

DRAFT PROPOSED RULE – REVISION FORMAT – 940

Title 19 NYCRR Part 940 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF  
NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. JOINT COMMISSION ON PUBLIC ETHICS

PART 940 PUBLIC SERVICE ANNOUNCEMENTS: PERMISSIBLE AND PROPER USAGE

940.1 Definitions.

*Announcement* shall mean an advertisement or commercial in any medium.

*Candidate* shall mean any individual meeting any of the requirements in Public Officers Law §§73-a(2)(a)(iii)-(viii), including the current office holder.

*Features* shall mean shows, names, identifies, or otherwise references.

*Gift* is defined as in Part 933.2 and 934.2 of these rules and regulations.

*State Entity* shall mean either a regulatory agency or state agency as those terms are defined, respectively, in Public Officers Law §§73(1)(e) and (g).

*State Person* shall mean an individual who is a legislative employee, statewide elected official, state officer or employee, (as those terms are defined, respectively, in Public Officers Law §§73(1)(c), (h) and (i)), or member of the Legislature.

940.2 Requirements for a Public Service Announcement.

(a) An Announcement that Features a State Entity, a State Person, or a Candidate is a Public Service Announcement (“PSA”) and not a Gift as defined in Parts 933 and 934, for the purposes of Public Officers Law §§73 and 74, if it meets all of the following applicable requirements:

- 1) Promotes, educates, or imparts information about a service, institution, issue, or cause generally regarded as serving the public interest;
- 2) Is of primary interest to the general public or a segment of the general public and is not targeted to specific voters or a group of voters. This requirement does not preclude general, announcements regarding voter rights, education, and process, including, but not limited to, voter registration and the location of polling places;
- 3) Is sponsored or paid for by an organization, other than a State Entity, with a mission or history which includes providing outreach and information to the community;

- 4) Is subject to the public service announcement policies, if any, of the entity broadcasting or otherwise distributing the Announcement;
- 5) The Announcement does not Feature a branded product or service;
- 6) Is not paid for, controlled by, or coordinated with any organization affiliated with a “party” as that term is defined in Election Law §1-104(3), or a Candidate;
- 7) Does not constitute Lobbying or Lobbying activities, as those terms are defined in Legislative Law Article 1-A;
- 8) Is not a communication which promotes or supports a Candidate for an office or attacks or opposes a Candidate for that office and could not reasonably be inferred to have any meaning other than an exhortation to vote for or against a specific Candidate.
- 9) In the case of an Announcement that Features a State Person or a State Entity, the Announcement must further the State Person’s official duties or the State Entity’s mission;
- 10) In the case of an Announcement that Features a Candidate, the Announcement must not be aired 60 days prior to a general, primary, or special election in which the Candidate is on the ballot, except in the case of a state or national emergency where the Announcement relates to such emergency.

(b) An Announcement that Features a State Person, State Entity, or Candidate that fails to satisfy any one of the requirements in section 940.2(a) may be deemed a Gift and will be subject to Public Officers Law §73(5), Legislative Law Article 1-A §(1-m), and their corresponding regulations in Parts 933 and 934 of these rules and regulations and any other applicable provisions of the Public Officers Law or Legislative Law.