§ 2853. Confidentiality agreements. 1. Definitions. For the purposes of this section:

a. "confidentiality agreement" shall mean an agreement entered into between a state authority or a local authority with a former or current employee, officer or member of the governing board of such authority that prevents disclosure of any records or information, as defined in subdivision four of section eighty-six of the public officers law, during or after their employment or service.

b. "local authority" shall mean a local authority as defined in section two of this chapter.

c. "state authority" shall mean a state authority as defined in section two of this chapter.

2. No state authority or local authority shall enter into a confidentiality agreement, unless:

a. it covers only records or information that are exempt from disclosure pursuant to subdivisions two and four of section eighty-seven of the public officers law and any rules promulgated and published thereto; or

b. the agreement covers both records or information exempt from disclosure, and those subject to disclosure under section eighty-seven of the public officers law, but only if:

(i) the agreement does not prohibit any disclosure of records or information related to compensation or benefits given to an employee, officer or member of the governing board or of illegal conduct or wrongdoing by the authority;

(ii) the authority is unable to specifically determine at the time the confidentiality agreement is entered into which records or information are exempt from disclosure in accordance with subdivision two of section eighty-seven of the public officers law;

(iii) the authority establishes a process by which a current or former employee, officer or member of the governing board covered by the

confidentiality agreement may obtain a ruling from the authority as to whether he or she may disclose any records or information covered by such agreement in accordance with the procedures established under subdivision four of section eighty-nine of the public officers law, including any right to challenge the authority's decision provided by that section; and

(iv) the authority notifies the current or former employee, officer or member of the governing board in the agreement of his or her right to seek such a ruling.

3. Nothing in this section shall require disclosure of information otherwise protected from disclosure by law.

4. Any provision in any contract or other agreement entered into in violation of this section shall have no force and effect.