



September 22, 2022

Commissioners
NYS Commission on Ethics and Lobbying in Government

Re: Resetting Expectations about State Ethics Enforcement in New York

Dear Commissioners,

Thank you for agreeing to serve as members of the new Commission on Ethics and Lobbying in Government (the “Commission” or CELG). Our groups look forward to working with you, and we welcome the opportunity to discuss the recommendations outlined below as you begin your work. Given that you have now held your first meeting as a new body, we urge you to:

1. **Raise and reset expectations about ethics oversight in New York.** The creation of the new Commission provides the opportunity to “reset” public and state officers and employees’ expectations about state ethics oversight. We urge the Commission to:
 - a. broadly interpret the laws it enforces in light of the Commission’s purpose to prevent breaches of the public trust and abuses of power;
 - b. pursue enforcement matters with deliberate speed, including matters that were lingering under the Joint Commission on Public Ethics (JCOPE); and
 - c. reexamine current protocols and procedures regarding advisory opinions to ensure they are rendered in the public interest and avoid abuse of authority (such as by requiring Commission approval of all opinions regarding agency heads and statewide elected officials).
2. **Appoint an Executive Director after a nationwide search.** We urge the Commission, among its first orders of business, to conduct a nationwide search for an Executive Director, and seek an independent, qualified individual for the position. This could involve outreach to national reform organizations and ethics officer associations. We do not mean this as a comment on any former JCOPE staff, but simply that a new Commission that needs to restore public trust must consider potential new staff leadership.
3. **Better train the state workforce about ethics and conflicts of interest, and ensure workers feel confident in bringing forward allegations of misconduct,** knowing that they will be dealt with confidentiality, professionally, and without retaliation.

4. **Prohibit ex parte communications and clearly firewall Commissioners from the elected officials (or their representatives) who appointed them.** We ask the Commission to adopt and follow specific rules prohibiting Commissioners from communicating with their appointing authorities regarding investigations. Ex parte communications with their appointing authorities or their representatives should be banned except when the communication is with a target of, or witness in, an investigation.
5. **Require trauma-informed harassment training for all Commissioners and senior staff.** The new law requires only the Deputy Director for Investigations and Enforcement to receive at least four hours in training in “trauma-informed approaches to investigations and enforcement.” We urge the Commission to require all Commissioners, all senior staff and other staff communicating with victims and/or involved in investigations and enforcement cases to have this training.
6. **Increase transparency and access to public information.** As part of creating a more transparent state government, CELG should:
 - a. **Post any resolutions and matters for public approval or discussion by the Commission on the Commission website at least three days in advance of meetings.** Additionally, limited matters should be discussed in executive session, in compliance with the Open Meetings Law.
 - b. **Develop and follow clear guidelines for disclosures regarding the status of investigations.** Such guidelines should ensure that disclosures not only protect the persons involved in the investigations, but also enhance the credibility of the Commission.
 - c. **Improve the lobbying database.** The Commission’s [online lobbying database](#) is both difficult for filers to upload their lobbying activity, and for the public to view lobbying data. We plan to follow up with the Commission with specific recommendations to improve the database.
 - d. **Collaborate with the Attorney General to improve the lobbying data used in the [New York Open Government portal](#).**
 - e. **Require additional reporting on the campaign activity of lobbyists.** See our groups’ full [recommendations to improve lobbying reporting](#).
 - f. **Release financial disclosure statements as open data.** Financial disclosures filed by elected officials are currently posted online by the Commission, but are in PDF format. The Commission should publish data from disclosure statements in open data format, and require forms to be filed in an electronic format. See our groups’ full [recommendations to improve financial disclosure reporting](#).
7. **Hold an annual hearing starting in 2022.** Under the new law, the Commission must “hold a public hearing at least once each calendar year to take testimony regarding the operation of the Commission and solicit public input regarding potential or proposed changes in the laws under its jurisdiction.” We encourage you to work toward holding the hearing before the end of 2022. As informed by the hearings each year, the Commission should recommend specific changes to the state’s ethics, lobbying and disclosures laws.

Our groups welcome the opportunity to discuss these requests and recommendations with you further. Please contact Stephane Jala-Thorne, Director of Operations at Reinvent Albany, stephanie@reinventalbany.org with any questions or comments for our groups. We would welcome a meeting with you to discuss our requests in more detail.

Sincerely,

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