



THE ETHICS REVIEW

A JOINT COMMISSION ON PUBLIC ETHICS NEWSLETTER

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What Happens with Financial Disclosure

The financial disclosure laws were designed to help root out and prevent conflicts of interest by making available—to JCOPE and the public—information about the private financial interests and activities of certain State officers and employees (individuals designated as Policymakers by their agency and Threshold Filers - those whose annual compensation exceeded \$101,379 in 2020). With more than 36,000 financial disclosure filings submitted to JCOPE each year, have you ever wondered what JCOPE does with your Financial Disclosure Statement (FDS) once it leaves your hands?

The first set of eyes to review your FDS are those of a JCOPE Filing Specialist, who also assists filers with resolving any technical issues that may arise in the course of completing and submitting an FDS. If the FDS appears, on its face, to be incomplete, a Filing Specialist will notify you and provide you 15 days within which to complete the filing. Failure to comply with the filing requirement will result in issuance of a public notice of delinquency.

After that initial review, your FDS may also make its way over to the JCOPE Audit and Review Division. As required by law, JCOPE randomly selects FDSs each year for comprehensive and qualitative review. Particular focus is devoted to confirming whether your responses are complete and consistent with JCOPE internal documents and publicly available information. In addition to these random reviews, JCOPE operates a targeted review program to examine the FDSs filed by elected officials and high-level State officers and employees.

If you fail to respond to JCOPE staff requests for additional or clarifying information, JCOPE's Investigations and Enforcement Division may take over compliance efforts. If you are found—after notice and a hearing—to have knowingly and willfully failed to file your FDS, or to have knowingly and with intent to deceive made a false statement or fraudulent omission on your FDS, you would be subject to imposition of a civil penalty of up to \$40,000 and potential criminal prosecution for the commission of a misdemeanor offense. In addition, your agency

could take disciplinary action against you for failing to file a FDS or for filing a false statement.

JCOPE has multiple resources available to ensure the accurate and complete submission of financial disclosure statements. Not only are FDS staff available to assist you with technical issues, but the JCOPE Attorney of the Day is available every business day—by phone or email—to

respond to questions about whether a financial item is reportable, or where to disclose certain information on the form. Be sure to visit JCOPE’s website for staff contact information, as well as for information regarding other ethics and lobbying topics covered under JCOPE’s jurisdiction.

Dear JCOPE

I’ve heard about a “30-day rule” when a vendor offers me a job. What is this and what if I’m not interested in the job offer? *What if I am?*

Answer:

A 2006 Ethics Advisory Opinion established a rule that comes into play when a State officer or employee is contemplating leaving State service and wishes to engage in discussions with a specific potential private sector employer (the “30-day rule”). Generally, the 30-day rule applies in two types of situations:

1. When ***you are approached*** about a job by an individual or a company in the private sector that has a specific, pending matter *that you*

are working on as part of your State job responsibilities; or

2. When ***you want to approach*** a private sector individual or entity about a potential job, and that individual or entity has a specific, pending matter *that you are working on* as part of your State job responsibilities.

Under both of these scenarios (and assuming you intend to discuss a potential job), you must inform your supervisor and your agency’s Ethics Officer immediately after you have been approached about a job, or before you approach the potential employer. You must then recuse yourself from any further involvement in the matter pending before you relating to the

individual or company and wait 30 days before contacting or entering into discussion with the potential employer. In a case where the potential employer has contacted you, you are permitted to explain the 30-day rule and inform them that you will follow up with them after the passage of at least 30 days. A reputable employer should be understanding of the need for you to honor your legal obligations and may already have some knowledge of the State's conflict of interest rules.

If you *do not* intend to pursue the job offer, you are still required to inform your supervisor and your agency's Ethics Officer immediately after you have been approached by a person or entity with a specific matter pending before you.

However, there is no need to recuse yourself from the matter.

If the potential future employer *previously* had a specific matter before you, but the matter has been officially closed or concluded for at least 30 days, then the 30-day rule does not apply.

Remember that the 30-day rule only applies when you are working on the matter. For example, if a private employer happens to have an application pending before your agency (or, say, to have a contract with your agency), but you have nothing to do with - or do not expect to be involved in - the matter, there is no 30-day rule, and you are free to approach the company or discuss their offer.

Enforcement Actions

FINANCIAL DISCLOSURE

FINANCIAL DISCLOSURE: Two academic employees of State-run universities acknowledged their failure to file financial disclosure statements ("FDS") for two separate years, in violation of Public Officers Law § 73-a, and paid fines of \$300 and \$800, respectively. One of the individuals had, in prior years, also failed to file, which is reflected in the higher fine amount.

FINANCIAL DISCLOSURE: Another academic State employee engaged in outside business which was not reported on his financial disclosure statements ("FDS") for seven separate years. The employee admitted to violations of Public Officers Law § 73-a, paid a fine of \$6,000, and was required to amend his previous FDS filings.