

Category: **PERSONNEL**

Issued: 6/26/12

Number: **C-120**

Subject: **DISCLOSURE OF FINANCIAL INTERESTS REPORTS**

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## **SUMMARY OF CHANGES**

This regulation governs the Department of Education's Financial Disclosure requirements and supersedes Chancellor's Regulation C-120 dated April 27, 2009.

### Changes:

- Updates list of who must file financial disclosure forms. (p. 1, § I.A)
- The provision regarding applications for community education council and citywide council nominees was deleted.
- The provisions requiring Citywide council members to file annual financial disclosure have been deleted. (p. 2, § II.D; p. 2, § III.C; p. 4, § IV.C)
- Clarifies the financial disclosure requirements for Superintendents. (p. 1, § I.F; p. 2, § II.D; pp. 2-3, § III.C, D; p. 4, § IV.C, D)
- All references to OFEA have been changed to FACE.

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## **ABSTRACT**

This regulation governs the Department of Education's Financial Disclosure requirements. This regulation supersedes Chancellor's Regulation C-120 dated April 27, 2009.

### **I. APPLICABILITY OF REGULATION – WHO MUST FILE**

- A. Each individual who is serving in one of the titles or positions listed below must file an annual Electronic Financial Disclosure Report which consists of a combined Conflicts of Interest Board Report, an Executive Order 91 Disclosure Report, and a DOE Disclosure Report using the electronic filing application prescribed for this purpose by the Conflicts of Interest Board:
- Members of the Management Pay Plan and employees whose duties at any time during the preceding calendar year involved the negotiation, authorization or approval of contracts, leases, franchises, concessions, and applications for variances and special permits. The foregoing does not apply to persons represented by union contracts.
  - Attorneys employed in the Commercial Unit of the Office of Legal Services
  - Investigators and attorneys, Office of Special Investigations
  - Confidential Investigators
- B. Any individual serving in any title or position listed in Paragraph (A) above on April 30<sup>th</sup> of a given year must file the Electronic Financial Disclosure Report even if the officer or employee was not employed by the Department of Education during the previous year.
- C. Any individual who, on April 30<sup>th</sup> of a given year, is not serving in a title or position listed in Paragraph (A) above is not required to file the Electronic Financial Disclosure Report, even if the individual served in a title listed in Paragraph (A) during all or some of the previous year. This exemption does not apply to individuals whose duties during any part of the previous year involved the negotiation, authorization, or approval of contracts, leases, franchises, revocable consents, concessions, and applications for variances, and special permits.
- D. Pursuant to New York State Education Law, each individual who is serving as a Member of the Panel for Educational Policy must file a Disclosure Report of Relatives Employed, Sources of Income and Reimbursement of Expenses or Gifts annually.
- E. Community Education Council members must file a Community Education Council Financial Disclosure Form annually, as required by New York State Education Law.
- F. Community Superintendents must file a financial disclosure form annually, as required by the New York State Education Law. This requirement is met by filing an annual Electronic Financial Disclosure Report, as described in Section I.A of this regulation, and pursuant to Section 12-110(b)(3) of the New York City Administrative Code.

### **II. WHEN TO FILE**

- A. Present officers and employees who are required to file the Electronic Financial Disclosure Report must do so no later than May 1<sup>st</sup> of each year (or the following Monday, if May 1<sup>st</sup> falls on a weekend) following the calendar year reported. Such officers and

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employees may request an extension of time to file a disclosure report on the ground of justifiable cause or undue hardship in accordance with the rules of the Conflicts of Interest Board. Such written requests must be submitted to the Conflicts of Interest Board on or before April 15<sup>th</sup> of the filing year for a report due May 1<sup>st</sup>. A request for an extension of time does not automatically extend the time to file.

- B. Former officers and employees shall file an Electronic Financial Disclosure Report covering the period for that portion of the final calendar year in which they serve. This disclosure report must be filed within 60 days of separation from service or May 1<sup>st</sup> of the year they have left service, whichever is earlier. Former officers and employees who separate from service on or by May 1<sup>st</sup> shall file an Electronic Financial Disclosure Report covering the period from January 1<sup>st</sup> of the prior calendar year through the date of the employee's separation from service.
- C. Failure to file a complete and accurate Electronic Financial Disclosure Report by the dates specified shall constitute grounds for disciplinary action, which may include dismissal from service of the Department of Education. Present full-time officers and employees who file later than May 8<sup>th</sup> of each year must pay a fine pursuant to Section 12-110 (g)(1) of the Administrative Code, payable to the NYC Conflicts of Interest Board, except in documented cases of illness or undue hardship. Officers and employees who are found to have intentionally violated New York City Administrative Code §12-110, by failing to file an Electronic Financial Disclosure Report or by failing to pay a late fine, may be assessed a civil penalty of up to \$10,000. Failure to file a report is also a misdemeanor. Officers and employees who are newly appointed after April 1<sup>st</sup> to a title requiring them to file the reports will not be fined if they file after May 1<sup>st</sup> but before or on the filing date indicated by the Conflicts of Interest of Board.
- D. The Community Education Council Financial Disclosure Form for Members of Community Education Councils must be filed annually. Pursuant to New York State Education Law, a Council Member who is re-elected to office may not commence a new term of service until he or she has filed all required annual reports for the years served as a Council Member.

### III. **SUBMISSION OF REPORTS – WHERE TO FILE**

- A. All individuals required to file an Electronic Financial Disclosure Report must file the form with the Conflicts of Interest Board of the City of New York in the manner indicated in the instructions received with the reports. These instructions may change annually based upon the procedures of the Conflicts of Interest Board.

It is the responsibility of the reporting individual to ensure that his or her reports are completed and submitted in a timely manner.

- B. Each individual who is serving as a Member of the Panel for Educational Policy must file his or her annual Disclosure Report of Relatives Employed, Sources of Income and Reimbursement of Expenses or Gifts with the DOE's Ethics Officer.

It is the responsibility of the reporting individual to ensure that his or her report is completed and submitted in a timely manner.

- C. Members of Community Education Councils must submit their annual Community Education Council Financial Disclosure Form to the Community Education Council in their community school district and also to the Division of Family and Community Engagement. It is the responsibility of the reporting individual to ensure that his or her report is completed and submitted in a timely manner.

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- D. Community Superintendents must electronically file their annual Electronic Financial Disclosure Report with the New York City Conflicts of Interest Board. It is the responsibility of the reporting individual to ensure that his or her report is completed and submitted in a timely manner.

#### **IV. CONFIDENTIALITY: WHO WILL SEE THE REPORTS**

##### A. The Electronic Financial Disclosure Reports

1. Electronic Financial Disclosure Reports are for use by the Chancellor, the General Counsel to the Chancellor, and/or the DOE's Ethics Officer, and/or the Office of Special Investigations, and/or the Office of the Special Commissioner of Investigation for the City School District of the City of New York, and/or the New York City Conflicts of Interest Board, and such personnel of those offices as the Chancellor, the General Counsel to the Chancellor, the DOE's Ethics Officer, and the Director of the Office of Special Investigations, and Special Commissioner of Investigation for the City School District of the City of New York designate. Information denoted as "public" on the Electronic Financial Disclosure Report is available for public inspection upon request. Information denoted as "private" will be held confidential in accordance with the provisions of Section 12-110 of the New York City Administrative Code and the procedures of the Conflicts of Interest Board and will be released only: (a) to one of the above individuals/offices/agencies or (b) to a law enforcement agency or (c) pursuant to court order or subpoena. In the event that a request for a copy of the public portion of such a report or any information on such a report is received by the Conflicts of Interest Board, the Conflicts of Interest Board will notify the reporting employee or officer of the request and the identity of the requester at the time the report is made available to the requester. The sole exceptions to this rule will be when a court order forbids informing the individual of the impending disclosure or when the report is requested by a law enforcement agency.
2. Officers or employees may request that any item contained in their Electronic Financial Disclosure Report be excluded from public inspection on the ground that disclosure would constitute an unwarranted invasion of personal privacy. To assert such a privacy claim, the officer or employee must complete the Privacy Form in his or her Electronic Financial Disclosure Report, affirming that each particular item for which a privacy claim is asserted concerns information of a personal nature and unrelated to his or her Department of Education or New York City office or employment and does not involve a conflict of interest. Claims of privacy may be requested at any time except when public inspection of the Electronic Financial Disclosure Report has been requested. An officer or employee wishing to assert a privacy request after he or she has filed his or her Electronic Financial Disclosure Report must contact the Conflicts of Interest Board directly by telephone (212-442-1400) or email (efiling@coib.nyc.gov).

If a privacy request is denied by the Conflicts of Interest Board, the officer or employee has ten (10) days to appeal such determination to State Supreme Court. The Conflicts of Interest Board shall notify the officer or employee of the decision to release or not to release the information and if the decision is to release the information, the officer or employee will be notified of the date after which such information will be provided, but such date shall not be less than ten (10) days from the date of such notification.

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In determining whether a privacy claim will be upheld, the Conflicts of Interest Board must consider whether the information is of a highly personal nature, whether the information in any way relates to the filer's official duties, whether the disclosure poses a risk to the security or safety of any person, and whether the information involves an actual or potential conflict of interest. It has been the policy of the Board to grant privacy requests only when the safety or security of the filer, his or her family members, or some other person is at stake.

3. In the event that an officer or employee has obtained a final ruling on a claim of privacy, that ruling shall govern all future claims for the information that was the subject of the privacy claim as long as the information reported remains the same. This shall not affect the requirement to notify the officer or employee of requests for information.
  4. Information regarding the financial interests of the spouse or an unemancipated child of a person filing in which the filer has no financial interest is, by law, required to be withheld from public inspection as an unwarranted invasion of privacy unless the Conflicts of Interest Board determines that the information involves an actual or potential conflict of interest on the part of the person filing. If an item is determined to be disclosable, the process of appeal set forth in Paragraph 2 above, is applicable.
- B. Pursuant to State Education Law, Disclosure Report of Relatives Employed, Sources of Income and Reimbursement of Expenses or Gifts filed by Members of the Panel for Educational Policy are available for public inspection upon request to the DOE's Ethics Officer.
- C. Pursuant to State Education Law, Community Education Council Financial Disclosure Forms are available for public inspection upon request to the DOE's Division of Family and Community Engagement.
- D. Pursuant to Section 12-110 of the New York City Administrative Code, information denoted as public on the Community Superintendents' Electronic Financial Disclosure Forms is available for public inspection upon request, as described in Section IV (A) of this regulation.

**V. INQUIRIES**

Inquiries pertaining to this regulation should be addressed to:

<u>Telephone:</u> 212-374-3438	<i>Ethics Officer</i> <i>Office of Ethics and Conflicts of Interest</i> N.Y.C. Department of Education 52 Chambers Street - Room 308 New York, NY 10007	<u>Fax:</u> 212-374-5596
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