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Personnel Advisory Memorandum No. 1*
(Revised)
May 13, 1993

To: College Presidents

From: Vice Chancellor Robert E. Diaz

Re: State Ethics Law: New York State Ethics Commission Regulations Regarding Outside Activities of Employees in Policy Making Positions/Notification

During the Fall 1990, I distributed successive Personnel Advisory Memoranda (1, 2 and 3) on the then newly promulgated regulations of the State Ethics Commission on Outside Activities of Employees in Policy Making Positions (hereinafter referred to as "covered individuals") which required the approval of the college president and the State Ethics Commission for most outside employment and some other activities. Given the passage of almost three years, and a marked slowdown this year in the receipt of requests for approvals, I have decided to distribute a Revised Personnel Advisory Memorandum No. 1 consolidating the significant portions of the three prior memoranda on outside activities. I note that the regulations have not changed.

In addition, I have enclosed for distribution to those college employees required to file a Financial Disclosure Statement for the 1992 calendar year, a notification of the following:

1. Part 930 of the Regulations of the State Ethics Commission on Honoraria and Travel Reimbursements, which are administered by the Office of Faculty and Staff Relations.

* Supersedes Personnel Advisory Memoranda 1, 2 and 3, distributed in the Fall 1990.
2. Part 932 of the Regulations of the State Ethics Commission on Outside Activities.

3. State Ethics Law provisions on prohibited activities.

This is a good time to redistribute the regulations since covered employees will have received and be filing their 1992 Financial Disclosure Statement by May 15, 1993. The applicable forms,** regulations and Ethics Law provisions are attached to the Notification. The Notification should also be given to new covered employees as they are appointed to their positions. After May 15, an employee is required to file a Financial Disclosure Statement for the prior year (i.e., 1992) within 30 days of being appointed to a covered position.

Outside Activities

Appended to the Notification for review and compliance by covered individuals is Part 932 of the Regulations issued by the New York State Ethics Commission regarding "Outside Activities". Covered individuals are the same limited number of employees now required to file Financial Disclosure Statements. Your labor designees have a list of the covered individuals, primarily Executive Compensation Plan and REM title employees, and directors. Covered individuals should file Outside Activity Request forms, even if they have "left" the University and are on annual leave or retirement leave.

I have highlighted below some of the more significant aspects of the regulations. For your convenience, the relevant sections of the regulations are cited.

I. Restrictions On Outside Employment for Covered Individuals
   (A) Prohibited Outside Employment. Individuals are barred from engaging in any outside activity which "interferes or is [in] conflict with the proper and effective discharge of such individual’s official duties or responsibilities". (See Sec. 932.3(a)).

   (B) Permissible Outside Public Sector Employment. Outside public sector employment for which only nominal compensation is received is permissible and does not require University approval.

** The three forms attached to the Notification are: (1) the Outside Activity Request form issued by the State Ethics Commission; (2) the Annual Report of Receipt of Honoraria form previously distributed by the Office of Faculty and Staff Relations; and (3) an Application for Prior Approval of Job Related Travel Reimbursement form which we have included.
If compensation exceeds nominal compensation the approval of both the University and the State Ethics Commission is required. (See Sec. 932.3(b)). For the purposes of the regulation "nominal compensation" means no more than either: (a) the per diem amount provided for the position where no other compensation for such appointment is received; or (b) $4,000 in annual compensation (See Sec. 932.1(d)).

(C) Permissible Outside Private Sector Employment. Outside private sector employment or other activity for which more than nominal compensation (i.e., $4,000) is received requires the approval of both the University and the State Ethics Commission (See Sec. 932.3(c)). Outside private sector employment or other activity which pays more than $1,000, but less than $4,000 annually must be approved by the University (See Sec. 932.3(d)).

Please note that the exception for "per diem" compensation applies only to public sector positions such as school board members or administrative law judges. If an employee receives "per diem" payments from a private sector employer and the separate payments exceed the permissible annual amount, approval for such employment is necessary.

II. Restrictions On Other Outside Activities.

(A) Corporate Director or Officer. No covered individual may serve as a director or officer of a for-profit-corporation or institution without obtaining for each corporation or institution, prior approval from the State Ethics Commission for such service, regardless of whether there is any compensation. (See Sec. 932.3(e)).

(B) Political Parties. No covered individual may serve as an officer of any political party or political organization (See Sec. 932.2(a)), nor may such an individual serve as a member of any political party committee, including party district leader, or serve as a member of national committee of a political party. (See Sec. 932.2(b)).

III. Requests for Approval.

(A) Time for Submission. Covered individuals engaged, or to be engaged, in outside activities paying more than $1,000 (or $4,000 for public sector employment) are required to submit a request for approval as soon as possible. If the specific outside activity has already been approved, it does not have to be approved again. Requests for approval should be submitted for employment by the City University Research Foundation or other University related entities, as well as for royalties for books. Lawyers, accountants, psychologists, real estate agents, etc.,
need not list the names of individual clients, but may give a
general description of their work. If at the time of accepting
employment, or starting a business activity, it is not known
whether the applicable limits will be exceeded, request for
approval should be filed when it is known that the applicable
limit will be exceeded.

(B) Approvals Required. A State Ethics Commission Form for
requesting approvals of outside employment and other activities,
is attached hereto. The requests for approval are subject to
approval by the college president, who is the "appointing
authority." If approved, the request should be retained by the
college president, except for approvals of compensation for
outside activities in excess of $4,000. These latter approvals
should be forwarded to this Office by the college president, for
transmission to the State Ethics Commission.

(C) Approval for College Presidents. Senior college
presidents are required to submit requests for approval of
outside employment to the Chancellor for approval. A copy of the
request to the Chancellor should be submitted to me, so that I
may review the request and make a recommendation to the
Chancellor.

(D) Required Information on Outside Activity. The State
Ethics Commission requires the following information on each
outside activity to assist it in making its determination on a
request for approval.

1. A job description of the employee with the University,
   including the payroll and functional titles, nature of
duties, any funding or grant decisions in which the
employee participates, and the scope of involvement
with outside private entities.

2. A description of the outside activity, title of
   position and name of entity. Any and all state
   agencies and subdivisions with which the outside
   activity is affiliated or has any relationship should
   be included. The information is also required on the
   annual Financial Disclosure Statements.

3. The total number of hours per week devoted to the
   outside activity. Include specific days and time, if
   applicable.

4. If the outside activity requires time from normal
   working hours with the University, arrangements made
   for time off from the University, i.e., the taking of
   annual leave or a special leave of absence without pay.

(E) Submission to Vice Chancellor for Legal Affairs.
Requests for approval of outside activities of more than $4,000,
if approved by the college president, should be submitted to this
office as soon as possible for transmission to the State Ethics
Commission. We will call you if we have questions about an approval. If you have questions about a request for approval, you should fax the form to me, and I will endeavor to respond to your inquiry within 48 hours. Requests for approval of $4,000 or less should be retained at the college.

(F) Standard of Review. The standard for review by the college should include whether "the proposed outside activity interferes with or is in conflict with the proper and effective discharge of such employee's duties," which is the standard applied by the State Ethics Commission.

(G) Executive Compensation Plan. The "Terms and Conditions of Employment for Staff in the Executive Compensation Plan" adopted by the Board of Trustees on January 26, 1987, also require that employees in the Executive Compensation Plan obtain the approval of the college president for outside activities. Section F(2)(a) of these "Terms and Conditions" provide that as to "Multiple Positions":

Employees in the Executive Compensation Plan shall, upon approval of the President, or in the case of the Central Office, the Chancellor, be permitted to engage in outside consultation and professional activities up to a maximum of two (2) days per month. Days, other than regular days off, on which such consultation activities occur shall be charged to annual leave.

(H) Required Outside Activity Request Form. The attached State Ethics Commission form should be used for requesting approvals. Additional sheets of paper should be attached with the required information and documents.

(I) Requesting Approval for Public Sector Employment. The part of the Outside Activity Request Form where one requests approval for "the public office of" (i.e., employment) should be used for approval for public sector activity when compensation is in excess of $4,000 or the per diem amount. No approval is required for public sector compensation of less than $4,000. The applicable bars on holding a political organization office are not subject to waiver.

(J) Public Disclosure. The information set forth in the annual Financial Disclosure Statement filed with the State Ethics Commission is subject to public inspection except for the categories of value or amount, and any information deleted through the appeals process. Consistent therewith, requests for approval of outside activities which receive final approval will be subject to public disclosure, but denials will not.
IV. Community Colleges.

The community colleges are not yet covered by the State Ethics Law. It is recommended that they follow the spirit thereof. Proposed legislation is now pending which will cover community college employees. Community college employees covered by the Executive Compensation Plan are required to obtain the approval of the college president for multiple positions, as provided in their "Terms and Conditions of Employment" (See Section III (G) above).

Prohibited Activities

All senior college employees are covered by the State Ethics Law. Particular attention should be paid to the prohibitions in the following sections of the State Ethics Law (Public Officers Law) which are attached to the enclosed regulations.

(A) Section 73(3)(b). Prohibition on the practice of law before the State Court of Claims.

(B) Section 73(4)(a). Prohibition on doing business with a State agency in excess of twenty-five dollars ($25), except through formal competitive bidding.

(C) Section 73(5). Certain prohibitions on acceptance of gifts in excess of seventy-five dollars ($75).

(D) Section 73(7)(a). Certain prohibitions on appearances before State agencies.

(E) Section 73(8). Revolving Door Provision. Prohibition on practicing before the employee's former State agency (CUNY) for two years after termination of employment; and lifetime prohibition on appearing before any State agency or receiving compensation for any services with respect to any matter which the employee was personally involved with during his or her employment with the State agency (CUNY).

(F) Section 74. Conflict of interest provisions (code of ethics).

Encls.

c: Deputy Chancellor Laurence F. Mucciolo
Vice Chancellor Brenda Richardson Malone
Legal Affairs Designees
Labor Designees

iv/PAM123.MDS
Outside Activity Request

[ ] State Agency Address
[ ] Home Address

This is a request for approval of:

[ ] the public office of:

[ ] private employment, engaging in a profession or business or other outside activity from which more than $4,000 annual compensation would be received.

Position and employer: ________________________________

Does your private employment, profession, business or outside activity conduct any business with your employing state agency? [ ] YES [ ] NO

*If YES, attach a description of the activity.

[ ] my serving as a director or officer of a profit-making corporation or institution.

Corporation or institution name: ________________________

Does the corporation/institution conduct any business with your employing state agency? [ ] YES [ ] NO

*If YES, attach a description of the activity.

You MUST ATTACH a copy of your job duties and specifications to this request.

Signature  X  Date

APPOINTING AUTHORITY CONSENT (MUST be completed by the appointing authority):

I give my consent to the above-stated outside activity, having determined that this request is appropriate, considering Sections 73 and 74 of the Public Officers Law; this agency's applicable policies, procedures or rules and regulations governing employee conduct; and other factors such as (specify, if appropriate):

Authorized
Signature  X  Date

Title ____________________________
NOTIFICATION TO COLLEGE ADMINISTRATORS REQUIRED TO FILE
1992 FINANCIAL DISCLOSURE STATEMENT OF
REQUIREMENTS OF THE NEW YORK STATE ETHICS LAW

As a college administrator (covered employee) required to file a Financial Disclosure Statement for the 1992 calendar year with the New York State Ethics Commission by May 15, 1993, if you have not yet filed, you should do so as soon as possible to avoid penalties. If you need a Financial Disclosure Statement form, you should immediately contact the State Ethics Commission at 1-800-87-ETHICS or 39 Columbia Street, Albany, New York 12207-2217.

In addition, you should ensure that an Outside Activity Request form (copy attached) has been approved for each of the following activities: (1) private employment with more than $1,000 annual compensation; (2) public employment with more than $4,000 annual compensation; and (3) director or officer of for-profit corporation regardless of amount of compensation. If not, you should file an Outside Activity Request form with the College President as soon as possible, in accordance with the instructions set forth below under "Outside Activity."

This document will review and redistribute Parts 930 and 932 of the Regulations of the State Ethics Commission on filing requirements for: (A) honoraria and travel reimbursements; and (B) outside activities. Also discussed and appended are (C) selected provisions of the State Ethics Law on prohibited activities.

COVERED EMPLOYEES

Employees in the following titles and functions are covered and required to comply with all of the filing requirements specified herein: Executive Compensation Plan titles, REM titles, Affirmative Action Officer, Director of Public Relations, Director of Security, SEEK Director, Director of Administrative Computing, Business Manager, Personnel Director, Purchasing Director, Grants Officers, University Chief Architect, University Chief Engineer, University Assistant Chief Architect, University Assistant Chief Engineer, Administrative Superintendent of Buildings and Grounds, and such other titles and functions as have been designated by the College to the State Ethics Commission.
A. HONORARIA AND TRAVEL EXPENSES

All full-time employees who receive honoraria are required to file an Annual Report of Receipt of Honoraria for the prior calendar year by April 1, with the College President. Honoraria are defined to include the payment of travel expenses not related to the employee's duties. These annual reports are then filed by the College President with the State Ethics Commission by June 1. If you did not receive any honoraria, do not file the form. A copy of the University's annual report form is attached.

Pursuant to the Part 930 of the Regulations of the New York State Ethics Commission (copy attached) regarding "Limitations on the Receipt of Honoraria and Reimbursement for Travel Expenses," the annual report shall contain the following information with respect to each honorarium received:

1. The source of the honorarium.
2. The date of receipt and the place where the service was performed; and
3. The amount of the honorarium and the nature of the service for which the honorarium was received.

Documentation such as programs, contracts or other written material should be attached, if available.

The prior approval of the College President is required for reimbursement for travel expenses related to the employee's official duties, in accordance with Section 930.6 (e.g., when travel is done on University time and annual leave is not charged). Attached is a form which should be used to request prior approval for such job related travel reimbursements. The form may also be used to request prior approval of an honorarium, if you believe the proposed honorarium may not comply with the regulations.

The regulations prohibit the receipt of honoraria and travel reimbursements from a person or organization which negotiates with (e.g. unions, vendors, contractors), does business with, or has contracts with the University. The regulations prohibit vendor paid travel for all college employees to view demonstrations of a vendor's products or services. If any members of your staff may receive such vendor reimbursed travel expenses, please inform them that the same are prohibited.

Instructional staff employees, with appointments in academic departments, are exempt within, or in connection with, their discipline, from the approval process and the limitations upon the receipt of honoraria and travel reimbursements.
B. OUTSIDE ACTIVITIES

Covered employees are required to seek approval of most outside employment and some other activities, pursuant to Part 932 of the Regulations (copy attached) of the New York State Ethics Commission regarding "Outside Activities". Attached is the State Ethics Commission form for requesting approvals of outside employment and other activities. All requests are subject to approval by the College President, and then the State Ethics Commission.

Approval is required for all private sector outside activities for which more than $1,000 in annual compensation will be received. (Requests under $4,000 may be given final approval by the College President without submission to the State Ethics Commission.) Approval is required for public sector employment where the annual amount earned is more than $4,000.

Approval is required for employment by the Research Foundation on other University or college related entities, as well as for royalties for books, but not for employment directly by the University, including by another college.

Approval is also required for service as a director or officer of a for-profit-corporation, regardless of the amount of compensation.

Service as an officer of any political party or organization is strictly prohibited.

The standard applied for the review of outside activities is whether the proposed activity interferes with or is in conflict with the proper and effective discharge of the employee's duties.

The State Ethics Commission requires the following information on each outside activity to assist it in making its determination on a request for approval. Requests without this information are returned.

1. A job description of the employee with the University, including the payroll and functional titles, nature of duties, any funding or grant decisions in which the employee participates, and the scope of involvement with outside private entities.

2. A description of the outside activity, title of position and name of entity. Any and all state agencies and subdivisions with which the outside activity is affiliated or has any relationship should be included.

3. The total number of hours per week devoted to the outside activity, with specific days and times, if applicable.
4. If the outside activity requires time from normal working hours with the University, arrangements made for time off from the University, i.e., the taking of annual leave or a special leave of absence without pay.

C. PROHIBITED ACTIVITIES

The State Ethics Law prohibits all College employees from doing business with any State agency in excess of twenty five dollars ($25), except through formal competitive bidding; practicing law before the State Court of Claims; appearing before State agencies; or accepting gifts in excess of seventy-five dollars ($75).

Particular attention should be paid to the prohibitions in the following sections of the State Ethics Law (Public Officers Law) which are attached.

A. Section 73(3)(b). Prohibition on the practice of law before the State Court of Claims.

B. Section 73(4)(a). Prohibition on doing business with a State agency in excess of twenty five dollars ($25.00), except through formal competitive bidding.

C. Section 73(5). Certain prohibitions on acceptance of gifts in excess of seventy five dollars ($75.00).

D. Section 73(7)(a). Certain prohibitions on appearances before State agencies.

E. Section 73(8). Revolving Door Provision. Prohibition on practicing before the employee's former State agency (CUNY) for two years after termination of employment; and lifetime prohibition on appearing before any State agency or receiving compensation for any services with respect to any matter which the employee was personally involved with during his or her employment with the State agency (CUNY).

F. Section 74. Conflict of interest provisions (code of ethics).

Dated: May 10, 1993
MDS/ip/PAML.
Outside Activity Request

STATE AGENCY

STATE AGENCY ADDRESS

HOME ADDRESS

All correspondence should be sent to my [ ] State Agency Address [ ] Home Address

This is a request for approval of:

[ ] the public office of:

[ ] private employment, engaging in a profession or business or other outside activity from which more than $4,000 annual compensation would be received.

Position and employer:

Does your private employment, profession, business or outside activity conduct any business with your employing state agency? [ ] YES [ ] NO

*If YES, attach a description of the activity.

[ ] my serving as a director or officer of a profit-making corporation or institution.

Corporation or institution name:

Does the corporation/institution conduct any business with your employing state agency? [ ] YES [ ] NO

*If YES, attach a description of the activity.

You MUST ATTACH a copy of your job duties and specifications to this request.

Signature X Date

APPOINTING AUTHORITY CONSENT (MUST be completed by the appointing authority):

I give my consent to the above-stated outside activity, having determined that this request is appropriate, considering Sections 73 and 74 of the Public Officers Law; this agency's applicable policies, procedures or rules and regulations governing employee conduct; and other factors such as (specify, if appropriate):

Authorized

Signature X Date

Title
<table>
<thead>
<tr>
<th>Employee's Name</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bynaw Title/Functional Title</td>
<td>College</td>
</tr>
<tr>
<td>Source of Honorarium</td>
<td>Amount of Honorarium</td>
</tr>
</tbody>
</table>

Attach copy of program(s), contract(s) or other written material, if available.
THE CITY UNIVERSITY OF NEW YORK

APPLICATION FOR PRIOR APPROVAL OF
JOB RELATED TRAVEL REIMBURSEMENTS

(Submit this form to the College President)

EMPLOYEE'S NAME ___________________________ TITLE/POSITION ___________________________

AMOUNT OF TRAVEL REIMBURSEMENTS

DATES FOR WHICH TRAVEL REIMBURSEMENTS ARE
TO BE PROVIDED: ____________________________________________________________

________________________________________________________________________

SPEECH OR SERVICE TO BE PROVIDED, OR OTHER PURPOSE
OF TRAVEL: ________________________________________________________________

________________________________________________________________________

PERSON OR ORGANIZATION PAYING TRAVEL REIMBURSEMENTS AND
ADDRESS (ALSO INDICATE PERSON OR ORGANIZATION RECEIVING
BENEFIT, IF DIFFERENT FROM PAYOR): ______________________________________

________________________________________________________________________

I certify that the proposed travel reimbursements are in accordance
with Part 930 of the regulations of the New York State Ethics
Commission.

Approved _________

Not Approved _________

Signature of Employee

College President ___________________________ Date ____________
CHAPTER XX
State Ethics Commission

PART
900-929  [Reserved]
930 Limitations on the Receipt of Honoraria and Reimbursement for Travel Expenses
931 Reimbursement for Travel Expenses
932 Outside Activities
933-934  [Reserved]
935 Procedure for Requesting an Exemption from Filing a Financial Disclosure Statement
936 Extension of Time for Filing a Financial Disclosure Statement Due to Justifiable Cause or Undue Hardship or Automatic Extension of Time to File
937 Public Inspection of Annual Statements of Financial Disclosure
938-940  [Reserved]
941 Adjudicatory Proceedings and Appeals Procedure

PART 930
LIMITATIONS ON THE RECEIPT OF HONORARIA AND REIMBURSEMENT FOR TRAVEL EXPENSES
(Statutory authority: Executive Law, § 94[18])

Sec. 930.1 Applicability
Sec. 930.2 Definitions
Sec. 930.3 Conditions under which an honorarium may be accepted
Sec. 930.4 Conditions for limited acceptance by the State of a payment in lieu of an honorarium
Sec. 930.5 Procedure to seek approval of and report honorarium
Sec. 930.6 Conditions under which reimbursement for travel expenses related to the covered individual's official duties may be accepted
Sec. 930.7 Exemption

Historical Note

Section 930.1 Applicability. This Part shall apply to the following:
(a) the four statewide elected officials; and
(b) State officers or employees.

Historical Note
Sec. filed: Jan. 30, 1990 as emergency measure; March 27, 1990 eff. April 11, 1990.

930.2 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 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 statewide elected officials and State officers or employees, as defined in subdivision (f) of this section.

(c) Honorarium shall mean:

(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 nongovernmental 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) Ministerial matter shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

(e) State agency shall mean any State department, or board, bureau, division, commission, council or State agency, 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.

(f) State officer or employee shall 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 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.

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

Historical Note

Sec. filed: Jan. 30, 1988 as emergency measure; March 27, 1990 eff. April 11, 1990.
930.3 Conditions under which an honorarium may be accepted. (a) A covered individual may accept an honorarium, if:

(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 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 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) the service for which an honorarium is offered is not part of the duties of the position in which the covered individual serves; and

(3) 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; and

(4) the State agency with which the covered individual is employed or affiliated does not pay the travel expenses of the covered individual, and the sole purpose of the travel was to perform the service for which an honorarium was offered; and

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

(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.

Historical Note
Sec. filed: Jan. 30, 1989 as emergency measure; March 27, 1990 eff. April 11, 1990.

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.

Historical Note
Sec. filed: Jan. 30, 1989 as emergency measure; March 27, 1990 eff. April 11, 1990.

930.5 Procedure to seek approval of and report honoraria. (a) State officers and employees may 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 and the heads of State
§ 930.6

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 may use either State vehicles (or other transportation) or personnel where such have been specifically assigned for use to a covered individual 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. The annual written report shall contain a statement with respect to each honorarium received by the covered individual:

(i) the source of the honorarium,

(ii) the date of receipt and the place where the service was performed,

(iii) the amount of the honorarium and the nature of the service for which the honorarium was received.

(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) Any honorarium or honoraria from each source which totals in excess of $1,000, received by a covered individual required to file a financial disclosure statement pursuant to section 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.

**Historical Note**

Sec. filed March 27, 1990 eff. April 11, 1990.

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;

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(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 of 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 section 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.

Historical Note
Sec. filed March 27, 1990 eff. April 11, 1990.

930.7 Exemption. (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.

Historical Note
Sec. filed March 27, 1990 eff. April 11, 1990.
PART 932
OUTSIDE ACTIVITIES

(Statutory authority: Executive Law, § 94[16][a])

Section 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 involved and, for the four statewide elected officials and the heads of State agencies, shall mean the State Ethics Commission which may delegate its approval authority to its executive director.

(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) Nominal compensation 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 in annual compensation for personal services actually rendered, e.g. wages, salaries, professional fees, royalties, bonuses, or commissions on sales, and that portion of income received from a corporation or unincorporated trade or business which represents a reasonable allowance for salaries and compensation for personal services actually rendered.

Income received by the individual from transactions involving the individual’s own securities, person property or real estate is not included in determining annual compensation for personal services actually rendered, provided the transactions are not with any State agency.

(e) 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)(i) and (iii).

(f) Political organization shall mean any organization that is affiliated with or 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 fundraising committees.

(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 and State
§ 932.2  

University of New York and 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.

(a) 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.

**Historical Note**  
Sec. filed March 27, 1990 eff. April 11, 1990.

932.2 Restriction on policymakers and certain others holding positions of officer or member of political party organizations.  

(a) No head of a State department, individual who serves as one of the four statewide elected officials, individual who serves in a policymaking position or member or director of a public authority (other than a multistate authority), public benefit corporation or commission at least one of whose members is appointed by the Governor shall serve as an officer of any political party or political organization.

(b) No head of a State department, individual who serves as one of the four statewide elected officials, 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.

**Historical Note**  
Sec. filed March 27, 1990 eff. April 11, 1990.

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

(a) No covered individual shall engage in any outside activity which interferes or is conflict with the proper and effective discharge of such individual's official duties or responsibilities.

(b) No individual who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials, shall hold any other public office or public employment for which more than nominal compensation, in whatever form, is received without, in each case, obtaining prior approval from the State Ethics Commission.

(c) No individual who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials, shall expend time or otherwise engage in any private employment, profession or business, or other outside activity from which more than nominal compensation, 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 who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials 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 compensation, in whatever form, is received or anticipated to be received without, in each case, obtaining prior approval from the State Ethics Commission.

(e) No individual who serves in a policymaking position on other than a nonpaid or per diem basis, or who serves as one of the four Statewide elected officials 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.

**Historical Note**  
Sec. filed March 27, 1990 eff. April 11, 1990.

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932.4 Procedure to approve certain outside activities. (a) Any individual 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 compensation, in whatever form, is to be received, must file a written request to approve outside activities with the State Ethics Commission which must contain the consent of the individual’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 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 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 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) 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 are more restrictive than the requirements of this Part.

Historical Note
Sec. filed March 27, 1990 eff. April 11, 1990.

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 but 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 but 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.

Historical Note
Sec. filed March 27, 1990 eff. April 11, 1990.

932.6 Complaints. Any person may file a complaint with the State Ethics Commission which 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.

Historical Note
Sec. filed March 27, 1990 eff. April 11, 1990.

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

Historical Note
Sec. filed March 27, 1990 eff. April 11, 1990.
A. Section 73(3)(b). Prohibition on the practice of law before the State Court of Claims.

(b) No state officer or employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this article, and is not otherwise subject to the provisions of this section, 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 agency by which he is employed or affiliated 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.

B. Section 73(4)(a). Prohibition on doing business with a State agency in excess of twenty five dollars ($25.00), except through formal competitive bidding.

4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman 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 (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph 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.
C. Section 73(5). Certain prohibitions on acceptance of gifts in excess of seventy five dollars ($75.00).

5. No statewide elected official, state officer or employee, member of the legislature or legislative employee 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 him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. No person shall, directly or indirectly, offer or make any such gift to a statewide elected official, or any state officer or employee, member of the legislature or legislative employee under such circumstances.

D. Section 73(7)(a). Certain prohibitions on appearances before State agencies.

7. (a) No statewide elected official, or state officer or employee, other than in the proper discharge of official duties, or member of the legislature or legislative employee, or political party chairman 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 in relation to any case, proceeding, application or other matter before a state agency where such appearance or rendition of services is in connection with:

(i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;

(ii) any proceeding relating to ratemaking;

(iii) the adoption or repeal of any rule or regulation having the force and effect of law;

(iv) the obtaining of grants of money or loans;

(v) licensing; or

(vi) any proceeding relating to a franchise provided for in the public service law.
E. Section 73(8). Revolving Door Provision. Prohibition on practicing before the employee's former State agency (CUNY) for two years after termination of employment; and lifetime prohibition on appearing before any State agency or receiving compensation for any services with respect to any matter which the employee was personally involved with during his or her employment with the State agency.

8. No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency. No person who has served as a state officer or employee 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 or employee 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 he personally participated during the period of his service or employment, or which was under his or her active consideration. No person who has served as a member of the legislature shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature. No legislative employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this chapter shall during the term of office of the legislature in which he or she was so employed, receive compensation at any time during the remainder of such term after leaving the employ of the legislature for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature in relation to any matter with respect to which such person was directly concerned and in which he personally participated during the period of his service or employment. A legislative employee who acted primarily in a supervisory capacity in such matter and who was not personally involved in the development, negotiation or implementation of the matter to an important and material degree, may, with the approval of the legislative ethics committee, receive such compensation and perform such services. Nothing herein contained shall prohibit any state agency from adopting rules concerning practice before it by former officers or employees more restrictive than the requirements of this subdivision. This subdivision shall not apply to any appearance, practice, communication or rendition of services before any state agency, or either house of the legislature, or to the receipt of compensation for any such services, rendered by a former state officer or employee or former member of the legislature or legislative employee, which is made while carrying out official duties as an elected official or employee of a federal, state or local government or one of its agencies.
F. Section 74. Conflict of interest provisions (code of ethics).

§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.
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 office or employment in the manner provided by law.