



## New York State Public Integrity Reform Act ("PIRA") *An Overview for Public Officials*

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*The following summarizes PIRA's key changes to the state ethics laws pertaining to Statewide Elected Officials, State Officers and Employees, Members of the Legislature, Candidates for state offices, and Legislative Employees.*

### **GIFTS: CLARIFICATION OF DEFINITION OF A "WIDELY ATTENDED EVENT" & ADDITION OF STATUTORY EXEMPTION FOR FOOD AND BEVERAGES LESS THAN \$15.**

Public Officers Law ("POL") § 73(5) prohibits state officials and employees from soliciting, accepting, or receiving gifts. While the definition of "gift" is not contained in the POL, the term is defined in the Legislative Law § 1-c(j). Historically that definition has also been applied to the ban in POL § 73(5). PIRA made two important changes related to the definition of "gift."

- ◆ The **"widely attended event,"** exemption to the definition of a "gift" is defined as an event
  - (A) which at least 25 individuals other than members, officers, or employees from the governmental entity in which the public official serves, attends, or were, in good faith, invited to attend, and
  - (B) which is either related to the attendee's duties or responsibilities, or allows the public official to perform a ceremonial function appropriate to his or her position.
- ◆ An additional statutory exemption was added to exclude food or beverage valued at \$15 or less from the definition of "gift."
- ◆ In the near future, JCOPE will be providing further guidance on the gift ban and its exemptions.

### **COMPREHENSIVE ETHICS TRAINING COURSE, ONLINE TRAINING & SEMINARS**

- ◆ PIRA requires JCOPE to provide three types of ethics training for individuals required to file a Financial Disclosure Statement ("FDS"): (1) Comprehensive Ethics Training Course; (2) Online Ethics Orientation; and (3) Ethics Seminars.
- ◆ The Comprehensive Ethics Training Course must be a two hour instructor-led program including an explanation of state ethics laws, regulations, advisory opinions or internal policies relevant to the conduct of such individuals in public service. The course must include practical examples and a question-and-answer participatory segment. JCOPE is to designate and train instructors outside of its agency to conduct such training. Such training shall be completed by individuals currently required to file a FDS by August 15, 2013 or within two years of an individual becoming subject to the requirement of filing a FDS.
- ◆ The Online Ethics Orientation must be an overview of the material covered by the Comprehensive Ethics Training Course and must be completed by each individual newly required to file a FDS, within three months of becoming subject to such filing requirement. Any such individual who has completed the Comprehensive Ethics Training Course need not complete the Online Ethics Orientation.
- ◆ Ethics Seminars must be 90-minute programs that include changes in laws, regulations, and policies, with practical applications of the material covered. Every individual required to file a FDS must attend an Ethics Seminar at least once every three years after having completed the Comprehensive Ethics Training Course.
- ◆ JCOPE is in the process of developing these courses.

*Source: Executive Law § 94(10)(a)-(c).*

***This document is intended only as a brief description of major changes in state ethics laws made by PIRA. It is not intended to be a comprehensive guide to all state ethics laws applicable to the persons listed in the heading.***

## **FILING OF, AND PUBLIC ACCESS TO, FINANCIAL DISCLOSURE STATEMENTS**

- ◆ Members of the Legislature, candidates for state offices, and legislative employees must file their FDSs with the Legislative Ethics Commission ("LEC"). The LEC then forwards the FDSs to JCOPE.
- ◆ Starting with filings in 2013, FDSs for the above-referenced individuals will provide for greater and more precise disclosure of financial information by expanding the categories of values used by such individuals to disclose various dollar amounts in their FDSs. Additionally, the FDSs will require disclosure of such individual's and his/her firm's outside clients and/or customers doing business with, receiving grants or contracts from, seeking legislation or resolutions from, or involved in any case or proceeding pending before the state.
- ◆ Also starting with filings in 2013, FDSs of Members of the Legislature and statewide elected officials will be posted on JCOPE's website. The FDSs of all others required to file will continue to be available to the public upon request. Such FDSs, whether available either on JCOPE's website or upon request, will no longer have monetary values or amounts reported redacted.

*Source: Public Officers Law § 73-a(2)(k).*

## **INVESTIGATIONS OF MEMBERS OF THE LEGISLATURE, LEGISLATIVE EMPLOYEES, AND CANDIDATES FOR STATE OFFICES**

- ◆ JCOPE has the power to investigate the actions of Members of the Legislature, legislative employees, and candidates for state offices, upon receiving allegations of a possible violation of the state ethics law or upon its own initiative.
- ◆ If JCOPE determines that any persons listed in the section has violated the state ethics law(s), JCOPE submits a written report to the LEC, which is empowered to impose any appropriate penalty.

*Source: Executive Law § 94(14-a).*

## **PENSION FORFEITURE**

- ◆ Public officials who became members of the state retirement system after August 15, 2011 are subject to forfeiture of the State's contributions to the retirement system for crimes related to their duties as a public official.
- ◆ This pension forfeiture applies if a public official pleads *nolo contendere* or guilty to such a crime or is convicted after a trial.
- ◆ Actions seeking pension forfeiture may be brought by the local district attorney or by the Attorney General, who has the burden of proving, by clear and convincing evidence, that the public official knowingly and intentionally committed the underlying crime.
- ◆ Such actions shall be heard by the supreme court having appropriate jurisdiction. The supreme court has discretionary power to reduce or revoke the public official's pension, based upon consideration of certain statutory criteria.

*Source: Retirement and Social Security Law, Article 3-B.*