

An Ethics Guide for Unpaid or *Per Diem* State Officers

Introduction

As an unpaid or *per diem* member of a policymaking body or other entity on which at least one member is appointed by the Governor, your public service to the State of New York requires you to abide by certain provisions of the State ethics laws. This general guide will familiarize you with these ethical provisions. If you have questions regarding the information contained in this guide or if you have specific ethical concerns, please contact the Commission.

History

In 1987, New York State adopted the Ethics in Government Act, a sweeping reform of the States laws intended to maintain the integrity of State government.

The Act created the New York State Ethics Commission and gave it jurisdiction over officers and employees of the executive branch and entities with at least one member appointed by the Governor. Its five members are appointed by the Governor; one of the members is nominated by the State Attorney General and another by the State Comptroller.

Duties

The Commission's duties include:

- rendering advisory opinions which interpret and apply the laws as they pertain to present and former State officers and employees;
- collecting, auditing and making financial disclosure statements available for public inspection;
- receiving complaints alleging violations of Public Officers Law §§73, 73-a and 74; investigating complaints on its own initiative;
- issuing rules and regulations to implement and enforce the Ethics in Government Act; and
- preparing legislation to reform and improve the requirements of the ethics law.

Financial Disclosure

Annual statements of financial disclosure are required of all policymakers and of those who -- unless exempted by the Commission -- earn compensation in excess of the job rate of Salary Grade 24, which is \$74,621 at the time of this printing.

The statement requires filers to list major assets, sources of income, liabilities, names of spouses and unemancipated children, whether they are licensed by or do business with a State agency, sources of gifts, reimbursements, trusts, deferred income, real property, and other information. [Public Officers Law §73-a]

Prohibited Activity

State officers who are required to file annual statements of financial disclosure are prohibited from receiving compensation for appearing or rendering services against the interests of the entity on which they sit in relation to any matter in the Court of Claims. [Public Officers Law §73(3)(b)]

In addition, individuals who serve in policy-making positions are prohibited from serving as an officer of any political party or political organization or as a member of any political party committee including political party district leader or as a member of a national committee of a political party. [19 NYCRR Part 932.2]

Conflicts of Interest

Public Officers Law §74, the code of ethics, applies to all unpaid and *per diem* members. Such State officers should not have any interest in or engage in any business or activity “in substantial conflict” with the discharge of their public duties. This restriction prohibits you from:

- disclosing confidential information acquired in the course of your official duties or using such information to further your personal interests;
- using or attempting to use your official positions to secure unwarranted privileges or exemptions for yourselves or others;
- giving reasonable basis for the impression that any person can improperly influence you or unduly enjoy your favor in the performance of your official duties, or that you are affected by the kinship, rank, position or influence of any party or person.

State officers should endeavor to pursue a course of conduct which will not raise suspicion among the public that you are likely to be engaged in acts that are in violation of your public trust.

Finally, by regulation, the Commission requires that boards, councils and other bodies adopt a code of ethics for their unpaid or *per diem* members covering conflicts of interest, business and professional activities and other outside activities. The code must be filed with the Commission. [19 NYCRR Part 932.5] For a copy of the code which pertains to the public body on which you serve, contact your public body or the Commission.

Investigations

The State Ethics Commission undertakes investigations of alleged violations of the law within its jurisdiction upon complaint or upon its own initiative. Complaints may be made anonymously.

The Commission has the power to subpoena witnesses and require the production of any relevant books or records.

Penalties

Individuals who knowingly and intentionally violate Public Officers Law §73(3)(b) will be subject to a civil penalty not to exceed \$10,000. In lieu of a civil penalty, the Commission may refer violations to an appropriate prosecutor for prosecution as a Class A misdemeanor.

Individuals who violate Public Officers Law §74 may also be subject to disciplinary action, including a fine, suspension or dismissal by their appointing authority.

Getting Advice

The State Ethics Commission offers advice on applications of the law in individual circumstances. Individuals with questions may contact the Commission by letter or telephone. The phone numbers are 518-432-8207 or 800-87-ETHICS. The address is 39 Columbia Street, Albany, New York 12207.

The Commission’s assistance is confidential. You also can obtain information by visiting the Commission’s website at www.dos.state.ny.us/ethc/ethics.html.

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