



The State University
of New York

Project Sunlight & Its Impact on SUNY

SUNY Fredonia Training Document
April 2013

What is Project Sunlight

Project Sunlight is an online database that provides the public with an opportunity to see what entities and individuals are interacting with government decision-makers in accordance with the Public Integrity Reform Act of 2011 ([Ch. 399, Part A, §4, L. 2011](#)).

What is Project Sunlight

Project Sunlight's public-facing website will aggregate and publish data submitted to the NYS Office of General Services ("OGS") by State entities, including SUNY, concerning individuals and firms who/that appear before decision-makers of the state entities concerning five categories of matters:

- (1) procurement of State contract for real property, goods, or services over \$25,000**
- (2) rate-making
- (3) regulatory matters
- (4) judicial or quasi-judicial proceedings
- (5) rule-making per the State Administrative Procedures Act

Compliance Mandate:

SUNY is now required to report to OGS appearances by individuals and firms who/that appear before State decision-makers or persons who advise decision-makers, regarding one of the five designated categories, on an OGS form, or electronically available in an electronic portal.

Required SUNY Action

CAMPUS & OPERATIONAL CENTERS/UNITS*:

1. **Designate one/several individuals:** Responsible for entering data in the OGS Project Sunlight database & undergo Project Sunlight training.
2. **Develop procedures:** To assure SUNY individuals before whom outside individuals and firms make reportable appearances complete the OGS form or convey notice of the appearance to the SUNY individual responsible for entering data in the OGS database.

* Includes Charter Schools Institute/Statutory Colleges

SYSTEM ADMINISTRATION:

Adopt a plan for compliance of Project Sunlight per OGS's most recent communication mandating compliance plans are adopted by each state entity.

- Continue Communication with campuses on Project Sunlight.
- Train within System Administration and ensure that campuses are training their personnel.

- State operated campuses
- SUNY System Administration
- Construction Fund
- Charter Schools
- Board of Trustees
- Statutory Colleges

- RF
- Foundations
- Auxiliary Corps.
- Community Colleges

Project Sunlight:

Who DOES NOT need to report

- **Medical practitioners** in SUNY Hospitals and Medical Practitioners at SUNY Optometry and the UB Dental School, unless they are acting in the capacity as a SUNY Administrator
- **Elected officials**, executive or legislative employees or judges or employees of the judiciary
- **Inmates and parolees and their representatives** before criminal justice state entities regarding their supervision and/or conditions of confinement
- **Representatives of the media**
- **Persons under the age of 18**

Project Sunlight: What must be reported

Under law, appearances that could result in purchase of \$25,000 or more in goods and/or services must be reported in Project Sunlight.

Project Sunlight:

When does report need to be made

Appearances must be reported to the database within five (5) business days of the appearance or occurrence.

What must be reported by SUNY

SUNY is required to:

- Report appearances to SUNY by individuals or firms (whether they represent themselves or others) by the means of inputting into the OGS database within five (5) days of its occurrence.
- Report occurrences that happen in-person or by video-conference (not letter, e-mail or fax)

Conditions for inclusion:

- The interaction is a substantive and not ministerial.
- The person at SUNY has power to exercise decision-making* with respect to the matter, or who advises the decision-maker.
- The cost of goods and/or services would equal more than \$25,000.

Project Sunlight: Interpreting what must be reported

Reporting appearances by individuals or firms

An appearance: is a substantive interaction that is meant to have an impact on the decision making process of a state entity. In order to constitute an appearance, the interaction must be an in person meeting or a video conference.

Project Sunlight: Interpreting what must be reported

Reporting appearances by individuals or firms

Initiation: it does not matter WHO initiated the appearance. It must be reported.

Vendor calls you unprompted, and you are unwilling to purchase from vendor & did not solicit the call, you still MUST REPORT when over \$25,000, you spoke in person/video-conference, and you are a decision-maker or decision-influencer.

Project Sunlight:

Interpreting what must be reported

Reporting appearances by individuals or firms

Formality and Location: the level of formality and the physical location of the meeting is irrelevant.

An informal conversation constitutes an appearance if the goal/substance of the communication is part of an effort to influence the decision making process of a state entity. You must report whether it happened in or out of office. Example: Vendor/advocate approaches you at the gym and tries to influence you = you must report

Project Sunlight: Interpreting what must be reported

Reporting appearances by individuals or firms

Multiple Appearances: There can be multiple appearances related to one single matter, and each appearance must be reported separately.

One Report Per Meeting: If multiple covered individuals attend a meeting together, only one report is necessary. Each meeting need only be entered in Project Sunlight once.

Project Sunlight: Interpreting what must be reported

Reporting appearances by individuals or firms

Advocacy Organizations: Such as unions and other businesses are also reported as appearances.

Example: Another higher education institution advocates for SUNY to use a vendor that they also use. This constitutes a reportable appearance.

Project Sunlight: Interpreting what must be reported

Reporting appearances by individuals or firms

Substantive Interaction vs. ministerial: If the interaction between SUNY representative and individual or firm is purely informational reporting is NOT REQUIRED.

Example: If an individual calls to schedule a meeting the actual meeting is reported and not the phone call.

Project Sunlight: Interpreting what must be reported

Reporting appearances by individuals or firms

Decision-maker or advisee of decision-maker:

An individual at the state entity with power to exercise agency discretion concerning purchases exceeding \$25,000, or an individual whom advises someone with such discretion.

Project Sunlight: What must be reported

You must only report appearances related to the Spending of State Funds, or the Procuring of a State Contract:

Not Spending State Funds: If your appearance was related to the spending of funds from another account (foundation, auxiliary, RF) those are not considered State Funds and are not reported.

Procuring of a State Contract: If you are meeting to discuss a potential State contact (i.e. for the sale of SUNY land), you would have to report.

Vendor Conferences:

- Appearances at vendor conferences and vendor expos, or appearances where a vendor attends a SUNY Conference DO NOT need to be reported.
- An appearance does not qualify if it is related to procurement before a SUNY representative that takes place in a public area such as a vendor conference involving multiple vendors, sponsored by SUNY or another entity.

Project Sunlight Exclusions: What DOES NOT need to be Reported by SUNY

RF:

- Appearances in front of the RF - we have an existing contract with the RF to do business

Existing Contracts:

- Appearances following the award of a contract do not need to be reported.
- Appearances related to State OGS contracts that SUNY can use at will DO NOT need to be reported

Webinars:

- Webinars that are open to the public do not need to be reported as appearances

RFP:

- Appearances that occur DURING the restricted RFP or IFB processes

M/WBE:

- If SUNY reaches out to a M/WBE firm to determine interest in or availability to provide goods or services--> NOT REPORTED

Informational:

- If appearance is INFORMATIONAL and is INITIATED BY SUNY e.g. market research, then reporting is not required

Confidential Proceedings:

- Any interaction that an agency or authority treats as confidential pursuant to any law, rule or regulation does not need to be reported.
 - NOTE: Confidentiality requirements from federal/ state statutes, rules or regulations always take precedence over reporting requirements of Project Sunlight.

Public meetings

- Participation in meetings which are open to the public, such as conferences or meetings subject to the Open Meetings Law or where a record of the meeting is otherwise available, is NOT reported
 - However, communications outside of such public meetings but with respect to the same matter covered in the public meeting MUST be reported

Discretionary contracts?

Appearances for the purpose of advocating for the receipt of discretionary state funds that have already been appropriated must be reported, but a meeting to finalize a contract for any discretionary award need not be reported.

Discretionary contracts refers to an agency's threshold to purchase without a formal process (IFB or RFP)

Project Sunlight Exclusions: What DOES NOT need to be Reported by SUNY

Elected Officials:

- Contact by elected officials, executive or legislative employees: NOT REPORTED

Legislation/ Budget Appearances:

- Contact related to legislation or SUNY's budget: NOT REPORTED

Other State Agencies/Local Gov't:

Appearances before other state and local agencies and authorities, as well as tribal governments and federal government representatives

Emergency Procurements:

- Appearances related to emergency procurements do not need to be reported

Employee/Student Disciplinary Matters:

- Employee and student disciplinary matters conducted in-house are not judicial or quasi-judicial proceedings: NOT REPORTED



Project Sunlight: Reporting Form

Date of Appearance: _____ / _____ / _____
MONTH DAY YEAR

Type of Meeting: (Check all that apply) In-Person Telephone Video Conference

Location of Appearance: _____
(MUST INCLUDE ALL FIELDS) STREET ADDRESS CITY STATE, ZIP

Purpose of Meeting (CATEGORY of meeting): _____
(5 CATEGORIES ONLY: PROCURING, RATEMAKING, REGULATORY MATTERS, JUDICIAL, ADOPTION OF A RULE)

Name of SUNY Contact and Affiliation: (SUNY Sys ADMIN, SUCF, CAMPUS)

NAME AFFILIATION CAMPUS (IF FROM CAMPUS)

Company at Appearance: _____

Company Location: _____
(MUST INCLUDE ALL FIELDS) STREET ADDRESS CITY STATE ZIP
(IF LARGE COMPANY, LOCATION THAT REPRESENTATIVE WORKS OUT OF)

Outside Representative at Appearance: _____
(E.G., COMPANY'S ATTORNEY, LOBBYIST)

Outside Representatives Location: _____
(MUST INCLUDE ALL FIELDS) STREET ADDRESS CITY STATE ZIP
(IF LARGE COMPANY, LOCATION THAT REPRESENTATIVE WORKS OUT OF)

Name of Non-SUNY Contacts:

NAME AFFILIATION

Project Sunlight Hypotheticals: WHEN TO REPORT – WHEN NOT TO REPORT

1. A vendor wants to print a campus alumni magazine. Do they have to be included in the reporting? YES

- YES, CONTACT BY A PRINTING VENDOR IS REPORTABLE, as long as the procurement would total \$25,000 or more, and State Funds would be used
- If foundation or Auxiliary Corporation money would be used, the appearance would not need to be reported

2. A radio station or a television station contact us wanting an interview. Do they have to be included in the reporting? NO

- No, the media representative is not initiating an appearance related to influencing a decision related to procurement, so the appearance is not reported

Project Sunlight Hypotheticals: WHEN TO REPORT – WHEN NOT TO REPORT

3. A vendor calls and speaks with your administrative assistant. The vendor is interested in selling you over \$25,000 in pencils. Is this reportable? NO

→ No, because the vendor only spoke with the administrative assistant, who under the law is not a ‘decision-maker’, so this communication is not reportable

4. A vendor e-mails you, the decision-maker, to sell you over \$100,000 in pencils. Is this reportable? No

→ No because appearances are only reportable if they occur in-person or by video-conference BUT not written contacts by letter, e-mail or fax.

Project Sunlight Hypotheticals: WHEN TO REPORT – WHEN NOT TO REPORT

5. Current vendors with existing contracts with SUNY visiting a SUNY conference to talk with various campus representatives? Is this reportable? **No**

→ No because the vendor already has a contract with SUNY, and so ‘appearances’ related to that contract are not reported **EXCEPT** if the appearance discussion is outside the scope of the existing contract, where the vendor is trying to influence your decision unrelated to the existing contract, then that would be reported

Project Sunlight Hypotheticals: WHEN TO REPORT – WHEN NOT TO REPORT

6. Vendor tables at a Conference? **Case-by-case analysis**

- If, during the interaction, the vendor attempts to influence a covered individual to purchase, the contact should be reported
- If the interaction is purely informational, reporting is not required

7. A bidders conference occurs during the RFP process. Is this reportable? **No**

- No because appearances are not reportable if they occur during the Restricted Period of the RFP Process. However, a contact before the Restricted Period that is a substantive attempt to influence a SUNY decision-maker to purchase a vendor's product, even if unsolicited, IS a reportable appearance.

Project Sunlight Hypotheticals: WHEN TO REPORT – WHEN NOT TO REPORT

8. Another University/ Union/ Association is advocating for you to procure or contract with a particular vendor? Yes

→ The law states that we must report appearances where people are acting in a representative capacity, and this advocacy is reportable

9. In-person Meeting related to the sale of SUNY land? YES

→ The appearance is related to a potential state contract, so it is reported, even if SUNY is selling its own property

10. Do Emergency Procurements need to be reported? NO

→ Appearances related to emergency procurements do not need to be reported

Project Sunlight Information

All information related to Project Sunlight can be found at the [Compliance Website](http://www.suny.edu/compliance)
www.suny.edu/compliance

For topics, go to: [Project Sunlight](#)

Submit your questions to:
purchasing.office@fredonia.edu

- **May 8, 2013 - Cabinet Members' Training**
- **May 14, 2013 memo to campus decision makers and advisors explaining the requirement**
- **May 30, 2013 webinar from System Admin, 10 a.m. – 11 a.m.**
- **On-going – training available on-line & as requested**

Required Re-Certification

- Required every two years.
- NYSLearn link via your SUNY sign on. Once you have completed the training, you would send your completion certificate to the Purchasing Department.
- SUNY Fredonia Project Sunlight Power Point available via the Purchasing Department's webpage.