

# NEW YORK STATE'S ETHICS LAWS

## A Guide for New York State Employees

### Introduction

Every officer and employee in State service is bound by the provisions of the State ethics laws, which establish specific standards of conduct, restrict certain business and professional activities – both while in State service and after leaving government – and require financial disclosure of policymakers and other higher level officials. Violators face serious penalties.

This document is intended only as a brief introductory guide and should not be considered as a comprehensive legal document.

### History

In 2007 the State adopted the Public Employee Ethics Reform Act, which combined the State Ethics Commission and the Temporary State Commission on Lobbying into a new Commission on Public Integrity. In 2011 the Joint Commission on Public Ethics (JCOPE) was formed.

### Duties

The duties of the Joint Commission on Public Ethics include:

- receiving complaints alleging violations of Public Officers Law ss: 73, 73-1 and 74, and Civil Service Law ss: 107; investigating complaints on its own initiative;
- rendering advisory opinions which interpret and apply the laws as they pertain to present and former State officers and employees;
- distributing, collecting and auditing financial disclosure statements; and
- issuing rules and regulations to implement and enforce the law under its jurisdiction.

### Financial Disclosure

Annual statements of financial disclosure are required of all policymakers and those individuals who – unless exempted by the Commission – earn compensation in excess of the job rate of a Salary Grade 24.

The statements request information pertaining to major assets, sources of income, liabilities, offices held with a political party, sources of gifts, real property, and other information.

All policymakers must file, but the Commission can exempt from filing individuals at

Salary Grade 24 or higher who are not policymakers *and* who do not perform certain job duties.

### Conflicts of Interest

Officers and employees of State government are restricted in the activities in which they may engage while in State service. Basically, they may not engage in activities that would create or appear to create a conflict with their public duties. Some of the specific restrictions are:

- they may not sell goods or services to the State or any agency of the State except through a competitively bid contract;
- they may not appear before any State agency or render services for compensation in a matter before any State agency in connection with such subjects as the purchase or sale of goods, ratemaking, funding or licensing.

More generally, State officers and employees should not have any interest in or engage in any business or activity “in substantial conflict” with the discharge of their public duties. This restriction prohibits them from:

- disclosing confidential information acquired in the course of their official duties or using such information to further their personal interests;
- using or attempting to use their official positions to secure unwarranted privileges or exemptions for themselves or others;
- giving reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position or influence of any party or person.

Finally, State officers and employees should endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of their public trust.

### Outside Activities

The Commission's regulations restrict the outside activities of State officers and employees as follows:

- certain high level officials, including all policymakers, are barred from serving as an officer of any political party or organization or serving as a member of a political party committee, including district leader or member of a national committee;
- no salaried State officers or employees may engage in any outside activity which interferes or is in conflict with their official State duties.

For policymakers, prior agency approval is required before engaging in any outside activity if the amount to be earned is more than \$1,000 annually; and prior JCOPE approval is required if the amount is more than \$4,000.

### **Honoraria**

The four statewide elected officials, as well as agency heads, are barred from accepting honoraria for speeches. Other State employees *may* accept reimbursement of travel expenses or honoraria only under certain circumstances. The source of the payment is critical.

JCOPE's regulations require prior approval or subsequent reporting depending upon the nature of the payment and the position of the individual receiving the payment.

### **Gifts**

State officers and employees may not accept or solicit a gift of more than nominal value under circumstances in which it could be inferred that the gift was intended to influence or reward the recipient for performing official duties (see Attachment A).

### **Post-employment Restrictions**

- Two-year bar – Former State officers or employees may not, within a period of 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.
- Lifetime bar – Former State officers and 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 personally participated while in public service.

### **Nepotism**

State officers and employees may not participate in any decision to hire, promote, discipline or discharge a relative for any compensated position at a State agency, public authority or the Legislature.

### **Investigations**

The Commission has the power to subpoena witnesses and require the production of any relevant books or records.

### **Political Activity**

Civil Service Law ss: 107 protects State employees from discriminatory practices based on their political affiliations.

- Employees' appointments, selections to or removals from office or their employment status may not be affected or influenced by political opinions or affiliations.
- State employees may not use their State authority or official position to coerce, intimidate or otherwise influence other State employees to give money or service for any political purpose, to influence the political action of any person or entity, or to interfere with any election.
- State Offices may not be used for soliciting or collecting any political contributions.

### **Penalties**

Individuals who violate certain provisions of the law are subject to a civil penalty not to exceed \$40,000, plus the value of any gift, compensation or benefit received. In lieu of a civil penalty, the Commission may refer violations to an appropriate prosecutor for prosecution as a Class A. misdemeanor.

### **Legal Authority**

Executive Law ss: 94 created the Joint Commission on Public Ethics.

Public Officers Law ss: 73 includes restrictions on the activities of current and former State officers and employees.

Public Officers Law ss: 73-a contains the contents of the annual statement of financial disclosure and sets forth the requirements for filing.

Public Officers Law ss: 74 establishes the State Code of Ethics which prohibits conflicts of interest.

The regulations of the Commission are found in Volume 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York. (Parts 930-941)

## Resources

The Commission offers a number of resources on its website at [www.jcope.ny.gov](http://www.jcope.ny.gov).

## Getting Advice

You may contact the Commission at 518-408-3976. E-mail [education@jcope.ny.gov](mailto:education@jcope.ny.gov). The address is: 540 Broadway, Albany, New York 12207

November 2013

## Attachment A

**The following items are permissible to accept even from a Disqualified Source:**

- Food or beverage valued at \$15 or less;
- Complimentary attendance offered by the sponsor of a widely attended event\*;
- Tickets to bona fide charitable and political events;
- Awards or plaques in recognition of public service;
- Honorary degrees;
- Promotional items with no resale value;
- Discounts available to the general public;
- Gifts from those with whom there is a demonstrated familial or personal relationship;
- Contributions reportable under the Election Law;
- Travel payments for speakers at informational events;
- Local travel payments for tours related to one's official activity;
- Meals and beverages provided to participants at professional and educational programs;
- Gifts for customary occasions.

\*To qualify as a "**widely attended event**":

- Complimentary admission must be offered by the sponsor of the event, and
- 25 individuals, who are not from your Agency, attend or are in good faith invited to attend, and
- The event is related to the State officer's or employee's duties or responsibilities, or
- The event allows such individual to perform a ceremonial function appropriate to his or her position.