

STATE OF NEW YORK

1608

2019-2020 Regular Sessions

IN ASSEMBLY

January 15, 2019

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, the legislative law and the executive law, in relation to mandatory ethics training for certain officers and employees of the state; and to repeal subdivision 10 of section 94 of the executive law relating thereto

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

1 Section 1. Article 4 of the public officers law is amended by adding a
2 new section 59 to read as follows:

3 § 59. Mandatory ethics training. 1. The following persons shall annu-
4 ally complete the ethics training provided in subdivision two of this
5 section:

6 (a) every employee of a state agency, as defined in subdivision one of
7 section seventy-four of this article;

8 (b) every legislative employee, as defined in subdivision one of
9 section seventy-four of this article;

10 (c) every employee of the department of law or the department of audit
11 and control;

12 (d) all officers and employees employed in the executive chamber;

13 (e) every member of the legislature; and

14 (f) the governor, the attorney general and the comptroller.

15 2. (a) The ethics training required by this section shall include, but
16 not be limited to, instruction on the requirements of:

17 (i) section seventy-three of this article;

18 (ii) section seventy-three-a of this article;

19 (iii) section seventy-four of this article;

20 (iv) section seventy-four-a of this article;

21 (v) section seventy-five-a of this article;

22 (vi) section seventy-seven-a of this article;

23 (vii) section seventy-eight of this article;

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

LBD05138-01-9

1 (xiii) section seventy-five-b of the civil service law; and

2 (ix) section one hundred seven of the civil service law.

3 (b) In addition to the requirements of paragraph (a) of this subdivi-
 4 sion, legislative employees and members of the legislature shall
 5 complete instruction in the requirements of:

6 (i) section seventy-three-b of this article;

7 (ii) section seventy-five of this article;

8 (iii) section seventy-six of this article; and

9 (iv) section seventy-seven-a of this article.

10 (c) The training shall include practical application of the material
 11 covered and a participatory question and answer segment. Furthermore,
 12 the course of instruction shall include any changes in the law, rules,
 13 regulations and policies relating to the required course material, and
 14 the interpretation thereof.

15 3. The annual training required by this section shall at a minimum be
 16 two hours in duration.

17 4. Every person who is subject to the provisions of this section
 18 shall, upon each completion of training required by this section, file a
 19 statement certifying such with the joint commission on public ethics.

20 5. Every newly hired employee, and newly elected member of the legis-
 21 lature and statewide official, who is subject to the provisions of this
 22 section, shall complete an online ethics orientation course within thir-
 23 ty days of becoming subject to the annual training requirements of this
 24 section.

25 § 2. Paragraphs i and k of subdivision 7 of section 80 of the legisla-
 26 tive law, as amended by section 9 of part A of chapter 399 of the laws
 27 of 2011, are amended to read as follows:

28 i. Upon written request from any person who is subject to the jurisdic-
 29 tion of the commission and the requirements of sections seventy-
 30 three, seventy-three-a and seventy-four of the public officers law,
 31 render formal advisory opinions on the requirements of said provisions.
 32 A formal written opinion rendered by the commission, until and unless
 33 amended or revoked, shall be binding on the legislative ethics commis-
 34 sion in any subsequent proceeding concerning the person who requested
 35 the opinion and who acted in good faith, unless material facts were
 36 omitted or misstated by the person in the request for an opinion. Such
 37 opinion may also be relied upon by such person, and may be introduced
 38 and shall be a defense in any criminal or civil action. The joint
 39 commission on public ethics shall not investigate an individual for
 40 potential violations of law based upon conduct approved and covered in
 41 its entirety by such an opinion, except that such opinion shall not
 42 prevent or preclude an investigation of and report to the legislative
 43 ethics commission concerning the conduct of the person who obtained it
 44 by the joint commission on public ethics for violations of section
 45 seventy-three, seventy-three-a or seventy-four of the public officers
 46 law to determine whether the person accurately and fully represented to
 47 the legislative ethics commission the facts relevant to the formal advi-
 48 sory opinion and whether the person's conduct conformed to those factual
 49 representations. The joint commission shall be authorized and shall have
 50 jurisdiction to investigate potential violations of the law arising from
 51 conduct outside of the scope of the terms of the advisory opinion; ~~and~~

52 k. Develop educational materials and administer training with regard
 53 to legislative ethics for members of the legislature and legislative
 54 employees including an online ethics orientation course for newly-hired
 55 employees and ~~[, as requested by the senate or the assembly, materials~~
 56 ~~and training in relation to a comprehensive ethics training program] the~~

1 mandatory ethics training, as required by section fifty-nine of the
2 public officers law, for members of the legislature and legislative
3 employees; and

4 § 3. Paragraphs (b-1), (i-1), (m) and (n) of subdivision 9 of section
5 94 of the executive law, paragraphs (b-1), (i-1) and (n) as added and
6 paragraph (m) as amended by section 6 of part A of chapter 399 of the
7 laws of 2011, are amended and three new paragraphs (o), (p) and (q) are
8 added to read as follows:

9 (b-1) Review and approve a staffing plan provided and prepared by the
10 executive director which shall contain, at a minimum, a list of the
11 various units and divisions as well as the number of positions in each
12 unit, titles and their duties, and salaries, as well as the various
13 qualifications for each position including, but not limited to, educa-
14 tion and prior experience for each position[+];

15 (i-1) Permit any person required to file a financial disclosure state-
16 ment to request an exemption from any requirement to report the identity
17 of a client pursuant to question 8(b) in such statement based upon an
18 exemption set forth in that question. The reporting individual need not
19 seek an exemption to refrain from disclosing the identity of any client
20 with respect to any matter he or she or his or her firm provided legal
21 representation to the client in connection with an investigation or
22 prosecution by law enforcement authorities, bankruptcy, or domestic
23 relations matters; in addition, clients or customers receiving medical
24 or dental services, mental health services, residential real estate
25 brokering services, or insurance brokering services need not be
26 disclosed[+];

27 (m) Determine a question common to a class or defined category of
28 persons or items of information required to be disclosed, where determi-
29 nation of the question will prevent undue repetition of requests for
30 exemption or deletion or prevent undue complication in complying with
31 the requirements of such section; [~~and~~]

32 (n) Promulgate guidelines for the commission to conduct a program of
33 random reviews, to be carried out in the following manner: (i) annual
34 statements of financial disclosure shall be selected for review in a
35 manner pursuant to which the identity of any particular person whose
36 statement is selected is unknown to the commission and its staff prior
37 to its selection; (ii) such review shall include a preliminary examina-
38 tion of the selected statement for internal consistency, a comparison
39 with other records maintained by the commission, including previously
40 filed statements and requests for advisory opinions, and examination of
41 relevant public information; (iii) upon completion of the preliminary
42 examination, the commission shall determine whether further inquiry is
43 warranted, whereupon it shall notify the reporting individual in writing
44 that the statement is under review, advise the reporting individual of
45 the specific areas of inquiry, and provide the reporting individual with
46 the opportunity to provide any relevant information related to the
47 specific areas of inquiry, and the opportunity to file amendments to the
48 selected statement on forms provided by the commission; and (iv) if
49 thereafter sufficient cause exists, the commission shall take additional
50 actions, as appropriate and consistent with law[+];

51 (o) Develop educational materials and administer training for the
52 mandatory ethics training, required by section fifty-nine of the public
53 officers law, for employees of state agencies, officers and employees
54 employed in the executive chamber, employees of the department of law or
55 the department of audit and control, the governor, the attorney general
56 and the comptroller;

1 (p) Develop and administer an online ethics orientation course for
2 newly hired employees and newly elected officials, who are subject to
3 the provisions of section fifty-nine of the public officers law; and

4 (q) On an annual basis, in coordination with the legislative ethics
5 commission, determine the status of compliance with the training
6 requirements of section fifty-nine of the public officers law by each
7 officer and employee who is subject to the provisions of such section.

8 § 4. Subdivision 10 of section 94 of the executive law is REPEALED.

9 § 5. This act shall take effect on the one hundred twentieth day after
10 it shall have become a law. Provided, however, that, effective imme-
11 diately, any and all actions necessary to implement the provisions of
12 this act on its effective date are authorized and directed to be
13 completed on or before such date.