



New York State
Independent Review Committee
for Nominations to the
Commission on Ethics and Lobbying in Government

SUMMARY OF ACTIVITIES

March 2023



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Dear Fellow New Yorkers,

The New York State Independent Review Committee for Nominations to the Commission on Ethics and Lobbying in Government (“IRC”) is pleased to present this summary of activities of its implementation of the review process governing the appointment of State ethics commissioners. This summary covers activities undertaken between May 2022 and February 2023 and resulted in the IRC’s approval of 10 appointees to the 11-member Commission.

The IRC is a governmental entity that places great responsibility in the hands of the State’s law deans as a means to foster a greater public trust in the State’s government ethics and public integrity processes. Law deans are stewards of a profession built on the highest ethical and professional standards, and our work as IRC members was conducted as transparently, independently, and objectively as possible under the law.

Indeed, the review process was a challenging one which each IRC member took seriously and invested countless hours to get right. We are pleased that the new Commission on Ethics and Lobbying in Government (“COELIG”) has 10 highly qualified, independent, representative, and deeply committed members who reflect the great diversity of New York.

We will be watching COELIG’s work with great interest, and we look forward to our continuing role in this vital review and appointments process.

A handwritten signature in black ink that reads "Anthony W. Crowell". The signature is written in a cursive, flowing style.

Anthony W. Crowell
Chair

HISTORY AND INTRODUCTION

Integrity, accountability, transparency, and independence are the pillars of good government and are paramount to earning and maintaining the public's trust. Well documented lapses of ethical behavior, conflicts of interest, and public corruption have loomed large in New York State for more than a century and have served to undermine the public's confidence in government. Although the State has tried through many different forms to have an independent ethics body to educate public servants and lobbyists, regulate their activities, mandate financial disclosure, and bring enforcement actions to root out conflicts and corruption, they did not always prove successful.

In recent years, New York State's ethics commissions have faced substantial scrutiny by elected officials, media outlets, good government advocates, and members of the public. One of their central criticisms has always revolved around a real and/or perceived lack of independence of some State ethics commissioners. Independence is essential for an ethics commissioner to effectively implement their substantial and serious statutory mandates without political interference. This is important because the work of ethics commissioners can result in findings of violations of ethics laws, as well as enforcement proceedings and penalties, against elected officials — including those who appoint ethics commissioners — and other public servants and lobbyists. Thus, a new appointments process for State ethics commissioners that would remove or modify direct appointment or create a mechanism for independent advice and consent was the subject of much advocacy.

In 2022, to address this and other concerns in the public ethics arena, the New York Ethics Commission Reform Act (the "Act") was enacted as part of the overall State budget legislation. The Act repealed the existing Joint Commission on Public Ethics ("JCOPE"), which was the subject of significant controversy for a number of years, and replaced it with a new State Commission on Ethics and Lobbying in Government, known as "COELIG."¹ COELIG is an 11-member Commission whose appointment structure is as follows: the Governor (three members); Senate President and Majority Leader (two members); Senate Minority Leader (one member); Assembly Speaker (two members); Assembly Minority Leader (one member); the Comptroller (one member); and the Attorney General (one member).

¹ JCOPE was established in 2011 to replace the State's Commission on Public Integrity. The Commission on Public Integrity was created originally in 2007 to replace two other ethics bodies, the State Ethics Commission and the Temporary State Commission on Lobbying. It should be noted that while members of the Legislature are subject to the investigative jurisdiction of State's ethics commissions, only the separate Legislative Ethics Commission has the authority to determine and impose any penalties over violations determined by State ethics commissions.

Governor Hochul and the State Legislature sought to mitigate concerns about the independence and qualifications of COELIG members by creating a new oversight body to review the nomination of candidates prior to their appointment. A provision creating an Independent Review Committee (“IRC”) to lead this function was included in the Act. It designated the deans of the State’s 15 American Bar Association accredited law schools as the IRC’s members and required them to develop procedures by which they would review and approve nominations to COELIG. When a nominee reviewed by the IRC is not approved, the elected official is required to nominate a new candidate.

Between July 17 and September 1, 2022, the IRC received and timely reviewed nominations for 10 of the 11 Commission seats. The IRC approved seven of these nominees and denied three of them. Between December 7, 2022 and February 14, 2023, the IRC received, timely reviewed, and approved the nominations of three new candidates (two of whom replaced previously denied ones). The third candidate denied by the IRC in September 2022 commenced a lawsuit to challenge the IRC’s adverse determination and the underlying legality of Act. The case was dismissed by the New York State Supreme Court, Onondaga County, and the plaintiff is currently appealing the decision. That seat remains vacant.

Below is key information about the IRC and its staff, and a summary of its procedures and determinations. The IRC’s observations and recommendations about its process and a listing of the extensive outreach and media coverage of the IRC’s activities are also included.

IRC MEMBERS AND SCHOOLS

Anthony W. Crowell, Chair
Dean and President, Professor of Law
New York Law School

Alicia Ouellette
President and Dean, Professor of Law
Albany Law School

Michael Cahill
President and Dean, Professor of Law
Brooklyn Law School

Aviva Abramovsky
Dean and Professor of Law
University at Buffalo School of Law

Melanie Leslie
Dean and Professor of Law
Benjamin N. Cardozo School of Law, Yeshiva University

Sudha Setty
Dean and Professor of Law
City University of New York School of Law

Gillian Lester
Dean and Professor of Law
Columbia University School of Law

Jens David Ohlin
Dean and Professor of Law
Cornell University School of Law

Matthew Diller
Dean and Professor of Law
Fordham University School of Law

Hon. Gail A. Prudenti
Dean and Professor of Law
Hofstra University Maurice A. Deane School of Law

Troy McKenzie
Dean and Professor of Law
New York University School of Law

Horace Anderson
Dean and Professor of Law
Pace University Elizabeth Haub School of Law

Michael Simons
Dean and Professor of Law
St. John's University School of Law

Craig M. Boise
Dean and Professor of Law
Syracuse University College of Law

Elena Langan
Dean and Professor of Law
Touro University, Jacob D. Fuchsberg Law Center

IRC CHAIR AND STAFF

New York Law School (“NYLS”) Dean and President Anthony Crowell was elected by the IRC members to serve as the inaugural chair and lead the IRC’s implementation of its mandate. Dean Crowell teaches State and Local Government Law and has substantial experience in government ethics. He served for nearly nine years as a New York City Conflicts of Interest Board member. Prior to that, he served for more than a decade at New York City Hall, where he was Counselor to Mayor Michael R. Bloomberg. His role included, among other things, serving as City Hall ethics counsel and providing oversight of the appointments process for all senior administration officials and board and commission members.

Christina Arriaga is Assistant Appointments Counsel at the New York State Department of General Services. She coordinated the IRC’s background investigation process, including a team of investigators at OGS and the State Police.

Ariel Dvorkin provided press, communications, and operational support for the IRC. He is NYLS’s Executive Director of Communications and Institutional Relations.

Matt Gewolb served as the IRC’s Records Access Officer. He is NYLS’s Senior Associate Dean for Academic Affairs and Institutional Strategy.

Michael Siller provided legal and policy research for the IRC. He is NYLS Chief Compliance Officer and Counsel.

NYLS staff time used to support the IRC was provided as an in-kind contribution to New York State by the Law School.

DEVELOPMENT AND IMPLEMENTATION OF THE IRC’S PROCEDURES

In May 2022, the IRC began developing its candidate review procedures, including a substantive candidate pre-interview questionnaire, conflicts of interest questionnaire, and interview protocols.² In June 2022, the IRC briefed the coalition of good government groups in New York State on its procedures, which have both rigorous pre- and post-nomination phases, and received positive feedback from them. It also met individually with the offices of each of the nominating/appointing elected officials to educate them about the procedures. On June 15, 2022, the IRC officially published the procedures by way of a press release, made direct communication to the nominating/appointing elected officials and good government groups, and posted them on a New York State website created expressly for the

² IRC general information, procedures, and forms are available online at [Independent Review Committee for Nominations to the Commission on Ethics and Lobbying in Government \(ny.gov\)](https://www.ny.gov/independent-review-committee-for-nominations-to-the-commission-on-ethics-and-lobbying-in-government)

IRC to communicate with the public. The procedures, and all phases of the IRC's work, were the subject of meaningful press and media attention as detailed below.

The IRC's review process is designed to follow the below order of events:

- A nominating/appointing elected official identifies a candidate for COELIG, requests that the candidate complete a background investigation form within 10 days and submit it to the Office of General Services ("OGS") which manages the IRC's background check process.
- The background check process is coordinated by a designated attorney at OGS. After a completed form is submitted by the proposed nominee, OGS has up to 21 days to complete each background check. This part of the process is intended to be confidential and the name of the candidate is not disclosed to the IRC.
- When OGS completes the background check, a report is sent to the nominating/appointing elected official. The elected official reviews the report and determines whether to publicly propose the nomination of the candidate by way of a press release to all major news outlets and other interested stakeholders. The press release will invite the public to comment on the proposed nominee through an interface on the elected official's government website available for a minimum of seven business days. The IRC will be notified when a seven-day comment period commences and will post the elected official's press release on the IRC's website.
- Based on a broad array of critical vetting information, including the comments received from the public comment period, the nominating/appointing elected official will make a determination on whether to formally nominate the candidate and seek IRC review. Along with a formal nomination letter, the elected official will submit to the IRC the candidate's CV or resume, the OGS background check report and public comments received, and any other relevant information.
- Once a formal nomination is received, the IRC has up to 30 days to review and make a final determination on the nominee. The IRC provides notice of the date of the formal nomination on its website so the public can track the 30-day review period.
- As part of the review, a nominee is required to complete a conflicts questionnaire. Deans who have a direct institutional, professional, or personal relationship with a nominee under consideration, or their nominating/appointing elected official, will be recused from the review and voting process on that nominee entirely.

- The nominee is required to complete a standardized substantive pre-interview questionnaire in advance of their formal interview by the IRC.
- The designated OGS attorney will meet with the IRC to discuss all background investigation findings on the nominee.
- Each nominee will meet with a panel of at least three deans, one of whom is designated as a Panel Chair by the IRC Chair. These deans are responsible for managing the review process for this nominee and presenting a detailed report to the full IRC for open discussion.
- Once the IRC votes on a nominee, the determination is communicated in writing to the nominating/appointing elected official, and it is posted to the IRC’s website.
- The IRC will send out a press release announcing any final determinations to its mailing list.
- All press releases, other news, and a continuously updated chart of decisions on nominees are provided on the IRC’s website.
- In addition to the official IRC communications about its procedures and decisions, including its web content, the IRC Chair will provide interviews to members of the press to explain the IRC’s process and educate the public on the independence and rigor with which the IRC undertakes its work.

**THE IRC’S
DETERMINATIONS**

Nominator	Candidate	Formal Nomination Date	IRC Determination and Date
Governor	Michael Cardozo	July 18, 2022	Approved, August 17, 2022
Governor	Frederick Davie	July 18, 2022	Approved, August 17, 2022
Comptroller	Nancy Groenwegen	July 25, 2022	Approved, August 19, 2022
Attorney General	Emily Jane Goodman	August 2, 2022	Denied, September 1, 2022 (Majority Consensus Not Reached)

Nominator	Candidate	Formal Nomination Date	IRC Determination and Date
Senate Majority Leader	Seymour James	August 5, 2022	Approved, August 31, 2022
Senate Majority Leader	Claudia Edwards	August 24, 2022	Approved, August 31, 2022
Senate Minority Leader	Gary Lavine	August 2, 2022	Denied, September 1, 2022
Assembly Speaker	Robert Torres	August 1, 2022	Denied, August 31, 2022 (Majority Consensus Not Reached)
Assembly Speaker	Leonard Austin	August 5, 2022	Approved, August 31, 2022
Assembly Minority Leader	Edward Carni	August 1, 2022	Approved, August 31, 2022
Governor	Kaylin Whittingham	December 7, 2022	Approved, December 16, 2022
Assembly Speaker	Dolly Caraballo	December 8, 2022	Approved, December 16, 2022
Attorney General	Ava Ayers	February 7, 2023	Approved, February 14, 2023

OBSERVATIONS AND RECOMMENDATIONS CONCERNING IRC OPERATIONS AND PROCEDURES

This section provides a summary of observations on how well the IRC’s operations and procedures worked.

- Prior to their designation as IRC members, the deans enjoyed a collegial working relationship which benefited the IRC process. The IRC members were fully engaged in the development of procedures and the nominee review process. Except when recused, all members participated on interview panels, in reviewing and discussing nominees with the full IRC, and voting on the nominees. Robust dialogue was encouraged at all times, and it was not unusual for there to be disagreement among the deans on the way to reaching a final decision. No dean ever delegated their responsibilities to an associate dean acting as an alternate representative as permitted by law.

- The Act provided enough clarity and flexibility to ensure the IRC could develop and implement thoughtful and rigorous procedures that both shaped the candidate selection processes of nominating/appointing elected officials and allowed for public participation in the review process.
- The IRC members were able to effectively avoid conflicts of interest or the appearance of them with their protocol for recusals.
- No nominating/appointing elected official or their staff member attempted to influence the IRC's process or communicate with the IRC or an IRC member in a manner other than that which was prescribed by the IRC's procedures.
- In general, almost all nominating/appointing elected officials meticulously followed the IRC's procedures. To the extent any procedure was not precisely followed, the nominating elected official was asked to take corrective action to conform to the procedures, which they did.
- The IRC's relationship with OGS was strong and the IRC was pleased with the professionalism and efficiency with which OGS undertook its role in conducting background investigations. The IRC did not receive any negative feedback about OGS from any of the nominating/appointing elected officials or candidates under review.
- The time frame set out in the IRC's procedure for the background investigation process to take place, end-to-end, was reasonable and provided adequate time for the nominee to complete and submit forms within 10 days, and for OGS and the State Police in nearly all cases to complete a background investigation within 21 days.
- The seven-day public comment period was helpful in allowing the public to offer thoughtful comments and perspectives on the nominees. Because the backgrounding, nomination, and review process was on an accelerated timetable, future pre-nomination processes would be benefitted by extending the comment period to 15 business days, to ensure fully that all elected officials could engage in a broad level of public outreach. This would allow for additional time for the public and the good government groups to comment. The IRC will amend its procedures to reflect this recommendation.
- The 30-day period for the IRC to review a nominee after formal nomination was adequate for the IRC to complete its work and make a final determination on each candidate.

FREEDOM OF INFORMATION LAW AND PUBLIC COMMUNICATIONS

The IRC designated Matthew Gewolb, Senior Associate Dean for Academic Affairs and Institutional Strategy at New York Law School, as Records Access Officer in order to respond to any potential Freedom of Information Law (FOIL) requests. Associate Dean Gewolb serves as Dean Crowell's alternate representative to the IRC, as provided for by the Act.

The IRC received and responded to eight FOIL requests since its inception from three individuals and disclosed all documents requested that were not otherwise exempt from disclosure by law. The IRC receives FOIL requests and other communications from the public at info@irc.ny.gov.

IRC PRESS RELEASES

- [Independent Review Committee of New York's Law Deans Issues Procedures To Review Nominations to the New Commission on Ethics and Lobbying in Government](#), June 15, 2022.
- [Independent Review Committee of New York's 15 Law Deans Confirms Two Nominations to the Commission on Ethics and Lobbying in Government](#), December 20, 2022.
- [Independent Review Committee of New York's Law Deans Confirms Nomination to the Commission on Ethics and Lobbying in Government](#), February 15, 2023.

IRC PRESS AND MEDIA COVERAGE

- Brendan J. Lyons, "[Law school deans unveil New York's new ethics system](#)," Times Union, June 15, 2022.
- Christine Charnosky, "[Independent Review Committee, Comprising 15 NY Law Deans, Explains How It Will Review Ethics Commission Nominations](#)," New York Law Journal, June 15, 2022.
- Nick Reisman, "[New York law school deans outline selection process for new ethics panel](#)," New York State of Politics, June 16, 2022.
- David Lombardo, "[Vetting New York's new government watchdog](#)," The Capitol Pressroom, June 22, 2022.
- "[Watchdogs Welcome Law School Deans' Vetting Procedures for Ethics Commission](#)," Reinvent Albany, June 22, 2022.
- Rebecca C. Lewis, "[New York's new ethics agency is still taking shape](#)," City & State, July 13, 2022.

- [“New York Now,”](#) PBS, July 15, 2022.
- Chris Bragg, [“Secrecy at issue for new ethics panel,”](#) Times Union, July 26, 2022.
- Ethan Geringer-Sameth, [“New York’s New State Government Ethics and Lobbying Oversight Body Takes Shape,”](#) Gotham Gazette, August 15, 2022.
- Amal Tlaige, [“NY Ethics Commission replacing JCOPE makes progress,”](#) News10, August 16, 2022.
- Chris Bragg, [“Panel rejects 3 of the 10 nominees to New York’s new ethics body,”](#) Times Union, September 2, 2022.
- Carl Campanile and Zach Williams, [“Law school deans reject AG Letitia James’ pick for ethics watchdog agency,”](#) New York Post, September 2, 2022.
- Editorial, [“Vetting the ethics cops: A panel does its job, rejecting three nominees to a vital new state commission,”](#) New York Daily News, September 5, 2022.
- Chris Bragg, [“Lawsuit seeks to strike key plank of NY ethics law,”](#) Times Union, September 26, 2022.
- Nick Reisman, [“Heastie makes new appointment to ethics panel,”](#) Spectrum News 1, September 26, 2022.
- Nick Reisman, [“Watchdog groups seek ‘reset’ with new ethics commission,”](#) Spectrum News 1, September 26, 2022.
- Amal Tlaige, [“New ethics commission faces lawsuit & criticism,”](#) News10, September 26, 2022.
- Ryan Whalen, [“Lawsuit challenges committee’s confirmation power to New York’s new ethics commission,”](#) Spectrum News 1, October 3, 2022.
- Editorial, [“Unethical Secrecy,”](#) Times Union, October 7, 2022.
- Chris Bragg, [“New ethics commissioner attended assemblyman’s campaign fundraiser,”](#) Times Union, October 24, 2022.
- Chris Bragg, [“Ethics chair: Commissioner’s fundraiser attendance ‘a slight lapse in judgment,’”](#) Times Union, October 26, 2022.

- Editorial, “[New watchdog, old tricks: An official at the state’s reinvented state ethics commission makes a big mistake](#),” New York Daily News (via Yahoo Finance), October 26, 2022.
- Editorial, “[Another ethics flub](#),” Times Union, October 31, 2022.
- Nick Reisman, “[Ethics groups want New York’s new lobbying watchdog fully appointed](#),” Spectrum News 1, November 22, 2022.
- Nick Reisman, “[Hochul makes final nominee to New York’s new ethics panel](#),” Spectrum News 1, November 23, 2022.
- Dan Janison, “[An ethical apology](#),” Newsday, November 29, 2022.
- Brian Lee, “[Two Lawyers Elevated to New York’s Ethics Watchdog Panel](#),” New York Law Journal, December 20, 2022.
- Capitol Bureau, “[Attorney general taps Albany Law prof for state ethics post](#),” Times Union , January 23, 2023.
- Brian Lee, “[NY Attorney General Picks Albany Law School Professor to Serve on Ethics Watchdog](#),” New York Law Journal, January 23, 2023.
- Nick Reisman, “[New York attorney general makes ethics panel nomination](#),” Spectrum News 1, January 23, 2023.

CONCLUSION

The IRC looks forward to its continuing role in this vital review and appointments process. Any questions about this summary of activities should be directed to the IRC at info@irc.ny.gov.