


To: CUNY Faculty

From: Frederick P. Schaffer 

Re: Ethics Bulletin: FAQ's For CUNY Faculty¹ re
Financial Disclosure Statement Requirements

Date: October 6, 2008

As public employees, all CUNY faculty are subject to New York State ethics laws. Pursuant to Public Officers Law § 73-a, certain CUNY faculty (those **without exemptions**), are required to file an annual Financial Disclosure Statement ("FDS").

Shortly, the New York State Commission on Public Integrity ("NYSCPI") will be notifying CUNY faculty by **email** regarding the annual filing requirement. The following questions and answers are intended to summarize for you the most important principles and dates.

Q1. When must I file?

A1. If you are required to file an FDS, you **must** do so by **November 15, 2008**. If you believe you are exempt but have not previously applied for and been granted an exemption, you **must file** your request for an **exemption by November 1, 2008**.

Q2. Who must file?

A2. You must file an FDS if your annual salary as a faculty member is more than **\$82,389 for year 2007**, if you are a **chairperson of an academic department**, or are involved with **internal or external grants**, leases, loans, contracts, etc., (see Question and Answer #5 below). Although the FDS asks for financial data for 2007, the determination as to whether you must file must be made on the bases of your duties and salary as of **September 1, 2008**.

All CUNY faculty will be getting raises in the fall of 2008 a portion of which is **retroactive to September 2007**. NYSCPI states that if the faculty member currently has a valid exemption, it will remain in effect. **If the faculty member is currently under the salary threshold, and if the retroactive amount places them over the threshold amount, then that faculty member must apply for an exemption by November 1, 2008 or file an FDS by November 15, 2008.**

¹ This memo is for new CUNY faculty, or faculty whose status has changed due to a retroactive salary increase, and **who currently do NOT have an exemption from filing an FDS.**

Q3. In determining if my salary exceeds that filing threshold, do I look to the amount associated with my title or the amount I actually earned last year?

A3. You look to the amount associated with your title. For example, if you worked part-time in a title that pays in excess of the filing rate of \$ 82,389 or if you have been on sabbatical for a portion of the year in a title that pays in excess of the filing rate of \$82,389, you **must** either file an FDS or apply for an exemption regardless of how much you actually earned.

Q4. Do I have to file if I get a salary increase that causes my salary to exceed the filing rate of \$ 82,389 after September 1, 2008?

A4. **Yes.** As a general rule, if at any time, you receive an increase in your annual salary - whether through an increase provided by a collective bargaining agreement, an annual step increment or promotion - to a rate in excess of the filing rate of \$ 82,389, CUNY must notify the NYCPI of your new status, and the NYCPI will contact you by mail or email with instructions to file an FDS or to file for an exemption. You will then have thirty (30) days to either file an FDS or apply for an exemption from filing.

Q5 Who is entitled to an exemption?

A5. Pursuant to §94(9) (k) of the Executive Law, the Commission is authorized to grant an exemption to faculty whose duties **do not** involve the negotiation, authorization or approval of:

- i. contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as defined in Section seventy-three of the public officers law;
- ii. the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;
- iii. the obtaining of grants of money (whether internal CUNY RF, PSC or CUNY grants or external grants) or loans; or
- iv. the adoption or repeal of any rule or regulation having the force and effect of law.

Q6. If I have previously filed for and been granted an exemption, do I have to file for exemption again?

A6. **No.** If you have previously filed for and been granted an exemption from filing a FDS and there have been no changes in your duties and responsibilities, there is no need to file for a new exemption. The original exemption continues to be effective, irrespective of any salary increases.

Q7. How do I apply for an exemption?

A7. If you do not have an exemption and believe you qualify for one, you must fill out and file the exemption form directly with NYCPI by November 1, 2008. **Do not send the exemption forms to your college ethics officer or to the Office of the General Counsel.**

Q8. **Where can I get the necessary forms?**

A8. The Financial Disclosure Statement and the Application for an Exemption Form can be found on the web site of the New York State Commission on Public Integrity at <http://www.nyintegrity.org/> In addition, if you have **any other questions or need additional information** with respect to these rules, or need help filing out the either of the forms **call your college ethics officer** (see attached list) **or Ms. Kathy DeGasperis and her staff** at the New York State Commission on Public Integrity at **518/474-4522**.

Q9. Can I get into trouble for failing to file an FDS?

A9. **YES. Notices of Delinquency for failure to file the financial disclosure statement for calendar year 2007 will be posted on the Commission's website.** The Commission will assess **monetary penalties** for filings received after the statutory deadline. **To avoid late fines, your form must be received no later than November 15, 2008.** New employees required to file must do so within 30 days of commencing employment. The Commission reviews each statement for compliance. If you fail to file a statement or if you file a deficient statement, the Commission will notify you and CUNY in writing of the deficiency and the penalties which will be assessed for continued non-compliance. A copy of this notice will be posted on the Commission's website. If, following written notice by the Commission, you knowingly and willfully fail to file a financial disclosure statement, or knowingly and willfully with intent to deceive make a false statement or give information which you know to be false on your financial disclosure statement; you are subject to a civil penalty up to \$40,000 or a criminal penalty of up to one year imprisonment. In lieu of a civil penalty, the Commission may refer a violation to the appropriate prosecutor. If convicted, you may be punished with up to one year of imprisonment. CUNY may also take disciplinary action against you for failure to file or filing a false statement.

If you have any questions, contact your campus Ethics Officer, a current list of campus Ethics Officers is attached for your convenience. This and other ethics information is also posted on the CUNY website at <http://web.cuny.edu/administration/legal-affairs.html>.

c: Provosts

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The Link to the list will also be available on <http://web.cuny.edu/administration/legal-affairs.html>