

<u>POLICY</u>	Page 1 of 6
EMPIRE STATE DEVELOPMENT	Dated: August 2015 Supersedes: Policy dated March 2003
Approved: /s/ Elizabeth Fine Elizabeth Fine Executive Vice President, Legal and General Counsel	SUBJECT: ETHICS POLICIES

These policies are intended to apply to all ESD employees and to employees of ESD subsidiaries. Any questions as to the applicability of a provision to a particular employee should be directed to the ESD Ethics Counsel or the ESD General Counsel. These policies reflect the restrictions set forth in the New York State Public Officers Law as well as ESD internal policy.

I. Code of Conduct

- No ESD employee shall have any interest, financial or otherwise, direct or indirect, or engage in any activity, or incur any obligation of any nature, which is in conflict with the proper discharge of his or her duties in the public interest, whether such conflict be real or apparent.
- No ESD employee shall use his or her position to secure unwarranted privileges or exemptions for himself or herself or another.
- Each ESD employee shall avoid conduct which may reasonably raise suspicion among the public that he or she is likely to engage in acts that are in violation of his or her trust.
- No ESD employee shall disclose, or use to further his or her personal interest or the interest or another, confidential information acquired by him or her during the course of his or her official duties, which is not public knowledge or information, including in connection with the purchase or sale of property or securities.
- In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates these guidelines may be subject to disciplinary action, up to and including potential suspension or termination.

II. Outside Activities

ESD permits employees to engage in outside employment and other outside activities subject to the following provisions.

1. Disclosure and Approval of Outside Activities

All outside compensated activities, regardless of the amount of compensation, or any other outside activities including but not limited to non-profit or for-profit board membership, community board membership, running for or holding elected office, and serving on public advisory boards, which may lead to a conflict of interest, or the appearance of a conflict must be disclosed to ESD Ethics Counsel.

Certain activities require further written approval from ESD and/or the Joint Commission on Public Ethics (JCOPE) as follows:

- Outside activity (including public employment) from which the employee anticipates receiving more than \$1,000 in compensation (ESD approval required for all employees).
- Outside activity (including public employment) from which the employee anticipates receiving more than \$5,000 in compensation (ESD approval for non-policy makers, ESD and JCOPE approval for policy makers).
- Holding elected or appointed public office regardless of compensation (ESD approval for non-policy makers, ESD and JCOPE approval for policy makers).
- Service as a director or officer of a for-profit corporation (ESD approval for non-policymakers, ESD and JCOPE approval for policymakers).
- Service as a director or officer of a non-profit entity (ESD approval for non-policy makers and policy makers regardless of compensation, JCOPE approval for policy makers who anticipate earning over \$5,000 in compensation).
- Running for a part-time elected position (ESD approval).
- Serving as an officer, director, or board member of any Party or Political Organization or serving as a member, officer, director, board member, or district leader of any Party Committee (ESD approval for non-policymakers, policy makers are prohibited from serving in these capacities).
- Accepting an "honorarium" (ie. a fee or other compensation offered to an employee for a service rendered by the employee such as giving a speech or writing an article that is not part of the employee's official duties). An honorarium may include expenses incurred for travel, lodging, and meals related to the service performed. (ESD approval).

2. Procedures for Obtaining Approval

Prior to committing to an outside activity, employees must submit a request for approval ([click here to view Outside Activity Approval Form](#)) to the ESD Ethics Counsel. The request should set forth in reasonable detail a description of the employee's job, the outside activity, the amount of any compensation, and a description of the organization for which the service will be rendered. The request must include a certification by the employee that no actions in connection with the outside activity will occur during ESD work hours or will utilize ESD equipment or supplies.

If further approval is required, and if ESD Ethics Counsel recommends approval of the request, ESD Ethics Counsel will forward the request together with his or her recommendation to approve the request to the ESD COO, and if required, to JCOPE.

Employees are required to re-submit outside activity requests annually.

3. Prohibited Outside Activities

The following outside activities are prohibited:

- Accepting compensation for services in connection with any case, proceeding, application, or other matter before any State agency, if the compensation is dependent or contingent on action by the State agency.
- Accepting compensation for appearances or services by himself or another against the interest of ESD or the State.
- Selling goods or services worth \$25.00 or more to a State agency, or entering into a contract to provide 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 unless such goods or services are provided pursuant to an award or contract let after public notice and competitor bidding.
- Policy-makers are prohibited from serving as officers, directors or board members of any Party of Political Organization, and from serving as officers, directors, board members of any political party or political organization, including political clubs, and from serving as members, officers, directors, board members of a party committee or district leader of a political party.
- Running as a declared candidate for a full-time elected position effective at the point when active fund-raising commences and, in all events, effective before the date of filing to put oneself on the ballot.

III. Gifts

No ESD employee may solicit or accept any gift having a value of \$15.00 or more under circumstances in which it could reasonably be inferred that the gift was intended to influence or reward the employee in connection with his or her official duties. The definition of "gift" includes but is not limited to money, objects, services, loans, travel, lodging, meals, refreshments, entertainment, and event/party invitations, worth \$15.00 or more.

Generally, gifts from entities that do business with ESD, want to do business with ESD, receive or are applying for ESD grants/incentives, lobby ESD, or are in litigation with ESD are impermissible barring special circumstances. Determinations regarding the permissibility of particular gifts are made on a case by case basis. Please consult the ESD Ethics Counsel, ESD General Counsel, or JCOPE with any questions about whether or not it is permissible to accept specific gifts. Employees should submit a gift approval request form if they are offered a gift, including event invite, from an entity that they believe may do business with ESD ([click here to view Gift Approval Request Form](#)).

IV. Official Travel and Meal Reimbursement

Employees may accept payment or reimbursement from third parties for travel and other expenses for an activity that is part of and related to his or her official position provided the following conditions are met:

- mode of travel and related expenses are in accordance with ESD's travel policy;
- reimbursement is not meant to, nor does it reasonably appear to be a reward or attempt to influence the employee;
- reimbursement must be reported on the employee's annual financial disclosure statement if he or she is required to file a disclosure; and
- a request for permission to accept such reimbursement has been submitted to ESD Ethics Counsel ([click here to view Official Activity Reimbursement Form](#)) prior to incurring the charges, and approval has been granted.

V. Negotiation of Future Employment

ESD employees are prohibited from discussing possible future employment with any entity that has had a specific matter pending before them unless 30 days or more has passed since the matter closed or since the employee was recused from the matter.

Employees are required to notify their supervisor or Ethics Counsel if they intend to solicit a job offer, or if they receive an unsolicited job offer, from an entity or individual that has a specific matter pending before them.

VI. Prohibition Against Investment In ESD Bonds

No ESD employee involved in the issuance of ESD bonds may invest in or purchase ESD bonds during his or her term of employment with ESD. Investments in municipal bonds or other governmental obligations, including obligations of the Federal Government, the State or any of their agencies or subdivisions, excluding ESD's bonds, are permitted. Caution must be exercised in making such investments where the employee is privy to information by reason of his or her employment activities that is not public information at the time of his or her investment. Investments in bond funds, which may include ESD bonds in their portfolio, are permitted.

VII. Misuse of Official Position

ESD employees may not use their positions or official authority for any purpose other than furthering their specific job responsibilities. Examples of prohibited actions include but are not limited to:

- use of ESD title for non-work related purposes (including on non-ESD letters or other written materials, or at non-ESD events);
- use of official authority to provide special benefits to oneself or another; or
- use of confidential information for private gain (including related to real estate purchases and other investment decisions).

VIII. Misuse of State Resources

Employees must not use state resources or personnel for non-work related matters including but not limited to the following examples:

- Secretaries and assistants cannot be asked to work on personal matters.
- State property such as computers, office supplies and email may only be used for work related matters.

IX. Nepotism

Employees are prohibited from participating in any decision to hire, promote, discipline or discharge a relative. Relatives of current ESD employees may apply to be considered for publicly posted positions; however, ESD employees should not engage in any specific advocacy on behalf of their relative. This provision applies to all positions including paid and unpaid internships.

X. Political Activity at Work

As a state employee, you are free to volunteer your time on any political campaign; however, you may not:

- participate in any campaign activities on State time, in the office, or using any office resources;
- use your title at ESD in connection with any campaign activities or mailings;
- solicit funds from anyone who you have had dealings with in your professional capacity during the past year, or anyone you believe you will have dealings with in your professional capacity in the future;
- contribute money to the Governor's campaign or any PAC designed for the specific benefit of the Governor; or
- ask a subordinate to volunteer on a campaign, even on personal time.

XI. Post-Employment Restrictions

1. Two Year Bar

No person who has been a ESD employee shall, within two years after the termination of such employment, appear or practice before ESD or any subsidiary of ESD or receive any compensation for services rendered by such former employee in relation to any case, proceeding or application before ESD or any subsidiary of ESD.

2. Lifetime Bar

All former ESD employees shall be permanently barred from appearing or practicing before any State agency or receiving compensation for any services rendered on any matter in which he or she was personally involved as an ESD employee or which was under his or her direct supervision.

3. Exceptions

- Government – to – Government

The post-employment restrictions are not applicable with respect to positions taken at other government entities including at federal, state or local governmental organizations.

- Certificate of Exemption

Upon request by ESD, JCOPE is authorized to grant exemptions to these restrictions to permit an agency to contract with a former employee for services if it is determined that such officer or employee has special expertise, knowledge or experience with respect to a particular matter which meets the needs of the agency and is otherwise unavailable at a comparable cost.

MEMORANDUM

TO: All ESD and Subsidiary and Affiliate Employees

FROM: Elizabeth Fine

DATE: August 19, 2015

SUBJECT: Ethics Policies

Attached are Ethics Policies that reflect and supplement the Public Officers Law and have been adopted to govern the actions of all ESD employees as well as the employees of all ESD subsidiaries and affiliates – i.e., all persons on the payroll of such entities.

The policies are in some instances more restrictive than the underlying statutory provisions. Certain violations of the Public Officers Law may subject you to criminal and civil penalties. A violation of these policies may also subject you to discipline and possibly discharge.

If you have any questions about these policies or about any provision of the Public Officers Law, please contact me.

Attachment

Employee Statement of Interests and Activities

I have received and read the Memorandum from the ESD General Counsel entitled “Ethics Policies” dated August 19, 2015 (the “Memorandum”).

In consideration of the agreement of ESD to employ me, or to continue my employment, as the case may be, I hereby agree to comply fully with each and every applicable provision of law described in the Memorandum, both during the period of my employment by ESD and thereafter to the extent that those provisions apply to my conduct after termination of my employment at ESD.

Other than what is reported below, I have no financial or other interest in, nor am I engaged in any activities which the law, as summarized in the Memorandum, prohibits and/or requires to be reported; nor have I accepted any payments, gifts or things of value from anyone doing business with ESD. **Please include the business interests of your spouse or relatives if those interests pose a potential conflict with your duties at ESD. This form is required even if you believe you already made similar disclosures in a financial disclosure form filed with JCOPE or as part of a background search questionnaire.**

Outside Activities/Potential Conflicts:

_____ None

_____ Yes. Please describe below:

Print Name

Department, if a Current Employee

Date

Signature