



Recusal Policy and Procedure

Addendum to Member's Code of Conduct

Recusal Policy:

Members of the Joint Commission on Public Ethics ("Commission") should recuse themselves from Commission deliberations or votes on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned.

Members should review on an ongoing basis for potential conflicts, their employment and other associations and relationships, abide by the Commission's recusal policy and procedures and seek guidance in accordance with those procedures when necessary and appropriate.

I. PERSONAL AND FINANCIAL INTERESTS

Recusal should occur when:

There exists any financial or personal interest, direct or indirect, that is incompatible with the discharge of the member's duties, or might reasonably be expected to impair a member's objectivity and independence of judgment in the exercise of his or her official duties.

A financial or personal interest includes, but is not limited to:

- Employment
- A debtor/creditor relationship
- A fiduciary relationship
- A source of income
- A matter pertaining to a known relative (i.e., a spouse, domestic partner or person who is a direct descendant of the individual's grandparents or the spouse of such descendant)
- A matter pertaining to a business investment or contractual relationship
- Investments, whereby a decision of the Commission could reasonably be expected to result in any material impact on the value of such investment, either positive or negative
- A leadership role or other substantial role in a professional, trade, charitable or not-for-profit organization

An incompatible financial or personal interest may exist in other situations which are not clearly within the provisions of the above, depending on the totality of the circumstances. A member is encouraged to contact the Commission's Executive Director or others for guidance.

Recusal may be required in other situations even in the absence of financial or personal interests depending on the totality of the circumstances.

II. POLITICAL ACTIVITIES

- In accordance with Executive Law §94(9-b), a member shall refrain from making or soliciting from other persons, any contributions to candidates for election to the offices of Governor, Lieutenant Governor, Member of the Assembly or the Senate, Attorney General or State Comptroller during the term of his or her service to the Commission.
- A member's nomination to office by a statewide elected official or legislative leader does not, absent other factors (*e.g.* the existence of a personal relationship between the member and elected official that could affect the judgment of the member) constitute grounds for recusal from a matter before the Commission involving such elected official.

III. OTHER MATTERS WHICH MAY REQUIRE RECUSAL

Situations where recusal may be required:

- A member should recuse himself or herself from an official matter that involves any private sector individual, association, corporation or other entity that employed or did business with the member within two years prior to the member's appointment. This recusal shall remain in effect for two years after the commencement of the member's service to the Commission
- A member should recuse himself or herself from an official matter if he or she had any involvement in that matter, prior to commencement of his or her Commission service.

IV. PROCEDURE FOR RECUSAL

At such time and in the normal course of Commission operations, a matter may require review by the Commission for consideration, guidance and possible action. Members will be apprised of the identity of all persons who may be the subject of their consideration or action, in advance of such discussion so as to afford an opportunity for appropriate recusal.

- Commission staff shall prepare a list of all persons or entities that will have matters before the Commission at its upcoming meeting.

- Such list shall be sent to members with their pre-meeting agenda and package.
- Members should review this list and identify any party that may raise a question of a conflict of interest (as defined in the Commission Code of Conduct).
- Members who recognize a conflict should notify staff of their intent to recuse themselves from any matter where they believe a conflict may exist and state their intent to seek recusal from such matter.
- Members may request Counsel to review what they believe may be a conflict and request an opinion from Counsel or other designee as to such possible conflict. Such opinion may be advisory in nature.
- Such requests for an opinion and the opinion itself shall be deemed confidential.
- Thereafter, the member shall determine if he/she should seek a recusal. The opinion of Counsel is not binding upon the requesting party and is only advisory. The final decision on any recusal is the member's alone.
- It is possible that matters may be added to the Commission Meeting Agenda before notice can be communicated to members. These additions may be the basis for a member to recuse. Staff shall be available to advise as to such possible recusal, if requested. However, the final decision on any recusal is the member's responsibility.
- If a member chooses to recuse him or herself, he/she shall so inform the Chair before the meeting or as soon as practical. The reason for such recusal should be given, but should not compromise or jeopardize the rights of any party related to the reason for recusal nor any rights, duties or privileges of the member or any party in interest.
- If a member recuses him or herself from a matter he/she will;
 - Remove him or herself from that segment of the Commission meeting wherein the matter is to be discussed and avoid discussion of the matter with other members.
 - Receive no further information from the Commission or Commission staff regarding the matter.
 - Receive copies of minutes of the meeting containing deletions so as to not disclose the matter to the member, except for those Commission matters that are part of any public proceeding or meeting of the Commission.