

**EMPLOYEE CODE OF ETHICS AND CONDUCT
OF THE
LONG ISLAND POWER AUTHORITY**

May 2018

Long Island Power Authority
333 Earle Ovington Boulevard
Uniondale, New York 11553

TABLE OF CONTENTS

- I. Introduction**
 - II. Definitions**
 - III. Standards and Principles of Conduct**
 - IV. Trading of Securities of Companies Providing Operations Services to the Authority and Certain Energy Companies**
 - V. Use of Material, Nonpublic and Confidential Information**
 - VI. Restrictions on Post-Employment Activities of Former Employees**
 - VII. Annual Certification of Absence of Conflict of Interest**
 - VIII. Requests for Interpretation, Clarification or Waiver of the Code**
 - IX. Remedies for Breaches of the Code**
 - X. Reporting of Violations of the Code**
-
- Exhibit 1 Section One-M of the Legislative Law**
 - Exhibit 2 Section One-C of the Legislative Law**
 - Appendix A Section 73 of the New York Public Officers Law**
 - Appendix B Section 73 – a of the New York Public Officers Law**
 - Appendix C Section 74 of the New York Public Officers Law**
 - Appendix D Joint Commission on Public Ethics regulations on gifts codified at 19 NYCRR Part 933 and 934.**
 - Appendix E Governor Paterson’s Executive Order 7 “Prohibition Against Personal Use of State Property and Campaign Contributions to the Governor”**
 - Appendix F Part 930 of Commission on Public Integrity Regulations Regarding Honoraria**
 - Appendix G Annual Certification Form**
 - Appendix H Anti-Retaliation Policy**

LONG ISLAND POWER AUTHORITY EMPLOYEE CODE OF ETHICS AND CONDUCT

I. Introduction

The Long Island Power Authority (the “Authority”), as a public entity, must maintain public trust in the honest and ethical conduct of its activities. This Code of Ethics and Conduct (the “Code”) addresses the ethical and professional standards of conduct expected of the Authority’s employees.

The Code applies to the Authority's Employees and Former Employees and states the Authority's position on Conflicts of Interest (as defined below). Personal integrity is the cornerstone of the Code. Each Employee must avoid Financial Interests and Other Interests which might create a conflict with his or her job. Authority Employees must conduct Authority business solely in the public interest.

The Code is not intended to address all situations or answer all questions related to daily ethical conduct. Employees should inquire of the General Counsel of the Authority if they have questions on whether certain conduct might violate the Code. In addition, Employees with questions on whether a prospective personal or business Transaction or assumption of a position of responsibility or trust would violate the Code, may request in writing an advance determination on the matter from the General Counsel of the Authority under Section VIII of the Code.

Violations of the Code or applicable statutory provisions may subject an Employee to discipline including dismissal and/or expose the Employee to civil and/or criminal penalties.

The Code will be reviewed and updated as necessary with a copy distributed to each Employee.

II. Definitions

These definitions apply to the Code.

A. “Authority” means the Long Island Power Authority and its wholly owned subsidiary, the Long Island Lighting Company d/b/a LIPA and d/b/a Power Supply Long Island, and any other subsidiaries created by the Long Island Power Authority.

B. "Benefit" means any gain or advantage to, or reduction in the liabilities of, the beneficiary and includes any gain or advantage to, or reduction in the liabilities of, a third person pursuant to the desire or consent of the beneficiary.

C. "Confidential Information" means information available to an Employee only because of his or her status as an Employee of the Authority and therefore is not a matter of public knowledge.

D. "Conflict of Interest" means a situation in which the financial, familial, or personal interests of an Employee or Former Employee conflict, may conflict or could be perceived as conflicting with their responsibilities to the Authority.

E. "Dependent Child" means either (1) any son, daughter, stepson or stepdaughter under age eighteen, unmarried and living in the household of the Employee; or (2) a "dependent" of the Employee within the meaning of section 152 of the Internal Revenue Code of 1954.

F. "Employee" means, for the Code, any person employed by the Authority.

G. "Employee's Independent Business" means, for Section III(B)(12) of the Code: (1) a firm or association of which an Employee, or an Employee's Spouse or Dependent Child is a member; or (2) a corporation, 10% or more of the stock of which is owned or controlled directly or indirectly by an Employee or an Employee's Spouse or Dependent Child.

H. "Financial Interest" means any of the following:

1. Ownership or control of 10 percent or more of the stock of any entity (or 1 percent in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity;

2. Ownership of an interest in a business or real property which interest (a) reflects a 10 percent or more ownership of the business, or (b) in the case of an Employee or an Employee's Spouse or Dependent Child, constitutes 10 percent or more of the net worth of the person owning such interest, or the combined net worth of the Employee and his or her Spouse and Dependent Child. In determining net worth, the value of any interest in the Employee's personal residence(s) shall be excluded. In determining the value of an interest, debts, mortgages, liens or other encumbrances thereon are to be disregarded; or

3. Liability or indebtedness to a person or business over \$5,000, excluding liabilities owed to relatives and excluding mortgages, liens or other encumbrances on or secured by real property which constitutes the Employee's personal residence(s) or furniture or appliances therein.

I. "Former Employee" means persons who are no longer Employees of the Authority but were Employees at any time following the Authority's adoption of this Code or any predecessor code of ethics and conduct.

J. "Gift" means a payment, advance, forbearance, rendering, or deposit of money, or anything of more than nominal value, unless the donor receives consideration of equal or greater value. Nominal value is interpreted as an item or service with a fair market value of fifteen dollars or less.

K. "Honorarium" means: a payment, which may take the form of a fee or any other compensation, made to a LIPA Employee 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.

L. "Operations Services" means the management of the daily operation of the Authority's electric transmission and distribution system and the management of the Authority's power supply resources.

M. "Other Interest" means holding a position in a business such as an officer, director, trustee, partner, proprietor, executor, employee, or a position of management, or acting as a consultant, agent or representative therefore in any capacity.

N. "Policy-Making Position" means those management and non-management positions designated as Policy-Making Positions by the Authority, because the individual holding the position exercises responsibilities of a broad scope in the formulation of plans or policy for the Authority or acts as an advisor to an individual in such a position.

O. "Relative" shall mean an Employee's Spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the Employee or of the Employee's Spouse.

P. "Spouse" shall mean the husband or wife of the Employee unless living separate and apart from the Employee 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. Individuals who enter into same sex marriages legally performed in jurisdictions within or outside of New York are "Spouses" of one another for the purposes of this definition.

Q. "Trading" means, in reference to securities, the buying and selling of securities, or the buying and selling of options, calls, puts, or any other right relating to a security.

R. "Transaction" means buying, selling, renting (as lessor or lessee), or otherwise acquiring or disposing of services, materials, supplies, equipment, or property having a value of one hundred dollars or more or an interest having a value of one hundred dollars or more in such services, materials, supplies, equipment or property; borrowing or investment of money; preparing, requisitioning, ordering, approving, advising on, administering or otherwise acting in reference to a contract having a value of one hundred dollars or more; or the promulgation of rules and regulations affecting such activities.

III. Standards and Principles of Conduct

These standards and principles of conduct are to be followed to assure compliance with the Code. A breach of these standards and principles violates the Code.

A. General Standards

1. Employees are subject to New York State Ethics Laws including New York Public Officers Law Sections 73, 73-a, 74, and the rules and regulations promulgated thereunder as may be amended or modified by the New York State Legislature. (Public Officers Law Sections 73, 73-a and 74 are annexed as Appendices A, B and C respectively).

2. Employees should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to engage in acts that are in violation of the public trust.

B. Specific Standards and Principles

Personal or Financial Interests/Independence/Privileges

1. An Employee shall not have any interest or incur any obligation, financial or otherwise, direct or indirect, or engage in any business or Transaction or professional activity, which conflicts with the proper discharge of his or her duties in the public interest.

2. An Employee shall avoid any action, whether specifically prohibited by the Code, which might cause or create the appearance of:

- (a) using his or her official position for private gain;
- (b) giving preferential treatment to any person, including himself or herself or any Relative;
- (c) lacking independence or impartiality;
- (d) affecting adversely the confidence of the public in the integrity of the Authority; or
- (e) violating any provision of the Code.

3. Employees should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

4. No Employee shall (1) accept other employment or engage in any business, professional or other activity which will impair his or her independence of judgment in exercising his or her official duties or which involves a matter in which the Authority has a substantial interest, or (2) receive or enter any agreement for any compensation for the appearance or rendition of services against the interest of the Authority in relation to any case, proceeding, or matter.

5. If any Employee shall have a Financial Interest, either direct or indirect, in any Transaction to which the Authority is, or is to be, a party, such interest shall be promptly disclosed in writing to the General Counsel of the Authority.

6. No Employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

Improper Influence/Lobbying

7. An Employee shall not by his or her conduct give reasonable basis for the impression that any person may 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.

Transactions Involving the Employee, Employee's Spouse, Dependent Child or Employee's Independent Business

8. No Employee shall be involved in any Transaction as representative or agent of the Authority with, or be involved in any evaluation of, any business entity in which the Employee, the Employee's Spouse or Dependent Child has a direct or indirect Financial Interest. Prior to becoming involved in any Transaction as representative or agent of the Authority with, or becoming involved in any evaluation of, a business entity in which the Employee, the Employee's Spouse or Dependent Child holds a Financial Interest, the Employee, the Employee's Spouse or Dependent Child must sell or transfer such Financial Interest.

9. No Employee, Employee's Spouse or Dependent Child shall acquire, except by Gift, inheritance or the dissolution of a trust, any Financial Interest in any business entity which the Employee has reason to believe may be directly involved in decisions to be made by him or her which will create conflict between his or her duty in the public interest and his or her private interest. If an Employee, an Employee's Spouse or Dependent Child receives such a Financial Interest by Gift, inheritance, operation of an automatic dividend reinvestment plan or the dissolution of a trust, the interest shall be promptly sold or transferred. If an Employee's Spouse or Dependent Child receives or retains such a Financial Interest in violation of the foregoing provisions, it will be deemed to be a violation by the Employee of this provision.

10. No Employee, Employee's Spouse or Dependent Child, or an Employee's Independent Business shall (1) sell any goods or services having a value over twenty-five dollars to the Authority, or (2) 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 the Authority or any of its officers, unless such goods or services are provided under an award of contract let after public notice and competitive bidding. If an Employee's Spouse or Dependent Child engages in the conduct described in the preceding sentence, it will be deemed to be a violation by the Employee of this provision.

11. (a) No Employee, Employee's Spouse or Dependent Child shall, directly or indirectly, solicit, accept or receive any Gift having more than a nominal value, whether in money, service, loan, travel, lodging, meals, refreshments, entertainment, hospitality, thing, discount, forbearance or promise, or in any other form, from an "interested source" defined as any person or entity which is (i) regulated by the Authority, or (ii) does business or is seeking to do business with the Authority, or (iii) a registered lobbyist who lobbies the Authority (or the spouse or emancipated child thereof), (iv) is involved in any ongoing official action or proceeding adverse to the Authority; or (v) has received or applied for funds from the Authority during the last 12 months. A gift from an interested source is presumed to be impermissible unless it is unreasonable to infer that the item or service was intended to influence or reward the Employee for performing one's job.

(b) No Employee, Employee's Spouse or Dependent Child shall, directly or indirectly, solicit, accept or receive any Gift or gratuity of more than nominal value where the circumstances would permit the inference that: (i) the Gift was intended to influence the Employee in the performance of official business; or (ii) the Gift constituted a tip, reward, or sign of appreciation for any official act by the Employee.

(c) No Employee, Employee's Spouse or Dependent Child shall (i) solicit, accept, or receive any gift, as defined in section one-c of the legislative law, from any person prohibited from delivering such gift under section one-m of the legislative law, attached hereto as Exhibit 1, unless under the circumstances it is not reasonable to infer that the gift was intended to influence him, or (ii) 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 under 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. A list of exclusions from the definition of gift is attached as Exhibit 2.

(d) An Employee may not solicit, accept or receive a Gift of any value if to do so would constitute a substantial conflict with the proper discharge of his or her duties in the public interest.

(e) If an Employee's Spouse or Dependent Child engages in the conduct prohibited by paragraph (a), (b) or (c) above, it will be deemed to be a violation by the Employee of such provisions.

Decisions Relating to a Relative

12. (a) No Employee may participate in any hiring or employment decision relating to a Relative including any decision to hire, promote, discipline or discharge a Relative, for any compensated position at, for or within the Authority. If such a Relative is hired, no employee shall be permitted to supervise such Relative. If a hiring or employment matter arises relating to a Relative, then the Employee must advise his or her supervisor of the relationship, and must be recused from all discussions or decisions relating to the matter.

(b) No Employee may participate in any contracting decision: (i)

relating to a Relative, (ii) relating to any entity in which a Relative is an officer, director or partner, or in which a Relative owns or controls 10% or more of the stock of such entity, (iii) involving the payment of more than \$1,000 dollars to the Employee, any Relative of that Employee, or any entity in which that Employee or any Relative has a Financial Interest, or (iv) to invest public funds in any security of any entity in which that Employee or any Relative of that Employee has a Financial Interest, is an underwriter, or receives any brokerage, origination or servicing fees. If a contracting matter arises relating to a Relative, then the Employee must advise his or her supervisor of the relationship, and must be recused from all discussions or decisions relating to the contracting matter.

Campaign Contributions and Political Activity and Affiliations

13. Employees are prohibited from using Authority supplies, equipment, computers, personnel and other resources for non-Authority purposes, including for personal purposes or for outside activities of any kind and from making campaign contributions to the Governor. See Executive Order No. 7 “Prohibition of Personal Use of State Property and Campaign Contributions to the Governor” (issued by Governor Paterson and continued by Governor Andrew M. Cuomo) attached hereto as Appendix E and incorporated herein by reference.

14. (a) No Employee involved in the awarding of 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 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.

15. (a) No 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. This paragraph shall not apply where (1) such inquiry is necessary to apply any state law or regulation; or (2) such inquiry follows 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 Employee may decline to hire or promote, discharge, discipline, or 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 Employee shall, directly or indirectly, use his or her official authority to compel or induce any other Employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.

16. (a) An Employee interested in running for elective office shall give written notice of his or her intentions to the Chief Executive Officer and General Counsel, so it may be determined whether, and upon what conditions, the Employee would be permitted to seek elective public office.

(b) Employees shall not conduct political activities during work hours.

(c) Employees holding Policy-Making Positions shall not serve as: (1) officers of any political party or political organization; (2) members of any political party committee, including political party district leaders or as members of a political party national committee. "Political organization" means any organization affiliated with a political party but does not include a judicial nominating committee, an organization supporting a particular cause with no partisan activities, a campaign or fundraising committee, or serving as a delegate to a state or national party convention.

(d) Consistent with this Code, Employees are otherwise free to participate in the political process on their own time, but there must be a clear separation between their political activities and the discharge of their duties as Employees of the Authority.

Other Employment Opportunities

17. Employees may hold outside employment if it is not in conflict with their Authority duties, they meet the performance standards of their job with the Authority and have received prior, written approval from the Chief Executive Officer. If an employee designated as a "Policy Maker" is earning more than \$4,000 in his or her outside employment, approval is also needed from the Joint Commission on Public Ethics (the "Commission").

18. (a) Employees may not solicit a post-government employment opportunity with any entity or individual that has a specific pending matter before the Employee; and only may, 30 days from the time a matter is closed or the Employee has no further involvement because of recusal or reassignment, solicit an employment opportunity. Excepted from the 30-day recusal rule are those Employees subject to a lay-off.

(b) Employees who receive an unsolicited employment-related communication from such an entity or individual (i) cannot pursue employment with the entity or individual or (ii) must recuse themselves from the matter and any further official contact with the entity or individual and wait 30 days from such recusal before entering into post-government employment communications with the entity or individual.

(c) Employees must promptly notify their superiors and ethics officers of such employment-related communications whether or not they intend to pursue the employment opportunity.

Annual Financial Disclosure Filing

19. Section §73-a of the Public Officers Law requires filing an annual statement of financial disclosure by Policy Makers (as determined by the Authority) and Employees with an annual salary rate more than the job rate of SG-24 CSEA equivalent, and were previously not exempted from the filing requirement (See Appendix B). This disclosure statement is an annual disclosure of the financial holdings and associations of filers and their Spouses. The financial disclosure highlights potential conflicts of interest.

The Commission can assess penalties for late and delinquent filings.

Honoraria

20. Employees must comply with the Commission's regulations about limitations on receiving Honoraria from outside parties. A detailed statement of all the circumstances under which an Employee may accept Honoraria from a third party are in Part 930 of the Joint Commission on Public Ethics. (See Appendix F). An Employee cannot accept an Honorarium for services related to his or her Authority duties. The following summarizes the rules relating to Honoraria:

Permitted Honoraria. An Employee may accept an Honorarium under certain circumstances, including where the individual or organization offering the Honorarium is not involved with the Long Island Power Authority in any context other than in ministerial matters.

Prohibited Honoraria. Honorarium is not to be received for services rendered for or on behalf of an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, which: (i) is regulated by, or regularly negotiates with, appears before in other than a ministerial manner, does business with or has contracts with either the Authority or the covered individual, (ii) attempts to lobby or to influence action or positions on legislation or rules, regulation or rate making, (iii) is involved in litigation adverse to the Authority; or (iv) has received or applied for funds from the Authority during the previous calendar year.

Payment in Lieu of Honoraria. A payment in lieu of an Honorarium offered for services related to an Employee's official duties cannot be accepted by the Employee and must be paid by the granting organization directly to the general fund of the State or to such fund as is appropriate for a public authority.

Disclosure. Each year the Authority must file a report with the Commission, which lists Honoraria received by its Employees. Therefore, every Employee who has received one or more Honoraria during the reporting period must file a report with the Authority's Compliance Officer using the form provided at Appendix F of this Code.

C. Applicable New York Law

These standards do not replace and are in addition to the requirements of law, particularly Sections 73 and 74 of the New York Public Officers Law, which, among other things, govern the business activities of Employees and Former Employees and set forth the State Code of Ethics. Copies of Sections 73 and 74 of the Public Officers Law are attached to and made a part of this Code as Appendices A and C, respectively.

Under the New York Penal Law it is a felony for Employees to solicit, accept or agree to accept any Benefit from another person upon an agreement or understanding that their vote, opinion, judgment, action, decision or exercise of discretion as public servants will be influenced. It is also a felony for Employees to solicit, accept or agree to accept any Benefit from another person for having violated their duties as public servants. It is a misdemeanor for Employees to solicit, accept or agree to accept any Benefit for having engaged in official conduct which they were required or authorized to perform, and for which they were not entitled to any special or additional compensation.

IV. Trading of Securities of Companies Providing Operations Services to the Authority and Certain Energy Companies

The acquisition or trading of securities issued by companies that provide Operations Services to the Authority, the parent corporations of such companies and other subsidiaries or affiliates of such parent corporations presents a possible area of conflict of interest for all Employees.

To protect against the potential of a conflict of interest regarding Transactions involving companies that provide Operations Services to the Authority, it is the Authority's policy that an Employee, an Employee's Spouse or Dependent Child may not Trade in or otherwise acquire securities in any companies, including parent corporations and other subsidiaries or affiliates of such parent corporations that provide Operations Services to the Authority. An Employee, an Employee's Spouse or Dependent Child who has acquired the securities, not including such securities included within a mutual fund or pension fund investment, of such companies must sell or transfer the securities within one year of (i) the Employee's date of employment with the Authority, or (ii) the date of such receipt, whichever is later.

No Employee or officer of the Authority may Trade in or, except as permitted below, otherwise acquire securities in any company engaged in the generation, transmission or sale of electric energy or gas or the provision of fuel to generation facilities, if that Employee's responsibilities include (i) representing the Authority in Transactions involving such companies; (ii) participating in the evaluation of, or Authority decisions with respect to, Transactions with such companies, or (iii) representing the Authority before regulatory agencies or independent system operators (or their successors) on matters in which such companies have a potential financial interest.

Excepted from this provision are those securities included within a mutual fund or pension fund investment.

There is no prohibition against the ownership or Trading of Authority bonds and notes which are publicly held and traded subject to the limitations set forth below in Section V.

V. Use of Material, Nonpublic and Confidential Information

It is the policy of the Authority to prohibit all Employees and Former Employees from (1) Trading in securities based on material, nonpublic information derived from or relating to Authority activities; (2) disclosing Confidential Information to unauthorized third parties; and (3) communicating with the media regarding the Authority and any Authority-related matters without the consent of the Chief Executive Officer or his or her designee.

A. Trading of Securities Based on Material, Nonpublic Information

1. Employees and Former Employees shall not Trade in bonds or other securities issued by the Authority based on material, nonpublic information derived from any source and shall not disclose such information to allow third parties to profit from Trading in Authority securities.

2. Employees and Former Employees shall not Trade in stocks, bonds or other securities issued by other business entities based on material, nonpublic information obtained in their duties for the Authority and shall not disclose such information to allow third parties to profit from Trading in securities issued by other business entities based on such information.

Information is material if there is a substantial likelihood that a reasonable investor would consider the information important in making his or her investment decision about the securities in question.

Information is nonpublic if, in the case of Authority securities, it has not been publicly disseminated by the Authority. Information is nonpublic if, in the case of securities issued by other business entities, it has not been publicly disseminated by those business entities.

B. Disclosure or Use of Confidential Information

Employees and Former Employees shall not disclose Confidential Information obtained from their duties at the Authority to any third party not authorized to receive such information and shall not profit from such information.

Information is confidential if it has been designated as confidential or reasonably should be treated as confidential because of the nature of, or circumstances surrounding, such information. If an Employee or Former Employee has a question

about the confidential status of any information, he or she should consult with the General Counsel of the Authority regarding such information.

Employees and Former Employees who violate the provisions of this section may be subject to civil and criminal penalties under Federal and State laws, including fines and/or imprisonment. In addition, Employees who violate this section may be subject to disciplinary action by the Authority, including termination of employment.

VI. Restrictions on Post-Employment Activities of Former Employees

The post-employment activities of persons who are Former Employees are governed by the restrictions in Section 73(8) of the Public Officers Law. (See Appendix A). **These restrictions consist of a two-year bar and a lifetime bar and apply to virtually all Employees.**

Two Year Bar

Former Employees may not, within two years after leaving State service, appear or practice before their former agency or receive compensation for any services rendered in relation to any case, proceeding, application or other matter before their former agency. The Commission defines “appear” to include making a telephone call, sending a letter, fax or e-mail. For the two-year bar, the determining inquiry is whether the appearance is before the Former Employee’s former agency, regardless of the nature or subject of the appearance. The two-year bar also prohibits Former Employees from rendering services for compensation before their former agency, also known as the “backroom services” clause

Lifetime Bar

Former Employees may not appear, practice, communicate or otherwise render services before any State agency, or receive compensation for such services in relation to any case, proceeding, application or transaction with which they were directly concerned and in which they participated while in public service, or which was under their active consideration.

Exceptions

1. The government-to-government exception: Allows someone who goes to work for another government entity, at any level, to appear before the former agency, regardless of how much time has elapsed since the individual left State service.
2. Exception for “ministerial matters”: i.e. matters that the agency handles by the thousands, if not millions of times a day. For example, a former employee of the Department of Motor Vehicles may still renew his or her driver’s license.

Penalties

Individuals who violate certain provisions of Public Officers Law §73 are subject to a civil penalty not to exceed \$40,000, for each appearance. In lieu of a civil penalty, the Commission may refer violations to an appropriate prosecutor for prosecution as a Class A misdemeanor.

VII. Annual Certification of Absence of Conflict of Interest

All Employees must certify annually that they have read the Code, that they understand and agree to comply with the provisions thereof and that they have no known conflict of interest. The Annual Certification Form is attached as Appendix

G. These certifications shall be timely submitted to the Authority's Compliance Officer.

Any Employee who knowingly fails to complete, sign and submit the required Annual Certification Form violates the Code and may be subject to disciplinary action.

VIII. Requests for Interpretation, Clarification or Waiver of the Code

A. Interpretation and Clarification

An Employee or Former Employee may submit a written request to the General Counsel of the Authority for an interpretation or clarification of one or more provisions of the Code.

B. Waivers

An Employee or Former Employee may submit a written request to the Chief Executive Officer of the Authority for a waiver of any restriction in the Code, provided that the restriction is not otherwise required by State or Federal law. All waiver requests shall describe the nature of the restriction or prohibition for which waiver is sought; the nature of the Employee's or Former Employee's interest involved; the effect on the Employee or Former Employee of the restriction or prohibition for which the waiver is sought; and the reasons the waiver should be granted. A copy of the written request shall be provided to the General Counsel of the Authority.

IX. Remedies for Breaches of the Code

In addition to any other remedies, civil or otherwise, which the Authority may have, an Employee or Former Employee who violates the Code may be disciplined under the Code. Remedies or disciplinary action may be imposed by the Chief Executive Officer or by the Trustees as applicable only upon the basis of a written statement of findings and recommendations by the General Counsel of the Authority, and may include one or more of the following:

1. issuance of written warnings;
2. direction of corrective action to eliminate and/or ameliorate the conflict of interest;
3. restitution;
4. changes in assigned duties or suspension or termination of employment; provided, however, that solely the Chief Executive Officer or the Trustees may impose the remedies specified in this subdivision.

A Former Employee found to have violated the Code is subject to one or more of the following in addition to any other remedies, civil or otherwise, that the Authority may have: warnings; termination of existing Transactions involving the individual in question to the extent permitted by law; disqualification or suspension from future Transactions of the Former Employee and/or the person on whose behalf he or she is participating in Transactions with the Authority; and notification to appropriate persons that a conflict exists.

X. Reporting of Violations of the Code

Employees and Former Employees are encouraged to promptly report any violations of the Code to the Chief Executive Officer or General Counsel of the Authority and shall cooperate in any official investigation of such violations. Retaliation against Employees or Former Employees who in good faith report violations of the Code, other provisions of law or policies, or the public trust, is prohibited. (See the Authority's Anti-Retaliation Policy, attached as Appendix H.)

EXHIBIT 1

Section 1-M of the Legislative Law

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.

EXHIBIT 2

Section 1-c of the Legislative 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 food or beverage valued at fifteen dollars or less.

APPENDIX A

McKinney's Consolidated Laws of New York Annotated
Public Officers Law (Refs & Annos)
Chapter 47. Of the Consolidated Laws
Article 4. Powers and Duties of Public Officers (Refs & Annos)

McKinney's Public Officers Law § 73

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

Effective: April 13, 2015
Currentness

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 joint commission on public ethics 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.

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 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 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 or another against the interest of the state agency by which he is employed or affiliated in relation to any case, proceeding, application or other matter before, or the transaction of business by himself 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 could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his 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

(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.

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 joint commission on public ethics and the legislative ethics commission a financial disclosure statement of

(1) each financial interest, direct or indirect of himself, his spouse and his 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 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 determines in his 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 wilfully with intent to deceive makes a false statement or gives information which he 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 committee in accordance with the provisions of subdivision twelve of section eighty of the legislative law.

For a violation of this subdivision, the committee 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 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 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 joint commission on public ethics 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 joint commission on public ethics, 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 joint commission on public ethics, provides to the joint commission on public ethics 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. [As added by L.2004, c. 523. See, also, subd. 8-b below.] 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 joint commission on public ethics 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 joint commission on public ethics must review and approve all certifications made pursuant to this subdivision.

8-b. [As added by L.2004, c. 540. See, also, subd. 8-b above.] 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.

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 chairman, 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 chairman 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 chairman, where such statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman does not share in the net revenues, as defined in accordance with generally

accepted accounting principles by the joint commission on public ethics or by the legislative ethics committee 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 joint commission on public ethics or by the legislative ethics committee 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.

Credits

(Added L.1954, c. 695, § 1. Amended L.1964, c. 941, § 6; L.1965, c. 1012, §§ 1 to 3; L.1968, c. 420, § 244; L.1974, c. 940, § 2; L.1983, c. 764, § 1; L.1987, c. 813, §§ 2, 20; L.1989, c. 242, §§ 1, 2; L.1994, c. 170, §§ 166, 167; L.1995, c. 299, § 1; L.1996, c. 183, § 1; L.1996, c. 283, § 1; L.1997, c. 388, § 1, eff. Aug. 6, 1997; L.1998, c. 218, § 1, eff. July 7, 1998; L.1998, c. 561, § 1, eff. Aug. 5, 1998, deemed eff. March 31, 1998; L.2001, c. 357, § 1, eff. Sept. 19, 2001; L.2002, c. 355, § 1, eff. Jan. 1, 2003; L.2002, c. 514, § 1, eff. Sept. 17, 2002; L.2004, c. 523, § 1, eff. Sept. 28, 2004; L.2004, c. 530, §§ 1, 2, eff. Sept. 28, 2004; L.2004, c. 540, § 1, eff. Sept. 28, 2004; L.2007, c. 14, §§ 22 to 24, 27, 34, eff. April 25, 2007; L.2007, c. 14, § 25, eff. Dec. 31, 2008; L.2007, c. 14, § 26, eff. March 26, 2007; L.2009, c. 306, § 1, eff. Aug. 11, 2009, deemed eff. Jan. 1, 2009; L.2010, c. 197, § 1, eff. July 15, 2010; L.2011, c. 62, pt. A, § 104, eff. Oct. 3, 2011; L.2011, c. 399, pt. A, §§ 1 to 3, 10 to 13, eff. Aug. 15, 2011; L.2011, c. 574, § 1, eff. Sept. 23, 2011, deemed eff. Jan. 1, 2011; L.2012, c. 155, § 79, eff. July 18, 2012; L.2012, c. 485, § 1, eff. Oct. 3, 2012, deemed eff. April 1, 2012; L.2015, c. 56, pt. CC, §§ 4, 5, eff. April 13, 2015.)

Notes of Decisions (174)

McKinney's Public Officers Law § 73, NY PUB OFF § 73
Current through L.2015, chapters 1 to 18, 50 to 61.

End of Document

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APPENDIX B

McKinney's Consolidated Laws of New York Annotated
Public Officers Law (Refs & Annos)
Chapter 47. Of the Consolidated Laws
Article 4. Powers and Duties of Public Officers (Refs & Annos)

McKinney's Public Officers Law § 73-a

§ 73-a. Financial disclosure

Effective: April 13, 2015

Currentness

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 joint commission on public ethics 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 joint commission on public ethics 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 joint commission on public ethics.

(d-1) A financial disclosure statement required pursuant to section seventy-three of this article and this section shall be deemed "filed" with the joint commission on public ethics upon its filing, in accordance with this section, with the legislative ethics commission for all purposes including, but not limited to, subdivision fourteen of 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.

(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 chairman 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 joint commission on public ethics 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 joint commission on public ethics, 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 joint commission on public ethics, 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 on the subject adopted pursuant to paragraph c of subdivision nine of 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 joint commission on public ethics 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 joint commission on public ethics 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 joint commission on public ethics 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 chairman, such statement shall be filed with the joint commission on public ethics established by section ninety-four of the executive law.

(d) The joint commission on public ethics 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 chairman shall file such statement within thirty days after commencing employment or of taking the position of political party chairman, 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 joint commission on public ethics 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 joint commission on public ethics 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 joint commission on public ethics 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 joint commission on public ethics 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 including maiden name where applicable.

(b) 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 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
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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
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(b) If the spouse 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
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6. List any interest, in EXCESS of \$1,000, held by the reporting individual, such individual's spouse 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 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 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
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(In Table II)

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

8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, or works as a member or employee of a firm required to register pursuant to section one-e of the legislative law as a lobbyist, describe the services rendered for which compensation was paid including a general description of the principal subject areas of matters undertaken by such individual and principal duties performed. Specifically state whether the reporting individual provides services directly to clients. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of principal subject areas of matters undertaken by such firm or corporation.

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

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

- (i) A contract in an amount totaling \$50,000 or more from the state or any state agency for services, materials, or property;
- (ii) A grant of \$25,000 or more from the state or any state agency during the reporting period;
- (iii) A grant obtained through a legislative initiative during the reporting period; or

(iv) A case, proceeding, application or other matter that is not a ministerial matter before a state agency during the reporting period.

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

The disclosure requirement in this question shall not require disclosure of clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or insurance brokering services from the reporting individual or his or her firm. The reporting individual need not identify any client to whom he or she or his or her firm provided legal representation with respect to investigation or prosecution by law enforcement authorities, bankruptcy, or domestic relations matters. With respect to clients represented in other matters, where disclosure of a client's identity is likely to cause harm, the reporting individual shall request an exemption from the joint commission pursuant to paragraph (i) of subdivision nine of 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

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(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)
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(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)
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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 joint commission pursuant to paragraph (i) of subdivision nine of 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 joint commission 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 joint commission 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 joint commission 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

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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.

Client	Services Actually Provided	Category of Amount (in Table I)
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(c) [Eff. until Dec. 31, 2015. See, also, subpar. (c) below.] APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE PROVIDED ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, OR FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN:

If the reporting individual receives income of fifty 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 ten thousand dollars. Report only these 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 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 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, the reporting individual shall request an exemption from the joint commission, which shall be granted for good cause shown. For the purposes of this question, good cause may be shown by circumstances including, but not limited to, where disclosure of a client's identity would reveal trade secrets or have a negative impact on the client's business interests, would cause embarrassment for the client, could reasonably result in retaliation against the client, or would tend to reveal non-public matters regarding a criminal investigation. Only a reporting individual who first enters public office after January 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	Category of Amount (in Table 1)
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(c) [Eff. Dec. 31, 2015. See, also, subpar. (c) above.] 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 joint commission pursuant to paragraph (i) of subdivision nine of 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 joint commission 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 joint commission 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 joint commission 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	Category of Amount (in Table 1)
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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 had an investment in excess of \$1,000 excluding investments in securities and interests in real property.

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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 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 or Child	Name of Donor	Address	Nature of Gift	Category of Value of Gift
(In Table I)				
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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
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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 *
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(In Table II)

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* 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 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,

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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	Source	Nature	Category of Amount
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(In Table I)

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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 Amount
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(In Table I)

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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 Value
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(In Table I)

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16. List below the type and market value of securities held by the reporting individual or such individual's spouse 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 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 is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership ONLY if the reporting person or the reporting person's spouse 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. 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.

Self/ Spouse	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
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(In Table II)

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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. 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. Do NOT list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse, except where there is a co-owner who is other than a relative.

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

19. List below all liabilities of the reporting individual and such individual's spouse, 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 by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse 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. 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)		

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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.

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(Signature of Reporting Individual) Date (month/day/year)

TABLE I

Category A			none	
Category B	\$	1 to under	\$	1,000
Category C	\$	1,000 to under	\$	5,000
Category D	\$	5,000 to under	\$	20,000
Category E	\$	20,000 to under	\$	50,000
Category F	\$	50,000 to under	\$	75,000
Category G	\$	75,000 to under	\$	100,000

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

Category NNN	\$	5,580,000 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 ¹ 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

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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

TABLE II

Category A			none	
Category B	\$	1 to under	\$	1,000
Category C	\$	1,000 to under	\$	5,000
Category D	\$	5,000 to under	\$	20,000
Category E	\$	20,000 to under	\$	50,000
Category F	\$	50,000 to under	\$	75,000
Category G	\$	75,000 to under	\$	100,000
Category H	\$	100,000 to under	\$	150,000
Category I	\$	150,000 to under	\$	250,000
Category J	\$	250,000 to under	\$	500,000
Category K	\$	500,000 to under	\$	750,000
Category L	\$	750,000 to under	\$	1,000,000
Category M	\$	1,000,000 to under	\$	1,250,000
Category N	\$	1,250,000 to under	\$	1,500,000

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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 joint commission on public ethics or by the legislative ethics commission, as the case may be, with respect to persons subject to their respective jurisdictions. The joint commission on public ethics 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 joint commission on public ethics 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 joint commission on public ethics 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 joint commission 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 joint commission 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 joint commission or any person employed by the office of court administration who, intentionally and without

§ 73-a. Financial disclosure, NY PUB OFF § 73-a

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.

Credits

(Added L.1987, c. 813, § 3. Amended L.1989, c. 242, §§ 3 to 12; L.1996, c. 283, § 2; L.2011, c. 399, pt. A, § 5; L.2014, c. 55, pt. H, subpt. A, § 37, eff. April 30, 2014; L.2015, c. 56, pt. CC, §§ 1 to 3, eff. April 13, 2015.)

Notes of Decisions (7)

Footnotes

1 So in original. (“\$5,580,000” should be “\$5,850,000”.)

McKinney's Public Officers Law § 73-a, NY PUB OFF § 73-a

Current through L.2015, chapters 1 to 18, 50 to 61.

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APPENDIX C

McKinney's Consolidated Laws of New York Annotated
Public Officers Law (Refs & Annos)
Chapter 47. Of the Consolidated Laws
Article 4. Powers and Duties of Public Officers (Refs & Annos)

McKinney's Public Officers Law § 74

§ 74. Code of ethics

Effective: February 12, 2010

Currentness

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 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 independence of judgment in the exercise of his 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 to disclose confidential information which he has gained by reason of his 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 in the course of his official duties nor use such information to further his 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 has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he 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 personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his 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 is likely to be engaged in acts that are in violation of his 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.

j. Repealed by L.2007, c. 14, § 30, eff. April 25, 2007.

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.

Credits

(Added L.1954, c. 696. Amended L.1964, c. 941, § 6; L.1965, c. 1012, § 4; L.1983, c. 764, § 2; L.2007, c. 14, §§ 28 to 30, eff. April 25, 2007; L.2010, c. 1, § 1, eff. Feb. 12, 2010.)

Notes of Decisions (108)

McKinney's Public Officers Law § 74, NY PUB OFF § 74
Current through L.2015, chapters 1 to 18, 50 to 61.

APPENDIX D

STATE OF NEW YORK
COMMISSION ON PUBLIC INTEGRITY

Advisory Opinion No. 08-01: Interpretation of Advisory Opinion No. 94-16 in light of amendments to Public Officers Law §§73(5) and 74, and Legislative Law §§1-c and 1-m with respect to gifts.

TABLE OF CONTENTS

- I. Introduction
- II. Applicable Law
 - A. Public Officers Law §73(5)
 - B. Legislative Law §1-c(j)
 - C. Legislative Law §1-m
 - D. Legislative Law §1-c(l)
 - E. Public Officers Law §74
- III. Discussion
 - A. What is a gift?
 - B. What is nominal value?
 - C. The Aggregation Rule
 - D. Disqualified Sources
 - E. Impermissible Gifts to Third Parties
 - F. Exceptions to the Definition of Gift and Permissible Gifts
 - (i) Complimentary Attendance at Charitable or Political Events
 - (ii) Complimentary Attendance at Widely Attended Event
 - (iii) Awards, Plaques and Other Ceremonial Items
 - (iv) Honorary Degrees
 - (v) Promotional Items
 - (vi) Discounts for Goods and Services
 - (vii) Gifts from a Family Member
 - (viii) Contributions Reportable under Election Law Article 14
 - (ix) Reimbursement of Expenses for Speakers at Informational Events
 - (x) Provision of Local Transportation to Inspect Facilities
 - (xi) Meals for Participants at a Professional or Educational Program

assumed the powers and duties of the New York Temporary State Commission on Lobbying pursuant to the Act, this opinion will also apply to lobbyists and clients of lobbyists who are subject to the gift prohibitions in Legislative Law §1-m.

The Commission concludes that the principles enunciated by the Ethics Commission in Advisory Opinion No. 94-16 in defining permissible gifts remain sound and are applicable to State officers and employees as well as lobbyists who are under the Commission's jurisdiction.² This opinion reaffirms these principles and addresses those areas that have been modified by the Act in order to provide guidance to affected persons.

The Act requires the Commission to promulgate regulations pertaining to gifts. Therefore, the principles set forth in this Opinion will be reissued in a regulatory format. Pursuant to the State Administrative Procedure Act, individuals will have an opportunity to comment on the substance of the principles in this Opinion in that process.

II. APPLICABLE LAW

A. Public Officers Law §73(5)

Public Officers Law §73(5) sets forth the framework for determining whether a gift to a State officer or employee³ is permissible, as follows:

² Executive Law §94(1) states that the Commission "shall have and exercise the powers and duties set forth in this section only with respect to statewide elected officials and state officers and employees, ..., candidates for statewide elected office, and the political party chairman ..., lobbyists and clients or lobbyists, and individuals who formerly held such positions, were lobbyists or clients of lobbyists, or who have formerly been such candidates."

³ For the purposes of this Advisory Opinion, the term "State officer or employee" or "State employee" refers to those individuals subject to Public Officers Law §§73(5) or 74 who are also subject to the Commission's jurisdiction set forth in Executive Law §94(1).

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 could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his 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

(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 on his or her behalf, under circumstances where it is reasonable to infer that the gift was intended to influence him.

Thus, State officers and employees may not accept gifts of more than nominal value under circumstances where it may reasonably be inferred that the gift was intended to influence the State officer or employee in the performance of his or her official duties. Prior to the Act, gifts from "disqualified sources," defined below in Section D, valued at \$75 or more were *per se* impermissible. Gifts from a disqualified source with a value of less than \$75 were not *per se* impermissible, but were subject to further analysis under

Public Officers Law §74. The \$75 limitation now has been replaced with “nominal value.”

B. Legislative Law §1-c(j)

Public Officers Law §73(5) was further amended by adding subdivisions (b) and (c), which, in turn, reference Legislative Law §§1-c(j) and 1-m. Section 1-c(j) provides, as follows⁴:

1-c (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.⁵ The following are excluded from the definition of gift:

(i) complimentary attendance, including food and beverage, at bona fide charitable or political events, and food and beverage of a nominal value offered other than as part of a meal;

(ii) complimentary attendance, food and beverage offered by the sponsor of an event that is widely attended or was in good faith intended to be widely attended, when attendance

⁴ Legislative Law §1-c(j) and Public Officers Law §73(5) both indicate that gifts of more than nominal value are prohibited. It is to be noted, however, there is a distinction between the Legislative Law and the interpretation of the Public Officers Law by the Ethics Commission concerning exceptions to this prohibition. The Legislative Law states the items set forth in the exclusions are not considered gifts for purposes of the statute. The interpretation set forth by the Ethics Commission in Advisory Opinion No. 94-16, which is affirmed by this Commission, is not whether the item is “excluded” from the definition of gift, but whether the gift is permissible or impermissible.

While there is a distinction between the two statutes, the principle is consistent, *i.e.*, items given to a State officer or employee or public official of more than nominal value are prohibited, unless the circumstances surrounding the offering, soliciting or receiving of the item comes within one of the exceptions as defined by the Legislature and as interpreted by the Commission.

⁵ The Act expanded the types of items that are considered gifts in Legislative Law §1-c(j) to include lodging, meals, refreshment, discount and forbearance. Removed from the list by the Act were the terms “hospitality” and “thing.”

at the event is related to the attendee's duties and responsibilities as a public official or allows the public official to perform a ceremonial function appropriate to his or her position;

(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 and 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;

(ix) 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 night of the days on which the attendee, panelist or speaker actually attends the event;

(x) provision of local transportation to inspect or tour facilities, operations or property owned or operated by the entity providing such transportation, provided, however, that payment or reimbursement of lodging, meals 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; and

(xi) meals or refreshments when participating in a professional or educational program when the meals or refreshments are provided to all participants.

C. Legislative Law §1-m

Section 1-m of the Legislative Law provides, as follows:

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 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 in a statement of registration pursuant to this article shall offer or give a gift to the spouse or unemancipated minor 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 minor 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. The 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 before the board, commission or council on which the recipient sits.

D. Legislative Law §1-c(1)

The gift provisions set forth in the Public Officers Law §73(5) apply to statewide elected officials, State officers and employees, individuals whose names have been submitted by the Governor to the Senate for confirmation to be a State officer, members of the Legislature and legislative employees. The gift provision in the Legislature Law applies to "public officials," who are defined in Legislative Law §1-c(1) as:

- (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;
- (iv) officers and employees of the legislature; and

(v) 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 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.

There are several noteworthy distinctions in these statutes. The individuals covered by the Public Officers Law cannot accept gifts from any person or entity where it can be reasonably inferred that the gift was intended to influence such individuals in the performance of their official duties. Legislative Law §1-m prohibits persons required to be listed on a statement of registration from offering gifts, as defined in Legislative Law §1-c, to "public officials," as defined above. Accordingly, to the extent that the list of individuals in the Public Officers Law and the Legislative Law overlap, those individuals must be cognizant of Public Officers Law §74.

E. Public Officers Law §74

Public Officers Law §74, which sets forth the Code of Ethics, applies to officers and employees of State agencies as well as members of the Legislature and legislative employees.⁶ The applicable subdivisions are as follows:

⁶ "State agency" was amended by the Act and is defined as "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 in paragraph (d) of subdivision five of section fifty-three -a of the state finance law or their successors." Public Officers Law §74(1). The Act added the closely affiliated corporations defined in State Finance Law §53-a(d), which are: Youth Research Inc., The Research Foundation for Mental Hygiene, Health Research, Inc.,

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 duties in the public interest.
3. Standards.

.....

d. No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

.....

f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

.....

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 is likely to be engaged in acts that are in violation of his trust.

Public Officers Law §74 applies to all State officers and employees, including *per diem* and unpaid members of boards and authorities, and employees of closely affiliated

corporations. These provisions prohibit such individuals from soliciting, accepting or receiving a gift of any value if to do so would constitute a substantial conflict with the proper discharge of his or her duties in the public interest (subdivision 2), or if it would cause the State officer or employee to violate any of the standards of §74(3).

III. DISCUSSION

The Ethics Commission had indicated in Advisory Opinion No. 94-16 that gifts to a State officer or employee are to be evaluated on a case-by-case basis with consideration given to the donor's identity, the value of the gift and the circumstances surrounding the offering of the gift in order to determine whether the gift is permissible under the Public Officers Law. Those same considerations are to be weighed when determining whether a gift is permissible under the Public Officers Law and the Legislative Law, as amended by the Act.

A. What is a gift?

A gift is anything of more than nominal value, in any form, given to a State officer or employee. The Act modified Public Officers Law §73(5) and Legislative Law §1-c(j) so that now both sections indicate that gifts include, but will not be limited to money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise.

A gift does not include:

- (1) anything for which a State officer or employee pays 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 open to the public; and

(4) exceptions to the definition of gift set forth in Legislative Law §1-c(j) as interpreted by the Commission, which are fully discussed below in Section F in this Opinion.

EXAMPLE: A State employee enters a 5K race open to the public that will benefit a charity. One of the sponsors of the race is an entity that the State employee's agency regulates. Since the race was open to the public, the State employee may participate and may accept a t-shirt and any prizes.

EXAMPLE: A State employee attends a conference as part of her official duties. There are multiple vendors at the conference, some of which do business with the State and some with the employee's own agency. All participants at the conference, which include government and private entities, have an opportunity to win raffle prizes by dropping their business card in a fish bowl. The State employee's card is drawn and she wins a \$1000 laptop that is donated by a vendor who does business with the State. She may keep the prize since it is a raffle that is open to all participants.

B. What is "nominal value?"

The Act substantively amended Public Officers Law §73(5) and Legislative Law §1-c(j) by prohibiting gifts of more than a nominal value. The \$75 limit, while one of many factors, was a bright line that helped distinguish permissible from impermissible gifts. Now that this limitation has been eliminated from the Act, guidelines are necessary to assist affected individuals to determine whether a gift is of "nominal value" since "nominal value" is not defined in the Act.

A survey of state ethics laws indicates that some states have employed "nominal value" in their gift laws and have defined "nominal" by either a dollar amount or by

examples of what would constitute “nominal.” For example, South Carolina’s statute states that nominal value is not to exceed ten dollars,⁷ while the West Virginia Ethics Commission concluded that “nominal gift means a gift with a monetary value of twenty-five dollars (\$25.00) or less.”⁸ On the other hand, the State of Washington permits “unsolicited advertising or promotional items of nominal value, such as pens and note pads.”⁹ Alabama allows “promotional items commonly distributed to the general public

⁷ South Carolina Code of Law §8-13-100(1)(b) states, in part,
(b) "Anything of value" or "thing of value" does not mean:
(i) printed informational or promotional material, not to exceed ten dollars in monetary value;
(ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;

⁸ West Virginia Code §6B-2-5(c)(2)(C), states, in part,
(2) “... a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to: ... (C) Unsolicited gifts of nominal value or trivial items of informational value;

West Virginia Ethics Commission Regulation §158-7-4 states,
“For purposes of the Ethics Act, W. Va. Code §6B-2-5(c)(2)(C), a nominal gift is any gift with a monetary value of twenty-five dollars (\$25.00) or less. Some examples of nominal gifts include a T-shirt, hat, key chain, pen, pencil or any memento of that caliber. A public official or employee may accept from an interested party a nominal gift or gifts not exceeding twenty-five (\$25.00); Provided, That, the total value of any nominal gift or gifts accepted from any one source may not exceed twenty-five (\$25.00) in one calendar year.

⁹ Revised Code Washington §42.52.150 states, in part,
(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. ...

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

...
(b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

and food or beverages of a nominal value.”¹⁰ The Ethics Rules of the United States House of Representatives permits House members to accept items of nominal value such as a greeting card, baseball cap or t-shirt.¹¹ The United States Senate Select Committee on Ethics issued Guidance Under the Gift Rules, which discusses items of little intrinsic value, and food and refreshments of nominal value.¹² In addition to those items specifically identified in the Senate Rules, *i.e.*, baseball caps, t-shirts or greeting cards that have a reasonable value, other items excluded are non-food items that have a value of \$10, or less, in the aggregate, and food items, flowers and perishables that have a value of

¹⁰ Code of Alabama §36-25-1(31) states, in part,
(31) THING OF VALUE.

a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event offered only to public officials, unsecured loan, other than those loans made in the ordinary course of business, reward, promise of future employment, or honoraria.

b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

...

6. Promotional items commonly distributed to the general public and food or beverages of a nominal value.

¹¹ U.S. House of Representatives Gift Rule, House Rule 26, clause 5 (106th Congress) states, in part,

5. (a)(1)(A) A Member, Delegate, Resident Commissioner, officer, or employee of the House may not knowingly accept a gift except as provided in this clause.

...

3) The restrictions in subparagraph (1) do not apply to the following:

...

(W) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

In the commentary to the Rules, it notes that the previous House rules changed.
“Accordingly, as a general matter, Members and staff should not rely on the nominal value provision in accepting any item having a value of \$10 or more, except for the items that are explicitly referred to in that provision, *i.e.*, a baseball cap or a T-shirt. Instead, any such item will count against the donor’s annual gift limit.”

¹²United States Senate, Select Committee on Ethics, New Guidance Under the Gift Rules, February 4, 2008. *See also*, Senate Gift Rules 35.1(c)(22) and (23).

\$10, or less, in the aggregate “and are brought, sent or delivered to the Senate office and are not taken as part of a meal.” Examples of food or refreshments of nominal value are “hors d’oeuvres and drinks at a reception (as opposed to a sit-down meal) or a ‘continental-style’ breakfast at a briefing.”

“Nominal” is defined by Webster’s Dictionary as “trifling, insignificant.”¹³

Webster’s Online Thesaurus describes “nominal” as “so small or unimportant as to warrant little or no attention.”¹⁴ Black’s Law Dictionary indicates “nominal” is “often with the implication that the thing named is so small, slight, or the like, in comparison to what might properly be expected, as scarcely to be entitled to the name: *e.g.*, a nominal price [citation omitted].”¹⁵

The Act was intended to “ensure that New York State officials adhere to the highest ethical standards, in an effort to restore public trust and confidence in government.”¹⁶ To this end, the Act prohibits all gifts having more than nominal value, unless a specific exception applies. Eliminating the \$75 limitation for gifts was intended to obviate the improper influence, or the appearance of improper influence, that may be brought to bear on State officers and employees and public officials who are offered gifts from individuals or businesses with an interest in the State employee’s or public official’s duties. Giving gifts to State employees and public officials by disqualified sources provides unfair access to these officials and may improperly influence public policy decision making.

¹³ Webster’s Ninth New Collegiate Dictionary, Merriam-Webster, Inc, 1986.

¹⁴ Webster’s Online Thesaurus, <http://www.merriam-webster.com/thesaurus/nominal>.

¹⁵ Black’s Law Dictionary, West Publishing Co., St. Paul, Minn., 1979.

¹⁶ New York State Senate Introducer’s Memorandum in Support, Bill No. S2876.

Given the legislative purpose to remove improper influences from State government, the Commission adopts a narrow construction of the term “nominal value.” We do not define “nominal” with a dollar limit. It is our view that nominal value is considered such a small amount that acceptance of an item of nominal value could not be reasonably interpreted or construed as attempting to influence a State employee or public official. Therefore, items of insignificant value, as, for example, a regular cup of coffee or a soft drink, are considered nominal. Nominal value would not include a meal nor would it include an alcoholic beverage. However, even items of nominal value can be improper depending on the context.

EXAMPLE: The State employee represents his State agency in a multi-party administrative proceeding that includes other interested State agencies. At the end of the day, the employee meets the Commissioner of one of the other agencies, who is presiding over the matter, in the cafeteria. It would be unacceptable for the State employee to offer a cup of coffee to the Commissioner since there could be the appearance that the State employee was attempting to secure unwarranted privileges for himself, which would be a violation of Public Officers Law §74(3)(d). Likewise, it would be unacceptable for the Commissioner, in this instance, to accept a cup of coffee from the employee since the Commissioner’s conduct may give a reasonable basis for the impression that any person can improperly influence him in the performance of his official duties, in violation of Public Officers Law §74(3)(f).

Gifts of nominal value are allowed; however, State officers and employees are to be cognizant of the Public Officers Law §74.

With regard to gifts having values greater than “nominal,” as we have narrowly construed that term, we conclude that soliciting, offering or accepting such gifts is prohibited, unless the surrounding circumstances come within one of the exceptions identified by the Act in Legislative Law §1-c(j) and as interpreted by the Commission discussed below in Section F.

C. The Aggregation Rule

Advisory Opinion No. 94-16 permitted a State officer or employee to accept multiple gifts from a donor in the course of a twelve-month period, provided the aggregate value of the gifts was not greater than \$75 during that period.

The principle underlying this provision is that a State officer's or employee's acceptance of multiple gifts from a donor could create a reasonable impression that the donor could improperly influence the State officer or employee or unduly enjoy his or her favor in the performance of his or her official duties, in violation of Public Officers Law §74(3)(f). When multiple gifts are accepted, it may also reasonably appear that the State officer or employee was pursuing a course of conduct that could raise suspicion among the public that he or she was likely engaged in acts that were in violation of his or her trust, which would constitute a violation of Public Officers Law §74(3)(h).

The amendment to Public Officers Law §73(5) nullifies the \$75 threshold for multiple gifts from a single donor in a twelve month period. However, the principle underlying that provision remains the same: the acceptance of multiple gifts from a single donor on a regular basis, even gifts of nominal value such as a cup of coffee or a soft drink, could create a reasonable basis for the impression that the donor was improperly influencing the State officer or employee or enjoying his or her favor in the performance of the State officer's or employee's official duties.

Some State officers and employees have indicated that numerous "gifts" of nominal value, such as several cups of coffee, would not impinge upon their official responsibilities. The Commission recognizes that personal friendships may develop over long-term business relationships and the occasional acceptance of an insignificant item, such as a cup of coffee, could not be reasonably interpreted or construed as attempting to

influence a State employee or public official. However, there is the public perception of undue influence by a donor when a public official or State employee accepts multiple gifts, even of nominal value, on a regular basis. State officers and employees and public officials must strive to avoid creating any appearance that would suggest that they are being improperly influenced in discharging their public responsibilities by refusing multiple nominal gifts from the same donor.

D. Disqualified Sources

In assessing whether a gift is permissible, it is necessary to consider the donor of the gift. In Advisory Opinion No. 94-16, the Ethics Commission concluded, as a general rule, that “disqualified sources” should not, directly or indirectly, offer or give a gift of \$75 or more, nor should a State officer or employee, directly or indirectly, solicit such a gift from a disqualified source. The Commission reaffirms this general rule that State officers and employees should not, directly or indirectly, solicit a gift of nominal value from a disqualified source, nor should a disqualified source, directly or indirectly, offer or give a gift of nominal value to a State officer or employee.

A “disqualified source” is an individual who, on his or her own behalf or on behalf of a non-governmental entity, or a non-governmental entity on its own behalf which:

(1) is regulated by, or regularly negotiates with, appears before other than in a ministerial matter, does business with, seeks to contract with or has contracts with the State agency with which the State officer or employee is employed or affiliated; or

(2) is required to be listed on a statement of registration¹⁷ as required by the Legislative Law, or is the spouse or unemancipated minor child of an individual who is required to be listed on a statement of registration; or

(3) is not required to be listed on a statement of registration as required by the Legislative Law, and lobbies or attempts to influence action or positions on legislation or rules, regulations or rate-making before the State agency with which the State officer or employee is employed or affiliated; or

(4) is involved in litigation, adverse to the State, with the State agency with which the State officer or employee is employed or affiliated, and no final order has been issued; or

(5) has received or applied for funds from the State agency with which the State officer or employee is employed or affiliated, including participation in a bid on a pending contract award, at any time during the previous year up to and including the date of the proposed or actual receipt of the gift; or

(6) seeks to contract with or has contracts with a State agency other than the agency with which the State officer or employee is employed or affiliated when the officer or employee's agency is to receive the benefits of the contract.

The amendment to Legislative Law §1-m by the Act created a substantive change to the classes of disqualified sources set forth in Advisory Opinion No. 94-14.

¹⁷ Legislative Law §1-e(a)(1) requires every lobbyist who expends, incurs or receives more than \$5000 to file a statement of registration. The statement of registration must contain, in addition to other information, the name and address of the lobbyist or the name of the organization and any officers and employees who lobby, as well as the name of the client on whose behalf the lobbyist is retained. *See*, Legislative Law §1-e(c)(1)(2).

Previously, one class of disqualified sources was an individual or entity that "lobbies or attempts to influence action or positions on legislation or rules, regulations or rate-making before the State agency with which the State officer or employee is employed or affiliated." Legislative Law §1-m was amended to prohibit individuals and entities required to be listed on a statement of registration, as well as their spouses and unemancipated children, from offering a gift to a public official under circumstances in which it can be inferred that the gift was intended to influence official action. Individuals who expend, incur or receive less than \$5,000 in lobbying costs are not within the parameters of the statute and, ostensibly, may no longer be considered a disqualified source under the Ethics Commission's previous definition.

Therefore, subsection (2) reflects Legislative Law §1-m and defines as a class of disqualified sources those individuals and entities who are required to file, as well as their spouses and unemancipated children. In order to encompass those individuals and entities who lobby State agencies but expend, incur or receive less than \$5,000 in their lobbying efforts, subsection (3) includes this category of lobbyists as a disqualified source. Therefore, consistent with the spirit of Advisory Opinion No. 94-16, if an individual or entity lobbies a State agency, the individual or entity is a disqualified source, without regard to the amount the individual or entity expends, receives or incurs.

Exempted from Legislative Law §1-m are gifts to unpaid and *per diem* members of boards and commissions, unless the person listed has a matter before that board or commission. Unpaid and *per diem* members of boards and commissions are subject, however, to the Code of Ethics in Public Officers Law §74, as are employees of closely affiliated corporations. Therefore, any such gift would have to be examined pursuant to Public Officers Law §74 in order to determine whether it is permissible.

E. Impermissible Gifts to Third Parties

Public Officers Law §73(5)(c) prohibits a person required to be listed on a statement of registration from giving a gift, as defined in Legislative Law §1-c, to a third party, including a charitable organization, on behalf of a public official and based on his or her designation or recommendation, where it is reasonable to infer that the gift was intended to influence the third party. The principle underlying this statute is consistent with the Ethics Commission's conclusion in Advisory Opinion No. 94-16: an impermissible gift to a State officer or employee may not be given by the donor to a third party, including a family member of the State officer or employee, or any other person or entity, including a charitable organization designated or recommended by the State officer or employee.

The Commission reaffirms this principle and concludes that a gift that could not be given to a State officer or employee by a disqualified source may not be directed by the State officer or employee to a third party, including (a) the State officer or employee's spouse, parent, sibling, child, relative or friend, and (b) to any other person or entity designated by the State officer or employee, including a charitable entity, on behalf of such officer or employee. An otherwise impermissible gift is not permissible because it is given to a third party at the State employee's direction.

F. Exceptions to the Definition of Gift and Permissible Gifts

Legislative Law §1-c(j) sets forth those circumstances under which the soliciting, offering or accepting an item of more than nominal value is excluded from the definition of gift. Many of these circumstances are consistent with those set forth by the Ethics Commission in Advisory Opinion No. 94-16 as "permissible" gifts. The Commission concludes that the following will be considered exceptions to the definition of gift when

offered by lobbyists or clients to public officials, or will be permissible gifts when offered by disqualified sources to State officers and employees.

(i) Complimentary Attendance at Charitable or Political Events

Complimentary attendance, including food and beverage, at *bona fide* charitable or political events, and food and beverage of a nominal value offered other than as part of a meal.

EXAMPLE: Senator X offers a complimentary ticket to a State employee, who lives in his district, to attend a fund raiser for the Senator. The State employee may accept since it is a political event.

EXAMPLE: Several State employees from different agencies are involved in a meeting that includes entities from outside of government. The meeting is all day and is being held at the offices of one of the private entities, Corporation X, who is a registered lobbyist. Corporation X offers coffee and cookies to all of the participants. The State employees may accept the food and beverage because it is of nominal value and is offered other than as part of a meal.

EXAMPLE: The participants in the meeting described above decide it would be helpful to have a "working lunch." Corporation X offers to order sandwiches and soft drinks and have them delivered to the meeting for all of the participants. The State employees must pay for their sandwiches and soft drinks. It is not permissible for a State employee to accept a meal from a disqualified source.

EXAMPLE: A State employee is an auditor who is reviewing the company's books and records. The company offers the auditor coffee while he is performing the audit. While it may be permissible to accept the coffee as a nominal item of drink, it is advisable to consider the circumstances surrounding the offer to ensure that there is not a violation of Public Officers Law §74.

If the company were a registered lobbyist or client, the prohibitions of Legislative Law §1-m would apply, while nominal gifts are permitted, it is necessary to determine whether, under the circumstances, it could be reasonable to infer that the cup of coffee was intended to influence the auditor in the performance of his official duties of inspecting the company's books.

(ii) Complimentary Attendance at Widely Attended Event

Complimentary attendance, food and beverage offered by the sponsor of an event that is widely attended or was in good faith intended to be widely attended, when attendance at the event is related to the attendee's duties and responsibilities as a public official or State employee, or allows the public official or State agency head to perform a ceremonial function appropriate to his or her position.¹⁸ However, under no circumstance may travel or lodging be included.

As indicated in Advisory Opinion No. 94-16, the State agency must first determine that an employee's attendance will further agency programs and operations, then the State employee may accept an unsolicited gift from a sponsor, even from a disqualified source, of free attendance at all or part of a widely attended gathering of mutual interest to a number of parties.

"A gathering is 'widely attended' if it is open to members from throughout a given industry or profession, or if those in attendance represent a range of persons interested in a given matter. 'Free attendance' may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction and materials furnished to all in attendance as an integral part of the event. When others in attendance will generally be accompanied by spouses, the State agency may authorize the State employee to accept a sponsor's invitation to an accompanying spouse to participate in all or a portion of the event at which the employee's free attendance is permitted. Travel expenses, lodging, entertainment collateral to the event, or meals taken other than in a group setting with all others in attendance may not be included as part of the gift, either to the employee or the employee's spouse."

¹⁸ Attendance at events at which the activities are substantially recreational in nature shall not be considered to be for a public purpose or related to a State employee's official duties.

For a State agency to find that an agency purpose is served by a State employee accepting free attendance at a widely attended event, the agency should conclude that its interest in the employee's participation outweighs the likelihood that such participation will actually or apparently improperly influence the employee in the performance of his or her official duties. A number of factors should be considered, including: the nature of any pending matter affecting the donor's interest, the importance of the event to the agency, the significance of the State officer or employee's role in the event, the timing of the event, the purpose of the event, the identity of other expected participants and the monetary value of the gift.

EXAMPLE: A State employee is offered free admission to a conference that is jointly sponsored by several organizations, including an entity that is regulated by her agency. If the conference is related to the State employee's official responsibilities, the employee may accept the offer of admission and the meals that are offered as part of the conference.

EXAMPLE: Following the conference, the State employee is invited to the regulated entity's hospitality suite for wine and cheese and to meet the entity's staff. The State employee must decline the invitation since the invitation was extended for an event that is not part of the conference and open to all participants.

If the regulated entity was a registered lobbyist or client, it would be a violation of Legislative Law §1-m to invite the State employee to the hospitality suite if the invitation was to a select group of individuals because that would not constitute a widely attended event.

EXAMPLE: A consultant offers to drive the State employee to the conference and pay for the tolls and the gas. The State employee may not accept travel from the consultant.

If the consultant was a lobbyist or a client, the consultant could not offer to drive the State employee. Travel is considered a gift, as defined in Legislative Law §1-c(j), and is prohibited since it would be of more than nominal value. The offer of the gift is a violation of Legislative Law §1-m.

EXAMPLE: The consultant offers to drive the State employee and will share the tolls and the cost of gas. The State employee cannot accept the offer of travel from the consultant. Acceptance of part of the cost of travel would be considered a gift.

EXAMPLE: Company A, who has matters before a certain agency, has a holiday party and invites to the party every individual who worked with Company A during the year - both government and non-government. All the State employees who worked on a case pertaining to Company A were invited. They cannot attend because there is no State agency purpose requiring their attendance at the holiday party.

(iii) Awards, Plaques and Other Ceremonial Items

Awards, plaques, and other ceremonial items that 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.

State employees and public officials may be recognized for their public service, which the Commission defines as service related to an individual's official duties and responsibilities as a State employee or public official.¹⁹ To determine whether it would be permissible for the State employee or public official to accept such an award, we look to the totality of circumstances concerning the item given including, but not limited to,

¹⁹ The Commission is cognizant that State employees and public officials often participate in community based or charitable activities and may be publicly recognized for their contributions with an award, plaque, or other ceremonial item. While these activities may not be related to their official duties, State employees and public officials are to be mindful as to whether the donor of the award, plaque or ceremonial item is a disqualified source who may be attempting to influence the State employee or public official in the performance of their official duties. The Commission is available to provide guidance to State employees and public officials in such circumstances.

the following factors.

First, the item must be either an award, plaque or item that is associated with the ceremony. The statute indicates that the functionality of an item, *i.e.*, the utility of an item in day-to-day activities, shall not be determinative as to whether the item is ceremonial. The Commission concludes that functionality is one of several factors to be considered when determining whether an award is ceremonial.

Second, the award, plaque or other ceremonial item must be publicly presented or intended to be publicly presented. Presenting the item at a non-public occasion is inconsistent with the statute.

Third, the award must be given in recognition of public service, which the Commission concludes is service undertaken as part of the State employee's or public official's official duties, or has a nexus to such official duties.

Fourth, the item must be of the type customarily bestowed and reasonable in value under the circumstances. Factors to be considered include, but are not limited to, the monetary value of the gift to the recipient and whether the gift is personally engraved with the recipient's name. An inquiry would be necessary to determine whether the donor regularly bestowed such gifts under similar circumstances.

EXAMPLE: A non-profit organization recognizes a State employee who volunteers on his own time coaching little league and presents him with a plaque. The employee may accept the plaque since the activity is not related to the employee's official duties.

EXAMPLE: A public official is recognized by a lobbying organization at its annual membership meeting for his public service. The official is presented with a crystal bowl made by a world-renowned glassmaker. The bowl is permanently etched with

the public official's name and the honor it represents. The bowl, while it may be functional, is primarily ceremonial. Since the bowl was publicly presented to the official, the public official may accept it.

(iv) Honorary Degrees

An honorary degree bestowed upon a public official by a public or private college or university.

(v) Promotional Items

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.

EXAMPLE: A State employee attends a conference that is jointly sponsored by several entities and receives as part of the "welcome package" a pen, pad and magnet with the name of the organization on it, which is an entity her State agency regulates. It is permissible to accept these items.

(vi) Discounts for Goods and Services

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 and services are offered to the general public or segment thereof.

The Legislature's inclusion of this exception in the Act conflicts with the Ethics Commission's Advisory Opinion No. 05-01, which permitted State employees to accept discounts on goods and services that were offered to State employees. In that opinion, the

Commission concluded that “[w]here a discount is made available broadly to all State employees and the offeror’s purpose is merely to solicit a large group of potential customers, there is no realistic possibility that the offeror is seeking to influence any governmental decision or to reward any employee for any official action. Under such circumstances, it seems inconceivable that the Legislature intended for §73(5) to be read to prohibit an employee from accepting such a discount.”

The Legislature has now determined that Public Officers Law §73(5), which incorporates Legislative Law §1-c(j), is intended to prohibit a State employee or a public official from accepting discounts for goods and services made broadly available to State employees, if the offeror is a lobbyist or client of a lobbyist. Therefore, if a State employee accepts the discount, the State employee would be accepting a gift from a lobbyist or client.

Public Officers Law §73(5)(b) includes an additional inquiry that is to be undertaken in determining whether a gift may be accepted. If the gift is not within one of the enumerated exceptions in Legislative Law §1-c(j), the gift cannot be accepted “unless under the circumstances it is not reasonable to infer that the gift was intended to influence him.” Therefore, the next level of inquiry is whether it is reasonable to infer whether the State employee or public official would be influenced by the offer of the discount.

The Ethics Commission Opinion No. 05-01 does not come within the *per se* exception set forth in the Act since the discounts that were the subject of that Opinion were offered to a segment of the public that was defined on the basis of status as a public official. In that Opinion, the Commission concluded that it was permissible for State employees to accept a discount on their personal telephone bills that was offered by a nationwide telecommunications carrier, who had been designated as an approved State contractor. The discount was part of a plan that was made available to all federal, State

and local government employees nationwide. Pursuant to the Act, employees who accepted the discount are now accepting a gift from a disqualified source. It is necessary, then, to look at the next prong and determine whether the offer of the discount intends to influence individual employees or has the appearance of doing so.

We conclude that it is not reasonable to infer that the offering of a discount to all State employees is intended to influence an individual employee or has the appearance of doing so. As the Ethics Commission stated in Advisory Opinion No. 05-01, “[i]t is a common business practice for vendors to offer discounts to large market groups to increase market share - to gain more in volume than in lost in price.” We affirm the conclusion of the Ethics Commission that there is no realistic possibility that the offeror in such instances is seeking to influence any government action or to reward any State employee for any official action. The Commission concludes that broad-based discounts made available to all State employees are permissible gifts that employees may accept.²⁰

Any other type of discount offered to a select group of State employees or public officials must be assessed on a case-by-case basis to determine whether it is a permissible gift. Factors to be considered include, but will not be limited to, the class of public officials who are offered the discount; whether the offeror of the discount is a disqualified source; the amount and duration of the discount; and whether the offeror has a nexus to the class of public officials who are offered the discount, *i.e.*, whether the offeror has a

²⁰ In Advisory Opinion No. 05-01, the Commission also addressed whether a State employee could receive a room discount by showing his or her State identification at the time of check in, even when the State employee advises hotel management that he is not traveling on official State business. Since this discount is available to all State employees, it is not reasonable to infer that the offering of the discount is a means to influence any individual State employee. Therefore, we conclude that the acceptance of this type of discount is a permissible gift.

pending matter, is regulated by or is seeking to contract with the public official's agency.²¹

(vii) Gifts from a Family Member

Gifts from a family member²², 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 items have previously been exchanged; (B) whether the item was purchased by the donor; and (C) whether 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 Election Law Article 14

Article 14 of the Election Law pertains to campaign receipts and expenditures. Contributions are defined in Election Law §14-100(9) and include, but are not limited to: gift, subscription, outstanding loan, advance, deposit of money made in connection with the nomination for election or election of a candidate, or to promote a ballot proposal;

²¹ The Commission considered, and rejected, reversing Advisory Opinion No. 05-01. The Commission has had no indication since issuing Advisory Opinion No. 05-01 that employees have been improperly influenced in the performance of their official duties by these broad based discounts. The intent to influence a public official is an essential element of the statute. We conclude that there is no basis to reject Advisory Opinion No. 05-01.

²² For the purposes of this section, the Commission will define a "family member" as "relative," which is described in Public Officers Law § 73(1)(m) as "any person who is a direct descendant of that individual's grandparents or the spouse of such descendant."

funds received by a political committee from another political committee, provided the funds do not constitute a transfer; and any payment by any person other than a candidate, made in connection with the nomination or election of a candidate, including but not limited to compensation for personal services.

The exception does not apply to amounts donated in excess of contribution limitations established by Article 14 of the Election Law or otherwise in violation of the Election Law.

(ix) 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 night of the days on which the attendee, panelist or speaker actually attends the event.

EXAMPLE: A State employee or public official is asked to attend a national symposium from October 2 - 4 at a private college in Buffalo. The State employee or public official may accept reimbursement for travel as well as meals and accommodations, at a location close to the campus, for no longer than the period of October 1 - 4, provided the individual was in attendance throughout the symposium.

(x) Provision of Local Transportation to Inspect Facilities

Provision of local transportation to inspect or tour facilities, operations or property owned or operated by the entity providing such transportation, provided, however, that payment or reimbursement of lodging, meals 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.

EXAMPLE: A regulated entity, who is also a lobbyist or client, offers to take the Director of the agency, who is based in Albany, on a tour of the newly refurbished facilities in Schenectady. The Director may accept the offer of transportation to and from the facilities.

EXAMPLE: The Director may accept an offer to tour the facilities in Buffalo if the State agency pays for the travel to and from Albany and Buffalo as well as the lodging in Buffalo.

(xi) Meals for Participants at a Professional or Educational Program

Meals or refreshments when participating in a professional or educational program when the meals or refreshments are provided to all participants.

EXAMPLE: A union representative is holding a meeting in a State agency before work hours to discuss the contract negotiations, and the union provides bagels and coffee at the meeting. Those in attendance may have the bagels and coffee since they are attending a professional program.

If the union representative is a lobbyist, or if the union he is representing is a lobbyist or client, then the offer of the bagels and coffee is permissible. However, while coffee and bagels are permitted, it is necessary to determine whether, under the circumstances, it could be reasonable to infer that the coffee and bagels were intended to influence the State employees who were participating in the contract negotiations.

EXAMPLE: A State employee is attending a continuing education program that is sponsored by an entity that lobbies the employee's agency. As part of the program, lunch and refreshments are offered to all of the participants. It is permissible to accept the food and beverages since it was offered to all participants.

(xii) Gifts for Customary or Special Occasions

The Commission retains as permissible gifts those items that are modest, reasonable and customary, given on special or unique occasions that occur in the personal life of a State employee or public official, such as marriage, illness, retirement or death in a family.

State employees or public officials may also accept a modest gift from a member of the public to acknowledge the State employee's or public official's exemplary performance of their official duties, provided the member of the public has a nexus to the outcome of the State employee's or public official's official duties.

EXAMPLE: The parent of a State employee dies. The consultant sends flowers to the funeral home. It is permissible to accept the flowers.

If the consultant was a registered lobbyist or a client, it would be permissible to accept the flowers.

EXAMPLE: The family of a patient at a State-run facility wants to express their gratitude to the nurse, who is a State employee, for the care she gave the patient and gives her a homemade crocheted quilt. The nurse may keep the quilt.

EXAMPLE: Several State employees work substantial overtime repairing a road. A homeowner in the area sends a homemade cake to the employees' work site to thank them for their work. The employees may accept the cake.

(xiii) Invitations to State Agency Heads

A statewide elected official or an agency head may accept an invitation to attend a function or event in his or her official capacity sponsored by any person or entity.²³

The elected official or agency head may designate a staff member to attend in his or her place. Such events should be those that would normally appear on such elected official or agency head's work schedule and would likely be publicized. The purpose of attendance must be appropriate to the performance of the attendee's official duties or to permit the attendee to perform a ceremonial function appropriate to his or her official position.

(xiv) Gifts to a State Agency

The Commission does not address in this Opinion the concepts of gifts given to a State agency rather than to individual State officers or employees. We have set forth standards with respect to when it is appropriate for State agencies to accept a gift.²⁴

²³ If the invitation includes travel or lodging expenses that are to be reimbursed by such person or entity, the requirements of 19 NYCRR §930.6 must be met. Among other requirements, the individual is to demonstrate that the appearance or participation in the event is for a State agency purpose; the travel expenses, if not so reimbursed, could be paid by the State agency according to its travel reimbursement procedure; the expenses reimbursed would be at a rate no greater than the State agency would reimburse under its travel rules; and the reimbursement for food and lodging is provided for no longer than the individual is reasonably required to be present at the event.

²⁴ In Advisory Opinion No. 92-1, the Commission offered several guidelines when it would be permissible for an agency to accept gifts. It is first necessary to determine whether an agency has the statutory authority to accept gifts. If the agency can accept gifts, a Commissioner may accept contributions from regulated persons and entities, but not when those individuals or entities are involved in litigation or are under investigation by the agency, since the agency is to remain impartial in such adversarial situations. There are categories of donors whose gifts, because of their relationship to the agency, may raise the "specter of impropriety." Such potential donors would include lobbyists and applicants for licenses or permits. In these cases, the

However, there have been occasions when a gift is sent to an individual State employee, usually the agency head, with the intent that the gift be shared among others in the agency. For example, during the holidays, an agency head may receive candy, fruit, or flowers from a disqualified source.

If the item is non-perishable, it is to be returned to the donor with a letter explaining that gifts cannot be accepted. If the item is perishable, the agency head has several choices: the item can be placed in a "break room" so that many employees can partake in it, and a letter is to be sent to the donor advising that gifts cannot be accepted and should not be sent in the future. As an alternative, the item can be donated to a local charity, and a similar letter sent, as described above.

G. Commission Regulations

The Act requires the Commission to issue regulations pertaining to the soliciting, accepting or receiving of gifts by those subject to the gift provisions in Public Officers Law and the Legislative Law. The draft regulations will be available for comment. The Commission will welcome comments in order to assist us in providing regulations that will be beneficial to State officers and employees and public officials.

Commission indicated the Commissioner should consider the "source, timing and amount of the contribution before accepting it." Finally, since the Commissioner was authorized to delegate duties to department employees, the Commission stated that the authority to accept contributions should not be delegated to those employees involved in regulatory functions on behalf of an agency. *See*, Advisory Opinion Nos. 92-1, 95-38, 96-2, 97-6 and 97-10.

IV. CONCLUSION

The parameters set forth above are intended to provide guidance to those subject to the gift provisions in the Public Officers Law and the Legislative Law so that they can determine under what circumstances it may be appropriate or inappropriate to accept a gift. It is not possible to anticipate every scenario that could be presented to a State employee or public official. Therefore, the Commission remains available to provide guidance to all individuals who are subject to the gift provisions concerning the propriety of any gift.

All concur:

John D. Feerick,
Chair
Daniel R. Alonso
Virginia Apuzzo
John M. Brickman
Andrew G. Celli, Jr.
Richard D. Emery
Daniel J. French
David L. Gruenberg
Hon. James P. King
Hon. Howard A. Levine
Loretta E. Lynch
John T. Mitchell

Date: March 25, 2008

APPENDIX E

Compilation of Codes, Rules and Regulations of the State of New York Currentness
Title 9. Executive Department
Subtitle A. Governor's Office
Chapter I. Executive Orders
Part 7. Executive Orders (David A. Paterson)

9 NYCRR 7.7

Section 7.7. Executive Order No. 7: Prohibition Against Personal
Use of State Property and Campaign Contributions to the Governor

WHEREAS, government employment is a privilege rather than a right, and is based upon the trust and confidence placed in the State's workers by the public; and

WHEREAS, all State employees and officers should be able to pursue the interests of the public in an environment that is free from political party influence or interference; and

WHEREAS, it is the obligation of every State employee and officer to pursue a course of conduct that will not engender public concern as to whether the individual is engaged in acts that may violate his or her public trust; and

WHEREAS, all State employees therefore must act in a manner consistent with that public trust, and must not take any actions that are intended, or appear to be intended, to achieve personal gain or benefit; and

WHEREAS, employees and officers of State agencies and public authorities are subject to certain ethical statutes and rules, including but not limited to the State Code of Ethics (Section 74 of the Public Officers Law), and statutory restrictions on business and professional activities (Section 73 of the Public Officers Law); and

WHEREAS, there are some areas where New York's existing statutes governing ethical standards can and should be improved or clarified;

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the laws of the State of New York, do hereby order as follows:

A. Definitions

1. "Agency" shall mean any state agency, department, office, board, commission or other instrumentality of the State, other than a public authority.
2. "Public authority" shall mean a public authority or public benefit corporation created by or existing under any State law, at least one of whose members is appointed by the Governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

B. Prohibition Against the Personal Use of State Property

1. State supplies, equipment, computers, personnel and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind. This prohibition includes but is not limited to the following:

a. Official stationery may not be used for non-governmental purposes, nor may State government resources be used to mail personal correspondence. The designation "personal" on agency stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.

b. Under no circumstances may State mail, postage, internal office mail, or inter-city couriers be used for non-governmental purposes.

c. State telephones may not be used for non-governmental long-distance calls, except for toll-free calls, collect calls, and calls billed to a personal telephone number. State telephones may be used for incidental and necessary personal local calls that are of limited number and duration and do not conflict with the proper exercise of the duties of the State employee.

d. State computers shall be used only for official business, except that state computers may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the State employee.

e. State vehicles shall be used only for official business or incidental personal use associated with official business away from an employee's official work station. Individuals who are authorized by their agency or public authority to use a vehicle for personal purposes shall keep records of such use, and the value of such personal use shall be calculated and reported as personal income to such individual for tax purposes.

C. Prohibition Against Campaign Contributions to the Governor

1. No State agency officer or employee who serves at the pleasure of the Governor or their appointing authority, and no member of a public authority appointed by the Governor, may make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor. In addition, no such individual may request or demand that any other person make or offer to make any monetary contribution to the campaign of the Governor, or to any political campaign committee organized by or for the specific benefit of the Governor.

D. Application to Public Authorities

1. Each public authority shall adopt policies or rules applying the restrictions set forth above to all officers and employees who serve at the pleasure of their appointing authority.

E. Penalties

1. Any violation of this order may result in dismissal or other appropriate sanction as determined by the appointing authority of the individual committing such violation.

Signed: David A. Paterson

Dated: June 18, 2008

Credits

Order dated June 18, 2008, filed June 18, 2008.

Current with amendments included in the New York State Register, Volume XXXVII, Issue 24, dated June 17, 2015.

9 NYCRR 7.7, 9 NY ADC 7.7

End of Document

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APPENDIX F

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

TITLE 19 NYCRR PART 930: HONORARIA

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.

APPENDIX G

**LONG ISLAND POWER AUTHORITY
ANNUAL CERTIFICATION OF COMPLIANCE WITH THE CODE OF CONDUCT**

Name [Last, First]: _____
(Please print)

Address: _____

Title: _____

Check only one (and provide any comments or explanations below):

I have read and understand the Code of Ethics and Conduct of the Long Island Power Authority and hereby certify that I am in compliance with all of the policies and standards and principles of conduct stated therein and I have no direct or indirect Financial Interests or Other Interests which may create or appear to create a conflict with my official job duties and responsibilities.

I further certify that I have inquired as to my Spouse, Dependent Child and all other Relatives (as defined in the Code) and based upon such inquiry none of the above has any direct or indirect Financial Interests or Other Interests which may create or appear to create a conflict with my official job duties and responsibilities.

OR

I have read and understand the Code of Ethics and Conduct of the Long Island Power Authority and acknowledge my responsibility to fully disclose any and all Financial Interests or Other Interests which may create or appear to create a conflict with my official job duties and responsibilities and these interests are described below. I also understand that as a result of any conflict of interest, additional action will need to be taken to relieve the conflict. I further certify that I have inquired as to my Spouse, Dependent Child and all other Relatives (as defined in the Code) and based upon such inquiry none of the above has any direct or indirect Financial Interests or Other Interests which may create or appear to create a conflict with my official job duties and responsibilities except as described below.

I or my Relatives have the following conflicts (attach additional sheet if necessary):

Certification

In submitting this form, I certify that the above information is true and accurate.

Signature: _____ Date: _____

APPENDIX H

**LONG ISLAND POWER AUTHORITY
ANTI-RETALIATION POLICY**

A. PRELIMINARY STATEMENT

The Authority is committed to a professional working environment and the prevention of discrimination, harassment, violence, malfeasance, misconduct, wrongdoing and/or any other unethical conduct in the workplace. The Authority prohibits acts of Retaliation against any Employee, Former Employee or Trustee who in Good Faith files a complaint, provides information or otherwise assists in an investigation regarding acts of discrimination, harassment, violence, malfeasance, misconduct, wrongdoing and/or unethical behavior in the workplace including violations of the Authority's Codes of Ethics and Conduct.

B. SCOPE

This policy is applicable to all Authority Employees, Former Employees and Trustees, as defined below, and prohibits Retaliation against any Employee, Former Employee or Trustee who exercises his/her rights under law and/or as outlined herein. This Anti-Retaliation Policy is not intended to supplant, but rather complement and supplement, existing LIPA policies.

C. DEFINITIONS

As used in this Anti-Retaliation Policy, the following terms have the following meanings:

1. "Authority" means the Long Island Power Authority and its wholly owned subsidiary, LIPA, as well as any other subsidiaries created by the Long Island Power Authority.
2. "Code of Ethics and Conduct" means the "Trustee Code of Ethics and Conduct of the Long Island Power Authority" and the "Employee Code of Ethics and Conduct of the Long Island Power Authority" dated March 1, 2012.
3. "Employee" means any person employed by the Authority.
4. "Employee Handbook" means the policies, principles and procedures established for Employees of the Authority, as periodically updated.
5. "Former Employee" means persons other than Trustees of the Authority who are no longer Employees of the Authority but were Employees in the time period following the Authority's adoption of a Code of Ethics and Conduct.

6. "Good Faith" means the disclosure of information when the individual making the disclosure reasonably believes such information to be true and reasonably believes it constitutes potential wrong-doing.
7. "Retaliation" means acts or omissions taken in response to reports made pursuant to this policy, including but not limited to discrimination, harassment, discharge, demotion, suspension, threats and negative job references.
6. "Trustee" means the Trustees of the Authority appointed or elected, as the case may be, pursuant to Public Authorities Law §1020-b (21).

D. REPORTING

Employees, Former Employees and Trustees are encouraged to report, provide information or otherwise assist in the investigation of actual, potential or suspected violations of the Codes of Ethics and Conduct, the Employee Handbook and/or any other applicable laws, policies or regulations governing Employee, Former Employee or Trustee behavior, including this Anti-Retaliation Policy. Early reporting and intervention is encouraged in order to minimize the possibility of continued violations.

Employees, Former Employees and Trustees may, in Good Faith, report alleged violations to the General Counsel, the Chief Executive Officer or the Director of Human Resources, either in person, via email or other form of writing. Reports of alleged violations will be kept confidential, except to the extent reasonably necessary to conduct an investigation, as set forth below. Reports may also be made anonymously; however, a lack of sufficient, specific information may adversely affect the ability to conduct a meaningful investigation of the alleged violation.

Should an Employee, Former Employee or Trustee believe in Good Faith that disclosing information within the Authority pursuant to the paragraph above would likely subject him or her to adverse personnel action or be wholly ineffective, the Employee, Former Employee or Trustee may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable. The Authorities Budget Office's toll free number (1-800-560-1770) should be used in such circumstances.

E. INVESTIGATIONS

Upon notification of an alleged violation of the law and/or the Authority's policies and/or regulations governing Employee, Former Employee or Trustee behavior, including acts of Retaliation, the General Counsel will promptly investigate or cause the investigation of such violation, as appropriate under the circumstances. In no event shall any person who is alleged to be involved in the alleged violation or Retaliation supervise or conduct the investigation. The investigation, which will be conducted through interviews with the reporting Employee, Former Employee or Trustee and/or other Employees, Former

Employees or Trustees, as well as through the required production and review of relevant documentation and such other steps as are determined appropriate by the official conducting or supervising the investigation, will seek to ascertain whether such violation occurred.

Employees, Former Employees and Trustees alleged to have violated this Anti-Retaliation Policy will be given an opportunity to be heard during the investigation process.

Upon the conclusion of an investigation, the General Counsel shall review the findings of the investigation with the Director of Human Resources and Administration, and shall promptly make a recommendation to the Chief Executive Officer as to what disciplinary action, if any, should be taken. Such recommendation will be communicated to the appropriate supervisor and any other affected Employees, Former Employee or Trustee as necessary.

The General Counsel of the Authority will inform the Authority's Governance Committee of the Board of Trustees about the status and disposition of official investigations and issues raised thereof.

The Authority will maintain a written record of each report and how it was investigated and resolved. The Authority will endeavor to maintain the confidentiality of such written record, to the extent possible and appropriate.

F. REMEDIES

Investigations of violations that are determined to be substantiated, or knowingly false reports of violations under this Anti-Retaliation Policy, will result in disciplinary action, including but not limited to issuance of written warnings, corrective action, restitution, change of employment status, training, counseling, suspension without pay, or termination.