

MEMORANDUM

To: College Ethics Officers and Labor and Legal Affairs Designees

From: Derek Davis *D.D./sa*
General Counsel & Senior Vice Chancellor for Legal Affairs

Re: 2019 Financial Disclosure Statement Filing, Honoraria, Official Activity Expense
Payments and Outside Activities Requests

Date: April 1, 2020

I am writing to ask that you remind all required filers about the annual Financial Disclosure Statements (“FDS”) filing requirement with the New York State Joint Commission on Public Ethics (“JCOPE”). Please distribute this notice to all CUNY employees on your campus who are obligated to file FDS statements or report receipts of honoraria.

FINANCIAL DISCLOSURE STATEMENTS

The annual FDS for calendar year 2019 must be filed by **May 15, 2020** by all employees in “policy-making” positions and by those non-exempt employees who earn over the threshold amount.¹

A notification from JCOPE regarding 2019 Financial Disclosure will be received via email ONLY.

JCOPE will send all notifications to employees’ official CUNY email accounts as listed on the FDS.

All newly hired employees are required to file an FDS for the previous year within 30 days of being appointed to a covered position. For example, an employee hired on July 27, 2020 must file an FDS for 2019 within 30 days. Any employee promoted into a policy-making position, or newly designated a policy-maker, must also file an FDS within 30 days of assuming the new

¹ The filing threshold for financial disclosure will apply to anyone serving in a job title with an annual salary in excess of \$101,379 (as of 4/1/2020). For detailed instructions, please go to the JCOPE webpage regarding FDS, <http://www.jcope.ny.gov/forms/ethics.html>.

position. Employees in the Higher Education Officer series who are not designated as policy-makers are exempt from filing the FDS.

Employees who are designated as policy-makers, or those earning over the SG-24 rate (currently **\$101,379**) and who have not received an exemption from JCOPE, are required to file an annual financial disclosure statement with JCOPE.

Please be aware that you must use the following website (NY.gov): <https://my.ny.gov/> to access your JCOPE online FDS accounts. If you do not already have a NY.gov account, please follow the instructions to create one included in the attached “JCOPE - Quick Reference Guide to the FDS Online Application.”

Definition of Policy-Maker

Policy-makers (or decision-makers) are typically employees who manage a group of people, including chairs, deans, directors or other heads of academic departments; or a process with financial implications such as dealing with vendors or administering contracts. For more specific guidance, please see the attached JCOPE “Guidelines and Procedures Regarding Policy-Making Positions.”

Department Chairs as Policy-Makers

Department Chairs are CUNY employees charged with administrative duties including purchasing authority (however limited) and the management of the members of the department and support staff.

Under JCOPE’s definition of a policy-maker, Department Chairs in academic departments possess discretionary policy-making authority and therefore **are considered policy-makers and will not be granted an exemption from filing an FDS.**

Please also note that Department Chairs are required to file an FDS for 2019 by the May 15, 2020 deadline for policy-makers, even if they already filed as an academic filer for 2018 before the November 15, 2019 deadline. Department Chairs only need to file an FDS in May of each year and need not file in November unless and until they end their term as Chair and return to a non-policy-making faculty position.

FDS Non-Compliance

JCOPE reviews each FDS for compliance. Employees who fail to file an FDS or who file a deficient FDS will be notified by JCOPE by email to their CUNY email address. Notices of non-compliance are posted on the JCOPE website and will be sent to the College. Please check to be sure that the email address that JCOPE has for all employees is current and correct. This is especially important for employees who have recently left the college but are still required to file a 2019 FDS.

If, following written notice by the Commission, an employee continues to knowingly and willfully fail to file an FDS, or knowingly and willfully with intent to deceive makes a false statement or gives information that the employee knows to be false, the employee is subject to a civil penalty up to **\$40,000**. Please review recent enforcement actions posted on JCOPE’s website.

A filer may request a 45-day extension of time to file the FDS based on justifiable cause or undue hardship. Extensions may be requested through the FDS Online Filing System or by completing and submitting this writeable PDF form, which must be received or postmarked on or before the filing due date.

<https://jcope.ny.gov/system/files/documents/2019/01/extension-application-2018-writeable.pdf>

HONORARIA

All CUNY employees are required to comply with the law and regulations governing the receipt and reporting of honoraria, regardless of their designation as a policy-maker (see [Title 19 NYCRR Part 930: Honoraria](#)). Please notify all of your campus employees about reporting receipts of honoraria.

JCOPE generally defines an honorarium as a payment for a service that is not part of an employee's official duties. Examples include delivering a speech, writing or publishing an article, and participating in a public or private conference, convention, or meeting. Honoraria also include expenses incurred for travel, lodging and meals related to the service performed.

CUNY Employees Not Employed in Academic Titles

Non-academic employees of CUNY must seek prior approval in order to accept honoraria and must report the receipt of honoraria to their College's ethics officer. Keep in mind that honoraria generally cannot be received from an interested source (generally defined as an entity or individual seeking to do or actually doing business with CUNY, such as vendors, would-be vendors, unions, etc.).

CUNY Faculty: Full Time and Adjunct

All CUNY faculty are exempt from the restrictions on the *receipt* of honoraria, provided that the service performed by the faculty member is within the subject matter of his or her academic discipline. This exemption means:

1. CUNY faculty do not need to seek approval to receive honoraria.
2. CUNY faculty may receive honoraria from an interested source.

However, CUNY faculty must still report the receipt of any and all honoraria. The exemption for academic positions does not relieve faculty from the reporting requirement.

JCOPE, while defining honoraria as compensation for work unrelated to an employee's official duties, nonetheless does not exempt faculty from reporting receipt of all speaking fees; reimbursed travel expenses; or payments received for writing and/or presenting written materials.

A form for recording all honoraria can be found on the webpage of the Office of Legal Affairs at <http://www.cuny.edu/about/administration/offices/la/ethics/honoraria.html>. The reporting period for honoraria is April 1 to March 31.

All records of honoraria received by CUNY employees during the period April 1, 2019 through March 31, 2020 must be forwarded to the College ethics officers by **May 1, 2020**.

The College does not need to report Honoraria to JCOPE. However, each College needs to retain all honoraria reports for three years.

CUNY employees (in both academic and non-academic titles) who file an FDS must also report all honoraria in excess of \$1,000 on their annual FDS.

Please remind all employees concerned of these requirements. You may consult the JCOPE website for any issues that may arise, or, as always, you may call the Office of the General Counsel for assistance.

Official Activity Expense Payments

Any FDS filer may accept payment or reimbursement from a third party for travel or expenses related to an activity that is part of, and related to his official position given that certain conditions are met (See [Title 19 NYCRR Part 931](#)). Any such payments in excess of \$1,000 are reportable on the FDS. An example of such a payment would be reimbursement for travel and lodging offered by the sponsor of a conference related to college admissions to a College Vice President for Admissions. These payments or reimbursements from third parties are rare and must be pre-approved by College Ethics Officers. The College must retain records of such approvals for three years.

Outside Activities

An Outside Activity is any outside employment, either public or private, engaged in on an ongoing basis by a CUNY employee who has been designated a policy-maker that is unrelated to responsibilities and duties performed by the employee for CUNY. Please be aware that an Outside Activities Report must be submitted for review and approval by your appointing authority before you engaged in an outside activity. For more information please see the Outside Activities FAQs on our website at: <http://www2.cuny.edu/about/administration/offices/legal-affairs/ethics/outside-activities-faq/>

Enclosures:

- JCOPE - Reference Guide to the FDS Online Application: <https://jcope.ny.gov/fds-filing-information-and-forms>
- JCOPE Guideline and Procedures Regarding Policy-Making Positions–November 2016
- Faculty Reporting Honoraria Form
- Employee Reporting Honoraria Form

cc: Doriane K. Gloria, Vice Chancellor for Human Resources Management
Katherine Raymond, Senior Associate General Counsel