



## FAQS: ESSENTIAL FUNCTIONS OF THE FDS SYSTEM

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If you have any additional questions about the FDS System, please send them to [Education@jcope.ny.gov](mailto:Education@jcope.ny.gov) for an answer and possible inclusion here.

### What is an FDS?

The FDS is a Financial Disclosure Statement. It 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 provide transparency and prevent conflicts of interest between certain State employees' professional duties and their private financial interests and affiliations.

### Which State employees are required to file?

Any employee who is in a position designated by their agency as a "Policy Maker," or any employee whose salary exceeds the annual salary threshold, which is equivalent to CSEA salary grade 24.

### What are the salary threshold filing rates?

| FDS Year    | Filing Due Date              | CSEA SG-24 Job Rate/<br>Filing Threshold |
|-------------|------------------------------|--|
| <b>2017</b> | May 15, 2018 (non-academic)  | \$97,448 (eff. 4/1/18)                   |
|             | November 15, 2018 (academic) |  |
| <b>2018</b> | May 15, 2019 (non-academic)  | \$99,394 (eff. 4/1/19)                   |
|             | November 15, 2019 (academic) |  |
| <b>2019</b> | May 15, 2020 (non-academic)  | \$101,379 (eff. 4/1/20)                  |
|             | November 16, 2020 (academic) |  |
| <b>2020</b> | May 15, 2021 (non-academic)  | \$101,379 (eff. 4/1/20)                  |
|             | November 16, 2021 (academic) |  |

### Are part-time employees required to file?

**Maybe.** It depends on if the part-time job is permanent, or if it's really a full-time job that the employee is opting to accept on a part-time basis.

Filers hired on a permanent part-time basis, if they are not designated as a Policy Maker and there is no potential to exceed the annual rate, then NO – they are not required to file.

If the filer has elected to work reduced hours, and the full-time equivalent would exceed the salary threshold, YES – they are required to file.

### How soon do I have to notify JCOPE about changes to filers? Is that an annual requirement?

Public Officers Law § 73-a(c)(ii) requires Ethics Officers to update the FDS system on any changes to filer information within 30 days. On an annual basis, Ethics Officers are required to certify the accuracy of the entire agency's Active Filer List.

### What credentials do I use to add a new filer?

- **State Employees:** use NY.GOV Directory Services credential established by agency
- **SUNY Employees:** use SUNY ID that starts with "SUNY"
- **CUNY Employees:** new filers must create a personal NY.GOV account.
- **Authorities, Commissions, & Boards:** If the entity does not have a NY.GOV delegate to create NY.GOV account for the filer, the filer must create a personal NY.GOV account.

### What do the designations mean?

- **Policy Maker:** determined by agency, not eligible for filing exemptions
- **Threshold Over:** filer has salary that exceeds the filing rate (CSEA SG-24) as of April 1 of current year
- **Ethics Denied:** JCOPE has determined that title is not eligible for exemption. This designation is now obsolete and is being phased out.
- **Agency Objections:** agency has objected to individual receiving exemption
- **Former Threshold Over:** former filer's annual salary now falls below the filing threshold

- **Former Policy Maker:** former filer is no longer designated as a policymaker and annual salary is below the filing threshold
- **Academic Filer:** SUNY/CUNY professor
- **Former Academic Filer:** SUNY/CUNY professor whose salary now falls below filing threshold

We have people in titles with a designation of “Ethics Denied.” What does that mean?

These are titles that have been denied an exemption by the Commission. In 2020, JCOPE underwent a review of all job titles that had been granted an exemption. As a result, the “Ethics Denied” designation is no longer needed and will be phased out.

Please change the filer designation to either “Policy Maker” or “Threshold Filer”

How should we handle filers who were above the old filing threshold but now are below the new threshold?

With respect to any non-policymaker whose annual salary in 2021 is \$101,379 or below in the FDS system, please change the designation of that individual from “Threshold Over” to “Former Threshold Over” in the individual’s profile.

Once you change the designation, the person’s status should change from “Active” to “Inactive.”

Please cease any FDS onboarding or compliance efforts with respect to any non-policymaker whose current salary is \$101,379 or below.

I have a new person on staff who makes over the old threshold, but under the new threshold. Do I now wait to enter him until after April 1, after he makes over the threshold amount?

If you are unsure whether the filer will exceed the new threshold effective April 1st, you can wait to add the filer until you are certain. If you have current information indicating that the filer will exceed the threshold after April 1st, you should add the filer now. The notice to file will be sent April 15th with a May 15th filing deadline.

If an employee is a former Policy Maker or falls below the threshold, should I make that person Inactive?

If the Policy Maker is no longer a policymaker and his or her annual salary rate does not exceed the CSEA SG-24 job rate, you should change the filer's designation to "Former Policy Maker." If the filer was a Threshold Filer whose annual salary rate no longer exceeds the CSEA SG-24 job rate, you would change the filer's designation to "Former Threshold Filer." Each of these changes makes the profile inactive in the system.

### How do we delete records of employees who have retired or otherwise permanently left our agency?

Ethics Officers are not able to delete any information from the FDS system. The system preserves the records for 7 years. Instead, you should modify the filer information to make them "Inactive."

On the filer's dashboard, click the pencil next to "Filer" to edit filer information. Then click the pencil next to your agency on the right, which activates the "Job Status" drop-down box in the agency section of the profile.

Select "Left Service/Retired," enter an effective date, then click the "Update" button to save changes. Then click "Update Filer" on the bottom left of the screen. This will remove them from your list of active FDS employees.

### How do I indicate if one of my filers goes on leave?

If a filer is on a leave, please update the FDS system at the time the leave commences. This prevents the filer on leave from enforcement actions for late filing.

- Update "**Job Status**" field to select type of leave
- Enter effective date of leave

### If an employee is a current filer, but leaves the agency to go to another agency where he or she will remain a filer, should I make that person Inactive?

If a filer leaves your agency, you would update their "Job Status" to "Left Service/Retired" and input the effective date of leave. This makes the filer inactive. If the person gets rehired in another State agency, his or her profile can be reactivated and updated by the new agency. When adding the filer, the new agency can pull the filer's original account and merge the former account profile information into that new account. In this manner, a filer's filing and training history is preserved when moving between state agencies.

### How does a collective bargaining unit make a request for exemption on behalf of its members? How does this process work?

An individual, a State agency, or an employee organization on behalf of a group of individuals who share the same job title or employment classification, may submit an exemption request.

#### **Policy Makers are not eligible for exemptions.**

A request for an exemption from filing must be made in writing or via the FDS system and received by the Commission on or before the applicable filing deadline.

### How are title exemptions determined?

The Commission may grant an exemption where, in its discretion, the public interest does not require disclosure, and the individual's job duties do not involve negotiating, authorizing, or approving:

- contracts, leases, franchises, or similar matters;
- the purchase, sale or rental of real property, goods, or services;
- the obtaining of grants of money or loans; or
- the adoption or repeal of rules or regulations having the force and effect of law.

### How are agencies notified about exemption request determinations?

JCOPE reviews and processes exemption requests. When a determination is made, it is noted in the filer's profile, and the FDS system automatically generates and sends the filer an e-mail notifying him or her whether the exemption has been granted or denied. The FDS system copies the Ethics Officer on that e-mail determination.

### Is the Ethics Officer/Agency Contact notified once a filer requests an exemption?

The filer and the Ethics Officer(s) are the only ones who receive a copy of the exemption decision.

### How is notification made when an employee's status goes from "Exempt" to "Not Exempt"? Who is notified?

Each account reflects a filer's exemption status. When the account is updated, the agency will immediately see that the filer is no longer exempt. It is the agency's responsibility to notify the filer that, due to a change in title or policymaking designation, the individual is now

required to file. The Commission will also send the filer an e-mail notice that he or she is now required to file an FDS.

Should individuals in exempted titles be entered in the FDS Filing System? If so, are those individuals required to complete training in the designated time limits even if they do not have to file?

**Yes**, FDS filers who are in exempt titles are to be reported in the FDS System. All employees who will exceed the salary rate on the filing due date must be reported on your list, including employees who have been granted an exemption previously. However, if JCOPE grants an exemption, these filers are not required to take training.

Is there an updated exempted title list?

JCOPE receives exemption requests on an ongoing basis, so the list is always subject to change. JCOPE has recently updated the title exemption list. There are many titles and not all apply across agencies. If a title is exempt, the filer's account will indicate that when you add the filer. Please contact the FDS Unit for specific title exemption questions.

If an Academic filer is under the threshold, is there a way to require them to file without changing their filing status to "Policy Maker," and thus changing their schedule from Fall to Spring?

Public Officers Law Section 73-a requires the filing of the statement if the individual has been designated as a policymaker, or has an annual salary in excess of the CSEA SG-24 job rate. If the individual does not meet either criteria, then he or she is not required to file. If the academic filer is a policymaker, he or she is required to file by May 15th or within 30 days of the policymaking designation.

How do ethics officers know if filers are delinquent when the FDS information is not in the system?

Prior to the Commission issuing a Notice of Delinquency to the filer, the FDS Unit shares with the agency a list of filers who have not filed. We ask you to verify that each individual is still active in State service, whether the information in his or her account is correct, and to reach out to the filer and advise him or her to file. Once we issue a Notice of Delinquency, it becomes public record and could carry a monetary fine.

One of our FDS filers does not have an e-mail address - how do we handle notification and is it OK to leave the e-mail field in the FDS system blank?

The e-mail address is a required field. If the individual does not have a work e-mail address, please enter a personal e-mail address. To the extent the individual does not have any e-mail address, you can enter the Commission's e-mail of ethel@jcope.ny.gov. When we send notifications out, it will come to the FDS Unit, which will know to mail the filer a filing notice by regular mail. You should e-mail the FDS Unit and advise us that a particular individual does not have an e-mail address and that we need to manually send mail to the filer. The FDS Unit keeps a running list of individuals without e-mail addresses who require paper mailings.

Each agency may choose how they notify FDS filers of the filing requirements, but agencies should have internal policies and procedures in place to ensure that filers are notified.

What happens if an agency's filers don't file on time?

If a filer fails to file the FDS, or files an incomplete FDS, JCOPE will send that person a confidential notice providing 15 days to complete and submit the filing.

If the filer fails to respond, JCOPE staff will seek Commission authorization and then contact the agency Ethics Officer for assistance in obtaining compliance. If the filer still does not comply, JCOPE will send the filer and the appointing authority (with copy to the Ethics Officer) a Notice of Delinquency that advises the filer of potential fees and penalties, including agency disciplinary action. Notices of Delinquency are publicly available on the JCOPE website.

Continued failure to file may subject the filer to a civil penalty up to \$40,000 after a hearing or criminal prosecution.

Upon completion of ethics training, how do I determine what course should be selected as completed? CETC or Ethics Seminar?

**In the FDS system:**

➔ **CETC = First-time completion of the CETC class**

This first-time completion date is recorded in the system separately from all future ethics training completion dates.

➔ **Ethics Seminar/Refresher = all future CETC/ES classes**

When you enter a completion date for the Seminar/Refresher, a drop-down box will ask you to indicate which actual class the filer completed to satisfy the refresher training

requirement. Filers can retake the CETC or take the Ethics Seminar class to satisfy the refresher training requirement.

### What does "Tested Out" mean for the Online Ethics Orientation?

If a filer completes the CETC before the OEO, entering a completion date for the CETC will automatically "test out" the OEO requirement. This simply means the filer has met the OEO requirement by taking the CETC first.

### Why do some of my filers not appear on the FTDE (training) screens?

1. Your filer is listed as "inactive" or "exempt"
2. Your agency is not their primary agency
3. An error on the filer's profile is causing them to not appear on your training lists

The FTDE training screens only list active filers who are under the primary authority of your agency. Filers who are affiliated with more than one agency are listed on both agency's "Active Filer" lists, but only the primary agency is tasked with recording training information.

If #3, contact the JCOPE Education unit to assist in troubleshooting and resolution.

### Can filers request a training extension?

**Yes.** The Training Extension Request feature is a button found on a filer's dashboard. This gives a filer an easy way to request a 60-day extension of a training due date.

Extensions are granted based on "justifiable cause" or "undue hardship." JCOPE evaluates and approves requests on a case-by-case basis. An e-mail with a determination will be sent to both the filer and the Ethics Officers on record in the FDS system. An extension can only be given twice for the same course, for a total extension granted of 120 days.

### What happens to a filer's training history if they were "on leave," "inactive," or "exempt" and return?

It depends on how long the filer was on leave, inactive, or exempt (OL/I/E):

If the filer was OL/I/E for **less than one year**, the due date for their next training class is automatically extended by the amount of time OL/I/E.

If the filer was OL/I/E for **more than one year**, the training schedule resets as though the filer were new. Any previously completed classes are archived, and new OEO & CETC classes are added to the profile with new due dates based on when the filer was reactivated.

### Why do some filers have incorrect training due dates?

There was an identified system glitch that affected the training due dates for filers whose profiles had been reactivated. This error led to incorrect due dates.

Generally, most due date errors can be fixed by using the Training Override function on the filer's dashboard.

Please contact JCOPE Education for assistance with correcting training date errors.

### Does our agency need to complete an Annual Training Compliance Report anymore?

**No.** One of the reasons training activity has moved to the FDS system is to ease the annual reporting burden on Ethics Officers. As long as you are making regular and ongoing updates to filer training histories throughout the year, there is no longer an additional obligation for you to submit those dates to JCOPE in a consolidated annual report.

### What if a filer refuses to attend training?

Filers who have missed a training deadline will receive monthly Late Training Reminder Notices until they have completed training and a training completion date has been entered into the FDS system. While FDS filers are statutorily mandated to complete the ethics training requirements, the law does not authorize JCOPE to penalize individuals for non-compliance. However, JCOPE submits agency non-compliance statistics annually to the Governor's office. Therefore, we strongly encourage all filers to meet their ethics training obligations under the Public Officers Law.

While JCOPE cannot impose a penalty for non-compliance, agencies CAN. Agencies may have their own internal policies authorizing them to take action against employees who violate any requirement imposed by the State ethics law.

### How can we download all the filers' e-mail addresses easily to e-mail only them?

There are three places where you can get filer information with their email address. There are two reports in the Report menu that will allow you to download a list of filers and their associated email address: The "Active/Inactive Filer" report and the "Agency" report. To create a specific list of filers who are due for training, you can find a downloadable list in the "Certification/Filer Training Data Entry" section on the "Upcoming" screen. This screen lists your active filers but does not include inactive filers or filers for whom your agency is a secondary agency. You may sort the list alphabetically by name by or due date clicking the

associated column. You may also download this list into a spreadsheet for training outreach and notifications for your filers.

### What are the different ways to present a training?

According to State law, the CETC and Ethics Seminar must be presented by an instructor in a “live synchronous presentation,” which means that the presentation occurs in real time and allows for immediate two-way communication. Acceptable forms of live synchronous presentation are:

- Webinars: Provide one-way video and two-way audio
- Video Conferencing: Allows two or more locations to communicate by simultaneous two-way video and audio transmissions
- Traditional classroom setting: Both presenter and attendees are in the same location and are able to ask questions in real time

The only challenge for Webinars and Video Conferencing is that you need some way to verify attendance to your own satisfaction. (We don’t tell agencies how they must verify attendance – agencies have the discretion to find whatever way works best for them.)