

# Executive Code of Ethics

September 20, 2003

WHEREAS, it is essential to the proper operation of government that public officers be independent and impartial; that governmental decisions and policy be made fairly and impartially, on the merits of the matter at issue; that public office not be used for private gain other than the remuneration provided by law; and that there be public confidence in the integrity of government; and

WHEREAS, there is a risk that the attainment of one or more of these ends may be impaired whenever a conflict exists between the private interests of a public officer and his or her official responsibilities; and

WHEREAS, it is also essential to the proper operation of government that those best qualified not be discouraged from serving as public officers by requiring them to relinquish totally the opportunity to further their own interests, at least where such interests do not create irreconcilable conflicts with their official responsibilities; and

WHEREAS, both the public and private sectors of Vermont are enriched by the healthy exchange of individuals who have hands-on knowledge and work experience in both the public and private sectors.

NOW, THEREFORE, an Executive Code of Ethics effectively ensures fairness and impartiality in the conduct of state business while at the same time, encouraging the recruitment and retention of those best qualified to serve the state and ought to be reaffirmed and continued.

BE IT RESOLVED THAT I, James H. Douglas, by virtue of the authority vested in me as Governor, do hereby promulgate the following Executive Code of Ethics.

Except where otherwise provided by law, all gubernatorial Appointees of the executive branch shall be subject to provisions of this Executive Order. Nothing in this Executive Order shall exempt an Appointee from any other requirement of law or any duly adopted state personnel policy.

To assure adherence to this code, all current Appointees are asked to sign the acknowledgment attached hereto as Exhibit A and submit it to the Secretary of Civil and Military Affairs (the "Secretary"). All future Appointees will be asked to sign and submit the acknowledgment upon acceptance of their appointments.

The Secretary has the authority to interpret the provisions of this code as they relate to particular circumstances and to issue exemptions from the Code under special circumstances. All such interpretations and exemptions shall be written and kept by the Secretary in the same manner as the Conflict Questionnaires.

## I. Definitions

As used in this Executive Order:

A. "Appointee" means any exempt employee or any member of any Public Body appointed by or upon the approval of the Governor, or by or upon the approval of such an Appointee.

B. "Appearance of a conflict of interest" as used below in §§ III (A) (2) and (7) means the impression that a reasonable person might have, after full disclosure of the facts, that an Appointee's judgment might be significantly influenced by outside interests, even though there is no actual conflict of interest.

C. "Conflict of interest" means a significant interest, of an Appointee or such an interest, known to the Appointee, of a member of his or her immediate family or household or of a business associate, in the outcome of any particular matter pending before the Appointee or his or her Public Body. "Conflict of interest" does not include any interest that (i) is no greater than that of other persons generally affected by the outcome of the matter, or (ii) has been disclosed and found not to be significant.

D. "Full-time Appointee" means any Appointee receiving a full-time salary for state service.

E. "Private Entity" is any person, corporation, partnership, joint venture or association, whether organized for profit or not for profit, except those specifically chartered by the State of Vermont or which relies upon taxes for at least 50 percent of its revenues.

F. "Public Body" means any agency, department, division or office and any board or commission of any such entity, or any independent board or commission, in the executive branch of the state.

## II. General Conduct

An Appointee must conduct the affairs of his or her office in such a manner as to instill public trust and confidence.

A. Thus, an Appointee shall take all reasonable steps to avoid any action or circumstances, whether or not specifically prohibited by this code, which might result in:

- (1) Undermining his or her independence or impartiality or action;
- (2) Taking official action on the basis of unfair considerations;
- (3) Giving preferential treatment to any private interest on the basis of unfair considerations;
- (4) Giving preferential treatment to any family member or member of the Appointee's household;
- (5) Using public office for the advancement of personal interest;

(6) Using public office to secure special privileges or exemptions; or

(7) Affecting adversely the confidence of the public in the integrity of state government.

B. Every Appointee shall be true and faithful to the State of Vermont; will not, directly or indirectly, do any act or thing injurious to the Constitution or Government of the State of Vermont; will faithfully execute the office which he or she holds; and will therein do equal right and justice to all men and women, to the best of his or her judgment and ability, according to law. [VT. Const., Ch 11, §56]

C. Appointees shall always treat each other, employees, staff, volunteers, and the public with dignity, respect and courtesy.

D. Appointees shall support efforts to create and maintain a diverse and effective work force.

E. Every Full-time Appointee shall devote all of his or her work time to the duties of his or her office.

F. An Appointee shall not use state property nor permit others to use state property unless the use is reasonably related to his or her official responsibilities or the conduct is permitted pursuant to a duly adopted state or agency personnel policy.

G. An Appointee shall not enter into any commitment to expend state funds unless the expenditure is reasonable and valuable to the state and made in accordance with all applicable statutes, rules or directives from the Secretary of the Agency of Administration.

H. An Appointee shall be in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont. An Appointee shall be in good standing with respect to, or in full compliance with a plan to pay, any and all child support obligations.

I. Exemptions sought under this Code shall be issued only to further the twin goals of this Code; to establish high standards of ethical conduct for all Appointees and to encourage those Vermonters best qualified to serve in state government.

### III. Personal Interests, Outside Employment, and Financial Activities

#### A. Ethical Rules While in State Employ:

(1) No Full-time Appointee shall be the owner of, or financially interested, directly or indirectly in any Private Entity or Private Interest that is subject to the supervision of his or her respective department or agency, except as a policyholder in an insurance company or a depositor in a bank. (3 VSA 204). For the purpose of this Executive Order, a direct or indirect financial interest excludes:

(i) any insignificant interest held individually or by a member of the Appointee's immediate household or by a business associate, or

(ii) any interest which is no greater than that of other persons who might be generally affected by the agency's or department's supervision.

(2) An Appointee shall not take any action in any particular matter in which he or she has either a conflict of interest or the appearance of a conflict of interest, until such time as the conflict is resolved.

(3) An Appointee shall not take any official action that materially advances the interest of any entity (except the State of Vermont) with which the Appointee is actively seeking employment.

(4) A Full-time Appointee shall not, for pecuniary gain, be an advocate for any private entity in any matter before any Public Body or before the state legislature or its committees.

(5) An Appointee, while in state employ, shall not solicit or receive any payment, gift, or favor based on any understanding that it may influence any official action.

(6) An Appointee shall not solicit or receive any payment, gift or favor from any private interest which;

(i) has, or seeks to obtain, contractual or other business or financial relationships with the Appointee's Public Body;

(ii) conducts business or activities that are regulated by the Appointee's Public Body; or

(iii) has an interest that may be substantially affected by the Appointee's official actions.

(7) An Appointee, or his or her designee, shall not accept gifts or trips from private interests if the gifts or trips are (i) a quid pro quo; (ii) are intended to influence any decision by the Appointee; or (iii) create an appearance of a conflict of interest.

(8) Absent specific law requiring disclosure, an Appointee shall not disclose to any private entity any confidential or privileged information obtained while in state employ.

(9) An Appointee or his or her family shall not trade in stock or otherwise transact private business based upon information obtained by the Appointee through his or her work on behalf of the state.

#### B. Ethical Rules After State Employ:

(1) For one year after leaving office, a former appointee shall not, for pecuniary gain, be an advocate for any private entity before any public body or before the state legislature or its committees, regarding any particular matter:

(i) in which the state is a party or has a direct and substantial interest; and

(ii) in which the appointee had participated personally and substantively while in state employ.

This prohibition applies to any matter the Appointee directly handled, supervised or managed, or gave substantial input, advice or comment, or benefited from, either through discussing, attending meetings on, or reviewing materials prepared regarding the matter.

(2) For one year after leaving office, a former full-time appointee shall not, for pecuniary gain, be an advocate for any private entity before any public body or before the state legislature or its committees, regarding any particular matter in which the appointee had exercised any official responsibility.

#### IV. Reports

Within thirty days of appointment and thereafter annually on June 30, every Appointee who earns \$30,000 or more per year shall file with the Secretary an "Ethics Questionnaire" as prescribed in Exhibit B. These questionnaires shall be treated as confidential personnel documents as defined by 1 VSA §317 (b) (7) and kept as such during the gubernatorial administration in which the Appointee serves, or for one year after the Appointee leaves office, whichever first occurs, at which point they will be destroyed.

#### V. Enforcement

The purpose of this Executive Code of Ethics is to provide guidance to gubernatorial Appointees covered herein, and during such appointment, except as otherwise required by law, only the Governor or his designated agent shall have the power to sanction any violations hereof. Nothing in this code shall create a right to continue state employment. The remedy for a violation of post-employment restrictions set forth in Section III(B) shall rest with the Public Body before which the former Appointee appears and, barring unusual circumstances, shall result only in disqualifying the former Appointee from appearing or participating in the particular matter.

#### VI. Effective Date

This Executive Order takes effect upon signing, and except as otherwise required by law, supersedes and replaces Executive Order #04-00, dated June 13, 2000.

Witness my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed at Montpelier this 13th day of September, 2003.

James H. Douglas, Governor

By the Governor:

Neale F. Lunderville, Secretary of Civil and Military Affairs

EXHIBIT A

ACKNOWLEDGEMENT

I, , having been appointed to the position of

\_\_\_\_\_, hereby acknowledge having received and read Executive Order 10-03, the Executive Code of Ethics, promulgated on September 13, 2003, and agree to adhere to it.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name (print): \_\_\_\_\_

## EXHIBIT B

### ETHICS QUESTIONNAIRE

In accordance with the Executive Order No. 10-03, Executive Code of Ethics, every gubernatorial appointee as defined therein, who earns \$30,000 or more per year, shall fill out and file this questionnaire annually, on or by June 30, with the Secretary of Civil and Military Affairs. This questionnaire shall be treated as a confidential personnel document pursuant to 1 V.S.A. §317 (b) (7) and kept as such during the gubernatorial administration in which the appointee serves, or for one year after the appointee leaves office, whichever occurs first.

The purpose of this questionnaire is to determine any significant personal interests of gubernatorial appointees that might conflict with the best interests of the state. It is understood that individuals serving the state as gubernatorial appointees may have pecuniary interests that may relate to matters arising in the course of their performance of the official responsibilities. This form is intended to identify those interests and provide assurance that conflicts of interest will not impair fair and impartial state actions. Gubernatorial appointees should, whenever possible, avoid conflicts of interest and, where they do occur, make them clearly evident.

In answering questions, please disclose not only your own direct interests but also any indirect or beneficial interests which could arise through members of your immediate family (spouses, dependent children) or through persons who reside in your home or by reason of a trust or partnership arrangement in which you or a member of your immediate family or household participates or has an interest.

(Use reverse side to give additional information, if necessary.)

1. Are you, your spouse, or a member of your immediate family the director, officer, partner or employee of any enterprise that, to your knowledge, does business or has a financial relationship with the state? If yes, please list all such positions.

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Except for securities that are listed on a national exchange, do you own directly, indirectly, or beneficially, securities, options, or rights to purchase securities or share in profits of companies,

to your knowledge, doing business with the state? If yes, list company and percent of total shares.

Yes\_\_\_\_\_ No\_\_\_\_\_

3. Do you directly, indirectly or beneficially, have any ownership interest in a proprietorship, partnership, or syndicate that, to your knowledge, operates any business which does business with the state? If yes, explain briefly.

Yes\_\_\_\_\_ No\_\_\_\_\_

4. Does there currently exist any creditor-debtor relationship between you, directly or indirectly, and any non-financial organization, to your knowledge, doing business with the state, except normal charge accounts and installment purchase accounts? If yes, explain briefly.

Yes\_\_\_\_\_ No\_\_\_\_\_

5. Are you receiving commissions or any forms of compensation, gift or reward on business transacted with the state either directly or through a third person? If yes, explain briefly.

Yes\_\_\_\_\_ No\_\_\_\_\_

6. In addition to the information reported above, do you have any direct or indirect business relationships which may reasonably be considered to have some influence on your judgment and decisions involving transactions with the state, or otherwise during the performance of your duties and responsibilities as a gubernatorial appointee? If yes, explain briefly.

Yes\_\_\_\_\_ No\_\_\_\_\_

7. Are you in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont? If no, explain.

Yes \_\_\_\_\_ No\_\_\_\_\_

8. If you are under an obligation to pay child support, are you in good standing with respect to that obligation?

Yes\_\_\_\_\_ No\_\_\_\_\_

If no, have you entered into a payment plan with the Vermont Office of Child Support and are you in full compliance with that payment plan?

Yes\_\_\_\_\_ No\_\_\_\_\_

I agree to disassociate myself from situations where possible conflicts of interest pertaining to any matter addressed in this questionnaire might occur, when requested by the Governor or his or her representative, the Secretary of Civil & Military Affairs.

To the best of my knowledge, the answers to all of the above questions are true and complete in every respect.

Date: Signed: \_\_\_\_\_

Please print: Name: \_\_\_\_\_

Position: \_\_\_\_\_

Executive Order No. 10-03