

STATE OF VERMONT

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. 19-17

[Executive Code of Ethics]

WHEREAS, throughout the State of Vermont, dedicated public servants bring their talents and expertise to work on behalf of all Vermonters; and

WHEREAS, it is essential to the proper operation of government that public officers be principled 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 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; and

WHEREAS, 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.

NOW THEREFORE, BE IT RESOLVED, that I, Philip B. Scott, 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 Appointees (as defined herein) 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 future Appointees, and any current Appointees who have not signed an acknowledgment with respect to Executive Order No. 09-11 (codified as Executive Order No. 3-53), will be asked to sign the acknowledgment attached hereto as Exhibit A and submit it to the Secretary. The Secretary shall have the authority to interpret the provisions of this Code as they relate to circumstances and to issue exemptions from this 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:

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

"Appearance of a Conflict of Interest" 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 may be no actual Conflict of Interest.

"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 a 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 a matter (such as a policyholder in an insurance company or a depositor in a bank), or (ii) has been disclosed to the Secretary and found not to be significant.

"Executive Officer" means an agency secretary or deputy or a department commissioner or deputy.

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

"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 fifty percent (50%) of its revenues.

"Public Body" means any State 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.

"Secretary" shall, unless otherwise specified, mean the Secretary of Civil and Military Affairs.

II. General Conduct

An Appointee must conduct the affairs of their office in such a manner as to instill public trust and confidence in the integrity of State government. Further, Appointees have a responsibility to act as examples and set a civil and respectful tone in the public discourse.

- A. Thus, an Appointee shall always, and without exception, be honest, helpful and fully committed to the principle that all authority is derived from the people, and therefore, all

officers of government, whether legislative or executive, are servants of the people and at all times, in a legal way, accountable to them. [VT. Const., Ch I, Article 6]

- B. Appointees shall take all reasonable steps to avoid any action or circumstances, including acts or circumstances which may not be specifically prohibited by this Code, which might result in:
 - (1) Undermining his or her independence or impartiality or action;
 - (2) Taking official action based on unfair considerations;
 - (3) Giving preferential treatment to any private interest or Private Entity based on 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;
 - (7) Adversely affecting the confidence of the public in the integrity of State government; or
 - (8) Undermining the climate of civility and respect required for every open, democratic government to thrive.
- C. Every Appointee shall be true and faithful to the State of Vermont and will not, directly or indirectly, do any act or thing injurious to the Constitution or Government of the State of Vermont. Every Appointee 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 II, Section 56]
- D. Appointees shall always treat each other, employees, staff, volunteers and the public with dignity, respect, empathy and courtesy.
- E. Appointees shall support efforts to create and maintain a diverse and effective work force.
- F. Appointees shall promote a workplace that is free from sexual harassment, or inappropriate personal relationships, and shall take quick and effective action to ensure that sexual harassment does not occur or persist.
- G. Every Full-Time Appointee shall devote his or her worktime to the duties of his or her office.
- H. 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.
- I. 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, directives or Bulletins from the Secretary of the Agency

of Administration.

- J. An Appointee shall be in good standing with respect to, or in full compliance with a plan to pay, all taxes due the United States, the State of Vermont and the municipality of residence. An Appointee shall be in good standing with respect to, or in full compliance with a plan to pay, all child support obligations.
- K. All Full-Time Appointees shall attend State-sponsored training on issues related to sexual harassment and governmental ethics at least annually.

Exemptions sought under this Code shall be issued only to further the twin goals of this Code: 1) to establish high standards of ethical conduct for all Appointees and 2) 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 subject to the supervision of his or her respective Public Body, except as a policy holder in an insurance company or a depositor in a bank (3 V.S.A. §204). For this Executive Order, a direct or indirect financial interest excludes:
 - a. any insignificant interest held individually or by a member of the Appointee's immediate household or by a business associate; or
 - b. any interest which is no greater than that of other persons who might be generally affected by the Supervision of the Appointee's Public Body.
- (2) An Appointee shall not take any action in any matter in which he or she has either a Conflict of Interest or the appearance of a Conflict of Interest, until the Conflict is resolved.
- (3) An Appointee shall not take any official action that materially advances the interest of any Private Entity 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 General Assembly or its committees.
- (5) An Appointee, while in State employ, shall not solicit or receive any payment, gift or favor based on any understanding which may be reasonably implied by the Appointee or inferred by the donor, that it may influence any official action.
- (6) An Appointee shall not solicit or receive any payment, gift or favor from any private

interest or Private Entity which has, or seeks to obtain, contractual or other business or financial relationships with the Appointee's Public Body; conducts business or activities that are regulated by the Appointee's Public Body; or 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 or Private Entities if the gifts or trips (i) are 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) Except in the event (i) a specific law, rule or regulation requires disclosure, or (ii) the State has entered into a confidentiality or non-disclosure agreement consistent with applicable State or federal law, regulation, rule or policy, 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.
- (10) It is the Governor's expectation that Appointees will use State-provided equipment and official e-mail addresses for primarily State business purposes. Personal use shall be limited and must not: (i) interfere with normal business activities; or (ii) be associated with any outside for-profit business activity of the Appointee.
- (11) Appointees are strongly encouraged to engage in electronic communications regarding official business only on their official email accounts. If private accounts must be used, Appointees shall copy their official e-mail accounts on all such outgoing communications and forward any received messages on which their official emails are not copied. If substantive discussion (not otherwise documented) relating to the work of the Public Body occurs on a text-messaging system, such discussion is to be copied to a separate public record format (such as by copying the relevant text messages to the appointee's official e-mail).
- (12) Email messages and other electronic data produced or acquired in the course of the business of the Public Body is considered a public record subject to disclosure under the Vermont Public Records Act, regardless of whether the record resides in a State-provided system or a private account; provided, however, solely for purposes of this subsection, "public body" does not include councils or similar groups established by the Governor for the sole purposes of advising the Governor with respect to policies. Upon receipt of a records request, Appointees shall provide their Records Officers all responsive records in their own custody and control.

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 General Assembly or its committees, regarding any particular matter in which:
 - a. the State is a party or has a direct and substantial interest; and
 - b. the Appointee had participated personally and substantively while in State employ.
- (2) 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.
- (3) 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 General Assembly or its committees, regarding any particular matter in which the Full-Time Appointee had exercised any official responsibility.
- (4) Subject to exemptions set forth in 2 V.S.A. § 262, for one year after leaving office, an Executive Officer, shall not be a lobbyist (as defined in 2 V.S.A. § 261), in this State.

IV. Reports

A. Appointees

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 occurs first, at which point they will be destroyed.

B. Executive Officers (3 V.S.A. §1211)

In addition to the reporting required in Section IV(A) above, pursuant to biennially, each Executive Officer shall file with the State Ethics Commission a disclosure form that contains the following information in regard to the previous calendar year:

- (1) Each source, but not amount, of personal income of the Executive Officer and of his or her spouse or domestic partner, and of the Executive Officer together with his or her spouse or domestic partner, that totals more than \$5,000.00, including any of the sources meeting that total described as follows:

- a. employment, including the employer or business name and address and, if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients; and
 - b. investments, described generally as “investment income.”
- (2) Any board, commission, or other entity that is regulated by law or that receives funding from the State on which the Executive Officer served and the Executive Officer’s position on that entity.
 - (3) Any company of which the Executive Officer or his or her spouse or domestic partner, or the Executive Officer together with his or her spouse or domestic partner, owned more than 10 percent.
 - (4) Any lease or contract with the State held or entered into by:
 - a. the Executive Officer or his or her spouse or domestic partner; or
 - b. a company of which the Executive Officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

In addition, if an Executive Officer’s spouse or domestic partner is a lobbyist as defined in 2 V.S.A. § 261, the Executive Officer shall disclose that fact and provide the name of his or her spouse or domestic partner and, if applicable, the name of his or her lobbying firm.

An Executive Officer shall file his or her disclosure with the Ethics Commission on or before January 15 of the odd-numbered year or, if he or she is appointed after January 15, within 10 days after that appointment.

V. Enforcement

The purpose of this Executive Code of Ethics is to provide guidance to Appointees covered herein. 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 matter.

VI. Effective Date

Except as otherwise required by law, this Executive Order supersedes and replaces Executive Order No. 09-11 (codified as No.3-53), dated July 21, 2011. This Executive Order shall take effect upon signing.



WITNESS my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed Montpelier this 4th day of December, 2017.

A handwritten signature in black ink, appearing to read "Philip B. Scott", is written over a horizontal line.

Philip B. Scott

Governor

By the Governor:

A handwritten signature in black ink, appearing to read "Brittney L. Wilson", is written over a horizontal line.

Brittney L. Wilson
Secretary of Civil and Military Affairs

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