

New York Law Journal

FRIDAY, JUNE 17, 2022

Serving the Bench and Bar Since 1888

ALM.

©2022 ALM MEDIA PROPERTIES, LLC.

Committee Comprising 15 NY Law Deans Breaks Down Review Process for Ethics Panel

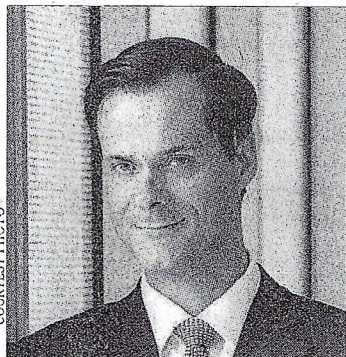
BY CHRISTINE CHARNOSKY

THE NEW YORK State Independent Review Committee announced Wednesday its procedures for reviewing nominations to the newly established Commission on Ethics and Lobbying in Government.

In the state's most recent budget process, the governor worked with the Legislature to begin reforms to the state's ethics laws and processes and adopted the New York Ethics Commission Reform Act of 2022.

The reform act includes sunseting the current Joint Commission on Public Ethics, which is the state's central ethics commission, effective July 8. Instead, a new 11-member Commission on Ethics and Lobbying in Government, with staggered four-year terms, was created, according to the IRC's announcement.

The IRC is comprised of the deans of the 15 American Bar



COURTESY PHOTO

Anthony Crowell, dean and president of New York Law School

Association-accredited New York law schools who will have oversight on nominations to the ethics commission. While public officials will still nominate members to the ethics commission, the review committee will review the nominations before members are appointed to the board, according to the announcement. » Page 4

Off the Front

Ethics Panel

«Continued from page 1

"The New York law deans have a highly collaborative relationship, and this new mandate comes at a time when we are called on as a collective body to address many issues of common concern affecting government integrity, democracy and the rule of law," Anthony Crowell, IRC chair and president and dean of New York Law School, told Law.com Wednesday.

In recent decades, New York state's ethics commission has faced public scrutiny regarding its effectiveness at enforcing public ethics and lobbying laws, including concern that more independence is needed for ethics commissioners to effectively implement their substantial and serious statutory mandates, according to the IRC announcement.

The work of ethics commissioners can result in findings of violations of the ethics laws, as well as enforcement proceedings and penalties, against elected officials, including those who appoint the ethics commissioners, and other public servants and lobbyists, according to the announcement.

The breakdown of nominations/appointments to the new commission is as follows: the governor (3); Senate president and majority leader (2); Senate minority leader (1); Assembly speaker (2); Assembly minority leader (1); the comptroller (1); and the attorney general (1), according to the IRC.

The IRC said in its announcement that it has developed a rigorous prenomination process

that requires nominating elected officials to assess a broad array of critical information, including professional experience, findings from a thorough background check and results of a seven-day public comment period on their proposed nominees, to help determine the qualifications, suitability and fitness of the candidates they will nominate.

When the nominating elected officials have reviewed and considered this information, they will be able to make a fully informed choice of whether to formally nominate the candidate to the IRC for review.

After the IRC receives a formal nomination of a candidate, it will review the candidate's professional experience and full history, background investigation findings, public comments, check references as needed and conduct a personal interview with the candidate. The IRC will then have the sole responsibility to determine whether to confirm the nominee for appointment, according to the announcement.

The nominating elected officials and their staffs are not permitted to communicate with IRC members about a nominee, except in writing to the IRC chair, while a nominee is being formally considered. If a nominee is not confirmed, the nominating elected official will be notified in writing by the IRC, and must identify and submit a new nominee for review pursuant to the same process, according to the announcement.

The IRC's procedures were developed independently and exclusively by its members. After they were drafted, the IRC advised counsel to the nominating

elected officials, as well as good government groups, on what the procedures require.

The IRC's work will be supported by the State Police and the Office of General Services, which will undertake the background investigation process. OGS will assign an attorney to serve as a liaison to the nominating elected officials and IRC, and who will coordinate the background check process. The IRC also will maintain contact with staff from the new Commission on Ethics and Lobbying in Government for limited administrative purposes and to coordinate appropriate public information and education efforts, according to the IRC announcement.

With the publication of the IRC procedures, the prenomination background check process will begin immediately. Proposed nominees will have up to 10 days to complete their background investigation forms and fingerprinting and submit them to the state. The State Police and OGS will then have up to 21 days to complete the background investigation and report findings to the nominating elected officials. Once a formal nomination is received by the IRC, which will include the background check findings, the IRC will have up to 30 days to determine whether to confirm the nominee, according to the announcement.

The IRC will provide up-to-date information on its website concerning its procedures, activities and other news. It will also provide a link for the public to communicate with the IRC in writing.

@ Christine Charnosky can be reached at ccharnosky@alm.com.