

NYS Commission on Ethics and
Lobbying in Government Annual
Public Hearing
March 29, 2023

Frederick Davie: I'd like to call this meeting of the New York State Commission on Ethics and Lobbying in Government's public hearing to order. I'm Frederick Davie, I'm the Chair of the Commission and I would like to turn the floor over to Anthony cut off).

Anthony Crowell: Thanks so much Chair Davie and welcome to New York Law School. I am Anthony Crowell, the DM President of the New York Law School and I also am Chair of the Independent Review Committee, as you know, known as the IRC which is comprised of the State's 15 accredited AB Law School Deans which reviewed all of your nominations to the Commission on Ethics and Lobbying in Government. Just by way of background, I teach State and Local Government Law and have substantial experience in government ethics. I served for 9 years on the City's Conflicts of Interest Board, and prior to that I served for more than a decade in New York City Hall where I was Counselor to Mayor Michael Bloomberg and my role included, among other things, serving as City Hall Ethics Council and providing oversight to the appointments process for all senior administration officials and board and commission members. Before I begin, I just want to say how appropriate it is that you're holding the hearing today here at New York Law School. NYLS prides itself on being New York's Law School, and we strive to be the state's leading law school in civic engagement and all things state and local government law including government ethics. Our law school has had many students who have graduated and gone on to help build modern New York including four mayors. In fact, one of those Mayor's was Jimmy Walker. Now I know Mayor Walker wasn't exactly the model of ethical behavior, but he did create a full employment plan for government ethics attorney and yourselves that continue to be desperately needed to this day. I like to mention Jimmy Walker because it's important to never forget his era and while the bad days of Jimmy Walker and of Tammany are over, the need to guard against corruption and unethical conduct never stops and we are sadly reminded of that frequently. That's why when the Governor and legislature established a COELIG and assigned the State's Law deems the important task of reviewing the nominees of the appointed officials, we took very seriously our responsibility to do our part to ensure our state had a body that would provide New Yorker's a government with the highest integrity and ethics whether you work inside or outside of government. My fellow dean colleagues and I greatly value the opportunity to meet with all of you during the process, and we appreciated the exceptional seriousness and deep commitment you all have to help make our state a gold standard for ethics in government. It's going to be a process to do that. But our state should have faith in this group to make it so.

The IRC began to take form in May 2022. Just yesterday, and I believe you have it, we released a summary of our activities, provided an overview of how we developed our processes and the effectiveness of the legislation in enabling us to have a meaningful role in reviewing nominations. Indeed the review process was a challenging one, while each IRC member took seriously and invested countless hours to get it right. We are pleased that the commission has 10 qualified independent representatives and deeply committed members who reflect the great diversity of our state. I would like to use this time to share just a few of our observations of the process that is detailed in your summaries and before you. Of the first year of the IRC's operations, I'd also appreciate any further input on any our process you might want to provide.

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At the outset, I'm proud that prior to our designation as IRC members, the deans enjoyed a collegial working relationship which benefitted the IRC process. The IRC members were fully engaged in the development of procedures and the nominee review process. Except when recused, all members participated on interview panels in reviewing and discussing nominees with the full IRC and voting on the nominees. Robust dialogue was always encouraged, and it was not unusual for there to be disagreement among the deans on the way we reached a final decision. No Dean ever delegated their responsibilities to an Associate Dean acting as an alternate representative as permitted by law. We believe the ethics commission format 2022, provided enough clarity and flexibility to ensure that IRC could develop and implement thoughtful and rigorous procedures that both shaped the candidate selection processes of nominating and appointing officials and allowed for public participation in the review process. The IRC members were able to effectively avoid conflicts of interest or the appearance of them with their protocols for recusals. No nominating or appointing elected official or their staff member attempted to influence the IRC's process or communicated with the IRC or an IRC member in a manner other than that which was prescribed by the IRC's procedures. In general, almost all nominating and appointing elected officials meticulously followed the IRC's procedures. To the extent any procedure was not precisely followed, the nominating elected official was asked to take corrective action to conform the procedures, which they did. The IRC's relationship with the Office of General Services was strong and the IRC was pleased with the professionalism and efficiency with which OGS undertook its role in conducting background investigations. The IRC did not receive any negative feedback about OGS from any of the nominated and appointing elected officials or the candidates yourselves under review. Timeframes set out in the IRC's procedure for the background investigation process to take place end to end was reasonable and provided adequate time for the nominee to complete and submit forms within 10 days, and for OGS and the state police in nearly all cases, to complete a background investigation within 21 days. Seven day public comment period was very helpful in allowing the public to offer thoughtful comments and perspectives on the nominees. Our only recommendation is that because the background denomination and review process was on an accelerated timetable so we could ensure that a panel was created timely, future pre-nomination processes would be benefitted by extending the comment period to 15 days to ensure fully that all elected officials could engage in a broad level of public outreach. This would allow for additional time for the public and good government groups to comment. The IRC will amend its procedures to reflect this recommendation. The 30 day period for the IRC to review a nominee after formal nomination was adequate for the IRC to complete its work and make a final determination on each candidate. And while the first phase of our work was to review initial nominations for appointment to COELIG which we will continue, the next phase of our work will begin to incorporate nominations for reappointments to the Commission. To make sure that next phase functions as seemingly as the first, we will be watching your operations and outcomes closely. Thank you so much for the opportunity to welcome you, to address you, and I'd be happy to take any questions or hear any comments.

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Chair Davie: Thank you President and Dean Crowell. We really appreciate your leadership and indeed we appreciate you're hosting us here at this venerable institution, and we look forward to continuing this process for it. Thank you so much.

I would also just like to thank the entire Independent Review Committee for the work that the committee did in helping to form this commission, we express our deep gratitude for the commitment and service that the independent review committee _____ (mic keeps going off). I would like to acknowledge my fellow commission members who are attending here in New York and have them introduce themselves. I'll start with the Vice Chair and go this way and then go in that.

Leonard Austin: Leonard Austin, (mic not working) Nassau County.

Kaylin Whittingham: Kaylin Whittingham, New York City.

Michael Cardozo: Michael Cardozo from New York City.

Nancy Groenwegen: Nancy Groenwegen.

In Albany.

Ava Ayers: Hi, I'm Ava Ayers in Albany.

Chair Davie: And also not able to join us today and perhaps maybe listening eventually by livestream is Commissioner Edward Carney who had a prior obligation that was scheduled. Commissioner Caraballo also could not be with us this morning because of a prior commitment. I also want to thank the members of the public this morning who provided and will provide testimony. We appreciate your coming out and being a part of this conversation today. As some of you know, the Commission on Ethics and Lobbying in Government is in its infancy. We are a new forward-thinking commission that has the benefit of learning from past missteps as well as the accomplishments of our predecessors. Today we will also benefit from hearing from each of you on how the commission can better do its job, uphold the state ethics in lobbying laws, and to improve public's confidence, state government is working and interest. We invite you to share how we can improve the efficiency, efficacy and effectiveness of our policies and procedures. We noted in the announcement of today's public hearing, we also welcome comments on potential or proposed changes to laws under COELIG's jurisdiction, the mission and its predecessor's rules, regulations, and advisory opinions, and recommendations to improve the structure, administration, communication, and enforcement of ethics and lobbying laws and regulations. For those who could not be here today in person or virtually to speak, we encourage them to share their feedback in writing. After today's hearing, we will carefully consider all feedback when forming the future work of how to better serve the public, our stakeholders, and entities we regulate. As said in law, the Commission administers, enforces, and interprets New York _____ (cut out). In the literal sense, this is what the commission, Executive Director _____ and the staff to _____. (when looking away from the mic it goes dead). Our charge goes far beyond that. Every member of the Commission is steadfast in their commitment to restoring the public's trust

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in State Government. It has been said, Government is a trust, the officers of government are trustees, both the trust and trustees are created for the benefit _____. Hearing testimony today, embracing feedback, we hope this is a part of the process to restore _____. Thank you again for being here today. Now I would like to turn the _____ to describe how today's proceedings will go.

Sanford Berland: Thank you Chair Davie, and thank you Dean Crowell for having us and for the work the IRC has done and will continue to do to help foster greater public trust in the integrity of state government. Welcome to each of you attending here at New York Law School, and at the Commission's offices in Albany, as well as though who will be participating virtually. Welcome to all of you who are watching the livestream. Today's public hearing is an opportunity for the Commissioners and staff to listen to ideas on how we can better carry out sworn duties, duties that we owe to all New Yorkers. Each person testifying will have five minutes to speak. We ask that you would adhere to the five minute limit out of respect for the other speakers. If you wish to proceed with additional feedback or comments on your five minutes, please send them in writing to PublicHearing@Ethics.ny.gov. So, written feedback is gathered, the commission will review the comments and provide a summary of the hearing in the coming months. The scope of work ahead of the commission is appreciable, and at times seemingly daunting. However, we are grateful for today's hearing, the opportunity to elicit comments to help guide. Before we begin, I want to acknowledge the indispensable contributions COELIG staff to today's hearing, especially that of our director in Public Affairs _____ Santos and our Acting Director of Administration _____ Ortez who are with us here at New York Law School. _____ Diaz or Deputy Director for _____ Administration is overseeing things in Albany today. I also want to acknowledge Deputy General Council Kavita Bhatt and our Director of Ethics Michael Sand who are present here today. Of course, the staff here at New York Law School who have been phenomenal. In Albany we have with us as well, General Council Keith St. John and our Director of lobbying. We are going to begin to hear testimony from those who have registered to speak. Each speaker was provided with a speaker number and we'll proceed in that order. Here in New York City will _____ please proceed to the microphone. In Albany, a staff member will unmute the microphone. In joining us virtually, please unmute your microphone _____. Speaker is here with us at Law School Rachel Foss

Rachel Fauss: Good morning members of staff of the New York State Commission on Ethics and Lobbying Government. My name is Rachel Fauss and I'm the Senior Policy Advisor for Reinvent Albany. We advocate for more transparent and accountable New York State government. First, thank you for holding this hearing as required by law. We appreciate you making efforts to reach out to the regulated community and for allowing remote testimony. To ensure that future annual hearings are both productive to you and more accessible to the public, we ask you consider a different day next year when more attendees can be available. March 29th is 2 days before the State Budget is due. Of course, it's going to be late this year, it seems, but it's a busy time for those who work for state government. But we do appreciate this is the first hearing of its kind for the Commission and as you said, you hope to learn from this hearing and others. Reinvent Albany with our watchdog colleagues opposed the creation of COELIG in last year's budget because we felt it fell short of an independent commission, in that it is

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appointed by the very people it is supposed to oversee. We continue to believe that the Legislative Ethics Commission should be abolished and support creation of a unified independent state ethics commission. We recognize the reality, the public is here however and that those who have agreed to serve as commissioners have the potential to go above and beyond what is required by the law to increase independence of the commission and we thank you for your service. Below is a summary of the recommendations for the commission and my full written testimony has some more detail.

First, Reinvent Albany and other watchdog groups have previously written the commissioners about some immediate policy changes that we request you make. First, we request that you publish open data for lobbying and financial disclosure reports that are already on your website. This would ensure that the commission is fully complying with Executive Order 95 of 2013. I will re-request that you prohibit ex parte communications, that you require commissioner approval of statewide official's requests for opinions on matters like outside income, and that you consider expanding requiring trauma informed training to all commissioners and additional staff beyond what is required in the law.

Second, on changes to state law to make our Ethics and Lobbying Laws stronger and more effective, I'll just highlight a few recommendations that we have. The requests that the Commission recommend that lobbyists have to report whether they support opposed legislation or state actions. Currently, that is not required. We support reporting of lobbying nominations that are subject to Senate confirmation. This issue came to the forefront earlier this year and we think this is something that can be relatively easily changed in the law. We support requiring lobbyists to report campaign contributions and activity. This is done in New York City. And relatedly we support amending campaign finance law, the election law to require reporting of employers of contributors. I know you may not see that as being your lane, but at the same time it would facilitate your own understanding of lobbying activities. We support expanding the prohibitions on who can serve as commissioners to this body to exclude major campaign contributors, and state vendors. We support expanding the New York State code of ethics to require a duty to report and to explicitly prohibit harassment and discrimination. And lastly, we support requiring an independent budget for COELIG. Along those lines, we support an independent review of the Commission's budgetary needs and information technology needs. We think this might help facilitate your requests for more resources in the State budget. Again, these are only some of the recommendations in my full testimony, but you have them in writing, and I thank you for the opportunity to testify today.

Sanford Berland: Next witness is Mr. David Grandeau.

David Grandeau: Good morning. I only know one of you, Nancy good to see you again. This is an awkward situation, you should have had like a _____ to put stuff on. I haven't seen you since was it Spitzer or _____ (cutting in and out) that you were working for? Nancy represented me years ago when I ran the Lobby Commission. Anyway, my name is David Grandeau, I'm an attorney and the previous Executive Director of a dozen years of one of your predecessor agencies, the Lobby Commission. That commission was called by the New York Times the only aggressive ethics enforcer in Albany and by the good government group NYPIRG as the most effective public integrity policemen

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ever. I don't say this to be arrogant, although I am, I say it because I know what it takes to run your agency well, is the right people. Blair Horner from NYPIERG and I have had this argument for over a decade. I believe it's the people that make your agency work. He believes it's the process. Since the good government groups have managed to get their way and get your agency the way they wanted it, we're going to find out shortly whether he was right or I was right. But we'll see. In addition to my previous experiences, I have for the past 15 years run a consulting practice that represents over 200 lobbyists and clients. Those clients and lobbyists file over a combined 4000 reports with your agency, similar number with New York City's Lobby Bureau. Lobby Bureau I might add that quite frankly you guys could learn an awful lot from. With far less resources than you have, they have developed a far more efficient online filing system that does many of the processes that you are still trying to accomplish after 5 years and millions of dollars in your system. For example, they have a termination button. Give them a call, figure out how they did it. 4000 filings that my staff and I process represents close to 10% total filings that your commission handles. In other words, we're one of, if not the largest consumer product. Organizations that don't listen to their largest customers do not survive. When was the last time any of you went to a block buster, or for that matter, filed a lobby registration? Have any of you ever tried to file a lobby registration, any of the commissioners? Anybody? You're allowed to answer, right? Dialogue. Have you ever tried to file? Seven months you've been commissioners and you haven't tried to use the very system that your entire regulated community has to live with. I suggest you do try it. You'll find out that many of the problems that we are experiencing are caused by or could be fixed by the people that are here. Anyway, I want to illustrate to you the importance of the people in charge of ethics and I think to do that, we should explore how some of you have acted in the few short months you've been here. Let's start with your financial disclosure statements. Those financial disclosure statements in my experience are extremely illustrative of how public officials handle their responsibilities. As I'm sure, all of you know the law requires that you file those statements for the preceding year by May 15th, or within 30 days of your beginning state service. None of the original 7 members of this commission filed their financial disclosure statements on time, not a one of you, which quite frankly was surprising to me because your Executive Director should have informed you and told you that you had this requirement. He faced the same requirement when he was first hired by JAJO, failed to do it, autumn in his public affairs office, or what'd you call that guy your press, anyway they lied about it. I filed a complaint. You probably could look for and see that complaint cause nothing was ever done about it. But he knew about this, he should have told you. Anyway, the original 7 commissioners, Commissioners Carney, Edwards and James all missed the 30-day deadline and filed in mid to late October. The other four are far more interesting. Now, how do I know this? I FOILED your financial disclosure reports. I waited until October when the 30 days had run, submitted the FOIL and then had to wait until I believe late November and I had to make a phone call to get that FOIL fulfilled. Anyway, Commissioner Austin, you submitted your report on July 14th which is fascinating because you weren't even nominated until 22 days later. How did you submit it ahead of time before you were even nominated? Assume it was part of the vetting process, you can go call someone to get me out of here. This is important stuff. This is important stuff; can I have your time? Yeah, I'll have her time. You didn't file it on time.

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Sanford Berland: We have other witnesses.

David Grandeau: I know you've got a dozen of them, and you have 4 hours.

Sanford Berland: You're welcome to submit written comments and supplement your testimony any way you wish. But out of...

David Grandeau: Can't hear mic not working.

Sanford Berland: Mr. Grandeau, you're welcome to submit a written supplement to your testimony. Mr. Grandeau, we're going to stop the livestream at this point.

Chair Davie: And then if you want to submit your testimony, you can submit your written testimony, but you're not going to hijack the process that we've agreed to. You knew the rules before you came in here, and we expected you to adhere to them. The livestream is done and then please go ahead. The next witness, please.

Sanford Berland: Witness #3, Professor Ieta Sigh of Farmingdale State College.

Aida Sy: Thank you very much for the invitation. I am here today because of my profession. I am a nurse director, I work at Baruch College where I was a director of the internship program as well as a professor for finance and taxation. Many of my students from Baruch are now working, they are in business, they are doing well. And they contacted me during the election about Congressman George Santos. They were very, very upset about the issues of Baruch College and Baruch College Volleyball Team. The Congressman, among other lies, said that he was a part of the volleyball team, he helped Baruch Bearcats team to beat Yale and Harvard and then he gave himself so much that after that he have to have a knee replacement, all lies. He didn't do that, and that really the students found themselves alumni's and current students. I'm _____ my student, I am not working, I moved to SUNY Farmingdale, but those students who are now in business, they just didn't think it's fair. They contacted me, they asked Professor, can you do something about that? Can you write to Washington to ask Congress to have some kind of law. But presently the misuse of institutions of education. They didn't like to see Baruch on Saturday night live you know making the joke of the congressman, but somehow it's their school. And it's a good school. That's why I'm here today. If really you can do something with this Commission can do something about that, if you can take it to Washington to ask law makers to pass a law and to talk to political parties telling them they have to have a background check. If somebody comes say, "I graduated from Harvard, I am running for the Republic Party or Democratic Party" they have to have a background check. Maybe I don't know but I don't see that problem addressed. It's all done by comedians, but come on, this is serious, this is education. Okay, that's why I'm here. I don't have anything to say more but, it's hurting those students. If you can just keep this in mind. Thank you very much. And I appreciate the committee, it was very kind of you to invite me. Thank you.

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Chair Davie: Thank you. And just let me say while we empathize with you and sympathize with the students and what they perceive and the disparagement that's come upon their school because of the actions of Congressman Santos, we don't have jurisdiction over US Congressional candidates or representatives in New York State in that regard. So, we do sympathize with how this situation had had an impact on your students or your former students. But what's going on there is outside our jurisdiction and I would encourage you to talk to US Congressional representatives about that.

Sanford Berland: Thank you. Our next witness is Ben Weinberg, Director of Public Policy at Citizens Union.

Ben Weinberg: Good morning, Commissioners. My name is Ben Weinberg and I am the Director of Public Policy at Citizens Union. We greatly appreciate the opportunity to testify before the Commission today in its first annual hearing. Citizens Union has long focused on the conduct of government officials attempting to ensure that the public is represented by persons whose behavior is above ethical reproach. In our work we have joined with other civic groups and advocates, a number of which are also testifying today or submitting written testimonies. We are generating support and recommendations of our colleagues and have chosen to focus on a few issues for which we have been advocating. The history of achieving effective ethics regulation in New York has been fraught with this commission being the fourth agency in recent years created to meet that responsibility. When COELIG was being created, we express concern that their appointing mechanisms still left the responsibility directly with the official who the commission must regulate, even with the review process by the Law School deans. We are hopeful that the commission will demonstrate its independence from those appointees as it pursues its work. One means of fostering this independence is to assure that there is no ex parte communication between commission members and those who appoint the commission, or their representatives with limited exception such as communication with target _____ investigation. Disclosure of ex parte communications involving this commission's predecessor Jacob seriously undermined its credibility. An ex parte ban would help make clear both to government employees and the public that appointing authorities have no special access or sway over the commission. We recommend the commission pass a resolution establishing that ban. Other means of demonstrating independence and credibility for the commission to have a firm hold on the procedure for providing advice to elected officials and high-ranking officials. The Spector of former Governor Cuomo's book deal hoovers over the commission though the approval was given under Jacob, commissioners can not leave such decisions solely to the staff. We note this issue is under active consideration by the commission and support reexamining the process of rendering advisory opinions. Further measure of accountability would require legislative change. We believe that once the commission determines that there is credible evidence of a violation and proceeds to a due process hearing, that hearing should be public. We recognize the importance of maintaining privacy prior to the issuance of such a finding, but we believe once the finding is made, the balance shifts towards having this quasi-judicial process open to public viewing subject to exceptions, of course, as in a judicial process. We note that in New York City, the New York City Conference of Interest Board believes once a violation was committed and a settlement cannot be reached, the case proceeds to a public hearing. The related matter involves disclosure of the status of investigations, we believe the

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commission should develop clear rules to regulate when and what ways it discloses the existence and progress of an investigation. Such rules should balance the privacy concerns of those involved in the case, and the public and in some cases, the complainants' right to know. The commission must walk a fine line between protecting the privacy of complainants and respondents during the pendency of an investigation and demonstrating that it is aggressively doing its job. We recognize the commission is mindful of avoiding drawn on investigation and should consider setting expeditious timelines for its procedures. Two additional legislative proposals are worth the commission's consideration. First, regarding the lobbying law; signs in lobby's should be required to report the lobbying support during a position to a matter. This would provide a better idea to the public of how lobbying resources are used. In addition, we support legislation which was mentioned before to expand lobbying regulations to include lobbying regarding nomination or confirmation of Senate confirmed nominees. We also believe lobbyists should be required to disclose their fund raising or political consulting activities and lobbying reports. Such disclosure can include the names of candidates or elected officials to whom lobbyists provided services and the amount of money raised in fund raisers organized by lobbyists. Finally, we are concerned about the major ethical loophole that permits individuals and entities doing business or seeking to do business, is this the 5 minutes?

Chair Davie: We do have a much more subtle way of letting you know it's 5 minutes. We'll figure out what's happening.

Ben Weinberg: I get the hint. Okay I'm actually finishing. I was talking about legislation around individuals and entities doing business or seeking to do business with the state not allowing them from making sizeable contributions to officials involved in decision making regarding the business opportunity. Decisions involving hundreds of millions in state funding has been tainted by such contributions leading the public to question whether decisions to spend taxpayer funds are made solely on the basis of merit. We recommend the commission consider approaches to curb such contributions; one approach has been adopted in New York City where those doing business with the City are sharply limited in the amount of contributions they can make to local candidates. In other states like New Jersey and Connecticut, other states also bar individuals or entities that have, in recent past, from getting or seeking contracts from an official who they contributed to. We believe either approach would foster more integrity in government.

Chair Davie: Sorry for the interruptions but if you could conclude that would be great.

Ben Weinberg: I cannot top that anyway. Thank you very much and we look forward to working with the commission.

Chair Davie: Thank you.

Sanford Berland: Next witness is number 6, Robert J. Bishop, LLT.

Robert Bishop: Good morning. Pleasure to talk to you from beautiful sunny Albany and I'm sure you all would rather be in Albany than down in Manhattan right now. My name is Bob Bishop, I'm

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accompanied by my colleague Teresa Cosgrove. Just to put it in perspective, I've been complying with lobby laws since about 1978 and our philosophy at our firm is to completely comply with the spirit and the law and work very closely with the staff and thank them for their cooperation in the issues that come up on occasion. I'm going to limit my testimony to our current experiences in complying with the mandatory training requirements. As far as substantive issues as to what should be in the law, what should not be in the law, that's not really my concern. What is in the law and how to comply with the law is really what we care about doing. And we try and do it in the most efficient way possible. Just as a point of perspective, we have roughly 100 clients, our clients collectively represent hundreds of thousands of New York State individuals, members of labor unions and other portions of corporations, and our clientele is fully representative of the state's demographic patterns. Now, just to go forward and we do represent of the 100 clients, roughly 70 are paper filers. The online training course is easily accessible, adequately provides and overview of responsibility, but unfortunately, the training including content and access has become secondary to the certification process. The result has been a growing reluctance amongst our paper filers to even consider moving to an electronic filing system, and quite frankly it would make my life a lot easier, it would make Teresa's life a whole lot easier if they would all embrace the electronic filing. But the certification process has just become problematic. Most of our participants have never registered for a New York Gov ID and they find that process to be confusing and somewhat invasive. They don't like to give up their driver's license, they don't like to give the four digits to their social security number. The ones that do hold a New York Gov ID because they have done business with the Department of Motor Vehicles or the Tax Department, often have a different e-mail address than their business e-mail address, and they experience trouble with requires actual intervention by COELIG staff, on a case by case basis which, as you might imagine, with the thousands and thousands of registrations you're dealing with and training requirements, is very burdensome on staff and then on those of us that try and expedite that. The COELIG database appears not to have been consistently updated for the paper filers. Even the clients have been audited in the past, find that their current chief administrative officer designation is not in the database. Our firm, particularly Teresa Cosgrove again, has worked in good faith to try and update the client CAOs with the commission and it sounds like it should be easy, it's not always easy. Again, those amendments that have been submitted historically on paper tend not to get into the database when change CAOs and we'll have I'm thinking of one client in particular, the listed CAO is from two government administrations prior, and the current administration it took us with the fellow who is very adept at being a New York Gov ID had about 3 different ones, it took us about I don't know a total of 12 hours on our side and COELIG staff to get it straightened out so that he could be properly registered. We have people that are no longer associated with the clients as Chief Administrative Officers and we have lobbyists still receiving notices when they're no longer active along with those CAOs as to whether or not their training has been completed. if clients do update their CAO and they often inform them the training is not yet required for that person or it can't be certified for that person because an individual that's previously listed must still receive training. Again, addressing that situation requires actual intervention by the staff, and it works out eventually but it's awkward. My recommendations with regard to this is that you should eliminate the reliance on the New York Gov ID for certification. I think you should require the trainees to keep the

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screen shot produced by the online program as it's done with the state's mandatory sexual harassment training. Allow anyone who takes the course to receive the final completed screen shot, don't worry about whether or not they're the ones that are going to certify on behalf of the organization. Currently, the newly designated CAOs recently registered lobbyists are informed that they don't need to be trained yet upon their attempt to certify. And addressing this situation probably is easily done when we reach out to COELIG staff to take affirmative action, but quite frankly it's more detail than is necessary. I suggest that you allow certification of the fulfillment of training requirements via check box on the next required filing. It would be similar to the method that attorney's use when they certify at CLE. I'm done and thank you very much.

Chair Davie: Thank you so much.

Sanford Berland: Next witness number 7 Mr. Nicholas Cardijana, Ethics Officer _____(cutting out)

Nicholas Cartagena: Good morning commissioners. My name is Nicholas Cartagena and I am the Council for the New York State Public Campaign Finance Board which oversees the state's new small donor public financing program designed to foster participation in the democratic process. Additionally, I am also the ethics officer for the New York State Board of Elections which generally oversees elections in New York State. I give this testimony on behalf of myself and the co-executive Directors of the New York State Board of Elections. First and foremost, I want to express my deep appreciation for the New York State Commission on Ethics and Lobbying in Governments and the critical work that you do. I understand the significant challenges presented by the recent amendments to the ethics law particularly the requirement that staff hired after July 9, 2022, receive ethics training. From a state agency perspective, keeping track of new hires, monitoring attendance at trainings, and verifying financial disclosure requirements can be a time consuming and complex process, particularly when ethics officers are juggling other primary duties. While I appreciate that the commission I actively working on developing a system to manage these challenges, I urge that the system be designed with ease of use in mind, so that ethics officers like myself can more effectively fulfill their duties and ensure that all staff are receiving the training they need to uphold ethical standards in our government institutions. I also appreciate the work the commission has done to create a general ethics training for all employees. However, in my experience, I have found that the current model training seems mainly designed for employees who are required to file financial disclosure statements and may not be optimal for general employees. In my experience, the trainings have been a bit technical and dry for the ethics message to really resonate with the average employee. To address this issue, I recommend that ethics officers be granted greater flexibility in editing the model training to suit the needs of their specific agency. Currently, ethics officers are only permitted to add to the presentation but are not allowed to cut anything out, which limits their ability to tailor the training to their agency's needs. Again, ethics officers can add to the training but the current training presentation is currently at 1 ½ hours making it difficult to add additional slides to the presentation without making the training unduly long for the average employee. Now, fortunately the recent amendments to section 94 of the Executive Law has eliminated

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certain requirements of the trainings, specifically that the Commission has to design a 2 hour training. I believe this gives the commission increased flexibility in designing its training. I suggest that the commission design streamlined training for general employees, preferably under an hour. The commission could design a training in a way that makes some slides optional where the ethics officer could have the discretion in swapping out certain slides for agency specific slides. This will allow agencies to add their own examples and slides making the trainings more engaging and relevant for staff. For example, for my agency, for staff that works in Campaign Finance, I would design examples to include political campaigns, PACS and independent expenditure committees. For staff dealing with Elections Operations, I would include examples that include election system vendors including vendors that manufacture voting machines, E-poll books, and other similar equipment. By providing greater flexibility to agencies, the ethics rules we're trying to instill are more likely to sink in and be applied in practice.

Now, as far as legislation, I would recommend that the law be further amended to allow for online trainings in addition to live trainings for general employees. If designed correctly, online trainings can be just as effective as live trainings and can be a helpful addition to the current requirements. So, in conclusion, I would like to thank the State Commission for your time and service, and I urge you to consider my recommendations, particularly for improving ethics trainings for all staff. Thank you.

Chair Davie: Thank you, next witness please.

Sanford Berland: Number 8, Mr. Evan A. Davis, Senior Council, Manager of the Need to Reform State Constitution. Mr. Davis will be _____(keeps cutting out).

Evan Davis: Can you all hear me? I am appreciative of this chance to share my views. I coming to you from the north country, Westport, New York in the Champaign Valley and it's great to see you virtually. A couple of days ago, I was going through old boxes of documents dating way, way back, and I came across this. This is the report of the Special Legislative Committee on Integrity and Ethical Standards of Government. Sometimes it's called the Rockwood Committee dated March 9, 1954. And I have this because my father served as Chief Assistant Council to this committee. And I was struck that one of their proposals which was adopted as Chapter 696 of the Laws of '54 was what is now section 74 of the Public Officer's Law. And one difference between what we have now and what they proposed which was adopted in '54 is they made no distinction between the various standards, and now we have a distinction because two of the standards have been downgraded to only subject to disciplinary action. That was not in what my father worked on. And I urge strongly that that be corrected and that all the standards be put on an equal footing. I want to say about two other things; one is the independence issue. New Yorkers are justifiably skeptical of the independence of your commission, and its your job to overcome that skepticism by bending over backwards to demonstrate above any question your independence from the people who appointed you. The days when an appointing authority would say, "Well my commissioner has been told to do this or that" are over. And the appearance of that has to be absolutely ironclad. So, I would urge that you adopt a regulation, a rule of procedure that goes beyond what the law requires and make ex parte contact absolutely prohibited in either direction. I think it

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would help. The second is, I wanted to urge you to be proactive in your work. I think it would be great if the commissioners participated personally in some of the training to explain the fiduciary duty public trust concept that the Chairman opened our meeting referring to. And to explain the appearance standard, because we're trying to improve public confidence, we have to work under how it looks and not just how it actually is. I urge you to amend your compensation regulation to make it clear that a commissioner can be compensated for attending traveling to and attending, and participating in training sessions to help spread the word in a proactive way.

Finally, quickly, on reporting. I think that one of the things the commission needs to do is make clear that it encourages people to report misconduct. Right now, if you click the reporting button on the first page of your website, you do not get a friendly reaction, you get a "Have you carefully considered whether we have jurisdiction over this? Here is a long list of other agencies you might want to consult." You should take in and encourage all reports of misconduct, most often misconduct if it's also criminal has an ethical component because of public trust that has been breached. So, I would urge you to improve the website to make it friendly and encouraging of reporting misconduct rather than immediately bringing up a bar, "Are you sure you want to do this?" Thank you very much for hearing my thoughts. God speed to you in the important work you're doing.

Chair Davie: Thank you sir.

Sanford Berland: Thank you. Our next witness is number 10, Sheryl Ahamam, Director of Sociology at the New School. Sheryl Ahamam will be testifying virtually. I don't know if Marlana can tell whether there is a link.

Marlena: I do not see Sheryl. I would probably move on to the next person and I'll let you know if she comes on.

Sanford Berland: Alright, thank you. Number 11 Michael F. Canders, he is the Director of the Aviation Center at Farmingdale State College. Mr. Canders is on the WebEx link.

Marlena: I would also move on at this time.

Sanford Berland: Go back to Elena Sassower, Director of the Center for Judicial Accountability. Ms. Sassower.

Elena Sassower: _____ can't hear not speaking into mic)

Female: We can't hear in Albany.

Chair Davie: And please know Ms. Sassower, you will get 5 minutes just like everyone else did and at that point the livestream will go off, if you want to continue to speak you can. Let me just be clear with our technicians. Ms. Sassower can 5 minutes to speak as everyone else has, the end of 5 minutes we will discontinue livestream and she can continue to give her testimony if she wants or she can submit it as well. Thank you.

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Elena Sassower: I am Elena Sassower, Director of the Nonpartisan, nonprofit Citizens _____ Center for Judicial Accountability. Our website is www.judgewatch.org and from it's left side panel testimony, you can find a link for this testimony, and the open and shut prima facie evidence substantiating it and the complaint that I will be filing based thereon against you to you for our substantial neglect of duty and misconduct in office from your first meeting last September 12th to date, 6 ½ months later, arising from your willful violations of Public Officers Law 74 describing conflicts of interest that is your duty to enforce as to others. And of Executive Law 94.10B explicitly mandating that you each disclosed personal, professional, and financial conflicts of interest with respect to complaints and recuse yourselves or be recused by vote of your fellow commissioners. The very first complaint the commission received upon replacing Jacob on July 8th, 2022, for the 8 I submitted on its day 1 by a single letter. All 8 complaints involved the false instrument reports by which New York's Executive and Legislative Electives procured pay raises for themselves and for judges and district attorney's embedded in the state budget that they have run off the constitutional rails to steal more tax payer monies and subvert constitutional lawful governance through massive insertions of nonfiscal, nonrevenue producing policy. Truly no complaints the commission thereafter received mostly approaches in magnitude and breadth any one of these 8 complaints, let alone all of them. The first 7 of these complaints were a refiling of complaints I had filed with Jacob, as to which Jacob in violation of its mandatory duty under the Executive Law that established it, had not sent out a single 15 day investigative letter. These 7 complaints are the first 7 exhibits in CJA's correction irradiating lawsuits, CJA against Jacob et al commenced by a June 6th, 2022, verified petition. The sixth cause of action is to void this commission as enacted unconstitutionally and through fraud via the state budget who with the ulterior purpose of stripping complainants of rights enforceable by mandates with respect to 15 day letters, and in so doing, to insulate from accountability the 7 public officers who appoint commission members. As for the 8th completely new complaint, it was against one of those 7 public officers who with the other 6 is a respondent in CJA against Jacob namely Attorney General James and its basis is her litigation fraud in CJA against Jacob and furtherance of her own false instrument pay raises and theirs. The commissions original 6 commissioners are Cardoza, Groenwegen, James, Austin, Carney, Davie, and Edwards. 6 of the 7 if not all 7 knew of these first day complaints since at least last August 4th. That is when I sent them an e-mail, which as to know Vice Chair Austin bounced back, attaching two letters to the 15 law school deans of the independent review committee to which they were cc'd. These apprised the would be commissioners of what the independent review committee had known since my first June 12th letter to it's deans, namely that CJA against Jacob is dispositive, that the budget born statute establishing this commission must be voided as a matter of law. It also eluded the would be commissioners that the public officers who had appointed them had corrupted the vetting process, and that the independent review committee deans were collusive in this and were violating conflict of interest protocols including as set for by Executive Law 94-3J. The second of my two August 4th letters detailed the conflicts of interest requiring disclosure and disqualification that would be commissioners would face with respect to the 8th complaint. One, would be Commissioner's Cardoza, Groenwegen and James had colluded in the public corruption involving the pay raises, the budget and the AG's modus operandi of litigation fraud that are the _____ of the complaints. And I had furnished their appointing public officers with written comments opposing their

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proposed nominations without response from the appointing public officers. Two, would be commissions Austin and Carney as former judges have huge financial interests in the complaints because as beneficiaries of the judicial pay raises that the complaints established to be fraudulent, they face claw backs of approximately half a million dollars each. Three, would be commissioners Davie and Edward are also financially interested in the complaints because Executive Law 94.4F times commissioner's per-diem allowances to a salary of a justice of the Supreme Court and the complaints established the fraudulence of \$80,000 of that salary. And what did the 7 original commissioners do in ace of this August 4th e-mail, and my subsequent e-mails to them, on August 22nd and October 6th, as James unremitting litigation fraud (Webex off)

Chair Davie: Thank you. I want to on behalf of the commission, I want to thank each of our speakers for providing their comments today. I would also like to note that some of our speakers provided additional written testimony and we received written comments from Linda Mieas, and Blair Horn. Again, we appreciate all of the people who spoke today, we appreciate them for taking the time to share their comments as public feedback, and we believe that this feedback is paramount to our being able to create an effective government that the people of the State of New York trusts. With that, if there are no more comments, questions, from the Commissioners, we'll entertain a motion to adjourn this meeting.

Male: So moved.

Chair Davie: Is there a second? Hearing a motion and a second, all those in favor of adjourning this public hearing please say aye.

All: Aye.

Chair David: Opposed, no? Ayes have it. This meeting is adjourned, thank you all for coming. We will discontinue livestream and then if any other people want to speak, Mr. Grandeau and others, we'll be happy to hear you. Thank you.