Memorandum to Presidents

Date: March 7, 1989

From: Office of University Counsel and Vice Chancellor for Legal Affairs

Subject: Ethics in Government Act III

To: Presidents, State-operated Campuses

This memorandum is a summary of recent actions in connection with the continuing implementation of the Ethics in Government Act. These actions, which affect both University officers and employees, require the University to establish several new administrative procedures (see also Memorandum to Presidents, Vol. 89, No. 2, dated January 20, 1989).

UNIVERSITY OFFICERS: TRUSTEES AND CAMPUS COUNCIL MEMBERS

Restrictions on Business and Professional Activities

- The State University Trustees have adopted a Code of Conduct applicable to the service of the Trustees, members of campus councils, and the trustees of the College of Environmental Science and Forestry. This action was required by Advisory Opinion 88-2 of the New York State Ethics Commission, which has been previously sent to you. A copy of the Code (Enclosure A) should be distributed as soon as possible to all council members and ESF trustees. The Code is effective during the period of suspension of enforcement of section 73 of the Public Officers Law.

Financial Disclosure

- The Governor, as the appointing authority, has included the SUNY Trustees in the list of State policy-makers for purposes of the financial disclosure requirements of the Ethics Act. Because council members and ESF trustees were not so included in the Governor's list, these
officers will not be required to complete financial disclosure statements under section 73-a of the Public Officers Law. This action follows the request of the SUNY Trustees which was supported by the Association of Council Members and College Trustees (ACT). Also, as a result, the restrictions on Court of Claims practice (Public Officers Law, §73[3]) will not apply to council members and ESF trustees.

UNIVERSITY EMPLOYEES

Financial Disclosure

- Policy-makers - At the direction of the SUNY Trustees, the first annual list of employee policy-makers under section 73-a of the Public Officers Law (financial disclosure provision) has been filed by the University with the Ethics Commission. The list identifies as policy-makers only those managerial employees appointed by the Chancellor or the Board of Trustees; i.e., positions at the level of Vice President and above at the campuses and Associate Vice Chancellor and above in Central Administration (including those in acting titles). The actual list of such employees, by campus, will be sent directly to each campus. Under the statute, policy-makers may not apply for exemption from the financial disclosure requirement. Each campus is required to notify employees on this list that they have been designated as policy-makers.

- Other Employees - The Ethics Commission has issued rules establishing a procedure for requesting exemption from the financial disclosure requirement for those eligible. The procedure will apply to non-policy-making employees earning over $30,000 annually. Exemption requests must be made by April 1, 1989 for this year's reporting requirement. Requests may be filed by employee organizations, agencies, and employees individually. A copy of the rules and official request form is attached (Enclosure B).

-- General. Campuses should advise their employees earning over $30,000 (non-policy-making) that they may apply individually for
HONORARIA AND TRAVEL REIMBURSEMENT

The Ethics Commission has also issued rules governing the receipt of honoraria and travel reimbursement by all State officers and employees. These rules apply to all SUNY officers and employees, with the exception of "academic employees" receiving honoraria or travel reimbursement for activities "within [their] discipline." Under the rules:

- State agencies or appointing authorities must establish a procedure for prior review and approval of requests by officers and employees to receive honoraria or travel reimbursement from other than the officer or employee's own agency.
**Criteria are established by which such requests are to be reviewed, including:**

--- Honoraria from organizations which do business with the University are prohibited, as are honoraria for delivery of a speech or performance of services when the University pays for the officer or employee's travel; and

--- Travel reimbursement is allowed only where the officer or employee's appearance or participation in the event is for a University purpose or benefits the University.

**Approvals of requests must be filed directly with the Ethics Commission.**

Copies of the rules relating to honoraria and travel reimbursement are attached (Enclosure C). An advisory and sample forms will be distributed to campus business officers describing the procedure for approval of honoraria and travel reimbursement requests. It is anticipated that the procedure will be campus-based with the exception of requests from campus presidents, council members and ESF trustees. In all cases, approvals must be filed directly with the Ethics Commission as granted.

Any questions concerning the Ethics Act and compliance with its requirements may be addressed to the Office of University Counsel ([518] 443-5400).

Sanford H. Levine

Enclosures
cc: Chairs, Councils
Chair, Board of Trustees, College of Environmental Science and Forestry

Copies for Information Only:
Presidents, Community Colleges
Deans, Statutory Colleges
President Coll
Vice President Nesheim
CODE OF CONDUCT

Business or Professional Activities by State University of New York Officers
(Adopted by State University Board of Trustees February 22, 1989)

1. Statement of Purpose. This Code of Conduct shall apply to the service of the Trustees of the State University of New York, the members of the councils of the State-operated campuses appointed pursuant to section 356 of the Education Law and the Board of Trustees of the College of Environmental Science and Forestry appointed pursuant to section 6003 of the Education Law. This Code shall be effective during the period of suspension of enforcement of section 73 of the Public Officers Law as declared by the New York State Ethics Commission in its Advisory Opinion 88-2, dated December 29, 1988 and any continuation thereof. The provisions of this Code shall be in addition to the requirements of section 73(3) of the Public Officers Law (Attachment I) and the Code of Ethics contained in section 74 of the Public Officers Law (Attachment II).

2. Definitions. As used in this Code: The term "State University officer" shall mean members of the Board of Trustees of the State University of New York, councils of the State-operated institutions of the State University of New York and the Board of Trustees of the College of Environmental Science and Forestry.

The term "compensation" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered.

The term "ministerial matter" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

The term "representative capacity" shall mean the presentation of the interests of a client or other person pursuant to an agreement, express or implied, for compensation for services.

3. Contingency Fee Arrangements Prohibited. No State University officer shall receive, or enter into any agreement express or implied, for compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, whereby the officer's compensation is to be dependent or contingent upon any action by such agency with respect to any license, contract, certificate, ruling, decision,
opinion, rate schedule, franchise, or other benefit; provided, however, that nothing in this subdivision shall be deemed to prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

4. Competitive Bidding Required. No State University officer or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall sell any goods or services having a value in excess of twenty-five dollars to any state agency unless pursuant to an award or contract let after public notice and competitive bidding. This provision shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

5. Limitation on Gifts. No State University officer shall, directly or indirectly, solicit, accept or receive any gift having a value of seventy-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence the officer, or could reasonably be expected to influence the officer, in the performance of the officer's official duties or was intended as a reward for any official action on the officer's part.

6. Appearances before State University Prohibited. (a) Except as provided in paragraph 4 above, no State University officer, other than in the proper discharge of official duties, shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the appearance or rendition of services by the officer or another in relation to any case, proceeding, application or other matter before any unit of the State University of New York.

(b) Nothing contained in this provision shall prohibit a State University officer, unless otherwise prohibited, from appearing before a unit of the State University of New York in a representative capacity if such appearance in a representative capacity is in connection with a ministerial matter.

(c) Nothing contained in this paragraph shall prohibit internal research or discussion of a matter, provided, however, that the time is not charged to the client and the State University officer does not share in the net revenues generated or produced by the matter.

7. Post-service Appearances Restricted. No person who has served as a State University officer shall, within a period of two years after the termination of such service, appear or practice before the State University of New York or receive compensation for any services rendered by such former officer on behalf of any
person, firm, corporation or association in relation to any case, proceeding or application or other matter before SUNY. No person who has served as a State University officer shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any State agency or receive compensation for any such services rendered by such former officer on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which such person personally participated during the period of state service or which was under such person's active consideration.

8. Firms of State University Officers. Nothing contained in this Code shall be construed or applied to prohibit any firm, association or corporation, in which any present or former State University officer is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a State agency otherwise proscribed by this Code with respect to such officer, where such officer does not share in the profits resulting therefrom.

9. Certain Oral Communications Prohibited. A State University officer who is a member, associate, retired member, of counsel to or shareholder of any firm, association or corporation which is appearing or rendering services in connection with any case, proceeding, application or other matter described in paragraph six of this Code shall not orally communicate, with or without compensation, as to the merits of such cause with an officer or an employee of the agency concerned with the matter.

10. Use of Firm Letterhead. For the purposes of this Code, a State University officer who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation shall not be deemed to have made an appearance under the provisions of this Code solely by the submission to a State agency of any printed material or document bearing the officer's name, but unsigned by the officer, such as by limited illustrations the name of the firm, association or corporation or the letterhead of any stationery, which pro forma serves only as an indication that the officer is such a member, associate, retired member, of counsel to, or shareholder.

11. Enforcement Procedure. The State University Trustees shall review alleged violations of this Code and determine an appropriate response which may include referral of alleged violations to the State Ethics Commission, pursuant to subdivision nine of section 94 of the Executive Law. The State Ethics Commission may investigate such alleged violations and make appropriate recommendations to the appointing authority. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates the provisions of this Code shall be subject to removal by the appointing authority in accordance with the provisions of the Public Officers Law.
PUBLIC OFFICERS LAW, §73(3)

3. No statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another against the interest of the state in relation to any case, proceeding, application or other matter before, or the transaction of business by himself or another with, the court of claims.
§ 74. Code of ethics

1. Definition. As used in this section: The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department or any public benefit corporation or public authority at least one of whose members is appointed by the governor.

The term "legislative employee" shall mean any officer or employee of the legislature but it shall not include members of the legislature.

2. Rule with respect to conflicts of interest. No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

3. Standards.
   a. No officer or employee of a state agency, member of the legislature or legislative employee should accept other employment which will impair his independence of judgment in the exercise of his official duties.
   b. No officer or employee of a state agency, member of the legislature or legislative employee should accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
   c. No officer or employee of a state agency, member of the legislature or legislative employee should disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests.
   d. No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
   e. No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the state with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
   f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.
§ 74  PUBLIC OFFICERS LAW
Art. 4

g. An officer or employee of a state agency should abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

h. An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

i. No officer or employee of a state agency employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer or employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the state agency in which such officer or employee serves or is employed.

j. If any officer or employee of a state agency shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he should file with the secretary of state a written statement that he has such a financial interest in such activity which statement shall be open to public inspection.

4. Violations. In addition to any penalty contained in any other provision of law any such officer, member or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from officer or employment in the manner provided by law.


Historical Note

1983 Amendment. Subd. 1, opening par. L.1983, c. 764, § 2, eff. Sept. 1, 1983, inserted "or any public benefit corporation or public authority at least one of whose members is appointed by the governor".

Effective Date. Section effective Jan. 1, 1955, pursuant to L.1954, c. 696, § 3.

Legislative Declaration. Laws 1954, c. 696, § 1, eff. Jan. 1, 1955 provides: "Declaration of intent. A continuing problem of this government is the maintenance among its public servants of moral and ethical standards which are worthy and warrant the confidence of the people. The people are entitled to expect from their public servants a set of standards above the morals of the marketplace. A public official of this government is entrusted with the welfare, prosperity, security and safety of the people he serves. In return for this trust, the people are entitled to know that no substantial conflict between private interests and official duties exists in those who serve them.

"Government is and should be representative of all the people who elect it. and some conflict of interest is inherent in any representative form of government. Some conflicts of material interests which are improper for public officials may be prohibited by legislation. Others may arise in so many different forms and under such a variety of circumstances, that it would be unwise and unjust to proscribe them by statute with inflexible and penal sanctions which would limit public service to the very wealthy or the very poor. For matters of such complexity and close distinctions, the legislature finds that a code of ethics is desirable to set forth for the guidance of state officers and employees the general standards of conduct to be reasonably expected of them."
PART 935

PROCEDURE FOR REQUESTING AN EXEMPTION FROM FILING
A FINANCIAL DISCLOSURE STATEMENT

Sec.
935.1 Definitions
935.2 Procedure
935.3 Commission Action

935.1. Definitions

(a) "Annual compensation" shall mean that basic annual salary which an individual receives to perform the duties of the position in which he or she serves. Payment of overtime, a one-time bonus, a performance award which does not become part of the basic annual salary, a lump sum payment for whatever purpose including retroactive payment for a salary increase, uniform or clothing allowance, tuition reimbursement or payment or similar one-time payment which does not become part of the individual's basic annual salary shall not be included in determining annual compensation.

(b) "Appointing Authority" shall mean that individual or body which has the authority by law, rule or regulation to appoint a person to a position, or that individual or body to whom such authority may be properly delegated by law, rule or regulation.

(c) "Commission" shall mean the State Ethics Commission.

(d) "Employee" shall mean a State officer or employee of a state agency, as defined below, who serves in a position which has not been designated policy-making pursuant to §73-a of the Public Officers Law and who earns annual compensation in excess of $30,000.

(e) "Exemption" shall mean a waiver from filing a financial disclosure statement pursuant to §73-a of the Public Officers Law.

(f) "Financial disclosure statement" shall mean that annual statement which must be filed pursuant to §73-a of the Public Officers Law.
(g) "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, or State University of New York or the City University of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the State.

(h) "Filing" shall mean personal delivery to the offices of the Commission for which the individual shall obtain a receipt, or service by certified mail, return receipt requested, postmarked by April 1 of the year for which the request for exemption is made. The date of postmark where service is by certified mail shall be determinative of the date of filing.

(i) "Title" shall mean the name of the position or job in which an employee serves.

(j) "Job classification" shall mean a series of titles which may be included under one classification standard or may be part of a promotional series which may be considered for exemption.

(k) "Employee organization" shall mean an employee organization which is recognized or certified pursuant to §204 of the Civil Service Law to represent public employees of a public employer.

935.2. Procedure

(a) Each employee, individually, or employee organization or State agency, on behalf of persons who share the same job title or job classification, requesting an exemption from filing a financial disclosure statement, shall file such request with the Commission by April 1 of the year for which the exemption is requested.

(b) The request for exemption shall include the following information:

(1) name and address of the employee, if the request is on an individual basis, or the name of the employee organization filing or the name of State agency filing and the address and name of the individual authorized to file on behalf of the employee organization or State agency;

(2) the title(s) of the positions or the job classification(s) and a list of each State agency where such title(s) or job classification(s) is located;
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(3) a copy of the duties and specifications of the title(s) or job classification(s) for which an exemption is requested; and

(4) a statement to support the position of the filing individual or entity that the title(s) or job classification(s) do not involve the duties which would otherwise preclude an exemption from filing a financial disclosure statement.

(c) The request for exemption must be signed by the individual requesting such exemption or by the authorized representative of the employee organization or State agency which is requesting such an exemption on behalf of title(s) or job classification(s).

(d) (1) An individual or employee organization which files a request for exemption, must also file a copy of such request with the appointing authority of the agency or agencies where the title(s) or job classification(s) are located.

(2) The appointing authority, within seven (7) working days, may file a written objection to such a request with the Commission based solely on the grounds that the duties of the title(s) or job classification(s) do not permit an exemption to be granted. The objection shall also be filed with the individual or employee organization, as appropriate.

(3) The individual or employee organization, as appropriate, may, within seven (7) working days, file a written response to the objection of the appointing authority with the Commission. The written response shall also be filed with the appointing authority.

(4) Should no filing under paragraph (2) or (3) occur within the time limits provided, the Commission may act upon the request for exemption based on the material available to it.

935.3. Commission Action

(a) Upon receipt of a request for an exemption from filing a financial disclosure statement, the Commission shall review the material filed to determine whether the duties of the title(s) or job classification(s) include any of the duties which are set forth in §94(k) of the Executive Law, without further inquiry. If no further information is required, the Commission shall render its decision on the request before it.

(b) If the Commission determines that additional information concerning the content of the duties of a title or
job classification is necessary before a determination on an exemption can be made, it may forward the duties description and/or the job title(s) or job classification(s) for which a request for exemption has been filed to the Director of Classification and Compensation for positions in the service of the State of New York or to the authorized individual for other State agencies who is responsible to classify and allocate positions for those State agencies, for a determination of the content of such title(s) or job classification(s).

(c) The Director of Classification and Compensation for the State of New York or the authorized individual for other State agencies shall review the duties of the title(s) or job classification(s) referred by the Commission and shall provide information to the Commission as to whether the duties of the title(s) or job classification(s) for which an exemption is requested include any of the duties which are set forth in §94(9)(k) of the Executive Law.

(d) (1) Upon a determination that the title(s) or job classification(s) do not include the duties which would otherwise exclude such an exemption, the Commission shall, if it determines it is in the public interest, grant such exemption on an individual, title or job classification basis as requested, except as provided in paragraph (3) below.

(2) Upon a determination that the title(s) or job classification(s) do include such duties, the Commission shall deny the request for an exemption except as provided in (3) below.

(3) Where the Commission determines that it is in the public interest to require that an individual file a financial disclosure statement even though the duties may not exclude an exemption, or where the Commission determines that the duties of a position require the filing of a disclosure statement and the requirement to file the disclosure statement as set forth in §73-a of the Public Officers Law may not be in the public interest, the Commission may require the individual(s) who serve in such title(s) or job classification(s) to file a short form financial disclosure statement which shall contain only that information from the financial disclosure statement required by §73-a which the Commission determines is appropriate and necessary for that title or job classification.

(e) The Commission shall notify the requesting individual or the employee organization or State agency, as appropriate, of its determination on a request for exemption.

(f) Pending a determination of a request for exemption, an individual serving in a title or job classification for which an exemption has been requested or an individual who
has requested an exemption on his or her own behalf shall be required to submit a financial disclosure statement with the Commission on or before May 15 of each year in which such a statement is required. The party requesting the exemption may, under compelling circumstances, apply to the Commission for an extension to submit a financial disclosure statement until the exemption request is acted upon by the Commission. Only in special circumstances as determined by the Commission will an extension for submission of a disclosure statement because of a pending exemption request be granted.

(g) Once an exemption has been granted to an individual or to a title or titles or a job classification, an individual, as long as he or she serves in that title or job classification, will not be required to submit a financial disclosure statement in any subsequent year for which one would otherwise be required unless

(1) the individual is appointed or promoted to a new title or job classification in which such a filing is required, or

(2) the duties of the title or job classification change to include duties which would preclude an exemption from filing a financial disclosure statement, or

(3) the individual serves in a position which is designated as policy-making by his or her appointing authority, or

(4) the Commission, upon review of its determination to grant such exception, determines the exemption is no longer appropriate under the law or this rule and regulation.
1. Name of employee organization or state agency requesting exemption.

2. Name of individual authorized to file on behalf of the employee organization or state agency and work address.

   NAME

   STREET

   CITY STATE ZIP

3. Title(s) of the positions or job classification(s) for which an exemption is requested, title code if known, and annual compensation.

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4. List each state agency where such title(s) or job classification(s) is located.

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5. Do any of the duties of the title(s) or job classification(s) involve the negotiation, authorization or approval of: (Check either Yes or No for each)

   (i) contracts, leases, franchises, revocable consents, concessions, variances, special permits, licenses, permits or other forms of permission to engage in a profession, trade, or occupation, or to engage in any business activity regulated by a regulatory agency, which in the absence of such license, permit or other form of permission would be prohibited. □ Yes □ No

   (ii) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor. □ Yes □ No

   (iii) the obtaining of grants of money or loans. □ Yes □ No

   (iv) the adoption or repeal of any rule or regulation having the force and effect of law. □ Yes □ No

6. State the reasons which support the position that the duties of the title(s) or job classification(s) do not involve any of the duties set forth in (5) above. (Use additional sheets if necessary.)

   ______________________________________

   ______________________________________

   ______________________________________

7. Attach a copy of the duties and specifications of the title(s) or job classification(s) for which an exemption is requested.

   ____________________________

   Signed: ____________________________

   On behalf of: ____________________________ (Employee Organization) / (State Agency)

   Dated: ____________________________

   NOTE: An employee organization which requests an exemption from filing a financial disclosure statement with the State Ethics Commission, must also file a copy of its request with the appointing authority of the state agency or agencies where the title(s) or job classification(s) are located.
PART 930  LIMITATIONS ON THE RECEIPT OF HONORARIA

Sec.  
930.1 Applicability  
930.2 Definitions  
930.3 Receipt of honoraria  
930.4 Exemption

Section 930.1 Applicability. This part shall apply to the following:

(a) the four state-wide elected officials, and
(b) State officers or employees.

930.2 Definitions.

(a) "Approving authority" shall mean the head of a State agency or appointing authority, as appropriate, for State officers or employees, and, in the case of the four statewide elected officials and the heads of State agencies, it shall mean the State Ethics Commission, which may delegate the approval authority required by these regulations to its Executive Director.

(b) "Covered individuals" shall mean the four state-wide elected officials and State officers or employees, as appropriate.

(c) "Honorarium" shall mean a payment, fee or other compensation to an individual covered by these rules for services rendered; e.g., for delivering a speech, producing an article or publication or attending a meeting or conference.

(d) "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, or the State University of New York or the City University of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the State.

(e) "State officer or employee" shall mean:

(1) Heads of state departments and their deputies and assistants;
(2) Officers and employees of statewide elected officials;
(3) Officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies; 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, and employees of such authorities, corporations and commissions.

(f) "State Ethics Commission" shall mean the State Ethics Commission created by §94 of the Executive Law.

330.3 Receipt of honoraria.

(a) An honorarium (and reasonable travel reimbursement) may be accepted by a covered individual only under the following conditions:

(1) the receipt of the honorarium is approved in advance by the approving authority involved and is determined by him or her to be in accordance with these rules;

(2) the honorarium is not to be received for delivery of a speech or the performance of any other service to or on behalf of an individual who or an organization which

(i) is regulated by, regularly negotiates with, appears before, 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 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;

(3) the covered individual will not receive compensation from the State agency for the purpose of delivering the speech or rendering the service;

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

(5) the delivery of the speech or the performance of the service is not part of the duties of the position in which the covered individual serves; and

(6) the amount of the honorarium is not excessive considering the employment and experience of the covered individual, the normal amount of an honorarium paid for delivery of a speech or performance of the service and the covered individual's salary.
(b) No honorarium is permitted where the State agency pays the travel expenses of a covered individual and the sole purpose of the State-paid travel was to deliver the speech or perform the service involved.

(c) Any honorarium or honoraria from each source which totals in excess of $1,000 received by a covered individual who must file a financial disclosure statement pursuant to §73-a of the Public Officers Law must be reported in that disclosure statement.

(d) Subject to the approval of the approving authority, a covered individual may use State equipment, personnel and time to prepare a speech or publication or render a service where the honorarium will be paid 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 general fund appropriations, and where the speech to be delivered or service rendered is related to the covered individual's duties or responsibilities or is within the scope of the covered individual's professional interest or discipline.

(e) Upon approval of the receipt of an honorarium for a covered individual, the approving authority must file each such approval with the State Ethics Commission.

(f) The receipt of honoraria shall not preclude the use of either state vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered individual as part of his or her employment or for his or her security.

930.4. Exemption.

Academic employees of the State University and City University of New York including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges are exempt from the limitations on the receipt of honoraria 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. 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 shall not be exempt from the limitations on the receipt of honoraria in their capacity as State officers or employees.
PART 931 REIMBURSEMENT FOR TRAVEL EXPENSES

Sec.
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931.2 Definitions
931.3 Reimbursement for travel expenses
931.4 Exemption

Section 931.1 Applicability. This part shall apply to the following:

(a) the four state-wide elected officials, and
(b) State officers or employees.

931.2 Definitions.

(a) "Approving authority" shall mean the head of a State agency or appointing authority, as appropriate, for the individual involved, and for the four statewide elected officials and the heads of State agencies, shall mean the State Ethics Commission, which may delegate the approval authority required by these regulations to its Executive Director.

(b) "Covered individuals" shall mean the four state-wide elected officials and State officers or employees, as appropriate.

(c) "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, or State University of New York or the City University of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the State.

(d) "State officer or employee" shall mean:

(1) Heads of state departments and their deputies and assistants;
(2) Officers and employees of statewide elected officials;
(3) Officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies; 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, and employees of such authorities, corporations and commissions.

(e) "State Ethics Commission" shall mean the State Ethics Commission created by §94 of the Executive Law.

931.3 Reimbursement for travel expenses.

(a) Covered individuals may accept travel reimbursement by non-State agency organizations or individuals under the following conditions:

(1) the approving authority approves such travel reimbursement pursuant to 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 travel expenses, if not reimbursed, could be paid by the State agency according to its travel reimbursement procedure;

(4) 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;

(5) 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

(6) the reimbursed expenses are not to be received from an individual who or an organization which

(1) is regulated by, regularly negotiates with, appears before, 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

(11) attempts 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.

(b) Any reimbursement for travel expenses from each source which totals in excess of $1,000 received by a covered individual who must file a financial disclosure statement pursuant to §73-a of the Public Officers Law must be reported in that disclosure statement.

(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.

931.4. Exemption.

Academic employees of the State University and City University of New York including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges are exempt from the rules governing reimbursement for travel expenses to the extent that the delivery of speeches or attending meetings or conferences are within the discipline of the individual involved. Academic employees who are also employed by a State agency other than the State University of New York and the City University of New York shall not be exempt from these rules on reimbursement for travel expenses in their capacity as State officers or employees.