



New York State Commission on Ethics and Lobbying in Government

Frederick A. Davie
Chair

Sanford N. Berland
Executive Director

The Commission on Ethics and Lobbying in Government Items to be Considered for the 2024 Legislative Agenda

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ETHICS AND LOBBYING

1. Accessorial Liability (Executive Law, Public Officers Law, Civil Service Law and Lobbying Act)

- **Recommendation By:** Staff and Reinvent Albany in comments for 3/29/23 hearing
- **Proposal:** Amend laws to expressly prohibit individuals and entities under the Commission's jurisdiction from soliciting, aiding, or importuning another to engage in conduct that violates the State's ethics and lobbying laws. The Public Officers Law and the Lobbying Act do not expressly authorize COELIG to pursue individuals under its jurisdiction who aid others in the commission of acts in violation of the law. The inclusion of so called "accessorial liability" in the law would strengthen COELIG's enforcement arm and promote compliance with the State's ethics and disclosure laws.
- For Lobbying, amend Section 1-o of the Lobbying Act to add a new subdivision that provides that for purposes of Section 1-o, the CAO or Designee of any organization that is required to file a statement or report has responsibility for the filing. Regulations 19 NYCRR Part 943 would then be amended to define "Designee" to mean someone who has been authorized legally to bind the entity making the filing (i.e., CAO, CEO, General Counsel, etc.). Additionally, amend Section 1-p to provide that all statements and reports must include an attestation by the CAO or Designee that the filing is true, correct and complete under penalties of perjury.

LOBBYING

2. Conforming Changes to the Lobbying Act

- **Recommendation By:** Staff; See also NYPIRG comments (four-year recertification)
- **Proposal:** Amend Section 1-d(h) of the Lobbying Act to conform to Section 94(8) of the Executive Law by adding clients to the mandatory ethics training requirements set forth in the Lobbying Act. Amend Section 1-d(h) to require lobbyists (and, as proposed, clients) to complete the online ethics training course within 60 days of being listed on a Statement of Registration. Additionally, to correspond with biennial filing requirements, amend the requirement in Section 1-d(h) for lobbyists (and, as proposed, clients) to complete the online ethics training course from once every three years to once every two years to coincide with the biennial registration cycle.

3. Training Non-Compliance Penalties for Lobbyists and Clients

- **Recommendation By:** Staff
- **Proposal:** Amend Executive Law Section 94(8) and Legislative Law Article 1-A (the Lobbying Act) Section 1-d(h) to authorize the Commission to impose late fees on lobbyists and clients who fail to timely comply with the mandated ethics training. Proposed late fees for failure to timely complete mandatory ethics training could include language similar to the statutory language authorizing late filing fees, which authorizes late fees of up to a certain dollar amount per day.

4. Express Individual Liability of CAOs and other Lobbying Representatives for Intentional Lobbying Act Violations

- **Recommendation By:** Staff
- **Proposal:** Amend the Legislative Law Article 1-A (the Lobbying Act) to clarify that the Chief Administrative Officer (CAO) or Designee listed on the lobbying reports is the individual responsible for the accuracy, truthfulness, and completeness of the lobbying filings, and that such individual will be responsible for any knowing and willful violation of the Lobbying Act. In addition, the Commission will seek to clarify this issue in regulations. (See the changes suggested under #1).

5. Clarify Late Fee Penalties for Amendments to Registrations

- **Recommendation By:** Staff
- **Proposal:** Amend Section 1-e(e)(iv) and possibly Section 1-e(d) of the Lobbying Act to clarify that late fees may be assessed for late Registration Amendments.

ETHICS

6. Post Financial Disclosure Statements of Candidates

- **Recommendation By:** NYPIRG, Reinvent Albany in comments for 3/29/23 hearing
- **Proposal:** Post Financial Disclosure Statements of Candidates for Statewide Office and the Legislature for 2024 General Election.
- **Staff Feedback:** This could be done starting with the 2024 General Election candidates and would be manageable for staff.

7. Add Penalties for Certain Violations of the Public Officers Law which Currently Have None

- **Recommended By:** Staff and Reinvent Albany in comments for 3/29/23 hearing
- **Proposal:** Add penalties for violations of POL § 74(3)(f) and (h), and explicitly codify sexual harassment as conduct that violates the code of ethics.
 - Subsection (f) prohibits a State officer or employee from engaging in any conduct that would “give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties.” Subsection (h) requires a State office or employee to “pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.” These standards are general in nature and the statute currently provides no penalty for violations of these two specific provisions other than referring for agency disciplinary action, including termination, or, in the case of statewide elected officials, impeachment (EL §94(10)(p)(ii)).
 - Codify sexual harassment as conduct that violates Public Officers Law Section 74, the State’s Code of Ethics. Currently, sexual harassment claims tend to be addressed under POL Section 74(3)(h), which prohibits conduct that goes against the public trust, and carries no monetary penalty. Certain cases of sexual harassment may fall under POL Section 74(3)(d) – securing unwarranted privileges – which carries a \$10,000 penalty, but not all cases of sexual harassment may rise to such a standard. Add a monetary penalty to POL Section 74(3)(h), similar to the penalties imposed for violations of POL Sections 74(3)(b), (c), (d), or (i). Violations of the public’s trust are serious infractions and should be treated accordingly.
- **Staff Feedback:** Staff supports these proposals as the Commission believes that these provisions set forth important standards, violations of which can result in as much damage to public confidence in government as conduct violative of any other provision of POL § 74. The Commission has previously made these proposals itself; staff supports.