For Immediate Release: March 29, 2022

Watchdogs Urge Governor and Legislature to Make History, Defy Cynics, and Create a Truly Independent Ethics Commission in State Budget

Groups Encouraged by Reported Renewed Discussion of Ethics Reforms

Responding to reports of renewed negotiations over state ethics in this year's state budget, leading watchdog groups and legal scholars call on the Governor and State Legislature to create a truly independent commission to replace the failed Joint Commission on Public Ethics (JCOPE). JCOPE is a public embarrassment to the people of New York. JCOPE must be replaced by a new agency, and new agencies are best created and funded in the budget.

Our groups were encouraged by Governor Hochul's executive budget plan to create a new ethics commission that created more space between elected officials and the commissioners enforcing ethics laws. Ultimately neither the Senate nor the Assembly accepted her proposal, or advanced plans of their own in their "one House" budget plans.

We have presented a common-sense proposal to the Governor and Legislature grounded in the real world success of independently appointed bodies in California, Los Angeles, San Francisco and Austin. Instead of elected officials directly appointing commissioners, we suggest that New York's new ethics commission be selected and appointed by a seven-member *Selection Committee* using ranked choice voting. The following state elected leaders will each pick one member of the selection committee:

- Governor
- State Comptroller
- Attorney General
- Senate Majority Leader
- Senate Minority Leader
- Assembly Speaker
- Assembly Minority Leader

The new *Selection Committee* will appoint a new five-member *Ethics Commission*, and will follow explicit guard rails to ensure transparency and integrity.

New Rules Guiding Selection of Ethics Commissioners

- Any member of the public can apply to serve
- Qualifications and criteria for who can serve: experience, education, diversity, etc.
- Disqualifications for who can't serve: lobbyists, electeds, contractors, and big donors
- Term limits for commissioners
- Ranked Choice Voting used to create final list of candidates
- Final list of candidates released 15 days before public vote
- Public report released by Selection Committee after conclusion of vetting process, including data on number and diversity of applicants

A slideshow with infographics of the groups' proposal is available here, which also includes additional recommendations to improve ethics enforcement and public disclosure.

We urge the Governor to veto any two house bill that does not have an appointment process that assures its independence from those whom it regulates. A commission directly appointed by elected officials or without sufficient safeguards would not meet this test.

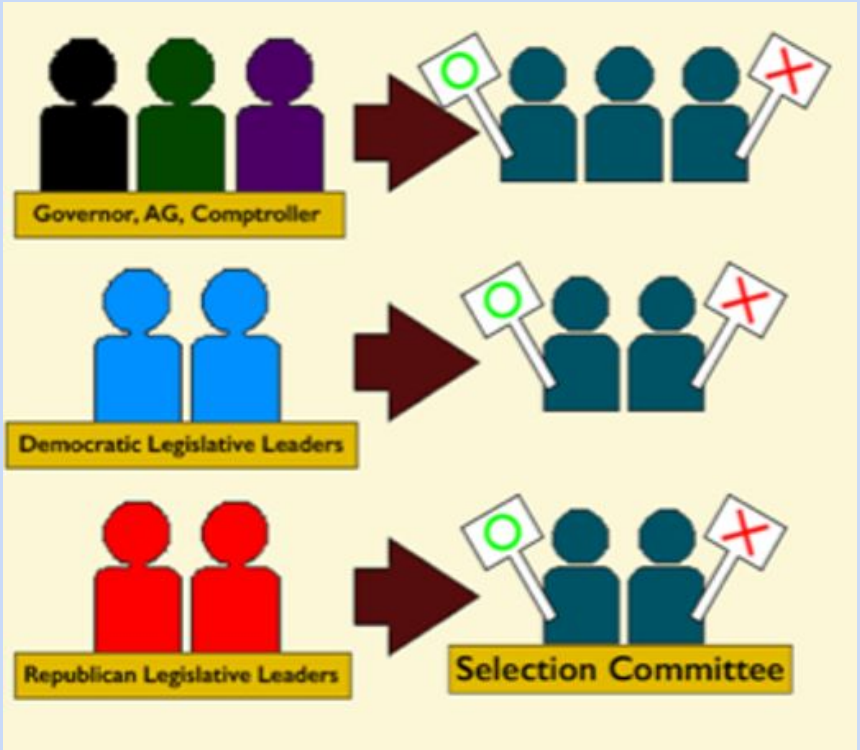
Proposed New State Ethics Commission

Selection Committee = No More Direct Appointments by Elected Officials

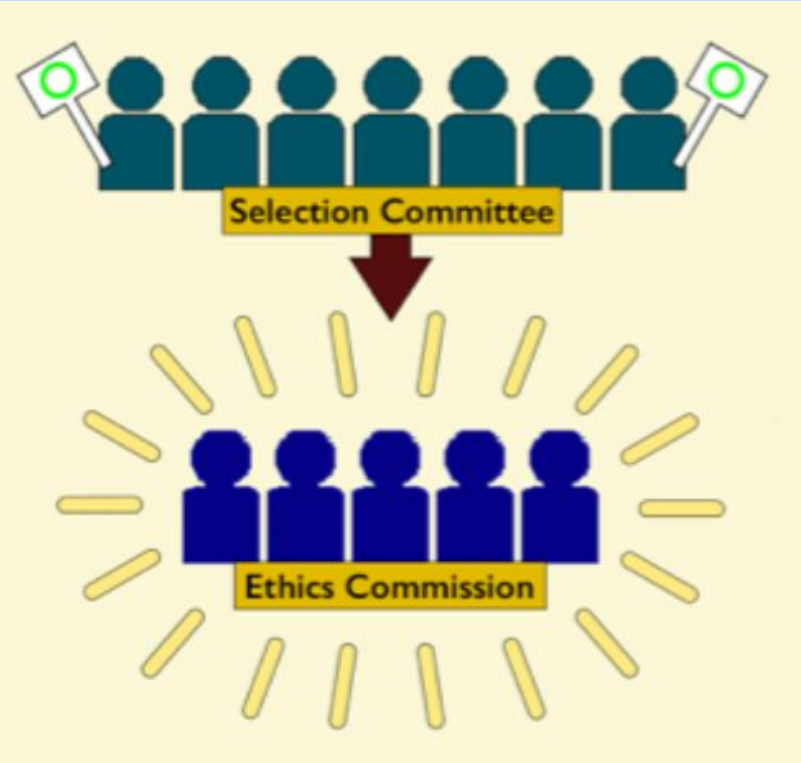
A 7-member ***Selection Committee*** is appointed, with 1 Member appointed by each of the following:

1. Governor
2. Comptroller
3. Attorney General
4. Majority Leader of the Senate
5. Minority Leader of the Senate
6. Speaker of the Assembly
7. Minority Leader of the Assembly

See here for the detailed proposal submitted to the Governor and Legislature.



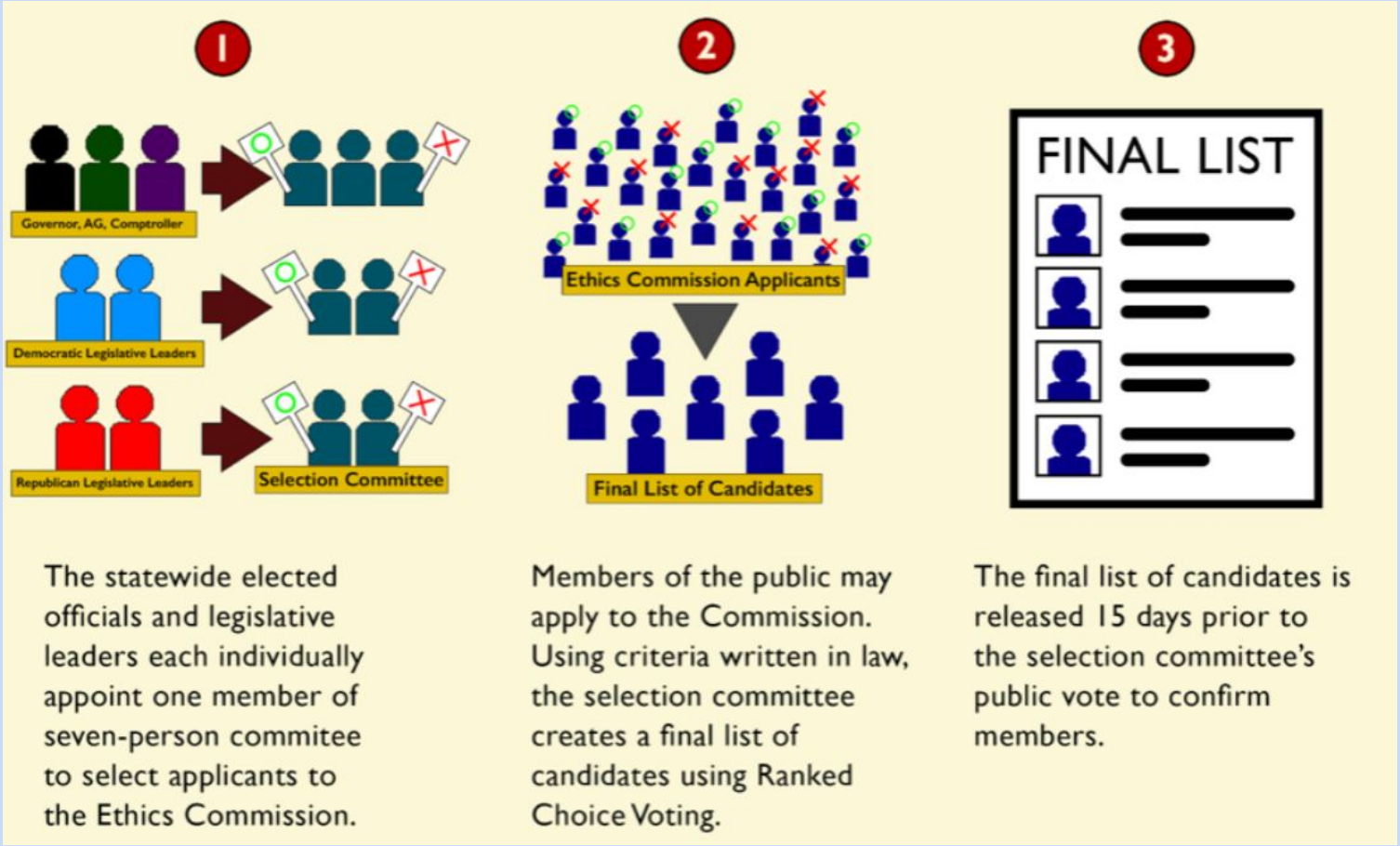
Selection Committee Approves 5-Member Ethics Commission



Mechanisms to create independence and greater transparency of ***Ethics Commission***:

- **Public can apply** to serve
- **Qualifications and criteria for who *can* serve:** experience, education, diversity, etc.
- **Disqualifications for who *can't* serve:** lobbyists, electeds, contractors, and big donors
- **Term limits for commissioners**
- **Ranked Choice Voting** used to create final list of candidates
- **Final list of candidates released 15 days before public vote**
- **Public report released by Selection Committee** after conclusion of vetting process, including data on number and diversity of applicants

In Total, 6 Steps to Create Independence and Transparency



The statewide elected officials and legislative leaders each individually appoint one member of seven-person commitee to select applicants to the Ethics Commission.

Members of the public may apply to the Commission. Using criteria written in law, the selection committee creates a final list of candidates using Ranked Choice Voting.

The final list of candidates is released 15 days prior to the selection committee's public vote to confirm members.

4

The selection committee holds a final public meeting to vote to approve five ethics commissioners.

5

After the vote, the selection committee releases a public report on the vetting process, including data on applications received and diversity of applicants.

6

The Commission selects a chair from among its members, then hires an Executive Director who hires staff.

Additional Measures to Improve Ethics Enforcement and Public Disclosure:

1. **$10 million for the new Ethics Commission**, up from $5.6 million
2. **Simple majority votes for commission** (no political party tests)
3. **Direct discipline of all non-elected public officers**; power to recommend discipline of electeds (per constitutional limits)
4. **Expanded Code of Ethics,** with duty to report misconduct and link to NYS Human Rights Law anti-discrimination and harassment requirements
5. **Commission subject to Freedom of Information Law, Open Meetings Law**
6. **Ban on *ex parte* communications;** breaches of confidentiality referred to Attorney General, not just Inspector General
7. After a finding of probable cause/substantial basis finding, subsequent **hearings should be public**; substantial basis reports released quickly
8. **Improved lobbying reports** that show support or opposition to legislation, campaign contributions by lobbyists
9. **Improved financial disclosure statements,** with all electronic filings that are published on commission website; economic development entities also must file