

# APPENDIX XII

No. 2

## EXECUTIVE ORDER

### ELIMINATING POLITICS FROM GOVERNMENT DECISIONMAKING

WHEREAS, it is essential that the duties and responsibilities of State government be performed in a non-partisan manner; and

WHEREAS, all State employees and officers should feel free to pursue the interests of the public in an environment that is free from political party influence or interference; and

WHEREAS, all State taxpayers and residents and all those who depend on State government services have the right to expect that government programs will be administered and managed with the highest degree of professionalism and without regard to partisan politics; and

WHEREAS, all State employees and officers should be selected based upon their qualifications, integrity, honesty, competency and dedication to fulfilling the public policies of the State, and should not be excluded from State service based solely upon their political affiliations; and

WHEREAS, it is the obligation of every State employee and officer to pursue a course of conduct that will not engender public concern as to whether the individual is engaged in acts that may violate his or her public trust; and

WHEREAS, although certain State laws and rules place limits on political campaign activities of State employees, there are ways in which these laws can be improved and strengthened; and

WHEREAS, until that occurs through legislative action, it is appropriate to take steps to limit, to the greatest extent possible, the influence of politics on government decision-making;

NOW, THEREFORE, I, Eliot Spitzer, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the laws of the State of New York, do hereby order as follows:

#### 1. Definitions

"Agency" shall mean any state agency, department, office, board, commission or other instrumentality of the State, other than a public authority.

"Public authority" shall mean a public authority or public benefit corporation created by or existing under any State law, at least one of whose members is appointed by the Governor (including any subsidiaries of such public authority or public benefit

corporation), other than an interstate or international authority or public benefit corporation.

## **2. Application**

This order shall apply to all State agency officers and employees who serve at the pleasure of the Governor or their appointing authority, and to all members of all public authorities who are appointed by the Governor. Each public authority shall adopt policies or rules applying the restrictions set forth below to all officers and employees who serve at the pleasure of their appointing authority.

## **3. Prohibition Against Campaign Contributions to the Governor and Lieutenant Governor**

No individual covered by this executive order may make or offer to make any monetary contribution to the campaign of the Governor or the Lieutenant Governor, or to any political campaign committee organized by or for the specific benefit of the Governor or the Lieutenant Governor. In addition, no individual covered by this executive order may request or demand that any other person make or offer to make any monetary contribution to the campaign of the Governor or the Lieutenant Governor, or to any political campaign committee organized by or for the specific benefit of the Governor or the Lieutenant Governor.

## **4. Prohibition Against Consideration of Politics in Employment and Contracting**

No individual covered by this executive order who is involved in recruiting, interviewing or hiring applicants for State employment, or making appointments to State boards or commissions, or making promotional, disciplinary or other employment decisions relating to State employees, may ask any such applicant or employee to reveal: (a) the party affiliation of the applicant; (b) whether the applicant has made campaign contributions to any party, elected official, or candidate for elective office; or (c) whether the candidate voted for any elected official or candidate for elective office. The provisions of this paragraph shall not apply to circumstances where such inquiry is necessary for the proper application of State law or approved State agency or public authority rules, policies or practices (e.g., inquiring about party affiliation where State law limits the number of members of a State board who can be from the same party).

No individual covered by this executive order who is involved in the awarding of State grants or contracts, or making decisions relating to State grants or contracts, may ask any officer or director of such current or prospective contractor or grantee to reveal: (a) the party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any party, elected official, or candidate for elective office; or (c) whether the individual or entity voted for any elected official or candidate for elective office.

## **5. Prohibition Against Appearances by Candidates in State Advertising**

Under no circumstances may any State agency or public authority permit any elected official or any candidate for elective office to appear in any advertisement in any media, including but not limited to television, radio, Internet or print, if such advertisement is paid for, in whole or in part, directly or indirectly, by any State agency or public authority, or if any State agency or public authority resources are utilized in the creation of such advertisement.

## **6. Prohibition Against Campaigning for State or Federal Office**

No commissioner, executive director or other head of any agency or public authority shall seek nomination, designation or election to any compensated federal or state public office, or shall commence a candidacy for such office, unless such individual first resigns from State service or requests and is granted a leave of absence without pay. Such leave, if granted, must commence before such individual engages in any campaign activities, including but not limited to announcing a candidacy, circulating petitions, soliciting contributions, distributing literature, or taking any other action to actively promote oneself as a candidate for elective office.

## **7. Penalties**

Any violation of this order may result in dismissal or other appropriate sanction as determined by the appointing authority of the individual committing such violation.

Given under my hand and the Privy Seal of the State in the City of Albany this first day of January in the year two thousand seven.

BY THE GOVERNOR /s/ Eliot Spitzer

/s/ Richard S. Baum

Secretary to the Governor