

Title 19 NYCRR Part 932 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] COMMISSION ON PUBLIC
INTEGRITY

PART 932 OUTSIDE ACTIVITIES

932.1 Definitions.

(a) *Approving authority* shall mean the head of a State agency or appointing authority, or his or her designee, as appropriate, for the [individual] person involved and, for the [four] statewide elected officials defined in this Subpart and the heads of State agencies, shall mean the [State Ethics] Commission as defined in this Subpart [which may delegate its approval authority to its executive director].

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

[(b) *Covered individual* shall mean the four statewide elected officials and State officers or employees.]

[(c) *Four statewide elected officials* shall mean the Governor, the Lieutenant Governor, the Comptroller and the Attorney General.]

[(d) c] [~~Nominal~~][c]Compensation threshold shall mean [no more than either:

(1) the per diem amount provided to such position, where no other compensation for such appointment is received; or

(2) \$4,000] \$5,000 in annual compensation for personal services actually rendered, *e.g.*, wages, salaries, health insurance benefits, professional fees, royalties, bonuses, or commissions on sales, and [that] the portion of income received from a corporation or unincorporated trade or business [which] that represents a reasonable allowance for salaries and compensation for personal services actually rendered.

(1) Income received by the [individual] person from transactions involving the [individual's] person's own investments, securities, personal property, partnership interest or real estate is not included in determining annual compensation for personal services actually rendered, provided the transactions are not with any State agency as the term is defined in this Subpart.

([e] d) *Policy-making position* shall mean that position annually determined by the appointing authority as set forth in a written instrument filed with the [State Ethics] Commission or as amended as required by Public Officers Law, section 73-a(1)(c)(ii) and (iii).

([f] e) *Political organization* shall mean any organization that is affiliated with or a subsidiary to a political party [, and shall include, for example, partisan political clubs. Political organization shall not include an organization supporting a particular cause with no partisan inclination, for example, the League of Women Voters, and shall not include campaign or fund-raising committees] including, without limitation, a partisan political club or committee, or a campaign or fundraising committee for a political party or political candidate.

([g] f) *State agency* shall mean any State department, or division, board, commission or bureau of any State department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the Governor, [and] or the State University of New York [and] 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.

([h] g) *State officer or employee* shall [be defined as the term State officer or employee is defined in section 73 and section 73-a of the Public Officers Law.] mean:

(1) Heads of State departments and their deputies and assistants other than members of the Board of 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 multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the Governor, who receive compensation other than on a *per diem* basis, and employees of such authorities, corporations and commissions.

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

932.2 Restriction on policymakers and certain others holding positions [of officer or member of] in political [party] parties and other political organizations.

(a) No [head of a State department,] [individual] State officer or employee who serves in a policy-making position, [who serves as one of the four] statewide elected official[s], [individual who serves in a policy-making position] or member or director of a public authority (other than a multi-state authority), public benefit corporation or commission at least one of whose members is appointed by the Governor shall serve as an officer, director or board member of any political party or other political organization.

(b) No [head of a State department, individual] State officer or employee who serves in a policy-making position, [who serves as one of the four] statewide elected official[s], [individual who serves in a policymaking position] or member or director of a public authority (other than a multi-state authority), public benefit corporation or commission at least one of whose members is appointed by the Governor shall serve as a member of any political party committee including political party district leader (however designated) or member of the national committee of a political party.

(c) Notwithstanding subdivisions (a) and (b) of this Subpart, any State officer or employee or statewide elected official may serve as a delegate to a State or national party convention.

932.3 Restriction on holding other public office or private employment or engaging in other outside activities.

(a) No [covered individual] State officer or employee or statewide elected official shall engage in any outside activity [which] that interferes or is in substantial conflict with the proper and effective discharge of such [individual's] person's official duties or responsibilities.

(b) No [individual] State officer or employee who serves in a policy-making position on other than a nonpaid or *per diem* basis, or [who serves as one of the four S] statewide elected official[s], shall hold any other public office regardless of compensation, or public employment for which more than [nominal] the compensation threshold, in whatever form, is received or anticipated to be received without, in each case, obtaining prior approval from the [State Ethics] Commission.

(c) No [individual] State officer or employee who serves in a policy-making position on other than a nonpaid or *per diem* basis, or [who serves as one of the four S] statewide elected official[s] shall expend time or otherwise engage in any private employment, profession or business, or other outside activity from which more than [nominal] the compensation threshold, in whatever form, is received or anticipated to be received without, in each case, obtaining prior approval from the [State Ethics] Commission.

(d) No [individual] State officer or employee who serves in a policy-making position on other than a nonpaid or *per diem* basis, or [who serves as one of the four] S]statewide elected official[s] shall expend time or otherwise engage in any private employment, profession or business, or other outside activity from which more than \$1,000 but less than [nominal] the compensation threshold, in whatever form, is received or anticipated to be received without, in each case, obtaining prior approval from his or her approving authority.

(e) No [individual] State officer or employee who serves in a policy-making position on other than a nonpaid or *per diem* basis, or [who serves as one of the four] S]statewide elected official[s] shall serve as a director or officer of a for-profit corporation or institution without, in each case, obtaining prior approval from the [State Ethics] Commission.

932.4 Procedure to approve certain outside activities.

(a) Any [individual] person who requests approval to engage in any of the outside activities set forth in section 932.3 of this Part from which more than [nominal] the compensation threshold, in whatever form, is to be received, [must file] shall submit to the Commission a written [Request to Approve Outside Activities with the State Ethics Commission] request on forms approved by the Commission [which] that [must] shall contain the consent of the [individual's] person's approving authority [and any other information the Commission deems necessary to make a determination]. The Commission will not consider requests without such consent. The [State Ethics] Commission may require such [individual] person to submit additional information as it deems appropriate.

(b) The approving authority shall make its determination based on the provisions of sections 73 and 74 of the Public Officers Law, as well as pertinent State agency policies, procedures or rules and regulations governing employee conduct, and such other factors as the approving authority may deem appropriate. The interpretations of the approving authority of sections 73 or 74 of the Public Officers Law shall not be binding on the [State Ethics] Commission in any later investigation or proceeding.

(c) The [State Ethics] Commission shall make its determination based on whether the proposed outside activity interferes with or is in conflict with the proper and effective discharge of such [individual's] person's duties. In making its determination, the Commission shall consider the provisions of sections 73 and 74 of the Public Officers Law.

[(d) Those individuals who, prior to the effective date of this Part (April 11, 1990), are engaged in activities prohibited by section 932.3 of this Part shall have forty-five (45) days from such effective date to submit a request to approve outside activities to the State Ethics Commission to continue to engage in such activity. Upon a determination by State Ethics Commission that such outside activity is not appropriate, the individual must immediately cease and desist from engaging in such activity.]

([e]d) Nothing contained in this Part shall prohibit any State agency from adopting or implementing its own rules, regulations or procedures with regard to outside employment [which] that are more restrictive than the requirements of this Part.

932.5 Codes of Ethics for uncompensated and *per diem* directors, members and officers.

The boards or councils whose officers or members are subject to section 73-a of the Public Officers Law and are not subject to section 73 of such law by virtue of their uncompensated or *per diem* compensation status and the commissions, public authorities and public benefit corporations whose member or directors are subject to section 73-a of the Public Officers Law and are not subject to section 73 by virtue of their uncompensated or *per diem* compensation status shall adopt a code of ethical conduct covering conflicts of interest and business and professional activities, including outside activities, of such directors, members or officers both during and after service with such boards, councils, commissions, public authorities and public benefit corporations. Such codes of ethical conduct shall be filed with the [State Ethics] Commission.

932.6 Complaints.

Any person may file a complaint with the [State Ethics] Commission [which] that alleges [that] a violation of the provisions of this Part has occurred. The Commission, pursuant to its authority under section 94 of the Executive Law, may conduct an investigation and take such other action as it deems proper.

932.7 Violations.

In addition to any penalty contained in any provision of law, a [knowing and intentional] violation of this Part by a[n individual] person subject to it may result in appropriate action taken by the [State Ethics] Commission or referral by it to the [individual's] person's appointing authority. The appointing authority, after such a referral, may take disciplinary action [which] that may include a fine, suspension without pay or removal from office or employment in the manner provided by law.