2 of the Education Law, is a Client organization, the members of the college's governing board, the president or chief executive, and the provost or chief academic officer are High-Level Individuals.
- (4) **Intended to be performed or provided** means the goods, services or anything of value have not yet been performed or provided, but the Lobbyist or Client, as applicable, reasonably anticipates such goods, services, or value to be performed or provided in the future.

- (5) **Lobbyist** includes the lobbying firm or organization (the Principal Lobbyist for filing purposes) and every person identified on a Statement of Registration, as well as any equity partners, officers, or directors of the organization who operate out of the same geographic office as any person identified on a Statement of Registration.
- (6) **Performed or provided** means that a State Person or an entity in which the State Person has the Requisite Involvement either actually performed or provided the goods, services, or anything of value, or had a significant, but not necessarily exclusive or primary role, in performing or providing the goods, services or anything of value.
- (7) **Reason to know** means a Lobbyist or Client has reason to know that an individual is a State Person or that a State Person has the Requisite Involvement with an entity because a reasonable person, based on the totality of the facts and circumstances, would conclude that the Lobbyist or Client should know such fact. The following factors may be considered to determine whether a Lobbyist or Client had reason to know:
- (i) Origins of the relationship between the parties;
  - (ii) Length of such relationship;
  - (iii) The type and actual value of the goods, services or items provided; and/or
  - (iv) Whether the fact that the individual is a State Person or the Requisite Involvement of the State Person with the entity at issue is generally known to the public.
- A Lobbyist or Client will be deemed to have had reason to know if such lack of knowledge results from willfully ignoring information that would lead a reasonable person to (i) conclude that the individual was a State Person, or that a State Person had the Requisite Involvement, or, (ii) undertake further research to determine whether either fact exists.
- (8) **Reportable Business Relationship** means a relationship that meets all the criteria listed in Part 943.14(c)(1).

- (9) *Reportable Business Relationship Form* means the form so entitled available on the Commission's website.
- (10) *Requisite Involvement* in an entity means when a State Person is a proprietor, partner, director, officer, or manager of a non-governmental entity, or owns or controls 10% or more of the stock of a non-governmental entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange).
- (11) *State Person* includes:
  - (i) statewide elected officials;
  - (ii) members of the legislature or legislative employees;
  - (iii) 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;
  - (iv) officers and employees of statewide elected officials;
  - (v) officers and employees of State departments, boards, bureaus, divisions, commissions, councils, or other State agencies; and
  - (vi) 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 members or directors of such authorities, corporations, and commissions who are compensated other than on a per diem basis.

**(c) Disclosing a Reportable Business Relationship.**

- (1) Elements of a Reportable Business Relationship.

A business relationship must be reported, regardless of when the relationship commenced, if at any time during a Calendar Year, all of the following criteria are met:



- (i) A formal or informal agreement or understanding exists in which a Lobbyist or Client of a Lobbyist pays, has paid or promises Compensation to:
    - (a) An individual whom the Lobbyist or Client knows or has Reason to Know is a State Person;
    - (b) A non-governmental entity for which the Lobbyist or Client knows or has Reason to Know that the State Person has the Requisite Involvement; or
    - (c) A third-party as directed by the State Person or as directed by the entity.
  - (ii) The payment or promise of Compensation is or was in exchange for goods, services, or anything of value either Performed or Provided or Intended to be Performed or Provided by the State Person or an entity in which the State Person has the Requisite Involvement; and
  - (iii) The total value of the Compensation paid to the State Person or an entity in which the State Person has the Requisite Involvement, which must be aggregated if applicable in accordance with subsection 943.14(c)(2), exceeds \$1,000 within a Calendar Year. Such threshold is met once more than \$1000 in Compensation is:
    - (a) Paid or owed to such State Person or entity for services Performed or Provided or Intended to be Performed or Provided.
- (2) Aggregation of Compensation.

If a Lobbyist or Client has multiple business relationships with the same State Person, the same entity or entities in which a State Person has the Requisite Involvement, then the value of the Compensation paid for goods, services or anything of value relating to such relationships must be aggregated. If the aggregated value of such Compensation is more than \$1,000 within a Calendar Year, then *each* relationship is a Reportable Business Relationship assuming all other criteria are satisfied.

(3) How and When to Report.

Once a Reportable Business Relationship exists a Lobbyist or Client must complete a Reportable Business Relationship Form and submit it to the Commission within 10 days of the Reportable Business Relationship's existence. For ongoing Reportable Business Relationships, Lobbyists and Clients must disclose on their Reportable Business Relationship Form all Calendar Years in which the Reportable Business Relationship is in existence.

(4) Reportable Business Relationship Form Considered Part of Filing.

In accordance with sections 1-e and 1-j of the Lobbying Act, which requires Lobbyists and Clients to disclose Reportable Business Relationships within their respective filings, a Reportable Business Relationship Form shall be considered a part of the Lobbyist's Statement of Registration or the Client's Semi-Annual Report, as applicable. Certain entities file both Lobbyist Statements of Registration and Client Semi-Annual Reports as they are considered both a Lobbyist and Client. These entities shall only be required to file the Lobbyist Reportable Business Relationship Form to comply with the filing requirement.

(5) Information Required in a Reportable Business Relationship Form.

For each Reportable Business Relationship, a Lobbyist or Client must provide the following information within the Reportable Business Relationship Form:

- (i) The name and public office address of the State Person or entity with which the State Person has the Requisite Involvement;
- (ii) A description of the general subject or subjects of the transactions between the Lobbyist or Client and the State Person (or the entity with which the State Person has the Requisite Involvement); and
- (iii) The actual or anticipated amount of Compensation, including reimbursable Expenses, to be paid and paid to the State Person (or entity with which the State Person has the Requisite Involvement) by virtue of the business relationship.

(6) Reportable Business Relationships of High-Level Individuals of Client Organizations.

For organizations that constitute a Client of a Lobbyist, each Reportable Business Relationship of its High-Level Individuals must be reported by the Client organization if:

- (i) The High-Level Individual entered in to the Reportable Business Relationship in his or her personal capacity; or
- (ii) Another entity entered in to the Reportable Business Relationship at the direction or request of the High-Level Individual.

**For example:** As a Client organization's High-Level Individuals have significant influence over decisions made by the organization, any Reportable Business Relationships under the personal control or direction of such High-Level Individuals should also be disclosed.

(7) Reportable Business Questionnaire.

A Lobbyist or Client organization may use, and rely upon in good faith, the responses to a questionnaire provided by the Commission to send to its equity partners, officers, directors or High Level Individuals, as applicable, to determine whether such persons have business relationships that must be reported.

(8) Duty to Amend Report.

If a material change occurs relating to information reported in the Reportable Business Relationship Form after it has been submitted, including material changes in the actual or anticipated amount of Compensation paid, an amended Reportable Business Relationship Form must be submitted to the Commission within 10 days of such change.

(9) Exclusions from Reportable Business Relationship Requirements.

Relationships between a Lobbyist or Client and a State Person or entity in which a State Person has Requisite Involvement that relate to the following are excluded from reporting requirements:

- (i) Medical, dental and mental health services and treatment; and
- (ii) Legal services with respect to investigation or prosecution by law enforcement authorities, bankruptcy and domestic relations matters.

**(d) Penalties.**

Failure to report a Reportable Business Relationship in a timely manner as required by this section subjects the Lobbyist or Client to civil penalties as prescribed by section 1- o(b)(i) of the Lobbying Act and/or late fees as prescribed by sections 1-e(e)(iii) and 1- j(c)(iii) of the Lobbying Act and section 943.10 of this Title. In addition, the submission of false filings subjects the Lobbyist or Client to a civil penalty as prescribed by section 1-o(b)(ii) of the Lobbying Act.





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