



# COMPREHENSIVE ETHICS TRAINING COURSE

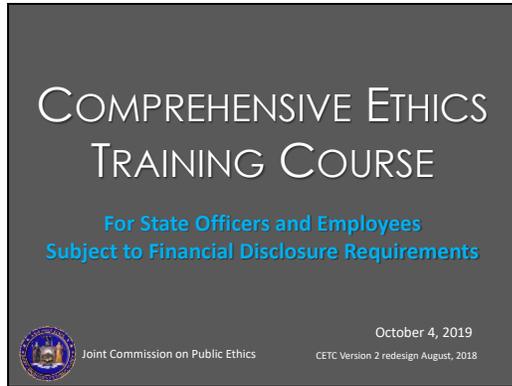
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For State Officers and Employees  
Subject to Financial Disclosure Requirements

## **TRAINER NOTES**

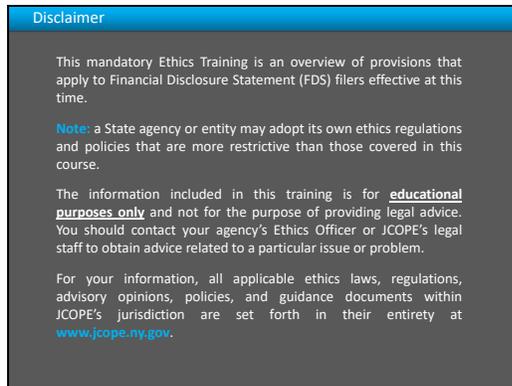
October 4, 2019

Slide 1



Welcome & Introductions

Slide 2



Although the name says it's comprehensive, it's not exhaustive. It is a general overview of the ethics laws that may apply to you.

*(Review slide)*

Your agency may have more restrictive ethics policies than the state ethics laws we will review today. This is one reason why it's a good idea to seek advice from your agency's Ethics Officer.

Our website is a great resource for more complete information.

Segue: What is the purpose of ethics training?...

Slide 3



*(Review slide)*

Our objectives are:

- 1) Awareness - What the law says, and what regulations may apply
- 2) Prevention - Training is designed to prevent conflicts of interest
- 3) Compliance - Training is required by law, and promotes trust in State officers and employees

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We will cover the following topics:  
*(Review slide)*

Segue: Let's begin...

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Let's begin by giving a brief overview of what the Ethics Commission is and the role it plays in State ethics...

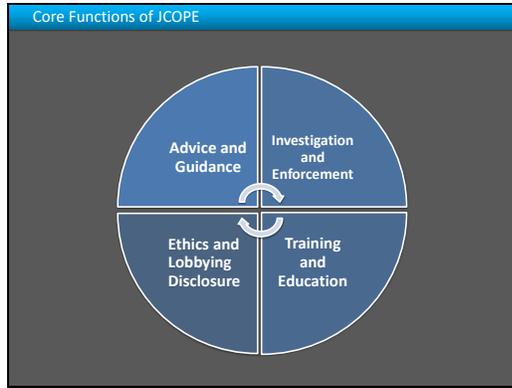
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In 2007, the former State Ethics Commission combined with the former Lobbying Commission to form the Commission on Public Integrity. In 2011, JCOPE was established by PIRA which greatly expanded its jurisdiction. Now the jurisdiction includes state employees, legislature, some political party chairs, as well as lobbyists.

Segue: This combined the core functions of both prior commissions...

Slide 7



Although JCOPE is often described as a “watchdog” agency, investigation & enforcement is only one of its core functions. JCOPE also serves an important advisory function for the regulated community. The key functions of the commission are: *(review slide)*

Segue: Let’s take a brief look at these functions...

Slide 8



A prime part of our mission is to provide advice & guidance. JCOPE is here to provide help on the ethics laws.

Segue: Let’s look at that first.

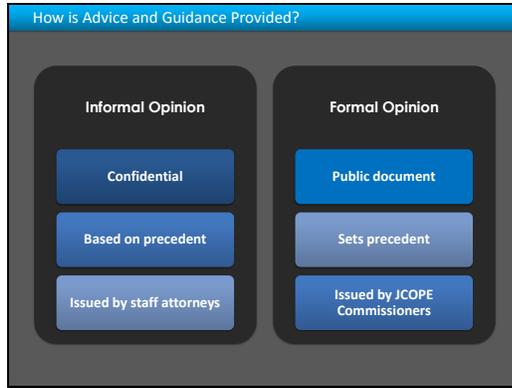
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One of the primary functions of JCOPE is to offer advice and guidance to the regulated communities under its jurisdiction. There is an “Attorney of the Day” program that offers free, confidential guidance on State ethics laws. Your agency Ethics Officer is also a primary source of advice and guidance for you. We want to make sure you have the information you need, so contact your Ethics Officer or JCOPE for assistance.

Segue: If you call JCOPE attorneys, you will be able to get a legal advisory opinion on your situation...

Slide 10



There are two types of advisory opinions: Most of the time, you will receive an informal opinion that deals with a narrow, specific set of circumstances. They are confidential, and issued by the Commission’s staff attorneys based on prior precedent. JCOPE provides confidential guidance by phone and e-mail.

If your situation is unique, it may require a formal advisory opinion to address your circumstances. A formal advisory opinion is issued by the Commissioners on matters of first impression. These opinions are public documents, with identifying information redacted. Every formal advisory opinion is posted on the Commission’s website. These opinions set precedent for others in the future.

Segue: Let’s look at the core functions JCOPE is best known for...

Slide 11



JCOPE also has responsibility for investigations & enforcement.

Segue: Let’s talk about that next...

Slide 12

**What You Need to Know**

- If JCOPE is considering beginning an investigation, the subject will receive notice and an opportunity to respond.
- The notice is a confidential document that contains information regarding the alleged violations of law. After evidence is gathered, a confidential hearing is conducted, presided over by an independent hearing officer. The hearing officer makes his/her findings and recommendations to the Commission for final determination.
- Failure to answer or appear will not prevent JCOPE from proceeding with an investigation or enforcement.
- All communications and records related to the investigation are confidential, unless and until JCOPE issues a Substantial Basis Investigation Report.

While we hope you never find yourself in this situation, your rights are preserved under the investigatory process:

- If you are going to be investigated, you will be notified. There are no secret investigations.
- Investigations are private matters unless/until the commission can substantiate a finding.
- Investigations are only made public after the commission rules there is a substantial basis to conclude that a violation has occurred.

Segue: To avoid this outcome, there is an ethics training requirement...

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ETHICS TRAINING

This is one of the commission's core functions.

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**Mandatory Ethics Training for FDS Filers**

Any State officer or employee required to file an annual Statement of Financial Disclosure ("FDS") is required by law to complete ongoing ethics training.

- Online Ethics Orientation (OEO)** { New FDS filers are required to complete the OEO within three months of becoming a filer. If the CETC is completed first, the OEO is not required.
- Comprehensive Ethics Training Course (CETC): Live** { FDS filers are required to complete a live CETC within two years of becoming an FDS filer.
- Ethics Seminar/Refresher Training: Live** { Ethics refresher training provides an update on any changes in applicable laws, regulations, or policies. FDS filers are required to take the JCOPE Ethics Seminar or retake the CETC every three years.

The reason you're here today is because of the ethics training requirement contained in Executive Law § 94. The law specifies that this course be a live session, and you have to take it within 2 years of becoming an FDS filer. Some of you may have previously taken the OEO, the only ethics class allowed to be in an online format, but this CETC course is your primary training obligation. After completing this class today, you will need to attend refresher training every three years, as long as you remain an FDS filer. You may either retake this course, or take a course called the Ethics Seminar, to satisfy that refresher requirement.

Segue: JCOPE's final core function is oversight through financial disclosure. Let's look at that next.

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**FINANCIAL DISCLOSURE**

Public Officers Law § 73-a

Segue: One aspect of ethics laws that you all have in common is the requirement to file annual financial disclosure statements.

Slide 16

**Financial Disclosure**

The **Financial Disclosure Statement (FDS)** is a publicly available record containing financial and professional information about the FDS filer and the filer's spouse.

The purpose of the FDS is to:

- provide transparency
- prevent conflicts of interest between a person's professional duties and private financial interests and affiliations.



Let's take a brief overview of financial disclosure statements.  
(Review slide)

Segue: Who is required to file?

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**Who is Required to File?**

Officers, members, directors, and employees of any State agency, board, commission, council, public authority, public benefit corporation, or legislative employees who are:

- Designated as Policymakers
- Threshold Filers (State employees who have an annual salary in excess of the filing threshold)
- Political Party Chairpersons as defined in POL § 73(k)
- The four Statewide Elected Officials, Legislators, and candidates for those offices

You're in good company. Approximately 30k people in NYS are designated as FDS filers. They are:

- Policymakers designated by agency (including unpaid/per diem members of boards, councils, and commissions)
- Employees who exceed an income threshold > CSEA Salary Grade 24, called Threshold Filers (\$97,448 as of 4/1/18)
- Elected officials & candidates
- Some Political Party Chairs

Segue: What do you have to report on your FDS?

Slide 18

**What is Disclosed?**



- Offices or any positions of authority held in a business entity or organization, political party, or political organization
- Ownership or professional affiliation with any business entity
- Ownership and income from financial interests, investments, securities, real property, and other assets
- Debts, liens, mortgages, and other financial obligations
- Certain gifts, honoraria, and other payments

Basically, all the many ways we obligate ourselves financially. Since the purpose of the FDS is transparency in order to avoid conflicts of interest, the form asks for many details of your finances.

The FDS provides transparency regarding how your connections with the private sector may create conflicts of interest with your public service.

(Review slide)

Segue: When you have to file depends on your filing status...

Slide 19

**When are the Filing Due Dates?**

**May 15<sup>th</sup>**  
 Statewide elected officials, State officers, political party chairs, policymakers, and State employees with an annual salary rate in excess of the job rate of a CSEA equivalent SG-24.

**November 15<sup>th</sup>**  
 Academic employees at the SUNY and CUNY who meet the filing threshold requirements. Generally, academic employees are professors at the SUNY and CUNY campuses.

 **Individuals who qualify for filing after May 15<sup>th</sup> have 30 days to file.**

*(Review slide)*

- Most state employees & officials will have an annual filing due date of May 15.
- This is also the deadline if you want to request an extension for filing an FDS.
- November 15 is the due date if you are a professor for SUNY/CUNY.
- When you first become an FDS Filer, you have 30 days to file for previous year.

Segue: Because FDS are public documents, this sometimes raises privacy concerns.

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**Privacy Concerns**

What you should know:

- JCOPE automatically redacts the name of any minor child from the copy of the FDS that is made publicly available.
- Home addresses for paper filers are requested by JCOPE for identification purposes only and are redacted for public inspection.
- For FDS questions related to real property, you may disclose the general location of any investment property you or your spouse may own, including street name and locality. You do not have to identify the house or apartment number.



Although FDS are public documents, they are not posted online, and are only accessible by specific request. Generally speaking, the only FDS forms requested are by the media in response to a public figure being accused of breaking the public trust.

*(Review slide)*

Segue: There are other means to keep your personal information private...

Slide 21

**Options Available Regarding Disclosure**

An FDS filer can make a request to:

- Receive an **extension** of time to file an FDS on the basis of justifiable cause or undue hardship.
- **Redact** responses to questions from the copy made publicly available.
- **Not answer** specific questions on the FDS regarding a spouse or minor child.
- Request an **exemption** from filing an FDS in its entirety. Exemption requests are not available to any filer designated as a policymaker.

**These requests are granted under limited circumstances**

An FDS filer can make a request to:

- Get an extension for filing – request must be made by filing deadline.
- Redact specific information from the FDS copy made publicly available.
- Seek a limited exemption for some questions regarding a spouse or minor child.
- Threshold Filers can request an exemption, but policymakers may not.

Segue: It's important to file your FDS in a timely manner. There are consequences if you don't...

Slide 22

**What If I Don't File on Time?**

If you fail to file your FDS, or if you file a deficient FDS by either not answering a question or failing to respond to a question with the required specificity, JCOPE will notify you.

If you fail to respond, JCOPE will send you and your appointing authority a Notice of Delinquency that advises you of fees and penalties.

 Notices of Delinquency are made publicly available on the JCOPE website.

If you still fail to file your FDS, you may be subject to a civil penalty of up to \$40,000 after a hearing, or criminal prosecution.

If you have any questions or difficulties filing your FDS before the deadline, please contact JCOPE for assistance.

*(Review slide)*

Once notified, you then have 15 days to comply or correct your filing. Otherwise, a Notice of Delinquency (NOD) is issued and made public.

Segue: Any questions about Financial Disclosure Statements?

Slide 23

**THE CODE OF ETHICS**

Public Officers Law § 74

This is one of the most important laws we will cover today. It forms the foundation of the ethics laws and focuses on helping you navigate through potential ethical pitfalls.

This will help you identify and address potential conflicts of interest.

We will talk about:

- guiding principles
- to whom it applies
- standards of conduct, with examples

Segue: Let's get started.

Slide 24

**What is the Code of Ethics?**

**The Code of Ethics...**

- Is intended to prevent you from using your official position or authority to benefit yourself or someone else
- Addresses actual conflicts of interest, as well as the appearance of a conflict, when performing your State duties

**The Code of Ethics embodies the guiding principles of:**



The diagram consists of four overlapping circles arranged horizontally. From left to right, they are labeled: Impartiality, Confidentiality, Stewardship of State Resources, and Integrity. Each circle overlaps with its adjacent neighbors.

The Code of Ethics will help you address conflicts of interest when performing your State duties.

Whenever we think of professional conduct in State service, we always refer to the code of ethics and ask if a potential conflict of interest exists, especially with respect to areas of concern such as gifts, honoraria, and outside activities.

*(review slide)*

Segue: Who is subject to the Code of Ethics?

Slide 25

**To Whom Does it Apply?**

The Code of Ethics applies to all officers and employees of New York State, including:

-  Legislative members and employees
-  Officers and employees of any State agency, department, division, board, commission, or any public benefit corporation or public authority, including unpaid and per diem officers and members
-  Officers or employees of specific "closely affiliated corporations:" Youth Research Inc., The Research Foundation for Mental Hygiene, Inc., Health Research Inc., The Research Foundation of the State University of New York, and Welfare Research Inc.

It applies to everyone including: ... agencies, departments, divisions, boards & commissions, including:

- unpaid and per diem officers and members
- Officers and employees of "closely affiliated corporations," listed here.

Segue: Let's look at what the law actually says...

Slide 26

**The General Rule: Public Officers Law § 74(2)**



New York State officers and employees, members of the Legislature or legislative employees shall not... "have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his (or her) duties in the public interest."

*(Read slide)*

General Rule: You may not use your position for personal benefit. This requires us to examine activities in context of substantial conflict between public duties and personal interests. *(Trainer note: "Personal Interest" can be for the benefit of someone else, like friends or family.)*

Segue: Beside losing the public trust, violations of the Code of Ethics carry penalties...

Slide 27

**Civil Penalty Amount**

Violations of the Standards of Conduct may result in a civil penalty of up to \$10,000 and the value of any gift, compensation, or benefit received as a result of the violation.

In addition to civil penalties, each agency is empowered to impose disciplinary actions, which may include fines, wage garnishment, or termination.



If an investigation reveals a knowing & intentional violation of these standards, these are the penalties... *(Review slide)*

Segue: Let's look at the nine standards of conduct...

Slide 28



Segue: The 9 Standards of Conduct embody the rules of ethical behavior in the workplace...

Slide 29

**Impartiality Standard**

**Standard A**

You cannot accept outside employment that will impair your independence of judgment when performing your state job.



You are a State-employed engineer working on a contract with a private sector vendor.

As a representative of the State, you are responsible for making sure the vendor is adhering to your agency's contract.

The vendor offers you a part-time position as a consulting engineer on a completely different project that does not involve your agency.

Can you pursue this outside employment?



Our first standard focuses on the guiding principle of impartiality and independence of judgment when performing your state job.

*(Review example)*

ASK: So what do we think? Can you accept the job?

No. Even though the new position is for a different project, accepting the job would create the appearance of a conflict of interest between your duties as a State employee and your private financial interests by accepting a paycheck from a vendor you oversee.

Segue: The next standards relate to confidentiality...

Slide 30

**Confidentiality Standards**

**Standard B**

You cannot accept employment or engage in any business or professional activity which will require you to disclose confidential information that you have gained as a result of your State position.



**BEST practice**

Talk to your Ethics Officer to determine what information is confidential according to your State position.

Standard B really focuses on the guiding principle of confidentiality and knowing what you can and cannot disclose with respect to your State job. This varies by agency – it’s important for you to know what’s considered confidential in your job. *(Review slide)*

Segue: The next standard also relates to confidentiality...

Slide 31

**Confidentiality Standards**

**Standard C**

You cannot disclose confidential information you have gained as a result of your State position to benefit either yourself or someone else.



You work as a Child Protective Manager for the Office of Children and Family Services (OCFS) and have access to CONNECTIONS, a confidential database of child abuse and maltreatment investigations throughout NYS.

Your good friend is the non-custodial grandmother of a child who is a victim of child abuse and an OCFS client. When asked by your friend, you disclose information accessed through CONNECTIONS related to your friend’s grandchild.

Standard C expands the scope of confidentiality; preventing you from disclosing or using confidential info to further your own interests or for your personal benefit. *(Review Example)* In this example, the manager violates Standard C by disclosing confidential information.

Segue: Let’s look at the next standard...

Slide 32

**Unwarranted Privileges**

**Standard D**

You cannot use your official position to obtain privileges or exemptions for yourself, including using State resources for your private business or other paid, non-governmental purposes.



You are an employee at a State Agency. You also have your own desktop publishing business.

Can you use the State Agency’s scanners, printers, computers and technical software to perform services for your clients if you bring your own paper and do this private work after hours?



Standard D is about not receiving unwarranted or undeserved privileges or using State resources for your own private business or other compensated non-governmental uses. *(Review example)*

Answer: No. You may not use State resources for your own side business, even if you do it after hours, and even if you bring your own paper and ink. You would still be using State equipment and office space to further your own private business interests.

Segue: Let’s look at the next standard...

Slide 33

**Financial Conflicts**

**Standard E**

You cannot participate in a transaction as a representative of the State with a business entity in which you may have a direct or indirect financial interest that conflicts with the proper discharge of your official duties.



You work for ITS in the procurement department, which purchases computers for the State. You may not participate in the decision to purchase computer equipment if your spouse works for a company that is bidding on the equipment purchase.

Standard E focuses on your financial conflicts of interest and making sure your private financial interests don't conflict with your public service.

*(Read example)*

Here you can see that your spouse's job may create the impression that you might be unduly influenced in the procurement process.

Segue: Let's look at the next standard...

Slide 34

**Financial Conflicts**

**Standard G**

You must abstain from making personal investments in enterprises that you have reason to believe may be directly involved in workplace decisions you may make which would create a substantial conflict between your duty in the public interest and your private interest.



You work for the Gaming Commission, which licenses new casinos. You have information that a certain casino company will soon be licensed in the state, and realize that you have an opportunity to make a profitable investment in the casino before the licensure is publicly announced.

Using your "insider knowledge" to make this kind of financial investment would be a violation of Standard G.

Standard G focuses on your personal investments and making sure they don't conflict with your public job. You can't invest based on any "insider" knowledge you may acquire in your State service, and you can't share this confidential information with others so they can profit from your insider knowledge.

*(Read example)*

Don't invest where you have inside professional knowledge and interest. Here, recusal isn't enough of a remedy.

Segue: Let's look at the next standard...

Slide 35

**Contracting Goods & Services**

**Standard I**

As a full-time State officer or employee, you or any entity you are a member of, or any corporation that you own substantial stock in, cannot sell goods or services to entities that are licensed or regulated by your agency.



You may also be prohibited from holding an outside job with any such licensed or regulated entity.  
(See Advisory Opinion No. 99-08)

You are a full time employee of the Department of Health. Acme Hospital is regulated by your agency. You are prohibited from contracting for work, or providing goods or services to Acme Hospital.

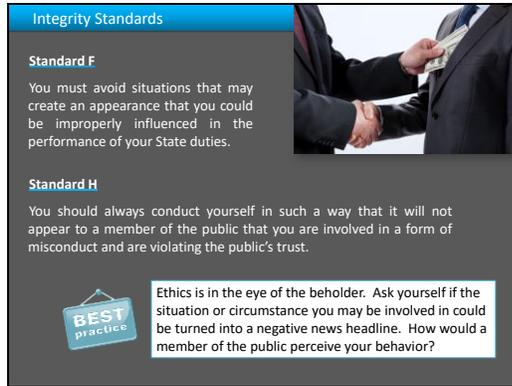
"Standard I" says that your private business interests may not intersect with entities that are licensed or regulated by your state agency. In other words, you can't contract for work with a business you regulate.

*(Review example)*

If you think there might be a conflict, ask.

Segue: The last two standards lie at the heart of the code of ethics...

Slide 36



**Integrity Standards**

**Standard F**  
You must avoid situations that may create an appearance that you could be improperly influenced in the performance of your State duties.

**Standard H**  
You should always conduct yourself in such a way that it will not appear to a member of the public that you are involved in a form of misconduct and are violating the public's trust.

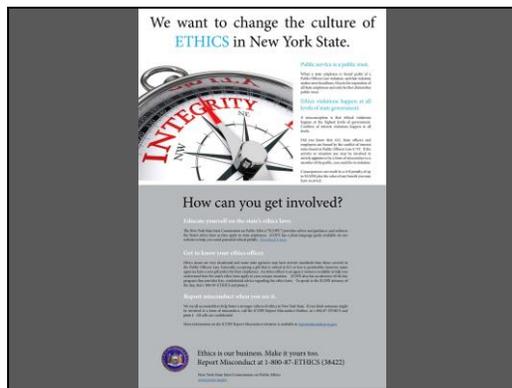
**BEST practice**  
Ethics is in the eye of the beholder. Ask yourself if the situation or circumstance you may be involved in could be turned into a negative news headline. How would a member of the public perceive your behavior?

Standard F & H are sometimes referred to as the “Integrity Standards” and they set the public “optics test” for professional behavior. The two standards do not carry a monetary or civil penalty; however you could still face disciplinary action from your agency.

Standard F really focuses more on professional behavior... (*Read Standard F*) So don't act like you can be influenced. If it looks like you could be improperly influenced, that's enough to violate this standard. Standard H again features the public optics test. (*Read Standard H*) Don't act in ways that give the appearance of misconduct. If it might look suspicious, don't do it.

Segue: Our professional conduct directly contributes to the integrity of State service...

Slide 37



We want to change the culture of **ETHICS** in New York State.

**Public service is a public trust.**  
Ethics standards apply at all levels of government.

**How can you get involved?**

**Ethics is our business. Make it yours too.**  
Report Misconduct at 1-800-457-ETHICS (374222)

We all play a role in improving the culture of ethics in NYS government. Remember, public service is a public trust, and we must all do our share to uphold the integrity of that service. Today's training is an important element in educating yourself about the ethics laws you are expected to uphold. Whenever you have questions about how the ethics laws may impact you, please reach out to your Ethics Officer or JCOPE for help. And if you see misconduct occurring, report it.

Segue: Let's leave the Code of Ethics and look at the next set of ethics laws...

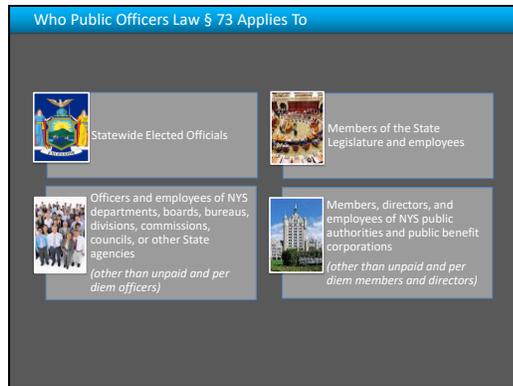
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This statute covers many of the specific restrictions on professional behaviors that the ethics law addresses.

Segue: The first thing to know is this part of the law applies to a slightly smaller universe of people.

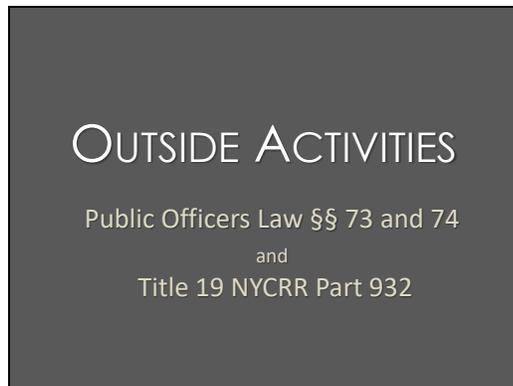
Slide 39



POL 73 applies to everyone except unpaid or per diem officers (these are usually members of boards, councils, and commissions), but remember, the Code of Ethics (POL 74) still does apply to them.

Segue: Let's look at the kind of restrictions that are found in this section...

Slide 40



Segue: The first restriction relates to limits placed on "Outside Activities..."

Slide 41

**What is Considered an Outside Activity?**

Generally, an outside activity is any interest or activity that is **unrelated to your State employment**.

Outside activities may not:

1. occur during your regular work hours
2. use State resources
3. conflict with your State job and official duties

POL § 73 and the JCOPE regulation Title 19 NYCRR Part 932 ("Part 932") contain rules for policymakers on pursuing an outside activity.



The General Rule about participating in outside employment or similar activities is to look at it from both POL 73 & 74. It can't violate the restrictions in 73, but it also can't give the appearance of a conflict of interest, benefit, or preferential treatment under POL 74. You should seek advice before engaging in outside activities.

Segue: The specific regulations that guide outside activities are found in Part 932...

Slide 42

**Subject Areas of the Law and Applicable Regulation**

POL § 73 What the law says	Part 932 What the regulation says
<input type="checkbox"/> Applies broadly to all State officers and employees	<input type="checkbox"/> Applies to FDS filers designated as policymakers for required approvals
<input type="checkbox"/> Restrictions on selling goods or services to the State	<input type="checkbox"/> Restricts participation in certain political activities
<input type="checkbox"/> Restricts outside activities for compensation before any State agency	<input type="checkbox"/> Requires a yearly notification to the agency Ethics Officer on continued Outside Activities
<input type="checkbox"/> Prohibits State employees from engaging in lobbying activities	

POL 73 places restrictions on some professional activities; the regulations in Title 19 NYCRR Part 932 ("Part 932") clarify and expand those restrictions. *(Review slide)*

Your Outside Activity can't be in conflict with your State responsibilities, so your Ethics Officer must approve it in advance. You must also annually notify your EO that you are still engaged in that activity.

Segue: Let's look at the approval process...

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**Who Approves Outside Activities for Policymakers?**

Annual compensation between \$1,000 and \$5,000	• Requires agency approval
Annual compensation greater than \$5,000	• Agency approval, and • Complete the JCOPE Outside Activity Approval Form and submit to JCOPE for final approval

Activities that also require JCOPE approval for policymakers:

- > Serving as a director or officer of a for-profit corporation or institution, regardless of compensation
- > Holding other public office (elected or appointed), regardless of compensation

Title 19 NYCRR Part 932

Who approves your outside activity depends on what it is and how much you expect to earn. If your activity will earn (or you expect it to earn) greater than these threshold amounts, you need approval. *(Review slide)*

Agency approval usually happens through the Ethics Officer, but can be others.

Segue: There are also restrictions on holding certain kinds of political positions...

Slide 44

**Restrictions on Political Outside Activities**

Policymakers, including those in an unpaid or per diem position, are prohibited from serving as:

- an officer of any political party or political organization; and
- a member of any political party committee. For example, serving as a political party district leader or a member of the national committee of a political party.



19 NYCRR Part 932.4

Policymakers must remain nonpartisan by not serving as

- Officer in political party or org
- Member of a political party committee

Segue: Public Officers Law also prohibits other kinds of activities...

Slide 45

**Prohibition on Working on Legislation**



You cannot receive payment in any form to perform an outside activity that involves working on any proposed or pending bill or resolution in the Senate or Assembly.



In essence, you can't be paid to perform the work of a lobbyist. (i.e., attempting to promote or oppose the passage of bills or resolutions by either house.)

Public Officers Law § 73(7-a)

*(Review slide)*

In other words, you can't lobby. As simple as that.

Segue: another restriction relates to doing business with the State...

Slide 46

**Selling Goods and Services to the State**

If you have a private business as an approved outside activity and you would like to provide goods or services to the State valued at more than \$25, you can do so as long as you follow the State's open competitive bidding procurement process.



Public Officers Law § 73(4)

A Department of Labor employee also has a seasonal snow plowing business. It is permissible to provide snow plowing services at a regional office of the NYS Thruway Authority if such services are provided pursuant to a contract that was publicly noticed and competitively bid.

You can't sell goods/services >\$25 to any State agency without the competitive bidding process.

*(Review example)*

These rules prevent preferential treatment because you're a State employee, when doing business with other State agencies. This applies to all employees, not just "policymakers".

Segue: Let's take a look at an example of an employee who violated the rules on outside activities...

Slide 47

**Employee Misconduct: Outside Activity**

A senior director of the MTA also had an outside home repair business.

The employee used:

- his subordinates to prepare invoices and estimates, and
- agency resources and equipment to engage in his home repair business

The employee failed to:

- seek approval for his outside activity regarding his home repair business, and
- disclose his outside income and outside activity in his annual FDS.

**Finced \$4,000**

*(Review example)*

Not only did he violate the rules on Outside Activities, but he also violated the Code of Ethics by misusing State resources, and violated the financial disclosure rules as well.

Segue: There are some specific restrictions on certain types of professional activities that may not be done as an outside activity...

Slide 48

**Restricted Outside Activities for Compensation**

You can never be paid to do any of the following as an outside activity before ANY State agency:

-  The purchase, sale, rental or lease of real property, or goods or services
-  The adoption or repeal of any rule or regulation having the force and effect of law
-  Licensing or permitting
-  Any proceeding relating to rate making
-  Obtaining grants of money or loans
-  Any proceeding relating to a franchise provided for in the Public Service Law

As a State employee, you can't be paid to provide services in relation to any of these examples of outside professional activities...

*(Review slide)*

Segue: The next restriction relates to a topic many understand – nepotism...

Slide 49

**NEPOTISM  
RESTRICTIONS**

Public Officers Law § 73

Segue: Let's look at how the statute handles this.

Slide 50

**Nepotism**

Nepotism is showing favoritism in the workplace to family members.

Did you know:

- Anyone living in your household is considered a relative for purposes of the nepotism restrictions.
- You are **banned** from participating in any decision to hire, promote, discipline or discharge close relatives.
- You may not financially benefit a close relative by awarding contracts or investing public funds.

**BEST practice**

Inform your supervisor or Ethics Officer if you are asked to be involved in personnel decisions for anyone you may know. Let your Ethics Officer make the determination of whether recusal is appropriate.



Nepotism is favoritism shown on the basis of family relationship. A “relative” is one who is a direct descendant of the State employee’s grandparents or the spouse of those common descendants. What you may not know is that anyone living with you is also considered a relative, regardless of actual relationship. This restriction says you can’t participate in the personnel decisions related to your relatives, and you can’t give contracts to relatives, or invest State \$ with a relative.

Segue: Let’s look at an example of how the nepotism rules have been violated in the past...

Slide 51

**Employee Misconduct: Nepotism**



A Corrections employee wanted to secure his nephew a job.

**The employee:**

- supervised his subordinate during the interview process, and
- directly took part in selecting his nephew over another candidate.

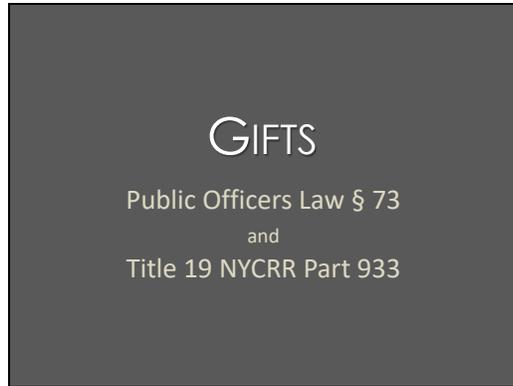
**Fined \$1,500**

*(Review example)*

This employee took a direct role in getting his relative hired, by remaining an active supervisor of the person conducting the interviews and by taking direct a role in selecting his nephew for the job.

Segue: Let’s turn to another restriction that people often get confused about...

Slide 52

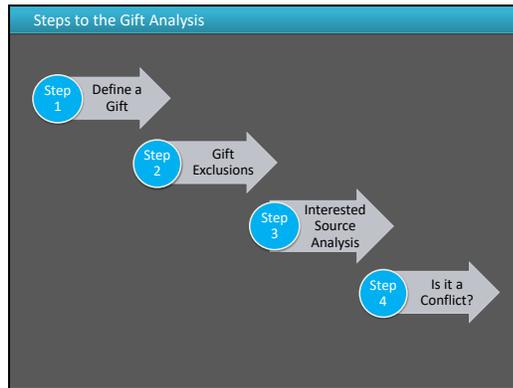


This is an area where there is sometimes some confusion about what is allowable and what is not.

First: many agencies have gift rules that are more restrictive than those outlined in the POL 73. Many agencies have a zero-tolerance policy on the acceptance of gifts. Check with your Ethics Officer for the gift rules that apply to you.

Segue: We'll review what the law says, and then offer some hypothetical case scenarios to help you see how it might look.

Slide 53



The gift provisions in POL 73 require us to analyze whether acceptance of a gift might create a conflict of interest. We will first define what qualifies as a "gift," then we will review the things that are excluded from that definition. It's important to know who is offering the gift, so we must look at them as a potential "interested source". This will help us determine if the gift represents a conflict of interest and, therefore, is unable to be accepted.

Segue: So let's first define "gift"...

Slide 54



Step 1 → What is a "Gift?"

$\$ < 15 \neq$

General Rule: Anything valued less than \$15 is normally not considered a gift, as long as accepting the item or service doesn't create the appearance of a conflict of interest.

A Gift includes, but is not limited to, money, services, loans, travel, lodging, meals, refreshments, entertainment, forbearance or a promise having a monetary value. "Gift" has a broad definition, but it's generally something with more than "nominal value." The Commission will generally consider something that has a **fair market value of \$15 or less** to be of Nominal Value.

Segue: Now that we know what a gift is, let's review the things that are NOT considered gifts...

Slide 55



Step 2 → Gift Exclusions - **Items**

- Awards or plaques in recognition of public service
- Honorary degrees
- Promotional items with no resale value
- Discounts available to the general public
- Gifts from those with whom there is a demonstrated familial or personal relationship
- Contributions reportable under the Election Law (e.g. campaign donations)
- Meals and beverages provided to participants at professional and educational programs
- Local travel payments for tours related to your State job
- Food or beverage valued at \$15 or less per event

Some things you may accept, as long as it doesn't create the appearance of a conflict of interest. These are not considered gifts: *(Review slide)*

Segue: There are a couple of additional gift exclusions that relate to events...

Slide 56



Step 2 → Gift Exclusions - **Events**

Travel, food, and lodging expenses for speakers at Informational Events

- Applies only when a governmental entity or in-state accredited institution of higher learning is paying the expenses or reimbursing you

Complimentary attendance, including food and beverage, at a:

- **Bona Fide Charitable Event** – event's primary purpose must be to provide financial support to an organization that is either registered as a charity with the Attorney General's Office (unless exempt) or qualified under section 501(c)(3) of the Internal Revenue Code
- **Bona Fide Political Event** – event's primary purpose must be to provide financial support to a political organization or a candidate for statewide office.

Certain events are also excluded from the Gift rules. *(Review slide)*

Segue: One other gift/event exclusion is a common scenario called the "Widely Attended Event"...

Slide 57

**Step 2** → **Gift Exclusions – Widely Attended Events**

Steps to qualify for the “Widely Attended Event” exclusion:

- Complimentary admission must be offered by the sponsor of the event, **and**
- 25 individuals, who are not from your agency, attend or are in good faith invited to attend; **and**
- The event is related to your 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**
- The event allows you to perform a ceremonial function appropriate to your position

**Note:** You must inform your Ethics Officer in writing of the Widely Attended Event prior to the event taking place



You might be able to accept free admission to a “Widely Attended Event” if it meets the following conditions: *(Review slide)*

The first 2 criteria help prevent an interested source from creating an event specifically to target you or your agency. The third criteria is official-specific, rather than event-specific -the event must be related to your official duties. Example of a ceremonial function might be throwing out the first pitch in a baseball game. Give your Ethics Officer plenty of advance notice so they can thoroughly vet this event prior to your attendance.

Parameters of Exclusion:

- Food and beverage is only permissible if offered to all participants
- The WAE 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

Segue: We need to review the concept of “Interested Source” ...

Slide 58

**Step 3** → **Interested Source Analysis**

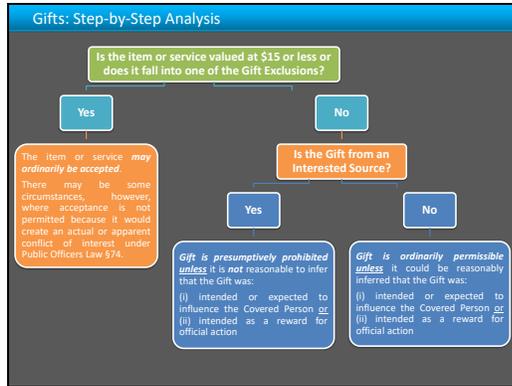
- Is regulated by or appears before you or your agency
- Has contracts with, or seeks contracts with, you or your agency
- Is a registered lobbyist or client of a lobbyist that lobbies your agency
- Is the spouse or the minor child of a registered lobbyist or client of a lobbyist that lobbies your agency
- Is involved in ongoing litigation that is adverse to you or your agency
- Has received or applied for funds from your agency at any time during the previous year, up to and including the date of the proposed or actual receipt of the gift
- Attempts to influence you or your agency in an official action

An interested source is a person or entity that has a vested interest in you or your agency. An interested source can be any of the following: *(Review bullets)*

Generally, you cannot accept a gift from an Interested Source.

Segue: Now that we know what is and isn’t a gift, and who is an Interested Source, we can conduct the gift analysis...

Slide 59



When deciding if it is allowable to accept a gift, consider the following questions: *(Review slide)*

Segue: There are other gift considerations as well...

Slide 60

**Conflicts of Interest and Gifts**

**Gifts to Third Parties are Prohibited**

You cannot take a Gift the law prevents you from accepting and redirect that gift to a third party, including your spouse, child, or a charitable organization.

**Multiple "Permissible" Gifts from the Same Source**

If you accept multiple *permissible* Gifts from the same source, you could, depending on the circumstances, violate Public Officers Law § 74 by creating an actual or an apparent conflict of interest or an appearance of improper influence.

*(Review Slide)*  
There are a number of factors that need to be considered before accepting gifts, so when in doubt, seek guidance.

Slide 61

THINK LIKE AN ETHICS OFFICER

Ethics Officers need to consider many different factors before giving you guidance. Let's practice that skill by applying the gift analysis to some hypothetical scenarios:  
Ask yourself: Is the item or service valued at \$15 or less, or does it fall into one of the gift exclusions? If not, is the gift from an Interested Source?

For each of the following situations, we're going to look at the totality of the circumstances and examine what other factors we need to consider before accepting these gifts.

Slide 62



I have been invited to a luncheon by an Interested Source and the value of the meal is \$25.  
If I pay \$10 towards the price of the meal, may I accept the invitation?



What factors need to be considered?

- The total value of the meal – the meal is more than \$15
- From an Interested Source – not allowable

Answer: No. This meal may not be accepted. The total value is not reduced by paying a portion of the expense.

Slide 63



A lobbyist, Leo, went to high school with David, an employee of the Department of Environmental Conservation (DEC).  
Leo regularly has matters before the DEC. Leo sends David a \$50 bottle of wine as a Christmas gift.  
Can David accept the gift?



What factors need to be considered?

- David's status in agency – is he a policymaker or involved in decisions on the topic of lobbying?
- What is their relationship? – just because they went to HS together doesn't mean they're friends.
- Do they normally exchange gifts? If they've been exchanging gifts for years, it might be okay.
- Is Leo lobbying David? – This would definitely rule out the gift.
- Is Leo claiming this as a business expense? – This indicates that it is a cost of business, not a gift of friendship.

Answer: It depends. The answer to these questions will determine if a potential conflict of interest is present that would make accepting the gift impermissible.

Slide 64



STAPLES

Staples is holding a marketing event for Purchase Officers throughout New York State.

Xerox Corp. offers you complimentary admission to the event, including food and beverages.

Can you accept the ticket?

Let's try an analysis using the "Widely Attended Event" rules.

*(Review example)*

What factors need to be considered?

- Is the invitation from the event sponsor?

Answer: No. Staples is the sponsor, not Xerox. The invitation must be from event sponsor, not from a corporate stakeholder at event.

Slide 65



Around 300 people are expected to be in attendance statewide.

32 people from your agency have also been invited by Staples.

Do these conditions meet the second criteria for a widely attended event?

Let's assume Staples, the sponsor, issued the invitation.

What other factors need to be considered?

- Have 25 individuals, who are not from your agency, invited to attend?

Answer: Yes, more than 25 non-agency people are invited to attend.

Slide 66



As part of your official duties, you research and evaluate new software products for your agency.

Your colleague Janet has her own desktop publishing business and was also invited to attend.

Can you and Janet both attend?

*(review slide)*

What factors need to be considered?

- Does this relate to your official duties?

Answer: Maybe. You may attend because the event is directly related to your official duties, but we don't know what Janet's official duties are. If this event does not relate to her State job, she may still attend if she does so on her own time, and her attendance does not create the appearance of a conflict of interest.

Slide 67



Staples has provided food and beverage for all participants of the conference.  
 Xerox has set up a hospitality suite as a thank you for all their current customers.  
 Since your agency has a current contract with Xerox, you are invited to attend the hospitality suite.  
 May you accept the offer?



- What factors need to be considered?
- Are food & beverages offered to all participants?
  - Is this from an Interested Source? – not allowable

Answer: No. While you may enjoy the food and beverages that are served to all participants, you may not accept the invitation to an exclusive perk that other participants do not receive.

Slide 68



Staples offers a complimentary round of golf at a local country club at the conclusion of the conference.  
 Can you attend?



- What factors need to be considered?
- Is there a presentation addressing the public interest or concern being delivered during the entertainment, recreational, or sporting activity?

Answer: No. Unless the public interest is addressed during the recreational event, these kinds of perks are not permissible.

Segue: Some final thoughts on the acceptance of gifts...

Slide 69

Things to Consider: Gifts

1. Am I being offered a gift by someone who has business before my agency?
2. Is the gift being offered as a reward for doing my job?
3. Is the gift being offered to influence me as a State employee?
4. If I accept this gift, could a member of the public perceive a possible conflict of interest?
5. How would this look if someone wrote a news story about this?
6. Does my agency have stricter gift restrictions?



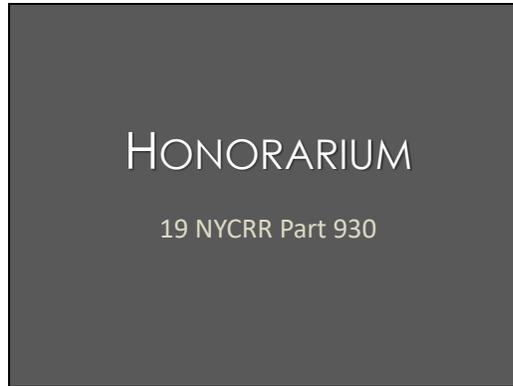


*(Review slide)*

Check with your Ethics Officer about agency policies on gifts that may apply to you.

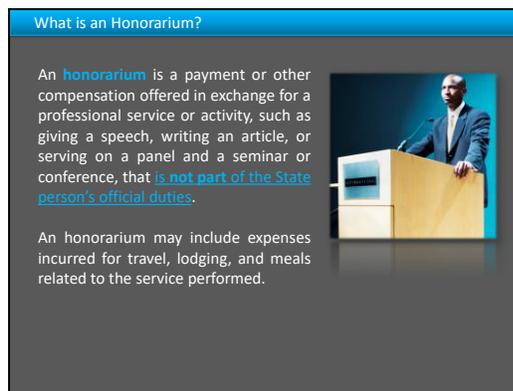
Segue: Our next topic relates to the acceptance of Honoraria...

Slide 70



These regulations were amended June, 2014.

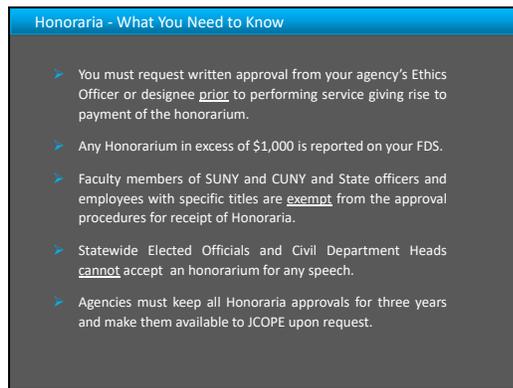
Slide 71



(Review Slide)

Segue: Here's what you need to know before performing the service...

Slide 72



(Review slide)

Requests for approval must be made in advance to give the Ethics Officer time to review the activity for potential conflicts of interest between the outside organization and your agency that you may be unaware of.

Because faculty are often expected to perform honorarium-generating tasks as part of their professional responsibilities, they are exempt from the approval procedures.

Giving speeches is a part of the duties for Statewide Elected Officials and Civil Dept heads, so they may not accept payment for speeches.

Segue: Let's look at the factors that must be considered before your honorarium-generating activity can be approved...

Slide 73

**Restrictions When Performing an Honoraria**

- You cannot use State personnel, equipment, or time to prepare the honorarium-generating activity.
- No State funds can be used to pay your attendance, registration, travel, lodging, or meal expenses.
- If the service is to be performed during the official work day, you must charge vacation or personal leave.
- If the honorarium is offered by or on behalf of an Interested Source, it can't be used to either reward or influence you in performing your State job duties.
- The acceptance of an honorarium cannot violate the conflict of interest rules found in Public Officers Law § 74.

There are several factors to consider when seeking approval for Honoraria. *(Review Slide)*

Note: You might need to do a gift analysis as well.

Segue: A related provision considers travel reimbursements...

Slide 74

**OFFICIAL ACTIVITY  
EXPENSE PAYMENTS**

19 NYCRR Part 931

Comparable to Honoraria are the Official Activity Expense Payments, formerly known as “travel reimbursements.”

Slide 75

**What is an Official Activity Expense Payment?**

Generally, an official activity expense payment is a travel reimbursement that is offered to you for an activity that is [part of, and related to, your State job](#).



All requests to approve an official activity expense payment must be made to your Ethics Officer or appointing authority in advance.

Certain kinds of reimbursements for work-related travel are allowed, but must be requested in writing and approved in advance.

*(review slide)*

Segue: There are things to consider to determine if you may accept payments for activity expenses. You have to follow the same type of situational analysis as when considering gifts.

Slide 76

What You Need to Know



- Mode of travel and related expenses must align with your agency's current travel policy
- Payment or reimbursement from an "Interested Source" is generally not allowed
- You must report any travel reimbursements over \$1,000 from each source on your FDS
- Agencies must retain all Official Activity Approvals for three years and make them available to JCOPE upon request.

*(Review Slide)*

1<sup>st</sup> bullet: you can't accept a first-class ticket for doing your job – follow agency travel policy.

If third party pays directly, these payments are not reportable on the FDS.

Any questions on these kinds of expense payments?

Slide 77

EMPLOYMENT  
RESTRICTIONS  
IN STATE SERVICE

Now we will look at some of the employment restrictions on State employees, which include the reverse two-year bar, negotiation of future employment, and post-employment restrictions.

Segue: Let's start with the restriction on new employees...

Slide 78

REVERSE  
TWO-YEAR BAR

Other Applications of § 74

These first two employment restrictions arise from applications of POL § 74, which include the reverse two-year bar and negotiation of future employment.

Segue: Let's first explain what the two-year bar is...

Slide 79

**Reverse Two-Year Bar**

- Impacts private sector employees who are entering State service
- May require you to recuse yourself from matters directly involving your former private sector employer for two years
- Prevents the appearance that you may give preferential treatment to - or be unduly influenced by - your former private sector employer



**Take Note**

**Please note:**  
If your Ethics Officer or JCOPE determines that your recusal is appropriate, it runs for two years from the date that you terminated employment with the private sector employer.

*(Review Slide)*

This affects former private sector employees who are entering State service.

You may be required to recuse yourself from matters involving your former private sector employee for a “cooling off period” of two years.

Its purpose is to prevent you from giving preferential treatment to or be unduly influenced by your former private sector employer.

*More information can be found in advisory opinions 98-09 and 07-04.*

Segue: There are other considerations when you leave State service...

Slide 80

NEGOTIATION OF  
FUTURE EMPLOYMENT

Other Applications of § 74

Another application of 74 is the Negotiation of Future Employment, and involves restrictions that apply to both solicited and unsolicited job offers.

Slide 81

**Unsolicited and Solicited Job Offers**

As a State officer or employee, there are restrictions on if and when you may negotiate future employment with an entity or individual that has a specific matter pending before you.



If you receive an unsolicited job offer, or if you are interested in soliciting an employment opportunity, you may only pursue an employment opportunity after waiting 30 days from:

1. The date the matter before you closed; or
2. The date on which you notified your supervisor and Ethics Officer of your intent to pursue a job offer and recused yourself from the matter and any further contact with the entity or individual.

If you want to pursue a job with an individual or entity that has a matter pending before you, you’ll have to engage in a 30 day “cooling off” period.

*(Review 2 conditions)*

Segue: An important responsibility is to notify your agency when you are pursuing this kind of employment opportunity...

Slide 82

**Unsolicited and Solicited Job Offers**

**Duty to Notify**

You have a duty to promptly notify your supervisor and Ethics Officer if you receive an unsolicited job offer or if you intend to solicit a job offer from an entity or individual that has a specific matter pending before you.



**Potential Violations**

Depending on the circumstances, failure to follow these requirements for solicited and unsolicited job offers could result in a violation of Public Officers Law § 74 of the Code of Ethics and/or the gift restrictions set forth in Public Officers Law § 73(5).

Whether solicited or not, you should notify your Ethics Officer because in some circumstances, a job offer can be considered a gift which would result in both potential violation of POL 74 and the gift restrictions found in POL 73(5). Also, it's possible that the offer was intended to influence you or an agency decision. You may not be aware that the company has privately offered jobs to other members of your team, but if you are all disclosing those offers, the EO may see a pattern you do not.

Segue: So let's look at the post-employment restrictions that are in POL 73...

Slide 83

**POST-EMPLOYMENT  
RESTRICTIONS**

Public Officers Law § 73

Slide 84

**What is the Purpose?**

The post-employment or "revolving door" restrictions prevent you from leveraging the knowledge, contacts, and relationships gained throughout your career in State service and profiting on that insider knowledge in the private sector.



There are two types of bars: the **Two-Year Bar** and the **Lifetime Bar**.

The two-year bar applies to all State employees subject to POL § 73; the lifetime bar is determined on a case-by-case basis.

The first thing to remember is the importance of consulting with your Ethics Officer or JCOPE prior to accepting a private-sector position that may involve official actions you took as a State employee or officer. These restrictions are designed to prevent a former employee from personally benefitting in the private sector from the insider knowledge they gained as a public servant. After you leave State service, you can't have an undue advantage in professional matters before your former agency.

Segue: These restrictions are on everyone, not just FDS filers...

Slide 85

**To Whom Does it Apply?**

- Post-employment restrictions apply to all State officers and employees subject to Public Officers Law § 73.
- The post-employment restrictions apply to part-time and seasonal employees. These restrictions apply equally to a one-day or thirty-year hire.



**Note:** Students and interns are generally not considered State employees for the purposes of the post-employment restrictions, but there are some exceptions.

**Take Note**

These post-employment restrictions apply to all employees regardless of how long they worked for the State – applies equally to one-day hires and lifetime employees – and regardless of whether or not we must file an FDS.

Segue: We'll look at the two-year bar first...

Slide 86

**Two-Year Bar Restrictions**

The two-year bar creates a "cooling off" period to prevent the appearance that you could unduly influence your former agency.

The two-year bar contains two restrictions - the **"Appear or Practice"** restriction and the **"Backroom Services"** restriction - both of which apply for two years immediately following your separation from State service.

**It does not ban all contact with your former agency**

These restrictions are aimed at preventing a former State employee from:

- influencing a decision of, or action by, their former agency, or
- gaining information from the agency that is generally not available to the public

*(Review slide)*

Segue: Let's take a look at the "Appear or Practice" prohibition...

Slide 87

**The Two-Year Bar – Appear or Practice**

**Appearance/Practice Prohibition**

You may not **appear** or **practice** before your former agency for two years following your separation from State service. This prohibition applies to both paid and unpaid work.

Some examples of prohibited appearances or practices are:

- ✗ negotiating a contract with a former agency
- ✗ submitting a grant proposal or application to a former agency
- ✗ representing a client in an audit before a former agency



(Review slide)

Segue: since these restrictions are very situational, let's look at some additional examples...

Slide 88

**Two-Year Bar – Appear or Practice**

**Additional examples that would violate the "Appear or Practice" restrictions:**

- Having your name appear on any document submitted to your former agency when the document submission involves influencing a decision of, or action by, your former agency
- Engaging in settlement discussions with your former agency
- Calling your former agency for guidance on how it might apply a future regulation or application, where generally your former agency would not provide such information to the public

**BEST practice** Consult with your agency Ethics Officer or JCOPE attorneys to discuss how this restriction might apply in your future private sector employment.



(Review examples)

Segue: There is also a "Backroom Services Prohibition"...

Slide 89

**Two-Year Bar – Backroom Services**

You are prohibited from being paid to perform certain services on behalf of a client that are related to a matter before your former agency that advances its mission, even if those activities do not involve directly appearing or practicing before your former agency.

**This prohibition applies only to paid work.** There is no prohibition on performing backroom services for no compensation.



The 2<sup>nd</sup> restriction of the 2-Year Bar is the Backroom Services Prohibition: (Review slide)

Segue: Let's look at some examples of what this might look like...

Slide 90

**Two-Year Bar – Backroom Services**

Some examples of prohibited Backroom Services include:



- ❌ Preparing certain documents for a private firm when it is reasonably foreseeable that the documents will be reviewed by your former agency
- ❌ Assisting another person in the creation or development of an application to be submitted to your former agency
- ❌ Assisting another person in the creation or development of a plan or strategy for influencing a decision of your former agency

*(Review examples)*

In these examples, we can see that you're not directly interacting with your former agency, but your private sector firm is still using your insider knowledge to gain an advantage over the general public.

Segue: There is a special set of restrictions for Executive Chamber employees...

NOTE: document submission that would advance the firm's mission (18-01)

Slide 91

**Special Two-Year Bar for Executive Chamber Employees**



Former Executive Chamber employees are prohibited from appearing or practicing - regardless of compensation - before all State agencies, not just the Executive Chamber.

They may, however, perform backroom services for compensation to State agencies other than the Executive Chamber.

Are there any Executive Chamber employees here today?

*(If not, skip. If so, review slide)*

Segue: The next employment restriction is the Lifetime bar...

Slide 92

**The Lifetime Bar**

"No person who has served as a state officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any state agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration."

*(Review Slide)*

Once you leave State service, you may never appear, practice, or render services before any state agency in relation to any matter you personally participated in.

This bar is very narrowly applied and specific to the circumstances, so you will want guidance to determine if it applies in your case.

Segue: Let's look at this a bit closer...

Slide 93

What You Need to Know...

If you participated in a specific case, proceeding, application or transaction while in State service:

- 1) If the same matter is before any New York State agency, you cannot ever participate, regardless of compensation.
- 2) If the same matter is not before a New York State agency, you may perform services on the same matter provided you receive no compensation.



**BEST practices**

The Lifetime Bar is extremely fact-specific. If you have any questions regarding the application of this bar to your professional circumstances, please contact JCOPE for a confidential assessment.

*(Review Slide)*

For example, while working at DEC, you helped conduct an environmental impact study for a proposed housing project. The Div. of Homes & Community Renewal will conduct a review of the completed project. After you leave State service, you join the construction co. that built it, and the completed project goes to HCR for review. You might be Lifetime Barred from participating in the review of that project for the construction company. However, you may be allowed to *volunteer* your expertise for an environmental group that is trying to conserve wetlands on the property.

Segue: There are many factors that the Commission will consider in determining the Lifetime Bar...

Slide 94

What You Need to Know...

The Commission will examine a non-exhaustive list of factors in considering whether it is the *same* specific case, proceeding, application or transaction, including:

- (1) the general nature of the project;
- (2) the phases of the project involved;
- (3) the nature of the work performed as a State employee and the nature of the work projected to be performed;
- (4) the extent to which the projected work constitutes a continuation of the earlier work;
- (5) the identities of other persons and/or entities directly involved in the earlier work and in the projected work; and
- (6) intervening changes in design, methods, or technology.

*(Review Slide)*

These are new factors to consider from Advisory Opinion 18-01.

Segue: There are some exceptions to these post-employment restrictions...

Slide 95

**Exceptions to the Post-Employment Restrictions**

<b>Government-to-Government</b>	There is no bar to accepting a position as an employee of a Federal, State, or local government entity. <i>(Exception does not apply to independent contractors retained by such government entities.)</i>
<b>Continuity of Care for Health Care Professionals</b>	Former State-employed health care professionals may continue to treat patients and clients at the State facility which formerly employed the health care professional.
<b>Certificate of Exemption</b>	An agency head can make a formal request to JCOPE to approve contracting with a former employee for a limited period of time to assist in a project that otherwise would be at a significant cost and resources to the agency.

The post-employment restrictions do not apply in the following situations:  
*(Review Slide)*

If you leave State service but move to another gov't position, you're still serving the public, and these employment restrictions do not apply.

If you are a health care professional, you can continue to care for the patients that had been in your care as a State employee.

You're not prevented from returning to your former agency if there is a specific matter for which your agency requires your expertise.

Remember, if you have any questions regarding how these employment restrictions may apply to your particular set of circumstances, please consult your agency Ethics Officer or a JCOPE attorney.

Segue: Let's talk about what we need to do to keep politics out of State service...

Slide 96

**PUBLIC SERVICE  
ANNOUNCEMENTS**

19 NYCRR Part 940

This is a new regulation as of July 2014, and has a very narrow application.

Slide 97

**Public Service Announcements**

The purpose of the regulation is to promote Public Service Announcements, while discouraging their use as campaign tools for elective office.

The PSA regulations prohibit the following individuals from appearing in a PSA within 90 days of any election:

- > Governor
- > Lieutenant Governor
- > Comptroller
- > Attorney General
- > Members of the New York State Legislature (either house)
- > Any head and/or executive director of a State Agency

 Violations can result in a \$10,000 civil penalty and the value of the benefit received.



Statewide elected officials, members of the legislature, and agency heads are prohibited from appearing in PSAs within 90 days of an election. This “blackout” period attempts to prevent these office holders from using PSAs as unofficial election campaign ads.

Segue: There is another section of the law that specifically addresses politics in the State workplace...

Slide 98

“LITTLE HATCH ACT”

CIVIL SERVICE LAW § 107

The Little Hatch Act addresses political activity in State service, and puts rules in place about what can and cannot be done at work. It is modeled on the Federal “Hatch Act” which also seeks to prevent politics in the workplace.

Slide 99

**Political Activity in the Workplace**

The term “political activity” means doing something in active support of or opposition to a political party, a candidate for partisan political office (e.g., President, senator, representative, state or local legislature or office), or a partisan political group.



 The State workplace should remain nonpartisan. Keep your personal political activities and opinions separate from your professional life.

The Little Hatch Act is designed to prevent political activity in the workplace. *(Review slide)*

Segue: Let’s look at what is prohibited...

Slide 100

**What the Law Says...**



You may not be questioned, directly or indirectly, about your political affiliation as a condition of employment or position.



State offices may not be used for soliciting or collecting any political contributions.



You cannot use your State position or authority to coerce, intimidate or influence employees for any political purpose.



If you are involved in hiring potential employees, you cannot ask questions regarding a candidate's political affiliation, political contributions, or how an applicant voted in any election.



You cannot dishonestly use or attempt to use your official authority or influence in exchange for political action on someone else's part.

(Review Slide)

Segue: Let's look at a few examples...

Slide 101

**Prohibited Political Activities in the Workplace**

Political activity that violates Public Officers Law § 74:

-  Circulating a candidate's nominating petition within your office
-  Using the computer in your office after work to produce a brochure in support of a candidate's campaign
-  Sending e-mail invitations to campaign events to friends within the agency
-  Using New York State Internet connections to forward e-mail messages received from a partisan campaign or someone supporting a partisan candidate

Here are some real-work examples that have been found to be in violation of the Little Hatch Act.

- No nominating petitions in the office – outside the workplace on personal time is allowed
- You can't use State resources to produce any political materials
- You can't use State email for political communications, even to friends you know support your candidate
- If you receive a political communication to your work email address in error, delete it and contact the candidate to give them your personal email address. Even forwarding a political email to your personal address is a violation because you have used the State's internet connections to distribute political materials.

Segue: The penalties for violations of this Act are significant...

Slide 102

**Civil Penalty Amounts**

Violations of the following sections of law provide for a civil penalty of up to \$40,000 and the value of any gift, compensation or benefit received:

- § 73(4) Selling good or services to State agencies
- § 73(5) Gifts
- § 73(7) Rendering services before State agencies
- § 73(8)(a) Post-employment Restrictions
- § 73(14) and § 73(15) Nepotism
- Civil Service Law § 107



*(Review Slide)*

The penalties can be substantial, so seek guidance from your Ethics Officer or JCOPE if you have any questions about these aspects of the Public Officer's Law.

Segue: Here's how to reach out...

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**JCOPE Contact Information**

 For General Inquiries, call:  
**1-800-87-ETHICS** or **(518) 408-3976**

 For Legal Guidance email us at:  
**legal@jcope.ny.gov**

 For Questions on Training email us at:  
**education@jcope.ny.gov**

One of the central missions of JCOPE is to provide guidance on matters of State ethics. The purpose of this training was to give you greater awareness of your obligations under the Ethics laws, but if you have any questions, please contact our office.