



NEW YORK
CITY BAR

COMMITTEE ON GOVERNMENT ETHICS

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October 22, 2015

Hon. Andrew M. Cuomo
Governor
State Capitol
Executive Chamber
Albany, New York 12224

Hon. John Flanagan
Majority Leader
New York State Senate
Room 330, State Capitol Building
Albany, NY 12247

Hon. Carl Heastie
Speaker
New York State Assembly
Legislative Office Building 932
Albany, NY 12248

Hon. Jeffrey Klein
Independent Democratic Conference Leader
New York State Senate
Legislative Office Building 913
Albany, NY 12247

RE: New York Ethics Review Commission

Dear Governor Cuomo, Senate Majority Leader Flanagan, Speaker Heastie, and Senator Klein:

This letter supplements my letter of October 16 on behalf of the Government Ethics Committee of the New York City Bar Association to the New York Ethics Review Commission. In that letter, we urged that the Review Commission request a three month extension of the current November 1 deadline for the submission of its Report,¹ and that the Report encompass changes in the law under which JCOPE operates, as contemplated by the statute defining the scope of the Review Commission's work.²

We are writing further to urge that, should the Review Commission so request, the state government provide the Review Commission with funding to allow it to hire such legal, drafting, research and logistical services as will aid the completion and publication of its Report. Since the amount required should be relatively modest, we believe that funds available for this purpose could be found within the budgets of the Governor, the Secretary of State (in whose office

¹ We are aware that extending the deadline requires a legislative change but we believe that, since the original legislation provided a full nine months for the Review Commission's work, it would be reasonable for the Review Commission, with your consent, to ask that the additional time can be taken based on your joint commitment to support, and bring to a vote, the necessary legislative amendment when the Legislature is next in Albany.

² A copy of my October 16 letter is attached.

JCOPE is administratively housed) and the Legislature. If a law firm is retained in this connection, it should be one not engaged in lobbying at any level of government.

By way of background, on October 14, Evan Davis and Daniel Karson, representing the Government Ethics Committee, appeared at the Review Commission's public hearing at New York Law School. Mr. Davis and Mr. Karson presented the views of the Committee regarding both JCOPE's record of performance and the legislation establishing JCOPE.

During the hearing, the Review Commission chair, former state Senator Dale Volker, commented that despite his request to the Governor, the Review Commission has not been given funding for staff to support their work. Given the important purpose for which the Review Commission was empanelled under law, we believe it would be difficult to expect it to carry on and complete its work without the ability to obtain the assistance that it views as necessary. We note that the Review Commission is comprised of members highly distinguished in law and public service, who are serving voluntarily and without pay.

We therefore respectfully ask that the Review Commission be provided with the funding needed to support the completion and publication of its Report. Thank you for the opportunity to bring this matter to your attention.

Respectfully submitted,



Benton J. Campbell

Cc: Members of the New York Ethics Review Commission



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October 16, 2015

New York Ethics Review Commission
c/o 57 Worth St., Rm E216
New York, NY 10013

Dear Members of the Review Commission,

Thank you again for giving us an opportunity to be heard at the October 14, 2015 hearing. We believe that it was a valuable and productive chance for the public to provide its views on the structure and effectiveness of the Joint Commission on Public Ethics (“JCOPE”), and we look forward to the continued work of the Review Commission on this important subject.

I write to provide follow-up comments on two topics that arose at the hearing. As you may recall, during the testimony of Messrs. Davis and Karson, there was some confusion about whether the scope of the Review Commission’s mandate was limited solely to improvements JCOPE could make under existing law or whether the Review Commission could go further and recommend legislative changes that would make JCOPE a more effective institution.

We believe that the mandate of the Review Commission very clearly includes proposing legislation. Section 21 of chapter 399 of the Laws of 2011, which created JCOPE and called for the appointment of the Review Commission, mandates that the report of the Review Commission cover both ‘administrative and legislative’ recommendations:

§ 21. No later than June 1, 2014, the governor and the legislative leaders shall jointly appoint a review commission to review and evaluate the activities and performance of the joint commission on public ethics and the legislative ethics commission in implementing the provisions of this act. On or before March 1, 2015, the review commission shall report to the governor and the legislature on its review and evaluation which report shall include any **administrative and legislative recommendations** on

strengthening the administration and enforcement of the ethics law in New York state. The review commission shall be comprised of eight members and the governor and the legislative leaders shall jointly designate a chair from among the members.” (Emphasis added)

The City Bar has been consistent in advocating, as we did in our testimony, that there is much JCOPE can accomplish without the need for new legislation. Indeed, together with Common Cause/New York, we laid out those action items in detail in our March 2014 Report “Hope for JCOPE” and as part of our written hearing testimony. Unfortunately, JCOPE has elected not to take these steps, and in some cases has chosen instead to call for legislative authorization that may well never come. We believe that JCOPE’s reluctance to act on reforms that are already within its power strongly reinforces the need for the more significant structural legislative changes we recommended, and which were summarized in Mr. Karson’s testimony, to secure JCOPE’s enforcement independence in both fact and appearance. Accordingly, we hope that the Review Commission considers all options, including legislative change, in its review and recommendations.

In addition, we believe the Review Commission has good cause to request an extension of the current November 1 deadline for report submission set by the Governor and the Legislative Leaders when the Commission members were appointed this past May. The November 1 deadline falls well short of the nine month period originally set forth in the enabling statute and, we believe, artificially and detrimentally compresses the time needed to examine the many aspects of JCOPE’s mandate and performance. We therefore urge that the Review Commission ask the Governor and the Legislative Leaders to extend the November 1 deadline by three months to February 1, 2015, and thus affording the Review Commission the originally intended allotment of time for the completion of its work.

Respectfully,



Benton J. Campbell

Cc: Hon. Andrew Cuomo
Hon. John Flanagan
Hon. Carl Heastie
Hon. Jeff Klein