

**MINUTES OF THE PUBLIC SESSION OF THE
JUNE 26, 2018
COMMISSION MEETING
OF THE JOINT COMMISSION ON PUBLIC ETHICS
HELD AT
540 BROADWAY
ALBANY, NEW YORK**

Chair: Michael K. Rozen (NYC)

Members: James E. Dering (FaceTime)
Marvin Jacob (NYC)
Seymour Knox, IV (BUF)
Gary J. Lavine (ALB)
J. Gerard McAuliffe, Jr. (ALB)
David J. McNamara (BUF)
Barry C. Sample (ALB)
Dawn L. Smalls (NYC)
George H. Weissman (ALB)
James A. Yates (NYC)

Members

Absent: Robert Cohen

Staff:

Seth H. Agata, Executive Director
Monica J. Stamm, General Counsel
Martin L. Levine, Deputy General Counsel
Stephen J. Boland, Director of Administration
Keith C. St. John, Director of Ethics
Walter J. McClure, Director of Communications and Public Information Officer
Pei Pei Cheng-de-Castro, Director of Investigations and Enforcement
Carol Quinn, Deputy Director of Lobbying Guidance
Emily A. Logue, Deputy Director of Investigations and Enforcement
Stephanie Blattmachr, Deputy Director of FDS
Michael Sande, Deputy Director of Ethics Guidance
Meghann Hennigan-Cohen, Deputy Director of Education
Erin Lynch, Associate Counsel
Patrick E. Coultry, Chief Investigator
Peter J. Smith, Investigator
Richard Coraggio, Investigator
Lori Donadio, Principal Investigative Analyst
Carol Mirabelli, Internal Control Officer
Katherine Santandrea, Secretary to the Commission

I. CALL TO ORDER

Chair Rozen called the June 26, 2018 meeting to order.

II. APPROVAL OF MINUTES – PUBLIC SESSION

May 22, 2018

A motion was made by Commissioner Weissman, seconded by Commissioner Jacob, to approve the minutes from the Public Session of the May 22, 2018 Commission Meeting. The motion was approved by unanimous vote of 10-0-1. Commissioner Smalls was not present for the vote.

III. REPORT FROM STAFF

Outreach Update

Executive Director Seth Agata stated that the Financial Disclosure Statements of members and staff of the Legislature will be delivered next week by the Legislative Ethics Commission, and elected officials' statements will be posted to the JCOPE website soon thereafter. Staff are working on compliance for candidates for statewide office. In the educational area, staff are moving forward on our CLE program in October on lobbying. JCOPE will be publishing a quarterly newsletter in July. Additionally, staff continues to offer ethics trainings tailored to specific agencies.

[Commissioner Smalls joined the meeting at 25 Beaver Street.]

IV. Legislative Activities

Executive Director Agata stated that during the 2018 legislative session a piece of legislation passed both houses which would amend the Executive Law to require agencies to submit to the Department of State a list of individuals identified as policymakers based on their Public Officers Law § 73-(a) Financial Disclosure Statements. Each agency would be required to identify what percentage of these individuals are women, and the Department of State would be required to make these lists publicly available. Deputy General Counsel Martin Levine stated that this legislation would create a duplicative process that largely parallels what agencies currently submit to JCOPE. The only

difference would be that agencies would be required to complete a separate filing given to DOS that also would include the distribution of policymaking positions across the genders, an additional data point not currently supplied to JCOPE. Deputy General Counsel Levine stated that while this piece of legislation is a worthwhile endeavor, staff has found several defects in the legislation that would ultimately raise more questions than answers.

Deputy General Counsel Levine stated that this new legislation creates definitions for “State Agency” and “policymaking position” that are not identical to the definitions that JCOPE uses as prescribed by Public Officers Law. Additionally, in defining “State agencies,” the legislation excludes the Legislature and also arguably SUNY and CUNY. Staff recommends a chapter amendment that would achieve the same goals by amending the Executive Law to allow JCOPE to make publicly available the lists of policymakers that it currently receives from agencies and require agencies to include in their submissions the gender distribution across policymaking positions.

Executive Director Agata stated there was no need to re-invent the wheel because JCOPE already has a mechanism where this information is collected; the Legislature could simply give JCOPE the ability to make the information public, add this additional data point, and apply it to the same set of entities already responsible for filing financial disclosure statements (SUNY, CUNY, and the Legislature). Executive Director Agata stated that staff would like to provide a memo to the Governor’s Office regarding the staff’s stance on this piece of legislation.

Commissioner Weissman asked if there was any way to read §94 (19) (a-1) broadly enough to require agencies to disclose the names of policymakers and put that on the JCOPE website, and inquired if the information on the FDS designates if an individual is a policymaker; Executive Director Agata explained that the Executive Law §94 is very specific about what information related to FDSs can be publicized; FDSs do not include whether the filer is a policymaker; and the law does not currently require information relating to gender of policymakers to be included on FDSs. Several Commissioners and

staff discussed information within financial disclosure statements and the interpretation of Executive Law §§ 94(9-a) (a) and (b).

A motion was made by Commissioner Sample, seconded by Commissioner Weissman, to authorize staff to enter into communications with the Executive, Legislature, and the New York State Committee on Open Government at the Department of State. The motion was approved by unanimous vote.

V. NEW AND OTHER BUSINESS

N/A

VI. MOTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO EXECUTIVE LAW § 94(19)(B)

A motion was made by Commissioner Jacob, seconded by Commissioner Knox, to enter into Executive Session Pursuant to Executive Law § 94(19)(b). The motion was approved by unanimous vote.

VII. PUBLIC ANNOUNCEMENT OF ACTIONS FROM EXECUTIVE SESSION

Chair Rozen summarized that in Executive Session, the Commission discussed litigation matters, authorized communications regarding Financial Disclosure Statement compliance, approved three settlement agreements, authorized steps in several investigative matters including closing two matters, and discussed several other investigative matters.

VIII. MOTION TO ADJOURN THE PUBLIC MEETING

Upon motion made by Commissioner Jacob, seconded by Commissioner Yates, the Public Session was adjourned by unanimous vote.