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
2024 Legislative Agenda
Adopted November 2023; Updated March 2024

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).

9. **Require Electronic Submission of All Lobbying Filings**
   - **Recommended By:** Staff
   - **Proposal:** Amend the Lobbying Act in sections 1-(d)(e)(h)(i)(j) and (l) to require electronic filing of all lobbying reports. This proposal would ease the administrative burden created by the submission of paper filings and promote transparency of lobbying activity by ensuring that all lobbying filings are available to the public upon submission to the Commission.

ETHICS

5. **Post the Financial Disclosure Statements of Candidates**
   - **Recommendation By:** NYPIRG, Reinvent Albany in comments for 3/29/23 hearing
   - **Proposal:** Post the Financial Disclosure Statements of Candidates for Statewide Office and the Legislature for 2024 Primary and General Elections, subject to doing so on a rolling basis and the Commission's receiving a budgetary infusion to cover additional agency costs.
   - **Staff Feedback:** This could be done starting with the 2024 General Election candidates and would be manageable for staff.

6. **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)).
     - Add a provision to Public Officers Law Section 74, the State's Code of Ethics, specifically codifying sexual harassment as a violation of the Code. Currently, sexual harassment claims are addressed under POL Section 74(3)(h), which prohibits conduct that goes against the public trust and carries no monetary penalty, and/or POL Section 74(3)(d), which prohibits securing unwarranted privileges and carries a $10,000 penalty.
     - 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.

7. **Require Electronic Filing of All Financial Disclosure Statements**
   - **Recommended By:** All
   - **Proposal**: Amend Public Officers Law §73-a to require electronic filing of all Financial Disclosure Statements.
   - **Staff Feedback:** Supports proposal.

OPEN MEETINGS LAW

8. **Eliminate the Physical Access Requirement in for Advisory Committees and Subcommittees of Public Bodies.**
   - **Recommended By:** The Commission.
   - **Proposal:** Amend the Open Meetings Law to allow meetings of purely advisory and non-decision-making committees and subcommittees to be held virtually with no requirement of physical access to participating commission members. Removing the physical access requirement will increase transparency and substantially increase the number and frequency of non-decisional committee meetings of advisory-only bodies. Authorizing purely advisory subordinate committee and subcommittees of advisory bodies to meet by publicly livestreamed and recorded videoconference, with ample public notice and without requiring members to travel long distances to assemble physically in public, will facilitate the readily accessible convening of such meetings and thereby both foster the principle of public scrutiny of the workings of state and local government that lies at the heart of the OML and serve the broader public interest without materially trenching upon either.
   - **Staff Feedback:** Supports the proposal.

###