



## RESPONSIBILITIES OF THE AGENCY ETHICS OFFICER

The Joint Commission on Public Ethics (“JCOPE”) administers and enforces the ethics laws and regulations that apply to officers and employees (including appointees) of New York State agencies, public authorities, public benefit corporations, and commissions.

JCOPE’s regulatory oversight creates legal obligations for both agencies and their officers and employees. For this reason, each agency should designate an Ethics Officer to provide guidance to these individuals on compliance with the ethics laws. In addition, the Ethics Officer has the responsibility to ensure that both the agency and its personnel comply with the legal obligations related to the following subjects:

1. Requirement to File an Annual Financial Disclosure Statement
2. Mandatory Ethics Training for FDS Filers
3. Approvals for Outside Activities
4. Approvals for Honoraria
5. Approvals for Official Activity Expense Payments
6. Acceptance of Gifts (including Widely Attended Events)

### 1. Requirement to File an Annual Financial Disclosure Statement (“FDS”)

#### A. Who is Required to File an FDS?

- 1) An individual who the agency designates as a “Policy Maker” (*i.e.*, an individual who according to the agency holds a policy-making position); or
- 2) An individual who is not a Policy Maker but serves in a position with an annual salary in excess of the “filing rate” of a SG-24 CSEA equivalent (\$91,821 as of April 1, 2015). These persons are referred to as “Threshold Filers.”
  - An individual who voluntarily works part-time but whose full-time salary is in excess of the filing rate is considered to be a Threshold Filer and must, therefore, file an FDS (and be reported to JCOPE on the FDS Filer List).

## B. FDS Filer List and Employee Update Form

### 1) FDS Filer List

- Every agency must submit to JCOPE an annual “FDS Filer List,” which lists all current agency personnel who are required to file an FDS (*i.e.*, all personnel who are either Policy Makers or Threshold Filers). *See* Public Officers Law §73-a(1)(c)(ii).
- The *deadline* to submit the FDS Filer List to JCOPE is *February 28* of each year.

### 2) Employee Update Form

- Public Officers Law §73-a(1)(c)(iii) provides that every agency must submit to JCOPE an “Employee Update Form” within 30 days of the date that one of the events below occurs:
  - The date an individual commences employment in a policy-making position or in a position with an annual salary in excess of the filing rate (either through being newly-hired, promoted or transferred), *i.e.*, the date an individual becomes a Policy Maker or a Threshold Filer.
  - The date a current FDS Filer separates from State service or has a change in job status that results in the individual no longer being a Policy Maker or a Threshold Filer.

## C. FDS Exemptions

- 1) Only Threshold Filers may apply for an exemption from filing the FDS. ***Policy Makers are not entitled to any exemption*** (*See* Public Officers Law §73-a(1)(c)(ii)).
- 2) There are two ways for a Threshold Filer to request an FDS exemption, the procedure for which is fully set forth in 19 NYCRR Part 935:
  - Apply directly to JCOPE for an FDS exemption using the “Individual Exemption Application” available on JCOPE’s website.
  - An Ethics Officer, on behalf of the agency, may apply for an FDS exemption for a class of Threshold Filers who serve in the same job title or classification using the “Agency/Union Exemption Application” available on JCOPE’s website.
- 3) **FDS exemption deadline** – May 15 (November 15 for SUNY/CUNY faculty)
- 4) Previously-granted Exemptions
  - If JCOPE previously granted an FDS exemption for an individual Threshold Filer or a class or title of Threshold Filers, the exemption remains valid as long as the individual:
    - (i) remains in the same title or performs the same job duties under the exempted title;
    - (ii) is employed at the same Agency in which the exemption was originally granted; and
    - (iii) is not subsequently designated as a Policy Maker.

## D. FDS Extensions

- 1) **FDS extension deadline** – May 15 (November 15 for SUNY/CUNY faculty)
- 2) The procedure for an individual FDS Filer to apply for an extension of time to file the FDS is set forth in 19 NYCRR Part 936. The application for an extension is available on JCOPE's website.

### Actions Required by the Agency's Ethics Officer

- 1) Submit the FDS Filer List to JCOPE on or before February 28 every year.
- 2) Submit an Employee Update Form to JCOPE within 30 days from the date (i) an individual becomes either a Policy Maker or a Threshold Filer, or (ii) an FDS Filer leaves State service or has a change in job that results in the individual no longer being either a Policy Maker or a Threshold Filer.
- 3) Notify FDS Filers of their legal obligation to file an FDS (and to complete mandatory ethics training).

## 2. Mandatory Ethics Training for FDS Filers

### Three Mandatory Ethics Trainings for all FDS Filers

- 1) **JCOPE Online Ethics Orientation (Available on SLMS)**
  - Individuals who are newly-subject to the FDS filing requirement are required to complete the JCOPE Online Ethics Orientation within **three months** from the date they became a Policy Maker or a Threshold Filer (either through being newly-hired, promoted or transferred).
- 2) **Comprehensive Ethics Training Course: Two-hour, Live\***
  - FDS Filers are required to complete the Comprehensive Ethics Training Course ("CETC") within **two years** from the date they became a Policy Maker or a Threshold Filer (either through being newly-hired, promoted or transferred).
  - New FDS Filers who complete the CETC within **three months** from the date they became a Policy Maker or Threshold Filer are not required to take the Online Ethics Orientation.
  - Ethics Officers are expected to deliver the CETC to agency FDS Filers on an as-needed basis. Please contact JCOPE for the information and materials needed to deliver the CETC to your staff.

## 3) **Ethics Seminar: 90 minute, Live\***

- On a continuing basis, FDS Filers are required to complete the Ethics Seminar **every three years** from the date they completed the CETC.
- The Ethics Seminar is an update on any changes in the applicable ethics laws, regulations and policies.

\* Live means presented by an instructor in real time allowing for, at least, one-way video and two-way audio. Acceptable forms of delivery are webinars, video-conferencing and a traditional classroom setting.

### **Actions Required by the Agency's Ethics Officer**

- 1) Notify your agency's FDS Filers of their legal obligation to complete JCOPE's mandatory ethics trainings as set forth in Executive Law §94(10).
- 2) The Ethics Officer should ensure that the agency delivers the CETC to its FDS Filers at regular intervals or as needed for FDS Filers to comply with the statutory ethics training deadlines.
- 3) For each FDS Filer in your agency, the Ethics Officer is required to record the deadlines and completion dates for each of the three mandated ethics trainings. Please contact JCOPE for the Ethics Training Compliance Report spreadsheet that you may utilize for this purpose. See Executive Law §94(10)(e).
- 4) Monitor the compliance status of each FDS Filer in your agency, and proactively notify them of ethics training deadlines.
- 5) Submit your Agency's Ethics Training Compliance Report to JCOPE by January 31 every year.

## **3. Approvals for Outside Activities**

### **Overview of Regulations**

- 1) Approval of outside activities for Policy Makers is governed by regulations – 19 NYCRR Part 932 – which are available on JCOPE's website.
- 2) The regulations require every Policy Maker (other than those who are unpaid or paid on a *per diem* basis) to obtain approval from his or her agency (and possibly JCOPE) before engaging in certain, enumerated outside activities. Agencies generally designate the Ethics Officer to perform the agency's portion of the review and analysis required under the regulations.

- 3) Statewide elected officials and State agency heads are required to seek outside activity approval from JCOPE before engaging in the enumerated outside activities. It is a best practice for these individuals to consult with an Ethics Officer before seeking JCOPE approval.
- 4) If a Policy Maker (other than those who are unpaid or paid on a *per diem* basis) proposes (i) to hold an elected or appointed public office as an outside activity, regardless of compensation, or (ii) to serve as a director or officer of a for profit corporation, the Policy Maker is required to seek approval from JCOPE.
- 5) The regulations also prohibit *all* Policy Makers (including those who are unpaid or are paid on a *per diem* basis) from holding certain positions with political parties and political party committees.

## **Actions Required by the Agency's Ethics Officer**

- 1) For Policy Makers in your agency (other than those who are unpaid or paid on a *per diem* basis), the Ethics Officer must review and, if appropriate, approve any outside activity above \$1,000 in annual compensation in accordance with 19 NYCRR Part 932.
- 2) If a Policy Maker's outside activity will provide more than \$4,000 in compensation, then the Ethics Officer must also seek JCOPE's approval in addition to the agency's prior approval on behalf of the Policy Maker in accordance with 19 NYCRR Part 932.
- 3) Educate all employees, whether or not they are Policy Makers, on avoiding potential conflicts of interest arising from outside activities.

## **4. Approvals for Honoraria**

### **Overview of Regulations**

- 1) The regulations governing honoraria are set forth in 19 NYCRR Part 930 and are available on JCOPE's website.
- 2) For all agency personnel (other than those who are unpaid or paid on a *per diem* basis), the agency is required to approve requests to accept an Honorarium in accordance with 19 NYCRR Part 930. Generally, the Ethics Officer performs this function.
- 3) Statewide elected officials and heads of agencies are prohibited from accepting honoraria for speeches.
- 4) Honoraria Approvals are not required to be sent to JCOPE. Instead, agencies must keep all Honoraria Approvals for three years, provide a copy to the employee, and make the record available to JCOPE upon request.

## **Actions Required by the Agency's Ethics Officer**

- 1) Review and approve employee requests for Honoraria Approvals in accordance with the regulations.
- 2) Ensure that the agency amends the internal records retention policy to require Honoraria Approvals to be retained for three years in accordance with the regulations.
- 3) Educate agency personnel on the requirements and restrictions contained in the honoraria regulations.

## **5. Approvals for Official Activity Expense Payments**

### **Overview of Regulations**

- 1) Official Activity Expense Payments are also commonly referred to as "travel payments" or "travel reimbursements."
- 2) The regulations governing Official Activity Expense Payments are set forth in 19 NYCRR Part 931 and are available on JCOPE's website.
- 3) For all agency personnel (other than those who are unpaid or paid on a *per diem* basis), the agency is required to approve requests to accept an Official Activity Expense Payment in accordance with 19 NYCRR Part 931. Generally, the Ethics Officer performs this function.
- 4) Official Activity Expense Payment Approvals are not required to be sent to JCOPE. However, agencies must keep all approvals for three years, provide a copy to the employee, and make the record available to JCOPE upon request.

## **Actions Required by the Agency's Ethics Officer**

- 1) Review and approve employee requests to accept an Official Activity Expense Payment in accordance with the regulations.
- 2) Ensure that the agency amends the internal records retention policy to require Official Activity Expense Payment Approvals to be retained for three years in accordance with the regulations.
- 3) Educate agency personnel on the requirements and restrictions contained in the Official Activity Expense Payment regulations.

## 6. Acceptance of Gifts (including Widely Attended Events)

### Overview of Regulations

- 1) The regulations governing the acceptance of gifts by State officers and employees are set forth in 19 NYCRR Part 933 and are available on JCOPE's website.
- 2) The regulations cover the receipt and acceptance of anything of value, such as money, meals, entertainment, travel, and lodging. The regulations specify under what conditions the receipt of gifts such as these is allowed or prohibited.
- 3) The regulations also contain a number of exceptions, including but not limited to food and beverage valued under \$15, invitations to charitable and political events, gifts from friends and family members, and certain prizes, promotional items, and discounts.
- 4) The regulations require that to avail oneself of one of the exceptions – *complimentary attendance at a Widely Attended Event* – a State employee must provide prior written notice to the head of the State agency or its designee (who is customarily the Ethics Officer) of his or her intent to accept a complimentary invitation to a Widely Attended Event. See Part 933.4(a)(7)(ii).

### Actions Required by the Agency's Ethics Officer

- 1) Educate all agency employees on the requirements and prohibitions in the gift regulations.
- 2) Make employees aware of the requirement set forth in Part 933.4(a)(7)(ii) that employees must provide the Ethics Officer with prior written notification of their intent to accept a complimentary invitation to a Widely Attended Event as defined in Part 933.4(a)(7)(i).
- 3) Advise agency employees on questions and issues that may arise on the applicability of the gift regulations to specific scenarios.

## Contacting JCOPE

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Ethics Officers should know that JCOPE is available as a resource to assist you in providing guidance to your agency on the ethics laws and regulations.

We encourage you to contact us with questions or for confidential guidance on a specific matter.

### **NYS Joint Commission on Public Ethics**

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Telephone: **(518) 408-3976**

[www.jcope.ny.gov](http://www.jcope.ny.gov)

- For legal advice, call 800-87-ETHICS (800-873-8442) or email the Attorney of the Day at [legal@jcope.ny.gov](mailto:legal@jcope.ny.gov)
- For FDS Filing questions, call the FDS unit at (518) 408-3976
- For training questions, call or email the Education team at [education@jcope.ny.gov](mailto:education@jcope.ny.gov)
- To report potential violations of ethics laws, call the Tip Line at 800-87-ETHICS (800-873-8442) or visit <http://reportmisconduct.ny.gov/>