

**NEW YORK STATE LEGISLATIVE ETHICS
COMMISSION**

**ANNUAL REPORT
2020**

Co-chairs

**Senator Neil D. Breslin
Assemblymember Jo Anne Simon**

Members

**Senator Andrew J. Lanza
Assemblymember Michael Montesano
John M. Brickman, Esq.
Peter V. Coffey, Esq.
Ellen B. Holtzman, Esq.
Mr. John J. Nigro**

legethics.ny.gov

Legislative Ethics Commission

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Legislative Ethics Commission

The Legislative Ethics Commission (LEC) was created by Chapter 14 of the Laws of 2007 as part of the Public Employees Ethics Reform Act of 2007. The Commission was established to succeed the Legislative Ethics Committee, which consisted entirely of legislators and was originally established in 1987. Pursuant to Legislative Law Section 80, the Commission is a nine-member commission. Each legislative leader appoints one legislator and one non-legislator to serve on the Commission. The Legislative Law provides for the appointment of a fifth non-legislative member to be named jointly by the Temporary President of the Senate and the Speaker of the Assembly.

For 2020, members of the Commission were:

- Senator Neil D. Breslin (44th Senate District, parts of Albany and Rensselaer Counties)
- Assemblymember Jo Anne Simon (52nd Assembly District, part of Brooklyn County)
- Senator Andrew J. Lanza, (24th Senate District, part of Richmond County)
- Assemblymember Michael Montesano (15th Assembly District, part of Nassau County)
- John M. Brickman, Esq. appointed by the Speaker of the Assembly
- Peter V. Coffey, Esq., appointed by the Assembly Minority Leader
- Ellen B. Holtzman, Esq., appointed by the Temporary President of the Senate
- Mr. John Nigro, appointed by the Senate Minority Leader

The Public Integrity Reform Act, Chapter 399 of the Laws of 2011 established the Joint Commission on Public Ethics (JCOPE). Chapter 399 provided that investigations of violations of Public Officers Law §§ 73, 73-a and 74 by legislators and legislative employees are to be conducted by the Joint Commission on Public Ethics. The LEC has jurisdiction to impose penalties for violations of the Public Officers Law by legislative members and staff after receiving substantial basis investigation reports from JCOPE. Within 90 days of receiving a Substantial Basis Investigation Report, the LEC must dispose of the matter by concurring or disagreeing with JCOPE's conclusions of law and the reasons therefor; stating whether any penalties have been assessed and the reasons therefor; and whether further actions have been taken by the LEC to punish or deter the misconduct at issue. (Legislative Law §80(10))

The LEC's written disposition must be posted on its website within ten days after it is made.

The Legislative Ethics Commission issues advisory opinions to legislators and legislative employees, and receives and reviews financial disclosure statements of legislators, legislative staff and candidates for legislative office for filing with the LEC and JCOPE. In addition, the LEC responds to informal requests for guidance and maintains a public website.

The Commission is also required to develop educational materials and ethics training in conjunction with and at the request of the Legislature.

Legislative Ethics Commission Website

In compliance with Chapter 14 of the Laws of 2007, the Legislative Ethics Commission created and maintains a public website at legethics.ny.gov. Information on the website includes relevant statutes, bylaws, rules of the Commission, including the procedure for filing a complaint with JCOPE, and public documents. The website also provides forms and instructions, generic advisory opinions, and contact information. The website is updated on an ongoing basis.

Legislative Ethics Commission Meetings

Section 80 of the Legislative Law provides that the Commission shall meet bi-monthly and at such additional times as may be called for by the co-chairpersons jointly or any five members of the Commission. Five members of the Commission constitute a quorum, and the Commission has the power to act by majority vote of the total number of members of the Commission without vacancy. Although the COVID-19 pandemic impacted the Commission schedule, in 2020, the Commission met on the following dates:

February 10, 2020
February 26, 2020
April 17, 2020
July 10, 2020
October 2, 2020
October 7, 2020
December 29, 2020

Financial Disclosure

The Legislative Ethics Commission is responsible for administering the financial disclosure requirements of Public Officers Law (POL) §73 and §73-a. Legislative members, legislative employees who earn more than the filing rate set forth in §130(1)(a) of the Civil Service Law (\$99,394 annually during 2020), employees who are designated by their appointing authorities as policy makers for disclosure purposes, and candidates for the state legislature must file the disclosure statement set forth in POL §73-a. All other legislative employees are required to file the financial disclosure statement described in POL §73(6).

Pursuant to §73-a, completed Annual Statements of Financial Disclosure for legislative members and employees must be filed on or before May 15 of the filing year or thirty days after commencing employment. Generally, candidates for legislative office are required to file within ten days after the last day allowed by law for the filing of designating petitions. The Commission publishes a guidebook, also available online, to assist those individuals required to file the Annual Statement of Financial Disclosure. Commission staff also answers numerous inquiries regarding the completion of the statement and welcomes such inquiries by phone, e-mail, or in person at the Commission offices.

In 2020, the federal income tax filing deadline was extended from April 15th to July 15th due to the COVID-19 pandemic. The Legislative Ethics Commission also extended the filing deadline for Annual Statements of Financial Disclosure to July 15, 2020 and established procedures to provide contact free filing of those statements.

The statements are reviewed to assure that the responses to questions are complete, internally consistent, and consistent with filings for prior years. The Commission may also seek to confirm information reported on disclosure forms with publicly available sources of information such as attorney registrations, professional licensing and corporate information. The Commission asks for additional information or clarification where it appears the filing may be deficient. Legislative members and staff may file amendments to their Annual Statements of Financial Disclosure to add or clarify information. Within forty-five days of receipt, the LEC forwards Annual Statements of Financial Disclosure to JCOPE for filing.

The following chart summarizes the number of disclosure statements filed:

| | 2018 | 2019 | 2020 |
|------------------------------------|--------------|--------------|--------------|
| Legislative Members | 209 | 212 | 209 |
| Employees-File Rate | 217 | 195 | 242 |
| Employees-Designated Policy Makers | 253 | 305 | 238 |
| Candidates for Legislative Office | 273 | 3 | 325 |
| Short Forms Filed | 2,920 | 3,282 | 2,872 |
| | | | |
| Total | 3,872 | 3,997 | 3,886 |

*Legislative Members who filed as candidates in a special election held prior to May 15th of the filing year are not required to refile on May 15th with the same information.

*Legislators who filed in May in their legislative capacities do not need to refile the same information if they seek reelection.

Public Inspection

Completed Annual Statements of Financial Disclosure filed through calendar year 2010 are available for public inspection at the Legislative Ethics Commission offices or upon request. Categories of value for those years are redacted pursuant

to Public Officers Law §80. Those disclosure forms filed in 2012 (for calendar year 2011) are available at the Joint Commission on Public Ethics. A member of the public may obtain a copy of a statement upon request by mail, fax or e-mail.

Annual Statements of Financial Disclosure filed by legislators in 2013 (for calendar year 2012) and going forward are available online at the Joint Commission on Public Ethics website, www.jcope.ny.gov, and are no longer redacted for categories of value. Statements of candidates and legislative employees are public information and are available from JCOPE upon request.

Legal Activity

Advisory Opinions

Upon the written request of any person who is subject to the jurisdiction of the Commission and the requirements of sections 73, 73-a and 74 of the Public Officers Law, the Commission renders confidential advisory opinions on the application of the laws to particular, specific, facts. In 2020, the Commission issued a number of formal opinions on subjects including, outside employment opportunities, post employment restrictions, compensated board positions, uncompensated board positions, and leasing of office space. The Commission also issued formal advisory opinions in response to Legislative Joint Rule V requests. Legislative Joint Rule V provides that any member of the legislature who intends to undertake or who undertakes outside employment and expects to receive annual compensation in excess of 5,000 dollars from employment for services rendered or goods sold as part of a regular course of any business shall submit to the Legislative Ethics Commission a written request for a formal advisory opinion. The Commission also offered informal advice and guidance on a variety of requests from current and former members of the legislature, candidates for legislative office, potential, current and former legislative employees and others who deal with the legislature.

Complaints and Investigations

As complaints alleging violations of Public Officers Law §§ 73, 73-a and 74 must be filed with the Joint Commission on Public Ethics, the instructions for filing complaints with JCOPE are available on the LEC website. The Legislative Ethics Commission refers all parties who wish to file a complaint to JCOPE.

Pursuant to Legislative Law §80(11), the LEC refers matters for which the Commission has a “reasonable basis to believe” that a person subject to another state oversight body may have violated section seventy-three or seventy-four of the Public Officers Law to that oversight body.

Training

Pursuant to Section 94 of the Executive Law, members and staff of the Legislature are required to complete ethics training. A mandatory ethics training program was implemented by the Legislature pursuant to Executive Law § 94(10)(d) and Legislative Law § 80. This training program is provided by the Legislature, assisted by the Legislative Ethics Commission.

Legislators and staff who earn over the filing rate (set pursuant to Public Officers Law Section 73-a as SG-24 set forth in Civil Service Law §131(1)(a)) or are designated as policy makers are required to complete an initial two-hour comprehensive ethics training course with subsequent ninety minute training programs at least once every three years. Although the legislature has conducted various training programs prior to the statutory training requirement in the past, formal training programs have been implemented with the assistance of the Legislative Ethics Commission pursuant to the statute. Legislators and all legislative employees, including those that are not policy makers, complete training at least every two years pursuant to legislative policy. The legislative policy exceeds the requirements of the statute.

All legislators have completed comprehensive ethics training within the last year, with the exception of two members who will be trained later in 2021 due to COVID restrictions. The vast majority of legislative employees, nearly 90 percent overall, have completed ethics training, with more comprehensive ethics training for employees to be scheduled as COVID restrictions are lifted.

Additionally, the LEC has developed and fully implemented an online ethics orientation course that all new legislative employees are required to complete within three months of being hired and provides training for legislative fellows and interns. Approximately 331 employees completed online orientation training in 2020.