# Legislative Regulation Review Committee

2009-018a

Office of State Ethics

**DESCRIPTION OF ORGANIZATION & RULES OF PRACICE**

# STATE OF CONNECTICUT
# **REGULATIONS**
# of
# OFFICE OF STATE ETHICS

Concerning
Description of Organization and Rules of Practice

Section 1. Section 1-92-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-5. Office of State Ethics operation--Signature of documents other than subpoenas**

The Office of State Ethics' orders[, subpoenas,] and findings with memoranda of reasons therefor shall be signed on behalf of the Office of State Ethics by the Chairperson or the Vice Chairperson of the Citizen's Ethics Advisory Board. In the absence of the Chairperson or the Vice Chairperson, or upon the delegation of the Chairman or the board, any member of the Citizen's Ethics Advisory Board shall be empowered to sign such documents on the Office of State Ethics' behalf. Such a signature of any board member shall be presumed to be duly authorized by the Citizen's Ethics Advisory Board unless and until the contrary is demonstrated in any board proceeding or hearing.

**Statement of Purpose 1-92-5:**

**This proposed amendment removes subpoenas from the standard signature requirements in accordance with June 2008 Special Session Public Act 08-3. Amended procedure on the issuance of subpoenas is found in section 1-92-23 of the regulations.**

Section 2. Section 1-92-6a of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-6a. Citizen's Ethics Advisory Board**

Acting in the public interest, the Citizen's Ethics Advisory Board is the governing body for the Office of State Ethics. The board has statutory authority to administer the Code of Ethics for Public Officials and Code of Ethics for Lobbyists (Codes of Ethics). The board's responsibilities consist of all those delineated by the general statutes and sections 1-81-1 through 1-81-38, and 1-92-1 through 1-92-61, inclusive, of the Regulations of Connecticut State Agencies, and include issuance of advisory opinions, adoption of agency regulations, entry into contractual agreements necessary for the discharge of its duties, and the appointment, evaluation and removal of the executive director. The board is responsible for making legislative recommendations to the General Assembly, and presenting annual reports to the Governor that summarize the activities of the Office of State Ethics. The board is also responsible for adjudication of enforcement matters brought before it by the enforcement division. Upon a judge trial referee finding of probable cause, the board initiates hearings to determine whether there has been a violation of the Code. The board rules on all issues of fact at a board hearing, but shall defer to the judge trial referee's rulings on issues of law, procedure and evidence at such hearings. The board [serves as a jury at board hearings of alleged violators,] prescribes complaint forms and, through its clerk, issues notices of complaints. The board has authority to accept or reject any stipulated settlement following a judge trial referee's finding of probable cause[,]. Upon a board finding pursuant to sections 1-82 or 1-93 that there has been a violation, the board may order filing of documents required by the codes, impose penalties, and issue cease and desist orders. The board may report its findings to the Chief State's Attorney, and/or the General Assembly, as appropriate. The board may also, in accordance with the Uniform Administrative Procedure Act, present and impose penalties for non-filers of any reports, statements or other information as required by the Codes of Ethics.

**Statement of Purpose 1-92-6a:**

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**This proposed amendment explicates that during board hearings the Board is responsible for rulings on all issues of fact and Judge Trial Referee decides issues of law and evidence during such hearings. The amendment also provides greater clarity regarding the occasions on which the board may order the filing of documents and impose penalties.**

Section 3. Section 1-92-7 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-7. Hearing officers**

Any administrative hearing convened pursuant to sections 1-88 (b) and 1-99 (b) may be held before (1) one or more hearing officers, provided that no individual who has personally carried out the function of an investigator in a [contested] case may serve as a hearing officer in that case, or (2) one or more members of the Office of State Ethics. The person or persons before whom an administrative hearing is to be held will be selected by the Citizen's Ethics Advisory Board, or any duly authorized subcommittee or representative thereof.

**Statement of Purpose 1-92-7:**

**This amendment deletes the term "contested," used in reference to "contested case," since the term has been previously removed from other sections of the regulations, but was inadvertently left in section 1-92-7.**

Section 4. Section 1-92-9 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-9. Voting**

A majority of concurring votes of members present and voting (provided at least a quorum is present) is required for action of the Citizen's Ethics Advisory Board, except: (a) the concurring vote of six of its members present and voting is necessary to find a person in violation of Part 1 of Chapter Ten of the Connecticut General Statutes following a board hearing; (b) the concurring vote of six of its members, present and voting, may impose a civil penalty pursuant to subsection (b) of the Connecticut General Statutes Section 1-88, following a hearing conducted in accordance with sections 4-176e to 4-184 of the Connecticut General Statutes; (c) the concurring vote of two thirds present and voting is necessary to find a person in violation of Part 2 of Chapter Ten of the Connecticut General Statutes following a board hearing; (d) the concurring vote of two thirds [present and voting] <u>of its members</u> may impose a civil penalty pursuant to subsection (b) of the Connecticut General Statutes Section 1-99, following a hearing conducted in accordance with sections 4-176e to 4-184 of the Connecticut General Statutes; (e) any member of the Citizen's Ethics Advisory Board may [issue subpoenas], administer oaths, or receive oral or documentary evidence on behalf of the Office of State Ethics; and, (f) as otherwise required by law.

**Statement of Purpose 1-92-9:**

**The amendment corrects the voting requirement necessary under section 1-99 of the general statutes and removes a reference to the issuance of subpoenas by any member of the Citizen's Ethics Advisory Board in accordance with June 2008 Special Session Public Act 08-3.**

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Section 5. Section 1-92-18 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-18. *Ex parte* communication**

Unless required for the disposition *ex parte* of matters authorized by law, neither members of the Citizen's Ethics Advisory Board nor any person designated as a judge trial referee shall communicate directly or indirectly with any person or party concerning any issue of fact or with any party or his representative concerning any issue of law involved in any probable cause hearing or board hearing that has been commenced, except upon notice and opportunity for all parties to participate. During the course of any board hearing, no ex-parte communication concerning the complaint or the respondent shall occur between the board, or any of its members, and: (1) the judge trial referee, (2) any staff member of the Enforcement Division of the Office of State Ethics, (3) the respondent or his representative, or, (4) intervenors or their representatives (if any). [Any person designated as a judge trial referee and t]The members of the board may severally communicate with each other, in conformity with the Freedom of Information Act, and may have the aid and advice of the general counsel of the Office of State Ethics, members of the legal division of the Office of State Ethics, or the Attorney General when such assistance is requested by the board or the judge trial referee. The board, or the staff of the legal division on its behalf, or any proper party may address the judge trial referee regarding any procedural issue affecting the proceedings. This rule shall not be construed to preclude such routine communications as are necessary to permit the board and/or the staff of the Office of State Ethics to investigate facts and to conduct informal staff conferences at any time [before,] during, and after any hearing, meeting or other enforcement proceeding provided such routine communications during a board hearing do not involve *ex parte* discussions between the enforcement division staff and any board member concerning the complaint or the respondent.

**Statement of Purpose 1-92-18:**

**This section has been amended in response to the June 11, 2008 Special Session Public Act 08-3, which, among other things, prohibits ex-parte communications during post-probable cause hearings between board members and judge trial referee or any staff member of the Enforcement Division of the Office of State Ethics. Since the prohibition on ex-parte communications is responsive to the structure of the enforcement hearings and the role of the Citizen's Ethics Advisory Board during such hearings, the natural extension of the prohibition to respondent(s) and/or intervenor(s) is captured in the amendment. Further, the amendment also permits JTR to consult with the Attorney General, just as the board is authorized to seek such input. The amended language also permits the board, or its counsel on its behalf, or any proper party to address the judge trial referee regarding any procedural issue affecting the hearing. Finally, the section is revised to specify that the routine communications do not involve ex parte communications concerning the complaint or the respondent.**

Section 6. Section 1-92-23 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-23. Subpoenas issued by the Office of State Ethics**

At any time after the ethics enforcement officer has received or filed a complaint and has determined that there is sufficient evidence to inquire into the complaint, he or she may seek board authority to subpoena witnesses to compel their attendance before the Office of State

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Ethics, or before any designated judge trial referee, and to require the production for examination of any books and papers which he or she deems relevant to the complaint. Subpoenas in preliminary investigations shall be [signed as specified in Section 1-92-5 of these Regulations] issued either pursuant to a majority vote of the Citizen's Ethics Advisory Board or pursuant to the signature of its Chairperson or, in the case of unavailability of the Chairperson, the Vice Chairperson of such board. If a person to whom a subpoena is issued fails to appear or if, having appeared, refuses to testify or produce the evidence required by the subpoena, then the following occurs:

(1) when the failure or refusal occurs in the course of a preliminary investigation the Office of State Ethics may, as authorized by Section 1-3b of the Connecticut General Statutes, apply to the Superior Court to order such person to appear, or give testimony, or produce such evidence, as the case may be, and

(2) when the failure or refusal occurs in the course of a probable cause hearing or board hearing, the judge trial referee will, under the authority conferred by those subsections, take the action he/she deems necessary or appropriate.

**Statement of Purpose 1-92-23:**

**The amendment reflects the new statutory requirement for obtaining authorized signatures in the issuance of subpoenas in accordance with June 2008 Special Session Public Act 08-3.**

Section 7. Section 1-92-23a of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-23a. Reimbursement of legal expenses**

(a) If, after a probable cause hearing the judge trial referee finds that there is no probable cause to believe that a public official or State employee has violated a provision of Chapter 10, Part I of the Connecticut General Statutes or Section 1-101nn of the Connecticut General Statutes, or if the board determines [or finds] that a public official or State employee has not violated any such provision, or if a court of competent jurisdiction overturns a finding by the board of a violation by such respondent, the State will pay the reasonable legal expenses of the respondent as determined by the Attorney General or by the court if appropriate.

(b) When reimbursement of legal expenses is authorized by subsection (a), the request for reimbursement shall be submitted to the board within thirty (30) days of the judge trial referee's finding (or, if the Board determines that a public official or state employee has not violated the Code, within thirty (30) days of such finding; or, if a court of competent jurisdiction renders a final decision that no violation has occurred, within thirty (30) days of the time that such decision becomes final). The request shall be accompanied by an itemized bill from respondent's counsel stating:

(1) the specific work performed by counsel;
(2) the identity of the attorney or other person performing each task;
(3) the amount of time, to the nearest tenth of an hour, spent on each task:
(4) the amount of compensation sought for each task:
(5) an itemized statement of disbursements; and
(6) any other information helpful in determining the reasonableness of the amount of reimbursement requested.

(c) The board, with assistance from the legal division, will review the request and forward it, with any comments deemed appropriate, to the Attorney General for a determination pursuant to subsection (c) of section 1-82 of the Connecticut General Statutes.

**Statement of Purpose 1-92-23a:**

**The amendment attempts to capture every scenario in which a successful respondent might seek attorney fees.**

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Section 8. Section 1-92-24 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-24. Evaluations**

(a) Prior to the filing of a complaint, the ethics enforcement officer may conduct an evaluation of any person or entity for the purpose of determining whether there is probable cause to believe that the person or entity has violated the Ethics Codes. An evaluation may begin at any time that the enforcement division has reasonable suspicion that a violation of the Ethics Codes has occurred, but in any event no later than the date on which the enforcement division contacts a third party for information regarding the subject of the investigation.

(b) During the course of an evaluation, the ethics enforcement officer may request information, including documents from any person believed to be in possession of information relevant to the evaluation. The ethics enforcement officer or his or her designee may, during the course of an evaluation, meet with any person believed to be in possession of relevant information, conduct investigative and/or research tasks as deemed necessary and appropriate, and may otherwise collect information and evidence from the potential respondent(s) and other potential witnesses.

(c) Within five business days after the enforcement division of the Office of State Ethics[']  first has contact with a third party [which identifies the subject of the evaluation] <u>that involves the disclosure of information concerning the matter sufficient to permit identification of the subject</u>, notice shall be given to the subject of the evaluation as required by subsection (a) of section 1-82 and/or subsection (a) of section 1-93 of the Connecticut General Statutes. The notice shall state the fact of the evaluation; advise that the evaluation is confidential unless the subject requests in writing that it be public; and, in general terms, identify the possible code violation or violations under review.

(d) The ethics enforcement officer may terminate any evaluation upon his or her determination that there is not probable cause to believe that a violation of the Ethics Codes has occurred. If, prior to such determination, a notice of evaluation has been given to the subject of the evaluation pursuant to subsection (c) of this section, the ethics enforcement officer shall, upon his or her determination of no probable cause, notify the subject that the evaluation has been terminated.

(e) Any investigation conducted as a result of reports received by the enforcement division pursuant to section 1-101pp of the Connecticut General Statutes shall be deemed to be an evaluation of the person or entity about whom the report is made. The enforcement division's receipt of information from a report filed pursuant to section 1-101pp of the Connecticut General Statutes, shall not be deemed to be contact with a third party pursuant to sections 1-82(a) or 1-93(a). The confidentiality provisions of section 1-82a of the Connecticut General Statutes shall not apply to the reporting agency's subsequent disclosure of information to: (1) the Auditor of Public Accounts; (2) the Chief State's Attorney; (3) the Attorney General; (4) the United States Attorney; (5) to others within the reporting agency, where the failure to do so would substantially impair the agency's ability to operate; or (6) any other person that is entitled, by statute or court order, to receive such information. Nothing herein shall prohibit the reporting agency from conducting normal, legal business relations with the subject of a report.

**Statement of Purpose 1-92-24:**

**The amendment clarifies the notice requirements to the subject of enforcement evaluation.**

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Section 9. Section 1-92-24a of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-24a. Complaints**

(a) The ethics enforcement officer shall evaluate any alleged violation of the Ethics Codes that is written on the complaint form prescribed by the board, which form shall be available at the Office of State Ethics and on the web site for the Office of State Ethics hosted by the State, provided that the complaint:

a. Is signed under penalty of perjury;
b. Is delivered or mailed to the Office of State Ethics at 18-20 Trinity Street in Hartford;
c. Clearly sets forth facts that, if true, would constitute a violation of the Ethics Codes;
d. Identifies a respondent with sufficient particularity that the complaint may be served upon him or her.

(b) If any allegation of violation received by the Office of State Ethics fails to satisfy any of the criteria set forth in paragraph (a), the ethics enforcement officer may, at his or her discretion, nonetheless evaluate the alleged violation and, if appropriate, may issue his own complaint on behalf of the Office of State Ethics.

(c) A complaint issued by the ethics enforcement officer on behalf of the Office of State Ethics pursuant to subsection (a) of section 1-82 and subsection (a) of section 1-93 of the Connecticut General Statutes shall be deemed to have been issued by the Board or its duly authorized representative.

([c]d) The notice of complaint to respondent required by subsection (a) of section 1-82 and subsection (a) of section 1-93 of the Connecticut General Statutes shall include a statement informing respondent of his or her right to appear and be heard before the enforcement division of the Office of State Ethics and shall be accompanied by a copy of the complaint. The notice shall further indicate that a probable cause hearing will be held upon receipt by the enforcement division of the Office of State Ethics of a written request from respondent, and that the hearing will be commenced no later than one hundred twenty (120) days after receipt by the enforcement division of the Office of State Ethics of the request. Except upon a finding of probable cause or upon the request of the respondent, a complaint alleging a violation of Chapter 10 of the Connecticut General Statutes, shall remain confidential. Until a finding of probable cause, the enforcement division of the Office of State Ethics' preliminary investigation of a complaint, shall be confidential unless respondent requests in writing that the preliminary investigation, including any hearings, be open to the public. If the preliminary investigation is confidential, the allegations in the complaint and any information supplied to or received from the enforcement division of the Office of State Ethics shall not be disclosed to any third party, during the preliminary investigation, by a complainant, respondent, witness, designated party, or the board, or staff members of the enforcement division of the Office of State Ethics.

([d]e) A complaint filed with the Office of State Ethics may not be withdrawn by the complainant except with leave of the Citizen's Ethics Advisory Board.

([e]f) The filing with the Office of State Ethics [OSE] of any complaint, application, motion, petition or request of any nature whatsoever shall not relieve any person of the obligation to comply with any statute, or with any regulation or order of the Office of State Ethics, or with any order of a presiding judge trial referee.

**Statement of Purpose 1-92-24a (c):**

**This proposed amendment clarifies that complaints issued by the ethics enforcement officer shall be deemed to have been issued by the Board or its**

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**duly authorized representative. This provision explains, inter alia, that the Enforcement Division is authorized to issue complaints, signed by the Clerk of the Board, rather than necessitating the Board's signature on all complaints. It restores previous language that was analyzed in, and necessary to the conclusion of, State Ethics Commission v. Linda Kowalski, 2004 Conn. Super. LEXIS 1292.**

Section 10. Section 1-92-24b of the Regulations of Connecticut State Agencies is amended to read as follows:

**Section 1-92-24b. Preliminary Investigations**

(a) Upon the receipt of a valid complaint pursuant to 1-92-24a (a), or upon the filing of its own complaint, the ethics enforcement officer shall conduct a preliminary investigation of the violation(s) alleged in the complaint and, if necessary, of any other related violations of the Ethics Codes that are alleged or discovered during the course of the preliminary investigation.

(b) In the conduct of its preliminary investigation of an alleged violation of the Ethics Codes, the enforcement division shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and conduct such other reasonable and lawful tasks as are necessary to determine whether there is probable cause to believe that a violation of the Ethics Codes has taken place.

(c) In the conduct of a preliminary investigation, subject to section 1-92-23 of these regulations, the enforcement division may issue a subpoena *duces tecum* to any person or entity in the state of Connecticut who may be in possession of documents that are pertinent to a determination of whether an alleged violation of the Ethics Codes has occurred, or in possession of documents that may lead to the discovery of other persons in possession of pertinent documents or information. Such subpoena shall compel the person or entity named therein to produce such documents within a reasonable time period in the time, manner, and place set forth in the subpoena. Any subpoena issued hereunder shall be served by personal service, certified mail, or any other means agreed upon by the person being served or his counsel.

(d) In the conduct of a preliminary investigation, subject to section 1-92-23 of these regulations, the enforcement division may issue subpoena *testificadum* to any person or entity in the state of Connecticut who may be in possession of information that is pertinent to a determination of whether an alleged violation of the Ethics Codes has occurred, or in possession of documents that may lead to the discovery of other persons in possession of pertinent documents or information. Such subpoena shall compel the person or entity named therein to appear at the Office of State Ethics, or such other place selected by the ethics enforcement officer, at the specific time and date set forth in the subpoena. Any subpoena issued hereunder shall be served by personal service, certified mail, or any other means agreed upon by the person being served or his counsel. Except upon the direction of the Office of State Ethics, for good cause shown, the taking of testimony pursuant to a subpoena issued hereunder shall be as follows:

1. The testimony shall be under oath.
2. Any board member, notary public, court reporter, judge, judge trial referee, commissioner of the superior court, and any member of the Office of State Ethics who is a licensed attorney in the state of Connecticut, shall have the power and authority to administer an oath.
3. The testimony may be recorded by stenographer, court reporter, video recorder, tape recorder, digital recorder, or such other means. The means of recording shall be at the sole discretion of the ethics enforcement officer or his or her designee.
4. The witness shall be entitled to have counsel present at all times during examination.

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5. Other than the witness, the witness's counsel, and representatives of the enforcement division, no person shall attend any deposition or hearing under this subsection except with the express permission of the ethics enforcement officer.
6. Any transcript or recording of any deposition hereunder shall remain confidential pursuant to sections 1-82, 1-82a, 1-93, and 1-93a of the Connecticut General Statutes.

(e) In the conduct of a preliminary investigation, the enforcement division may issue an investigative demand upon any person or entity who may be in possession of information that is pertinent to a determination of whether an alleged violation of the Ethics Codes has occurred. The investigative demand shall set forth questions to be answered, under oath, by the recipient, and provide sufficient space following each question for the answerer to insert the answer to the question.

(f) The enforcement division may terminate a preliminary investigation at any time prior to the conclusion of a probable cause hearing if it determines that probable cause is not likely to be found on the facts available to the enforcement division and/or if the ethics enforcement officer determines it is not in the State's best interest to proceed with the preliminary investigation. Not later than three business days after termination of the preliminary investigation the Office of State Ethics will notify the complainant and the respondent of its finding and provide them a summary of its reasons for making that finding. The Office of State Ethics shall publish the finding upon the respondent's request and may also publish a summary of its reasons for making such finding. Any such publication shall be within thirty days after receipt of the respondent's request, which request shall be addressed to the ethics enforcement officer, in writing.

(g) As soon as the board determines that any person may have knowingly acted in his or her financial interest in violation of sections 1-84, 1-85, 1-86 or 1-86d of the Connecticut General Statutes, or that any person may have knowingly received a financial advantage resulting from a violation of those sections, it shall inform the Attorney General of that possibility. The board's determination that there is a possibility of illegal gain may be made in the course of a preliminary investigation or during subsequent proceedings.

**Statement of Purpose 1-92-24b:**

**The amendment to subsections (c) and (d) clarifies the procedures by which the OSE can issue subpoenas.**

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Section 11. Section 1-92-29a of the Regulations of Connecticut State Agencies is adopted to read as follows:

**(NEW) Sec. 1-92-29a – Filing and maintenance of papers related to hearings**

(a) For purposes of this section, the term "paper" means a document, other than a document a party intends to introduce as evidence at a hearing, that is filed with the OSE during the course of, and relating to, a hearing conducted under section 1-82 or 1-93 of the Connecticut General Statutes (i.e., a pleading or memorandum).
(b) Except for papers relating to the settlement of contested case proceedings, any paper, howsoever designated, shall be filed by delivering the original and one (1) copy to the Clerk of the Board.
(c) Any such paper filed by a party or intervenor with the Clerk of the Board also shall be served upon all other parties and intervenors or, if such other parties and intervenors appear by counsel, upon such counsel, whether such requirement of service is specifically recited elsewhere or not.
(d) Upon agreement by the parties and the approval of the Judge Trial Referee, the parties may file papers electronically.
(e) Unless otherwise ordered by the Judge Trial Referee, the original of any paper and one (1) copy shall be filed with the Judge Trial Referee during a hearing.
(f) The Clerk of the Board shall maintain the original of all such papers in the record.

**Statement of Purpose 1-92-29a:**

**This proposed amendment specifies how filings shall be received and maintained during board hearings.**

Section 12. Section 1-92-30 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-30. Probable Cause Hearings**

(a) The enforcement division of the Office of State Ethics may request a probable cause hearing at any time following the notice of complaint and shall provide notice of at least forty five (45) days prior to the start of such probable cause hearing. The enforcement division of the Office of State Ethics may continue its preliminary investigation after providing notice of a probable cause hearing.
(b) In any notice of a probable cause hearing, the enforcement division of the Office of State Ethics will identify the complainants and respondents. Subsequent to the issuance of the notice of probable cause hearing no person before the Office of State Ethics other than a respondent has standing as a party in the proceeding except upon the express order of the Citizen's Ethics Advisory Board, its authorized designee, or of the judge trial referee.
(c) The enforcement division of the Office of State Ethics shall contact the Chief Court Administrator prior to the date of commencement of any probable cause hearing, and request that the Chief Court Administrator designate a judge trial referee to preside over the probable cause hearing.
(d) Not later than ten days prior to the commencement of any probable cause hearing, the enforcement division of the Office of State Ethics shall provide the respondent with a list of its intended witnesses. Not later than three days prior to the commencement of any probable cause

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hearing, the respondent shall provide the enforcement division of the Office of State Ethics with a list of the respondent's intended witnesses. [Both the respondent and the enforcement division of the Office of State Ethics shall provide timely notice to the opposing party of their respective intent to supplement or otherwise change or amend their lists of witnesses.]

(e) At any probable cause hearing, the following rules shall be followed in the admission of testimony and exhibits:

(i) Any oral or documentary evidence may be received, but the judge trial referee shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The judge trial referee shall give effect to the rules of privilege recognized by law in Connecticut where appropriate to the conduct of the hearing.

(ii) Documentary evidence may be received at the discretion of the judge trial referee in the form of copies or excerpts, if the original is not found readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies, pursuant to the provisions of section 52-180 of the Connecticut General Statutes.

(iii) Cross-examination of witnesses [may] <u>shall</u> be conducted [as] <u>in a manner that</u> the judge trial referee deems necessary and appropriate for a full and true disclosure of facts.

(iv) The judge trial referee may take administrative notice of judicially cognizable facts, including the records and the prior decisions, opinions, and orders of the Office of State Ethics or the State Ethics Commission.

(v) The judge trial referee may take administrative notice of generally recognized technical facts within the Office of State Ethics' specialized knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports or otherwise of the material noticed.

[(vi) To avoid unnecessary cumulative evidence, the judge trial referee may limit the number of witnesses or the time or testimony upon a particular issue in the course of the hearing.]

[(vii)] <u>(vi)</u> The judge trial referee may permit any party or witness to offer testimony in written <u>or recorded</u> form. Such written <u>or recorded</u> testimony shall be received in evidence with the same force and effect as though it were stated orally by the party or witness who has given the evidence, provided that (1) [the testimony was taken under oath at a deposition or other forum in which all parties were offered the opportunity to cross-examine the witness; or (2)] the party or witness shall be present at the hearing at which his or her testimony is offered, and shall adopt the written <u>or recorded</u> testimony under oath, and shall thereafter be made available for cross-examination [as directed by the judge trial referee]<u>; or (2) the parties so agree</u>. Prior to its admission such written <u>or recorded</u> testimony shall be subject to objections by parties.

[(viii)] <u>(vii)</u> In hearings conducted under this section, the party that shall open and close the presentation of the case shall be a member of the staff of the enforcement division of the Office of State Ethics.

(f) If, following a probable cause hearing, the judge trial referee makes a finding of no probable cause, the complaint and the record of its investigation shall remain confidential, except upon the written request of the respondent and except that some or all of the record may be used in subsequent proceedings. No complainant, respondent, witness, designated party, or board or staff member of the Office of State Ethics shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known. If such a disclosure is made, the judge trial referee may, after consultation with the respondent if the respondent is not the source of the disclosure, publish its finding and a summary of its reasons therefore.

(g) A finding of probable cause shall be made public not later than five business days after the termination of the investigation. At such time the entire record of the investigation shall become public, except that the Office of State Ethics may postpone examination or release of such public

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records for a period not to exceed fourteen days for the purpose of reaching a stipulation agreement pursuant to subsection (c) of section 4-177 of the Connecticut General Statutes. Any such stipulation shall be approved by a majority of those members of the Citizen's Ethics Advisory Board present and voting.

**Statement of Purpose 1-92-30:**

**This proposed amendment modifies the language regarding the availability of witness lists, the use of cumulative evidence, and the ability to cross-examine witness in order to reflect statutory provisions, judicial discretion and the Uniform Administrative Procedure Act ("UAPA").**

Section 13. Section 1-92-31 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-31. Board Hearings**

(a) Within thirty (30) days of a finding of probable cause pursuant to Sections 1-82 (a)(2) or 1-93 (a)(2) of the Connecticut General Statutes, the Citizen's Ethics Advisory Board shall initiate a hearing pursuant to Sections 1-82 (b) and 1-93 (b) of the Connecticut General Statutes to determine whether there has been a violation of the Ethics Codes. The thirty (30) day time period shall not apply if the judge trial referee determines that good cause exists for extending such limitation period.

(b) The enforcement division of the Office of State Ethics shall contact the Chief Court Administrator prior to the date of commencement of any board hearing, and request that the Chief Court Administrator designate a judge trial referee who has not taken part in the probable cause determination to preside over the board hearing.

(c) The judge trial referee shall rule on all issues concerning the application of the rules of evidence, which rules shall be the same as in judicial proceedings. The judge trial referee shall have no vote in the decision of the board as to whether a violation has occurred. The judge trial referee shall have the same authority as is provided in Section 51-35 of the Connecticut General Statutes, over witnesses who refuse to obey a subpoena or to testify with respect to any matter upon which such witness may be lawfully interrogated, and may commit any such witness for contempt for a period of no longer than thirty days.

(d) The respondent at the hearing shall have the right to be represented by legal counsel, the right to compel attendance of witnesses and the production of books, documents, records and papers and to examine and cross-examine witnesses.

(1) Not later than fifteen days prior to the commencement of any board hearing, the enforcement division of the Office of State Ethics shall provide the respondent, and any other party to the proceeding, with copies of all exhibits that it anticipates will be introduced into evidence in the direct presentation of its case. Except as otherwise ordered by the judge trial referee, each exhibit shall be marked by the enforcement division prior to being copied and exchanged.

(2) Not later than ten days prior to the commencement of any board hearing, the respondent, and any other party to the proceeding, shall provide the enforcement division of the Office of State Ethics with copies of all exhibits that it/they anticipate(s) will be introduced into evidence in the responsive presentation of its/their case(s). Except as otherwise ordered by the judge trial referee, each exhibit shall be marked by the respondent, or party where applicable, prior to being copied and exchanged.

(3) Not later than five days prior to the commencement of any board hearing, the enforcement division, the respondent, and any other party to the hearing shall each draft and

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exchange, in writing, a list of the exhibits of which each plans on making objection to their introduction. For each exhibit that is the subject of an anticipated objection, the objector shall identify the exhibit and articulate the reason that he or she believes the evidence should be excluded. All written objections shall be filed with the judge trial referee prior to the commencement of the board hearing, or as otherwise directed by the judge trial referee.

(4) Prior to the commencement of any board hearing, the enforcement division, the respondent, and any other party, shall make *bona fide* attempts to resolve any objections that have been raised to proposed exhibits.

(5) If, after *bona fide* attempts at resolution have failed to resolve an objection, any party may file a motion *in limine* with the judge trial referee regarding the admission or exclusion of evidence that has been the subject of the objection. Such motion shall be in writing and shall describe the anticipated evidence and the prejudice which may result therefrom. The judge trial referee may grant the relief sought in the motion or such other relief as it may deem appropriate, may deny the motion with or without prejudice to its later renewal, or may reserve decision thereon until a later time in the proceeding.

(e) Not later than ten days prior to the commencement of any board hearing, the enforcement division of the Office of State Ethics shall provide the respondent with a list of its intended witnesses. Not later than three days prior to the commencement of any board hearing, the respondent shall provide the enforcement division of the Office of State Ethics with a list of the respondent's intended witnesses. [Both the respondent and the enforcement division of the Office of State Ethics shall provide timely notice to the opposing party of their respective intent to supplement or otherwise change or amend their lists of witnesses.]

(f) The record before the Citizen's Ethics Advisory Board in any hearing conducted pursuant to Sections 1-82 (b) or 1-93 (b) of the Connecticut General Statutes, shall include:

(1) all motions, applications, petitions, complaints, responding pleadings, bills of particulars, notices of hearing, and intermediate rulings;

(2) the evidence received and considered by the Citizen's Ethics Advisory Board;

(3) questions and offers of proof, objections, and the rulings thereon during the hearing; and

(4) the official transcript, if any, of the proceedings of the case or, if not transcribed, any recording or stenographic record of the proceeding.

(g) The board hearing shall commence upon the presentation of evidence to the board for its consideration. The board hearing shall be concluded upon a finding of violation or lack thereof and, if violation has occurred, the imposition of penalties as appropriate.

(h) The record before the board shall not include evidence considered and rejected by the judge trial referee prior to the commencement of the board hearing.

([g]i) The board hearing shall be concluded within ninety days after its initiation, except that this time period shall not apply if the judge trial referee determines that good cause exists for extending such limitation period.

([h]j) No person may be found in violation of the Ethics Codes at any board hearing hereunder except upon the concurring vote of six [two-thirds of the] board['s] members present and voting. A member of the board must be physically present for the duration of any board hearing in order to vote on a question of whether a violation has occurred.

([i]k) Not later than fifteen days after the conclusion of the board hearing, the board shall publish its finding and a memorandum of the reasons therefore. Such finding shall be in writing and shall be deemed to be the final decision of the board on the matter for the purposes of chapter 54 and, if aggrieved by the finding and memorandum, the respondent may appeal therefrom to the Superior Court in accordance with Section 4-183 of the Connecticut General Statutes. The final decision shall become part of the record of the board.

([j]l) In no event may new evidence, not admitted into evidence at the board hearing, be submitted to or considered by the board in its deliberations regarding its findings, or the drafting of the memorandum thereafter.

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**Statement of Purpose 1-93-31 (e):**

**This proposed amendment removes the timely notice requirement regarding the intent to supplement witness list since such changes may be modified by judicial discretion.**

**Statement of Purpose 1-93-31 (g) and (h):**

**This proposed amendment specifies when a board hearing commences, concludes, and further specifies the contents of the record.**

**Statement of Purpose 1-93-31 (j)**

**Pursuant to Public Act 08-3, a member of the board shall not vote on the question of whether a violation of any provision of the Codes of Ethics has occurred if he or she has not been physically present at all times during hearings.**

Section 14. Section 1-92-32b of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-32b. Failure to Pay Penalties or Comply with Orders**

Upon an order or final decision of the board that a civil penalty or forfeiture of money or resources shall be paid, the enforcement division of the Office of State Ethics shall notify the person against whom such order or decision has been issued in writing by certified [or registered] mail <u>return receipt requested,</u> of the board's order or decision. Unless the order or decision otherwise directs, such notice shall include a statement to the effect that in the event of a failure to comply with such order or decision within thirty (30) days of the date of such notice, the Office of State Ethics may apply to the Superior Court for the judicial district of Hartford for the enforcement of its decision or order. [Any costs or fees incurred by the Office of State Ethics to enforce the order or decision shall be recoverable from the respondent.]

**Statement of Purpose 1-93-32b**

**This proposed amendment clarifies mailing procedures and deletes the last sentence because the statute does not provide for such recovery.**

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Section 15. Section 1-92-40 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-40. Subsection 1-84b (d) positions**

Pursuant to Subsection 1-84b(d) of the Connecticut General Statutes, after consultation with the agencies concerned, the positions listed below, which involve significant decisionmaking or supervisory responsibility regarding the regulation or investigation of: (a) any business entity engaged in Indian gaming operations in the state; or (b) a governmental agency of an Indian tribe engaged in Indian gaming operations in the state, are designated as ones subject to the restrictions of subsection 1-84b(e) of the Connecticut General Statutes:

**Gaming Policy Board and the Division of Special Revenue**

Executive Director
Deputy Executive Director
Unit Chief, GRU
Assistant Unit Chief, GRU (Casino)
Unit Chief, Security
Chief Financial Examiner
Supervising Accounts Examiner (Casino)
Senior Gambling Regulation Facility Supervisor (Casino)
Licensing Coordinator
[Unit Chief, Planning and Research]
Assistant Unit Chief, Planning and Research (Hearings)
Casino Review Committee Members

**The Department of Public Safety**

Commissioner
Deputy Commissioner of State Police
Colonel
Lieutenant Colonels or his/her acting designees
Commanding Officer, B.C.I.
Commanding Officer, S.O.C.I.T.F.
Commanding Officer, Casino Unit
Sergeants assigned to Casino Unit or S.O.C.I.T.F.

**Statement of Purpose 1-92-40:**

**After consultation with agency heads, this proposed amendment provides an update of various positions within identified agencies that have significant decision-making or supervisory responsibility and which are subject to post-state employment restrictions under the Code of Ethics for Public Officials.**

Section 16. Section 1-92-40a of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-40a. Subsection 1-84b (c) positions**

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After consultation with the agencies concerned, the positions listed below, which involve significant decision-making or supervisory responsibility, are designated as ones subject to the provisions of subsection (c) of section 1-84b of the Connecticut General Statutes. Exempt from the provisions of subsection (c) of section 1-84b of the Connecticut General Statutes are members or former members of a listed board, commission, or council who serve or served [EX OFFICIO] *ex officio*, who are or were required by statute to represent the regulated industry, or who are or were permitted by statute to have a present or past affiliation with the regulated industry.

**Office of Health Care Access**

Commissioner

**The Department of Public Safety**

Commissioner
Deputy Commissioner of State Police
Colonel
Lieutenant Colonels or his/her acting designees
Commanding Officer, B.C.I.
Commanding Officer, S.O.C.I.T.F.
Commanding Officer, Casino Unit
Sergeants assigned to Casino Unit or S.O.C.I.T.F.

**Connecticut Sit[t]ing Council**

Members appointed as designee by the Speaker of the House or the President Pro Tempore of the Senate or appointed by the Governor from the public, including ad hoc and substitute members
Executive Director

**Banking Department**

Banking Commissioner
Deputy Banking Commissioner
Director of Bank Examination Division
Director of Securities & Business Investments Division
Director of Credit Union Division
Director of Consumer Credit Division
Director of Legislation, Regulations and Communications
Banking Supervising Administrative Attorney
Fiscal Administrative Manager 1

**Insurance Department**

Commissioner
Deputy Commissioner
[Director of Examination Division]
Director of Consumer [Affairs Division] Services
[Director of Licensing Market Conduct Division]
Director of Property & Casualty Division
Director of Life & Health Division
Director of Legal Division
[Director of Actuarial Division]

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Financial Regulation Program Managers
Chief Actuary
Licensing Program Manager
Consumer Affairs Program Manager
Market Conduct Program Manager
Fraud Program Manager
Legislative Program Manager
Legislative and Administrative Manager
Chief of Staff

**Department of Consumer Protection, Liquor Control Division**

Chairman
Commissioners
Director
Administrator

**Department of Public Utility Control[, Including the Division of Consumer Counsel]**

Chairperson
Vice-Chairperson
Commissioners
Executive Director
Director of Adjudication
Director of Rates
[Consumer Counsel]
[Director of Utility Regulation and Research]
Director of Advocacy and Operations
Public Utilities Chief of Utility Regulation (3)
Legislative and Administrative Manager
Manager of Operations and Management Analysis

**Office of Consumer Counsel**

Consumer Counsel

**Gaming Policy Board and the Division of Special Revenue**

Members of the Gaming Policy Board
Executive Director
Deputy Executive Director
Unit Chief of [Licensing &] Integrity Assurance
Unit Chief of Administration
Unit Chief of Security & Licensing
[Unit Chief of Planning & Research]
Unit Chief of Gambling Regulation
Executive Assistant
Chief Financial Examiner/Assistant Unit Head, Integrity Assurance
[Chief of Program Development (Computer Security)]
Assistant Unit Chief of [Casino & Off-Track Betting] Gambling Regulation
[Assistant Unit Chief of Lottery & Parimutuel]
[Assistant Unit Chief of Licensing & Charitable Games]
[Assistant Unit Chief of Planning and Research]
Fiscal Administrative Manager

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License and Applications Supervisor (Licensing)
Application Review Committee Members

**Statement of Purpose 1-92-40a:**

**After consultation with agency heads, this proposed amendment provides an update of various positions within identified agencies that have significant decision-making or supervisory responsibility and which are subject to post-state employment restrictions under the Code of Ethics for Public Officials.**

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Section 17. Section 1-92-42c of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-42c. Application of contingent fee prohibition**

(a) In accordance with subsection (b) of section 1-97 of the Connecticut General Statutes, no fee shall be paid or received for lobbying which is contingent upon the outcome of any matter added to the definition of "Administrative action" by Public Act No. 94-69, regardless of when the underlying employment agreement was entered into, if, as of January 1, 1995, said outcome remains, in any way, to be determined.

(b) The prohibition on contingent fee lobbying shall not, however, apply to a "representative of a [manufacturer] vendor" or "salesperson" when said individuals are engaged in the exempt business activities encompassed by those terms.

(c)As used in paragraph (2) of subsection (k) of section 1-91 of the Connecticut General Statutes, "representative of a vendor" and "salesperson" shall mean any person who satisfies all of the following criteria:

(1) The person earns his or her living primarily by promoting the sale of the specific and identifiable products or services through direct contacts with potential purchasers;
(2) The person receives a significant portion of his or her compensation in the form of commission income- i.e. by payment of a percentage of the sales which such person has caused, promoted, influenced or induced;
(3) The person's commission rate for governmental procurements in the State of Connecticut is not in excess by more than 10% percent of his or her commission rate with respect to comparable sales to other purchasers;
(4) The person is not otherwise required to file a statement or report pursuant to Part II of the Ethics Code by virtue of his or her engaging in lobbying activities; and
(5) If the person is an independent contractor, he or she has a written contract with a vendor for a definite term of not less than six months with the financial terms of such a contract included.

**Statement of Purpose 1-92-42c (c):**

**This proposed amendment provides a workable definition to "representative of a vendor" and "salesperson" as classes exempt from the ban on contingency fee lobbying.**

Section 18. Sections 1-92-46 and 1-92-46b of the Regulations of Connecticut State Agencies are amended to read as follows:

**Sec. 1-92-46. Communicator lobbyist must register as individual, and disclose his firm as well as client**

When the registrant is the communicator lobbyist, the individual who will lobby on behalf of the client lobbyist shall register in his or her individual capacity. As part of his or her address, the individual registrant shall indicate the name of any partnership, professional corporation, limited liability company, or corporation in which the individual registrant is a member, or by which the individual registrant is employed. The "name, address and nature of business of any person who compensates or reimburses, or agrees to compensate or reimburse, the registrant" as that phrase is used in Subdivision (1) of Subsection (a) of Section 1-95 of the Connecticut General Statutes refers to the client lobbyist, regardless of whether the client lobbyist who is making expenditures

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in furtherance of lobbying makes payment directly to the individual registrant who is the communicator or to any partnership, professional corporation, or corporation in which the individual registrant is a member, or by which the individual registrant is employed. However, a business organization, other than the client registrant, to which one or more individuals belong may file a single registration form listing each individual who will lobby on behalf of the client. Additionally, in-house communicator lobbyists (i.e., employees of a single client registrant) shall register collectively with their employer on the employer's client registration form. Each such individual registrant must sign the single form under penalty of false statement. An individual who accepts work as a subcontractor from a communicator lobbyist must register separately from the communicator lobbyist[, and the communicator lobbyist must then also file as a client lobbyist]. Pursuant to Subdivision (1) of Subsection (a) of Section 1-95 of the Connecticut General Statutes, at the time of registration the communicator registrant shall disclose the terms of compensation, reimbursement or agreement. Terms of compensation may be expressed generally as "pro rata value of compensation," only if the registrant is a salaried employee. Otherwise, the dollar amount of any fee or retainer should be disclosed at the time of registration. Terms of agreement shall disclose the categories of work to be performed in lobbying and in furtherance of lobbying by the communicator or business organization, e.g. lobbying, polling, advertising, etc. Said terms shall also include the dollar amount of any fee or retainer attributable to each relevant category.

**Sec. 1-92-46b. [Communicator Lobbyist as Client Lobbyist] <u>Issues Related to Subcontractors</u>**

[A communicator lobbyist shall also be considered a client lobbyist if, in the course of lobbying, the communicator lobbyist enters into a subcontract with another communicator lobbyist that is valued at or above the $2000 threshold provided for in Subsection (1) of Section 1-91 and Section 1-94 of the Connecticut General Statutes. If such a communicator lobbyist enters into such a subcontract, the communicator lobbyist must register as both a communicator lobbyist and client lobbyist.]

<u>(a) If a communicator lobbyist registrant subcontracts with or through another person (i.e., a subcontractor) to lobby on behalf of one of the communicator's clients, the subcontractor shall register as a communicator lobbyist with the Office of State Ethics if the subcontractor receives or agrees to receive compensation, reimbursement, or both, totaling $2000 or more in any calendar year for administrative or legislative lobbying on behalf of such client, including actions in furtherance of lobbying.</u>

<u>(b) In addition to the requirements of Section 1-95 of the Connecticut General Statutes, the registration of a subcontractor shall include (1) the name of the business organization or individual communicator lobbyist registrant with, or through, whom the subcontract was entered; (2) the name, address, phone number, and email address of the individual at the business organization, if any, with whom the subcontractor has primary contact with regard to the subcontract; and (3) the fundamental terms of the subcontract.</u>

<u>(c) In addition to the requirements of Section 1-95 of the Connecticut General Statutes, the registration of any communicator lobbyist who hires any other communicator lobbyist pursuant to a subcontract shall include (1) the name of the business organization, if any, with whom the communicator lobbyist registrant is subcontracting; (2) the name, address, phone number, and email address of each individual communicator who will be performing lobbying pursuant to the subcontract, even if the lobbying activities performed by the individual communicator do not, by themselves, exceed the $2000 threshold in Subsection (l) of Section 1-91 or Section 1-94 of the Connecticut General Statutes; (3) the name, address, phone number, and email address of the person at the subcontracting business organization, if any, with whom the communicator has primary contact with regard to the subcontract; and (4) the fundamental terms of the subcontract.</u>

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**Statement of Purpose 1-92-46 and 1-92-46b:**

**This proposed amendment removes the previous requirement of having communicator lobbyists register as client lobbyists in subcontracting arrangements. In addition, the proposed amendment clarifies the procedure related to lobbyist registration involving subcontracting scenarios.**

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## Concerning
## Financial Reports

Section 19. Section 1-92-50 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-50. When lobbyists influencing legislative or administrative action must file financial reports**

(a) Each client lobbyist registrant shall file with the [Commission] Office of State Ethics, between the first and tenth day of April and July a financial report concerning lobbying activities during the previous calendar quarter. Each client lobbyist registrant shall also file with the [Commission] Office of State Ethics, between the first and tenth day of January, a financial report concerning lobbying activities during the previous two calendar quarters. In addition, each client lobbyist registrant who attempts to influence legislative action shall file interim monthly reports concerning legislative lobbying activities for each month during which the General Assembly is in regular session for any period of time, to be received by the [Commission] Office of State Ethics no later than the tenth day of the month following the month reported, except that no monthly report is required for any month in which the client lobbyist registrant neither expends nor enters into an agreement to expend one hundred dollars or more in furtherance of lobbying, regardless of whether lobbying activities are engaged in during the month. A client lobbyist registrant may include on one form all the reports due at a particular time: e.g., a client registered for both legislative and administrative action could put on one form the interim March legislative financial report and the legislative and administrative reports for the first calendar quarter, all due between April 1 and April 10. Client lobbyist registrants attempting to influence legislative or administrative action must file each quarterly and year-end financial report due under Section 1-96 of the [g]General [s]Statutes, and this subsection, notwithstanding the fact that no compensation, reimbursement, or expenditures might have been paid during a given period, so that reports are filed for all periods until an effective termination is filed under Subsection (c) of Section 1-95 of the [g]General [s]Statutes.

(b) Each individual communicator lobbyist registrant and each business organization communicator lobbyist registrant shall file with the [Commission] Office of State Ethics between the first and tenth day of January a report or reports, signed under penalty of false statement, reporting the amounts of compensation and reimbursement received from each of his clients during the previous year. In addition, each individual communicator lobbyist registrant and each business organization registrant shall: (1) report the fundamental terms of contracts, agreements or promises to pay or receive compensation or reimbursement or to make expenditures in furtherance of lobbying, including categories of work to be performed and the dollar value or compensation rate of the contract, at the time of registration; (2) report, in accordance with the schedule set forth in subsection (a) of this section, any amendments to these fundamental terms, including any agreements to subcontract work; and (3) report, in accordance with the schedule of subsection (a) of this section, any expenditures for the benefit of a public official in the legislative or executive branch or a member of the staff or immediate family of such official, which are unreimbursed and required to be itemized. All such information shall be reported under penalty of false statement.

(c) A communicator lobbyist registrant must file a separate report for each client for which he or she was registered in the preceding calendar year. However, a business organization (law firm, lobbyist partnership, etc.) other than the client registrant to which one or more communicator lobbyist registrants belong may file a single report for each client represented. This business organization report shall include the names of all the communicator lobbyist registrants filed for. The filing of reports as a business organization shall not affect the statutory rights and duties, under the code of ethics for lobbyists, chapter 10, part II of the [g]General [s]Statutes, of the communicator lobbyist registrants belonging to the organization.

(d) Those who are communicator lobbyists for a municipality or any subdivision of a municipality, a branch of state government or any subdivision of state government or a quasi-public agency shall file the reports described in subsection (b) of this section utilizing the client lobbyist reporting schedule.

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(e) A notice of termination is effective on the date it is mailed or hand-delivered to the [Commission] Office of State Ethics, or such later date as the registrant requests. Registrations not sooner terminated are automatically terminated at the end of each biennial period which has commenced in an odd numbered calendar year. Communicator lobbyist registrants terminating representation of a client must do so by letter mailed or hand-delivered to the [Commission] Office of State Ethics. Client lobbyist registrants may terminate registration by checking off the appropriate box on their periodic reporting forms.

(f) Additionally, pursuant to Subsection (c) of Section 1-95 and Subsection (d) of Section 1-96 of the [g]General [s]Statutes, each client lobbyist registrant and each communicator lobbyist registrant for a municipality or any subdivision of a municipality, a branch of state government or any subdivision of state government or a quasi-public agency that terminates a registration during the calendar year shall file a financial report, between the first and tenth day of January of the next year, for the period from the day of termination through December thirty-first of the year of registration. Each other communicator lobbyist registrant who terminates a registration for a particular client during the calendar year shall file a report, as described in subsection (b) of this section, between the first and tenth day of January of the next year, for the pervious year. These reports must be filed notwithstanding the fact that no compensation, reimbursement, or expenditures were paid or received during the year or during the termination period.

**Statement of Purpose 1-92-50:**

**The changes in this section are strictly technical in nature. References to the "Commission" are changed to "Office of State Ethics."**

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Concerning
Definitions

Section 20. Section 1-92-53 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-53. Definition of major life event**

The term "major life event", for purposes of Subsection (e) of Section 1-79 and Subsection (g) of Section 1-91 of the Connecticut General Statutes, shall include: a ceremony commemorating an individual's induction into religious adulthood such as a confirmation or bar mitzvah; a wedding; a funeral; [and] the birth or adoption of a child; and retirement from public service or state employment. It shall not include any event which occurs on an annual basis such as an anniversary; except that personal gifts of up to twenty-five dollars per occasion, aggregating no more than fifty dollars per recipient in a calendar year, shall be permitted to a minor incident to a birthday or other traditional gift-giving occasion, e.g., Christmas or Chanukah.

Pursuant to Subsection (b) of Section 1-96 of the Connecticut General Statutes, a communicator lobbyist registrant need not disclose food and beverage provided to a public official in the legislative or executive branch or a member of his staff or immediate family at the registrant's major life event, as defined by the Citizen's Ethics Advisory Board. For example, a communicator lobbyist registrant need not report to the Office of State Ethics the cost of a meal provided to a public official at the communicator registrant's own wedding reception.

**Statement of Purpose 1-92-53:**

**This proposed amendment recognizes retirement from public service or state employment as a major life event.**

Section 21. Section 1-92-53a of the Regulations of Connecticut State Agencies is adopted to read as follows:

**(NEW) Sec. 1-92-53a. Definition of dependent relative**

As used in subsection (f) of section 1-79, subsection (h) of section 1-91, and section 1-101mm of the Connecticut General Statutes, "dependent relative" means any relative who:

(1) Is unmarried, under age 21, and living in the household of the reporting individual; or

(2) Is a dependent of the reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986, as amended, 26 U.S.C. 152.

**Statement of Purpose 1-92-53a:**

**This proposed amendment defines what "dependent relative" means throughout the codes.**

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## Concerning
## Random Audit of Lobbyist Financial Reports

Section 22. Section 1-92-56 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-56. Selection of registrants**

(a) The Citizen's Ethics Advisory Board shall select registrants to be audited by lot in periodic ceremonies which shall be open to the public. Prior notice of the date, time, and place of any such ceremony shall be emailed to all known registrants and, if the ceremony is to take place during the legislative session, such notice shall be published in the Legislative Bulletin or other similar publication disseminated to registrants. For the purposes of the selection process, each client registrant will be assigned a number. No more than forty numbers will be selected for audit in any one year and each number selected will result in an audit. Audits will be conducted in the order selected. Numbers for audit will be drawn by the Chairperson of the Citizen's Ethics Advisory Board or by his or her designee. When a client registrant's number is chosen for audit, the records of that client's communicator lobbyists, including all business organization, in-house or other individual lobbyists, kept in connection with that client will also be audited. Said communicator lobbyist(s)' records of personal expenditures for the benefit of public officials, or members of such officials' staffs or immediate families, will also be audited at that time.

(b) The records of each client registrant and the records of each communicator registrant kept in connection with that client shall be subject to audit no more than once every three years. A communicator registrant's records of personal expenditures for the benefit of public officials shall also be subject to audit no more than once every three years.

**Statement of Purpose 1-92-56:**

**This proposed amendment clarifies that the existing procedure of mass emails through the electronic lobbyist system to registered lobbyist is sufficient notice for the random audit ceremony. The amendment also permits the Chairperson of the Citizen's Ethics Advisory Board to appoint a designee who would conduct the drawing ceremony in Chairperson's absence.**

Section 23. Section 1-92-61 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-92-61. Office of State Ethics action as result of audit**

(a) The primary goal of any audit by the Office of State Ethics is to ensure compliance with the Ethics Codes. To that end, the Office of State Ethics will take no formal action, as the result of an audit, against a registrant for negligent failure to comply with the law, provided that the registrant takes the necessary corrective action. When a review of a registrant's records reveals an intentional or grossly negligent failure to comply with the law, however, or [When] when the registrant fails to take the corrective action required as a result of the audit, the Office of State Ethics may file a complaint pursuant to Section 1-93 of the general statutes. Any Office of State Ethics evaluation, investigation or complaint proceeding initiated as the result of an audit shall not be made a part of the final audit report, but shall instead remain confidential under Subsection (a) of Section 1-93 of the general statutes.

(b) Notwithstanding subsection (a) of this section, the fact that a registrant may be under audit shall not relieve the registrant from liability if a separate action is filed or pending against the registrant with respect to the registrant's conduct during the audit period.

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# OFFICE OF STATE ETHICS

Concerning
Random Audit of Lobbyist Financial Reports

**Statement of Purpose 1-92-61:**

**This proposed amendment restores the standard for action as a result of a lobbyist audit unintentionally removed in the last proposed amendments by the Office of State Ethics and clarifies action as a result of an audit. In particular, the amendment clarifies that just because a lobbyist is under an audit, it does not relieve such lobbyist from obligation to file necessary forms when they are due.**

# STATE OF CONNECTICUT
# **REGULATIONS**
# of
# OFFICE OF STATE ETHICS

## Concerning
## Annual Statement of Financial Interests

Section 24. Section 1-81-3 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-81-3. Listing of names of those whose interests are required to be disclosed**

(a) In order to allow determination of the completeness and accuracy of the information required to be filed pursuant to Subdivision (1) of Subsection (b) of Section 1-83 of the Connecticut General Statutes, each individual required to file shall disclose, on the form provided by the Office of State Ethics, the names of his or her spouse and dependent children residing in the individual's household.

(b) In each instance of disclosure mandated by Subdivision (1) of Subsection (b) of Section 1-83 of the Connecticut General Statutes, the filer shall identify by relationship (e.g., self, spouse, son) or name the owner or holder of the interest or the recipient of the income as the case may be. Additionally, whenever a reportable interest is held by another (e.g., a trustee) for the benefit of a reportable individual, the filer shall disclose both the holder and the beneficiary by either relationship or name.

(c) For purposes of this subsection, "dependent child" means any individual who is a son, daughter, stepson, or stepdaughter and who is a qualifying child of the filing individual within the meaning of section 152 of the Internal Revenue Code of 1986, as amended, 26 U.S.C. 152.

**Statement of Purpose 1-81-3:**

**This proposed amendment provides a definition of dependent child for purposes of the Statements of Financial Interest.**

Section 25. Section 1-81-5 of the Regulations of Connecticut State Agencies is adopted to read as follows:

**(NEW) Sec. 1-81-5. Description of income**

(a) As used in subsection (b) of Section 1-83 of Connecticut General Statutes, income shall be construed to mean all income from whatever source derived, including but not limited to: earned income (such as compensation for services), fees, commissions, salaries, wages, tips, bonuses, gross income derived from business, capital gains, interest, rents, royalties, dividends, annuities, gifts, honoraria, lottery or other gambling winnings, income from the investment portion of life insurance and endowment contracts, pensions, income from discharge of indebtedness or debt forgiveness, assignment or receipt of property interests or rights, distributive share of partnership income, and income from any interest in an estate or trust. The term includes all income items, whether tangible or intangible regardless of whether they are taxable for Federal or State income tax purposes and regardless of whether legally obtained.

(b) The description of each source of income identified as a gift shall include:

1) the identity and occupation of the donor. If a gift has more than one donor, the filer shall provide the necessary information for each donor;
2) a brief description of the gift.

(c) For purposes of 1-83(b)(1)(A) political campaign funds, including campaign receipts and expenditures, need not be included in any report filed under this part.

**Statement of Purpose 1-81-5 (a):**

**This proposed amendment provides a definition of income for the Statements of Financial Interest.**

**Statement of Purpose 1-81-5 (b):**

STATE OF CONNECTICUT
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Concerning
Annual Statement of Financial Interests

**This proposed amendment provides specific guidance regarding the description of each source of income identified as a gift.**

**Statement of Purpose 1-81-5 (c):**

**This proposed amendment clarifies that political campaign funds are not reportable as income for purposes of the Statement of Financial Interest.**

Section 26. Section 1-81-10a of the Regulations of Connecticut State Agencies is adopted to read as follows:

**(NEW) Sec. 1-81-10a. Disclosure of business affiliations**

For purposes of Subdivision (1)(H) of Subsection (b) of Section 1-83 of the Connecticut General Statutes, "similar business affiliation" means any association of persons jointly undertaking or owning a commercial enterprise in which there is:
(1) a community of interest among such persons in the performance of the subject matter of such enterprise;
(2) a right by such persons to directly influence the policies, direction and/or governance of the enterprise; and,
(3) a right by such persons to share directly in any profit gained by the enterprise.

**Statement of Purpose 1-81-10a:**

**This new section clarifies the requirement of disclosing business affiliations and further explains the identification of such affiliations for purposes of reporting.**

# STATE OF CONNECTICUT
# **REGULATIONS**
# of
# OFFICE OF STATE ETHICS

Concerning
Conflict of Interest Provisions – Sections 1-84, 1-85, and 1-86 of the Connecticut General Statutes

Section 27. Section 1-81-16a of the Regulations of Connecticut State Agencies is adopted to read as follows:

**(NEW) Sec. 1-81-16a. Subsection (c) of section 1-84 of the Connecticut General Statutes: financial gain defined**

Pursuant to subsection (c) of section 1-84 of the Connecticut General Statutes, "financial gain" shall mean any benefit valued in excess of one hundred dollars per person per year that is received by or agreed to be received by a state employee or public official, his spouse, child, child's spouse, parent, brother or sister or a business with which he is associated.

**Statement of Purpose 1-81-16a:**

**This proposed amendment seeks to clarify two matters. First, the proposed amendment would formalize the current de minimis standard of the agency with regard to financial gain. The $100 standard has been recognized by this agency and its predecessor as a de minimis threshold, thus recognizing that insignificant benefits (e.g., a car ride; use of computer; a can of soda, etc.) will not give rise to a violation of section 1-84(c). Second, the proposed amendment seeks to clarify that a public official may violate section 1-84(c) even if he or she has not yet fully received the intended benefit. This proposed amendment is needed to clarify that a use of one's office to obtain a benefit in the future (e.g., a promise to provide future services) is a violation of section 1-84(c). For example, if a public official states that he will recommend that a particular contractor receive a contract provided that the contractor put money into escrow that the public official can receive after he leaves office, the public official could be said to have used his office for financial gain, even though he has not yet received the benefit. The proposed amendment is necessary in response to recent defenses raised in enforcement actions (see, e.g., Matter of Louis DeLuca, Docket No. 2007-13).**

Section 28. Section 1-81-29 of the Regulations of Connecticut State Agencies is amended to read as follows:

**Sec. 1-81-29. Subsection (a) of section 1-86 of the Connecticut General Statutes: procedure for avoiding a conflict of interest detailed**

(a) Pursuant to Subsection (a) of Section 1-86 of the Connecticut General Statutes, whenever a public official or state employee, other than an elected official, is required to inform his or her immediate superior of a potential or substantial conflict of interest, the superior shall assign the matter in question to another who is not subordinate to the individual with the conflict.

(b) Pursuant to Subsection (a) of Section 1-86 of the Connecticut General Statutes, whenever a public official or state employee, other than an elected official, would otherwise be required to inform his or her immediate superior of a potential or substantial conflict of interest, but has no immediate superior, the official or employee shall notify the Office of State Ethics of the conflict in writing under penalty of false statement, on a form approved by the Board. Prior to taking action, such official or employee shall seek advice from the Office of State Ethics and take such steps as the Office of State Ethics shall prescribe or advise.

**Statement of Purpose 1-81-29:**

**This proposed amendment clarifies the conflict of interest reporting procedure when an individual has no immediate superior.**

STATE OF CONNECTICUT
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of
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Concerning
Post-State Employment Provisions – Sections 1-84a and 1-84b of the Connecticut General Statutes

Section 29. Section 1-81-39 of the Regulations of Connecticut State Agencies is adopted to read as follows:

**(NEW) Sec.1-81-39. Subsections (c), (d), (e), (f), and (g) of section 1-84b of the Connecticut General Statutes: employment defined**

For the purposes of subsections (c), (d), (e), (f), and (g) of section 1-84b of the Connecticut General Statues the definition of "employment" shall be construed to include any work or endeavor, whatever its form, undertaken in order to obtain financial gain (e.g., employee of a business, sole practitioner, independent contractor, etc.). The term shall not, however, include any endeavor undertaken only as a hobby or solely for charitable, educational, or public service purposes, when no compensation or other financial gain for the individual, his or her immediate family or a business with which the individual is associated is involved.

**Statement of Purpose 1-81-39:**

**This proposed amendment provides a definition of "employment" for the purposes of various post-state employment restrictions.**

Section 30. Section 1-81-40 of the Regulations of Connecticut State Agencies is adopted to read as follows:

**(NEW) Sec. 1-81-40. Effect of dual holding of state employment and a paid elective municipal office**

There shall be a rebuttable presumption that any dual holding of classified state employment and a paid elective municipal office listed in subsection (a) of section 5-266a-1 of the Regulations of Connecticut Agencies is a violation of Gen. Stat. 1-84(b).

**Statement of Purpose 1-81-40:**

**This proposed amendment specifies that the certain long-standing conflict of interests concerning state employment and municipal office holding may be enforceable as impermissible outside employment. It is important to note that the conflict of interest provision discussed under section 5-266a-1 of the Regulations of Connecticut State Agencies prohibits a very narrow group of classified state employees from holding or continuing to hold elective municipal office. Only a classified state employee who has an office or position in state government which has discretionary power to 1) remove or discipline the incumbent of the municipal office; 2) approve the accounts or actions of the municipal office; 3) regulate compensation of the municipal office; or 4) affect any grants or subsidies, administered by the State, for which a municipality is eligible, is restricted. This proposal would clarify that the presumed violation of the Code would now be identified, at a minimum, as a violation of General Statutes section 1-84 (b).**

M39 REV.1/77

Be it known that the foregoing:

[X] Regulation(s) [ ] Emergency Regulations

are:

[X] Adopted [X] Amended as hereinabove stated [ ] Repealed

By the aforesaid agency pursuant to:

[ ] Sections 1-81(g) of the Connecticut General Statutes.

[X] Section 4-168 of the General Statutes, as amended by Public Act No. of the Public Acts.

[ ] Public Act No of the Public Acts.

After publication in the Connecticut Law Journal on **September 23, 2008** the notice of the proposal to:

[X] Adopt [X] Amend [ ] Repeal such regulations

(If applicable): [ ] And the holding of an advertised public hearing on _____

WHEREFORE, the foregoing regulations are hereby:

[ ] Adopted [ ] Amended as hereinabove stated [ ] Repealed

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Effective:

[ ] When filed with the Secretary of the State.

(OR)

[ ] The ____ day of ____ 20____.

| In Witness Whereof: | Date | SIGNED (Head/Representative of Board, Agency or Commission) | OFFICIAL TITLE, DULY AUTHORIZED |
|---|---|---|---|
| | 4-30-09 | Carol Carson | EXECUTIVE DIRECTOR |

| Approved by the Attorney General as to legal Sufficiency in accordance with Sec. 4-169, as Amended, C.G.S.: | SIGNED | OFFICIAL TITLE, DULY AUTHORIZED |
|---|---|---|
| | [illegible] 5/14/09 | ASSOC. ATTY. GENERAL |

[ ] Approved

[ ] Disapproved

[ ] Disapproved in part, (Indicate Sections Numbers disapproved only)

[ ] Rejected without prejudice.

| The Legislative Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes | DATE | SIGNED (Clerk of the Legislative Regulation Review Committee) |
|---|---|---|
| | | |

Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

| DATE | SIGNED (Secretary of the State) | BY |
|---|---|---|
| | | |

| INSTRUCTIONS |
|---|

One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.

Eighteen copies of all regulations for adoption, amendment, or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.

Each regulation must be in the publication form and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.

Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.