

Oath of Office

I. Article XIII Section 1 of the New York State Constitution and the Public Officer Law require public officers to take and file an Oath of Office.

II. Public Officers Law Section 10 requires every public office to take and file an Oath of Office before he/she performs any official duty.

III. Public Officers Law Section 2 defines a public officer who is a state officer as "... every officer appointed by one or more state officers, or the legislature..."

IV. Public Officers Law Section 30 provides that the office of a public officer become vacant when the public officer refuses or neglects to take and file his or her Oath of Office within 30 days of appointment.

10/28/2019

Oath/Affirmation of State Employees and Public Officers, NYS Dept. of State

**DEPARTMENT OF STATE. DIVISION OF CORPORATIONS, STATE RECORDS &UCC
ANDREW M. CUOMO, GOVERNOR ROSSANA ROSADO, SECRETARY OF
STATE**

Oath/ Affirmation of State Employees and Public Officers

Public Officers and State Employees

The New York State Constitution and Public Officers Law require public officers, including elected officials, to take and file an oath of office. Public officers who are State officers will also need to file a related certification pursuant to the Public Officers Law.

The Civil Service Law requires employees of the State to take and file an oath of office or an alternative statement.

State employees are also required to file a related certification pursuant to the Public Officers Law. The requirements for public officers and State employees are described below. In order to assist filers, the Department of State has prepared forms for use by public officers and State employees.

Public Officers

Oath of Office

Members of the State Legislature and all public officers, executive and judicial, are required to take and sign the oath provided by Article XIII, Section 1 of the New York State Constitution before they commence the duties of their office.

Public Officers Law Section 10 also requires every public officer to take and file the oath required by law before he or she performs any official duties. This section also governs the procedures for administering oaths of office and specifies the public office in which such oaths must be filed.

A public officer, who is a "state officer," as defined in Public Officers Law Section 2, must file his or her oath with the New York Secretary of State. State officers include the Governor, Lieutenant Governor, Attorney General, State Comptroller, members of the Legislature, justices of the Supreme Court, Regents of the University, and officers appointed by a State officer or the Legislature,

A public officer, who is a "local officer," as defined in Public Officers Law Section 2, must file his or her oath in the office specified by Public Officers Law Section 10.

An oath of office for an elective office must be taken and filed before or within thirty days after the commencement of the term of office.

An oath of office for an appointive office must be taken and filed within thirty days after notice of his or her appointment or within thirty days after the commencement of his or her term of office. Public Officers Law Section 30 also provides special provisions for oaths of public officers who are on active duty in the armed forces at the time of his or her election or appointment.

Public Officers Law Section 30 provides that the office of a public officer becomes vacant when the public officer refuses or neglects to take and file his or her oath of office within the time required by law. Therefore it is of particular importance that public officers take and file their oath of office within the time permitted by law.

Public Officers Law S 78 Certification

All members and officers of the State Legislature and all officers of State agencies must sign and file a certificate pursuant to Public Officers Law Section 78. The certificate must include an acknowledgment that he or she has received a copy of certain provisions of the Public Officers Law and that he or she has read and agrees to conform to such provisions and the norms of conduct for members, officers and employees of the State Legislature and state agencies. The certificate must be filed on or before the tenth day after any member, officer or employee commences the performance of his/her duties.

Certificates of members and officers of the Senate must be filed with the Secretary of the Senate. Certificates of members and officers of the Assembly must be filed with the Clerk of the Assembly. Please note that the oath of

<https://www.dos.ny.gov/corpsloath.html>

| The Laws Of New York (/LEGISLATION/LAWS/ALL) / Consolidated Laws (LEGISLATION/LAWS/CONSOLIDATED). / Public Officers (/LEGISLATION/LAWS/PBO) / Article 2: Appointment And Qualification Of Public Officers (/LEGISLATION/LAWS/PBO/A2) /

PREV SECTION 9 Deputies, Their Appointment, Number And Duties (/Legislation/Laws/PBO/97).

SECTION AT

Official Undertakings. (/Legislation/Laws/PBO/11/).

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Section 10 Official oaths Public Officers (PBO)

Every officer shall take and file the oath of office required by law, and every judicial officer of the unified court system, in addition, shall file a copy of said oath in the office of court administration, before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by a judge of the court of appeals, the attorney general, or by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed or by his duly designated assistant, or may be administered to any member of a body of officers, by a presiding officer or clerk, thereof, who shall have taken an oath of office. An oath of office may be administered to any state or local officer who is a member of the armed forces of the United States by any commissioned officer, in active service, of the armed forces of the United States. In addition to the requirements of any other law, the certificate of the officer in the armed forces administering the oath of office under this section shall state (a) the rank of the officer administering the oath, and (b) that the person taking the oath *was* at the time, enlisted, inducted, ordered or commissioned in or serving with, attached to or accompanying the armed forces of the United States. The fact that the officer administering the oath was at the time duly

commissioned and in active service with the armed forces, shall be certified by the secretary of the army, secretary of the air force or by the secretary of the navy, as the case may be, of the United States, or by a person designated by him to make such certifications, but the place where such oath was administered need not be disclosed. The oath of office of a notary public or commissioner of deeds shall be filed in the office

of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, including a school district, with the clerk thereof; and of every other officer, including the trustees and officers of a public library and the officers of boards of cooperative educational services, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof.

PREV SECTION 9 Deputies, Their Appointment, Number And Duties
(/Legislation/Laws/PBO/9/).

NEXT

SECTION 11 Official Undertakings (/Legislation/Laws/PBO/11/).

§ 2. Definitions, NY PUB OFF § 2
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McKinney's Consolidated Laws of New York Annotated
Public Officers Law (Refs & Annos)
Chapter 47. Of the Consolidated Laws
Article 1. Short Title; Definitions

McKinney's Public Officers Law & 2

§ 2. Definitions

Currentness

The term "state officer" includes every officer for whom all the electors of the state are entitled to vote, members of the legislature, justices of the supreme court, regents of the university, and every officer, appointed by one or more state officers, or by the legislature, and authorized to exercise his official functions throughout the entire state, or without limitation to any political subdivision of the state, except United States senators, members of congress, and electors for president and vice president of the United States. The term "local officer" includes every other officer who is elected by the electors of a portion only of the state, every officer of a political subdivision or municipal corporation of the state, and every officer limited in the execution of his official functions to a portion only of the state. The office of a state officer is a state office. The office of a local officer is a local office.

Credits (L.1909, c. 51.)

Notes of Decisions (89)

McKinney's Public Officers Law § 2, NY PUB OFF § 2

Current through L.2019, chapter 374. Some statute sections may be more current, see credits for details.

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§ 30. Creation of vacancies, NY PUB OFF § 30

KeyCite Yellow Flag - Negative Treatment Proposed Legislation

McKinney's Consolidated Laws of New York Annotated

Public Officers Law (Refs & Annos)

Chapter 47. Of the Consolidated Laws

Article 3. Creation and Filling of Vacancies (Refs & Annos)

McKinney's Public Officers Law § 30

§30. Creation of vacancies

Effective: December 28, 2018

Currentness

1. Every office shall be vacant upon the happening of one of the following events before the expiration of the term thereof:

a. The death of the incumbent;

b. His resignation;

c. His removal from office;

d. His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision, or municipal corporation of which he is required to be a resident when chosen;

e. His conviction of a felony, or a crime involving a violation of his oath of office, provided, however, that a non-elected official may apply for reinstatement to the appointing authority upon reversal or the vacating of such conviction where the conviction is the sole basis for the vacancy. After receipt of such application, the appointing authority shall afford such applicant a hearing to determine whether reinstatement is warranted. The record of the hearing shall include the final judgment of the court which reversed or vacated such conviction and may also include the entire employment history of the applicant and any other submissions which may form the basis of the grant or denial of reinstatement notwithstanding the reversal or vacating of such conviction. Notwithstanding any law to the contrary, after review of such record, the appointing authority may, in its discretion, reappoint such non-elected official to his former office, or a similar office if his former office is no longer available. In the event of such reinstatement, the appointing authority may, in its discretion, award salary or compensation in full or in part for the period from the date such office became vacant to the date of reinstatement or any part thereof;

f. The entry of a judgment or order of a court of competent jurisdiction declaring him to be incompetent;

g. The judgment of a court, declaring void his election or appointment, or that his office is forfeited or vacant;

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h. His refusal or neglect to file his official oath or undertaking, if one is required, before or within thirty days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within thirty days after notice of his appointment, or within thirty days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within thirty days after notice to him in pursuance of law, that such renewal undertaking is required. The neglect or failure of any state or local officer to execute and file his oath of office and official undertaking within the time limited therefor by law, shall not create a vacancy in the office if such officer was on

med forces of the United States and absent from the county of his residence at the time of his election or appointment, and shall take his oath of office and execute his official undertaking within thirty days after receipt of notice of his election or appointment, and provided such oath of office and official undertaking be filed within ninety days following the date it has been taken and subscribed, any inconsistent provision of law, general, special, or local to the contrary, notwithstanding.

2. When a new or an additional office shall be created, such office shall for the purposes of an appointment or election, be vacant from the date of its creation, until it shall be filled by election or appointment.

3. When any member of a board, commission, committee or authority, holding office by appointment of the governor, fails to attend three consecutive regular meetings of such board, commission, committee or authority, unless such absence is for good cause and is excused by the chairman or other presiding officer thereof, or, in the case of such chairman or other presiding officer, by the governor, the office may be deemed vacant for purposes of the nomination and appointment of a successor.

4. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a person who is a member of the police force of any political subdivision or municipal corporation of the state and who while a member of such force resides (a) in the county in which such political subdivision or municipal corporation is located; or (b) in a county within the state contiguous to the county in which such political subdivision or municipal corporation is located; or (c) in a county within the state contiguous to such political subdivision or municipal corporation; or (d) in a county within the state contiguous to a county described in item (c) hereof where the former is less than fifteen miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines; or (e) in a county within the state contiguous to a county described in item (d) hereof where the former is less than thirty miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines:

(1) If such person was appointed as a member of such police force prior to July first, nineteen hundred sixty-one, shall reside in any such county on such date and shall continue to reside in any such county after such date, or

(2) If the police force of which he is a member consists of two hundred or more full-time members or shall have consisted of two hundred or more full-time members when, as a member of such police force, he shall have resided in such county and shall continue to reside in any such county thereafter, or

(3) If the police force of which he is a member consists of less than two hundred full-time members; provided, however, that the local legislative body of such political subdivision or municipal corporation having such police force shall have power to adopt and amend local laws, ordinances or resolutions of general application requiring members of such police force, other than those members covered by paragraph one or paragraph two of this subdivision, to reside in such political subdivision or municipal corporation, or permitting them to reside in specified areas of such counties or within specified distances from the

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political subdivision or municipal corporation provided such local legislative body shall determine that a police officer may respond therefrom promptly and be available to render active service in such political subdivision or municipal corporation.

4-a. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a member of the department of sanitation of any municipality who resides in a county within the state contiguous to such municipality.

4-6. Except as otherwise provided in subdivision five of this section, neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation of the state if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation shall apply to the appointment or continuance in office or position of an officer or member of a paid fire department in any political subdivision or municipal corporation of the state, if such person resides in the county, or one of the counties, in which such political subdivision or municipal corporation is located.

5. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a paid member of the uniformed force of a paid fire department, who, for purposes of this section shall include persons employed as fire alarm dispatchers, or in the case of a

person employed in a department of correction in the correction service of the classified civil service, or in the case of a member of the department of sanitation of any political subdivision or municipal corporation who has five or more years of service, or in the case of officers and inspectors employed in a department of health of a city of over one million population, or in the case of a member of the department of sanitation in a city with a population of one million or more who has two or more years of service to such city who resides (a) in the county in which said city is located; or (b) in a county within the state contiguous to the county in which said city is located; or (c) in a county within the state contiguous to such city; or (d) in a county within the state which is not more than fifteen miles from said city; or (e) in a county within the state contiguous to a county described in item (d) hereof where the former is less than thirty miles from such political subdivision or municipal corporation, measured from their respective nearest boundary lines.

5-a. Any person who resides in this state and who is currently employed as a member of the police force, a paid member of the uniformed force of a paid fire department, or department of corrections in the correctional service classification of the classified civil service, of a city of over one million population, shall be exempt from the provisions of paragraph (d) of subdivision one and subdivisions four and five of this section upon compliance with the procedure set forth in this subdivision. Any person seeking to benefit from the exemption created by this subdivision shall notify his respective employer in writing of said intention within thirty days from the effective date of this subdivision and shall specify his then current residence address. The exemption created by this subdivision shall be applicable only to said actual designated residence and not to any residence that any subject currently employed member may thereafter establish; provided, however, that any such currently employed member who resides outside this state shall have one year from the effective date of this subdivision within which to establish residence as required pursuant to paragraph (d) of subdivision one, and subdivisions four and five of this section and comply with the notice requirements of this subdivision. Said residence shall constitute a lawful residence for all purposes notwithstanding any provision to the contrary of any general, special or local law, charter, code, ordinance, resolution, rule or regulation.

6. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation if the incumbent thereof ceases

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to be a resident of such political subdivision or municipal corporation, shall apply in the case of appointed public officers in the city of Troy, except the city manager of such city, who reside in the county of Rensselaer.

7. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation of the state if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of the city court judge in the city of Hudson, provided that such person resides in the county in which such city is located.

8. Neither the provisions of this section, nor of any general, special or local law, charter, code, ordinance, resolution, rule or regulation, creating a vacancy in a local office of a political subdivision or municipal corporation of the state if the incumbent thereof ceases to be a resident of such political subdivision or municipal corporation, shall apply in the case of a person holding the office of deputy sheriff in the county of Nassau, provided that such person resides in Nassau county or any adjoining county within New York state.

Credits (L.1909, c. 51. Amended L.1920, c. 259; L.1944, c. 748, § 1; L.1952, c. 467, § 2; L.1954, c. 209; L.1960, c. 1084; L.1961, c. 895, § 2; L.1961, c. 964, § 2; L.1962, c. 173; L.1962, c. 248, § 2; L.1962, c. 976, § 2; L.1962, c. 969, § 2; L.1963, c. 375, § 2; L.1965, c. 865, § 2; L.1965, c. 985, § 3; L.1967, c. 560; L.1967, c. 692, § 1; L.1975, c. 347, § 2; L.1976, c. 56, § 2; L.1978, c. 550, § 39; L.1986, c. 509, § 2; L.1987, c. 454; § 1; L.2004, c. 551, § 2, eff. Oct. 5, 2004; L.2006, c. 200, § 2, eff. July 26, 2006, deemed eff. Dec. 20, 2005; L.2006, c. 209, § 2, eff. July 26, 2006; L.2018, c. 220, § 2, eff. Aug. 24, 2018; L.2018, c. 476, § 8, eff. Dec. 28, 2018.)

Notes of Decisions (248)

Footnotes 1 July 22, 1986. McKinney's Public Officers Law & 30, NY PUB OFF § 30
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