



# Title 19 NYCRR Part 930

## Honoraria. Final Rule (Effective June 18, 2014)

Title 19 NYCRR Part 930 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

### 930.1 Purpose and Effect of Regulations.

- (a) The purpose of these regulations is to establish the procedures and conditions for approval and acceptance of Honoraria by specified New York State officials and employees.
- (b) The effect of these regulations is to supersede prior regulations and any Advisory Opinions or other guidance issued by predecessor agencies to the Joint Commission on Public Ethics to the extent such Advisory Opinions and guidance are inconsistent with this Part.

### 930.2 Definitions.

- (a) *Approving Authority* for a State Officer or Employee shall mean the head of a State agency or appointing authority, or his or her appropriate designee. In the case of a Statewide Elected Official, the head of a Civil Department or the head of a State Agency, it shall mean the New York State Joint Commission on Public Ethics.
- (b) *Civil Department* shall have the same meaning as set forth in Article V, Section 2 of the New York State Constitution.
- (c) *Commission* shall mean the New York State Joint Commission on Public Ethics.
- (d) *Covered Person* shall mean:
  - (1) Head of a Civil Department as defined in subdivision (b) of this section;
  - (2) State Officer or Employee as defined in subdivision (j) of this section;
  - (3) Statewide Elected Official as defined in subdivision (k) of this section.
- (e) *Honorarium* shall mean:
  - (1) Any payment, which may take the form of a fee or any other compensation, made to a Covered Person in consideration for a service performed that is not part of his or her official

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duties. Such service includes, but is not limited to, delivering a speech, writing, or publishing an article, or participating in any public or private conference, convention, meeting, or similar event. Honorarium shall also include expenses incurred for travel, lodging, and meals related to the service performed.

- (2) Honorarium shall not mean a payment provided to a Covered Person who provides services for or acts on behalf of an employee organization certified or recognized under Article 14 of the Civil Service Law to represent such Covered Person.
- (f) *Honorarium Approval* shall mean a record created by the Approving Authority in accordance with section 930.4(c) of this Part.
- (g) *Interested Source* shall mean any person or entity who on his or her own behalf, or on behalf of an entity, that satisfies any one of the following:
- (1) is regulated by, negotiates with, appears before in other than a Ministerial Matter, seeks to contract with or has contracts with, or does other business with: (i) the Covered Person, in his or her official capacity; (ii) the State Agency with which the Covered Person is employed or affiliated; or (iii) any other State Agency when the Covered Person's agency is to receive the benefits of the contract; or
  - (2) is required to be listed on a statement of registration pursuant to §1-e(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of the State Agency with which the Covered Person is employed or affiliated; or
  - (3) is the spouse or unemancipated child of any individual satisfying the requirements of section 930.2(g)(2); or
  - (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Covered Person in his or her official capacity; or (ii) the State Agency with which the Covered Person is employed or affiliated; or
  - (5) has received or applied for funds from the State Agency with which the Covered Person is employed or affiliated at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the Honorarium.
- (h) *Ministerial Matter* shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- (i) *State Agency* shall mean any Civil Department; State department; or division, board, commission, or bureau of any State department or Civil Department; any public benefit

corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.

(j) *State Officer(s) or Employee(s)* shall mean:

- (1) Statewide Elected Officials;
- (2) Heads of Civil Departments and State departments and their respective deputies and assistants other than members of the board of regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis;
- (3) Officers and employees of statewide elected officials;
- (4) Officers and employees of State departments, boards, bureaus, divisions, commissions, councils, or other State Agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis;
- (5) Employees of public authorities (other than multi-state authorities), public benefit corporations, and commissions at least one of whose members of such public authorities, public benefit corporations, and commissions is appointed by the governor; and
- (6) Members or directors of public authorities (other than multi-state authorities), public benefit corporations, and commissions identified in section 930.2(j)(5) who receive compensation other than on a per diem basis.

(k) *Statewide Elected Official* shall mean the Governor, Lieutenant Governor, Comptroller, or Attorney General.

### **930.3 Certain Covered Persons Prohibited from Receiving Payment for Speeches.**

Notwithstanding any other provision of this Part and pursuant to Public Officers Law §73(5- a)(b), no Statewide Elected Official or any head of a Civil Department shall, directly or indirectly, solicit, accept, or receive any payment made in consideration for any speech given at a public or private conference, convention, meeting, social event, meal, or like gathering.

### **930.4 Approval Procedures.**

(a) An Honorarium must be approved by the Covered Person's Approving Authority in accordance with this Part.

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- (b) Within a reasonable period of time prior to the performance of the service for which an Honorarium is offered, or to the receipt of the Honorarium, a Covered Person shall submit to his or her Approving Authority a written request for approval to accept the Honorarium.
- (c) The Approving Authority shall review and approve a request to accept an Honorarium in accordance with the procedures and conditions set forth in sections 930.4 and 930.5 of this Part. The Honoraria Approval shall contain the information set forth in (1) through (5) of this subdivision:
  - (1) The name of the Covered Person accepting the Honorarium;
  - (2) Identity of the offeror and nature of the offeror's business;
  - (3) A detailed description of the service for which the Honorarium is offered, including the date and location where the service will be performed;
  - (4) The amount of the Honorarium and, where applicable, and itemization of amounts paid for the service, attendance, registration, travel, lodging, and meals; and
  - (5) A statement that the Approving Authority has approved the Honorarium in accordance with the conditions set forth in section 930.5 of this Part.
- (d) The Approving Authority shall retain all completed and signed Honorarium Approvals for a period of three years from the receipt date of the Honorarium and shall be made available to the Commission upon its request.
- (e) The Approving Authority shall provide the Covered Person with a copy of the Honorarium Approval.

### **930.5 Conditions for Approval.**

- (a) An Approving Authority may approve a request to accept an Honorarium provided the following conditions are met:
  - (1) State personnel, equipment, and time are not used in preparing the service for which an Honorarium is offered;
  - (2) No State funds (including funds from any New York State public authority or any public benefit corporation) are used to pay the Covered Person's attendance, registration, travel, lodging, or meal expenses related to the service for which an Honorarium is offered;
  - (3) If the service is to be performed during the Covered Person's official work day, he or she must charge accrued leave (other than sick leave) to perform such service;

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- (4) If the Honorarium is offered by or on behalf of an Interested Source, all of the following criteria must be met:
  - (i) It is not reasonable, under the circumstances, to infer that the Honorarium was intended to influence the Covered Person in the performance of his or her official duties.
  - (ii) The Honorarium could not, under the circumstances, reasonably be expected to influence the Covered Person in the performance of his or her official duties.
  - (iii) The Honorarium is not, under the circumstances, intended as a reward for any official action on his or her part.
- (5) The Approving Authority determines that the offeror is not being used to conceal that the Honorarium is actually offered or paid by an Interested Source; and
- (6) Performing the service for which the Honorarium is offered and accepting the Honorarium do not violate Public Officers Law §74.

### **930.6 Minimum Requirements.**

Nothing contained in this Part shall prohibit any State Agency from adopting or implementing its own rules, regulation or procedures governing Honoraria that are more restrictive than the requirements of this Part.

### **930.7 Exemption.**

A member of the faculty (including an adjunct member of the faculty) at the State University of New York and the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State, and a State Officer or Employee serving in the title of *Research Scientist, Cancer Research Scientist, Research Physician, Research Psychiatrist or Psychiatrist*, is exempt from sections 930.4 and 930.5, provided the service performed by such member of the faculty is within the subject matter of his or her official academic discipline.

### **930.8 Enforcement.**

The Commission is authorized pursuant to Executive Law §94 to investigate possible violations of Public Officers Law §73 and §74 and their corresponding regulations and take appropriate action as authorized in these statutes.

**930.9 Reporting.**

Any Covered Person who is required to file a financial disclosure statement pursuant to §73-a of the Public Officers Law, including those persons qualifying for an exemption under section 930.7, shall report any Honorarium in excess of \$1,000 (or all Honoraria the aggregate total of which exceed \$1,000 received from a single offeror) in his or her financial disclosure statement for the applicable year.