

Title 19 NYCRR Part 930 is amended to read as follows:

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE
STATE OF NEW YORK

TITLE 19. DEPARTMENT OF STATE

CHAPTER XX. [STATE ETHICS] COMMISSION ON PUBLIC INTEGRITY

PART 930 LIMITATIONS ON THE RECEIPT OF HONORARIA [AND
REIMBURSEMENT FOR TRAVEL EXPENSES]

[930.1 Applicability.

This part shall apply to the following:

- (a) the four statewide elected officials; and
- (b) State officers or employees.]

930.[2] 1 Definitions.

(a) *Approving authority* shall mean the head of a State agency or appointing authority, as appropriate, or his or her designee for State officers or employees, and, in the case of [the four] statewide elected officials, heads of civil departments and the heads of State agencies, it shall mean the [State Ethics] New York State Commission on Public Integrity [, which may delegate the approval authority required by these regulations to its executive director].

(b) *Commission* shall mean the New York State Commission on Public Integrity.

[(b)c] *Covered* [individuals] *persons* shall mean: [the four statewide elected officials and State officers or employees, as defined in subdivision (f) of this section.]

(1) Heads of civil departments as enumerated in subdivision (d) of this Subpart

(2) State officers or employees as defined in subdivision (h) of this Subpart.

(3) Statewide elected officials as defined in subdivision (i) of this Subpart.

(d) Heads of civil departments shall mean heads of the departments enumerated herein: Agriculture and Markets, Banking, Civil Service, Comptroller, Correctional Services, Economic Development, Education, Environmental Conservation, Executive, Health, Insurance, Labor, Law, Mental Hygiene, Motor Vehicles, Public Service, Social Services, State, Taxation and Finance, and Transportation.

[(c)e] *Honorarium* shall mean [:]

(1) Any payment, which may take the form of a fee or any other compensation, made to a covered person in consideration for a service rendered that is not part of his or her official duties. Such service includes delivering a speech, writing or publishing an article or participating in any public or private conference, convention, meeting or similar event. Honorarium shall also include expenses incurred for travel, lodging and food related to the service rendered.

(2) Notwithstanding the above, no statewide elected official or head of any civil department shall, directly or indirectly, solicit, accept or receive any honorarium for any speech given at a public or private conference, convention, meeting, social event, meal or like gathering.

(3) Honorarium shall not mean a payment provided to a covered individual who provides services for or acts on behalf of an employee organization certified or recognized under Article 14 of the Civil Service Law to represent such covered individual.

[(1) a payment, fee or other compensation to a covered individual for services rendered by a covered individual not related to the covered individual's official duties, which payment, fee or other compensation is made as a gratuity, or as an award or honor; e.g., for delivering a speech, writing or authoring an article or publication or attending a meeting or conference; and]

[(2) a payment, whether to a lodging site or a provider of transportation, for travel expenses made to or on behalf of an individual, or reimbursement made to the covered individual for travel expenses incurred, for such services rendered by a covered individual not related to the covered individual's official duties. (For travel reimbursement related to a covered individual's official duties, see section 930.6 of this Part.)]

[(3) Honorarium shall not mean:

(i) a travel payment in the form of a gift from a relative; or

(ii) a payment in lieu of an honorarium made to the State or a travel payment provided by nongovernmental sources for activities related to a covered individual's official duties; or

(iii) compensation in the nature of salary, wages or fees for services for non-State related work performed or travel payment provided by non-governmental sources for activities related to a covered individual's appropriate or authorized outside employment; or

(iv) a payment, fee, travel payment or other compensation provided to a covered individual who provides services for or acts on behalf of an employee organization certified or recognized under Article 14 of the Civil Service Law to represent such covered individual.]

([d]f) *Ministerial matter* shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

[(g) State Ethics Commission shall mean the State Ethics Commission created by section §94 of the Executive Law.]

[(e]g) *State agency* shall mean any State department, or [board, bureau,] division, board, commission, [council] or [State agency] bureau of any State department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the Governor, or the State University of New York or the City University of New York, including all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State.

[(f]h) *State officer or employee* shall mean:

(1) heads of State departments and their deputies and assistants, other than members of the [B]board of [R]regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis;

(2) officers and employees of statewide elected officials;

(3) officers and employees of State departments, boards, bureaus, divisions, commissions, councils or other State agencies, other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and

(4) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the Governor, who receive compensation on other than a per diem basis, and employees of such authorities, corporations and commissions.

(i) Statewide elected official shall mean the Governor, Lieutenant Governor, Comptroller or Attorney General.

930.[3] 2 Conditions [under which] for acceptance of an honorarium [may be accepted]

(a) A covered [individual] person may accept an honorarium [, if] provided the following conditions are met:

[(1) the honorarium is not to be received for services rendered for or on behalf of an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, which:]

[(i) is regulated by, or regularly negotiates with, appears before in other than in a ministerial matter, does business with or has contracts with either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the agency; or]

[(ii) attempts to lobby or to influence action or positions on legislation or rules, regulations or rate making before either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or]

[(iii) is involved in litigation, adverse to the State, with the State agency with which the covered individual is employed or affiliated, or with the covered individual in his or her official capacity, and no final order has been issued; or]

[(iv) has received or applied for funds from the State agency employing the covered individual at any time during the previous calendar year, up to and including the date of the proposed receipt of the honorarium; or/and]

[(2) 1) the service for which an honorarium is offered is not part of the covered person's official duties [of the position in which the covered individual serves]; and

[(3) 2) State personnel, equipment and time [(,]including that of the covered [individual] person, [)] will not be used to prepare for [delivery of a speech or to render] rendering [a] the service for which an honorarium [is to be received] is offered; and

[(4) 3) the State agency with which the covered [individual] person is employed or affiliated does not pay the covered person's travel, lodging or food expenses [of the covered individual], and the sole purpose of the travel, lodging or food expenses was to [perform] render the service for which an honorarium was offered; and

[(5) 4) the service for which an honorarium is offered is not performed during the covered [individual's State] person's official work day or, if the service is to be performed during the covered [individual's State] person's official work day, he or she must charge accrued leave (other than sick leave) to perform such service[.]; and

(5) the honorarium is not offered by or on behalf of an individual or non-governmental entity, or from a non-governmental entity in which any of its officers, directors or trustees are associated with a separate non-governmental entity, that:

(i) is regulated by, or regularly negotiates with, appears before in other than in a ministerial matter, has contracts with or does other business with either the State agency employing the covered person or the covered person in his or her official capacity; or

(ii) attempts to lobby or to influence action or positions on legislation or rules, regulations or rate making before either the State agency employing the covered person or the covered person in his or her official capacity; or

(iii) is involved in litigation, adverse to the State, with the State agency with which the covered person is employed or affiliated, or with the covered person in his or her official capacity, and no final unappealable order has been issued; or

(iv) has received or applied for funds from the State agency employing the covered person at any time during the previous calendar year, up to and including the date of the performance of the speech for which an honorarium will be offered.

[(b) A covered individual may accept an honorarium if such honorarium is provided by an organization whose sole purpose is religious, social (e.g. athletic groups, alumni or school associations, interest clubs), or self-help, and none of the conditions precluding acceptance, described in subdivision (a) of this section exist.]

[930.4 Conditions for limited acceptance by the State of a payment in lieu of an honorarium.

An approving authority may approve a payment in lieu of an honorarium, and the use of State equipment, personnel and time to prepare a speech or publication or render a service, provided that the payment in lieu of an honorarium will be made by the granting organization or individual directly to the general fund of the State or to such fund as is appropriate for a public authority, public benefit corporation or commission not funded through State general fund appropriations, and the service for which an honorarium was offered is related to the covered individual's official duties or responsibilities.]

930.[5] 3 Procedure to seek approval of and report honoraria.

(a) State officers and employees [may] shall submit a written request for approval by the approving authority for the receipt of an honorarium, and, upon approval of the receipt of an honorarium in accordance with these rules, the approving authority shall file such determination with the [State Ethics] Commission. The [four] statewide elected officials, the heads of any civil department and the heads of State agencies shall submit a written request for approval by the [State Ethics] Commission for the receipt of an honorarium.

(b) In circumstances where the approving authority has approved the receipt of an honorarium, a covered [individual] person may use either State vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered [individual] person during his or her employment and such use is authorized or provided to such official, officer or employee as part of his or her employment or for his or her security.

(c) [(1) On July 1, 1990, and on each succeeding April 1, a covered individual, who received an honorarium of any amount during the year previous to the date of reporting, must file an annual written report with his or her approving authority.] On or before June first of every year, the approving authority shall file with the Commission a written report

that lists any honorarium received by a covered person in the prior annual period ending May thirty-first. The annual written report shall contain [a statement with respect to each honorarium received by the covered individual] the following information:

(1[i]) the source of the honorarium[,]; and

(2[ii]) the date of receipt [and the place where the service was performed] of the honorarium; and

(3[iii]) [the amount of the honorarium and the nature of the service for which the honorarium was received.] the location where the service was rendered; and

(4) the amount of the honorarium ; and

(5) a detailed description of the service for which the honorarium was offered.

[(2) A covered individual will not be required to file such an annual written report if he or she received prior written approval from the appropriate approving authority for the receipt of each honorarium received during such year.]

[(d) Each approving authority shall file a compilation of copies of the written reports submitted by covered individuals pursuant to paragraph (c)(1) of this section, with the State Ethics Commission on or before October 1, 1990, and each succeeding June 1.]

[(e) d] Any honorarium or honoraria from each source [which] that totals in excess of \$1,000, received by a covered [individual] person required to file a financial disclosure statement pursuant to section 73-a of the Public Officers Law, [must] shall be reported in paragraph 13 of th[at]e financial disclosure statement [regardless of whether approval for such receipt is required under these rules].

[930.6 Conditions under which reimbursement for travel expenses related to the covered individual's official duties may be accepted.]

[(a) Covered individuals may accept reimbursement for travel expenses from the federal government, other State or municipal government entities, non-State agency organizations or individuals for travel related to the covered individual's official duties under the following conditions:]

[(1) the covered individual files a written request with the appropriate approving authority within a reasonable period of time in advance of the event or activity for approval to receive travel reimbursement in accordance with these rules;]

[(2) the appearance, presence or participation of the covered individual is for a State agency purpose and would benefit the State agency involved; or the appearance, presence or participation of the covered individual is at a meeting, seminar, or conference of a not-

for-profit professional organization and will result in increased knowledge in the covered individual's subject matter area which would benefit the state agency involved;]

[(3) the approving authority approves such travel reimbursement pursuant to these rules;]

[(4) the travel expenses, if not reimbursed, could be paid by the State agency according to its travel reimbursement procedure;]

[(5) the expenses reimbursed on behalf of the covered individual would be at a rate not greater than the State agency would reimburse the covered individual under its travel rules or regulations unless otherwise specifically approved by the approving authority;]

[(6) the reimbursed expenses for food and lodging at the site to which the travel occurs is provided for no longer than the covered individual is reasonably required to be present at such event and is only for such covered individual; and]

[(7) the reimbursed expenses are not received from or on behalf an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, other than any governmental entity, which:]

[(i) is regulated by, regularly negotiates with, appears before on other than a ministerial matter, does business with or has contracts with either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or]

[(ii) attempts to lobby or to influence action or positions on legislation or action on rules, regulations or rate making before either the State agency employing the covered individual or the covered individual in his or her official capacity on behalf of the State agency; or]

[(iii) is involved in litigation, adverse to the State, with the State agency with which the covered individual is employed or affiliated, or the covered individual in his or her official capacity, and no final order has been issued; or]

[(iv) has received or applied for funds from the state agency employing the covered individual at any time during the previous calendar year, up to and including the date of the proposed receipt of the honorarium.]

[(b) Any reimbursement for travel expenses from each source which totals in excess of \$1,000, received by a covered individual required to file a financial disclosure statement pursuant to §73-a of the Public Officers Law, must be reported in that disclosure statement, regardless of whether approval for such receipt is required under these rules.]

[(c) Nothing herein shall preclude the use of either state vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered individual

and such use is authorized or provided to such official, officer or employee as part of his or her employment or for his or her security.]

930.[7] 4 Exemption for faculty and certain researchers employed by the State University of New York and the City University of New York.

[(a) Academic employees of the State University and City University of New York including all their constituent units who are covered by section 73 of the Public Officers Law and employees serving in the titles of "Research Scientist," "Cancer Research Scientist," and "Research Physician" who also serve in academic status are exempt from the limitations on the receipt of honoraria and reimbursement for travel expenses to the extent that the publication of books and articles, delivery of speeches or attending meetings or conferences are within the discipline of the individual involved.]

[(b) Such academic employees who are also employed by a State agency other than the State University of New York or the City University of New York, in a title other than "Research Scientist", "Cancer Research Scientist", and "Research Physician" shall not be exempt from the limitations on the receipt of honoraria and reimbursement for travel expenses in their other capacity as State officers or employees.]

(a) In accordance with Subpart 930.1(g), the following employees of the State University of New York and the City University of New York are exempt from the limitations on the receipt of honoraria and the reporting requirement set forth in Subpart 930.3 to the extent that the service rendered by such employee is within the subject matter of his or her academic or research discipline:

(1) Faculty members; and

(2) Those employees designated as "Research Scientist," "Cancer Research Scientist," or "Research Physician."

(b) Persons employed as a "Research Scientist," "Cancer Research Scientist," or "Research Physician" at a State agency other than the State University of New York and the City University of New York who also teach at an accredited college or university are exempt from the limitations on the receipt of honoraria and the reporting requirement set forth in Subpart 930.3 to the extent that the service rendered by such employee is within the subject matter of his or her academic or research discipline.