Category: HR / Labor Relations Legal and Compliance Responsible Office: University Counsel	**Policy Title:** Code of Ethical Conduct for University Officers Document Number: 6000 Effective Date: May 31, 2007 This policy item applies to: State-Operated Campuses

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Summary

The New York State Ethics in Government Act and the New York State Ethics Commission's regulations require state agencies to establish a code of ethical conduct governing business and professional activities of their uncompensated officers in policy-making positions. Accordingly, the State University of New York Board of Trustees adopted the Code of Ethical Conduct for University officers applicable to the members of the University Board of Trustees, the councils of the state-operated campuses and the Board of Trustees of the College of Environmental Science and Forestry.

Policy

Background

The University Board of Trustees adopted on September 27, 1990, and revised on May 31, 2007, a Code of Ethical Conduct (Code) applicable to the service of its members, as well as those who are members of campus councils and the Board of Trustees of the College of Environmental Science and Forestry (ESF). The Board adopted this Code pursuant to regulations issued by the New York State Ethics Commission (State Ethics Commission) which generally require state agencies to establish internal agency-specific codes of ethical conduct governing the business and professional activities of uncompensated officers (19 NYCRR §932.5). The Code must be distributed to all newly appointed members of the University Board of Trustees, each state-operated campus council and ESF Board of Trustees.

The Code, which has been filed with the State Ethics Commission, establishes ethical standards and limitations on outside activities applicable to all uncompensated University public officers, including those designated policy-makers. It is similar in most respects to the standards governing the business and professional activities of public officers under NYS Public Officers Law §§73 and 74. The adoption of the Code does not affect the determination that campus council members and ESF Board of Trustees are not required to file annual disclosure statements with the State Ethics Commission.

CODE OF ETHICAL CONDUCT

Business or Professional Activities by State University of New York Officers

1. Statement of Purpose

This Code of Ethical Conduct shall apply to the service of the Trustees of the State University of New York (University), the members of the councils of the State-operated campuses appointed pursuant to section 356 of the Education Law, and the Board of Trustees of the College of Environmental Science and Forestry appointed pursuant to section 6003 of the Education Law. The provisions of this Code shall be in addition to the requirements of section 73(3)(b) of the Public Officers Law applicable to the University Trustees as State policy-makers, and the Code of Ethics contained in section 74 of the Public Officers Law, applicable to all University officers.

2. Definitions

As used in this Code:

- The term “State University officer” shall mean members of the Board of Trustees of the State University of New York, councils of the state-operated institutions of the State University of New York and the Board of Trustees of the State University of New York College of Environmental Science and Forestry.
- The term "compensation" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered.
- A person has a “financial interest” in any entity if that person (i) owns or controls ten percent or more of the stock of such entity (or one percent in the case of a corporation the stock of which is regularly traded on an established securities exchange), or (ii) serves as an officer, director or partner of that entity.
- The term "honorarium" shall mean any payment made in consideration for any speech given at a public or private conference, convention, meeting, social event, meal or like gathering.
- The term "ministerial matter" shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.
- The term “relative” of any individual shall mean any person living in the same household as the individual and any person who is a direct descendant of that individual’s grandparents or the spouse of such descendant.
- 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.
- 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 their constituent units.

3. Contingency Fee Arrangements Prohibited

No State University officer 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 other than in the Court of Claims, whereby the officer's 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.

4. Competitive Bidding Required

No State University officer 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 sell any goods or services having a value in excess of twenty-five dollars to any State agency

unless pursuant to an award or contract let after public notice and competitive bidding. This provision 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.

5. Limitation on Gifts

(a) No State University officer shall, directly or indirectly, solicit, accept or receive any gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence the officer, or could reasonably be expected to influence the officer, in the performance of the officer's official duties or was intended as a reward for any official action on the officer's part.

(b) No State University officer shall solicit, accept or receive any gift, as defined in section one-c of the Legislative Law, from a registered lobbyist, or the spouse or unemancipated child of the lobbyist, who has matters pending before the State University of New York, unless under the circumstances it is not reasonable to infer that the gift was intended to influence such officer.

(c) No State University officer shall permit the solicitation, acceptance, or receipt of any gift, as defined in section one-c of the Legislative Law, from a registered lobbyist, or the spouse or unemancipated child of the lobbyist, who has matters pending before the State University of New York, to a third party including a charitable organization, on such officer's designation or recommendation or on his or her behalf, under circumstances where it is reasonable to infer that the gift was intended to influence such officer.

6. Appearances before State University Prohibited

(a) Except as provided in paragraph 4 above, no State University officer, other than in the proper discharge of official duties, 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 the officer or another in relation to any case, proceeding, application or other matter before any unit of the State University of New York.

(b) Nothing contained in this provision shall prohibit a State University officer, unless otherwise prohibited, from appearing before a unit of the State University of New York in a representative capacity if such appearance in a representative capacity is in connection with a ministerial matter.

(c) Nothing contained in this paragraph shall prohibit internal research or discussion of a matter, provided, however, that the time is not charged to the client and the State University officer does not share in the net revenues generated or produced by the matter.

7. Post-service Appearances Restricted

No person who has served as a State University officer shall, within a period of two years after the termination of such service, appear or practice before the State University of New York or receive compensation for any services rendered by such former officer on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before SUNY. No person who has served as a State University officer 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 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 such person personally participated during the period of State service or which was under such person's active consideration.

8. Firms of State University Officers

Nothing contained in this Code shall be construed or applied to prohibit any firm, association or corporation, in which any present or former State University officer 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 otherwise proscribed by this Code with respect to such officer, where such officer does not share in the profits resulting therefrom.

9. Certain Oral Communications Prohibited

A State University officer 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 described in paragraph six of this Code 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.

10. Use of Firm Letterhead

For the purposes of this Code, a State University officer 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 Code solely by the submission to a State agency of any printed material or document bearing the officer's name, but unsigned by the officer, 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 the officer is such a member, associate, retired member, of counsel to, or shareholder.

11. Honorariums

No State University officer shall, directly or indirectly, solicit, accept or receive any honorarium while holding such position.

12. Nepotism

No State University officer shall participate in any decision to hire, promote, discipline or discharge a relative for any compensated position at, for or within any state agency, public authority or the Legislature. This paragraph shall not apply to responding to inquiries with respect to prospective hires related to such State University officer.

13. Contract and Investment Decisions

No State University officer shall: (a) participate in any state contracting decision involving the payment of more than one thousand dollars to that State University officer, any relative of that State University officer, or any entity in which that State University officer or any relative has a financial interest; or (b) participate in any decision to invest public funds in any security of any entity in which that State University officer or any relative of that State University officer has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.

14. Contracts and Political Affiliation

(a) No State University officer involved in the awarding of state grants or contracts shall ask a current or prospective grantee or contractor, or any officer, director or employee thereof, to disclose:

(i) the party affiliation of such grantee or contractor, or any officer, director or employee thereof;

(ii) whether such grantee or contractor, or any officer, director or employee thereof, has made campaign contributions to any party, elected official, or candidate for elective office; or

(iii) whether such grantee or contractor, or any officer, director or employee thereof, cast a vote for or against any elected official, candidate or political party.

(b) No State University officer shall award or decline to award any state grant or contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective grantee's or contractor's refusal to answer any inquiry prohibited by paragraph (a) of this paragraph, or giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

15. Employment and Political Affiliation

(a) No State University officer shall during the consideration of an employment decision ask any applicant for public employment to disclose:

(i) the political party affiliation of the applicant;

(ii) whether the applicant has made campaign contributions to any party, elected official, or candidate for elective office; or

(iii) whether the applicant cast a vote for or against any elected official, candidate or political party. The provisions of this paragraph shall not apply where (1) such inquiry is necessary for the proper application of any state law or regulation; or (2) such inquiry is consistent with publicly disclosed policies or practices of any state agency or public authority, whose purpose is to ensure the representation of more than one political party on any multi-member body.

(b) No State University officer shall decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any state official or employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry prohibited by paragraph (a) of this paragraph, or for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

(c) No State University officer shall, directly or indirectly, use his or her official authority to compel or induce any other State officer or employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.

16. Enforcement Procedure

The State University Trustees shall review alleged violations of this Code and determine an appropriate response which may include referral of alleged violations to the Commission on Public Integrity, pursuant to subdivision nine of section 94 of the Executive Law. The Commission on Public Integrity may investigate such alleged violations and make appropriate recommendations to the appointing authority. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates the provisions of this Code shall be subject to removal by the appointing authority in accordance with the provisions of the Public Officers Law.

Definitions

The relevant terms are defined in Paragraph 2 of the Code set forth in the policy statement.

Other Related Information

New York State Joint Commission on Public Ethics (JCOPE) website.

New York State Ethics – A Plain Language Version, from the SUNY Internal Controls website.

SUNY Compliance Website Ethics pages, including **Ethics Compliance** at SUNY, **JCOPE and the New York State Ethics laws**, **Conflicts of Interest**, and **Project Sunlight**.

Procedures

There are no procedures relevant to this policy.

Forms

There are no forms relevant to this policy.

Authority

19 NYCRR 932.5 (Regulations of the New York State Ethics Commission)

The following links to FindLaw's New York State Laws are provided for users' convenience; it is not the official site for the State of New York laws.

NYS Executive Law §94 (State ethics commission)

NYS Public Officers Law §§73 and 74 (NYS Ethics in Government Act)

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of New York State Consolidated.

State University Board of Trustees Resolution, 2007-100, dated May 31, 2007.

History

The Code of Ethical Conduct adopted by the State University of New York Board of Trustees on September 27, 1990.

Appendices

There are no appendices relevant to this policy.