

**CODE OF CONDUCT FOR MEMBERS OF THE
NEW YORK STATE COMMISSION ON ETHICS AND LOBBYING IN GOVERNMENT**

PREAMBLE

As the New York state Legislature expressed in enacting Public Officers Law § 74:

Government is and should be representative of all the people who elect it, and some conflict of interest is inherent in any representative form of government. Some conflicts of material interests which are improper for public officials may be prohibited by legislation. Others may arise in so many different forms and under such a variety of circumstances, that it would be unwise and unjust to proscribe them by statute with inflexible and penal sanctions which would limit public service to the very wealthy or the very poor. For matters of such complexity and close distinctions, the legislature finds that a code of ethics is desirable to set forth for the guidance of state officers and employees the general standards of conduct to be reasonably expected of them.

In this spirit, the New York State Commission on Ethics and Lobbying in Government provides the following internal code of conduct to assist its members in conforming to the highest possible standards of public service to the people of the state of New York; and to guide Commission members in the performance of their official duties.

CONFLICTS OF INTEREST

The responsibilities of the Commission can only be fulfilled if its activities are undertaken in accordance with the requirements and spirit of Public Officers Law §§ 73(3)(b), 73-a, and 74.

No member shall directly, indirectly or through another appear or render services in relation to any matter before the Commission.

No member shall directly, indirectly or through another appear or render services against the interest of the Commission in relation to any case, proceeding, application, or matter before any adjudicative body.

No member shall be in any way or manner interested, directly or indirectly, in any contract made by the Commission.

No member shall, as provided by Public Officers Law § 74(2), have any interest, financial or otherwise, direct or indirect, or engage in any outside activity which is in substantial conflict with the proper discharge of their duties as a Commission member.

No member shall, without prior authorization by the Commission, engage in ex parte communication between them and the selection member (or their representative) who nominated them to the Commission with respect to any matter that is or may come before the Commission nor with respect to

any other matter unless the fact of such communication is promptly disclosed to the Commission in writing.

No member shall engage in ex parte communication with any person who has any interest, direct or indirect, in the operations of the Commission or in any matter before the Commission unless the fact of such communication is promptly disclosed to the Commission in writing.

RECUSAL

Members should recuse themselves from Commission deliberations and votes on matters relating to any organization, entity, or individual where their impartiality in the deliberation or vote might be reasonably questioned.

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

- **Personal and financial interests**

Recusal should occur when:

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

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

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

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

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

- **Political activities**

- In accordance with Executive Law § 94(4)(e), a member shall refrain from making or soliciting from other persons, any contributions to candidates for election to the offices of Governor, Lieutenant Governor, Member of the Assembly or the Senate, Attorney General, or State Comptroller during the term of their service to the Commission.
- A member's nomination to office by a statewide elected official or legislative leader does not, absent other factors (e.g., the existence of a personal relationship between the member and elected official that could affect the judgment of the member), constitute grounds for recusal from a matter before the Commission involving such elected official.

- **Other matters which may require recusal**

Situations where recusal may be required:

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

- **Procedure for recusal**

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

- With respect to investigation and enforcement matters, as provided in Executive Law §94(10)(b), upon notice of a complaint, referral, or the commencement of an investigation, Members shall disclose to the commission any personal, professional, financial, or other direct or indirect relationships a member of the commission may have with a complainant or respondent. If any Member determines a conflict of interest may exist, the Member shall, in

writing, notify the other members of the commission setting forth the possible conflict of interest. The Member may recuse themselves from all subsequent involvement in the consideration and determination of the matter. If, after the disclosure, the Member does not recuse themselves from the matter, the Commission, by a majority vote finding that the disclosed information creates a substantial conflict of interest, shall remove the conflicted commissioner from all subsequent involvement in the consideration and determination of the matter, provided the reason for the decision is clearly stated in the determination of the commission.

With respect to all other matters, to the extent practicable, Commission staff will undertake to list all persons or entities that will have matters before the Commission at its upcoming meeting whom Members have previously identified as potentially raising questions of conflict of interest for them .

- In addition, Members should review their pre-meeting agenda and package and identify any party who may raise a question of a conflict of interest (as defined in the Commission Code of Conduct).
- Members who recognize a conflict should notify staff of their intent to recuse themselves from any matter where they believe a conflict may exist and state their intent to seek recusal from such matter.
- Members may request Counsel to review what they believe may be a conflict and request an opinion from Counsel or other designee as to such possible conflict. Such opinion may be advisory in nature.
 - Such requests for an opinion and the opinion itself shall be deemed confidential.
- Thereafter, the member shall determine if they should seek a recusal. The opinion of Counsel is not binding upon the requesting party and is only advisory. The final decision on any recusal is the member's alone.
- It is possible that matters may be added to the Commission Meeting Agenda before notice can be communicated to members. These additions may be the basis for a member to recuse. Staff shall be available to advise as to such possible recusal, if requested. However, the final decision on any recusal is the member's responsibility.
- If a member chooses to recuse themselves, they shall so inform the Chair before the meeting or as soon as practicable. The reason for such recusal should be given, but should not compromise or jeopardize the rights of any party related to the reason for recusal nor any rights, duties, or privileges of the member or any party in interest.

If a member recuses themselves from a matter, they will:

- Remove themselves from that segment of the Commission meeting wherein the matter is to be discussed and avoid discussion of the matter with other members.
- Receive no further information from the Commission or Commission staff regarding the matter.
- Receive copies of minutes of the meeting containing deletions so as not to disclose the matter to the member, except for those Commission matters that are part of any public proceeding or meeting of the Commission.
- [Abstention from voting](#)

Abstaining from a vote should occur when:

A member believes they have insufficient information upon which to base a vote to act in an official way. In that instance, a member shall be allowed to abstain from a vote after fully disclosing to the Commission that such member is without enough specific information on which to base a decision or determination. In all other circumstances, a member should refrain from abstaining from voting on a question properly put before the Commission, since each member has a duty to express their opinion on a question by casting a vote.

- [Procedure for abstaining from voting](#)

In any instance in which a member abstains from voting on a question properly put before the Commission, that abstention shall be final and recorded with the yeas and nays on the vote, together with the reason for the member's abstention.

GIFTS AND SPECIAL TREATMENT

No member shall, directly or indirectly, solicit, accept, or receive any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, or promise, under circumstances in which it could be reasonably inferred that the gift was intended to influence the member or could be reasonably inferred as intended as a reward for any official action on the member's part.

CONFIDENTIAL INFORMATION

Members should always make efforts to protect the confidentiality of Commission activities and avoid the unauthorized disclosure of information obtained through their work in accordance with the requirements of Executive Law § 94(11). Members who intentionally and without authorization release confidential information shall be guilty of a class A misdemeanor. In addition, violations of

Public Officers Law §§ 74(3)(b) and (c) regarding disclosure of confidential information shall be subject to a civil penalty in an amount not to exceed \$10,000 plus the value of any gift or benefit received as a result of such violation.

POST-COMMISSION POLICIES

No member shall, within a period of two years after leaving the Commission, appear or practice before the Commission or receive any compensation for any services rendered on behalf of any person, firm, corporation, or association in relation to any matter before the Commission.

No member, after leaving the Commission, shall at any time appear, practice, communicate, or otherwise render services before any State agency or receive any compensation for services rendered on behalf of any person, firm, corporation, or other entity, to any case, proceeding, application, or transaction in which such member was directly concerned and in which the member personally participated during the member's term on the Commission.

AMENDMENT OF GUIDELINES

The Commission may amend these guidelines from time to time.