Ethics - MIA For 2020

There is very little on Governor Cuomo ethics agenda this year, most notably legislation mandating some public officials publish their tax returns. This stands in contrast to previous years when he called for reforms to address the perennial corruption in New York politics, only a few of which have been accomplished. Lawmakers can and should take up the challenge this year. The job is far from done.

Campaign Finance
After a year of controversy, the state’s Campaign Finance Reform Commission released its proposal on November 25, 2019. The League along with many others was disappointed in it but it become law when the legislature failed to return last year to modify all or part of it. It left out two key reforms in particular: reducing contributions to political parties and reducing contributions from people doing business with the state. Lawmakers can and should address these reforms this legislative session. Governor Cuomo has called in the past for both to be addressed.

Contribution limits are reduced from the current sky-high limits but are still far too high. Most disappointingly, the Campaign Finance Reform Commission reforms did not address party committee contribution limits ($117,300 from an individual or union), party “housekeeping” contributions or contain any additional restrictions on contributions from individuals or unions doing business with the state, i.e. “pay to play.” Contributions to parties can be passed along directly to candidates circumventing the lowering of individual contribution limits. The League believes that Limits should be significantly lower, closer to the maximum contribution for federal office of $2,700 and most importantly party contributions and contributions by those doing business with the state should be curtailed.

Changes to the public financing system could also be done at any point before the new system becomes effective. The public funding portion of the proposal is not slated to be effective until the 2024 election for legislative races and the 2026 election for statewide races. It is likely that there will be legal challenges to any and all of the proposal.

Enforcement
The most critical ethics issue facing the state is ineffective enforcement. The League believes that the Joint Commission on Public Ethics and the Legislative Ethics Commission (“LEC”) need to be replaced with one effective and independent ethics enforcement agency. They have not served well in their purpose of being a deterrent to corruption. Top state legislative leaders have been convicted of corruption as have top state employees entrusted by the Governor with great responsibilities. Too many other legislators have been convicted of corruption or pleaded guilty. JCOPE and the LEC have failed to deter corruption because they were designed to fail.

JCOPE Structure- It has become obvious since the creation of JCOPE in 2011 that executive and legislative branch employees should be subject to the jurisdiction of one agency, not two. Since its formation, it has played no role in the corruption scandals that have rocked Albany.
JCPOPE and LEC Independence-They lack needed independence and protection from political control. All their members are appointed by the officials they regulate and four members of the LEC are legislators.

Voting procedures-As few as two of the Governor’s appointees and three of the legislative leaders’ JCOPE appointees can veto an investigation or adverse finding. Even after a finding of probable cause, hearings are secret. Appointing authorities are free to tell their appointees how to vote. Executive Directors can be and often are top aides to the Governor. The Chair serves at the pleasure of the Governor.

Under the Anti-Corruption Constitutional Amendment, S.594, a minority of the members of a new enforcement body will be appointed by the Governor and the legislative leaders, a majority will be appointed by the judiciary, and a new structure and voting procedures addresses a number of these issues of independence. This approach is currently being discussed with legislative leaders by a coalition, including the League, pushing for effective and independent enforcement.

**Outside Income**
A limit on legislators’ outside income imposed by a different Commission has been struck down in the courts. It is up to the legislature and the Governor to accomplish the same thing through legislation and thereby limit conflicts of interest and possibilities of corruption.