

New York's Highest Court Declares Ethics Commission Valid

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On Feb. 18, 2025, the New York State Court of Appeals issued a 4-3 decision upholding the constitutionality of the Commission on Ethics and Lobbying in Government (COELIG).¹ As was previously detailed in GT Alerts from [May 2024](#) and [September 2023](#), both the Appellate Division, Third Department and the Albany County Supreme Court criticized COELIG's structure, ultimately concluding that its establishment and scope of authority violated the separation of powers doctrine. The Court of Appeals, however, disagreed, finding that COELIG's structure and the manner in which its commissioners are appointed is constitutionally permissible. As a result, COELIG may continue its work consistent with statutory provisions enacted in 2022.

In challenging the Commission's authority following its attempt to enforce a monetary penalty for violating certain rules prohibiting the use of state resources for private purposes, former-Gov. Andrew Cuomo argued that COELIG, as an ethics enforcement body, exercises executive power and, for that reason, the executive must have sufficient authority to appoint and remove commissioners. Gov. Cuomo argued that the Ethics Commission Reform Act of 2022:

1. "violates constitutional principles of separation of powers because the Commission exercises investigatory and enforcement powers constitutionally entrusted to the Executive, without sufficient oversight by the Governor";
2. "violates Article V of the State Constitution because, although the Commission is formally within the Department of State, it functions as a separate department without a head appointed by the Governor with the advice and consent of the Senate"; and
3. "unconstitutionally displaces the . . . impeachment process, by permitting the Commission to

sanction the Governor for putative violations of the Public Officers Law.”

The lower courts embraced these arguments, with the Albany County Supreme Court concluding that COELIG was unsalvageable due to it being “a body that exercises executive authority where the Governor’s role is confined only to nominating a minority of that body,” where the body’s vetting and appointment was being conducted by “private operators (like a bunch of deans).”² After the Appellate Division, Third Department upheld the lower court, the state again appealed to the Court of Appeals.

The Court of Appeals focused on three factors to ultimately reverse the lower courts and conclude that the 2022 statutory changes creating COELIG are constitutional: (1) the separation of powers doctrine’s flexibility, (2) COELIG’s appointment and removal powers, and (3) the need to promote the public’s trust in government. The majority of the court stated that the separation of powers doctrine does not need to be applied in a rigid fashion; there may be overlap in duties so long as “core duties and responsibilities are retained” with the executive. The court’s majority similarly stated that the constitution is clear that “powers of appointment and removal . . . generally are divided between the Legislature and the Governor.” The governor is not afforded “indefeasible powers to appoint or remove non-constitutional state officers,” and thus that type of exclusive authority for COELIG does not need to rest with the governor.

Finally, the court reasoned that the legislative justification for the Ethics Commission Reform Act of 2022 was to maintain public confidence in government and that this “implicates fundamental constitutional values.” “Given the danger of self-regulation . . . there is an urgent need for the robust, impartial enforcement of the State’s ethics and lobbying laws.” For these reasons, the court concluded that the Act and the commission’s existence “neither unconstitutionally encroaches upon the Executive nor otherwise deviates from constitutional requirements.”

Promptly after the decision’s release, the Commission’s chair and executive director touted the result, stressing that COELIG has and continues to “administer and enforce the state’s ethics and lobbying laws, deliberately, fairly, and with zeal, pursuing its mission to restore New Yorkers’ faith in state government.” To that end, all regulated parties – including lobbyists, clients of lobbyists, and state government officials -- should expect COELIG to proceed with business as usual.

¹ [Cuomo v. COELIG](#) (2025).

² *Cuomo v. COELIG*, (Alb. Sup. Ct. 2023).