

# TITLE 19 NYCRR PART 932

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## OUTSIDE ACTIVITY RESTRICTIONS AND APPROVAL PROCEDURES

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### **932.1 Purpose of Regulations.**

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The purpose of these regulations is to effectuate the conflicts of interests provisions of the Public Officers Law and to provide an approval procedure for outside activities by Policy makers, heads of State Agencies, and Statewide Elected Officials.

### **932.2 Definitions.**

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- (a)** *Approving Authority*, for a Policy Maker, shall mean (i) the head of a State Agency employing such Policy Maker; (ii) the appropriate designee of the head of such State Agency; (iii) the individual or body that has the authority to appoint such Policy Maker to a position; or (iv) the appropriate designee of such individual or body.
- (b)** *Commission* shall mean the New York State Joint Commission on Public Ethics and, where applicable, its predecessor agencies.
- (c)** *Compensation* shall mean the financial consideration received in exchange for services rendered, e.g., wages, salaries, benefits, professional fees, royalties, bonuses, or



commissions on sales. Compensation shall also include income received from any business venture, whether or not incorporated, that is owned or controlled by an individual who is subject to this Part. Notwithstanding the foregoing, income received from transactions involving such individual's own securities, personal property, or real estate is not included in the term Compensation.

- (d)** *Outside Activity Approval Form* shall mean a form designated by the Commission as the Outside Activity Approval Form and available on the Commission's website.
- (e)** *Party* shall mean (i) any organization which at the last preceding election for governor of the State of New York polled at least fifty thousand votes for its candidate for governor; or (ii) the national political entity affiliated with such organization.
- (f)** *Party Committee* shall mean any State committee, county committee, and such other committee (including national committee) as the rules of the Party may allow.
- (g)** *Policy Maker* shall mean an officer, employee, director, commissioner, or member of a State Agency (other than a multi-state authority) who has been determined to hold a policy-making position pursuant to Public Officers Law §73-a(1)(c).
- (h)** *Political Organization* shall mean any organization that is affiliated with, or subsidiary to, a Party. The term does not include campaign or fundraising committees.
- (i)** *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. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.
- (j)** *Statewide Elected Official* shall mean the Governor, Lieutenant Governor, Attorney General, or Comptroller of the State of New York.

### **932.3 General Standard for All Persons Subject to Public Officers Law §74.**

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No individual who is subject to Public Officers Law §74, shall engage in any outside activity which interferes or substantially conflicts with the proper and effective discharge of such individual's official State duties or responsibilities.

### **932.4 Restrictions on Certain Political Activities.**

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- (a)** No head of a State Agency, Statewide Elected Official, or Policy Maker (regardless of whether the person serves on an unpaid or per diem basis) shall serve as an officer, director, or board member of any Party or Political Organization.
  
- (b)** No head of a State Agency, Statewide Elected Official, or Policy Maker (regardless of whether the person serves on an unpaid or per diem basis) shall serve as a member, officer, director, board member, or district leader of any Party Committee.
  
- (c)** Nothing in this section shall prohibit a head of a State Agency, Statewide Elected Official, or Policy Maker from serving as a delegate to a State or national Party convention.

**932.5 Required Prior Approval for Salaried Policy Makers, Heads of State Agencies, and Statewide Elected Officials.**

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(a) A Policy Maker who serves the State on other than a unpaid or per diem basis, shall obtain the following approvals prior to engaging in the activities listed below:

<u>Outside Activity</u>		<u>Required Approvals / Actions</u>
A job, employment (including public employment), or business venture that generates, or is expected to generate, between \$1,000 and \$5,000 in Compensation annually		Approving Authority must approve
A job, employment (including public employment), or business venture that generates, or is expected to generate, more than \$5,000 in Compensation annually		Approving Authority <b>and</b> the Commission must approve
Holding elected or appointed public office (regardless of Compensation) as an outside activity		Approving Authority <b>and</b> the Commission must approve
Serving as a director or officer of a for-profit entity (regardless of Compensation)		Approving Authority <b>and</b> the Commission must approve
Serving as a director or officer of a not-for-profit entity		
	Compensation is \$0 - \$999 annually	Approval not required, but must notify Approving Authority in writing prior to commencing service
	Compensation is between \$1,000 and \$5,000 annually	Approving Authority must approve
	Compensation is more than \$5,000 annually	Approving Authority <b>and</b> the Commission must approve

**(b)** A head of a State Agency or a Statewide Elected Official shall obtain approval from the Commission prior to engaging in the outside activities listed in Section 932.5(a).

### **932.6 Approval Procedures.**

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**(a)** A Policy Maker who requires approval pursuant to Part 932.5(a) from his Approving Authority only, shall submit to the Approving Authority a written approval request prior to commencing the outside activity.

**(1)** The Approving Authority shall make its determination based on its interpretation of whether the proposed outside activity is in accordance with the applicable provisions of the Public Officers Law, Commission Advisory Opinions, pertinent State Agency policies, procedures, or regulations governing employee conduct, and such other factors as the Approving Authority may deem appropriate.

**(b)** A Policy Maker who also requires Commission approval pursuant to Part 932.5(a) shall submit to the Commission a request on the Outside Activity Approval Form. The form must be completed in full, including signatures from the individual and the Approving Authority. The Commission will not consider requests without a completed Outside Activity Approval Form.

**(c)** A head of a State Agency or Statewide Elected Official who requires Commission approval pursuant to Part 932.5(b) shall submit to the Commission a request on the outside Activity Approval Form. The Commission will not consider requests without a completed Outside Activity Approval Form.

**(d)** With respect to outside activity requests that require Commission approval, the Commission shall make its determination based on its interpretation of whether the proposed outside activity is in accordance with the applicable provisions of the Public Officers Law, Commission Advisory Opinions, regulations, and policies. The Commission may require additional information as it deems appropriate.

### **932.7 Previously Approved Outside Activity: Annual Disclosure and Material Changes.**

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**(a)** Once an outside activity has been approved pursuant to Part 932.6 it shall remain effective unless and until there is a material change in the individual's State responsibilities or in the outside activity, at which point the individual must submit a new request for approval in accordance with Parts 932.5 and 932.6.

(b) On an annual basis, an individual who has received approval for an outside activity pursuant to Part 932.6, or has otherwise disclosed the not-for-profit board service pursuant to Part 932.5, must inform, in writing, his Approving Authority (or, in the case of a head of a State Agency or a Statewide Elected Official, that State Agency's ethics officer or other designated individual) if the individual is still engaged in the outside activity for which approval was granted. The Approving Authority (or, in the case of a head of a State Agency or a Statewide Elected Official, that State Agency's ethics officer or other designated individual) shall determine the time and manner in which such annual disclosure is to be made.

### **932.8 Enforcement.**

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In addition to any penalty contained in any other provision of law, an individual's performance of an outside activity that is in violation of Public Officers Law §73 or §74 may subject him to a civil penalty or other Commission action. Nothing herein shall limit or prohibit the State Agency, Approving Authority, or other appropriate entity from taking disciplinary action with respect to violations of this Part of the Public Officers Law, including a fine, suspension without pay, or removal from office or employment in the manner provided by law, regulation, or collective bargaining agreement.

### **932.9 Codes of Ethics for Uncompensated and Per Diem Directors, Members and Officers.**

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The boards or councils whose officers or members are subject to §73-a of the Public Officers Law and are not subject to §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 §73-a of the public Officers Law and are not subject to §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 Commission.

### **932.10 Agencies Permitted More Restrictive Rules.**

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Nothing contained in this Part shall prohibit any State Agency from adopting or implementing its own rules, regulations, or procedures with regard to outside activities that are more restrictive than the requirements of this Part.