

NEW YORK STATE LEGISLATIVE ETHICS COMMISSION

ANNUAL REPORT 2022

Co-chairs

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

Members

**Senator Andrew J. Lanza
Assemblymember Joseph M. Giglio
John Brickman, Esq.
Peter V. Coffey, Esq.
Ellen B. Holtzman, Esq.
Anne E. McCaffrey**

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 2022, 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)- through July 2022
- Assemblymember Joseph M. Giglio (148th Assembly District, Cattaraugus and Allegany counties, and six towns in Steuben County)-Appointed August 2022
- 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
- Ms. Anne E. McCaffrey, 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 were to be conducted by the Joint Commission on Public Ethics. The Ethics Commission Reform Act of 2022 (ECRA) was signed into law on April 9, 2022. ECRA repealed operative provisions of the Public Integrity Reform Act of 2011 and established the Commission on Ethics and Lobbying in Government (COELIG) to replace JCOPE. The LEC has retained jurisdiction to impose penalties for violations of the Public Officers Law by legislative members and staff after receiving substantial basis investigation reports from COELIG. Within 90 days of receiving a Substantial Basis Investigation Report, the LEC must dispose of the matter by concurring or disagreeing with COELIG'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 the New York State Commission on Ethics and Lobbying in Government (COELIG). 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 the New York State Commission on Ethics and Lobbying in Government (COELIG), 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. The Commission met on the following dates in 2022:

January 03, 2022

February 18, 2022

April 28, 2022

June 22, 2022

August 30, 2022

November 10, 2022

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 (\$101,379 annually during 2022), 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 (May 16th in 2022) 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.

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 the NYS Commission on Ethics and Lobbying in Government (COELIG) for filing.

The following chart summarizes the number of disclosure statements filed:

	2019	2020	2021	2022
Legislative Members	212	209	213	213
Employees-File Rate	195	242	178	188
Employees-Designated Policy Makers	305	238	358	315
Candidates for Legislative Office	3	325	4	303
Short Forms Filed	3,282	2,872	2,741	2,825
Total	3,997	3,886	3,494	3,844

*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 Commission on Ethics and Lobbying in Government. 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 NYS Commission on Ethics and Lobbying in Government website, www.ethics.ny.gov, and are no longer redacted for categories of value. Statements of candidates and legislative employees are public information and are available from the NYS Commission on Ethics and Lobbying in Government 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 2022, the Commission issued a number of formal opinions on subjects including, outside employment opportunities for legislators and employees, post employment restrictions, legislative employees running for local government positions, compensated board positions, uncompensated board positions, owning rental property and owning an operating online businesses. 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 NYS Commission on Ethics and Lobbying in Government, the instructions for filing complaints with COELIG are available on the LEC website.

The Legislative Ethics Commission refers all parties who wish to file a complaint to the NYS Commission on Ethics and Lobbying in Government.

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. The Legislature has fully conducted formal training programs that 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 exceeded the requirements of the statute that was in place through July 8, 2022.

The LEC, at the request of the Legislature, conducted 25 training sessions in Calendar Year 2022. All legislators completed comprehensive ethics training for 2022 and the majority of legislative employees, approximately 75% overall, completed ethics training in 2022.

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 565 employees completed online orientation training in 2022.

The NYS Legislature has fully implemented the new training requirements* for 2023 and, given ongoing monthly live training sessions, expects all employees will meet their training requirements before the end of 2023.

* The new ethics training requirements are set out in Executive Law Section 94(8).

The requirements are:

A “comprehensive and interactive live-in person or live-on line ethics training course” which shall be completed within ninety days of appointment or employment and the “live course” every two years subsequently (8(a)).

The new requirements also require an on-line “ethics refresher course” which is required to be taken once every year after having completed the live course required under paragraph 8(a).