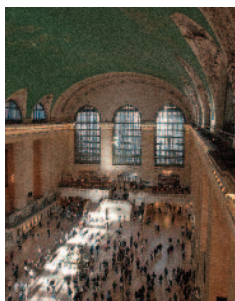




# All-Agency **CODE OF ETHICS**

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your Agency's Human Resources Department

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# ALL-AGENCY CODE OF ETHICS

## Introduction

The Metropolitan Transportation Authority provides services to more than eight million customers a day, each one of whom expects a high standard of service. As employees of the MTA, you are entrusted with the duty to provide this high standard of service. The ability to provide a high standard of service is grounded in a strong work ethic, clear corporate policies, and the dedication of a creative work force. The adherence to a strict code of ethics is central to gaining and keeping the trust of our customers.

This Metropolitan Transportation Authority All-Agency Code of Ethics (“Code of Ethics”) applies to every employee of the MTA, including its current and future subsidiaries and affiliates. For ease of reference, this Code of Ethics will refer to all such employees as “Employees.” In addition, persons performing services for the MTA and its subsidiaries and affiliates may be subject to the Code of Ethics by contract or agreement.

There is only one Code of Ethics for the entire MTA. You are expected to become familiar with this Code, and the various applicable statutes, regulations, professional codes of ethics, and disciplinary rules. **You are expected to read this Code immediately upon receipt.**

*“There is only one Code of Ethics for all MTA employees”*

The Code of Ethics is intended to provide guidance to all Employees with respect to applicable laws governing ethical conduct and the MTA’s ethical standards, which sometimes exceed the requirements of State law.

While the Code of Ethics sets out specific standards, in our evolving business environment, no written code can anticipate every possible situation. However, this Code of Ethics establishes a standard against which you can measure your daily decisions and actions. The Code of Ethics is not a restatement of all applicable laws and standards; you are expected to be familiar with and comply with all laws and standards related to your specific job. The principal source of most New York State law governing the ethical conduct of public employees and officers is the Public Officers Law, the applicable provisions of which are available from the Law and Human Resources departments at each MTA Agency.

As an Employee, you are expected to be an ethical role model. Managers and supervisors must foster an atmosphere that encourages Employees to seek

assistance if faced with ethical dilemmas. Every Employee must be alert to potential ethical issues and be ready to respond appropriately.

Responsibility for compliance with the applicable rules and standards for ethical conduct, including the related financial disclosure requirements, ultimately rests with you. If you have an ethics-related question, you should ask your supervisor or the applicable Agency Ethics Committee for guidance.

**VIOLATIONS OF THE CODE OF ETHICS OR APPLICABLE  
STATUTORY PROVISIONS MAY SUBJECT AN EMPLOYEE TO  
DISCIPLINE UP TO AND INCLUDING DISMISSAL AND/OR EX-  
POSE THE EMPLOYEE TO CIVIL OR CRIMINAL PENALTIES.  
(SEE CHAPTER 9)**

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# ALL-AGENCY CODE OF ETHICS

## Chapter 1: Definitions/Structure



### Section 1.01 Definitions

As used in this Code, capitalized terms shall have the following meanings:

**Agency Ethics Committee** means the committee established by an individual MTA Agency.

**All-Agency Ethics Committee** means the committee comprised of the Agency Ethics Officers or chairpersons of each Agency Ethics Committee and the Chief Compliance Officer.

**Annual Statement of Financial Disclosure** means the financial disclosure statement required to be filed with the Joint Commission on Public Ethics by certain Employees pursuant to Public Officers Law Section 73-a and this Code.

**Business** means any activity, paid or unpaid, by an Employee or any individual, firm, company, corporation or other entity, wherein the goal or objective is obtaining monetary income or other things of value or operating an enterprise. Such activity may be for profit or not-for-profit.

**Code** means this MTA All-Agency Code of Ethics.

**Confidential Information** means information, whether or not set forth in writing, that is available to an Employee only because of such Employee's position within an MTA Agency and which is treated by such MTA Agency as being confidential or which the Employee has reason to believe is confidential. Information does not have to be formally labeled "confidential" to be confidential.

**Conflicts of Interest** means a situation in which the financial, familial, or personal interests of an Employee come into real or apparent conflict with their duties and responsibilities to the MTA. Apparent Conflicts of Interest are situations where there is the appearance that an Employee can personally benefit from actions or decisions made in their official capacity, or where an Employee may be influenced to act in a manner that does not represent the best interests of the MTA. The appearance of a conflict may occur if circumstances would suggest to a reasonable person that an Employee may have a conflict. The appearance of a conflict and a real conflict should be treated in the same manner for the purposes of this Code.

**Department Head** means a Department Head as that term is generally used within the applicable MTA Agency.

**Employee** means an officer or employee of an MTA Agency.

**Employment** means performance of services, for or on behalf of any entity or individual, to obtain economic or other material benefit.

**Family Member** means (i) an Employee's spouse, domestic partner, child or sibling; (ii) a person who is a direct descendant (or the spouse of a direct descendant) of a grandparent of the Employee or a grandparent of the Employee's spouse or domestic partner; or (iii) a person living in the same household as an Employee.

**Fundraising** means the raising of funds for an organization through solicitation of funds or sale of items or participation in the conduct of an event.

**Gift (s)** means the transfer, without equivalent consideration, of anything or benefit, tangible or intangible, having more than nominal value, including, but not limited to, loans, forbearance, services, travel, gratuities of any kind, favors, money, meals, refreshments, entertainment, hospitality, promises, tickets to entertainment or sporting events, weekend trips, golf outings, loans of equipment, or other thing or benefit. **(See definition of "Items of Nominal Value" below.)** Note: The State Legislature has determined that provision of local transportation by a Prohibited Source for purposes of inspection or touring of facilities, operations or property located in New York State, where such inspection or tour is related to an Employee's official duties or responsibilities, does not constitute a Gift.

**Honorarium** means (a) payment, fee or other compensation in connection with a service rendered by an Employee not related to the person's official duties, and for which MTA Agency equipment or staff are not used, which is in the nature of a gratuity or as an award or an honor (e.g., for delivering a speech, for attending a conference, for writing an article); and (b) a payment, whether to a lodging site or a provider of transportation, for travel expenses made to or on behalf of an Employee, or reimbursement made to the Employee for travel expenses incurred, for services rendered by an Employee not related to their official duties.

**Items of Nominal Value** means items such as mugs, key rings, calendars, pens and the like that are of minimal value unless such items are being given under circumstances where it reasonably can be inferred that such item was intended to influence the Employee in the performance of such Employee's official duties. For purposes of determining value, an item is not deemed reduced in value by virtue of its being embossed or otherwise marked with a company logo, identification, or advertising.

**Joint Commission on Public Ethics** means the Commission established within



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the New York Department of State under Section 94 of the New York Executive Law pursuant to the Public Integrity Reform Act of 2011.

**MTA Agency or MTA** means any of the following: Metropolitan Transportation Authority Headquarters, MTA New York City Transit, Manhattan and Bronx Surface Transit Operating Authority, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Bus Company, MTA Capital Construction Company, the Staten Island Rapid Transit Operating Authority, the First Mutual Transportation Assurance Company, MTA Bridges and Tunnels and all future affiliated and subsidiary entities of the MTA.

**New York State Agency** means any New York 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 all their constituent units except community colleges of the State University of New York and the independent institutions operating statutory or contract colleges on behalf of the State. All MTA Agencies are New York State Agencies for purposes of this Code.

**Participation in the Conduct of an Event** means active and visible participation in the promotion, production or presentation of the event and includes serving as honorary chairperson or committee member or sitting at the head table during the event. The term does not mean the mere attendance at the event, provided the Employee's attendance is not being used by the non-profit to promote the event.

**Policy-Making Position** means those management and non-management positions designated as policy-making positions by each MTA Agency, because the individual holding the position exercises responsibilities of a broad scope in the formulation of plans for the implementation of action or policy for an MTA Agency or has an effective or substantial influence on an individual in such a position; e.g., positions in which Employees have discretion to (i) significantly influence, control, or bind an MTA Agency in the expenditure or receipt of money, (ii) significantly influence the discretionary selection or rejection of Employees, their promotion, transfer, or salary increases, (iii) select or supervise Prohibited Sources, (iv) negotiate leases, real estate agreements, estates, purchase or sale of goods or services, or (v) supervise or approve additional work orders and progress payments to Prohibited Sources retained by an MTA Agency.

**Prohibited Source** means:

- (a) a Vendor including any person, seller of goods or services, bidder, proposer, consultant, contractor, trade, contractor or industry association, or any other person/entity with which your MTA Agency is doing business, as well as those persons and business entities who have expressed an interest in doing business with your MTA Agency, whose activities directly or indirectly benefit your Agency, or who have a history of doing business with your Agency in the recent past; or
- (b) a tenant or licensee of your MTA Agency; or
- (c) any person or entity who on his, her or its own behalf, or on behalf of any other person or entity, satisfies any one of the following:
  - (1) is regulated by, negotiates with, appears before in other than a ministerial matter, seeks to contract with or has contracts with, or does other business with: (i) the Employee, in his or her official capacity; (ii) your MTA Agency; or (iii) any other New York State Agency when your MTA Agency is to receive the benefits of the contract; or
  - (2) is required to be listed on a statement of registration pursuant to § 1-e(a)(1) of article 1-A of the Legislative Law and lobbies or attempts to influence actions, decisions, or policies of your MTA Agency; or
  - (3) is the spouse or unemancipated child of any individual satisfying the requirements of subsection (c)(2) above; or
  - (4) is involved in any action or proceeding, in which administrative and judicial remedies thereto have not been exhausted, and which is adverse to either: (i) the Employee in his or her official capacity; or (ii) your MTA Agency; or
  - (5) has received or applied for funds from your MTA Agency at any time during the previous 12 months up to and including the date of the proposed or actual receipt of the item or service of more than Nominal Value. This does not include a request for funds received by the MTA in the ordinary course of business. For example, this does not include a customer's request for a refund or MTA's purchase of tickets or a table to an event.

For purposes of this definition, the term “your Agency” refers to the Agency by which you are employed. However, certain Employees working on matters involving more than one MTA Agency may be considered an Employee of multiple MTA Agencies for purposes of this Code.

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**Solicitation** means any request, invitation, or suggestion (oral or written) made under circumstances where it reasonably could be concluded that the individual or entity receiving same is being asked to, or is expected to, comply with a request, invitation, or suggestion.

**State Ethics Law** means New York Public Officers Law Sections 73, 73-a, 74 as may be amended or modified by the New York State Legislature and the rules and regulations promulgated thereunder.

## **Section 1.02 Agency Ethics Committees/All-Agency Ethics Committee**

The Metropolitan Transportation Authority Headquarters, MTA New York City Transit, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Bus Company, MTA Capital Construction Company, and MTA Bridges and Tunnels shall each appoint an Agency Ethics Officer and can establish an Ethics Committee to render guidance on ethics-related questions, including Conflicts of Interest. The procedures for the appointment of the Agency Ethics Officer shall be determined by each MTA Agency upon consultation with the Chief Compliance Officer. However, each Committee will designate one senior-level executive as Chairperson of the Agency Ethics Committee. Upon request, information disclosed to the Agency Ethics Committees and their members shall be deemed confidential, provided that appropriate disclosure of such information must be made in accordance with applicable laws, rules, and regulations.

MTA's Chief Compliance Officer shall serve as Chairperson of the All-Agency Ethics Committee. The Committee will meet periodically to review the current state of ethics at the MTA and to review or revise the Code of Ethics as needed.

## **Section 1.03 Ethics & Financial Disclosure Questions**

Questions concerning this Code or potential Conflicts of Interest may be directed to the applicable Agency Ethics Officer or Ethics Committee at the phone number set forth in Appendix A. It is not the function of a supervisor, an Agency Ethics Officer or Ethics Committee, or an MTA Agency lawyer to act as counsel to any individual Employee.

Information regarding violations of this Code or questions concerning ethics-related matters, may also be directed to:

*MTA Corporate Compliance  
Metropolitan Transportation Authority  
2 Broadway, 16th Floor  
New York, New York 10004  
888-U-ASK-MTA (888-827-5682)*

Any MTA Employee who has a complaint or allegation regarding the MTA may also contact the MTA Inspector General.

*Office of the Inspector General,  
Metropolitan Transportation Authority  
Two Penn Plaza, 5th Floor  
New York, New York 10121  
800-MTA-IG4U (800-682-4448)*

### Section 1.04 Revocation of Agencies Ethics Policies

This Code supersedes and by effect rescinds the MTA All-Agency Acceptance of Gifts Policy Statement 11-007, the MTA Guideline Document—Gifts, and all MTA Agencies’ Ethics Policies and Codes.

### Section 1.05 Duty to Disclose

*“Employees must promptly report any violation of this Code”*

Employees must promptly report any violation or potential violation of the MTA’s Codes of Ethics (All-Agency Code of Ethics, Board Member Code of Ethics or Vendor Code of Ethics) as well as any actual or potential violation of law, regulations, or policies and procedures, relating to the MTA, whether committed by an Employee or by a person doing business

with the MTA. Employees should report to the MTA Inspector General allegations or information involving corruption, fraud, criminal activity or abuse.

Employees should report to their Agency’s Ethics Officer, their Agency General Counsel, the MTA’s Chief Compliance Officer or to the MTA Inspector General, all other violations or potential violations. Employees should feel free to discuss their concerns initially with their supervisor, but no supervisor may discourage an Employee from making a report.

**Note:** To obtain answers to questions or increase their understanding, Employees are encouraged to discuss particular situations or concerns they have regarding violations or potential violations of this Code or any laws, regulations or policies or procedures with their Agency Ethics Officer, the MTA Chief Compliance Officer or the MTA Inspector General.

### Section 1.06 No Reprisals/Whistle-Blowing

Employees who report violations or potential violations of this Code or any actual or potential violations of laws, regulations or policies and procedures are

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protected under MTA All-Agency Whistleblower Protection Policy, No. 11-041 and will not be subjected to punitive sanctions, reprisals, or other penalties solely for reporting such violations. Employees who file an intentionally false report may be subject to appropriate disciplinary penalty, up to and including dismissal as well as civil or criminal charges.

## **Section 1.07 Cooperation with Audits and Investigations**

Employees must cooperate fully and honestly with audits and investigations conducted by the MTA Inspector General, Joint Commission on Public Ethics, Auditor General, Chief Compliance Officer, Agency Ethics Officer, or other governmental agencies. Failure to so cooperate will subject an Employee to appropriate disciplinary penalty, up to and including dismissal.

## **Section 1.08 Mandatory Ethics Training**

Employees subject to the financial disclosure requirements of Section 6.01 of this Code must complete a comprehensive ethics training course within three months of becoming subject to that requirement.

Employees subject to the financial disclosure requirements and such other Employees as may be determined by their Agency Ethics Officer or Ethics Committee are required to attend continuing ethics training every three years.

## **Section 1.09 Certifications**

Employees upon hire must certify to the MTA Code of Ethics by signing an Acknowledgment Form. Additionally, Employees are required to annually sign a certification attesting to their familiarity with the MTA Code of Ethics.

## **Chapter 2: Gifts, Awards, and Honoraria**



### **Section 2.01 Gift Prohibition – Zero Tolerance**

Employees are prohibited from soliciting or receiving Gifts, directly or indirectly, from any Prohibited Source. The defined term “Gift” does not include items of truly nominal value. **(See definitions of “Gifts” and “Items of Nominal Value.”)**

However, Employees may accept Gifts from employees of a Prohibited Source if these Gifts are reflective of a personal relationship independent of the relationship between the Prohibited Source and the MTA. For example, if the sibling of an MTA Agency Employee worked for a Prohibited Source, the MTA Agency

Employee could nonetheless accept a Gift that reflects this personal relationship. In addition, an Employee can accept a modest, reasonable, and customary offering on an extraordinary occasion, such as a wedding, retirement, funeral, or serious illness. A Gift shall not be considered representative of a personal relationship, if the donor seeks to charge or deduct the value of the Gift as a business expense or seeks reimbursement from a Prohibited Source or when gifts from the same Prohibited Source are offered to multiple Employees at or about the same time.

Employees are permitted to accept discounts or special offers from a Prohibited Source so long as those discounts or special offers are generally available to similarly situated employees of other public and private sector organizations. Employees should check with their Agency Ethics Officer before accepting such discounts or special offers from a Prohibited Source.

Under no circumstances may an Employee accept an item, even an Item of Nominal Value, under circumstances in which it could be reasonably inferred that the item was intended to influence the Employee, or could reasonably be expected to influence the Employee, in the performance of the Employee's official duties or was intended as a reward for any official action on such Employee's part.

#### **Reminders:**

- (a) Employees should avoid accepting numerous items of nominal value from the same Prohibited Source because their aggregate value is likely to exceed the nominal threshold. The MTA will aggregate the value of items received from the same Prohibited Source in any 12-month period.
- (b) Accepting Gifts in connection with the performance of official duties from persons or entities *other than* Prohibited Sources could still be a violation of State law and this Code, if it could be reasonably inferred that the Gift was intended to influence the Employee, or could reasonably be expected to influence the Employee, in the performance of the Employee's official duties or was intended as a reward for any official action on such Employee's part.
- (c) Proof that an Employee was actually influenced by a Gift is not necessary for a finding of a violation of this Code or State Ethics Law.
- (d) Employees should use caution in accepting such items they believe are of nominal value because it may not always be easy to determine if an item is truly of nominal value.
- (e) An Employee may not designate a friend, Family Member, or entity (such as



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a charity) to receive a Gift that the Employee would not be permitted to receive.

## **Example:**

- (a) A Prohibited Source offers an Employee a briefcase with the Prohibited Source's logo embroidered on it. Because that briefcase, without such logo, would have a retail cost greater than nominal value, the Employee is prohibited from accepting it, even if the Employee considers it valueless because of the logo.

**Common Gift Issues:** It is not practical in a code of this type to describe all of the circumstances that might give rise to a prohibited Gift. The following are some of the situations that have come up in the past and are examples of Gift-related actions that are prohibited:

- (a) Any Solicitation or attempt to Solicit a job for a relative from a Prohibited Source, including a summer job; or
- (b) Any Solicitation or acceptance from a Prohibited Source of:
  - (1) tickets to a concert, play, sporting event, or show;
  - (2) meals;
  - (3) a golf outing, a weekend trip, a vacation, use of a vacation home, or an airline ticket; or
  - (4) individual discounts to Employees on goods or services (such as televisions, computers, clothing, home improvements, or car or appliance repairs).

## **Section 2.02 Monetary Gifts and Kickbacks**

**Gifts of money** to an Employee from a Prohibited Source are prohibited regardless of amount and shall be **deemed to be a kickback** or bribe intended to influence the Employee in the performance of the Employee's official duties.

Employees may not give or promise to give any portion of their compensation or any money or valuable thing to any person, nor shall any person accept any such money, or valuable thing, in connection with appointment, employment, promotion, assignment, or reassignment by an MTA Agency. Employees may not, directly or indirectly, make (or request that other Employees make) any contribution or pay any assessment in order to secure promotion, compensation, or to affect job status, duties, or functions, or in consideration of being appointed or employed at an MTA Agency.

### Section 2.03 Tips

Employees are not permitted to accept tips or other gratuities in connection with the performance of their official duties unless:

- (1) the Employee is represented by a labor union;
- (2) it has been customary in the past for MTA Agency Employees in the relevant job classification to receive tips in connection with the performance of their official duties; and
- (3) in the private sector it would be customary for an Employee in the equivalent job classification (such as a bartender) to receive tips as part of their income.

### Section 2.04 Reporting Gift or Gift Offers

An Employee to whom a Gift is offered or given in violation of Section 2.01 above shall promptly report such offer or Gift to the applicable Agency Ethics Officer or Ethics Committee and, in the case where a Gift has been given, the Employee or Agency Ethics Officer or Ethics Committee shall promptly return the Gift to the person or entity giving the Gift with a copy of the MTA Gift return letter. A copy of the executed gift return letter shall be sent to MTA Corporate Compliance.

### Section 2.05 Awards, Plaques, and Honors

*“Awards and plaques publicly presented in recognition of MTA Agency or public service may be accepted”*

Awards and plaques publicly presented in recognition of an Employee’s service to an MTA Agency or non-job-related public service may be accepted. Employees must notify and seek the approval of their Agency Ethics Officer or Ethics Committee prior to accepting an award, plaque, or honor presented by a Prohibited Source.

However, awards or plaques presented by a Prohibited Source in recognition of job-related MTA Agency service and valued at more than seventy-five dollars (\$75) shall become the property of the applicable MTA Agency. The

MTA Agency’s Ethics Officer or Ethics Committee can determine the disposition of the award or plaque.

### Section 2.06 Honoraria

An Employee may not accept an honorarium for services related to his or her duties for the MTA.

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Employees must obtain written approval for each honorarium from their Agency Ethics Officer or Ethics Committee with the concurrence of Corporate Compliance prior to accepting an Honorarium. The approval request should be in writing and received by the Agency Ethics Officer or Ethics Committee no less than thirty (30) days prior to the time performance of the service for which the Honorarium is being offered is due to occur or thirty (30) days prior to the receipt of the honorarium. A detailed statement of all of the circumstances in which an Employee may accept an honorarium from a third party is set forth in Title 19 NYCRR Part 930.

The following is a summary of the rules relating to honoraria.

**Prohibited Honoraria.** Prohibited Honoraria: An Employee may not accept an Honorarium (or payment in lieu of Honorarium) that is offered for services related to his or her official duties for the MTA. In such circumstances, payment for services related to official MTA duties must be made directly to the applicable MTA Agency.

In addition, an Honorarium may not be accepted by any Employee from a Prohibited Source without the written approval of the Chief Compliance Officer.

Irrespective of whether approval was obtained in advance, however, any receipt of an honorarium in excess of \$1000 must be included in the Employee's annual financial disclosure statement. .

## Chapter 3: Prohibited-Source Sponsored Events, Receptions, and Meals



### Section 3.01 Business Meals

In general, Employees are prohibited from accepting a meal from a Prohibited Source. However, an Employee may accept free *modest* meals or refreshments from a Prohibited Source under the following limited circumstances:

- (a) in the course of and for the purpose of conducting MTA Agency business at a Prohibited Source's facility, when offered unexpectedly during a meeting which the Employee is attending for official reasons, or when offered at a company cafeteria or other company facility at the Prohibited Source's place of business and individual payment is *impractical*; or
- (b) when attending a seminar or conference in connection with an MTA Agency and meals or refreshments are provided to all participants.

A meal is considered modest for purposes of the foregoing if the food and beverage is valued at fifteen dollars or less. Under the MTA Code of Ethics, an Employee may accept such a modest meal only under the circumstances noted above.

An Employee may not accept a meal from a Prohibited Source outside of a Prohibited Source's facility (except at a seminar or conference as set forth in Section 3.01(b) above). If an Employee has a meal with a Prohibited Source, the Employee shall pay the full value of such meal with his or her own funds with or without MTA Agency reimbursement.

**Reminders:** If you have a meal with a Prohibited Source and simply split the bill, you may be in violation of this Code if you do not pay the full value of your meal. **It is prudent for Employees to obtain proof of payment because simply putting money on the table may not provide an adequate basis for proving that an Employee paid for his or her own meal. The better practice is to get a separate check and keep the receipt.**

### Section 3.02 Educational Seminars

*“Employees are encouraged to participate in events that enhance professional development.”*

Employees are encouraged to continue to participate in events that will enhance their professional development. In certain professions, it is customary for Prohibited Sources, including companies that do business with the MTA, and industry groups, to sponsor lectures and continuing education seminars. Occasionally, such educational events are targeted to Employees and do not include other similarly situated public or private sector

employees. Employees may attend such educational events if attendance at the event would further the interests of the MTA Agency, if the event relates to the Employee's official duties, and if the invitation does not involve recreational activities such as golf, tennis, or cruises.

However, Employees who manage the Prohibited Source's work or are involved in the review/approval of payments to the Prohibited Source must consult with their Agency's Ethics Officer before accepting professional continuing education credits.

### Section 3.03 Attendance at Prohibited-Source/Industry-Sponsored Events and Receptions

Employees are encouraged to continue to participate in events that will enhance their professional development. Employees frequently receive complimentary

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invitations to Prohibited Source/industry groups sponsored events that include receptions or hospitality suites sponsored by a Prohibited Source/industry group. **Employees should evaluate any such invitations with caution and obtain prior approval from their Agency Ethics Officer.** Employees may attend complimentary Prohibited Source/industry-sponsored events, including receptions or hospitality suites only if all of the following conditions are met:

- (1) Attendance at the event would further the interests of the MTA Agency;
- (2) The event relates to the Employee's official duties or responsibilities or allows the Employee to perform a ceremonial function appropriate to his or her position;
- (3) The event is a "widely attended event" at which at least twenty-five individuals other than Employees attend or were, in good faith, invited to attend and the event is also complimentary to such other non-Employees attending or invited to attend;
- (4) Any reception or hospitality suite is open to all event attendees; and
- (5) The event does not include a formal sit-down meal or involve recreational activities such as golf, tennis, or cruises.

In evaluating approval of such participation, your Agency Ethics Officer will take into consideration a number of factors, including but not limited to: the nature of any pending matter affecting the sponsor or donor's interest, the importance of the event to the MTA, the significance of the Employee's role in the event and whether the MTA Agency's interest in the Employee's participation outweighs the likelihood that such participation would be perceived as improperly influencing the Employee in the performance of his or her official duties, the timing of the event, the purpose of the event, the identity of other expected participants and the monetary value of the event.

In circumstances in which a significant activity at the event will be a speaker or attendee addressing an issue of public interest or concern, the State Legislature has determined the requirement that the event "relate to official duties or responsibilities" is satisfied.

An Employee's travel expenses relating to attendance at an industry or Prohibited Source-sponsored event may not be reimbursed or paid for by the event sponsor or other Prohibited Source. (See Travel Reimbursement Section 3.08)

An Employee may attend a Prohibited Source-sponsored event at his or her own expense but the cost paid by the Employee shall be based on the price paid by

the other paying attendees or if there is no admission fee required, then based on the actual cost to the sponsor. **It is prudent for Employees to obtain proof of payment.**

### **Section 3.04 Senior Management Attendance at Prohibited-Source-Sponsored Events**

The Chair/Chief Executive Officer of MTA, the President of an MTA Agency, or their designee(s) may attend functions sponsored and paid for by Prohibited Sources when attendance is related and appropriate to that attendee's official duties or when the purpose of attendance is the performance of a ceremonial or other function that is appropriate to that attendee's official duties with their MTA Agency. The attendee shall provide advance written notice of such invitation to the MTA Chief Compliance Officer and their Agency's General Counsel.

### **Section 3.05 Attendance at Banquets, Galas, and Fund-Raising Events**

- (a) Employees may purchase tickets using their own funds and may attend fund-raising and charitable events sponsored by Prohibited Sources on their own time, subject to compliance with the applicable provisions of the State Ethics Law, this Code, and any other applicable statutes, rules, regulations, policies, or procedures.
- (b) Employees may attend fund-raising and charitable events with tickets purchased by an MTA Agency in compliance with the applicable policies and procedures relating to such purchases.
- (c) Employees may not accept from any individual or firm, directly or indirectly, tickets to any banquet, gala, or fund-raising event by a Prohibited Source, if those tickets were subsidized or paid for directly or indirectly by the Prohibited Source including without limitation the Transit Museum Gala. Such tickets may not be donated by an individual or firm to an MTA Agency and then distributed to Employees of an MTA Agency.

*“Employees may not accept tickets to any banquet, gala, or fund-raising event by a Prohibited Source.”*

### **Section 3.06 Charitable/Political Benefits, Contributions, and Fundraising Activities**

Solicitation by Employees of charitable or political contributions from Prohibited Sources, including giving Prohibited Sources invitations to charitable or political functions or events, is prohibited.



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Employees are prohibited from using the MTA's name, their official title, position or authority in any fundraising activity unless authorized by MTA's Chief Compliance Officer. Authorization may be granted **only if** the fundraising is in furtherance of the MTA's mission and does not create an appearance of or any actual conflict of interest.

Employees may engage in fundraising in a personal capacity provided they do not use their title, position or authority to further their fundraising activities and do not personally solicit funds from a subordinate or from persons known to the Employee to be a Prohibited Source.

### **Section 3.07 Events Honoring an Employee**

Prohibited Sources should only be invited to events honoring an Employee (such as an Employee's retirement dinner or an event where the Employee is one of the honored guests) if they have a personal relationship with the honored Employee and there is no actual, implied, or apparent promise of benefit from accepting, or actual, implied, or apparent threat of retaliation from refusing, such invitation. Such invitations should be made with caution.

### **Section 3.08 Reimbursement of Travel Expenses for Official Duties**

Under no circumstances shall an Employee accept reimbursement of travel expenses, including but not limited to, transportation costs, registration fees, food or lodging from a Prohibited Source.

Employees may accept reimbursement from entities other than Prohibited Sources for travel expenses related to the Employees' official duties if the purpose of the travel benefits the MTA Agency in the conduct of its business and prior approval has been received in accordance with the procedures set by the applicable MTA Agency and this Code.

Employees must obtain approval from their Agency Ethics Officer with the concurrence of Corporate Compliance prior to accepting such travel reimbursement. The approval request must be in writing and received by the Agency Ethics Officer reasonably in advance of the time the travel is to begin.

Employees required to file a financial disclosure statement must report any reimbursement for travel expenses which totals in excess of \$1,000.

## Chapter 4: Conflicts Of Interest, Other Employment, and Political Activities



### Section 4.01 Conflicts of Interest/Recusal

#### Conflict of Interest

Employees shall not have any interest, personal, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is or may be in conflict with the proper discharge of his or her duties.

Employees must notify their Agency Ethics Officer or Ethics Committee directly regarding any possible Conflict of Interest.

Employees must not only avoid Conflicts of Interest with the MTA but also even the appearance of a conflict.

#### Reminders:

- (a) If an Employee is uncertain as to whether a given situation creates a real or apparent Conflict of Interest, such Employee should promptly disclose that situation to, and seek guidance from, his or her supervisor, Department Head, the applicable Agency Ethics Officer or Ethics Committee, or MTA Chief Compliance Officer.
- (b) With respect to all work an Employee performs, such Employee must be vigilant about the existence of any circumstances, interests, or relationships which might create or might be reasonably perceived by others as constituting a Conflict of Interest. If an Employee is uncertain as to whether a given situation creates a real or apparent Conflict of Interest, such Employee must promptly disclose that situation to, and seek guidance from, such Employee's Agency Ethics Officer, Ethics Committee, or MTA Chief Compliance Officer. In order to avoid a Conflict of Interest or the appearance of one, it may be necessary for Employees to seek recusal from involvement with a matter creating the Conflict of Interest or the appearance of a Conflict of Interest. Employees must adhere strictly to the Conflict of Interest guidance they receive from their applicable Agency Ethics Officer or Ethics Committee.

**Examples:** It could be a Conflict of Interest if an Employee participated in a transaction involving an MTA Agency in which transaction the Employee or someone associated with the Employee (Family Member

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or by a Business or financial relationship) had, directly or indirectly, a financial or other private interest (other than a de minimis financial interest as discussed in Section 4.04 below).

It could be a Conflict of Interest if an Employee participates in a transaction or business decision in their official capacity involving someone with whom they have a personal relationship.

### **Recusal**

If an Employee believes he or she has an actual or apparent Conflict of Interest involving the MTA on a particular matter, the Employee shall not participate in the matter pending a determination by their Agency Ethics Officer. Recusals are at the Agency's discretion and shall be approved only if practical and in the best interests of the applicable MTA Agency.

The recusal requires that the Employee not participate directly or indirectly in any discussion or decision that in any way relates to the matter that gives rise to the Conflict of Interest.

The recusal must be in writing and contain:

- (a) The nature of the actual or apparent Conflict of Interest;
- (b) A delegation of authority to a non-subordinate employee;
- (c) Any requirements and conditions of the recusal;
- (d) The period of time the recusal will remain in effect;
- (e) The approval of the Agency Ethics Officer; and
- (f) The concurrence of the Chief Compliance Officer.

A copy of the recusal must be sent to all employees who are likely to work on the matter giving rise to the recusal.

### **Section 4.02 Public Trust**

- (a) Employees shall not engage in a course of conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Employees shall avoid even the appearance that they can be improperly (1) influenced in the performance of their official duties or (2) induced to violate the public trust or impair

*“Employees shall not engage in a course of conduct that will raise suspicion among the public that they are in violation of the public trust.”*

their independence of judgment in the exercise of their official duties.

**Example:** An Employee's undisclosed social relationship with a Prohibited Source might create an impression of impropriety if the Employee were in a position to act favorably toward the Prohibited Source in an MTA Agency matter.

- (b) Employees shall not use or attempt to use their official position to secure unwarranted privileges or exemptions for themselves or others.
- (c) Employees shall not by their conduct give reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position, or influence of any party or person.

#### **Section 4.03 Confidential Information**

Employees shall not disclose Confidential Information without the permission of the General Counsel of the MTA Agency at which such individual is employed for any purpose, or use such information to further their personal interests.

#### **Section 4.04 Financial Interest**

- (a) An Employee, or firm or association of which such Employee is a member, or corporation, ten per cent (10%) or more of the stock of which is owned or controlled directly or indirectly by such Employee, shall not (1) sell any goods or services having a value in excess of twenty-five dollars (\$25) to any New York State Agency, or (2) contract for or provide such 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 New York State Agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding.

**Exception:** This restriction does 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.

- (b) Employees shall not knowingly engage in any transaction on behalf of an MTA Agency with any business entity in which they or a Family Member has a direct or indirect financial interest, excluding mutual funds or exchange traded funds, that might reasonably tend to conflict with the

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proper discharge of their official duties. These provisions may be waived if **both** the Head of the Agency's Procurement Department and the Agency General Counsel state in writing that it is in the best interests of the Agency to waive the provisions.

In addition, New York Public Officers Law §74 provides for civil penalties in circumstances of self dealing and makes it a misdemeanor offense for an Employee of NYCT to have any interest, direct or indirect, in any contract entered into by the Employee's Agency.

### Section 4.05 Employees Engaged in Selection, Award, and Administration of Contracts

- (a) Employees shall not participate in the selection, award, or administration of a contract if the Employee knows that he/she or any of his/her Family Members, his/her business partner, or an organization that employs or is about to employ any of the above, has a financial or other interest, other than mutual funds or exchange traded funds, in any of the companies, their parent company, its affiliates or subsidiaries ("the company") that propose or bid on or are awarded such contract. The provisions of Section 4.05(a) may be waived if the Head of the relevant Agency's Department, as well as the Agency General Counsel, and the Agency's Ethics Officer state in writing that it is in the best interests of the Agency to waive the provisions of this Section for a specific procurement or contract. Copies of any approved Waiver Request must also be filed with MTA Corporate Compliance.
- "Employees shall not engage in any transaction on behalf of an MTA Agency with any business entity in which they have a direct or indirect financial interest."*
- (b) If a waiver is granted, (1) the Employee engaged in the **award or selection** of a contract, shall not during the selection process and for two weeks after the award of the contract buy or sell any of the company's securities or (2) the Employee engaged in the **administration** of a contract shall not buy or sell any of the awarded company's securities for six months after the award of the contract.
- (c) An Employee shall not buy or sell any of the company's securities based upon information received as a result of their employment with an MTA

Agency or for two weeks after the public release of information by any MTA Agency regarding the company.

- (d) For two years from the commencement of employment with an MTA Agency, an Employee shall not do either of the following in relation to the Employee's immediate past non-governmental employer: (1) participate in the selection or award of a contract in which a bidder or proposer is such immediate past employer; or (2) administer a contract awarded to such immediate past employer, unless the Employee has notified the Employee's Department Head in writing of the potential conflict and has received from such Department Head, Agency General Counsel, and the Agency Ethics Officer or Ethics Committee a written waiver stating that it is in the best interests of the applicable MTA Agency for such Employee to act in such a role. A copy of such waiver request must be submitted to the MTA Chief Compliance Officer for approval.
- (e) No Employee may ask a current or former contractor, or any officer, director or employee thereof, to disclose: (i) the political party affiliation of such contractor, or any officer, director or employee thereof; (ii) whether such 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 contractor, or any officer, director or employee thereof, cast a vote for or against any elected official, candidate or political party. No Employee may award or decline to award any contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective contractor's refusal to answer any inquiry regarding the above.

#### **Section 4.06 Representation of Other Parties and Certain Appearances and Services**

Employees shall not, directly or indirectly, act or appear on behalf of any individual, firm, or corporation, in any Business dealings with, or any matter against the interests of, an MTA Agency, or any other New York State Agency, other than as a fact witness. Employees of an MTA Agency are prohibited from appearing for compensation of any kind before a New York State Agency in connection with the purchase or sale of real estate, any rate-making proceeding, licensing, obtaining grants of money or loans, proceedings related to franchise(s), or the adoption or repeal of any rule having the force of law.



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## Exceptions

- (a) Employees may appear before an MTA Agency or any New York State Agency or tribunal (1) in a representative capacity on behalf of an Employee organization or association or (2) in connection with a ministerial matter, such as acting as a notary or translator.
- (b) Uncompensated work by Employees for not-for-profit entities doing Business with the State or City is not automatically a conflict of interest if the Employee takes no part in such Business dealings and the entity in question is not subject to supervision, control, or regulation by an MTA Agency. For example, an Employee might serve, without fee, on the Board of a community or church-sponsored day-care center that receives State funds. In such a case, the Employee cannot communicate with the State concerning receipt of those funds.

## Section 4.07 Other Employment and Outside Activities

Outside employment/activities may pose ethical issues if there is a conflict between the Employee's duties as an Employee and the requirements of the outside employment/activity.

*“Full-time employment with an MTA Agency is deemed to be an Employee's primary employment.”*

Employees are prohibited from outside employment, business, professional, or other outside activity that interferes or is in conflict with the proper and effective discharge of the individual's official duties or responsibilities. Each MTA Agency requires that Employees devote appropriate time and attention to their employment with that agency. Full-time employment with an MTA Agency is deemed to be an

Employee's primary employment. All Employees must be fit for duty during their work hours.

Employees who wish to engage in outside employment/activities must consult with their Agency's Human Resources Department or Ethics Officer or Ethics Committee to determine what dual employment or outside activity policy exists at the employing Agency.

Employees may engage in outside employment/activity provided that (1) such employment/activity does not interfere with their ability to devote appropriate time and attention to their employment with their MTA Agency; (2) such employment/activity does not violate the specific guidelines for other

employment set by their MTA Agency; (3) they do not use any MTA Agency resources (e.g., time, equipment, telephone, etc.) in connection with such employment; and (4) they obtain the required approvals as set forth in the specific procedures for approval of other employment set by their MTA Agency. Any Employee interested in running for elective office must also comply with the provisions of Section 4.08 of the Code.

Employees holding Policy-Making Positions must comply with certain additional requirements in connection with engaging in outside employment/activities:

- (1) Employees holding Policy-Making Positions are prohibited from serving as a director or officer of a Prohibited Source (including nonprofit organizations) or a corporation or institution engaged in profit-making activities, holding an appointed or elected public office, or serving as a compensated director or officer of a nonprofit organization, without the prior approval of the applicable Agency Ethics Committee or Ethics Officer, and possibly the Joint Commission on Public Ethics.
- (2) Employees in Policy-Making Positions shall not engage in any private employment, profession or Business or other outside activity, without the following prior approvals:
  - (a) Annual compensation up to \$1,000—No approval required.
  - (b) Annual compensation in excess of \$1,000 to \$5,000—Written approval by the applicable MTA Agency Ethics Officer.
  - (c) Annual compensation in excess of \$5,000—Written approval by the applicable MTA Agency and the Joint Commission on Public Ethics.
- (3) Employees in Policy-Making Positions with approved outside activities must inform their Agency Ethics Officer if there is any material change to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval.
- (4) In addition, employees in Policy-Making Positions with approved outside activities shall annually complete a certification attesting to the fact that there have been no material changes to either their approved outside activity or their current job responsibilities which would require a new evaluation of their outside activity approval.

**Remember:**

- (a) These approvals are in addition to any approvals which may be required by your Agency.

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- (b) Employees must comply with all conflict of interest rules and may not use any MTA Agency resources in connection with such activities.
- (c) Employees holding Policy-Making Positions who request approval from the Joint Commission on Public Ethics to engage in outside activities must file a written request with the Commission which contains the approval of the activity by the applicable MTA Agency. Each Agency Ethics Officer or Ethics Committee shall establish a form for requests of approval of such outside activity. The Agency Ethics Officer or Ethics Committee acts as the agent of the applicable MTA Agency in approving or disapproving such requests. The Agency Ethics Officer's or Ethics Committee's disapproval is final.

### **Section 4.08 Political Activities of Employees**

- (a) An Employee interested in running for elective office shall give written notice of his or her intentions to the applicable Agency Ethics Officer or Ethics Committee, so that it may determine whether, and upon what conditions, seeking elective public office would be consistent with the ethics laws and regulations. Notice and approval of the Joint Commission on Public Ethics may also be required for Employees holding Policy-Making Positions pursuant to Title 19 NYCRR Part 932. In advance of running as a candidate in any election, the provisions of the Hatch Act should also be evaluated to determine whether such a candidacy is permitted under its terms.
- (b) Employees shall not conduct political activities during work hours. MTA Agency property, including, without limitation, telephone, copy machines, computers, and other MTA Agency equipment, vehicles, office space, and services may not be used for political activities under any circumstances.
- (c) Employees are prohibited from using federal funds for partisan political purposes of any kind in the administration of MTA Agency programs, either directly or through individuals or organizations with whom the MTA Agency contracts.
- (d) Employees shall not use their positions or influence for the purpose of interfering with or affecting the result of an election. No Employee shall, directly or indirectly, use his or her official authority to compel or induce any other Employee or state official to make or promise to make any political contribution, whether by gift of money, service or other thing of value.
- (e) Employees holding Policy-Making Positions shall not serve as: (1) officers

of any political party or political organization or (2) members of any political party committee, including political party district leaders or as members of a political party national committee. “Political organization” means any organization affiliated with a political party but does not include a judicial nominating committee, an organization supporting a particular cause with no partisan activities, a campaign or fundraising committee, or serving as a delegate to a state or national party convention.

- (f) Consistent with this Code, Employees are otherwise free to participate in the political process on their own time, but there must be a clear separation between their political activities and the discharge of their duties as Employees of an MTA Agency.
- (g) No Employee may during the consideration of an employment decision ask any applicant to disclose: (i) their political party affiliation; (ii) whether they 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 such inquiry is necessary for the proper application of any state law or regulation.

No Employee may decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any Employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry prohibited by this section or for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

- (h) The MTA’s Chairman and Chief Executive Officer and Agency Presidents shall not seek nomination or election to any compensated federal, state or local public office, or shall become a candidate for such office, unless such individual first resigns from his or her employment, or requests and is granted a leave of absence without pay, such resignation or leave 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 4.09 Other State Employment**

Employees who are subject to the New York State Civil Service Law shall not accept appointment or employment on a full-time or part-time basis, in a State

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department or agency, or in the Legislature or the judiciary, for which compensation is payable, without the prior consent in writing of the Agency President and Agency Ethics Officer. The written consent shall be filed with the NYS Office of the Comptroller and MTA Corporate Compliance.

## Chapter 5: Future Employment



### Section 5.01 Restrictions on Future Employment – Purpose

Employment with an MTA Agency restricts to a degree the type of employment one may accept upon leaving an MTA Agency. These restrictions are based upon statutory requirements. Both this Code and applicable statutes seek to discourage actual conflicts of interest and conduct from which reasonable inferences may be drawn that Employees of an MTA Agency might not have been loyally serving such MTA Agency's interests during their employment or, thereafter, might be taking undue advantage of inside information or positioning derived from their former employment with an MTA Agency.

*“Employment with an MTA Agency restricts to a degree the type of employment one may accept upon leaving an MTA Agency.”*

### Section 5.02 Restrictions on Future Employment – Limited and Lifetime Bars

#### (a) Two-Year Bar

No former Employee shall, within two (2) years after termination of employment with an MTA Agency, appear before such agency or receive compensation for, or render compensated services on behalf of, any person, firm, corporation, or association in relation to any case, proceeding or application or any other matter before such MTA Agency.

#### (b) Lifetime Bar

No former Employee shall ever appear, practice, communicate, or otherwise render any services or receive compensation for such services rendered before an MTA Agency or any New York State Agency for, or on behalf of, any person, firm, corporation, or other entity in relation to any case, proceeding, or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of service or employment, or which

was under their active consideration. The definition of what constitutes “ever appear, practice, communicate or otherwise render any services” is given a broad interpretation. Employees should contact their Agency Ethics Officer regarding this definition before rendering any such service.

#### **Exceptions:**

- (1) These restrictions on future employment do not apply to subsequent services rendered in an official capacity as an elected official or an Employee of another governmental entity.
- (2) The Agency may seek a waiver with respect to a former Employee pursuant to Public Officer Law Section 73 if the Employee has expertise, knowledge, or experience with respect to a particular matter that meets the needs of the agency and is otherwise unavailable at a comparable cost.
- (3) The Agency may seek a waiver with respect to a former Employee pursuant to Public Officer Law Section 73 if the services of such former officer or Employee are required in connection with the agency’s response to a disaster emergency declared by the governor pursuant to section twenty-eight of the Executive Law.

#### **Reminders:**

- (1) For purposes of the post-employment bars, certain Employees, particularly those at MTA Headquarters and MTA Capital Construction, may be considered to be Employees of multiple MTA Agencies based on the scope of their job responsibilities. For clarification of their particular circumstances, the Employees may seek guidance from their former Agency Ethics Officer or MTA Corporate Compliance.
- (2) The Joint Commission on Public Ethics may not consider not-for-profit entities in the transportation field and certain quasi-governmental organizations as governmental entities for purposes of the exception noted above and employment at such entities may be subject to the post-employment bars described above.

The following are examples of the application of the two-year and lifetime bars:

**Example 1:** A former Construction Manager in the Department of Capital Program Management at New York City Transit (NYCT) may not, within two years after termination of NYCT employment, render services on behalf of a contractor in connection with any Business the contractor has with NYCT.



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**Example 2:** No former Metro-North Employee, for a period of two years subsequent to his or her termination from employment (including retirement) may contract with Metro-North as a consultant to perform services of any kind on behalf of Metro-North, unless MNR has obtained a waiver from the Joint Commission on Public Ethics as set forth above.

**Example 3:** A former procurement representative in the procurement department at LIRR who was directly concerned with, or was responsible for, the negotiation of a contract during his or her LIRR employment may never appear before an MTA Agency or any other New York State Agency or render services on behalf of any outside person or firm, such as a contractor or subcontractor with regard to that contract, including but not limited to, the preparation or evaluation of claims, or the negotiations of change orders, relating to the contract.

## **Section 5.03 Negotiations for Future Employment**

### **(a) Solicited**

Employees are prohibited from soliciting, negotiating or having any arrangement concerning an employment opportunity with a non-governmental individual or entity that has a specific pending matter before the Employee.

Those Employees seeking employment outside of government with an entity or individual that has a specific pending matter before the Employee may only solicit an employment opportunity with the non-governmental individual or entity after waiting:

- (1) 30 days from the time the matter before the Employee is closed, or
- (2) 30 days from the time the Employee has no further involvement with the matter because of recusal or reassignment.

### **(b) Unsolicited**

Employees who receive an unsolicited post-government employment-related communication from a non-governmental individual or entity that has a specific pending matter before the Employee cannot pursue employment with the non-governmental entity or individual unless the following occurs:

- (1) they are recused from the matter and any further official contact with the entity or individual and
- (2) they wait 30 days from such recusal to enter into post-government employment communications with the entity or individual.

(c) Notification

Employees must promptly notify their supervisor and Agency Ethics Officer of such outside employment related communications whether or not they intend to pursue the post-government employment opportunity.

In the event of such notification of a solicitation and Employee's desire to pursue the solicitation, the Employee's supervisor is obligated to advise such supervisor's superiors, in writing, up to and including the Department Head, of the Employee's desire to pursue the solicitation and the manager's intention to establish recusal procedures, if practical, to reassign the individual or to refuse reassignment.

(d) Recusal

Recusal shall be granted only if practical and in the best interests of the applicable MTA Agency. Reassignment shall be refused when the manager determines that reassignment would be impractical or inappropriate. The manager may not take action with respect to notifying the Employee of such manager's decision until approved by the Department Head. If recusal is not practical, and in the best interests of the applicable MTA Agency, or if reassignment is refused, the Employee is prohibited from pursuing the solicitation.

**Exception:** This provision does not apply to employment negotiations with other government agencies.

**Remember:** The higher the level of responsibility which an Employee holds within an MTA Agency, the greater the number of matters which are likely to be deemed as specific pending matters before him or her. Employees should take an expansive view as to the existence of possible conflicts when deciding whether to give notice as described in this Section.

The following are examples of the application of the employment negotiation procedures:

**Example 1:** A Deputy Vice President in the Department of Capital Program Management at NYCT who receives an unsolicited job offer from a Prohibited Source with specific pending matters before such Employee may not negotiate for such position without full compliance with the notice, approval, and recusal procedures set forth above.

**Example 2:** A manager at LIRR whose duties include procurement is approached by a firm with which he or she has a specific pending matter

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and told “if you ever decide to leave the LIRR, we have a place for you in our firm.” The LIRR manager must notify his or her supervisor and ethics officer of this conversation because it would be considered a communication intended to solicit employment.

## **Section 5.04 Notice of Future Employment Restrictions**

An Employee who provides notice of leaving service at an MTA Agency, either by retirement or resignation, or whose employment is terminated, will receive a memorandum summarizing the future-employment restrictions of the Ethics Law and of this Code. All Employees in management and non-represented titles and Employees in certain represented titles designated by the applicable MTA Agency may be required to sign a certification stating that the policies outlined in the memorandum have been complied with, and to state the name of a new employer, if applicable.

**Exception:** From time to time, the Future-Employment restrictions have been legislatively modified to permit exceptions to these policies when Employees are laid off. An Employee in such a position should consult with the applicable Agency Ethics Officer or Ethics Committee if there is a question of whether such exceptions are in force.

## **Chapter 6: Financial Disclosure**



### **Section 6.01 Covered Employees**

Employees must file an Annual Statement of Financial Disclosure if such Employee:

- (a) Has a gross salary within the preceding calendar year that exceeded the annual salary of state employees at the SG-24 job rate as of April 1 of the year in which the Annual Statement of Financial Disclosure is to be filed, unless specifically exempted in accordance with the State Ethics in Government Act; or
- (b) Regardless of income, holds a Policy-Making Position.

#### **Notes:**

- (a) The Joint Commission on Public Ethics is required to make Annual Statements of Financial Disclosure available to the public upon request, except as to values and amounts, and except to the extent the reporting

individual has obtained a ruling from the Joint Commission on Public Ethics preventing or limiting public disclosure.

- (b) Each MTA Agency shall prepare a list of Employees in Policy-Making Positions and shall, during February of each year, notify the Joint Commission on Public Ethics of the identity of all such titles and persons required to file an Annual Statement of Financial Disclosure with the Commission. Procedures shall also be established for identifying to the Joint Commission on Public Ethics all Employees newly subject to the filing requirements by reason of having assumed Policy-Making Positions. The Joint Commission on Public Ethics may be asked to render advisory opinions or issue guidelines for such determinations.

- (c) The Annual Statement of Financial Disclosure solicits various items of information concerning the finances and employment of the Employee, the Employee's spouse, and unemancipated children.

**Exceptions:**

- (a) Non-policy making Employees, or their bargaining or other representatives, may request that the Joint Commission on Public Ethics grant exemptions, either in whole or in part, from the reporting requirements. Appeals from denials of such an exemption are to be made to the Joint Commission on Public Ethics.
- (b) Employees who are required to file an Annual Statement of Financial Disclosure based on their gross salary but do not hold Policy-Making Positions may be entitled to an exemption from the financial disclosure requirements, on the grounds that the public interest does not require disclosure and that the Employee is not involved with the discretionary, Business, or regulatory activities of the applicable MTA Agency.
- (c) Employees may seek an exemption from any requirement to report one or more items of information pertaining to the financial status of their spouse or unemancipated child. An Employee may also request deletion of portions of information called for on the Annual Statement of Financial Disclosure form that could otherwise be publicly disclosed. Grounds

*“The Annual Statement of Financial Disclosure solicits various items of information concerning the finances and employment of the Employee, the Employee’s spouse, and unemancipated children.”*

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supporting such requests are that the spouse or child (where applicable) objects to providing the information necessary to make such disclosure and that such information would have no material bearing on the discharge of the reporting Employee's duties.

## Section 6.02 Dates for Filing and Related Penalties

- (a) Employees required to file pursuant to Section 6.01 must file their Annual Statement of Financial Disclosure by May 15th of each year, **or within thirty (30) days of a covered Employee's appointment or promotion**, whichever is later. An Employee may indicate with respect to any item of the Annual Statement of Financial Disclosure that information with respect thereto is lacking and will be supplied in a supplemental statement to be filed no later than the seventh (7th) day following the date to which that Employee could have received an automatic extension to file their income tax returns for that year. The Joint Commission on Public Ethics may also grant hardship applications.
- (b) If an Employee fails to file the Annual Statement of Financial Disclosure as required or omits relevant information, he or she shall be subject to discipline, up to and including dismissal. In addition, criminal or civil penalties may be imposed as set forth in Chapter 9 below.

## Chapter 7: Books And Records



### Section 7.01 Accuracy and Completeness of Financial Records

- (a) Employees who are involved in the preparation of the MTA Agency's financial records must ensure that the accounting and financial records of their MTA Agency meet the highest standards of accuracy and completeness. Reporting accurate and complete information about the MTA Agency's financial condition is an essential responsibility of all Employees.
- (b) If you have reason to believe that any of the MTA Agency's financial records are not being maintained in an accurate or complete manner, you are expected to report this immediately to your Agency's General Counsel's Office or Chief Compliance Officer or your Agency's Chief Financial Officer or the Auditor General.

### Section 7.02 Financial Statements and Accounts

Employees who are involved in the preparation of the MTA Agency's financial

statements must do so according to generally accepted accounting principles and other applicable accounting standards and rules, so that the statements fairly and completely reflect the operations and financial condition of the MTA Agency.

## Chapter 8: Other Ethics Issues



### Section 8.01 Nepotism

It is the policy of the MTA Agencies to ensure that all job opportunities at MTA Agencies are based on merit and qualifications. Employees are prohibited from participating 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 Employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter. There will be no preferential treatment for Family Members of current or former Employees and/or union officials.

*“Job opportunities at MTA Agencies are based on merit and qualifications.”*

Employees are required to comply with and should consult the All-Agency Policy Directive, Anti-Nepotism Employment Procedures.

MTA Agencies must ensure that contracting opportunities are based only on merit and qualifications. There will be no preferential treatment for Family Members of current or former Employees and/or union officials. Employees are prohibited from taking part in any contracting decision: (i) relating to a Family Member; or (ii) relating to any entity in which either they or a Family Member is an officer, director or partner, or in which a Family Member owns or controls 10% or more of the stock (or 1% or more if in the case of a corporation whose stock is regularly traded on an established securities exchange) of such entity. If a contracting matter arises relating to a Family Member, then the Employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

An Employee cannot participate in any decision to invest MTA funds in any security of any entity in which that Employee or any Family Member of that Employee has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.

### Section 8.02 Business Relationships between Employees

MTA managers and supervisors are prohibited from hiring Employees whom

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they directly or indirectly supervise or manage to work for or with them as full-time, part-time, or temporary employees or as consultants in any outside business entity.

### **Section 8.03 Financial Transactions between Employees**

MTA managers and supervisors are prohibited from engaging in financial transactions with Employees whom they directly or indirectly supervise or manage. MTA managers and supervisors may not obtain or use or attempt to use the credit of any Employee whom they directly or indirectly supervise or manage as applicant, maker, co-signer, or endorser of any credit instrument in any connection with a loan or similar transaction.

### **Section 8.04 Prohibition Against the Use of MTA Property**

MTA's names, logos, supplies, equipment, computer resources, personnel, and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind except as may be specifically authorized herein:

- a) Official stationery may not be used for non-governmental purposes, nor may MTA resources be used to mail personal correspondence. The designation "personal" on MTA 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 MTA mail, postage, internal office mail, or inter city couriers be used for non-governmental purposes.
- c) MTA 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. MTA 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 Employee.
- d) MTA computer resources may be used for incidental and necessary personal purposes, such as sending personal electronic mail messages, provided that such use is in a limited amount and duration and does not conflict with the proper exercise of the duties of the Employee. (See MTA Computer Usage and Social Media Policy Directive)

- e) MTA vehicles shall be used for official business or incidental use associated with official business away from an Employee's official work station. Individuals who are authorized by their Agency to use a vehicle for personal purposes shall keep records of such use, and the value of such personal use shall be calculated and reported as personal income to such individual for tax purposes.

Any Agency policy regarding use of MTA property must be consistent with or more restrictive than this Section of the Code.

## **Chapter 9: Discipline/Penalty for Violation of this Code or State Ethics Laws**



### **Section 9.01 General**

Employees who violate any provision of the State Ethics Laws or of this Code may be subject to disciplinary action consistent with that administered for violations of the rules and regulations of the applicable MTA Agency, up to and including termination.

### **Section 9.02 Civil Penalties**

A violation of Public Officers Law Sections 73(2), (3), (4), (5), (7), (8), (12), (14), (15), (16), (17) and Sections 73-a, may result in the Joint Commission on Public Ethics imposing a civil penalty of up to forty thousand dollars (\$40,000) and the value of any gift, compensation, or benefit received as a result of such violation. These sections include but are not limited to prohibitions concerning gifts, future employment, and financial interests in MTA contracts as well as obligations in connection with the filing of Annual Statements of Financial Disclosure.

A violation of Public Officers Law Section 74 may result in the Joint Commission on Public Ethics imposing a civil penalty of up to ten thousand dollars (\$10,000) and the value of any gift, compensation, or benefit received as a result of such violation.

### **Section 9.03 Criminal Penalties**

A violation of Public Officers Law Section 73(2), (3), (4), (5), (7), (8), and Section 73-a, may result, in lieu of civil penalties, the Joint Commission on Public Ethics referring the violation to the New York State Attorney General or local prosecutor for criminal prosecution as a Class A misdemeanor, punishable by imprisonment for up to one year and a fine up to one thousand dollars (\$1,000).



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## **APPENDIX A:**

### **AGENCY ETHICS OFFICER CONTACT INFORMATION**

#### **MTA Headquarters**

Lamond Kearsce  
646-252-1329

#### **MTA New York City Transit**

Paige Graves  
718-694-5719

#### **MTA Long Island Rail Road**

Stephen N. Papandon  
718-558-8327

#### **MTA Metro-North Railroad**

Susan Sarch  
212-340-4933

#### **MTA Bridges and Tunnels**

M. Margaret Terry  
646-252-7619

#### **MTA Capital Construction**

Evan Eisland  
646-252-4274

#### **MTA Bus Company**

Elizabeth Cooney  
646-252-3754

*To obtain a current list of Ethics Officers, please call the Ethics/Compliance Helpline at 888 U ASK MTA or go to MTA Today page and search for Code of Ethics.*



## **Metropolitan Transportation Authority**

New York City Transit  
Long Island Rail Road  
Metro-North Railroad  
Bridges and Tunnels  
Capital Construction  
Bus Company

