



THE POST-EMPLOYMENT RESTRICTIONS A GUIDE FOR NEW YORK STATE EMPLOYEES

INTRODUCTION

Although the underlying principles of the ethics laws are fairly simple -- preventing conflicts of interest and encouraging ethical behavior -- the law's specific provisions can be quite technical. This document outlines what is expected of State officers and employees. It is intended only as a brief introductory guide, and should not be considered as a comprehensive legal document.

HISTORY

In 2007, the State adopted the Public Employee Ethics Reform Act, which combined the State Ethics Commission and Temporary State Commission on Lobbying into a new Commission on Public Integrity.

POST-EMPLOYMENT RESTRICTIONS

Although these restrictions do not apply while an individual is in State service, every State officer and employee should keep in mind that when he or she leaves State service, the following restrictions apply:

Two-year bar -- Former State officers or employees may not, within a period of two years after leaving State service, appear or practice before their former agency or receive compensation for any services rendered in relation to any case, proceeding, application or other matter before their former agency. The Commission defines "appear" to include making a telephone call, as well as sending a letter, fax or e-mail.

Lifetime bar -- Former State officers and employees may not appear, practice, communicate or otherwise render services before any State agency, or receive compensation for such services in relation to any case, proceeding, application or transaction with which they were directly concerned and in which they personally participated while in public service, or which was under their active consideration.

EXCEPTIONS

There are two exceptions. One is the government-to-government exception, which allows someone who goes to work for another government entity, at any level, to appear before the former agency, regardless of how much time has elapsed since the individual left State service.

The other major exception is for “ministerial matters,” i.e. matters that the agency handles by the thousands, if not millions of times a day. For example, a former employee of the Department of Motor Vehicles may still renew his or her driver’s license.

JOB OFFERS

Advisory Opinion No. 06-1 provides important rules covering employment-related communications that State officers and employees may have with entities or individuals which have matters before them.

In the opinion, the Commission stated that a State employee may not solicit a post-government employment opportunity while an entity or individual has a specific pending matter before the State employee.

Where a State officer or employee receives an unsolicited job offer from an entity or individual with which the employee has a pending matter, the employee must decline the offer or, if interested, wait 30 days from when the employee is re-assigned or recused from the matter, before engaging in job negotiations. In either case, the officer or employee must notify his supervisor and the agency ethics officer.

PENALTIES

Individuals who violate certain provisions of Public Officers Law §73 are subject to a civil penalty not to exceed \$40,000, for each appearance. In lieu of a civil penalty, the Commission may refer violations to an appropriate prosecutor for prosecution as a Class A misdemeanor.

GETTING ADVICE

State employees are urged to get advice on the law **prior** to leaving State service. No one wants to be in the position of the former employee who left with plans to consult with his former co-workers, only to learn that the law prevented that activity and, once he had left, his position was eliminated, meaning the agency could not hire him back.

Individuals with questions may contact their agency ethics officer or, if they prefer, they may contact the Commission. The phone numbers are (518)408-3976 the fax number is (518)408-3975.

The mailing address is 540 Broadway plaza, Albany, NY 12207. The e-mail address is cpi@nyintegrity.org

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