S T A T E O F N E W Y O R K

7554--B

2013-2014 Regular Sessions

I N A S S E M B L Y

May 23, 2013

Introduced by M. of A. GLICK, LIFTON, COOK, ROBERTS, MILLMAN, CRESPO, MAYER, GOTTFRIED, CAHILL, AUBRY, JACOBS, LUPARDO, JAFFEE -- Multi-Sponsored by -- M. of A. BORELLI, CLARK, DUPREY, MONTESANO, 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 -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- 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:

Section 1. Subdivision 3 of section 86 of the public officers law, as added by chapter 933 of the laws of 1977, is amended to read as follows:

3. (A) "Agency" means any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, except the judiciary or the state legislature.

(B) FOR PURPOSES OF THIS ARTICLE, "AGENCY" SHALL INCLUDE THE RESEARCH FOUNDATION OF THE STATE UNIVERSITY OF NEW YORK, THE RESEARCH FOUNDATION OF THE CITY UNIVERSITY OF NEW YORK, FOUNDATIONS AND AUXILIARY SERVICE CORPORATIONS ASSOCIATED WITH ANY PUBLIC COLLEGE OR UNIVERSITY, AND NOT-FOR-PROFIT CORPORATIONS AND LIMITED LIABILITY CORPORATIONS CREATED OR CONTROLLED BY ANY PUBLIC COLLEGE OR UNIVERSITY, AND THE CORPORATIONS IDENTIFIED IN PARAGRAPH (D) OF SUBDIVISION FIVE OF SECTION FIFTY-THREE-A OF THE STATE FINANCE LAW, PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS

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

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SUBDIVISION SHALL NOT APPLY TO THE STATUTORY COLLEGES AND CONTRACT COLLEGES AT ALFRED AND CORNELL OR ANY ALUMNI ASSOCIATION OR CLINICAL PRACTICE PLAN ASSOCIATED WITH A PUBLIC COLLEGE OR UNIVERSITY.

S 2. Subdivision 2 of section 87 of the public officers law, is amended by adding two new paragraphs (n) and (o) to read as follows:

(N) ARE RECORDS OF AN AGENCY RELATING TO CHARITABLE DONORS OR PROSPECTIVE DONORS, INCLUDING BUT NOT LIMITED TO THE FUND-RAISING STRATEGIES OF AGENCIES IDENTIFIED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION EIGHTY-SIX OF THIS ARTICLE, PROVIDED THAT RECORDS RELATING TO FUND-RAISING STRATEGIES WOULD, IF DISCLOSED, IMPAIR THE ABILITY OF THOSE AGENCIES TO ATTRACT OR GAIN DONATIONS, AND PROVIDED FURTHER THAT THE NAME OF ANY DONOR AND THE AMOUNT OF DONATION MADE BY SUCH DONOR SHALL BE SUBJECT TO DISCLOSURE IF SUCH DONOR, OR ANY ENTITY IN WHICH SUCH DONOR HAS A SUBSTANTIAL INTEREST, SEEKS TO TRANSACT BUSINESS, OR DOES TRANSACT BUSINESS, WITH THE AGENCY TO WHICH THE DONATION IS MADE WITHIN THREE YEARS OF THE DATE OF SUCH DONATION. NOTHING IN THIS SECTION SHALL EXEMPT FROM DISCLOSURE THE AMOUNT OR VALUE OF AN INDIVIDUAL GIFT, GRANT, DONATION OR PLEDGE;

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

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

(B) THE STATE UNIVERSITY TRUSTEES SHALL ADOPT GUIDELINES FOR FOUNDATIONS OF STATE-OPERATED CAMPUSES THAT REQUIRE EACH FOUNDATION TO ADOPT A CONFLICT OF INTEREST POLICY APPLICABLE TO SUCH FOUNDATION AND ITS AFFILIATED CORPORATIONS. AMONG OTHER ITEMS, THE STATE UNIVERSITY TRUSTEES' GUIDELINES SHALL REQUIRE SUCH FOUNDATION POLICIES TO PROVIDE: (I) THAT SERVICE AS A BOARD MEMBER OR OFFICER THEREOF SHALL NOT BE USED AS A MEANS FOR PRIVATE BENEFIT OR INUREMENT FOR THE BOARD MEMBER OR OFFICER OR RELATIVE THEREOF, OR ANY ENTITY IN WHICH THE BOARD MEMBER OR OFFICER, OR RELATIVE THEREOF, HAS A BUSINESS INTEREST; (II) NO BOARD MEMBER OR OFFICER WHO IS A VENDOR OF GOODS OR SERVICES TO THE FOUNDATION OR ITS AFFILIATED CORPORATION, OR HAS A BUSINESS INTEREST IN SUCH VENDOR, OR WHOSE RELATIVE HAS A BUSINESS INTEREST IN SUCH VENDOR, SHALL VOTE ON, OR PARTICIPATE IN THE FOUNDATION'S ADMINISTRATION OF, AND TRANSACTION WITH SUCH VENDOR; AND (III) A BOARD MEMBER OR OFFICER SHALL ADVISE THE CHAIR OF THE FOUNDATION OR ITS AFFILIATED CORPORATION OF HIS, HER OR A RELATIVE'S BUSINESS INTEREST IN ANY SUCH EXISTING OR PROPOSED VENDOR WITH THE FOUNDATION OR ITS AFFILIATE. THE STATE UNIVERSITY TRUSTEE'S GUIDELINES SHALL DEFINE THE NATURE OF A BUSINESS INTEREST AND THE CLOSENESS OF A PERSONAL RELATION THAT BRING A RELATIONSHIP WITHIN THE PURPOSES OF THIS SECTION.

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

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

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

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

S 5. This act shall take effect immediately; provided, however, that the amendments to subdivision 6 of section 355 of the education law made by section three of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.