



Plain Language Guide to the Public Officers Law and Related Ethics Laws

New York State Commission on Ethics and Lobbying in Government

540 Broadway

Albany, New York 12207

ethics.ny.gov

November 2022

Commission on Ethics and Lobbying in Government

The Commission on Ethics and Lobbying in Government (“Commission”) was established by the Ethics Commission Reform Act of 2022 to oversee and regulate ethics and lobbying in New York state.

The Commission has broad regulatory authority and oversight over officers and employees of State agencies and departments, including commissions, boards, public benefit corporations, public authorities, SUNY, CUNY, and statutory closely-affiliated corporations; statewide elected officials and members of the Legislature (and candidates for those offices); employees of the statewide elected officials or the Legislature; certain political party chairpersons; and registered lobbyists and clients.

The Commission provides information, education, and advice regarding current ethics and lobbying laws; promotes compliance through audits, investigations, and enforcement proceedings; issues advisory opinions; and promulgates regulations pertaining to the statutes under its jurisdiction, specifically Sections 73, 73-a, and 74 of the Public Officers Law; Article 1-A of the Legislative Law (the Lobbying Act); and Section 107 of the Civil Service Law.

Finally, the Commission promotes transparency by making publicly available required disclosures filed by those persons and entities subject to its jurisdiction, including, but not limited to, annual financial disclosure statements and lobbyist and client activity and expense reports.

Disclaimer: The information included in this publication is for educational purposes only and not intended to replace legal advice. You should contact your Ethics Officer or Commission legal staff for advice and guidance related to a particular public ethics question or matter.

For your information, all applicable laws, regulations, advisory opinions, policies, and guidance documents covering subjects under the Commission’s jurisdiction are set forth in their entirety on the agency’s website at ethics.ny.gov.

Contents

Commission on Ethics and Lobbying in Government	2
Financial Disclosure – Public Officers Law § 73-a	5
What is a Financial Disclosure Statement?	5
Who is required to file?	5
What is disclosed?.....	5
Privacy concerns	5
When are the filing due dates?.....	6
Exemption and Extension Requests.....	6
Training and Education	8
Comprehensive Ethics Training Course (CETC)	8
Online Ethics Refresher Course.....	8
Public Officers Law § 74 – The Code of Ethics	9
Standards of Conduct.....	10
Other Applications of Public Officers Law § 74.....	11
Reverse Two-Year Bar	11
Negotiation of Future Employment.....	11
Public Officers Law § 73	13
Outside Activities	14
Restrictions on Political Activities	15
Restrictions for State Employees Who Own Their Own Private Business – Public Officers Law § 73(4).....	16
Restrictions on Rendering Services for State Agencies - Public Officers Law § 73(7).....	16
Restrictions on Influencing Legislation - Public Officers Law § 73(7-a)	16
Nepotism.....	16
Gifts	17
Allowable “gifts”	18
Allowable Events and Professional Functions.....	18
Complimentary Attendance at a Widely Attended Event	18
Honoraria	20
Official Activity Expense Payments	21
Post-Employment Restrictions.....	23
Two-Year Bar: § 73(8)(a)(i).....	23

Special Two-Year Bar for Executive Chamber Employees:	24
The Lifetime Bar - § 73(8)(a)(ii)	24
Three Common Exceptions to the Post-Employment Restrictions.....	25
Civil Service Law §107 and Public Officers Law § 73(17)	25
Investigation and Enforcement.....	26
Advice and Guidance	27
Need Ethics Advice or Guidance?	27

Financial Disclosure – Public Officers Law § 73-a

What is a Financial Disclosure Statement?

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

The purpose of the FDS is to provide transparency in order to prevent conflicts of interest between a person's professional duties and their private financial interests and affiliations.

Who is required to file?

- The four statewide elected officials (Governor, Lieutenant Governor, Comptroller, and Attorney General), Legislators, and candidates for those offices
- Officers, members, directors, and employees of any State agency, public authority, public benefit corporation, commission, or legislative employees who are:
 - Designated a "Policymaker" by their State agency, or
 - Threshold Filers: those who receive annual compensation in excess of the filing rate equivalent to the CSEA salary grade 24
- Political Party Chairs, in accordance with Public Officers Law § 73(1)(k)

What is disclosed?

- Offices or any positions of authority held in a business entity or organization, political party, or political organization
- Ownership in, or professional affiliation with, any business entity
 - If the business entity renders services related to certain State work, such as procurement contracts, legislative lobbying, grants, or other matters before State agencies, additional disclosures may be required.
- Ownership in, 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

Privacy concerns

- FDSs for the four statewide elected officials and legislators are posted on the Commission's website.
- Copies of FDSs for all other State officers and employees are made publicly available upon request.
- The Commission automatically redacts the name of any minor child from the copy of the FDS that is made publicly available.

- The FDS form asks for a business address only. Please ensure that you do not inadvertently provide the address of your primary residence.
- For other FDS questions related to real property, you may disclose the general location of your primary residence in lieu of the physical address.

When are the filing due dates?

New Filers

New State employees or officials whose wages exceed the filing rate or who are deemed a Policymaker after May 15 must file within 30 days of the change in salary or Policymaker designation.

Members of the Legislature, legislative employees, and candidates for the Legislature should refer to the Legislative Ethics Commission for filing deadlines and procedures.

Existing Filers

May 15th

Statewide elected officials, State officers, political party chairs, Policymakers, as well as State employees with an annual filing rate in excess of the CSEA SG-24.

November 15th

Academic employees (professors) at SUNY and CUNY who meet the filing threshold requirements.

Exemption and Extension Requests

Exemptions

If you are not a Policymaker, the Commission has the discretion to grant an exemption from filing an FDS in its entirety if:

- public interest does not require the filer's FDS to be disclosed; and
- the filer's duties do not involve the negotiation, authorization, or approval of:
 - contracts, leases, franchises, revocable consents, concessions, variances, permits, or licenses;
 - the purchase, sale, rental, or lease of real property, goods or services, or a contract therefor;
 - the obtaining of grants of money or loans; or
 - the adoption or repeal of any rule or regulation having the force and effect of law

An exemption from filing an FDS may be requested by an individual or by an agency on behalf of a class of individuals in the same position.

Exemptions may be requested through the FDS Online Filing System or by completing and submitting a writeable PDF form found on the Commission website, which must be received or postmarked on or before the filing due date.

The procedure for requesting an exemption from filing is found in the regulation - 19 NYCRR Part 935.

Extensions

You may request an extension of time to file an FDS on the basis of justifiable cause or undue hardship. Extensions may be requested through the FDS Online Filing System or by completing and submitting a writeable PDF form found on the Commission website, which must be received or postmarked on or before the filing due date.

Procedures for requesting an extension are found in the regulation - 19 NYCRR Part 936.

Exemption and Extension due dates:

All Applicable FDS Filers: May 15th

SUNY/CUNY Academic Filers: November 15th

What if I don't file on time?

If you fail to file your FDS, or if you file a deficient FDS by either not answering a question or failing to answer a question with the required specificity, the Commission will notify you.

If you fail to comply, the Commission will send you and your agency a Notice of Delinquency that advises you of fees and penalties.

Notices of Delinquency are made publicly available on the Commission website.

If you still fail to file your FDS, you may be subject to a maximum civil penalty of \$40,000 after a hearing.

In lieu of or in addition to a civil penalty, the Commission may refer a violation to the appropriate prosecutor for punishment as a misdemeanor offense.

Training and Education

Executive Law § 94(8) provides that all State employees must complete regular ethics training.

The mandatory ethics training requirements include the Comprehensive Ethics Training Course (CETC) and the Online Ethics Refresher Course.

Comprehensive Ethics Training Course (CETC)

The CETC is a live, instructor-led training that covers the Public Officers Law and other related ethics laws and regulations. New State officers and employees are required to complete the CETC within the first ninety days of their employment.

Once a State officer or employee completes the CETC, they must retake the course every two years after that.

Please contact your agency Ethics Officer for course availability at your work location.

Online Ethics Refresher Course

After completing the live CETC, State officers and employees are required to complete an Online Ethics Refresher Course the following year. The Online Ethics Refresher Course is an update on any changes in the applicable laws, regulations, and policies, or their interpretation.

Public Officers Law § 74 – The Code of Ethics

The Code of Ethics is intended to prevent you from using your State job and official position to benefit yourself or someone else.

The Code of Ethics not only addresses actual conflicts of interest, but also the appearance of a conflict when performing your State job.

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

New York State officers and employees and Legislative members and 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.”

To whom does the Code of Ethics apply?

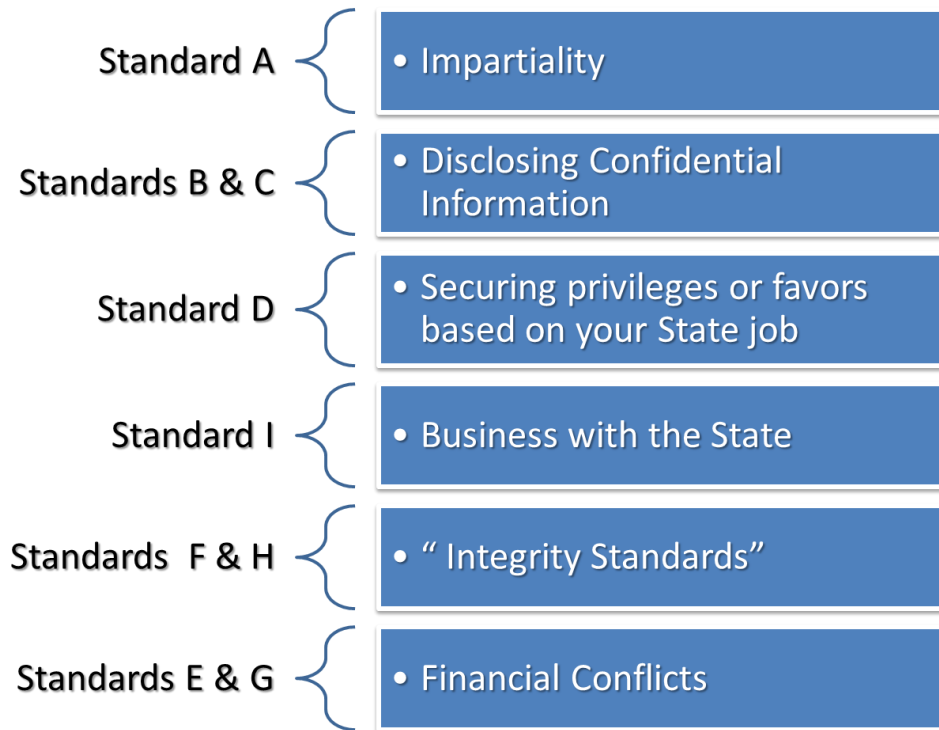
The Code of Ethics applies to all officers and employees of New York State including:

- Statewide elected officials
- Legislative members and employees
- Officers and employees of any State agency, department, division, board, commission, public benefit corporation, or public authority at least one of whose members is appointed by the Governor, including unpaid and per diem officers and members of those entities.
- Officers and employees of the following specific “closely affiliated corporations”: Youth Research Inc., The Research Foundation for Mental Hygiene, Inc., Health Research Inc., The Research Foundation of the State University of New York, and Welfare Research Inc.

“Covered Person” or “Covered Individual” is a term used to describe individuals who are subject to the rules of the Public Officers Law and any applicable regulations.

Standards of Conduct

The Code of Ethics contains nine standards of conduct. Each standard examines the types of conflicts that State officers and employees must refrain from when performing their official State duties.



Standard A - Impartiality: Covered persons should not accept other employment that would impair their independence of judgment when performing their State job.

Standards B and C - Confidentiality: understanding the types of information that may be shared with colleagues and members of the public, as well as not disclosing sensitive information to benefit yourself or someone else.

Standard D – Special Privileges: No covered person should use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or others, including but not limited to the misappropriation of the property, services or other resources of the State for private business or other compensated non-governmental purposes. **Stewardship of State resources:** preventing you from securing unwarranted privileges or favors for yourself or others based on your State job and not utilizing the resources of the State for your own personal use.

Standards E and G - Financial conflicts: refraining from making personal investments that conflict with your official duties, and avoiding transactions with any entity in which you may have a direct or indirect financial interest.

Standards F and H – Integrity standards: avoiding situations in which it may appear you could be influenced or would attempt to influence someone else, and conducting yourself in a manner that does not raise suspicion among the public that you’re personally benefitting from your official position.

Standard I – Business with the State: as a State officer or employee, you are restricted from contracting for work and/or providing goods and services to any entity that is licensed or regulated by your agency. Circumstances do exist that may allow you to work for both at the same time.

Penalties Associated with Violations of the Standards of Conduct are:

Public Officers Law §§ 74(3)(a), (b), (c), (d), (e), (g), and (i):

Civil penalty and the value of any gift, compensation, or benefit received as a result of a violation.

Violations of §§ 74(3)(f) and (h) carry no monetary civil penalty under the Public Officers Law; however, violators are still subject to disciplinary action by their agency, which may include a fine, garnishment, or termination from State employment.

Other Applications of Public Officers Law § 74

Reverse Two-Year Bar

If you are entering State service from the private sector, the “reverse two-year bar” may, depending on the circumstances, require you to recuse from matters directly involving your former private sector employer for a two-year “cooling off” period.

The Commission interpreted Public Officers Law § 74 to contain this “reverse two-year bar” in Advisory Opinion Nos. 98-09 and 07-04.

In practice, the “reverse two-year bar” prevents the appearance that you, in performing your State duties, may give preferential treatment to, or be unduly influenced by, your former private sector employer.

If your Ethics Officer or the Commission determines that recusal is appropriate, it runs for two years from the date that you terminated employment with the private sector employer.

Negotiation of Future Employment:

Solicited and Unsolicited Job Offers

As a State officer or employee, there are restrictions on when and if 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 from an entity or individual that has a specific matter pending before you, or if you are interested in soliciting an employment opportunity with such an entity or individual, you may pursue an employment opportunity only after waiting 30 days from:

- The date the matter before you closed; or
- The date on which you notified your supervisor and Ethics Officer of your intent to pursue a job offer and recused yourself from the matter and any further contact with the entity or individual.

You have a duty to notify promptly your supervisor and Ethics Officer if you receive an unsolicited job offer or if you intend to solicit a job offer from an entity or individual that has a specific matter pending before you.

Depending on the circumstances, failure to follow these requirements could result in a violation of Public Officers Law § 74 and/or the gift restrictions found in Public Officers Law § 73(5), since the promise of future employment can be interpreted as a gift.

Public Officers Law § 73

Public Officers Law § 73 establishes restrictions regarding certain business or professional activities by State officers and employees and political party officers. Public Officers Law § 73 sets forth broad guidelines and applications to the subject matter below. Additionally, the Commission issues regulations that provide additional information, procedures, and restrictions.

PUBLIC OFFICERS LAW § 73 SUBJECT MATTER	CORRESPONDING REGULATION
Outside Employment and Professional Activities	19 NYCRR Part 932
Restrictions on Political Activities	19 NYCRR Part 932
Gifts	19 NYCRR Part 933
Honoraria	19 NYCRR Part 930
Official Activity Expense Payments (Travel)	19 NYCRR Part 931
Post-employment Restrictions	N/A
Nepotism	N/A

Who does Public Officers Law § 73 apply to?

- Statewide elected officials
- Legislative members and employees
- Officers and employees of NYS departments, boards, bureaus, divisions, commissions, councils, or other State agencies (other than unpaid and per diem officers of such boards, commissions, or councils)
- Members, directors, and employees of NYS public authorities and public benefit corporations (other than unpaid and per diem members and directors of those entities)

Unpaid and per diem officers are excluded from Public Officers Law § 73; however, they are still bound by the conflict-of-interest rules in the Code of Ethics found in Public Officers Law § 74.

Outside Activities

What is an outside activity?

An outside activity is any interest or activity not related to your State employment including an occupation, whether paid or unpaid, membership on a board, or volunteer work. An outside activity occurs outside of your regular work hours and is performed without utilizing State resources.

All covered individuals – both Policymakers and non-Policymakers – should evaluate whether the intended outside activity is appropriate under the rules under Public Officers Law § 73 and is not a conflict of interest under the Code of Ethics in Public Officers Law § 74.

Prior to engaging in any outside activity, all covered individuals should seek advice from their agency Ethics Officer or the Commission concerning the appropriateness of the activity under the applicable laws and regulations. See: [19 NYCRR Part 932](#).

Approval Procedures for Policymakers for Outside Activities –19 NYCRR Part 932

Policymakers may require approval from their agency, the Commission, or both before pursuing an outside activity. In general, the requirement for prior approval is based on how much you anticipate earning through your intended outside activity.

Annual Compensation Threshold Amounts

Greater than \$1,000 requires your agency approval

Greater than \$5,000 requires Commission approval as well as the agency's prior approval submitted on the [Outside Activity Approval Form](#), available on the Commission website.

Who approves my outside activity?

For Policymakers (other than unpaid or per diem officers), the approving authority is the agency or appointing authority for whom you work.

For statewide elected officials and State agency heads, the approving authority is the Commission.

For paid Policymakers and heads of State agencies, certain outside activities may require prior approval from both their State agency and the Commission. Statewide elected office holders need prior approval directly from the Commission. Please refer to the following chart when determining the required approvals for outside activities.

Outside Activity	Required Approvals / Actions
A job, employment (including public employment), or business venture that generates, or is expected to generate, between \$1,000 and \$5,000 in compensation annually	Approving Authority must approve
A job, employment (including public employment), or business venture that generates, or is expected to generate, more than \$5,000 in compensation annually	Approving Authority and the Commission must approve
Holding elected or appointed public office (regardless of compensation) as an outside activity	Approving Authority and the Commission must approve
Serving as a director or officer of a for-profit entity (regardless of compensation)	Approving Authority and the Commission must approve
Serving as a director or officer of a not-for-profit entity:	
Compensation is \$0 - \$999 annually	Approval not required, but must notify Approving Authority in writing prior to commencing service
Compensation is between \$1,000 and \$5,000 annually	Approving Authority must approve
Compensation is more than \$5,000 annually	Approving Authority and the Commission must approve

Restrictions on Political Activities

19 NYCRR Part 932.4(a)

Policymakers, including those in an unpaid or per diem position, are prohibited from serving as an officer of any political party or political organization. (A political organization does not include campaign or fundraising committees.)

19 NYCRR Part 932.4(b)

Policymakers, including those in an unpaid or per diem position, are prohibited from serving as a member of any political party committee. This prohibition covers, for example, serving as a political party district leader or a member of the national committee of a political party.

Restrictions for State Employees Who Own Their Own Private Business – Public Officers Law § 73(4)

No State officer or employee is allowed to sell any goods or services having a value in excess of \$25 to any State agency unless those goods or services are provided pursuant to an award or contract let after public notice and competitive bidding.

Example: You are a Department of Labor employee. You also have a seasonal snow plowing business. You would be allowed to provide snow plowing services to a State entity as an outside activity if you had been awarded the contract through the State's competitive bidding process.

Restrictions on Rendering Services for State Agencies - Public Officers Law § 73(7)

You may not be paid or receive compensation in any form to pursue an outside activity before any State agency that includes any of the following:

- The purchase, sale, rental, or lease of real property, or goods or services;
- Any proceeding relating to rate making;
- The adoption or repeal of any rule or regulation having the force and effect of law;
- The obtaining of grants of money or loans;
- Licensing or permitting; or
- Any proceeding relating to a franchise provided for in the Public Service Law.

Restrictions on Influencing Legislation - Public Officers Law § 73(7-a)

Covered persons are prohibited from receiving any compensation, in whatever form, for the rendering of consulting, representation, advisory, or other services in connection with any proposed or pending bill or resolution in the Senate or Assembly.

Nepotism

Giving preferential treatment to a relative in the workplace may be considered nepotism.

§ 73(14)

State employees are banned from participating in any decision to hire, promote, discipline, or discharge a relative.

§ 73(15)

State employees are prohibited from awarding contracts to a relative or investing public funds in any security in which a relative has a financial interest.

Definition of “Relative” in § 73(1)(m):

Any person living in the same household as the covered individual or any person who is a direct descendant of that covered individual’s grandparents or the spouse of such descendant.

Commission Recommended Best Practice: Recuse yourself from any personnel decision that involve a family member or close friend.

Gifts

Generally, you may accept anything valued at \$15 or less unless your agency has more restrictive rules on the acceptance of gifts. If a gift is offered by an “Interested Source,” acceptance of the gift is generally prohibited.

What is a “Gift?”

Anything of more than “nominal value.” While not specifically defined, the Commission will generally consider something that has a fair market value of \$15 or less to be of nominal value.

A Gift includes, but is not limited to, money, services, loans, travel, lodging, meals, refreshments, entertainment, forbearance, or a promise having a monetary value.

An “Interested Source” is a person or entity that:

- Is regulated by or appears before you or your agency
- Has contracts with, or seeks contracts with, you or your agency
- Is a registered lobbyist or client of a lobbyist that lobbies your agency
- Is the spouse or the minor child of a registered lobbyist or client of a lobbyist that lobbies your agency
- Is involved in ongoing litigation that is adverse to you or your agency
- Has received or applied for funds from your agency at any time during the previous year up to and including the date of the proposed or actual receipt of the gift
- Attempts to influence you or your agency in an official action

Allowable “gifts”

The following items are not considered “Gifts” under the regulations. You may accept these items, provided that your acceptance does not violate the conflict of interest rules in the Code of Ethics. In other words, you may accept these items or services from anyone (including an Interested Source) as long as the acceptance does not create an actual or apparent conflict of interest or give the impression of improper influence.

Gift Exclusions:

- Awards or plaques in recognition of public service
- Honorary degrees
- Promotional items with no resale value
- Discounts available to the general public, or a broad segment thereof, e.g., wireless providers offer discounts to all government employees
- Gifts from those with whom there is a demonstrated familial or personal relationship such that it is clear that the relationship is not being used as a pretext to give an otherwise impermissible gift
- Contributions reportable under the Election Law
- Meals and beverages provided to participants at professional and educational programs
- Local travel payments for tours related to one’s official activity
- Food or beverage valued at \$15 or less per occasion

Allowable Events and Professional Functions

Travel, food, and lodging expenses for speakers at informational events is allowed when a governmental entity or in-state accredited institution of higher learning is paying the expenses or reimbursing the speaker, who is a Covered Person.

Complimentary attendance, including food and beverage, is allowed at a Bona Fide Charitable Event or a Bona Fide Political Event

- Bona Fide Charitable Event – event’s primary purpose must be to provide financial support to an organization that is either registered as a charity with the Attorney General’s Office (unless exempt) or qualified under section 501(c)(3) of the Internal Revenue Code.
- Bona Fide Political Event – event’s primary purpose must be to provide financial support to a political organization or a candidate for public office (as defined in the Public Officers Law).

Complimentary Attendance at a Widely Attended Event

The following conditions must be satisfied to qualify for the “Widely Attended Event” exclusion:

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

(a) The event is related to your official duties or responsibilities (this can be satisfied if there is a speaker at the event who addresses an issue of public interest or concern) or

(b) The event allows you to perform a ceremonial function appropriate to your position; and

You must inform your Ethics Officer in writing of the Widely Attended Event before the event takes place.

Things you should know

Food and beverages at Widely Attended Events are only permissible if offered to all participants.

The exclusion does not cover entertainment, recreational, or sporting activity unless the presentation addressing the public interest or concern is delivered during the entertainment, recreational, or sporting activity.

Gifts to Third Parties

You cannot redirect an impermissible gift to a third party, including your spouse or child or a charitable organization.

Multiple Gifts from same source

If you accept multiple permissible Gifts from the same source, you could, depending on the circumstances, violate the Code of Ethics in Public Officers Law § 74 by creating an actual or an apparent conflict of interest or an appearance of improper influence.

The Code of Ethics and the Gift Analysis

The conflict-of-interest rules found in the Code of Ethics (Public Officers Law § 74) apply to all State officers and employees, including those in unpaid and per diem positions. Please seek guidance from your agency Ethics Officer or the Commission to determine whether the acceptance of a gift is a violation of the standards of conduct.

Agency Policy

Keep in mind that every State agency is empowered to implement policies on the acceptance of gifts that are more restrictive than described here. Contact your agency Ethics Officer about the gift rules that apply to you.

Honoraria

What is an honorarium?

Honoraria are payments or other forms of compensation offered in exchange for a professional service or activity that is not part of your official State duties. Examples include giving a speech, writing an article, or serving on a panel at a seminar or conference.

An honorarium may include expenses incurred for travel, lodging, and meals related to the service performed.

Requests for approval must be submitted in writing to your agency Ethics Officer or other designated person before performing the service or activity. Statewide elected officials and State agency heads (including Civil Department Heads) must submit an approval request to the Commission.

Restrictions on Honoraria

State personnel, equipment, and time must not be used in preparing the service for which an honorarium is offered.

No State funds may be used to pay the Covered Person's attendance, registration, travel, lodging, or meal expenses.

If the service is to be performed during the Covered Person's official workday, they must charge accrued leave (other than sick leave) to perform such service.

If the honorarium is offered by or on behalf of an Interested Source, it may only be accepted if it is unreasonable to infer that the honorarium was intended or expected to influence the Covered Person, or was intended as a reward.

The Ethics Officer/approving authority must determine that the offeror is not being used to conceal that the honorarium is actually offered or paid by an Interested Source; and neither performing the service or activity for which the honorarium is offered nor accepting the honorarium violates Public Officers Law § 74.

Exemptions

Faculty members of SUNY and CUNY, and State officers and employees with the following titles, are exempt from the honoraria approval procedures (including the conditions for approval) provided that the service performed is within the subject matter of their official academic or research discipline:

- Research Scientist
- Cancer Research Scientist
- Research Physician
- Research Psychiatrist
- Psychiatrist

FDS and honoraria reporting

All State officers and employees, even those who are exempt from the honoraria approval procedures, must 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 their FDS for the applicable year.

Special ban on paid speeches

Statewide elected officials and Civil Department Heads cannot accept an honorarium for any speech.

Please note that not all State agencies are considered Civil Departments. See Article 5, Section 2 of the New York State Constitution.

[Official Activity Expense Payments](#)

The rules for the acceptance of a travel expense or reimbursement are found in the regulation 19 NYCRR Part 931.

A Covered Person may accept payment or reimbursement from third parties for travel and other expenses for an activity that is part of, and related to, their State job duties, provided certain conditions are met.

Payments/reimbursements for official activity expenses must be approved by the approving authority.

A State officer or employee must submit a request for approval in writing to the agency's Ethics Officer or other designated person.

Statewide elected officials and State agency heads must submit requests to the Commission.

Requests for approval must be made within a reasonable period of time prior to engaging in the official activity.

Summary of 19 NYCRR Part 931 Requirements

Mode of travel and related expenses must be in accordance with your agency's travel policy.

Payment or reimbursement from an "Interested Source" is generally impermissible.

Official Activity Expenses Payments in excess of \$1,000 (or payment in the aggregate of \$1,000 from a single offeror) must be reported on an FDS.

The agency/approving authority is required to maintain an Official Activity Approval for each approved request, and it must contain the information specified in Part 931.

Post-Employment Restrictions

Post-employment restrictions, also known as the “revolving door” restrictions, apply to all State officers and employees subject to Public Officers Law § 73.

Please note that the post-employment restrictions also apply to part-time and seasonal employees. These restrictions apply equally to a one-day or thirty-year hire.

There are two types of restrictions – the Two-Year Bar and the Lifetime Bar

Two-Year Bar: § 73(8)(a)(i)

The two-year bar creates a "cooling off" period to prevent the appearance that you could inappropriately influence your former agency. The two-year bar contains two restrictions, both of which apply for two years immediately following your separation from State service. These restrictions are aimed at preventing a former State employee from influencing a decision of, or action by, their former agency, or gaining information from the agency that is generally not available to the public.

Appearance/Practice Prohibition

You may not appear or practice before your former agency. This prohibition applies to both paid and unpaid work. Some examples of prohibited appearances or practice are:

- negotiating a contract with a former agency
- submitting a grant proposal or application to a former agency
- representing a client in an audit before a former agency

Backroom Services Prohibition

You are prohibited from being paid to perform certain services on behalf of a client that are in relation to a matter before your former agency that advances its mission, even if those activities do not involve appearing or practicing before your former agency. This prohibition applies only to paid work. There is no prohibition against performing backroom services without compensation. Some examples of prohibited services are:

- preparing documents for a private firm when it is reasonably foreseeable that the documents will be reviewed by your former agency
- assisting another person in the creation or development of an application to be submitted to your former agency
- assisting another person in the creation or development of a plan or strategy for influencing a decision of your former agency

Special Two-Year Bar for Executive Chamber Employees:

Public Officers Law § 73(8)(a)(iv)

Former Executive Chamber employees are prohibited from appearing or practicing, regardless of compensation, before all State agencies, not just the Executive Chamber.

They may, however, perform backroom services for compensation to State agencies other than the Executive Chamber.

The Lifetime Bar - § 73(8)(a)(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.”

What you need to know - The Lifetime Bar

If you participated in a specific case, proceeding, application, or transaction while in State service:

- If the same matter is before any New York State agency, you cannot ever participate, regardless of compensation.
- If the same matter is not before a New York State agency, you may perform services on the same matter provided you receive no compensation.

In accordance with Advisory Opinion 18-01, the Commission will consider on a case-by-case basis whether a large, extensive project is a single transaction for lifetime bar purposes. The Commission will consider a list of factors to determine whether the lifetime bar applies.

Not sure if you are lifetime-barred from a matter?

Prior to leaving State service and accepting new private employment, please contact the Commission for guidance.

Three Common Exceptions to the Post-Employment Restrictions

Government to Government - Accepting a position as an employee of a Federal, State, or local government entity. Exception does not apply to independent contractors retained by such government entities, or employees of corporations closely affiliated with any such entity.

Continuity of Care for Health Care Professionals - Former State-employed health care professionals may continue to treat former patients and clients at the State facility which formerly employed the health care professional. They may not treat new patients at their former facility.

Public Officers Law § 73(8-b) Exemption Certification- The Commission is authorized to approve exemptions from the revolving door provisions of the Public Officers Law so as to permit an agency to contract with a former employee to render services.

The Commission can approve a proposed contractual arrangement when the agency head certifies in writing to the Commission that a former State 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.

Civil Service Law §107 and Public Officers Law § 73(17)

Political activity in the workplace

The term "political activity" means doing something in active support of or opposition to a political party, a candidate for partisan political office (e.g., President, senator, representative, State or local legislature or office), or a partisan political group.

Prohibitions

State officers and employees may not be questioned, directly or indirectly, about their political affiliation as a condition of employment.

A potential employee cannot be asked about their political party affiliation, whether or not that applicant made any political contributions, or how that applicant voted.

No person can use their official State position to coerce, intimidate, or influence other State officers or employees for any political purpose, action, or contribution, or interfere with any election.

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

No State officer or employee shall corruptly use or promise to use any official authority or influence in exchange for political action on another's part.

Examples of political activity that would violate Public Officers Law § 74 if done while on duty or using State property include:

- circulating a candidate's nominating petition within your office
- using the computer in your office after work to produce a brochure in support of a candidate's campaign
- sending email invitations to campaign events to friends within the agency
- using New York State Internet connections to forward email messages received from a partisan campaign or someone supporting a partisan candidate

Violations of Public Officers Law § 73 and Civil Service Law § 107

Violations of the following sections of law provide for a civil penalty of up to \$40,000 plus the value of any gift, compensation, or benefit received:

- § 73(4) Selling goods or services to State agencies
- § 73(5) Gifts
- § 73(7) Rendering services before State agencies
- § 73(8)(a) Post-employment Restrictions
- § 73(14) and § 73(15) Nepotism
- Civil Service Law §107

Investigation and Enforcement

Executive Law § 94 grants the Commission authority to investigate potential violations of the State's ethics laws (Public Officers Law §§ 73, 73-a, and 74), the "Little Hatch Act" (Civil Service Law § 107), and the Lobbying Act (Legislative Law Article 1-a) as they apply to State legislators, candidates for the Legislature and legislative employees, as well as the four statewide elected officials, candidates for those offices, executive branch employees, certain political party chairs, and lobbyists and their clients.

Enforcement proceedings are confidential until there is a finding against the respondent (or settlement of the adjudicatory proceeding). Notice to the respondent is not required in the preliminary review of a complaint or referral; that is, unless and until a preliminary review is elevated to the status of an investigation. The respondent has 15 days within which to respond to any such notice.

Advice and Guidance

Commission legal staff is available to address your questions and concerns about how the ethics laws and regulations apply to your circumstances. Written guidance is provided as either a formal or informal advisory opinion. The Commission also provides advice and guidance by phone and email.

An informal advisory opinion

An informal opinion provides written guidance on your specific question or set of circumstances. The purpose of an informal advisory opinion is to determine whether a potential conflict of interest exists. An informal advisory opinion is issued by Commission staff attorneys. Answers are based on Commission precedents.

A formal advisory opinion

Formal advisory opinions are issued in cases in which the Commission is asked to answer a question for which prior formal advisory opinions do not already provide an answer. Formal advisory opinions are accessible to the public, subject to redaction of personal identifying information. Every formal advisory opinion is posted on the Commission website. These opinions address more broad issues in ethics laws.

Need Ethics Advice or Guidance?

Reach out to the Commission for guidance on how these laws and regulations impact your public service.

Call: 1-800-87-ETHICS

(800-873-8442)

Press “2” to speak to the Attorney of the Day

Agency Ethics Officers

Most State agencies have a designated Ethics Officer. Your agency’s Ethics Officer is the first point of contact for ethics-related questions or concerns. Your human resources department or counsel’s office can provide you with the contact information for your agency Ethics Officer.