

## Public Ethics

- I. What is It?
  - A. Distinguish Ethics from Morality
    1. Swatting – Calling in false reports to police to get police to show up somewhere
    2. Doxing – Search for and publish private or identifying information on someone on the internet.
    3. Deep Fake – Image or recording that has been edited to replace original person with someone else in a way that makes it look authentic.
  - B. History of New York Ethics Organizations
    1. State Ethics Commission (1988-2007)
    2. Commission on Public Integrity (2007-2011)
    3. JCOPE (Joint Commission on Public Ethics) (2011-2022)
      - a. Executive Law § 80
    4. New York State Commission on Ethics & Lobbying in Government (COELIG) (2023-\_\_)
      - a. Executive Law § 94
  - C. Law
    1. Public Officers Law § 73 et. seq.
    2. Civil Service Law § 107
      - a. Little Hatch Act – prohibits certain political activities and against improper influence.
    3. Ethical Regulations
      - a. 19 NYCRR Part 930 – Honoraria
      - b. 19 NYCRR Part 931 – Official Activity Expense payments
      - c. 19 NYCRR Part 932 – Outside Activities
      - d. 19 NYCRR Part 933 – Gift Regulations
      - e. 19 NYCRR Part 935 – Exemption from filing financial disclosure statements
      - f. 19 NYCRR Part 936 – Extension of time for filing financial disclosure
      - g. 19 NYCRR Part 940 – Usage of public service announcements
      - h. 19 NYCRR Part 941 – Adjudication and Appeals Process
- II. Individual Ethics Rules
  - A. Differ depending upon entity
    1. Legislative
      - a. Legislative Law § 80
    2. Local
      - a. Erie County Board of Ethics
        1. Local Law 2 of 2018 – change from prior law
          - a. Formation – Members/Political parties
          - b. Rules and Regulations
          - c. Process
            1. OML
            2. Minutes

- 3. Advisory opinions
      - 4. Investigations
    - d. Training
    - e. Jurisdiction
  - b. Individual Municipalities
    - 1. Must have code – but need not have board
      - i. Financial disclosure
    - 2. Purpose – deal with issues specific to that jurisdiction
- III. Maintain Integrity in Public Service
  - A. Why?
    - 1. Transparency
    - 2. Disclosure of Interests
    - 3. Open Meetings
      - a. FOIL
        - i. Federal – does not apply
        - ii. State – Public Officers Law § 87 et. Seq.
  - B. To Whom Does It Apply
    - 1. Employees and any person who receives a salary or wage
    - 2. Elected Officials
    - 3. Appointed Officials/Board Members
    - 4. Political Party Officials
    - 5. Candidates for Office
    - 6. Vendors
- IV. What Does the Code Require
  - A. Disclosure
    - 1. Notice versus recusal
      - a. Must always disclose
      - b. Need not always recuse
        - 1. What is the interest and whose?
    - 2. Prior opinions
    - 3. Financial Disclosure Statements
      - a. On or before 15<sup>th</sup> of May
      - b. Process
        - i. Department heads provide policy makers
        - ii. Forms out by April 1
          - a. Board has authority to modify forms
          - b. Do not put form in local law
          - c. Describe form
            - 1. Personal information
            - 2. Gifts and honorarium
            - 3. Employment, including family
              - a. Current, past, future
            - 4. Political party positions
            - 5. Real property ownership and value
            - 6. Government travel reimbursement
            - 7. Debts

## 8. Investments

### iii. Review

- a. Investigations
- b. Warning Letters
- c. Recommendations

### c. Election Cycle

#### i. What Constitutes a Conflict of Interest

- a. Pecuniary Interest
- b. Familial Benefit
- c. Vacatur of Debt
- d. Gifts

#### ii. Examples

- a. Photography
- b. Educational trip
- c. Tickets to events
- d. Use of equipment/supplies
- e. Use of symbols
- f. Carrying weapon

#### iii. Who is Covered

- a. Family – degree?
- b. Significant Others?

#### i. Election Example

## B. Training

- 1. LSGLS proposal regarding training
- 2. Chief Ethics Officer training

## C. Post Employment – Public Officers Law § 73 (8)(a)

- 1. Bar Against Appearances
- 2. Bar Against Employment
  - a. Company does business with former agency
    - i. Form of restrictive covenant
  - b. Use prior service to secure unwarranted privileges, consideration, or action
  - c. Is a waiver possible?
- 3. <https://ethics.ny.gov/post-employment-restrictions>

## D. What Does The Code Not Cover?

- 1. Nepotism
- 2. But separate statute requires disclosure of hiring
  - a. Example in ECSO

## V. Where to go for help?

### A. Ask First – seek an advisory opinion

### B. Agencies, etc.

- 1. New York Conference of Mayors (NYCOM)
  - a. <https://www.nycom.org/>
  - b. 518.463.1185
- 2. Association of Towns (AOT)
  - a. <https://www.nytowns.org/>
  - b. 518.465.7933

3. Association of Counties (AOC)
  - a. <https://www.nysac.org/>
  - b. 518.465.1473
4. New York State (NYS)
  - a. Attorney of the day program
  - b. <https://ethics.ny.gov/ethics-advisory-opinions>
5. New York University (NYU) Research Tool
  - a. <https://nyulaw.libguides.com/c.php?g=773845&p=5551733>
6. Department of State (DOS)
  - a. <https://dos.ny.gov/address-confidentiality>
7. New York State Bar Association/Local and State Government Law Section (NYSBA/LSGLS)
  - a. Professionalism and Ethics Committee