

HOGAN LOVELLS RECOMMENDATIONS

1. The successor agency should require any outside activity request by a statewide officeholder to be decided by a vote of the Commissioners;
2. To the extent the successor agency identifies any misrepresentations or inconsistent information in an outside activity request before providing a response to the request, the successor agency should be required to conduct further due diligence concerning those misrepresentations or inconsistencies, and the applicant should be required to provide an explanation of the misrepresentations or clarify the inconsistencies;
3. The successor agency should document in writing the roles and responsibilities of its Executive Director and staff, and document in writing the procedures that should be followed in the event there is a vacancy in the Executive Director role;
4. To the extent the successor agency wishes to delegate authority to its Executive Director and/or staff to approve certain outside activity requests (other than requests by statewide officials, which should be decided by the full Commission), the successor agency should delineate the scope of the delegated authority in writing, including how the Executive Director and/or staff should respond to requests for information or documents from Commissioners;
5. The successor agency should create a list of information and documents that must be provided in connection with all outside activity requests, including the information on JCOPE's Outside Activity Approval Form and the underlying contract for the outside employment (including, but not limited to, the amount of compensation);
6. The successor agency should establish a standard waiting period for the approval of outside activity requests. The successor agency should also set forth the grounds on which an outside activity request may be expedited so that only requests that deserve to be expedited are expedited, with the onus on the requesting party to establish that his or her request should be expedited. The successor agency should also develop and document procedures that should be followed in connection with expedited outside activity requests;
7. The successor agency should adopt a rule requiring that any information provided by any party requesting approval from the agency in connection with such request must be shared with all voting members of the agency;

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8. The successor agency should adopt and strongly enforce rules restricting its members from disclosing confidential information provided to them, as breaches of confidentiality may undermine the agency's ability to do its job;
9. If multiple individuals are appointed as co-Executive Directors, the successor agency should document in writing how the co-Executive Directors should operate, including in the event one of the co-Executive Directors recuses himself or herself; and
10. The successor agency should adopt specific guidelines and procedures concerning recusal when employees of the agency believe they are potentially conflicted.