

HUDSON RIVER–BLACK RIVER REGULATING DISTRICT

Code of Ethics for District Board Members, Statutory Officers, Management Staff Members and All Other Employees

Section 1. Purpose.

The Board of the Hudson River-Black River Regulating District (“District”) acknowledges that it would be desirable for the District to recognize and enact rules of ethical conduct for its Board Members, Statutory Officers, Management Staff and all other Employees. The Board of the District acknowledges that the establishment and maintenance of high standards of practice are a fundamental responsibility to the public, essential to winning and holding public confidence, and the foundation of a successful public benefit corporation. This policy sets forth rules of ethical conduct for all District personnel. These rules shall serve as a guide for the official conduct of all District Board Members, Statutory Officers, Management Staff and all other Employees. This code of ethics shall apply to the individuals named above in addition to any other requirement, or law or regulation relating to the ethical conduct of all District personnel, including but not limited to New York State Public Officer’s Law §73, §73-a, §74, §74-a and Ethics Commission Regulations 19 NYCRR Part 930, 932, 935, 936, 937, and 941 and Executive Orders 1 and 2 of 2007.

Section 2. Definitions.

- (a) “District Representative” shall mean a Board Member, Statutory Officer, Management Staff Member or Employee of the Hudson River-Black River Regulating District, whether paid or unpaid.
- (b) “Interest” shall mean a pecuniary or material benefit pertaining to a Board Member, Statutory Officer, Management Staff Member or Employee unless the context otherwise requires.
- (c) “Family Member” shall mean any person living in the same household as a District representative and any person related to the District Representative within the third degree of consanguinity or affinity.

(d) “Law, rule or regulation” includes any duly enacted statute or ordinance or any rule or regulation promulgated pursuant to any federal, state or local statute or ordinance.

(e) “Public body” shall mean the following:

(i) the United States Congress, any state legislature, or any popularly-elected local governmental body, or any member or employee thereof;

(ii) any federal, state, or local judiciary, or any member or employee thereof, or any grand or petit jury;

(iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof; or

(iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer.

(f) “Retaliatory personnel action” means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

Section 3. Standards of Conduct.

Every District Representative shall be subject to and abide by the following standards of conduct:

(a) Gift. A District Representative shall not directly or indirectly, solicit, accept or receive any gift or gratuity of more than nominal value whether in the form of money, services, loan, travel, entertainment, hospitality, things or promise, or any other form under circumstances in which it could be inferred that the gift was intended to influence the District Representative, or could be expected to influence the District Representative, in the performance of his or her official duties or was intended as a reward, tip or sign of appreciation for any official action on the part of a District Representative. This prohibition shall apply notwithstanding Public Officers Law §73(5), which provides that gifts up to \$75 may be allowed in certain circumstances

(b) Confidential information. A District Representative shall not disclose confidential information acquired by said District Representative in the course of his or her official duties or use such information to further his or her personal interest or an other's personal interest. Information subject to this prohibition includes any private information of, or relating to, District records, fellow employees, other persons or firms with which you do business and other information obtained by virtue of your position.

(c) Representation before the District. A District Representative shall not receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the District.

(d) Representation before the District for a contingent fee. A District Representative shall not receive, or enter into any agreement express or implied, for compensation for services to be rendered in relation to any matter before the District, whereby the District Representative's compensation is to be dependent or contingent upon any action by such District with respect to such matter.

(e) Disclosure of interest in legislation. To the extent that a District Representative knows thereof, a District Representative, whether paid or unpaid, who participates in the discussion or gives official opinion to the District on any legislation before the District shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest the District Representative has in such legislation.

(f) Investments in conflict with official duties. A District Representative shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict, or an appearance of a conflict, with his or her official duties.

(g) Private Employment. A District Representative shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with, appears to create a conflict with, or impairs the proper discharge of his or her official duties.

(h) Future Employment. The District Representative shall not, after the termination of service or employment with the District, appear before the District or any subdivision of the District in relation to any case, proceeding

or application in which the District Representative personally participated during the period of his or her service or employment or which was under his or her active consideration.

(i) Influence upon Regulating District Employment Decisions. A District Representative may not 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 District Representative must advise his or her supervisor or the Board, where appropriate, of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

(j) Procurement Policy. In order to promote fair, open and ethical business relationships, the District and District Representatives shall select contractors and other suppliers through fair and open competition based on quality, service and price. District Representatives shall conduct business with our client agencies in an honest, direct and fair manner. To achieve these objectives, all District Representatives shall: never furnish information, verbal or written, to any contractor/vendor or service provider that gives them an unfair advantage over a competitor; never agree with a contractor/vendor or service provider to unfairly restrict competition by specifying unique products/services; never arbitrarily refuse to deal with or purchase goods or services from a specific contractor/vendor or service provider; never require or encourage clients to obtain a service from us that they don't want in exchange for a service they do want; be accurate and truthful in all dealings with clients and be careful to accurately represent the quality, features and availability of authority expertise and services; never engage in industrial espionage or commercial bribery; and comply with all provisions of law and District policy regarding procurements and the award of contracts.

No Regulating District Representatives 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 District Representative must advise his or her supervisor or the Board, where appropriate, of the relationship, and must be recused from any and all discussions or decisions relating to the matter. Furthermore, no District Representative who is involved in the awarding of contracts or who is

making decisions relating to 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.

(k) No political contributions or activity during the course of official business. Contributions to political parties or candidates on behalf of, or in the name of, the District are strictly prohibited. District funds may not be used for the purposes of making contributions to political parties or candidates. The term "political contributions" includes, in addition to direct cash contributions, the donation of property or services and the purchase of tickets to fund-raising events. Personal contributions may be made but such contributions are not reimbursable by the District. You may not use your position within the District to solicit political contributions from another employee or any firm doing business with the District for the purpose of supporting a political party or candidate. Furthermore, no Regulating District Representative shall:

(i) 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 District Representative 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.

(ii) in the course of recruiting, interviewing or hiring applicants for Regulating District employment, or making promotional, disciplinary or other employment decisions relating to Regulating District 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 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).

(iii) 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 the Regulating District or if any Regulating District resources are utilized in the creation of such advertisement.

(iv) 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 Regulating District 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.

Section 4. Prohibition against the use of Regulating District Property.

Regulating District supplies, equipment, computers, personnel and other resources may not be used 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.

Section 5. Whistleblowing

1. Prohibitions. The Board, the Executive Director or any other supervisor of the Hudson River-Black River Regulating District shall not take any retaliatory personnel action against an employee because such employee does any of the following:

(a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation including but not limited to violations of the Public Officers law.

(b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; or

(c) objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

2. An employee who wishes to disclose a policy or practice pursuant to paragraph (a) of this section shall immediately notify his or her supervisor of the practice or procedure that is reasonably believed by the employee to be in violation of a law, rule or regulation. If the disclosure concerns the employee's supervisor, notification shall be made to the Executive Director. If the disclosure concerns the Executive Director, notification shall be made to the General Counsel or **Board Chair**.¹

3. Application. The protection against retaliatory personnel action provided by paragraph (a) of subdivision one of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body

¹ The term Board Chair has been added to the text of this proposed policy to address concerns raised by Board members at the May meeting.

unless the employee has brought the activity, policy or practice in violation of law, rule or regulation to the attention of a supervisor of the Regulating District and has afforded such employer a reasonable opportunity to correct such activity, policy or practice.

Section 6.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former District Representative of any claim, account, demand or suit against the District, or any subdivision thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

Section 7. Distribution of Code of Ethics.

The Executive Director of the District shall distribute a copy of the code of ethics to every District Representative within ten (10) days after the effective date of this proposed policy, and every District Representative retained thereafter shall be furnished a copy before entering upon the duties of his or her office of employment.

Section 8 Penalties.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.