



# The Post-Employment Restrictions

*A Guide for New York State Employees*

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*This introductory publication will assist State Officers and Employees, Members of the Legislature and Legislative Employees in understanding the ethical restrictions that apply after they leave or retire from State service.*

## JOINT COMMISSION ON PUBLIC ETHICS

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On August 15, 2011, the Public Integrity Reform Act of 2011 ("PIRA") was enacted. PIRA established the Joint Commission on Public Ethics ("JCOPE") to enforce and administer the ethics and lobbying laws in New York State.

## HISTORY OF POST-EMPLOYMENT RESTRICTIONS

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The post-employment restrictions were established to prevent a former State Officer or Employee from using their ties and associations with a former State agency to secure an unfair advantage or to exercise undue influence. As the Commission noted in its [Advisory Opinion No. 88-1](#), §73(8) "sets the ground rules for what individuals may do with the knowledge, experience, and contacts gained from public service after they terminate employment with a State agency." The enactment of the "revolving door" provision was part of a sweeping reform in New York's conflict of interest and financial disclosure laws that were intended to restore public trust and confidence in government.

## POST-EMPLOYMENT RESTRICTIONS

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The post employment restrictions are of two types:

### 1. The Two-Year Bar:

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#### ***State Officers and Employees:***

- ◆ Former State Officers or Employees may not, within a period of two years after leaving State service, appear or practice before their former agency regardless of compensation or receive compensation for any services rendered in relation to any case, proceeding, application or other matter before their former agency. *Public Officers Law §73(8)(a)(i)*

#### ***Legislative Members:***

- ◆ Legislative Members may not receive compensation for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature. *Public Officers Law §73(8)(a)(iii)*

#### ***Legislative Employees:***

- ◆ Legislative Employees may not receive compensation for any services on behalf of any person, firm, corporation or association to appear, practice or directly communicate before either house of the legislature to promote or oppose the passage of bills or resolutions by either house of the legislature. *Public Officers Law §73(8)(a)(iii)*

#### ***Executive Chamber Employees:***

- ◆ In addition to being prohibited from (i) appearing or practicing before the Executive Chamber regardless of compensation and (ii) rendering services for compensation on a matter before the Executive Chamber, an individual who has served as an officer or employee in the Executive Chamber is prohibited from appearing or practicing before any state agency regardless of compensation for a period of two years after separation from the Executive Chamber. *Public Officers Law §73(8)(a)(iv)*

***This document is intended only as a brief description of the post-employment restrictions found in PIRA and is not intended to be a comprehensive guide.***

## 2. The Lifetime Bar:

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Former State Officers and Employees, including Executive Chamber Employees, may not appear, practice, communicate or otherwise render services before any State agency regardless of compensation, 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, or which was under their active consideration.

*Public Officers Law §73(8)(a)(ii)*

### EXCEPTIONS

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There are some exceptions to the post employment restrictions. For example, there is the government-to-government exception that exempts individuals from the two-year and lifetime bars when he or she becomes an employee of another government entity at the federal, state, county or local levels.

In addition, under certain limited circumstances, an agency can apply to JCOPE for a Certificate of Exemption as set forth in Public Officers Law § 73(8-b).

### TWO-YEAR BAR WAIVER LEGISLATION EXTENDED FOR LAID OFF EMPLOYEES

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On October 3, 2012, Governor Cuomo signed legislation that waives the two year bar for former State Officers and employees terminated before April 1, 2014 because of "economy, consolidation or abolition of activities or other reduction in the State workforce." In addition, this legislation provides that laid off employees who are also deemed policy makers must request a certificate of waiver from JCOPE for each specific employment opportunity in order to effectuate such waiver. For more information on this legislation and the waiver procedures, please visit JCOPE's website at [http://jcope.ny.gov/two\\_year\\_waiver.html](http://jcope.ny.gov/two_year_waiver.html).

### PENALTIES

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Individuals who violate Public Officers Law §73(8) are subject to a civil penalty not to exceed \$40,000, for each violation. In lieu of or in addition to a civil penalty, JCOPE may refer violations by State Officers and Employees to an appropriate prosecutor for prosecution as a Class A misdemeanor.

### SEEKING ADVICE

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State Officers and Employees are urged to seek advice on the post employment restrictions **prior** to leaving State service. Individuals with questions may contact their agency ethics officer or JCOPE at (518) 408-3976. Legislative Employees and Members of the Legislature who have questions may contact the Legislative Ethics Commission at (518) 432-7837.

**For additional guidance on the two year and lifetime bars, please refer to the**  
[\*\*Ethics Opinion Finder\*\*](#)