TITLE 19 NYCRR PART 932

OUTSIDE ACTIVITIES

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932.1 Definitions.

(a) Approving authority shall mean the head of a State agency or appointing authority, or his or her designee, as appropriate, for the individual involved and, for the four statewide elected officials and the heads of State agencies, shall mean the State Ethics Commission which may delegate its approval authority to its executive director.

(b) Covered individual shall mean the four statewide elected officials and State officers or employees.

(c) Four statewide elected officials shall mean the Governor, the Lieutenant Governor, the Comptroller and the Attorney General.

(d) Nominal compensation shall mean no more than either:
   (1) the per diem amount provided to such position, where no other compensation for such appointment is received; or
   (2) $4,000 in annual compensation for personal services actually rendered, e.g. wages, salaries, professional fees, royalties, bonuses, or commissions on sales, and that portion of income received from a corporation or unincorporated trade or business which represents a reasonable allowance for salaries and compensation for personal services actually rendered.
Income received by the individual from transactions involving the individual’s own securities, person property or real estate is not included in determining annual compensation for personal services actually rendered, provided the transactions are not with any State agency.

(e) Policy-making position shall mean that position annually determined by the appointing authority as set forth in a written instrument filed with the State Ethics Commission or as amended as required by Public Officers Law, section 73-a(1)(c)(ii) and (iii).

(f) Political organization shall mean any organization that is affiliated with or subsidiary to a political party, and shall include, for example, partisan political clubs. Political organization shall not include an organization supporting a particular cause with no partisan inclination, for example, the League of Women Voters, and shall not include campaign or fund-raising committees.

(g) 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 and State University of New York and City University of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the State.

(h) State officer or employee shall be defined as the term State officer or employee is defined in § 73 and § 73-a of the Public Officers Law.

932.2 Restriction on policymakers and certain others holding positions of officer or member of political party organizations.

(a) No head of a State department, individual who serves as one of the four statewide elected officials, individual who serves in a policymaking position or member or director of a public authority (other than a multistate authority), public benefit corporation or commission at least one of whose members is appointed by the Governor shall serve as an officer of any political party or political organization.

(b) No head of a State department, individual who serves as one of the four statewide elected officials, individual who serves in a policymaking position or member or director of a public authority (other than a multi-state authority), public benefit corporation or commission at least one of whose members is appointed by the Governor shall serve as a member of any political party committee including political
party district leader (however designated) or member of the national committee of a political party.

932.3 Restriction on holding other public office or private employment or engaging in other outside activities.

(a) No covered individual shall engage in any outside activity which interferes or is conflict with the proper and effective discharge of such individual’s official duties or responsibilities.

(b) No individual who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials, shall hold any other public office or public employment for which more than nominal compensation, in whatever form, is received without, in each case, obtaining prior approval from the State Ethics Commission.

(c) No individual who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials shall expend time or otherwise engage in any private employment, profession or business, or other outside activity from which more than nominal compensation, in whatever form, is received or anticipated to be received without, in each case, obtaining prior approval from the State Ethics Commission.

(d) No individual who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials shall expend time or otherwise engage in any private employment, profession or business, or other outside activity from which more than $1,000 but less than nominal compensation, in whatever form, is received or anticipated to be received without, in each case, obtaining prior approval from his or her approving authority.

(e) No individual who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials shall serve as a director or officer of a for-profit corporation or institution without, in each case, obtaining prior approval from the State Ethics Commission.
932.4 Procedure to approve certain outside activities.

(a) Any individual who requests approval to engage in any of the outside activities set forth in section 932.3 of this Part from which more than nominal compensation, in whatever form, is to be received, must file a written Request to Approve Outside Activities with the State Ethics Commission which must contain the consent of the individual's approving authority and any other information the Commission deems necessary to make a determination. The Commission will not consider requests without such consent. The State Ethics Commission may require such individual to submit additional information as it deems appropriate.

(b) The approving authority shall make its determination based on the provisions of sections 73 and 84 of the Public Officers Law, as well as pertinent State agency policies, procedures or rules and regulations governing employee conduct, and such other factors as the approving authority may deem appropriate. The interpretations of the approving authority of sections 73 or 74 of the Public Officers Law shall not be binding on the State Ethics Commission in any later investigation or proceeding.

(c) The State Ethics Commission shall make its determination based on whether the proposed outside activity interferes with or is in conflict with the proper and effective discharge of such individual’s duties. In making its determination, the Commission shall consider the provisions of sections 73 and 74 of the Public Officers Law.

(d) Those individuals who, prior to the effective date of this Part [April 11, 1990], are engaged in activities prohibited by section 932.3 of this Part shall have forty-five (45) days from such effective date to submit a request to approve outside activities to the State Ethics Commission to continue to engage in such activity. Upon a determination by State Ethics Commission that such outside activity is not appropriate, the individual must immediately cease and desist from engaging in such activity.

(e) Nothing contained in this Part shall prohibit any State agency from adopting or implementing its own rules, regulations or procedures with regard to outside employment which are more restrictive than the requirements of this Part.
932.5 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 State Ethics Commission.

932.6 Complaints.

Any person may file a complaint with the State Ethics Commission which alleges that a violation of the provisions of this Part has occurred. The Commission, pursuant to its authority under (94 of the Executive Law, may conduct an investigation and take such other action as it deems proper.

932.7 Violations.

In addition to any penalty contained in any provision of law, a knowing and intentional violation of this Part by an individual subject to it may result in appropriate action taken by the State Ethics Commission or referral by it to the individual’s appointing authority. The appointing authority, after such a referral, may take disciplinary action which may include a fine, suspension without pay or removal from office or employment in the manner provided by law.