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2013-2014 Regular Sessions

I N   A S S E M B L Y

May 23, 2013

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Introduced by M. of A. GLICK, LIFTON, COOK, ROBERTS, MILLMAN, CRESPO, MAYER, GOTTFRIED, CAHILL, AUBRY, JACOBS -- Multi-Sponsored by -- M. of A. BORELLI, CLARK, DUPREY, GABRYSZAK, GIBSON, MOYA, RA, RIVERA, SWEENEY, THIELE, WEISENBERG -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public officers law, in relation to the disclosure of agency records; and to amend the education law, in relation to guidelines for foundations of state-operated and city-operated campuses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 3 of section 86 of the public officers law, as  
2     added by chapter 933 of the laws of 1977, is amended to read as follows:  
3     3. (A) "Agency" means any state or municipal department, board,  
4     bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a  
5     governmental or proprietary function for the state or any one or more  
6     municipalities thereof, except the judiciary or the state legislature.  
7     (B) FOR PURPOSES OF THIS ARTICLE, "AGENCY" SHALL INCLUDE THE RESEARCH  
8     FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK, THE RESEARCH FOUNDATION  
9     OF THE CITY UNIVERSITY OF NEW YORK, FOUNDATIONS AND AUXILIARY SERVICE  
10    CORPORATIONS ASSOCIATED WITH ANY PUBLIC COLLEGE OR UNIVERSITY, AND NOT-  
11    FOR-PROFIT CORPORATIONS AND LIMITED LIABILITY CORPORATIONS CREATED OR  
12    CONTROLLED BY ANY PUBLIC COLLEGE OR UNIVERSITY, AND THE CORPORATIONS  
13    IDENTIFIED IN PARAGRAPH (D) OF SUBDIVISION FIVE OF SECTION FIFTY-THREE-A  
14    OF THE STATE FINANCE LAW, PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS  
15    SUBDIVISION SHALL NOT APPLY TO THE STATUTORY COLLEGES AND CONTRACT  
16    COLLEGES AT ALFRED AND CORNELL OR ANY ALUMNI ASSOCIATION OR CLINICAL  
17    PRACTICE PLAN ASSOCIATED WITH A PUBLIC COLLEGE OR UNIVERSITY.  
18

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 S 2. Paragraph (l) of subdivision 2 of section 87 of the public offi-  
2 cers law, as added by section 12 of part II of chapter 59 of the laws of  
3 2010, is amended and two new paragraphs (m) and (n) are added to read as  
4 follows:

5 (l) are photographs, microphotographs, videotape or other recorded  
6 images produced by a bus lane photo device prepared under authority of  
7 section eleven hundred eleven-c of the vehicle and traffic law[.];

8 (M) ARE RECORDS OF AN AGENCY RELATING TO CHARITABLE DONORS OR PROSPEC-  
9 TIVE DONORS, INCLUDING BUT NOT LIMITED TO THE FUND-RAISING STRATEGIES OF  
10 AGENCIES IDENTIFIED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION  
11 EIGHTY-SIX OF THIS ARTICLE, PROVIDED THAT RECORDS RELATING TO FUND-RAIS-  
12 ING STRATEGIES WOULD, IF DISCLOSED, IMPAIR THE ABILITY OF THOSE AGENCIES  
13 TO ATTRACT OR GAIN DONATIONS, AND PROVIDED FURTHER THAT THE NAME OF ANY  
14 DONOR AND THE AMOUNT OF DONATION MADE BY SUCH DONOR SHALL BE SUBJECT TO  
15 DISCLOSURE IF SUCH DONOR, OR ANY ENTITY IN WHICH SUCH DONOR HAS A  
16 SUBSTANTIAL INTEREST, SEEKS TO TRANSACT BUSINESS, OR DOES TRANSACT BUSI-  
17 NESS, WITH THE AGENCY TO WHICH THE DONATION IS MADE WITHIN THREE YEARS  
18 OF THE DATE OF SUCH DONATION. NOTHING IN THIS SECTION SHALL EXEMPT FROM  
19 DISCLOSURE THE AMOUNT OR VALUE OF AN INDIVIDUAL GIFT, GRANT, DONATION OR  
20 PLEDGE;

21 (N) ARE ACADEMIC OR SCIENTIFIC RESEARCH OR RESEARCH-RELATED RECORDS,  
22 INCLUDING ANY DRAFT, PRELIMINARY OR UNFUNDED GRANT OR CONTRACT DOCUMENT,  
23 WHETHER SPONSORED BY THE AGENCY ITSELF OR IN CONJUNCTION WITH A THIRD  
24 PARTY, OR RECORDS RELATING TO THE AGENCY'S INTELLECTUAL PROPERTY, WHICH,  
25 IF DISCLOSED, WOULD ADVERSELY AFFECT LICENSE, PATENT, COPYRIGHT OR OTHER  
26 RIGHTS OF THE AGENCY. THIS PARAGRAPH SHALL NOT PERMIT AN AGENCY TO WITH-  
27 HOLD RECORDS OR PORTIONS THEREOF PERTAINING TO THE NAME, TITLE, EXPENDI-  
28 TURE, SOURCE OR AMOUNT OF PUBLIC FUNDING RELATING TO SUCH RESEARCH OR  
29 INTELLECTUAL PROPERTY.

30 S 3. The opening paragraph of subdivision 6 of section 355 of the  
31 education law is designated paragraph (a) and two new paragraphs (b) and  
32 (c) are added to read as follows:

33 (B) THE STATE UNIVERSITY TRUSTEES SHALL ADOPT GUIDELINES FOR FOUNDA-  
34 TIONS OF STATE-OPERATED CAMPUSES THAT REQUIRE EACH FOUNDATION TO ADOPT A  
35 CONFLICT OF INTEREST POLICY APPLICABLE TO SUCH FOUNDATION AND ITS AFFIL-  
36 IATED CORPORATIONS. AMONG OTHER ITEMS, THE STATE UNIVERSITY TRUSTEES'  
37 GUIDELINES SHALL REQUIRE SUCH FOUNDATION POLICIES TO PROVIDE: (I) THAT  
38 SERVICE AS A BOARD MEMBER OR OFFICER THEREOF SHALL NOT BE USED AS A  
39 MEANS FOR PRIVATE BENEFIT OR INUREMENT FOR THE BOARD MEMBER OR OFFICER  
40 OR RELATIVE THEREOF, OR ANY ENTITY IN WHICH THE BOARD MEMBER OR OFFICER,  
41 OR RELATIVE THEREOF, HAS A BUSINESS INTEREST; (II) NO BOARD MEMBER OR  
42 OFFICER WHO IS A VENDOR OF GOODS OR SERVICES TO THE FOUNDATION OR ITS  
43 AFFILIATED CORPORATION, OR HAS A BUSINESS INTEREST IN SUCH VENDOR, OR  
44 WHOSE RELATIVE HAS A BUSINESS INTEREST IN SUCH VENDOR, SHALL VOTE ON, OR  
45 PARTICIPATE IN THE FOUNDATION'S ADMINISTRATION OF, AND TRANSACTION WITH  
46 SUCH VENDOR; AND (III) A BOARD MEMBER OR OFFICER SHALL ADVISE THE CHAIR  
47 OF THE FOUNDATION OR ITS AFFILIATED CORPORATION OF HIS, HER OR A RELA-  
48 TIVE'S BUSINESS INTEREST IN ANY SUCH EXISTING OR PROPOSED VENDOR WITH  
49 THE FOUNDATION OR ITS AFFILIATE. THE STATE UNIVERSITY TRUSTEE'S GUIDE-  
50 LINES SHALL DEFINE THE NATURE OF A BUSINESS INTEREST AND THE CLOSENESS  
51 OF A PERSONAL RELATION THAT BRING A RELATIONSHIP WITHIN THE PURPOSES OF  
52 THIS SECTION.

53 (C) THE STATE UNIVERSITY TRUSTEES SHALL REPORT TO THE GOVERNOR, THE  
54 SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE ON THE  
55 STATUS OF THE IMPLEMENTATION OF PARAGRAPH (A) OF THIS SUBDIVISION NO  
56 LATER THAN NINETY DAYS AFTER THIS PARAGRAPH SHALL HAVE TAKEN EFFECT.

1 S 4. Section 6204 of the education law is amended by adding a new  
2 subdivision 4 to read as follows:

3 4. (A) THE BOARD OF TRUSTEES SHALL ADOPT GUIDELINES FOR FOUNDATIONS OF  
4 CITY UNIVERSITY-OPERATED CAMPUSES THAT REQUIRE EACH FOUNDATION TO ADOPT  
5 A CONFLICT OF INTEREST POLICY APPLICABLE TO SUCH FOUNDATION AND ITS  
6 AFFILIATED CORPORATIONS. AMONG OTHER ITEMS, THE BOARD OF TRUSTEE'S  
7 GUIDELINES SHALL REQUIRE SUCH FOUNDATION POLICIES TO PROVIDE: (I) THAT  
8 SERVICE AS A BOARD MEMBER OR OFFICER THEREOF SHALL NOT BE USED AS A  
9 MEANS FOR PRIVATE BENEFIT OR INUREMENT FOR THE BOARD MEMBER OR OFFICER  
10 OR RELATIVE THEREOF, OR ANY ENTITY IN WHICH THE BOARD MEMBER OR OFFICER,  
11 OR RELATIVE THEREOF, HAS A BUSINESS INTEREST; (II) NO BOARD MEMBER OR  
12 OFFICER WHO IS A VENDOR OF GOODS OR SERVICES TO THE FOUNDATION OR ITS  
13 AFFILIATED CORPORATION, OR HAS A BUSINESS INTEREST IN SUCH VENDOR, OR  
14 WHOSE RELATIVE HAS A BUSINESS INTEREST IN SUCH VENDOR, SHALL VOTE ON,  
15 OR PARTICIPATE IN THE FOUNDATION'S ADMINISTRATION OF, AND TRANSACTION  
16 WITH SUCH VENDOR; AND (III) A BOARD MEMBER OR OFFICER SHALL ADVISE THE  
17 CHAIR OF THE FOUNDATION OR ITS AFFILIATED CORPORATION OF HIS, HER OR A  
18 RELATIVE'S BUSINESS INTEREST IN ANY SUCH EXISTING OR PROPOSED VENDOR  
19 WITH THE FOUNDATION OR ITS AFFILIATE. THE CITY UNIVERSITY TRUSTEE'S  
20 GUIDELINES SHALL DEFINE THE NATURE OF A BUSINESS INTEREST AND THE CLOSE-  
21 NESS OF A PERSONAL RELATION THAT BRING A RELATIONSHIP WITHIN THE  
22 PURPOSES OF THIS SECTION.

23 (B) THE BOARD OF TRUSTEES SHALL REPORT TO THE GOVERNOR, THE SPEAKER OF  
24 THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE ON THE STATUS OF  
25 THE IMPLEMENTATION OF PARAGRAPH (A) OF THIS SUBDIVISION NO LATER THAN  
26 NINETY DAYS AFTER THIS PARAGRAPH SHALL HAVE TAKEN EFFECT.

27 S 5. This act shall take effect immediately; provided, however, that  
28 the amendments to paragraph (1) of subdivision 2 of section 87 of the  
29 public officers law made by section two of this act shall not affect the  
30 repeal of such paragraph and shall expire and be deemed repealed there-  
31 with; provided further that the amendments to subdivision 6 of section  
32 355 of the education law made by section three of this act shall not  
33 affect the expiration of such subdivision and shall be deemed to expire  
34 therewith.