

RESPONSIBILITIES OF THE AGENCY ETHICS OFFICER

An overview of the legal obligations under the
Public Officers Law and JCOPE's applicable regulations.



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New York State Joint Commission on Public Ethics
www.jcope.ny.gov
education@jcope.ny.gov

OVERVIEW



The Public Officers Law and JCOPE's ethics regulations create 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 is responsible for ensuring that both the agency and its personnel comply with the legal obligations related to the following subjects:

- Requirements for Financial Disclosure Statement Filers ("FDS Filers")
- Mandatory Ethics Training for FDS Filers
- Approvals for Outside Activities
- Approvals for Honoraria
- Approvals for Official Activity Expense Payments
- Acceptance of Gifts (including Widely Attended Events)

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.

To Report Misconduct

Call the tip line at 800-87-ETHICS (800-873-8442) and press "1" to speak to a member of the investigative team, or visit <http://reportmisconduct.ny.gov/>

For Legal Advice

Call 800-87-ETHICS (800-873-8442) and press "2" to speak to the Attorney of the Day, or e-mail legal@jcope.ny.gov.

For FDS Filing Questions

Call the FDS Unit at 800-87-ETHICS (800-873-8442) and press "3" to speak to an FDS filing specialist, or e-mail ethel@jcope.ny.gov.

For Training Questions

Call our main line at 518-408-3976 or e-mail the education team at education@jcope.ny.gov.

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REQUIREMENTS FOR FINANCIAL DISCLOSURE STATEMENT FILERS

What is an annual financial disclosure statement?

An annual Financial Disclosure Statement (“FDS”) is a publicly available record containing financial and professional information about the FDS Filer and his or her spouse.

The purpose of the FDS is to prevent conflicts of interest between a person’s duties in the public interest and his or her private financial interests and affiliations.



Who is required to file an FDS?

Individuals designated by their agency as “policy makers,” or those individuals who earn above a certain salary grade (“threshold filers”), are required to file an FDS.

JCOPE has issued guidelines and procedures to assist agencies in determining which employees hold policy-making positions.

To request a copy, e-mail us at education@jcope.ny.gov.

Threshold filers are those individuals who earn an annual salary in excess of the “filing rate” of a SG-24 CSEA equivalent.

An individual who voluntarily works part-time, but whose full-time salary exceeds 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 Certification).

Policy maker

Those officers and employees who, as a regular and significant part of their official duties, are involved in formulating or implementing the goals and policies of the State or a State agency may be policy makers, regardless of their annual compensation or collective bargaining status.

FDS Year	Filing Due Date	CSEA SG-24 Job Rate/ Filing Threshold
2016	May 15, 2017 (non-academic) November 15, 2017 (academic)	\$95,534
2017	May 15, 2018 (non-academic) November 15, 2018 (academic)	\$97,448
2018	May 15, 2019 (non-academic) November 15, 2019 (academic)	\$99,394
2019	May 15, 2020 (non-academic) November 16, 2020 (academic)	\$101,379

FDS Filing Due Dates for Existing Filers

May 15th

Statewide elected officials, State officers, political party chairs, State employees designated as policy makers and employees with an annual salary rate in excess of the job rate of a CSEA equivalent SG-24.

November 15th

Academic employees at SUNY and CUNY who meet the filing threshold requirements. Generally, academic employees are faculty at the SUNY and CUNY campuses.

REQUIREMENTS FOR FINANCIAL DISCLOSURE STATEMENT FILERS

Options available to certain FDS Filers

Any FDS Filer may request an *extension* of time to file an FDS. Those filers designated as threshold filers may request an *exemption* from filing an FDS in its entirety. FDS exemptions are not available to policy makers.

FDS Extensions

Any filer may request an extension of time to file an FDS in one of two ways: by submitting an extension request from the filer’s dashboard by way of the FDS Online Filing System; or downloading and printing the [“Application for Extension”](#) available on JCOPE’s website. The deadline to apply for an extension is May 15 (November 15 for SUNY/CUNY faculty). More information on how to request an extension is available in the regulation [19 NYCRR Part 936](#).

FDS Exemptions

There are two ways for a **threshold filer** to request an FDS exemption:

1. Apply directly to JCOPE for an FDS exemption via the filer’s dashboard in the FDS Online Filing System, or by downloading and printing the “Individual Exemption Application” available on JCOPE’s website.
2. 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.

A union may also request an exemption on behalf of filers in a job title or classification.

The deadline to request an FDS exemption is May 15 (November 15 for SUNY/CUNY faculty).

Please see [19 NYCRR Part 935](#) for more information regarding the exemption process.

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:

- remains in the same title or performs the same job duties under the exempted title;
- is employed by the same agency at which the exemption was originally granted; and
- has not been subsequently designated as a policy maker.

JCOPE may review existing exemptions and determine the exemption is no longer appropriate under the rules outlined in Part 935.

Actions required by the agency’s Ethics Officer for FDS Filers

1. Submit a filer certification on or before February 28 of every year containing the name, job title, home address, and the e-mail address of each individual designated as an FDS Filer. The filer certification is submitted via the JCOPE FDS Online Filing System. Instructions on how to navigate the JCOPE FDS Filing System for both FDS Filers and Ethics Officers are available on [JCOPE’s website](#).
2. Submit an amended certification through the JCOPE FDS Filing System 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). When a new filer is created in the FDS Online Filing System, an auto generated e-mail alerts filers to their mandatory training obligations. Please notify individuals of their requirement to file and participate in mandatory ethics training prior to creating a profile.

MANDATORY ETHICS TRAINING FOR FDS FILERS

Executive Law § 94(10) provides that individuals required to file an FDS must complete regular ethics training. The mandatory ethics training requirements include the Online Ethics Orientation (“OEO”), the Comprehensive Ethics Training Course (“CETC”), and the Ethics Seminar.

Online Ethics Orientation

Individuals newly-subject to the FDS filing requirement must complete the OEO within three months of having to file an FDS. The due date is calculated from the date an Ethics Officer or designee creates a new profile for the filer within the JCOPE FDS Online Filing System.

The OEO is available on the Statewide Learning Management System (“SLMS”). For agencies and entities that do not have access to SLMS, JCOPE recommends the filer take the CETC within the first three months of being required to file.

Employees who have taken the CETC within the first three months of having to file an FDS are not required to complete the OEO.

Comprehensive Ethics Training Course

The CETC is a live, two-hour, instructor-led training that covers the Public Officers Law and other related ethics laws and regulations. FDS Filers are required to complete the CETC within two years from the date they became required to file.

Ethics Officers and their training designees may deliver the CETC to their filers on an ongoing basis.

JCOPE Ethics Seminar/Refresher Training

After completing the CETC the first time, FDS Filers are required to complete an Ethics Seminar or retake the CETC every three years. The JCOPE Ethics Seminar is a live, interactive training session that guides FDS Filers through any major statutory changes in ethics laws with respect to gifts, honoraria, and outside activities. Conflicts of interest and other applicable ethics laws are also covered. Participants review real-world examples and have the opportunity for a question-and-answer period.



Ethics Officers and their training designees may deliver the JCOPE Ethics Seminar to their filers. A recorded version of the JCOPE Ethics Seminar: Train-the-Trainer instructional video is available upon request. Please e-mail training staff at education@jcope.ny.gov to view.

What does JCOPE consider “live” with respect to training?

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.



Every FDS Filer must complete the CETC at least once. The initial CETC completion date is recorded differently in the FDS Online Filing System than instances when a filer retakes the CETC to satisfy “refresher training.”

Refer to the instructions on how to navigate the [FDS Online Filing System for Ethics Officers](#) for more information.

MANDATORY ETHICS TRAINING FOR FDS FILERS

Tracking and Compliance

Every year JCOPE is required to generate compliance statistics for each agency regarding their training efforts, and report those findings to the Governor and the Legislature. As such, Ethics Officers and their designees assist JCOPE by timely reporting their training activities via the JCOPE FDS Online Filing System.

The JCOPE FDS Online Filing System allows Ethics Officers and their designees to monitor training deadlines and enter training completion dates for their respective filers. Training completion dates should be entered on a regular basis to ensure the most accurate training records are available. Yearly totals are required to be completed every year by January 31.

Complete instructions on how to navigate the JCOPE FDS Online Filing System are available on JCOPE's website.



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.
2. Deliver the CETC and the JCOPE Ethics Seminar courses (filers may retake the CETC in lieu of attending the JCOPE Ethics Seminar) to your FDS Filers or designate someone in your agency to provide ethics trainings to your filers at regular intervals or as needed.
3. Monitor the training compliance status of each FDS Filer in your agency, and proactively notify them of ethics training deadlines. When a new filer is created in the JCOPE FDS Online Filing System, an auto-generated courtesy e-mail alerts filers to these mandatory training obligations.

For this reason, and to avoid confusion for any new filer, please notify individuals if they are required to file and participate in mandatory ethics training prior to creating a new profile.

4. Regularly update the JCOPE FDS Online Filing System by entering training completion dates for all FDS Filers in your agency.

OUTSIDE ACTIVITY APPROVALS

Outside Activities

Approval for outside activities for policy makers, heads of State agencies, and statewide elected officials is governed by regulations – [19 NYCRR Part 932](#) – which are available on JCOPE’s website.

The regulations require policy makers (other than those who are unpaid or paid on a per diem basis) to obtain approval from their agency before engaging in certain outside activities. Agency heads and statewide elected officials, however, must go directly to JCOPE for approval of any anticipated outside activity.

Agencies generally designate the Ethics Officer to perform the agency’s portion of the review and analysis required prior to approving an outside activity request under the regulations.

Policy makers are required to seek additional approval from JCOPE–i.e., beyond approval from the State agency–before engaging in any of the following outside activities:

1. Employment or a business venture that generates, or is expected to generate, more than \$5,000 in compensation annually. (For agency heads and statewide elected officials, however, the minimum dollar threshold that triggers the JCOPE approval requirement is \$1,000.)
2. Holding elected or appointed public office (regardless of compensation).
3. Serving as a director or officer of a for-profit entity (regardless of compensation).
4. Serving as a director or officer of a not-for-profit entity, where annual compensation is more than \$5,000.

If a policy maker (other than those who are unpaid or paid on a per diem basis), State agency head, or statewide elected official wishes to serve as a director or officer of a not-for-profit entity and receive up to \$1,000 in annual compensation, no pre-approval is required from the State agency. The policy maker, however, is still obligated to provide written notice of their outside activity to their approving authority before commencing service.

In addition, your agency may have stricter rules than those in Part 932.



Actions required by the agency 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, head of State agency, or statewide elected official’s outside activity requires JCOPE’s approval in addition to the agency’s approval in accordance with 19 NYCRR Part 932, the Ethics Officer will assist in completing the required approvals. The [Outside Activity Approval form](#) is available on JCOPE’s website.
3. Educate all employees, regardless of their policy-making status, on avoiding potential conflicts of interest arising from outside activities.

HONORARIA APPROVALS AND OFFICIAL ACTIVITY EXPENSE PAYMENTS

Honoraria

The regulations governing honoraria are contained in [19 NYCRR Part 930](#) and are available on JCOPE's website.

For all agency personnel, the agency must review and approve requests to accept an honorarium in accordance with 19 NYCRR Part 930. Generally, the Ethics Officer performs this function. JCOPE directly reviews requests to accept an honorarium for statewide elected officials and heads of State agencies.

Statewide elected officials and heads of agencies are prohibited from accepting honoraria for speeches.

Exemptions to the honoraria approval process exist for SUNY/CUNY filers in specific titles.

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 Ethics Officer

1. Review and render a determination on 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.

Official Activity Expense Payments

Official Activity Expense Payments are also commonly referred to as “travel payments” or “travel reimbursements.”

The regulations governing official activity expense payments are set forth in [19 NYCRR Part 931](#) and are available on JCOPE's website.

For all agency personnel (other than those who are unpaid or paid on a per diem basis), the agency must review and approve requests to accept an Official Activity Expense Payment in accordance with 19 NYCRR Part 931. Generally, the Ethics Officer performs this function. JCOPE reviews these requests for statewide elected officials and heads of State agencies.

Official Activity Expense Payment approvals are not required to be sent to JCOPE. However, the 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 Ethics Officer

1. Review and render a determination on 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.

GIFTS AND WIDELY ATTENDED EVENTS

Gifts

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.

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.

The regulations also contain a number of exceptions which are not considered gifts, including, but not limited to, food and beverage valued under \$15, complimentary attendance at charitable and political events, gifts from friends and family members, and certain prizes, promotional items, and discounts.

Complimentary attendance at a Widely Attended Event

Generally, the following four conditions must be met to qualify for the "Widely Attended Event" exclusion for any State officer or employee:

1. Complimentary admission must be offered by the sponsor of the event; and
2. Twenty-five individuals—who are not from your agency—attend or are in good faith invited to attend; and
3. (a) The event is related to the individual's official duties or responsibilities (this can be satisfied if there is a speaker at the event who addresses an issue of public interest or concern) or
(b) The event allows the individual to perform a ceremonial function appropriate to their position; and
4. The Ethics Officer must be informed in writing of the Widely Attended Event before the event taking place.



For Widely Attended Events, food and beverage is only permissible if offered to all participants.

The exclusion does not cover entertainment, recreational, or sporting activity unless the presentation addressing the public interest or concern is delivered during the entertainment, recreational, or sporting activity.



Actions required by the 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.