

BUFFALO STATE COLLEGE

DIRECTORY OF POLICY STATEMENTS

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Introduction

Every officer and employee in state service is bound by the provisions of the state ethics laws, which establish specific standards of conduct, restrict certain business and professional activities – both while in state service and after leaving government – and require financial disclosure of policymakers and other higher level officials. Violators face serious penalties.

The following was developed as a guide for state employees by the New York State Commission on Public Integrity. It is intended only as a brief introductory guide and should not be considered as a comprehensive legal document.

Background

In 2007, the state adopted the Public Employee Ethics Reform Act, which combined the State Ethics Commission and the Temporary State Commission on Lobbying into the new Commission on Public Integrity.

The duties of the Commission on Public Integrity, with respect to state officers and employees, include:

- Receiving complaints alleging violations of Public Officers Law 73, 73-a, and 74 Civil Service Law 107; investigating complaints on its own initiative.
- Rendering advisory opinions that interpret and apply the laws as they pertain to present and former state officers and employees.
- Distributing, collecting, and auditing financial disclosure statements.
- Issuing rules and regulations to implement and enforce the law under its jurisdiction.

Financial Disclosure

Annual statements of financial disclosure are required of all policymakers and those individuals who – unless exempted by the commission – serve in a position with an annual salary rate in excess of the job rate of SG24 (\$82,389 as of April 1, 2008).

The statements request information pertaining to major assets, sources of income liabilities, offices held with a political party, sources of gifts, real property, and other information.

All policymakers must file. However, the commission can exempt from filing, those individuals who are serving in a position with an annual salary rate in excess of the job rate of SC24 and who are not policymakers or do not perform certain job duties.

Conflicts of Interest

Officers and employees of state government are restricted in the activities in which they may engage while in state service. Basically, they may not engage in activities that would create or appear to create a conflict with their public duties. Some of the specific restrictions are:

- They may not sell goods or services to the state or any agency of the state except through a competitively bid contract.
- They may not appear before any state agency or render services for compensation in a matter before any state agency in connection with such subjects as the purchase or sale of goods, ratemaking, funding, or licensing.

More generally, state officers and employees 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 them from:

- Disclosing confidential information acquired in the course of their official duties or using such information to further their personal interests.
- Using or attempting to use their official positions to secure unwarranted privileges or exemptions for themselves or others.
- Giving reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position, or influence of any party or person.

Finally, state officers and employees should pursue a course of conduct that will not raise suspicion among the public that they are engaging in acts that are in violation of their public trust.

Outside Activities

The commission’s regulations restrict the outside activities of state officers and employees as follows:

- Certain high-level officials, including all policymakers, are barred from serving as an officer of any political party or organization or from serving as an officer of any political party committee, including district leader or member of a national committee.
- No salaried state officers or employees may engage in any outside activity that interferes or is in conflict with their official state duties.

For policymakers, prior agency approval is required before engaging in any outside activity if the amount to be earned is more than \$1000 annually; and prior Commission on Public Integrity approval is required if the amount is more than \$4000.

Honoraria

The four state elected officials, as well as agency heads, are barred from accepting honoraria for speeches. Other state employees may accept reimbursement of travel expenses or honoraria only under certain circumstances. The source of the payment is critical.

The commission’s regulations require prior approval or subsequent reporting depending upon the nature of the payment and the position of the individual receiving the payment.

Gifts

State officers and employees may not accept or solicit a gift of more than a nominal value under circumstances in which it could be inferred that the gift was intended to influence or reward the recipient for performing official duties.

Nepotism

State officers and employees may not participate in any decision to hire, promote, discipline, or discharge a relative for any compensated position at a state agency, public authority, or the Legislature.

Investigations

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

Political Activity

Civil Service Law 107 protects state employees from discriminatory practices based on their political affiliations.

- Employees' appointments, selections to or removals from office, or their employment status may not be affected or influenced by political opinions or affiliations.
- State employees may not use their state authority or official position to coerce, intimidate, or otherwise influence other state employees to give money or service for any political purpose, to influence the political action of any person or entity, or to interfere with any election.
- State offices may not be used for soliciting or collecting any political contributions.

Penalties

Individuals who violate certain provisions of the law are subject to a civil penalty not to exceed \$40,000, plus the value of any gift, compensation, or benefit received. In lieu of a civil penalty, the commission may refer violations to an appropriate prosecutor for prosecution as a Class A misdemeanor.

Post-employment Restrictions

Two-year bar – Former state officers or employees may not, within a period of two years after leaving state service, appear or practice before their former agency or receive compensation for any services rendered in relation to any case, proceeding, application, or other matter before their former agency.

Lifetime bar – Former state officers and employees may not appear, practice, communicate, or otherwise render services before any state agency, or receive compensation for such services in relation to any case, proceeding, application, or transaction, with which they were directly concerned and in which they personally participated while in public service.

Legal Authority

Executive Law 94 created the State Commission on Public Integrity.

Public Officers Law 73 includes restrictions on the activities of current and former state officers and employees.

Public Officers Law 73-a contains the contents of the annual statement of financial disclosure and sets forth the requirements for filing.

Public Officers Law 74 establishes the State Code of Ethics, which prohibits conflicts of interest.

The regulations of the commission are found in Volume 19 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Parts 930-941).

Laws of New York

<http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>

State Commission on Public Integrity

<http://www.nyintegrity.org/>