



## Trainer Notes

### Comprehensive Ethics Training Course For Unpaid or Per Diem Officers of State Boards, Councils, and Commissions (CETC-UPO)\*

November, 2022

\*This version of the CETC is specifically designed for State officers who are **unpaid or paid on a per diem basis**, and are not otherwise State employees.

This course covers all aspects of the Public Officers Law and related regulations except information related to certain provisions in POL § 73 that do not apply to those who are not regular employees of the State. This course only meets the statutory training requirements for NYS Officers who are not State employees.

Additional versions of this course are available for State employees subject to financial disclosure (CETC-Full), and for State employees not required to file financial disclosures (CETC-NF). Please visit the [Ethics Officer Info Center](#) in the Education section of the Commission website to download training materials for other versions of the CETC.

## Training Guidance for the Comprehensive Ethics Training Course (CETC-UPO)

### Important Notes:

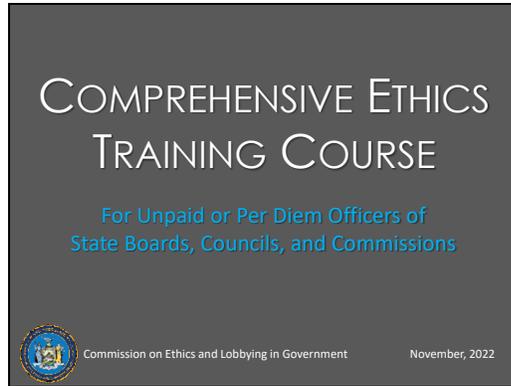
- In requesting these training materials, you agree to not hide or delete slides, or alter or modify content on the slides. You may, however, add new slides with agency-specific information without seeking further approval from the Commission.
- The CETC-UPO satisfies the training requirements only for unpaid or per diem State officers. There are specific versions available for specific groups of officers and employees, including the full version of the CETC for all officers and employees including FDS filers, a version for employees who are non-filers, and this version for unpaid/per diem officers.

### How to deliver training

- These courses are written so they may be delivered by anyone familiar with NYS ethics laws. The person delivering the course should familiarize themselves with both the presentation and the trainer notes before the first session. Each slide may be read verbatim, or paraphrased and summarized according to the needs of your participants. The trainer notes are designed to assist the trainer in understanding the flow of the material and the primary teaching points. The notes are a guide however, and do not need to be read verbatim.
- Different agencies often have their own internal ethics policies. Feel free to use this as an opportunity to share those additional policies with your staff. Additional agency-specific slides can be added in the appropriate topic areas or added to the beginning or end of the presentation depending on agency need.
- This version of the CETC-UPO will take approximately 60-90 minutes, but may take you less time depending on the number of participants and how many questions they have.
- It is suggested that you create a sign-in sheet or some other documented attendance record to help track training compliance within your agency.
- After the training is concluded, participants should be given a certificate of completion signed by your agency Ethics Officer.

### Record Keeping

- Training completion records are maintained by each agency and submitted to the Commission upon request. Please track Employee ID, First & Last Name, and date(s) of completion.
- Currently, the FDS System is not being used to track training for FDS Filers, but we hope to restore some system functionality by early 2023.
- The person who conducts the training is also credited with completing the class.



## *Welcome & Introductions*

### Trainer Notes:

- These trainer notes should be used by new trainers to help guide this training. While not written to be a verbatim script, in most cases they can be used as such.
- This course is required by Executive Law § 94 to be delivered live so that participants have an opportunity to ask questions in real time. The Trainer does not need personal expertise in State ethics laws to train this course. Questions can be redirected to the agency Ethics Officer or to the Commission Attorney of the Day.
- After the training has been completed, each participant should receive a “Certificate of Completion” that documents they have met this training requirement.
- These documents, plus updated copies of the training materials, can be found in the “Train-the-trainer” section of the “Ethics Officer Info Center” of the Commission website: [Ethics Officer Info Center | New York State Commission on Ethics and Lobbying in Government \(ny.gov\)](https://www.ethics.ny.gov/ethics-officer-info-center)
- Reference to “POL” in the notes means “Public Officers Law.”

Slide 2

**Disclaimer**

This mandatory Ethics Training is an overview of provisions that apply to State officers and employees.

**Note:** a State agency or entity may adopt its own ethics policies that are more restrictive than those covered in this course.

The information included in this training is for educational purposes only and not for the purpose of providing legal advice. You should contact your agency's Ethics Officer or the Commission's legal staff to obtain advice related to a particular issue or problem.

This course provides an overview of ethics laws and regulations that apply to those in State service.

Your agency may have more restrictive ethics policies than the state ethics laws we will review today. This is one reason why it's a good idea to seek advice from your agency's Ethics Officer.

This training is for education purposes only and is not a substitute for actual legal advice.

All applicable ethics laws, regulations, advisory opinions, policies, and guidance documents within the Commission's jurisdiction can be found at **ethics.ny.gov**

Segue: What is the purpose of ethics training?...

Slide 3

**CETC Topic Overview**

Commission Overview	<ul style="list-style-type: none"><li>• Jurisdiction</li><li>• Guidance</li><li>• Enforcement</li><li>• Training</li></ul>
Financial Disclosure	<ul style="list-style-type: none"><li>• Overview</li><li>• Deadlines</li><li>• Privacy concerns</li><li>• Extensions</li></ul>
The Code of Ethics Public Officers Law § 74	<ul style="list-style-type: none"><li>• Standards of Conduct</li><li>• Reverse two-year bar</li><li>• Negotiation of future employment</li></ul>
Civil Service Law § 107	<ul style="list-style-type: none"><li>• Politics in the workplace</li></ul>

These are the topics covered in today's presentation:

*(Review slide)*

- Commission Overview**-brief summary of the changes to the new ethics Commission
- Financial Disclosure Statements (FDS)** – overview of filing requirements that apply you
- Code of Ethics** – Conflicts of interest and how to avoid them
- Post-Employment Restrictions** – Important information for the future
- The “Little Hatch Act”** – Avoiding politics in the workplace

Segue: Let's take a quick look at an overview of the new Commission...

Slide 4



Let's begin by giving a brief overview of how the Commission works to create a culture of ethics compliance...

Slide 5

**Jurisdiction**

The Ethics Commission Reform Act of 2022 established the Commission on Ethics and Lobbying in Government (Commission). Its jurisdiction includes:

- Executive branch officers and employees, including SUNY and CUNY employees
- Four Statewide Elected Officials and candidates for those offices
- Members of the Legislature and candidates for those offices
- Legislative employees
- Political Party Chairpersons
- Lobbyists, Clients, and Public Corporations (as defined in the "Lobbying Act")

The Commission was established by the Ethics Commission Reform Act of 2022 to oversee and regulate ethics and lobbying in New York State and began operation on July 8, 2022.

- Eleven members with appointees from the Governor's Office and the State Legislature, with new appointments from the Office of the State Comptroller and the Office of the Attorney General.
- An Independent Review Committee comprised of law school deans will confirm Commission nominees from each appointing authority.
- The Commission's power to act is by simple majority vote.
- The Commission is subject to FOIL and the Open Meetings Law.

Slide 6



Although the Commission and its predecessor agencies is often described as a “watchdog” agency, investigation & enforcement is only one of its core functions. The Commission also serves an important advisory function for the regulated community. The key functions of the commission are:

*(review slide)*

Segue: Let’s review those core functions briefly...

Slide 7



A prime part of the Commissions mission is to provide advice & guidance.

Segue: Let’s look at that first.

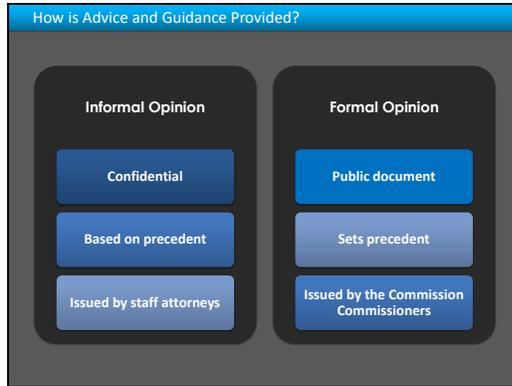
Slide 8



One of the primary functions of the Commission is to offer advice and guidance to the regulated communities under its jurisdiction. There is an “Attorney of the Day” program that offers free, confidential guidance on State ethics laws.

Segue: If you call the Commission attorneys, you will be able to get a legal advisory opinion on your situation...

Slide 9



There are two types of advisory opinions: Most of the time, you will receive an informal opinion that deals with a narrow, specific set of circumstances. They are confidential and issued by the Commission’s staff attorneys based on prior precedent. The Commission provides confidential guidance by phone and e-mail.

If your situation is unique, it may require a formal advisory opinion to address your circumstances. A formal advisory opinion is issued by the Commissioners on matters of first impression. These opinions are public documents, with identifying information redacted. Every formal advisory opinion is posted on the Commission’s website. These opinions set precedent for others in the future.

Segue: Let’s look at the core functions the Commission is best known for...

Slide 10

Agency Ethics Officer

Every State agency has appointed an Ethics Officer who:

- Provides guidance on ethics laws and policies
- Conducts reviews and approvals for certain regulated actions
- Offers live ethics training
- Manages the agency FDS Filer list
- Maintains ethics training records



Your agency Ethics Officer is a primary source of advice and guidance for questions about your obligations under both ethics laws and agency policies. Each State agency is empowered to establish ethics policies that are more restrictive than what is required by the Public Officers Law material that is covered in today’s training, so your ethics officer is your first resource for further information.

Slide 11

# INVESTIGATION AND ENFORCEMENT

The Commission also has responsibility for investigations & enforcement.

Segue: Let's talk about that next...

Slide 12

What You Need to Know

- Governed by Executive Law § 94(10)
- Enforcement proceedings are confidential until there is a finding (or settlement) against the subject. Notice to the subject is not required in the early phases before the Commission issues a 15-day letter that notifies you of an investigation.
- You are given an opportunity to respond

All investigatory and enforcement procedures are posted to our website under the [Investigations](#) tab.



While we hope you never find yourself in this situation, your rights are preserved under the investigatory process:

- Enforcement proceedings are confidential until there is a finding (or settlement) against the subject. Notice to the subject is not required in the early phases before the Commission issues a 15-day letter that notifies you of an investigation.
- You will be given an opportunity to respond to those allegations

Slide 13

Penalties for Violations

- Public Officers Law § 73-a
- Public Officers Law § 74
- Civil Service Law § 107
- Agency penalties



- Violations of the Code of Ethics in POL § 74 may carry civil penalties of up to \$10K, plus the value of any gift, compensation, or benefit received as a result of the violation (except for standards (f) and (h) which have no civil penalty. The Commission is now, however, empowered to recommend and refer for agency discipline, including suspension and termination, any violation of the Civil Service Law 107 and the Public Officers Law-including POL 74(f) and (h).
- Violations of the financial disclosure provision in POL 73-a - penalties of up to \$40K.
- Violations of Civil Service Law § 107- penalties up to \$40K
- Your agency is also empowered to impose their own penalties, including fines and termination of employment, for employees who violate ethics laws.

The civil penalties can be substantial, so seek guidance from your Ethics Officer or the Commission if you have any questions about these aspects of the Public Officers Law. Your agency can impose consequences that are even more punitive than what the law allows.

Segue: To avoid this outcome, there is an ethics training requirement...

Slide 14



This is one of the commission's core functions.

Slide 15

Purpose of Ethics Training

Awareness	Prevention	Compliance
 <p>Educate State Officers on the ethics laws, regulations, and policies they are obligated to follow</p>	 <p>Prevent both actual and apparent conflicts of interest between official duties and private interests</p>	 <p>Regular ethics training is mandated by the Executive Law and promotes public trust</p>

Our objectives are:

- 1) Awareness - what the law says, and what regulations may apply
- 2) Prevention - training is designed to prevent conflicts of interest
- 3) Compliance - training is required by law, and promotes trust in State officers and employees

Segue: Ethics Training requirements for those in State service changed in July, 2022

Slide 16

Ethics Training Requirements

- Comprehensive Ethics Training Course (CETC)
- Online Ethics Refresher Course (OERC)

**Training**  
Knowledge  
useful abilities  
backbone of ce  
quired for a tr  
day

The reason you're here today is because of the ethics training requirement contained in Executive Law § 94.

Pursuant to the new Executive Law section 94, all new officers and employees shall complete the live CETC within 90 days of appointment or employment and shall retake this live course every other year thereafter. The CETC classes are required to be "live" which means giving participants an opportunity to ask questions in real time.

The law also requires State employees to complete an online ethics refresher class in the years when you are not attending this live class. This course will provide an update on any changes in applicable laws, regulations, or policies. This course is expected to be available in 2023.

Segue: Another core function of the agency is disclosure of certain State officers' and employees' financial background...

Slide 17

**FINANCIAL DISCLOSURE**  
Public Officers Law § 73-a

Segue: One aspect of ethics laws that you all have in common is the requirement to file annual financial disclosure statements.

Slide 18

Financial Disclosure

The Financial Disclosure Statement (FDS) contains financial and professional information about the FDS Filer and the filer's spouse or domestic partner.

The purpose of the FDS is to:

- provide transparency
- prevent conflicts of interest



Let's take a brief overview of financial disclosure statements.

The Financial Disclosure Statement (FDS) is a publicly available record containing financial and professional information about the FDS filer and the filer's spouse or domestic partner.

Note: reporting for domestic partners is a change to the filing requirements from the 2022 legislation.

The purpose of the FDS is to:

- provide transparency for those in public service
- prevent conflicts of interest between a person's public duties and private financial interests and affiliations.

Segue: Who is required to file?

Slide 19

Who is Required to File?

Officers, members, directors, and employees of any State agency, board, commission, council, public authority, public benefit corporation, or legislative employees who are:

- Designated as Policymakers
- Threshold Filers (State employees who have an annual salary in excess of the filing threshold)
- Political Party Chairpersons as defined in POL § 73(k)
- The four Statewide Elected Officials, Legislators, and candidates for those offices

You're in good company. Approximately 30k people in NYS are designated as FDS filers. They are:

- Policymakers designated by agency (including unpaid/per diem members of boards, councils, and commissions)
- Employees who exceed an income threshold > CSEA Salary Grade 24, called Threshold Filers
- Elected officials & candidates
- Some Political Party Chairs

Segue: What do you have to report on your FDS?

Slide 20

**What is Disclosed?**



- Offices or any positions of authority held in a business entity or organization, political party, or political organization
- Ownership or professional affiliation with any business entity
- Ownership and income from financial interests, investments, securities, real property, and other assets
- Debts, liens, mortgages, and other financial obligations
- Certain gifts, honoraria, and other payments

Basically, all the many ways we obligate ourselves financially. Since the purpose of the FDS is transparency in order to avoid conflicts of interest, the form asks for many details of your finances.

The FDS provides transparency regarding how your connections with the private sector may create conflicts of interest with your public service.

*(Review slide)*

Segue: Transparency is an important part of public service...

Slide 21

**Things to Consider in Financial Disclosure**

Private sector individuals serving on State Boards may have more complicated financial circumstances to report than many State employees.

If you are uncertain about how to respond to any questions on your annual FDS, please contact a Commission Filing Specialist.



Even though you serve on a volunteer basis, it is still important that your service does not create any conflicts of interest between your private-sector employment or investments and your service to the State. The public has a right to know that your service does not personally enrich yourself or others.

*(Review slide)*

Segue: When is the FDS due?

Slide 22

**When is the Annual Filing Deadline?**

**May 15<sup>th</sup>**



Statewide elected officials, State officers, political party chairs, Policymakers, and State employees with an annual salary rate in excess of the job rate of a CSEA equivalent SG-24.

This is also the deadline if you want to request an extension for filing an FDS.

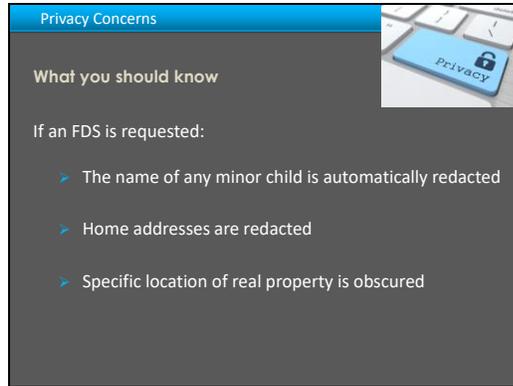
**!** Individuals who qualify for filing after May 15<sup>th</sup> have 30 days to file.

*(Review slide)*

- Most state employees & officials will have an annual filing due date of May 15.
- This is also the deadline if you want to request an extension for filing an FDS.
- When you first become an FDS Filer, you have 30 days to file for previous year.

Segue: Because FDS are public documents, this sometimes raises privacy concerns.

Slide 23



Privacy Concerns

What you should know

If an FDS is requested:

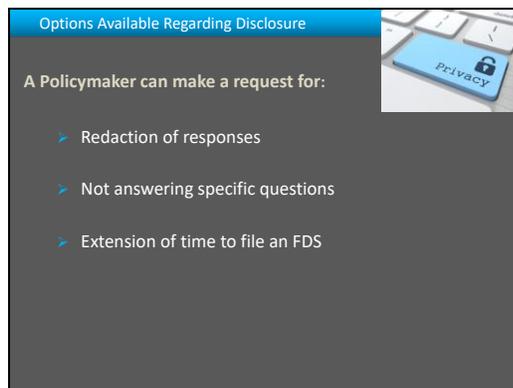
- The name of any minor child is automatically redacted
- Home addresses are redacted
- Specific location of real property is obscured

(Review slide)

- The Commission redacts the name of any minor child from the copy of the FDS that is made publicly available.
- Home addresses for paper filers are requested by the Commission for identification purposes only and are redacted for public inspection.
- For FDS questions related to real property, you may disclose the general location of any investment property, including just the street name and locality.

Segue: There are other means to keep your personal information private...

Slide 24



Options Available Regarding Disclosure

A Policymaker can make a request for:

- Redaction of responses
- Not answering specific questions
- Extension of time to file an FDS

An FDS filer can make a request to:

- Get an extension for filing – request must be made by filing deadline of 5/15.
- Redact specific information from the FDS copy made publicly available.
- Seek a limited exemption for some questions regarding a spouse or minor child.

*These requests are granted under limited circumstances*

Segue: It's important to file your FDS in a timely manner. There are consequences if you don't...

Slide 25

What If I Don't File on Time?

- > Notification
- > Notice of Delinquency
- > Civil penalty of up to \$40,000



- If you fail to file your FDS, or if you file a deficient FDS by either not answering a question or failing to respond to a question with the required specificity, the Commission will notify you. Once notified, you then have 15 days to comply or correct your filing.
- If you fail to respond, the Commission will send you and your appointing authority a Notice of Delinquency that advises you of fees and penalties. Notices of Delinquency (NOD) are made available for public inspection and kept in the filer's personnel file.
- If you fail to remedy your filing, you may be subject to a civil penalty and possible criminal referral.

NODs are also posted on the Commission website.

If you have any questions or difficulties filing your FDS before the deadline, please contact the Commission for assistance.

Segue: Any questions about Financial Disclosure Statements?

Slide 26

THE CODE OF ETHICS

Public Officers Law § 74

This is one of the most important laws we will cover today. It forms the foundation of the ethics laws and focuses on helping you as a State officer to navigate through potential ethical pitfalls. This will help you identify and address potential conflicts of interest.

We will talk about:

- guiding principles
- To whom it applies
- standards of ethical conduct, with examples

Segue: Let's get started.

Slide 27

**What is the Code of Ethics?**

**The Code of Ethics...**

- Is intended to prevent you from using your official position or authority to benefit yourself or someone else
- Addresses actual conflicts of interest, as well as the appearance of a conflict, when performing your State duties

**The Code of Ethics embodies the guiding principles of:**

The Code of Ethics will help you address conflicts of interest when performing your State duties.

Whenever we think of professional conduct in State service, we always refer to the code of ethics and ask if a potential conflict of interest exists, especially with respect to areas of concern such as gifts and outside activities.

The code of ethics embodies the guiding principles of: *(review)*

Segue: Who is subject to the Code of Ethics?

Slide 28

**To Whom Does it Apply?**

The Code of Ethics applies to all officers and employees of New York State, including:

It applies to everyone including: ... agencies, departments, divisions, boards & commissions, including:

- unpaid and per diem officers and members
- Officers and employees of “closely affiliated corporations,” listed here.

Segue: Let’s look at what the law actually says...

Slide 29

**The General Rule: Public Officers Law § 74(2)**

New York State officers and employees, members of the Legislature or legislative employees shall not...

“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 (or her) duties in the public interest.”

*(Read slide)*

General Rule: You may not use your position for personal benefit. This requires us to examine activities in context of substantial conflict between public duties and personal interests.

*(Trainer note: “Personal Interest” can be for the benefit of someone else, like friends or family.)*

Segue: Beside losing the public trust, violations of the Code of Ethics carry penalties...

Slide 30

**Civil Penalty Amount**

Violations of the Standards of Conduct may result in a civil penalty of up to \$10,000 and the value of any gift, compensation, or benefit received as a result of the violation.

In addition to civil penalties, each agency is empowered to impose disciplinary actions, which may include fines, wage garnishment, or termination.



If an investigation reveals a knowing & intentional violation of these standards, these are the penalties...

*(Review slide)*

Segue: Let's look at the nine standards of conduct...

Slide 31

STANDARDS OF  
CONDUCT

Segue: The 9 Standards of Conduct embody the rules of ethical behavior in the workplace...

Slide 32

**Impartiality Standard**

**Standard A**

You cannot accept outside employment that will impair your independence of judgment when performing your State duties.



You serve on a board that oversees a contract with a private sector vendor. As a representative of the State, you are responsible for making sure the vendor is adhering to your board's contract.

The vendor offers you a part-time position on a completely different project that does not involve your board.

Can you pursue this outside employment?

Our first standard focuses on the guiding principle of impartiality and independence of judgment when performing your state job.

*(Read example or paraphrase)*

ASK: So what do we think? Can you accept the job?

No. Even though the new position is for a different project, accepting the job would create the appearance of a conflict of interest between your duties on the oversight board and your private financial interests by accepting a paycheck from a vendor you oversee.

Segue: The next standards relate to confidentiality...

Slide 33

**Confidentiality Standards**

**Standard B**

You cannot accept employment or engage in any business or professional activity which will require you to disclose confidential information that you have gained as a result of your State position.

**Standard C**

You cannot disclose confidential information you have gained as a result of your State position to benefit either yourself or someone else.

**BEST practice**

Talk to your Ethics Officer to determine what information is confidential according to your State position.



Standards B & C really focuses on the guiding principle of confidentiality and knowing what you can and cannot disclose with respect to your State job. This varies by agency – it’s important for you to know what’s considered confidential in your job or other position.

*(Read or paraphrase standards)*

Segue: Let’s look at the next standard...

Slide 34

**Unwarranted Privileges**

**Standard D**

You cannot use your official position to obtain privileges or exemptions for yourself, including using State resources for your private business or other paid, non-governmental purposes.

You are a member of the Empire State Plaza Performing Arts Center, which recently hired a contractor to install new carpeting in the lobby.

The contractor offered a personal discount for home carpet installation to thank the board members for the contract.



Standard D is about not receiving unwarranted or undeserved privileges or using State resources for your own private business or other compensated non-governmental uses.

*(Review example)*

This is an example of obtaining an improper privilege based on your State position.

Another example: You are a member of the State Board of Elections. Professionally, you also have your own desktop publishing business. You may not use State resources for your own side business, even if you do it after hours, and even if you bring your own paper and ink. You would still be using State equipment and office space to further your own private business interests.

Segue: Let’s look at the next standard...

Slide 35

**Financial Conflicts**

**Standard E**

You cannot participate in a transaction as a representative of the State with a business entity in which you may have a direct or indirect financial interest that conflicts with the proper discharge of your official duties.



You serve as a member of the Council on the Arts, which considers grants to arts organizations.

You may not participate in a vote to offer a grant for a performing arts venue where your spouse works.

Standard E focuses on your financial conflicts of interest and making sure your private financial interests don't conflict with your public service.

*(Read example)*

Here you can see that your spouse's outside employment may create the impression that you might be unduly influenced in the grant offer process.

Segue: Let's look at the next standard...

Slide 36

**Financial Conflicts**

**Standard G**

You must abstain from making personal investments in enterprises that you have reason to believe may be directly involved in workplace decisions you may make which would create a substantial conflict between your duty in the public interest and your private interest.



You serve as a Commissioner on the Gaming Commission. You are also part-owner of a local craft brewery that is seeking a contract to provide their product to a restaurant that is located within a casino.

You must recuse yourself from Commission business involving this casino and recuse yourself from decisions regarding this contract by the brewery to remedy this conflict of interest.

Standard G focuses on your personal investments and making sure they don't conflict with your public service.

*(Read example)*

Only by stepping aside from involvement on both sides of this business transaction can the conflict be remedied.

Segue: This is a good time to talk about recusals...

Slide 37

**Financial Conflicts: Recusal**

"Recusal" means to remove oneself from participation (including discussions, deliberations, and votes) to avoid a conflict of interest.



Even the appearance of a conflict of interest might be enough to trigger the need for you to recuse yourself.

There are times, however, when recusal is not enough of a remedy.

*(Review slide)*

Consult with your agency's Ethics Officer or reach out to the Commission's Attorney of the Day for confidential guidance.

Segue: Let's look at an example...

Slide 38

**Financial Conflicts: Recusal Example**



**Advisory Opinion No. 03-09**

County Soil and Water Conservation Districts (SWCDs) seek grant funding from a State Committee on Soil and Water.

In this opinion, the Commission required a voting member of the State Committee to disclose that he was also a SWCD board member, and to recuse himself from any vote involving a grant application from a SWCD on whose board he served.

In the opinion, the Commission recognized that the Committee's enabling legislation contemplated voting members being individuals with expertise and interest in County conservation issues.

The Commission also noted, however, "that a member's judgment could be affected if he were called on to vote on a grant application in which he has a direct interest. Moreover, the public might well perceive favoritism in such circumstances even if none actually existed."

Advisory Opinion 03-09 addresses recusals for board members, and provides a good example of when that might be necessary...

*(Review Slide)*

Segue: Recusals aren't always a perfect remedy...

Slide 39

**Recusal: Things to Consider**



**What if my recusal does not permit my board/commission to reach a quorum?**

"whether . . . recusals pose an operational problem is [ ] not for the Commission to determine. The Commission has previously held that the determination of whether and when recusals reach an unacceptable level is for the State agency to make."

Recusals can have an impact on operational functions, but it is up to each agency to balance those operational needs by deciding when and under what circumstances recusals are necessary to remedy a potential conflict of interest.

*(Advisory Opinion No. 93-16, citing Advisory Opinion No. 92-10.)*

The risk in not recusing - in order to maintain a quorum - may mean the board members are subjecting themselves to potential violations of POL 74.

Segue: Let's return to the standards of conduct in the Code of Ethics...

Slide 40

**Contracting Goods & Services**

**Standard I**

You, or any entity you are a member of, or any corporation that you own substantial stock in, cannot sell goods or services to entities that are licensed or regulated by your agency.

You may also be prohibited from holding an outside job with any such licensed or regulated entity.  
*(See Advisory Opinion No. 99-08)*

**Example:**  
You are member of the Hospital Review and Planning Council of the Department of Health. Acme Hospital is regulated by your agency. You or business entities you are affiliated with are prohibited from selling goods or services to Acme Hospital.



“Standard I” says that your private business interests may not intersect with entities that are licensed or regulated by your state agency. In other words, you can’t contract for work with a business you regulate.

*(Review example)*

If you think there might be a conflict, ask.

Segue: The last two standards lie at the heart of the code of ethics...

Slide 41

**Integrity Standards**

**Standard F**

You must avoid situations that may create an appearance that you could be improperly influenced in the performance of your State duties.

**Standard H**

You should always conduct yourself in such a way that it will not appear to a member of the public that you are involved in a form of misconduct and are violating the public’s trust.



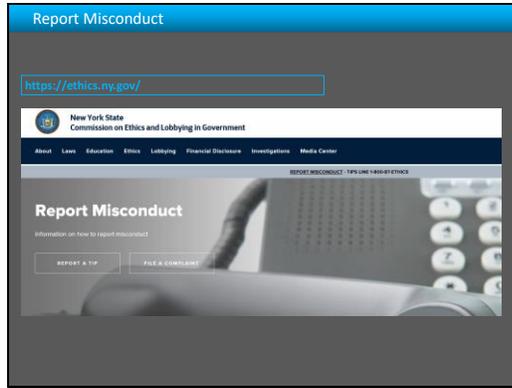
Standard F & H are sometimes referred to as the “Integrity Standards” and they set the public “optics test” for professional behavior. The two standards do not carry a monetary or civil penalty; however the Commission is now empowered to recommend and refer for agency discipline, including suspension and termination, for any violation of the Civil Service Law 107 and the Public Officers Law-including POL 74(f) and (h).

Standard F really focuses more on professional behavior... *(Review Standard F)* If it looks like you could be improperly influenced, that’s enough to violate this standard.

Standard H, again features the public optics test. *(Review Standard H)* Don’t act in ways that give the appearance of misconduct. If it might look suspicious, don’t do it.

Segue: Our professional conduct directly contributes to the integrity of State service...

Slide 42



We all play a role in improving the culture of ethics in NYS government. Remember, public service is a public trust, and we must all do our share to uphold the integrity of that service.

Today's training is an important element in educating yourself about the ethics laws you are expected to uphold. Whenever you have questions about how the ethics laws may impact you, please reach out to your Ethics Officer or the Commission for help.

And if you see misconduct occurring, report it.

Segue: Let's look at some additional applications of POL 74...

Slide 43



Now we will look at other applications of POL 74, which include the reverse two year bar and negotiation of future employment.

Segue: Let's start with the "Reverse two-year bar"...

Slide 44



This is one of the “revolving door” provisions designed to address the public perception that people enter the State workforce to personally enrich themselves using their former private sector connections.

Segue: Let’s first explain what the reverse two-year bar is...

Slide 45

A slide with a blue header "Reverse Two-Year Bar". It contains text explaining the rule, a photo of a turnstile, and a highlighted box with a case-by-case determination note.

Reverse Two-Year Bar

This rule may require you to recuse yourself from matters directly involving your former and current private business relationships.

It prevents the appearance that you may give preferential treatment to - or be unduly influenced by - these private interests.



Whether a conflict of interest results from a Board member’s private-sector connections must be determined on a case-by-case basis. However, certain factors are considered in reaching such a determination.

This affects former private sector employees who are entering State service.

*(Review slide)*

You may be required to recuse yourself for a “cooling off period” of two years. In cases where you are CURRENTLY employed, you should always recuse yourself from matters involving your current employer.

*More information can be found in advisory opinions 98-09 and 07-04.*

Segue: Let’s look at the factors that would be considered to determine if recusal would be needed...

Slide 46

Reverse Two-Year Bar: Recusal Considerations – AO 94-11

The requesting party was a member of a State Board responsible for acting on funding applications for two major programs.

The requesting party asked:

1. May a Board member who had left a private employer one and one-half years ago consider a grant proposal submitted by that former employer?
2. If the Board member ended representation of a client six months ago and does not currently conduct business with the client, is there a conflict if the Board member acts on the former client's proposal?

*(Advisory Opinion 94-11)*

This advisory opinion arose from questions by a board member regarding the boundaries of his service. These are the questions he sought guidance for...

Slide 47

Reverse Two-year Bar: Recusal Considerations

The Commission adopts a presumption that action by a member of a board concerning a former employer or business that he or she left within the last two years is a violation of § 74.

Such a presumption could be rebutted by looking at other factors, including:

- whether the board member was in an employment relationship with the applicant, which implies daily oversight and control, or was in a consulting relationship, which suggests a more temporary connection;
- whether the board member was an officer or senior official of the applicant;
- whether the board member or the applicant had a fiduciary relationship with the other;
- whether the applicant is the actual former employer or business entity with which the board member had the relationship or whether it is a related, subsidiary, or umbrella organization; and
- for how long the relationship existed.

The Commission concluded the Board member would violate POL § 74 were he to vote on an application for a grant of money in the situations described. The Board member's vote could raise suspicion among the public that the action constituted inappropriate behavior in violation of his or her trust.

*(Review bullets)*

As you can see, there are quite a few situations that might impact this decision, so please seek guidance if you find yourself in a circumstance where a potential conflict of interest might exist.

*(Advisory Opinion 94-11)*

Segue: There are other considerations when you leave State service...

Slide 48

## NEGOTIATION OF FUTURE EMPLOYMENT

Another application of 74 is the Negotiation of Future Employment, and involves restrictions that apply to both solicited and unsolicited job offers.

Slide 49

**Unsolicited and Solicited Job Offers**

As a State officer, there are restrictions on if and when you may negotiate future employment with an entity or individual that has a specific matter pending before you.

If you receive an unsolicited job offer, or if you are interested in soliciting an employment opportunity, you may only pursue an employment opportunity after fully recusing yourself from the matter.



*(Review slide)*

If you want to pursue a job with an individual or entity that has a matter pending before you, you'll have to recuse yourself from the matter and notify your Ethics Officer.

Segue: There is an additional restriction on serving in certain political offices as a State officer...

Slide 50

**Restrictions on Political Outside Activities**

Policymakers, including those in an unpaid or per diem position, are prohibited from serving as:

- an officer of any political party or political organization; and
- a member of any political party committee. For example, serving as a political party district leader or a member of the national committee of a political party.



19 NYCRR Part 932.4

Policymakers – including unpaid/per diem - must remain nonpartisan by not serving as:

- Officer in political party or org
- Member of a political party committee

Segue: The agency you represent may have additional policies on conflicts of interest and outside activities...

Slide 51

**Codes of Ethical Conduct**

Boards, councils, public authorities, commissions, and public benefit corporations whose members, directors or officers are subject to § 73-a of the Public Officers Law and are not subject to § 73 of such law by virtue of their uncompensated or per diem compensation status, shall adopt a code of ethical conduct covering conflicts of interest and business and professional activities, including outside activities.



19 NYCRR Part 932.9

According to regulations, the entity you serve on should have an additional code of ethics that addresses conflicts of interest and outside activities. Please consult with your agency Ethics Officer or General Counsel for additional information on policies that may apply to you.

Segue: The Little Hatch Act describes additional restrictions on political activity in the workplace...

Slide 52

“LITTLE HATCH ACT”

CIVIL SERVICE LAW § 107

The Little Hatch Act addresses political activity in the State workplace, and puts rules in place about what can and cannot be done at work.

Slide 53

**Political Activity in the State Workplace**

Those in State service must avoid all political activity in the workplace.

The term “political activity” means doing something in active support of or opposition to a political party, political issue, a candidate for partisan political office, or a partisan political group.



*(Review slide)*

Segue: Let’s look at some examples of what is prohibited...

Slide 54

**What the Law Says...**



You may not be questioned, directly or indirectly, about your political affiliation as a condition of employment.



State offices may not be used for soliciting or collecting any political contributions.



You cannot use your State position or authority to coerce, intimidate or influence employees for any political purpose.



If you are involved in hiring potential employees, you cannot ask questions regarding a candidate's political affiliation, political contributions, or how an applicant voted in any election.



You cannot dishonestly use or attempt to use your official authority or influence in exchange for political action on someone else's part.

(Review Slide)

Segue: Let's look at a few examples...

Slide 55

**Prohibited Political Activities in the Workplace**

Political activity that violates Public Officers Law § 74



Circulating a candidate's nominating petition within your State office



Using the computer in your State office after work to produce a brochure in support of a candidate's campaign



Sending e-mail invitations to campaign events to friends within the agency



Using New York State Internet connections to forward e-mail messages received from a partisan campaign or someone supporting a partisan candidate

In addition to Little Hatch Act, the code of ethics in POL § 74 also places restrictions on political activities. Here are some real-world examples that have been found to be in violation of POL74:

- No nominating petitions in the office – outside the State workplace on personal time is allowed.
- You can't use State resources to produce any political materials.
- You can't use State email for political communications, even to friends you know support your candidate.
- If you receive a political communication to your State email address in error, delete it and contact the candidate to give them your personal email address. Even forwarding a political email to your personal address is a violation because you have used the State's internet connections to distribute political materials.

Contact Information

-  For General Inquiries, call:  
**1-800-87-ETHICS or (518) 408-3976**
-  For Legal Guidance email us at:  
**Guidance@ethics.ny.gov**
-  For questions on Training email us at:  
**Education@ethics.ny.gov**

One of the central missions of the Commission is to provide guidance on matters of State ethics. The purpose of this training was to give you greater awareness of your obligations under the Ethics laws, but if you have any questions, please contact your Ethics Officer or the Commission.

A link to the FDS System can be found on the Commission website at <https://ethics.ny.gov/access-fds-online-filing-system>

Thank you for your attention today. The person/agency conducting this training will issue to you a certificate of attendance that documents that you have met your training obligation.

Thank you for your service to the people of the State of New York.