



Erie County Fiscal Stability Authority  
**Code of Ethics**  
**2019**

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# **ERIE COUNTY FISCAL STABILITY AUTHORITY CODE OF ETHICS**

## **I. Introduction**

The Erie County Fiscal Stability Authority (the “Authority”), as a public entity, has a responsibility for maintaining the highest level of honesty, ethical conduct and public trust in all of its activities. To meet this responsibility the Authority is adopting this Code of Ethics to address important aspects of ethical conduct.

Authority Directors and Employees are entitled to privacy in their personal affairs. At the same time, as employees of a public entity, Authority Directors and Employees are responsible for conducting Authority business solely in the public interest.

This Code of Ethics applies to the Authority's Directors, Employees and Former Employees. This Code of Ethics is divided into the following areas: (1) introduction (2) definitions used in this Code of Ethics, (3) standards of ethical conduct, (4) use of material, nonpublic and confidential information (5) restrictions on post-employment activities, (6) certification of absence of conflict of interest, (7) requests for interpretation, clarification and waiver of this Code of Ethics, and (8) remedies for breaches of this Code of Ethics.

This Code of Ethics states in specific form the Authority's position on conflicts of interest. Personal integrity is the cornerstone of this Code of Ethics. Each Director and Employee has the primary responsibility for avoiding Financial Interests and Other Interests, which create, or appear to create, a conflict with his or her fiduciary responsibility or job.

In a case where any Director or Employee, regardless of level or job assignment, believes his or her Financial Interest or involvement in a Transaction might present a conflict of interest, the Director or Employee must immediately notify the Chairman and/or Executive Director and disqualify himself or herself from involvement in the Transaction until advised in writing that he or she may continue to be involved in the Transaction.

Upon the request of the Chairman and/or Executive Director, the General Counsel of the Authority may advise the Executive Director whether an existing or prospective Transaction involving the Director or Employee would create a possible conflict of interest.

Any person, who has a question as to whether a prospective personal or business Transaction or assumption of a position of responsibility or trust would be a violation of this Code of Ethics, may request in writing an advance determination on the matter from the Authority's General Counsel pursuant to Section VII of this Code of Ethics.

This Code will be reviewed and updated as necessary with a copy distributed to each Director and Employee.

## **II. Definitions**

The following definitions apply to this Code of Ethics.

- A. "Authority" means the Erie County Fiscal Stability Authority.
- B. "Benefit" means any gain or advantage to, or reduction in the liabilities of, the beneficiary and includes any gain or advantage to, or reduction in the liabilities of, a third person pursuant to the desire or consent of the beneficiary.
- C. "Confidential Information" means information which is available to a Director or Employee only because of his or her status with the Authority and is not a matter of public knowledge.
- D. "Dependent Child" means a son, daughter, stepson or stepdaughter of an Employee, who is either: (1) unmarried, under age 21, and is living in the household of the Employee or (2) a "dependent" of the Employee within the meaning of section 152 of the Internal Revenue Code of 1954.
- E. "Director" means any Authority Director appointed by the Governor.
- F. "Employee" means, for the purpose of this Code of Ethics, any person employed by the Authority.
- G. "Employee's Independent Business" means, for the purposes of Section III (B) (6) of this Code of Ethics, a firm or association of which an (1) Employee, or an Employee's Spouse or Dependent Child is a member, or (2) a corporation, 10% or more of the stock of which is owned or controlled directly or indirectly by such Employee or an Employee's Spouse or Dependent Child. This definition shall exclude any employee of a governmental public entity.
- H. "Family Member" means any person living in the same household as the Employee including any Dependent Child or Spouse and any person related to the Employee within the third degree of consanguinity or affinity.
- I. "Financial Interest" means:
1. Ownership of an interest, either active or passive (e.g., stock ownership), or involvement in a relationship from which or as a result of which there has been received within the past 12 months, or there is an entitlement to receive in any future year, more than \$1,000 or its equivalent;
  2. Ownership of an interest in a business or real property which interest (a) has a market value in excess of \$5,000 (b) reflects a 10 percent ownership of the business, or (c) in the case of an Employee, Employee's Spouse, Dependent Child or Family Member constitutes 25 percent of the net worth of the person owning such interest, or the combined net worth of the Employee and his or her Spouse, Dependent Child and Family Member. This excludes an interest in the Employee's primary personal residence. In determining the value of an interest, debts, mortgages, liens or other encumbrances thereon are to be disregarded; or
  3. Liability or indebtedness to a person or business in excess of \$5,000 excluding liabilities owed to relatives and excluding mortgages, liens or other encumbrances on or secured by real

property which is the Employee's primary personal residence or furniture or appliances therein.

- J. "Former Employee" means a person who is no longer an Employee of the Authority but was an Employee in the time period following the effective date of this Code of Ethics.
- K. "Gift" means a payment, advance, forbearance, rendering, gratuity or deposit of money, or anything of more than nominal value, unless the donor receives consideration of equal or greater value.
- L. "Key Employee" means any Employee who (1) receives annual compensation in excess of the filing rate established by paragraph (1) of § 73-a of the Public Officers Law,\* or (2) holds a policy-making position as determined annually by the Authority and filed with the State Ethics Commission.\*\*
- M. "Other Interest" means holding a position in a business such as an officer, director, trustee, partner, proprietor, executor, employee, or a position of management, or acting as a consultant, agent or representative therefore in any capacity.
- N. "Spouse" means the married partner of an Employee (1) who has not received a decree of permanent separation from such Employee or (2) who is not living separate and apart from the reporting Employee with the intention of terminating the marriage or providing for permanent separation.
- O. "Trading" means, in reference to securities, the buying and selling of securities (including bonds or notes), or the buying and selling of options, calls, puts, or any other right relating to a security.
- P. "Transaction" means buying, selling, renting (as lessor or lessee), or otherwise acquiring or disposing of services, materials, supplies, equipment, or property having a value of one hundred dollars or more or an interest having a value of one hundred dollars or more in such services, materials, supplies, equipment or property; borrowing or investment of money; preparing, requisitioning, ordering, approving, advising on, administering or otherwise acting in reference to the performance of a contract having a value of one hundred dollars or more; or the promulgation of rules and regulations affecting such activities.

**\* As of the adopted date of this Code, the level is \$99,394.00;**

**\*\* A list of the Employees who hold policy making positions at the Authority as of the date of this Code is attached hereto as Appendix E.**

### **III. Standards and Principles of Conduct**

The following standards and principles of conduct are to be followed to assure compliance with this Code of Ethics. A breach of these standards and principles constitutes a violation of this Code of Ethics.

#### **A. General Standards and Principles**

1. A Director or Employee shall not have any interest or incur any obligation, financial or otherwise, direct or indirect, or engage in any business or Transaction or professional activity, which is in conflict with the proper discharge of his or her duties in the public interest.
2. A Director or Employee shall avoid any action, whether or not specifically prohibited by this Code of Ethics, which might result in or create the appearance of:
  - (a) using his or her official position for private gain;
  - (b) giving preferential treatment to any person, including himself or herself;
  - (c) lacking independence or impartiality;
  - (d) affecting adversely the confidence of the public in the integrity of the Authority; or
  - (e) violating any provision of this Code of Ethics.
3. No Director or Employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.
4. A Director or Employee shall not by his or her conduct give reasonable basis for the impression that any person may improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

#### **B. Specific Standards and Principles**

1. No Director or Employee shall be involved in any Transaction as representative or agent of the Authority with, or be involved in any evaluation of, any business entity in which the Director, Employee, the Employee's Spouse, Dependent Child or Family Member has a direct or indirect Financial Interest that might reasonably tend to conflict with the proper discharge of his or her official duties. Prior to becoming involved in any Transaction as representative or agent of the Authority with, or becoming involved in any evaluation of, a business entity in which the Director, Employee, the Employee's Spouse, Dependent Child or Family Member holds a Financial Interest, the Director, Employee, the Employee's Spouse, Dependent Child or Family Member must sell or transfer such Financial Interest.
2. No Director, Employee, Employee's Spouse, Dependent Child or Family Member shall acquire, except by Gift, inheritance or the dissolution of a trust, any Financial Interest in any business entity which the Employee has reason to believe may be directly involved in decisions to be made by him or her which will create conflict between his or her duty in the public interest and his or her private interest. If a Director, Employee, an Employee's Spouse, Dependent Child or Family Member receives such a Financial Interest by Gift, inheritance, operation of an automatic dividend reinvestment plan or the dissolution of a trust, the interest

shall be promptly sold or transferred. If an Employee's Spouse, Dependent Child or Family Member receives or retains such a Financial Interest in violation of the foregoing provisions, it will be deemed to be a violation by the Employee of this provision.

3. No Director or Employee shall (1) engage in political activities or accept employment which will impair his or her independence of judgment in the exercise of his or her official duties, including employment by the County of Erie or any Covered Organization under the Erie County Fiscal Stability Authority Act, the federal government or New York State, or which involves a matter in which the Authority has a substantial interest, or (2) receive or enter into any agreement for any compensation for the appearance or rendition of services against the interest of the Authority in relation to any case, proceeding, or matter.
4. No Director or Employee shall accept employment or engage in any business, which will require him or her to disclose Confidential Information which he or she has gained by reason of his or her official position or authority.
5. No Director or Employee shall disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests.
6. No Director, Employee, Employee's Spouse, Dependent Child, or Family Member, or an Employee's Independent Business shall (1) sell any goods or services having a value in excess of twenty-five dollars to the Authority, or (2) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by the Authority or any of its Directors, unless such goods or services are provided pursuant to an award of contract let after public notice and competitive bidding. If an Employee's Spouse, Dependent Child or Family Member engages in the conduct described in the preceding sentence, it will be deemed to be a violation by the Employee of this provision. In addition:
  - (a) No Director or Employee may take part in any hiring or employment decision relating to a Family Member. If a hiring or employment matter arises relating to a Family Member, then such Director or Employee must divulge such relationship, and must be recused from any and all discussions or decisions relating to the matter.
  - (b) No Director or Employee may take part in any contracting decision: (i) relating to a Family Member; or (ii) relating to any entity in which a Family Member is an officer, director or partner, or in which a Family Member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to a Family Member, then such Director or Employee must divulge the relationship, and must be recused from any and all discussions or decisions relating to the matter.
7. Notwithstanding Public Officers Law 73(5), which provides that gifts up to \$75 may be allowed in certain circumstances, no Director, Employee, Employee's Spouse, Dependent Child or Family Member shall, directly or indirectly, solicit, accept or receive any Gift of more than nominal value, whether in the form of money, service, loan, meal payment, travel,

entertainment, hospitality, thing, or promise, or in any other form, from any person or entity under circumstances in which it could reasonably be inferred that the Gift was intended to influence such Director or Employee, or could reasonably be expected to influence the Director or Employee in the performance of any Authority official duty or action, or was intended as a reward for any official Authority duty action.

8. Authority supplies, equipment, computers, personnel and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind. This prohibition includes but is not limited to the following:
  - (a) Official stationery may not be used for non-governmental purposes, nor may Authority resources be used to mail personal correspondence. The designation "personal" on Authority stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.
  - (b) Under no circumstances may Authority mail, postage, internal office mail, or couriers be used or non-Authority purposes.
  - (c) Authority telephones may not be used for non-governmental long-distance calls, except for toll-free calls, collect calls, and calls billed to a personal telephone number. Authority telephones may be used for incidental and necessary personal local calls that are of limited number and duration and do not conflict with the proper exercise of the duties of the Authority Employee.
  - (d) Authority computers may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the Authority Employee.
9. No Director or Authority Employee may make or offer to make any monetary contribution to the campaign of the Governor or the Lieutenant Governor, or to any political campaign committee organized by or for the specific benefit of the Governor or the Lieutenant Governor. In addition, no individual covered by this Code of Ethics may request or demand that any other person make or offer to make any monetary contribution to the campaign of the Governor or the Lieutenant Governor, or to any political campaign committee organized by or for the specific benefit of the Governor or the Lieutenant Governor.
10. No Director, Employee, Employee's Spouse, Dependent Child or Family Member who is involved in recruiting, interviewing or hiring applicants for Authority employment, or making promotional, disciplinary or other employment decisions relating to Authority employees, may ask any such applicant or employee to reveal:
  - (a) the party affiliation of the applicant;
  - (b) whether the applicant has made campaign contributions to any party, elected official, or candidate for elective office; or
  - (c) whether the candidate voted for any elected official or candidate for elective office.



11. No individual covered by this Code who is involved in the awarding of Authority grants or contracts, or making decisions relating to Authority grants or contracts, may ask any officer or director of such current or prospective contractor or grantee to reveal:
  - (a) the party affiliation of the individual;
  - (b) whether the individual or entity has made campaign contributions to any party, elected official, or candidate for elective office; or
  - (c) whether the individual or entity voted for any elected official or candidate for elective office.

### C. Applicable New York Law

These standards do not replace and are in addition to the requirements of law, particularly Sections 73 and 74 of the New York Public Officers Law, which, among other things, govern the business activities of Authority Employees and set forth the State Code of Ethics. This Code's prohibition against accepting any Gift of nominal value shall apply notwithstanding Public Officers Law 73(5), which provides that gifts up to \$75 may be allowed in certain circumstances, consistent with Executive Order 1, January 1, 2007.

Copies of Sections 73 and 74 of the Public Officers Law and Executive Orders 1 and 2 are attached to and made a part of this Code of Ethics as Appendices A, B, C and D respectively.

## **IV Use of Material, Nonpublic and Confidential Information**

It is the policy of the Authority to prohibit all Directors and Employees from (1) trading in securities (which includes municipal bonds or notes) based on material, nonpublic information derived from or relating to Authority activities and (2) disclosing confidential information to unauthorized third parties.

### A. Trading of Securities Based on Material, Nonpublic Information

1. Directors and Employees shall not trade in bonds or other securities issued by the Authority based on material, nonpublic information derived from any source or from disclosing such information for the purpose of allowing third parties to profit from trading in Authority securities.
2. Directors and Employees shall not trade in stocks, bonds or other securities issued by other business entities based on material, nonpublic information obtained in the course of their duties for the Authority and shall not disclose such information for the purpose of allowing others to profit from trading in securities issued by other business entities based on such information.

Information is material if there is a substantial likelihood that a reasonable investor would consider the information important in making his or her investment decision concerning the securities in question.

Information is nonpublic if, in the case of Authority securities, it has not been publicly disseminated by the Authority. Information is nonpublic if, in the case of securities issued by other business entities, it has not been publicly disseminated by those business entities.

## **B. Disclosure or Use of Confidential Information**

Directors and Employees shall not disclose confidential information obtained in the course of their duties at the Authority to any third party not authorized to receive such information and shall not profit from the use of such information.

Information is confidential if it has been expressly designated as confidential or should be treated as confidential because of the nature of, or circumstances surrounding, such information. If a Director or Employee has a question concerning the confidential status of any information, he or she should consult with the Authority's General Counsel regarding such information.

Directors and Employees who violate the provisions of this section may be subject to civil and criminal penalties under Federal and State laws, including fines and/or imprisonment. In addition, Employees who violate the provisions of this section may be subject to disciplinary action by the Authority, including termination of employment.

## **V. Restrictions on Post-Employment Activities of Former Employees**

The post-employment activities of persons who are Former Employees are governed by the restrictions set forth in Section 73 of the Public Officers Law, attached hereto as Appendix A.

## **VI. Certification of Code of Ethics**

All Directors and Employees are required to certify that they have read this Code of Ethics and that they have no conflict of interest. The Certification Form is attached hereto as Appendix F. These certifications shall be submitted to the Human Resource Officer.

Any Employee who knowingly fails to complete, sign and submit the required Certification Form violates this Code of Ethics and may be subject to disciplinary action.

## **VII. Requests for Interpretation, Clarification or Waiver of This Code of Ethics**

### **A. Interpretation and Clarification**

An Employee may submit a written request to the General Counsel for an interpretation or clarification of the provisions of this Code of Ethics.

### **B. Waivers**

A Director or Employee may submit a written request to the Chairman of the Authority for a waiver of any restriction contained in this Code of Ethics. All waiver requests shall include: a description of the nature of the restriction or prohibition for which waiver is sought; the nature of the Director's or Employee's interest involved; the effect on the Director, Employee or the Authority of the restriction or prohibition for which the waiver is sought; and the reasons why the waiver should be granted.

## **VIII. Remedies for Breaches of This Code of Ethics**

In addition to any other remedies, civil or otherwise, which the Authority may have, an Employee or Former Employee who violates this Code of Ethics shall be disciplined under this Code of Ethics. Remedies or disciplinary action may be imposed upon the basis of a written statement of findings

and recommendations by the General Counsel, and may include, but is not limited to, one or more of the following:

1. Issuance of written warnings;
2. Direction of corrective action to eliminate the conflict of interest;
3. Restitution;
4. Changes in assigned duties or suspension or termination of employment; provided, however, that only the Chairman shall impose said remedies. Former Employees found to have violated this Code of Ethics are subject to one or more of the following: written warnings; termination of existing Transactions involving the individual in question to the extent permitted by law; disqualification or suspension from future Transactions of the Former Employee and/or the person on whose behalf he or she is participating in Transactions with the Authority; and notification to appropriate persons that a conflict exists.

## APPENDIX A

### Section 73 Business or Professional Activities By State Officers and Employees And Party Officers.

1. As used in this section:

- (a) The term "compensation" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles as defined by the state ethics commission or legislative ethics committee in relation to persons subject to their respective jurisdictions.
- (b) The term "licensing" shall mean any state agency activity, other than before the division of corporations and state records in the department of state, respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency as defined herein, which in the absence of such license, permit or other form of permission would be prohibited.
- (c) The term "legislative employee" shall mean any officer or employee of the legislature but it shall not include members of the legislature.
- (d) The term "ministerial matter" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- (e) The term "regulatory agency" shall mean the banking department, insurance department, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of the executive law.
- (f) The term "representative capacity" shall mean the presentation of the interests of a client or other person pursuant to an agreement, express or implied, for compensation for services.
- (g) The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state.
- (h) The term "statewide elected official" shall mean the governor, lieutenant governor, comptroller or attorney general.
- (i) The term "state officer or employee" shall mean:
  - (i) heads of state departments and their deputies and assistants other than members of the board of regents of the University of the State of New York who receive no compensation or are compensated on a per diem basis
  - (ii) officers and employees of statewide elected officials;

- (iii) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and
  - (iv) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.
- (j) The term "city agency" shall mean a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include the board of education, the board of higher education, school boards, city and community colleges, community boards, the New York city transit authority, the New York city housing authority and the Triborough bridge and tunnel authority, but shall not include any court or corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.
- (k) The term "political party chairman" shall mean:
- (i) the chairman of the state committee of a party elected as provided in section 2-112 of the election law and his or her successor in office;
  - (ii) the chairman of a county committee elected as provided in section 2-112 of the election law and his or her successor in office from a county having a population of three hundred thousand or more or who receives compensation or expenses, or both, during the calendar year aggregating thirty thousand dollars or more; and
  - (iii) that person (usually designated by the rules of a county committee as the "county leader" or "chairman of the executive committee") by whatever title designated, who pursuant to the rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person was elected from a county having a population of three hundred thousand or more or was a person who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:
    - (A) the principal political, executive and administrative officer of the county committee;
    - (B) the power of general management over the affairs of the county committee;
    - (C) the power to exercise the powers of the chairman of the county committee as provided for in the rules of the county committee;
    - (D) the power to preside at all meetings of the county executive committee, if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de facto the power of general management over the affairs of the county committee at times when the county committee is not in actual session;
    - (E) the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee pursuant to the rules of the county committee, for the

purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law; or

- (F) the power to direct the treasurer of the party to expend funds of the county committee.

The terms "constituted committee" and "political committee", as used in this paragraph (k), shall have the same meanings as those contained in section 14-100 of the election law.

2. In addition to the prohibitions contained in subdivision seven hereof, no statewide elected official, state officer or employee, member of the legislature or legislative employee shall receive, or enter into any agreement express or implied for, compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit; provided, however, that nothing in this subdivision shall be deemed to prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
3. (a) No statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another against the interest of the state in relation to any case, proceeding, application or other matter before, or the transaction of business by himself or another with, the court of claims.  
  
(b) No state officer or employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this article, and is not otherwise subject to the provisions of this section, shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the appearance or rendition of services by himself or another against the interest of the state agency by which he is employed or affiliated in relation to any case, proceeding, application or other matter before, or the transaction of business by himself or another with, the court of claims.
4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.  
  
(b) No political party chairman of a county wholly included in a city with a population of more than one million, or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any city agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised directly or indirectly, by a city agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.  
  
(c) For purposes of this subdivision, the term "services" shall not include employment as an employee.

5. No statewide elected official, state officer or employee, member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any gift having a value of seventy-five dollars or more whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part. No person shall, directly or indirectly offer or make any such gift to a statewide elected official, or any state officer or employee, member of the legislature or legislative employee under such circumstances.
6. (a) Every legislative employee not subject to the provisions of section seventy-three-a of this chapter shall, on and after December fifteenth and before the following January fifteenth, in each year, file with the legislative ethics committee established by section eighty of the legislative law a financial disclosure statement of
  - (1) each financial interest, direct or indirect of himself, his spouse and his emancipated children under the age of eighteen years in any activity which is subject to the jurisdiction of a regulatory agency or name of the entity in which the interest is had and whether such interest is over or under five thousand dollars in value.
  - (2) every office and directorship held by him in any corporation, firm or enterprise which is subject to the jurisdiction of a regulatory agency, including the name of such corporation, firm or enterprise.
  - (3) any other interest or relationship which he determines in his discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed.
- (b) Copies of such statements shall be open to public inspection.
- (c) Any such legislative employee who knowingly and willfully with intent to deceive makes a false statement or gives information which he knows to be false in any written statement required to be filed pursuant to this subdivision, shall be assessed a civil penalty in a amount not to exceed ten thousand dollars. Assessment of a civil penalty shall be made by the legislative ethics committee in accordance with the provisions of subdivision twelve of section eighty of the legislative law. For a violation of this subdivision, the committee may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.
7. (a) No statewide elected official, or state officer or employee, other than in the proper discharge of official duties, or member of the legislature or legislative employee, or political party chairman shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another in relation to any case, proceeding, application or other matter before a state agency where such appearance or rendition of services is in connection with:
  - (i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;
  - (ii) any proceeding relating to rate making;
  - (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
  - (iv) the obtaining of grants of money or loans;
  - (v) licensing; or

- (vi) any proceeding relating to a franchise provided for in the public service law.
- (b) No political party chairman in a county wholly included in a city having a population of one million or more shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself or another in relation to any case, proceeding, application or other matter before any city agency where such appearance or rendition of services is in connection with:
- (i) the purchase, sale, rental or lease of real property, goods or services, or contract therefor, from, to or with any such agency;
  - (ii) any proceeding relating to ratemaking;
  - (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
  - (iv) the obtaining of grants of money or loans;
  - (v) licensing. For purposes of this paragraph, the term "licensing" shall mean any city agency activity respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency of a city agency which in the absence of such license, permit or other form of permission would be prohibited; and
  - (vi) any proceeding relating to a franchise.
- (c) Nothing contained in this subdivision shall prohibit a statewide elected official, or a state officer or employee, unless otherwise prohibited, or a member of the legislature or legislative employee, or political party chairman, from appearing before a state agency in a representative capacity if such appearance in a representative capacity is in connection with a ministerial matter.
- (d) Nothing contained in this subdivision shall prohibit a member of the legislature, or a legislative employee on behalf of such member, from participating in or advocating any position in any matter in an official or legislative capacity, including, but not limited to, acting as a public advocate whether or not on behalf of a constituent. Nothing in this paragraph shall be construed to limit the application of the provisions of section seventy-seven of this chapter.
- (e) Nothing contained in this subdivision shall prohibit a state officer or employee from appearing before a state agency in a representative capacity on behalf of an employee organization in any matter where such appearance is duly authorized by an employee organization.
- (f) Nothing contained in this subdivision shall prohibit a political party chairman from participating in or advocating any matter in an official capacity.
- (g) Nothing contained in this subdivision shall prohibit internal research or discussion of a matter, provided, however, that the time is not charged to the client and the person does not share in the net revenues generated or produced by the matter.
8. (a) No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before



such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.

- (b) No person who has served as a state officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any state agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration.
  - (c) No person who has served as a member of the legislature shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature. No legislative employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this chapter shall during the term of office of the legislature in which he or she was so employed, receive compensation at any time during the remainder of such term after leaving the employ of the legislature for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature in relation to any matter with respect to which such person was directly concerned and in which he personally participated during the period of his service or employment. A legislative employee who acted primarily in a supervisory capacity in such matter and who was not personally involved in the development, negotiation or implementation of the matter to an important and material degree, may, with the approval of the legislative ethics committee, receive such compensation and perform such services.
  - (d) Nothing contained in this subdivision shall prohibit any state agency from adopting rules concerning practice before it by former officers or employees more restrictive than the requirements of this subdivision.
  - (e) This subdivision shall not apply to any appearance, practice, communication or rendition of services before any state agency, or either house of the legislature, or to the receipt of compensation for any such services, rendered by a former state officer or employee or former member of the legislature or legislative employee, which is made while carrying out official duties as an elected official or employee of a federal, state or local government or one of its agencies.
  - (f) Nothing in this subdivision shall be deemed to prevent a former state officer or employee who was employed on a temporary basis to perform routine clerical services, mail services, data entry services or other similar ministerial tasks, from subsequently being employed by a person, firm, corporation or association under contract to a state agency to perform such routine clerical services, mail services, data entry services or other similar ministerial tasks; provided however, this paragraph shall in no event apply to any such state officer or employee who was required to file an annual statement of financial disclosure pursuant to section seventy-three-a of this article.
- 8-a. The provisions of paragraphs (a) and (b) of subdivision eight of this section shall not apply to any such former state officer or employee engaged in any of the specific permitted activities defined in this subdivision that are related to any civil action or proceeding in any state or federal court, provided that the attorney general has certified in writing to the state ethics commission, with a copy to such former state officer or

employee, that the services are rendered on behalf of the state, a state agency, state officer or employee, or other person or entity represented by the attorney general, and that such former state officer or employee has expertise, knowledge or experience which is unique or outstanding in a field or in a particular matter or which would otherwise be generally unavailable at a agency, state officer or employee, or other person or entity represented by the attorney general in such civil action or proceeding. For purposes of this subdivision the term "permitted activities" shall mean generally any activity performed at the request of the attorney general or the attorney general's designee, including without limitation:

- (a) preparing or giving testimony or executing one or more affidavits;
- (b) gathering, reviewing or analyzing information, including documentary or oral information concerning facts or opinions, attending depositions or participating in document review or discovery;
- (c) performing investigations, examinations, inspections or tests of persons, documents or things;
- (d) performing audits, appraisals, compilations or computations, or reporting about them;
- (e) identifying information to be sought concerning facts or opinions; or
- (f) otherwise assisting in the preparation for, or conduct of, such litigation.

Nothing in this subdivision shall apply to the provision of legal representation by any former state officer or employee.

9. No party officer while serving as such shall be eligible to serve as a judge of any court of record, attorney-general or deputy or assistant attorney-general or solicitor general, district attorney or assistant district attorney. As used in this subdivision, the term "party officer" shall mean a member of a national committee, an officer or member of a state committee or a county chairman of any political party.

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chairman, member of the legislature or legislative employee is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a state agency, or a city agency with respect to a political party chairman in a county wholly included in a city with a population of more than one million, otherwise proscribed by this section, the judiciary law, the education law or any other law or disciplinary rule with respect to such official, member of the legislature or officer or employee, or political party chairman, where such statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the state ethics commission or by the legislative ethics committee in relation to persons subject to their respective jurisdictions, resulting there from, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined; nor shall anything contained in this section, the judiciary law, the education law or any other law or disciplinary rule be construed to prohibit any firm, association or corporation in which any present or former statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, the court of claims, where such statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this chapter does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the state ethics commission or by the legislative ethics

committee in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined.

11. Notwithstanding any provision of the judiciary law, the education law or any other law or disciplinary rule to the contrary:

(a) Conduct authorized pursuant to subdivision eight of this section by a person who has served as a member of the legislature or as a legislative employee shall not constitute professional misconduct or grounds for disciplinary action of any kind;

(b) No member of the legislature or former member of the legislature shall be prohibited from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, any state agency solely by reason of any vote or other action by such member or former member in respect to the confirmation or election of any member, commissioner, director or other person affiliated with such state agency, but nothing in this paragraph shall limit the prohibition contained in subdivision eight of this section;

(c) The appearance, practice, communication or rendition of services in relation to any matter before, or transaction of business with a state agency, or with the court of claims, or the promotion or opposition to the passage of bills or resolutions by either house of the legislature, by a member, associate, retired member, of counsel or shareholder of a firm, association or corporation, in accordance with subdivision ten of this section, is hereby authorized and shall not constitute professional misconduct or grounds for disciplinary action of any kind solely by reason of the professional relationship between the statewide elected official, state officer or employee, political party chairman, member of the legislature, or legislative employee and any firm, association, corporation or any member, associate, retired member, of counsel, or shareholder thereof, or by reason of the appearance created by any such professional relationship.

12. A statewide elected official, state officer or employee, or a member of the legislature or legislative employee, or political party chairman, who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation which is appearing or rendering services in connection with any case, proceeding, application or other matter listed in paragraph (a) or (b) of subdivision seven of this section shall not orally communicate, with or without compensation, as to the merits of such cause with an officer or an employee of the agency concerned with the matter.

13. For the purposes of this section, a statewide elected official or state officer or employee or member of the legislature or legislative employee or political party chairman who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation shall not be deemed to have made an appearance under the provisions of this section solely by the submission to a state agency or city agency of any printed material or document bearing his or her name, but unsigned by him or her, such as by limited illustrations the name of the firm, association or corporation or the letterhead of any stationery, which pro forma serves only as an indication that he or she is such a member, associate, retired member, of counsel to, or shareholder.

14. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates shall be made by the state ethics commission or the legislative ethics committee, as the case may be, with respect to persons subject to their respective jurisdictions. The state ethics commission acting pursuant to subdivision thirteen of section ninety-four of the executive law, or the legislative ethics committee acting pursuant to subdivision twelve of section eighty of the legislative law, as the case may be, may, in lieu of a civil penalty, with respect to a violation of subdivisions two through five or subdivision seven or eight of this section, refer a violation of any such subdivision to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class misdemeanor.

**APPENDIX B**  
**Section 74**  
**Code of Ethics**

1. Definition. As used in this section: The term "state agency shall mean any state department, or division, board, commission, or bureau of any state department or any public benefit corporation or public authority at least one of whose members is appointed by the governor.

The term "legislative employee" shall mean any officer or employee of the legislature but it shall not include members of the legislature.

2. Rule with respect to conflicts of interest. No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.
3. Standards.
  - a. No officer or employee of a state agency, member of the legislature or legislative employee should accept other employment which will impair his independence of judgment in the exercise of his official duties.
  - b. No officer or employee of a state agency, member of the legislature or legislative employee should accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
  - c. No officer or employee of a state agency, member of the legislature or legislative employee should disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests.
  - d. No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
  - e. No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the state with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
  - f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.
  - g. An officer or employee of a state agency should abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
  - h. An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
  - i. No officer or employee of a state agency employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer or employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the state agency in which such officer or employee serves or is employed.

- j. If any officer or employee of a state agency shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he should file with the secretary of state a written statement that he has such a financial interest in such activity which statement shall be open to public inspection.
4. Violations. In addition to any penalty contained in any other provision of law any such officer, member or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law.

**APPENDIX C**  
**EXECUTIVE ORDER**

**No 1: ESTABLISHMENT OF ETHICAL CONDUCT GUIDELINES**

WHEREAS, government employment is a privilege rather than a right, and is based upon the trust and confidence placed in the State's workers by the public; and

WHEREAS, all State employees therefore must act in a manner consistent with that public trust, and must not take any actions that are intended, or appear to be intended, to achieve personal gain or benefit; and

WHEREAS, employees and officers of State agencies and public authorities are subject to certain ethical statutes and rules, including but not limited to the State Code of Ethics (Section 74 of the Public Officers Law), statutory restrictions on business and professional activities (Section 73 of the Public Officers Law), and opinions issued by the State Ethics Commission; and

WHEREAS, there are some areas where New York's existing statutes governing ethical standards can and should be improved; and

WHEREAS, until that occurs through legislative action, it is appropriate to take steps to ensure that as many State employees and officers as possible maintain the highest ethical and professional standards;

NOW, THEREFORE, I, Eliot Spitzer, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the laws of the State of New York, do hereby order as follows:

1. Definitions

"Agency" shall mean any state agency, department, office, board, commission or other instrumentality of the State, other than a public authority.

"Public authority" shall mean a public authority or public benefit corporation created by or existing under any State law, at least one of whose members is appointed by the Governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

2. Application

This order shall apply to all State agency officers and employees who serve at the pleasure of the Governor or their appointing authority, and to all members of all public authorities who are appointed by the Governor. Each public authority shall adopt policies or rules applying the restrictions set forth below to all officers and employees who serve at the pleasure of their appointing authority.

3. Prohibition Against the Receipt of Gifts

Subject to the conditions set forth below, all individuals covered by this executive order are prohibited from accepting gifts or gratuities of more than nominal value where the circumstances would permit the inference that: (a) the gift was intended to influence the individual in the performance of official business; or (b) the gift constituted a tip, reward, or sign of appreciation for any official act by the employee. This prohibition shall apply notwithstanding Public Officers Law ' 73(5), which provides that gifts up to \$75 may be allowed in certain circumstances.

4. Prohibition Against the Use of State Property

State supplies, equipment, computers, personnel and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind. This prohibition includes but is not limited to the following:

a. Official stationery may not be used for non-governmental purposes, nor may State government resources be used to mail personal correspondence. The designation "personal" on agency stationery means only that the contents are meant for the personal viewing of the addressee and not that the sender is acting unofficially. All letters and other written

materials printed on such official stationery are considered official, and thus the designation "unofficial" has no meaning and may not be used.

b. Under no circumstances may State mail, postage, internal office mail, or inter-city couriers be used for non-governmental purposes.

c. State telephones may not be used for non-governmental long-distance calls, except for toll-free calls, collect calls, and calls billed to a personal telephone number. State telephones may be used for incidental and necessary personal local calls that are of limited number and duration and do not conflict with the proper exercise of the duties of the State employee.

d. State computers may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the State employee.

e. State vehicles shall be used for official business or incidental use associated with official business away from an employee's official work station. Individuals who are authorized by their agency or public authority to use a vehicle for personal purposes shall keep records of such use, and the value of such personal use shall be calculated and reported as personal income to such individual for tax purposes.

#### 5. Prohibition Against Nepotism in Hiring and Contracting

a. No individual covered by this order may take part in any hiring or employment decision relating to a family member. If a hiring or employment matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

b. No individual covered by this order may take part in any contracting decision: (i) relating to a family member; or (ii) relating to any entity in which a family member is an officer, director or partner, or in which a family member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

c. For the purposes of this paragraph, the term "family member" shall mean any person living in the same household as the employee, and any person related to the employee within the third degree of consanguinity or affinity.

#### 6. Prohibition Against Executive Chamber Employees Lobbying State Agencies and Public Authorities

The provisions of Public Officers Law ' 73(8) prohibiting former State officers and employees from appearing or practicing before their former agency for a period of two years shall, with respect to Executive Chamber employees, extend to appearing or practicing before any Executive Branch agency or public authority.

#### 7. Penalties

Any violation of this order may result in dismissal or other appropriate sanction as determined by the appointing authority of the individual committing such violation.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this first day of January in the year two thousand seven.

Eliot Spitzer, Governor

Richard Baum, Secretary to the Governor

**APPENDIX D**  
**EXECUTIVE ORDER**

**No 2: ELIMINATING POLITICS FROM GOVERNMENT DECISIONMAKING**

WHEREAS, it is essential that the duties and responsibilities of State government be performed in a non-partisan manner; and

WHEREAS, all State employees and officers should feel free to pursue the interests of the public in an environment that is free from political party influence or interference; and

WHEREAS, all State taxpayers and residents and all those who depend on State government services have the right to expect that government programs will be administered and managed with the highest degree of professionalism and without regard to partisan politics; and

WHEREAS, all State employees and officers should be selected based upon their qualifications, integrity, honesty, competency and dedication to fulfilling the public policies of the State, and should not be excluded from State service based solely upon their political affiliations; and

WHEREAS, it is the obligation of every State employee and officer to pursue a course of conduct that will not engender public concern as to whether the individual is engaged in acts that may violate his or her public trust; and

WHEREAS, although certain State laws and rules place limits on political campaign activities of State employees, there are ways in which these laws can be improved and strengthened; and WHEREAS, until that occurs through legislative action, it is appropriate to take steps to limit, to the greatest extent possible, the influence of politics on government decision-making;

NOW, THEREFORE, I, Eliot Spitzer, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the laws of the State of New York, do hereby order as follows:

1. Definitions

"Agency" shall mean any state agency, department, office, board, commission or other instrumentality of the State, other than a public authority.

"Public authority" shall mean a public authority or public benefit corporation created by or existing under any State law, at least one of whose members is appointed by the Governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

2. Application

This order shall apply to all State agency officers and employees who serve at the pleasure of the Governor or their appointing authority, and to all members of all public authorities who are appointed by the Governor. Each public authority shall adopt policies or rules applying the restrictions set forth below to all officers and employees who serve at the pleasure of their appointing authority.

3. Prohibition Against Campaign Contributions to the Governor and Lieutenant Governor

No individual covered by this executive order may make or offer to make any monetary contribution to the campaign of the Governor or the Lieutenant Governor, or to any political campaign committee organized by or for the specific benefit of the Governor or the Lieutenant Governor. In addition, no individual covered by this executive order may request or demand that any other person make or offer to make any monetary contribution to the campaign of the Governor or the Lieutenant Governor, or to any political campaign committee organized by or for the specific benefit of the Governor or the Lieutenant Governor.

4. Prohibition Against Consideration of Politics in Employment and Contracting

No individual covered by this executive order who is involved in recruiting, interviewing or hiring applicants for State employment, or making appointments to State boards or commissions, or making promotional, disciplinary or other



employment decisions relating to State employees, may ask any such applicant or employee to reveal: (a) the party affiliation of the applicant; (b) whether the applicant has made campaign contributions to any party, elected official, or candidate for elective office; or (c) whether the candidate voted for any elected official or candidate for elective office. The provisions of this paragraph shall not apply to circumstances where such inquiry is necessary for the proper application of State law or approved State agency or public authority rules, policies or practices (e.g., inquiring about party affiliation where State law limits the number of members of a State board who can be from the same party).

No individual covered by this executive order who is involved in the awarding of State grants or contracts, or making decisions relating to State grants or contracts, may ask any officer or director of such current or prospective contractor or grantee to reveal: (a) the party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any party, elected official, or candidate for elective office; or (c) whether the individual or entity voted for any elected official or candidate for elective office.

#### 5. Prohibition Against Appearances by Candidates in State Advertising

Under no circumstances may any State agency or public authority permit any elected official or any candidate for elective office to appear in any advertisement in any media, including but not limited to television, radio, Internet or print, if such advertisement is paid for, in whole or in part, directly or indirectly, by any State agency or public authority, or if any State agency or public authority resources are utilized in the creation of such advertisement.

#### 6. Prohibition Against Campaigning for State or Federal Office

No commissioner, executive director or other head of any agency or public authority shall seek nomination, designation or election to any compensated federal or state public office, or shall commence a candidacy for such office, unless such individual first resigns from State service or requests and is granted a leave of absence without pay. Such leave, if granted, must commence before such individual engages in any campaign activities, including but not limited to announcing a candidacy, circulating petitions, soliciting contributions, distributing literature, or taking any other action to actively promote oneself as a candidate for elective office.

#### 7. Penalties

Any violation of this order may result in dismissal or other appropriate sanction as determined by the appointing authority of the individual committing such violation.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this first day of January in the year two thousand seven.

Eliot Spitzer, Governor

Richard Baum, Secretary to the Governor

**APPENDIX E**

**Policy Making Positions of the Erie County Fiscal Stability Authority**

Executive Director