



New York  
**COMMON CAUSE**  
Holding Power Accountable



November 11, 2015

Governor Andrew Cuomo	Senate Majority Leader John Flanagan	Assembly Speaker Carl Heastie
Executive Chamber	New York State Senate	New York State Assembly
Capitol	Legislative Office Building	Legislative Office Building
Albany, NY 12224	Albany, NY 12247	Albany, NY 12248

**Re: Real Solutions for Ethics Reform**

Dear Messrs. Cuomo, Flanagan, Heastie:

In light of the corruption trials of two former legislative leaders taking place this week, the Ethics Review Commission’s recent release of recommendations to improve ethics oversight, and New York State’s D-minus grade in how it handles issues of integrity from the State Integrity Index, we call upon you to complete the job of reforming our laws governing public ethics. We urge you to embrace real solutions that will bring about large scale change instead of incremental reform and enact meaningful legislation.

Specifically, we urge your immediate action, preferably in a special session, on the following matters of state ethics: which are detailed later in this letter:

1. Reform legislative compensation through considering the forthcoming recommendations of the recently appointed New York State Commission on Legislative, Judicial and Executive Compensation, to address issues of salary, lusus, and outside income.
2. Limit the influence of dark money campaign contributions and government spending that takes place in the shadows by closing the LLC loophole, requiring campaign contributors to disclose their employers, requiring disclosures of all lump-sum appropriation funds, and enacting much stronger restrictions on personal use of campaign funds.
3. Reform ethics oversight and enforcement by changing JCOPE’s structure, scope, and voting procedures to boost public confidence in its actions. Changes should increase transparency of its operations, meetings and votes; expand jurisdiction to include all executive and legislative branch employees; and elevate the independence of the commissioners from their appointing authorities.
4. Strengthen financial reporting disclosure requirements for public officers to allow the public to more easily spot conflicts of interest.
5. Streamline and standardize disclosure of lobbying activity for better analysis and easier evaluation by the public.

While some improvements have been made to our ethics laws over the past ten years, the core problem of lawmakers using their public posts for private gain still persists. New Yorkers have lost faith in state government to make decisions without using the interest and influence of those who do business with the state.

Our groups urge you to come together and enact legislation so public trust can be restored in New York's democratic institutions and political processes. There is no shortage of real solutions that our leaders can draw upon in enacting comprehensive change, instead of incremental reform. Our groups, also strong supporters of comprehensive campaign finance reform built around a core of public financing of elections, are today focused on the urgent need for ethics reform as another essential way to address the problems created by a money culture in Albany. Below are our detailed recommendations that represent these widely-supported solutions, which also include recommendations from the Ethics Review Commission's recent report, and from Joint Commission on Public Ethics (JCOPE).

**1. Reform Legislative Compensation**

- a. Address outside earned income, abolish stipends, and raise the legislative pay.
- b. Consider enacting the forthcoming recommendations of the recently appointed New York State Commission on Legislative, Judicial and Executive Compensation to address state legislators' base salary and amount of outside income, necessitating amendment to the Legislative Law.

**2. Limit the Influence of Dark Money Campaign Contributions and End Government Spending that Takes Place in the Shadows**

- a. Amend the Election Law to:
  - i. Impose strict, clear limits on the personal use of campaign funds, including: defining all household and clothing purchases as personal use; and prohibiting elected officials from using campaign funds to pay attorneys' fees and costs of defending against civil and criminal investigations or prosecutions alleging violations of state and federal law, unless the expenditure is exclusively related to the candidate's campaign.
  - ii. Close the LLC loophole by treating limited liability corporations as corporations for the purposes of campaign contribution limits, and ensure that LLCs with a common managing member are considered a single source.
  - iii. Require individuals making campaign contributions to disclose their employers.
- b. Amend the State Finance Law to:
  - i. Ensure robust, online disclosure in an electronic database of all state discretionary funds such as member items and lump sum appropriations, including sponsors, detailed purposes for expenditures, and recipients, with updated disbursement information.

- ii. Vet all discretionary funds for conflicts of interest, and prohibit their use for private gain.

**3. Reform Ethics Oversight and Enforcement by changing JCOPE's Structure, Scope, and Voting Procedures to Boost Public Confidence in its Actions**

- a. Amend the Executive Law to:
  - i. Give JCOPE full jurisdiction to conduct hearings and investigations regarding all public officials and employees, including in the legislative and executive branches, in conjunction with amending the Legislative Law.
  - ii. Change the composition of JCOPE to: reduce the number of JCOPE commissioners to an odd number; provide the attorney general and comptroller with appointments; and bar elected officials currently in office from serving as commissioners.
  - iii. Require JCOPE to broaden the scope of its annual report.
  - iv. Establish protections to ensure that JCOPE members operate with independence, such as an internal, enforceable firewall between JCOPE members and entities who appoint them.
  - v. Reduce partisan influence on ethics oversight by eliminating the practice that three commissioners of the same party and branch as a subject of investigation may block either an investigation or issuing findings.
    - 1. Alternately, require JCOPE to publish vote tallies when a minority of three blocks an investigation or report.
  - vi. Give JCOPE more flexibility to make information public by a vote of the commissioners.
- b. Amend the Freedom of Information and Law the Open Meetings Law to make JCOPE and the Legislative Ethics Commission subject to them to bolster transparency and avoid short public sessions and long executive sessions.

**4. Strengthen Financial Reporting Requirements for Public Officers to Allow the Public to More Easily Spot Conflicts of Interest**

- a. Amend the Public Officers Law to:
  - i. Require that the state release all financial disclosure statements in an electronic format permitting independent analysis.
  - ii. Require officials to disclose in their financial disclosure statements the identities of their or their firms' clients who: (1) have any business before New York State, and (2) to whom they have personally provided services, and the nature of those services.
- b. Work with JCOPE to:
  - i. Improve guidance to elected officials regarding ethics requirements, by clarifying requirements set forth in ethics legislation and regulations requirements, which may be interpreted differently by JCOPE and LEC, and thus confuse attempts to observe the law. Such guidance is especially needed on the

subjects of: public trust violations and duty to report misconduct; avoiding the appearance or actuality of officials' connections to certain campaign donors; and the ethical duty to report criminal or fraudulent behavior of public officers.

- ii. Consider additional amendments to the Public Officers Law which were recommended in JCOPE's 2014 report, to: provide for financial penalties for violations of sections of the State's Code of Ethics (Public Officers Law §74) that currently contain no such penalties; prohibit the solicitation, request, aid, or importuning of another to engage in conduct that violates those laws; continue to assess post-employment restrictions to determine whether modifications should be considered; help facilitate joint ventures and the commercialization of intellectual property developed at State academic and research facilities.

**5. Streamline and standardize disclosure of lobbying activity.**

- a. Amend the Lobbying Act to:
  - i. Include definition of grassroots lobbying and clarify distinctions between public education, advertising, and advocacy.
  - ii. Require that committees or coalitions that engage in grassroots lobbying costing \$100,000 or more annually identify their major contributors and the sponsoring economic interests likely to be affected by the official action supported or opposed by the lobbying attempt on the communication itself.
  - iii. Make political parties subject to the Lobbying Act's provisions.
  - iv. Expand disclosures of 501(c)3 organizations to ensure all major entities in multi-layered lobbying structures report spending, to eliminate the practice of lobbyists creating or participating in shell or pass-through entities.
- b. Push JCOPE to standardize reporting requirements and webforms through which lobbyists enter financial disclosures and what predetermined subjects they lobbied on, to ensure that data can be validated, compared, and analyzed. This would allow the public to follow the activities of individual lobbyists and officials, and also to track how lobbying and campaigning evolves over time. Suggestions to updating online forms include:
  - i. Providing clearer directions.
  - ii. Establishing selectable options to ensure that data is validated and standardized, e.g. dropdown menus.
  - iii. Requiring greater specificity regarding: who is being lobbied within various offices, by pre-entering names of officials and staffers; what positions are being lobbied on legislation; and what money goes to public education versus advocacy.
- c. Consider JCOPE's recommendations to:
  - i. Ensure that the current filing disclosure requirements effectively capture the forms of government advocacy used today, including political and strategic consulting, third-party arrangements, and grassroots efforts, and issue new guidance, accordingly, to elicit sufficient specificity and consistency in reporting.

- ii. Require lobbyists to disclose political consulting and fundraising activity in their lobbying filings, as is required by the City of New York for lobbyists.
- iii. Amend the Public Officers Law and the Lobbying Act to prohibit the solicitation, request, aid, or importuning of another to engage in conduct that violates those laws, thus expressly providing for accessorial liability.
- iv. Amend the Lobbying Act to eliminate the provision that allows certain lobbyists and clients to avoid financial penalties if they file outstanding disclosure forms after an enforcement hearing.

We call for immediate action on these widely-supported and much needed reforms in a special session.

Sincerely,

Dick Dadey, Executive Director  
Citizens Union

Susan Lerner, Executive Director  
Common Cause New York

Dare Thompson, President  
League of Women Voters of New York State

Blair Horner, Executive Director  
New York Public Interest Research Group

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