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University
Committee to Reform the State Constitution
Common Cause/New York
League of Women Voters of the State of New York
New York Public Interest Research Group
Reinvent Albany
Sexual Harassment Working Group**

NEWS RELEASE

For immediate release:

April 21, 2021

WATCHDOG GROUPS URGE LEGISLATURE TO HOLD OVERSIGHT HEARINGS ON ENFORCEMENT OF STATE ETHICS LAWS

***Groups Say JCOPE has consistently failed to act independently, is little more than an
extension of the state's elected leaders and lacks public credibility***

(Albany, N.Y.) Leading watchdog groups called on New York's legislative leaders to hold hearings on the failures of the state's ethics laws, including obvious structural problems with enforcement, and to assess how New York State can restore public confidence in ethics enforcement.

In a letter to the legislative leaders, the groups wrote "Our groups have long been deeply concerned about the lack of neutrality built into the structures of the Joint Commission on Public Ethics (JCOPE) and the Legislative Ethics Commission (LEC). We believe that JCOPE has consistently failed to act independently and is little more than an extension of the state's elected leaders."

The groups noted that, "Under state law, JCOPE is responsible for ethics enforcement. JCOPE's clear lack of independence and lack of public credibility makes it impossible for the public to have confidence in JCOPE's actions."

The groups stated their belief that JCOPE's staff and commissioners have "by and large worked honorably to do the best they could," they noted the widespread view that JCOPE is ineffective. "Since its creation in 2011, JCOPE has been a punching bag and punchline among state government observers. Instead of being designed as an independent watchdog, it was set up as a political creature to protect the interests of the leaders who appoint the commissioners."

The groups urged the state Senate and Assembly to hold oversight hearing that will lay the groundwork for major changes "in order to best understand JCOPE's (and LEC's) weaknesses, it is important that there be a comprehensive examination of its performance, and of how ethics are enforced in New York. That examination should be conducted in public through a participatory

Civic Groups Urge Legislative Hearings on JCOPE, Page 2

hearing, which should be followed by a discussion of how best to provide New Yorkers with the effective independent ethics oversight they want and deserve.

The groups also called for the creation of a new independent ethics oversight entity.

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April 20, 2021

Majority Leader Stewart-Cousins
State Senate
LOB, Room 907
Albany, NY 12247

Speaker Heastie
State Assembly
LOB, Room 932
Albany, NY 12248

Minority Leader Ortt
State Senate
Capitol Building, Room 315
Albany, NY 12247

Minority Leader Barclay
State Assembly
LOB, Room 933
Albany, NY 12248

Senator Biaggi
Chair, Committee on Ethics and Oversight
State Senate
LOB, Room 905
Albany, NY 12247

Assemblymember Zebrowski
Chair, Committee on Governmental Operations
State Assembly
LOB, Room 625
Albany, NY 12248

Re: Hold hearings into state oversight of ethics laws

Dear Majority Leader Stewart-Cousins, Speaker Heastie, Senate Minority Leader Ortt, Assembly Minority Leader Barclay, Senate Ethics Chair Biaggi, and Assembly Governmental Operations Chair Zebrowski:

We call on you to hold legislative oversight hearings on New York State's systems of ethics oversight and enforcement. Our groups have long been deeply concerned about the lack of neutrality built into the structures of the Joint Commission on Public Ethics (JCOPE) and the Legislative Ethics Commission (LEC). *We believe that JCOPE has consistently failed to act independently and is little more than an extension of the state's elected leaders.*

Under state law, JCOPE is responsible for ethics enforcement. JCOPE's clear lack of independence and lack of public credibility makes it impossible for the public to have confidence in JCOPE's actions. JCOPE's jurisdiction includes investigations into violations of Public Officers Law, yet to have any credibility, the public officers who are subject to such laws should of course not have complete control over the operation of the entity. However, that is exactly who effectively controls JCOPE. JCOPE commissioners, all of whom are appointed by those whose conduct they may

Civic Groups To Legislative Leaders, Page 2

investigate and judge, simply lack the independence to act against their interests when that is what the facts and law requires.

Thus, we believe a legislative oversight hearing is necessary to assess how New York State can restore public confidence in ethics enforcement, including creating a new ethics enforcement body.

Almost since its creation in 2011, JCOPE has been a punching bag and punchline among state government observers. Instead of being designed as an independent watchdog, it was set up as a political creature to protect the interests of the leaders who appoint the commissioners.

JCOPE was not intended to be, and is not, an independent agency.

Certainly, we believe that by and large JCOPE's staff and commissioners have worked honorably to do the best they could. However, as an institution, JCOPE is a complete failure. The Legislative Ethics Commission's (LEC) membership includes legislators – an even more obvious conflict for that entity.

A legislative investigation is called for to separate the ethical wheat from the unethical chaff. From our organizations' perspectives, there is only one conclusion – JCOPE and the LEC must go.

However, in order to best understand JCOPE's (and LEC's) weaknesses, it is important that there be a comprehensive examination of its performance, and of how ethics are enforced in New York. That examination should be conducted in public through a participatory hearing, which should be followed by a discussion of how best to provide New Yorkers with the effective independent ethics oversight they want and deserve.

In the American form of democracy -- one with checks and balances among the branches of government -- the Legislature is entrusted with the responsibility to monitor the performance of the executive branch and to review policy proposals, in addition to approving legislation. In that capacity, you are charged with examining agency and policy failures. In our view, concerns over the agency's ten-year performance are ripe for legislative review.

Therefore, we call on you to immediately convene a joint hearing, which should include sworn testimony from present and former JCOPE Commissioners, and current and former top staffers.

In addition, such hearings should examine the broader concerns about JCOPE (and other agencies charged with protecting the public interest) and ensure that members of the public are encouraged to testify.

New Yorkers deserve an independent ethics watchdog, one with the resources and legal support to take on even a governor without fear or favor. (A recent report by the New York City Bar Association came to this conclusion and can be found [here](#).)

Civic Groups To Legislative Leaders, Page 3

We look forward to discussing this issue with you as well as working with the Legislature to ensure that New York's ethics oversight system is a model for the nation.

Sincerely,

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