

# STATE OF NEW YORK

3315

2017-2018 Regular Sessions

## IN ASSEMBLY

January 27, 2017

Introduced by M. of A. BARCLAY, DiPIETRO, FINCH, HAWLEY, KOLB, MONTESANO, OAKS, WALTER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the legislative law, in relation to creating an assembly standing committee on ethics and guidance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The legislative law is amended by adding a new section 68  
2 to read as follows:

3 § 68. Assembly standing committee on ethics and guidance. 1. There is  
4 established a standing committee in the assembly on ethics and guidance  
5 which shall replace the standing committee on ethics and guidance as  
6 established by the rules of the assembly. The committee shall consist of  
7 an equal number of majority and minority members for a total of eight  
8 members. The eight members shall be members of the assembly and  
9 appointed as follows: four by the speaker of the assembly and four by  
10 the minority leader of the assembly.

11 2. The committee shall serve as described in this section and have and  
12 exercise the powers and duties set forth in this section only with  
13 respect to members of the assembly and assembly employees.

14 3. Members of the assembly who serve on the committee shall each have  
15 a two year term concurrent with their legislative terms of office.

16 4. Members of the committee may only be removed by a majority vote of  
17 the committee solely for substantial neglect of duty, gross misconduct  
18 in office, violation of the confidentiality restrictions in this  
19 section, inability to discharge the powers or duties of office or  
20 violation of this section, after written notice and opportunity for a  
21 reply.

22 5. The speaker of the assembly and the minority leader of the assembly  
23 shall each designate one member of the committee as a co-chairperson

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

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1 thereof. The co-chairpersons shall receive compensation as provided for  
2 in section five-a of this chapter.

3 6. The committee shall meet at least bi-monthly and at such additional  
4 times as may be called for by the co-chairpersons jointly or any four  
5 members of the committee.

6 7. Any vacancy occurring on the committee shall be filled within thir-  
7 ty days by the appointing authority.

8 8. Five members of the committee shall constitute a quorum, and the  
9 committee shall have power to act by majority vote of the total number  
10 of members of the committee without vacancy.

11 9. The committee shall be funded separately from the assembly appro-  
12 priations provided annually in an amount deemed appropriate by an agree-  
13 ment of the co-chairs for the maintenance and operation of the commit-  
14 tee. Such appropriation for the committee shall be specifically lined  
15 out in the legislative budget. The executive director and employees of  
16 the committee shall be considered as employees of the assembly for all  
17 purposes.

18 10. The committee shall:

19 (a) appoint an executive director who shall act in accordance with the  
20 policies of the committee, provided that the committee may remove the  
21 executive director by a majority vote for neglect of duty, misconduct in  
22 office, or inability or failure to discharge the powers or duties of  
23 office;

24 (b) appoint such other staff as are necessary to assist it to carry  
25 out its duties under this section;

26 (c) adopt, amend, and rescind policies, rules and regulations consist-  
27 ent with this section to govern procedures of the committee;

28 (d) administer the provisions of this section;

29 (e) review all rules and policies of the speaker or the assembly  
30 relating to conduct of members and employees of the assembly, including  
31 but not limited to ethics, sexual harassment and fraternization with  
32 student interns, and recommend to the speaker of the assembly and the  
33 minority leader of the assembly any changes to such rules and policies  
34 or offer motions to amend rules of the assembly, or offer motions to  
35 suspend rules of the assembly, or adopt policies relating to conduct of  
36 members and employees of the assembly, including but not limited to  
37 ethics, sexual harassment and fraternization with student interns. Any  
38 such policy relating to conduct of members and employees of the assembly  
39 adopted by the committee shall be the policy of the assembly and subject  
40 to the provisions of this section;

41 (f) develop and regularly update a course of instruction for all  
42 members and employees of the assembly with regard to the laws and poli-  
43 cies governing their conduct. The committee shall recommend to the  
44 speaker of the assembly and the minority leader of the assembly a  
45 conduct and ethics training plan for implementing and scheduling such  
46 course of instruction for members, employees and newly-hired employees;

47 (g) prepare an annual report to the speaker of the assembly and the  
48 minority leader of the assembly summarizing the activities of the  
49 committee during the previous year and recommending any changes in the  
50 laws governing the conduct of persons subject to the jurisdiction of the  
51 committee, or the rules, regulations and procedures governing the  
52 committee's conduct. Such report shall include: (i) a listing by  
53 assigned number of each complaint including current status of each  
54 complaint, (ii) where a matter was deferred, and (iii) where a matter  
55 has been resolved, the date and nature of the disposition and any sanc-

1 tion imposed, subject to the confidentiality requirements of this  
2 section; and

3 (h) investigate complaints and impose disciplinary measures against  
4 members and employees found in violation of rules and policies of the  
5 speaker or the assembly or the public officers law or other law.

6 11. Investigations, mandatory reporting of violations, and enforcement  
7 authority:

8 (a) The committee shall have the authority, on its own accord, to  
9 initiate by a majority vote an investigation into a possible violation,  
10 by any member or employee of the assembly, of the rules or policy of the  
11 speaker or the assembly or of the public officers law or other law.

12 (b) Any formal or informal complaint of a violation of rules and poli-  
13 cies of the speaker or the assembly relating to conduct of members and  
14 employees of the assembly or of a violation of the public officers law  
15 or other law, must be reported to the committee within five days of such  
16 complaint being made to counsel, office of human resources, office of  
17 administration and personnel or intake representative.

18 (c) The committee shall review such complaint at the next meeting of  
19 such committee and determine by majority vote whether to investigate  
20 such complaint further, commence a full formal investigation of such  
21 complaint or defer such complaint to the joint commission on public  
22 ethics, the legislative ethics commission, or an appropriate prosecutor.  
23 The staff of the committee shall provide to the members of the committee  
24 prior to such vote information regarding the likely scope and content of  
25 the investigation, and a subpoena plan, to the extent such information  
26 is available.

27 (d) If the committee determines by majority vote that a full formal  
28 investigation shall commence the committee shall notify the individual  
29 in writing, describe the possible or alleged violation of rules and  
30 policies of the speaker or the assembly related to conduct of members  
31 and employees of the assembly or of a violation of the public officers  
32 law or other law and provide the person with a fifteen day period in  
33 which to submit a written response setting forth information relating to  
34 the activities cited as a possible or alleged violation of such rules  
35 and policies.

36 (e) The committee has the authority to conduct any inquiry pertinent  
37 or material to the discharge of the functions, powers and duties imposed  
38 by law; and through designated members of the staff, to subpoena  
39 witnesses, administer oaths, take testimony and compel the production of  
40 such books, papers, records and documents as may be relevant to any such  
41 inquiry and investigation.

42 (f) If the committee determines at any stage that there is no  
43 violation, it shall so advise the individual and the complainant, if  
44 any. All of the foregoing proceedings shall be confidential.

45 (g) The jurisdiction of the committee when acting pursuant to this  
46 section shall continue notwithstanding that a member of the assembly or  
47 assembly employee separates from assembly service, provided that the  
48 committee notifies such individual of the alleged violation of rules and  
49 policies of the speaker or the assembly relating to conduct of members  
50 and employees of the assembly or of a violation of the public officers  
51 law pursuant to paragraph (c) of this subdivision within one year from  
52 his or her separation from assembly service.

53 (h) If during the course of its investigation the committee deems that  
54 a violation of rules and policies of the speaker or the assembly related  
55 to conduct of members and employees of the assembly or a violation of

the public officers law or other law has occurred, the committee shall notify the individual in writing.

(i) The committee shall have the authority to (i) recommend punishments for violations of rules and policies of the speaker or the assembly, or the public officers law or other law, including but not limited to censure, stripping members of leadership positions or expulsion pursuant to section three of this chapter and (ii) access penalties pursuant to applicable law or rule.

(j) No member or employee of the assembly shall take any adverse personnel action with respect to another member or employee of the assembly in retaliation for his or her making a report to the committee, or for his or her official duties as a member of the committee, concerning conduct which he or she knows or reasonably believes to be a violation of rules and policies of the speaker or the assembly or the public officers law or other law.

(k) Notwithstanding the provisions of article six of the public officers law, the only records of the committee which shall be available for public inspection and copying are:

(i) the terms of any settlement or compromise of a complaint or referral or report which includes a fine, penalty or other remedy reached by the committee; and

(ii) all reports required by this section.

12. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the committee shall be open to the public, except if expressly provided otherwise by this section or the committee.

§ 2. That portion of subdivision 1 of section 5-a of the legislative law entitled "ASSEMBLYMEN SERVING IN SPECIAL CAPACITY", as amended by section 3 of part XX of chapter 56 of the laws of 2009, is amended to read as follows:

ASSEMBLYMEN SERVING IN SPECIAL CAPACITY

|   |        |
|---|--------|
| Chairman of assembly ways and means committee .....                   | 34,000 |
| Ranking minority member of assembly ways and means committee .....    | 20,500 |
| Chairman of assembly judiciary committee .....                        | 18,000 |
| Ranking minority member of assembly judiciary committee .....         | 11,000 |
| Chairman of assembly codes committee .....                            | 18,000 |
| Ranking minority member of assembly codes committee .....             | 11,000 |
| Chairman of assembly banks committee .....                            | 15,000 |
| Ranking minority member of assembly banks committee .....             | 9,500  |
| Chairman of assembly committee on cities .....                        | 15,000 |
| Ranking minority member of assembly committee on cities .....         | 9,500  |
| Chairman of assembly education committee .....                        | 18,000 |
| Ranking minority member of assembly education committee .....         | 11,000 |
| Chairman of assembly health committee .....                           | 15,000 |
| Ranking minority member of assembly health committee .....            | 9,500  |
| Chairman of assembly local governments committee .....                | 15,000 |
| Ranking minority member of assembly local governments committee ..... | 9,500  |
| Chairman of assembly agriculture committee .....                      | 12,500 |
| Ranking minority member of assembly agriculture committee .....       | 9,000  |
| Chairman of assembly economic development, job creation,              |        |

|    |   |                   |
|----|---|-------------------|
| 1  | commerce and industry committee .....                               | 18,000            |
| 2  | Ranking minority member of assembly economic development,           |                   |
| 3  | job creation, commerce and industry committee .....                 | 11,000            |
| 4  | Chairman of assembly environmental conservation committee .....     | 12,500            |
| 5  | Ranking minority member of assembly environmental                   |                   |
| 6  | conservation committee .....  | 9,000             |
| 7  | Chairman of assembly corporations, authorities                      |                   |
| 8  | and commissions committee .....                                     | 15,000            |
| 9  | Ranking minority member of assembly corporations,                   |                   |
| 10 | authorities, and commissions committee .....                        | 9,500             |
| 11 | Chairman of assembly correction committee .....                     | 12,500            |
| 12 | Ranking minority member of assembly correction committee .....      | 9,000             |
| 13 | <u>Majority</u> Chairman of assembly ethics and guidance            |                   |
| 14 | committee .....   | 12,500            |
| 15 | <del>[Ranking minority member of assembly ethics and guidance</del> |                   |
| 16 | <del>committee .....</del>  | <del>9,000]</del> |
| 17 | <u>Minority Chairman of assembly ethics and guidance</u>            |                   |
| 18 | <u>committee .....</u>  | <u>12,500</u>     |
| 19 | Chairman of assembly governmental employees committee .....         | 12,500            |
| 20 | Ranking minority member of assembly governmental                    |                   |
| 21 | employees committee .....   | 9,000             |
| 22 | Chairman of assembly governmental operations committee .....        | 12,500            |
| 23 | Ranking minority member of assembly governmental                    |                   |
| 24 | operations committee .....  | 9,000             |
| 25 | Chairman of assembly housing committee .....                        | 12,500            |
| 26 | Ranking minority member of assembly housing committee .....         | 9,000             |
| 27 | Chairman of assembly insurance committee .....                      | 12,500            |
| 28 | Ranking minority member of assembly insurance committee .....       | 9,000             |
| 29 | Chairman of assembly labor committee .....                          | 14,000            |
| 30 | Ranking minority member of assembly labor committee .....           | 9,000             |
| 31 | Chairman of assembly racing and wagering committee .....            | 12,500            |
| 32 | Ranking minority member of assembly racing and wagering             |                   |
| 33 | committee .....   | 9,000             |
| 34 | Chairman of assembly social services committee .....                | 12,500            |
| 35 | Ranking minority member of assembly social services                 |                   |
| 36 | committee .....   | 9,000             |
| 37 | Chairman of assembly small business committee .....                 | 12,500            |
| 38 | Ranking minority member of assembly small business                  |                   |
| 39 | committee .....   | 9,000             |
| 40 | Chairman of assembly transportation committee .....                 | 15,000            |
| 41 | Ranking minority member of assembly transportation                  |                   |
| 42 | committee .....   | 9,500             |
| 43 | Chairman of assembly veterans' affairs committee .....              | 12,500            |
| 44 | Ranking minority member of assembly veterans' affairs               |                   |
| 45 | committee .....   | 9,000             |
| 46 | Chairman of assembly aging committee .....                          | 12,500            |
| 47 | Ranking minority member of assembly aging committee .....           | 9,000             |
| 48 | Chairman of the assembly alcoholism and drug abuse                  |                   |
| 49 | committee .....   | 12,500            |
| 50 | Ranking minority member of the assembly                             |                   |
| 51 | alcoholism and drug abuse committee .....                           | 9,000             |
| 52 | Chairman of assembly committee on mental health,                    |                   |
| 53 | mental retardation and developmental disabilities .....             | 12,500            |
| 54 | Ranking minority member of assembly committee on mental health,     |                   |

|    |  |        |
|----|--|--------|
| 1  | mental retardation and developmental disabilities .....          | 9,000  |
| 2  | Chairman of assembly higher education committee .....            | 12,500 |
| 3  | Ranking minority member of assembly higher education             |        |
| 4  | committee .....  | 9,000  |
| 5  | Chairman of assembly real property taxation committee .....      | 12,500 |
| 6  | Ranking minority member of assembly real property                |        |
| 7  | taxation committee .....   | 9,000  |
| 8  | Chairman of assembly election law committee .....                | 12,500 |
| 9  | Ranking minority member of assembly election                     |        |
| 10 | law committee .....  | 9,000  |
| 11 | Chairman of assembly children and families committee .....       | 12,500 |
| 12 | Ranking minority member of assembly children                     |        |
| 13 | and families committee .....                                     | 9,000  |
| 14 | Chairman of assembly consumer affairs and protection             |        |
| 15 | committee .....  | 12,500 |
| 16 | Ranking minority member of assembly consumer affairs and         |        |
| 17 | protection committee .....                                       | 9,000  |
| 18 | Chairman of the assembly energy committee .....                  | 12,500 |
| 19 | Ranking minority member of assembly energy committee .....       | 9,000  |
| 20 | Chairman of assembly tourism, parks, arts and sports development |        |
| 21 | committee .....  | 12,500 |
| 22 | Ranking minority member of assembly tourism, parks, arts and     |        |
| 23 | sports development committee .....                               | 9,000  |
| 24 | Chairman of assembly oversight, analysis and investigation       |        |
| 25 | committee .....  | 12,500 |
| 26 | Ranking minority member of assembly oversight,                   |        |
| 27 | analysis and investigation committee .....                       | 9,000  |
| 28 | Chairman of assembly office of state-federal relations .....     | 12,500 |
| 29 | Chairman of majority house operations .....                      | 12,500 |
| 30 | Chairman of minority house operations .....                      | 9,000  |
| 31 | Co-chairman of the administrative regulations review             |        |
| 32 | commission .....   | 12,500 |

33 § 3. Severability clause. If any part or provision of this section or  
34 the application thereof to any person is adjudged by a court of compe-  
35 tent jurisdiction to be unconstitutional or otherwise invalid, such  
36 judgment shall not affect or impair any other part or provision or the  
37 application thereof to any other person, but shall be confined to such  
38 part or provision.

39 § 4. This act shall take effect immediately.