

ORANGE COUNTY WATER AUTHORITY  
RESOLUTION 2008-06

**A RESOLUTION ADOPTING  
CODE OF ETHICS POLICY**

**WHEREAS,** The Orange County Water Authority (“OCWA”) is a duly constituted public corporation created under the Public Authorities Law of the State of New York, Article 5, Section 1199, et.seq.; and

**WHEREAS,** The OCWA must have a Code of Ethics Policy as per Public Authority Accountability Act of 2005; and

**WHEREAS,** The OCWA Board has reviewed the attached Orange County Code of Ethics Policy adopted by the Orange County Legislature by Local Law No. 2 of 1994 and amended by Resolution No. 252 of 2005;

**NOW, THEREFORE BE IT RESOLVED,** the Orange County Water Authority has adopted the Orange County Code of Ethics as their own by resolution and will post the Policy on its website as required.

**PASSED AND ADOPTED THIS 9<sup>TH</sup> DAY OF APRIL, 2008, BY THE FOLLOWING VOTE:**

Motion to approve and adopt the Orange County Code of Ethics as the OCWA’s was made by Jonah Mandelbaum. The motion was seconded by Daniel Patenaude and passed unanimously at 12:20 pm.

AYES:           4     
NAYS:                   
ABSENT:        1   

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Chairwoman, Marcia Jacobowitz

ORANGE COUNTY LOCAL ETHICS LAW  
(LOCAL LAW NO. 2 OF 1994 AS AMENDED)

Section 1. **FINDINGS AND PURPOSE**

The citizens of the State of New York and of the County of Orange are entitled to be assured that persons in positions of governmental responsibility act in the discharge of their duties according to the highest standards of ethical conduct. They are further entitled to the disclosure by such persons of information by which compliance with such standards is assured. In adherence to provisions of Article 18 of the General Municipal Law adopted by the Legislature of the State of New York, Orange County adopted Local Law No. 1 of 1991, known as the "local Ethics Law". Three years of experience with and under said law, and knowledge of the experience of other municipalities across the State, including the institution of litigation attacking the terms and methods of the law, now indicate that the adoption of a new law to replace the original, clarifying and simplifying certain of its aspects, is appropriate and necessary to preserve and protect the essential purposes for which the State and local legislation was enacted.

Section 2. **RESCINDING OF LOCAL LAW NO. 1 OF 1991 AS ADOPTED AND AMENDED**

Local Law No. 1 of 1991, and all amendments thereto, shall be and the same shall hereby is fully and completely rescinded, and shall be of no further force and effect. In lieu thereof, and in compliance with the General Municipal Law of the State of New York, and specifically Article 18, Section 812, Subdivision 3 thereof, this subject Local Law is hereby enacted.<sup>1</sup> Rescinding of the original law is subject to and shall not be effective unless and until this local law becomes effective according to the provisions of the Constitution of the State of New York, the Municipal Home Rule Law, and all other applicable laws and rules.

Section 3. **DEFINITIONS**

Unless otherwise indicated, the following terms shall be defined such for the purpose of the Orange County Ethics Law.

(a) "Agency" means any of the divisions of Orange County government, referred to in subdivision (d) of this section except the legislature.

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<sup>1</sup> The words "Section 812, Subdivision 3" were added to the Local Law No. 2 of 1994 by Local Law No.4 of 1994.

(b) "Board of Ethics" means the Board of Ethics of the County of Orange as described in Section 6 hereof and formed pursuant to Article 18 of the General Municipal Law.

(c) "Child", means any son, daughter, stepson or stepdaughter of a County officer, employee or appointed official under 18 (eighteen), unmarried and living in the household of the reporting individual.

(d) "County" means the County of Orange or any department, board, executive division, institution, office, branch, bureau, commission, agency, legislature or other division or part thereof.

(e) "Interest" means a direct or indirect pecuniary or material benefit accruing to a County officer, employee or appointed official, his or her spouse, child or sibling whether as the result of a contract with the County or otherwise.<sup>2</sup>

For the purpose of this chapter, a County officer, employee or appointed official shall be deemed to have an interest in the contract of his/her spouse, child or sibling, except a contract of employment with the County.

For the purpose of this chapter, a County officer, employee, or appointed official shall be deemed to have an interest in the contract of a firm, partnership or association of which such officer, employee or appointed official or his/her spouse, child or sibling is a member or employee.

For the purpose of this chapter, a County officer, employee or appointed official shall be deemed to have an interest in the contract of a corporation of which such officer, employee or appointed official, or his/her spouse, child or sibling is an officer or director.

For the purpose of this chapter, a County officer, employee or appointed official shall be deemed to have an interest in the contract of a corporation of which more than 5% of the outstanding capital stock of a corporation which is owned by an officer, employee or appointed official, or his/her spouse, child or sibling.

(f) "Legislation" means a matter which appears upon the calendar or agenda of the County Legislature of Orange County or upon a committee thereof upon which any official action has been taken and shall include adopted acts, local laws, ordinances or resolutions.

(g) "Officer" or "employee" means any officer or employee of the County of Orange and any elected officials, appointed officials and heads of any agency, institution, department,

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<sup>2</sup> Section 3(e) of Local Law No. 2 of 1994 was amended to add the word "sibling" by Local Law No. 3 of 2005.

office, branch division, council, commission, board or bureau of the County of Orange whether paid or unpaid.

(h) "County elected official" means the County Executive, a County Legislator, a Coroner, the County Clerk, the District Attorney or the Sheriff.

(i) "Appointed official" means any individual who is appointed by the County Executive or the County Legislature to any agency, institution, department, office, branch, division, council, commission, board or bureau, whether unpaid or paid.

(j) "Relative" means a spouse, child or sibling of a County officer, employee or appointed official.<sup>3</sup>

(k) "Reporting officer, employee or appointed official" means an officer, employee or appointed official who is required to complete and file an annual statement of financial disclosure pursuant to this local law.

(l) "Spouse" means the husband or wife of an officer, employee or appointed official subject to the provisions of this local law unless legally separated from such officer, employee or appointed official.

(m) "Jurisdiction" shall mean having authority, capacity, power or right to act with regard to the management and administration of policy and supervision of personnel of the county agency (as defined above at (a)) in which she/he is an officer, employee or appointed official (as defined above at (h)).

(n) "County Executive" means the County Executive of Orange County.

(o) "Sibling" means any brother or sister, half-brother or half-sister, step-brother or step-sister of a County officer or employee or appointed official.<sup>4</sup>

## Section 4. **CODE OF ETHICS**

### A. **Prohibited Activities**

It is the policy of the County Legislature that all officers and employees must avoid conflicts or potential conflicts of interest. A conflict or a potential conflict exists whenever an officer or employee has an interest, direct or indirect, which conflicts with their duty to the County or which could adversely affect an individual's judgment in the discharge of his or her responsibilities. In addition to any acts prohibited by statute the following actions by an officer or employee are prohibited.

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<sup>3</sup> Section 3(j) of Local Law No. 2 of 1994 was amended to add the word "sibling" by Local Law No. 3 of 2005.

<sup>4</sup> Section 3 (o) was added to Local Law No. 2 of 1994 by Local Law No. 3 of 2005.

1. No officer or employee shall take action or participate in any manner whatsoever in his or her official capacity in the discussion, negotiation or the awarding of any contract or in any business or professional dealings with the County of Orange or any agency thereof in which the official or employee, their spouse, child or sibling has or will have an interest, direct or indirect, in such contract or professional dealings.<sup>5</sup>

2. No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for his or her personal benefit when such employment or service creates a conflict or impairs the proper discharge of his or her official duties.

3. During any single reporting year, no officer or employee shall solicit, directly or indirectly, receive or accept any gift or gifts having a total aggregate value of Seventy-Five (\$75.00) Dollars, or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form, from any one person, partnership or corporation which has a business relationship with the County.

4. No officer or employee shall after the termination of service or employment with the County of Orange, appear before any board or agency of the County of Orange in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration, unless so requested specifically by the County.

5. No officer or employee shall disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interest.

6. No officer or employee shall accept employment or engage in any business or activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.

7. No officer or employee shall take action on a matter before the County or any division thereof when, to his or her knowledge, the performance of that action would provide a pecuniary or material benefit to himself or herself.

8. No officer or employee shall do any act or cause any act to be done which is a violation of the Orange County Local Law regulating the use of the official name, seal and authority of the County of Orange.<sup>6</sup>

8.a. No Orange County officers, employees or elected or appointed officials whose titles are listed in the attached schedule may bid for or acquire or purchase any parcel or parcels of real property which is offered for sale by the County of Orange in any manner as a result of the

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<sup>5</sup> Section 4 (1) of Local Law No. 2 of 1994 was amended to add the word "sibling" by Local Law No. 3 of 2005.

<sup>6</sup> Paragraph 8 of Section 4A. was added to Local Law No. 2 of 1994 by Local Law No. 13 of 1999.

tax delinquency of such parcel or parcels. This prohibition shall include a prohibition against such County officers, employees or officials bidding upon or acquiring or purchasing such properties directly or through an agent, representative, attorney or other third party, including but not limited to a spouse or child. It shall be presumptive proof of a violation of this Law if such County officer, employee or official shall have acquired any interest whatsoever, including but not limited to the holding of a mortgage, lien or other financial interest, in any such property, howsoever acquired, either directly or through any third parties, within two (2) years of the date upon which such property was sold or conveyed by the County of Orange.

b. All other officers, employees or elected or appointed officials whose titles are not listed in the attached schedule must disclose in writing to the Orange County Attorney, in a form and manner to be determined by the Orange County Attorney, their title, employee status as Orange County officers, employees or officials, and any other information deemed relevant and necessary by the Orange County Attorney, and receive in writing the approval of the Orange County Attorney of their participation, in advance of any bidding for or acquiring or purchasing any real property which is offered for sale by the County of Orange in any manner as a result of the tax delinquency of such property. The Orange County Attorney shall deny such approval on the basis of the existence of, or the appearance of, a prohibited conflict of interest, as defined under the Orange County Local Ethics Law and/or other prevailing State or other laws, rules, regulations.

c. The schedule of County officers, employees or officials subject to this Local Law and referred to herein may be amended from time to time by Resolution of the Orange County Legislature. This Local Law shall not be deemed to supercede or otherwise restrict the right of the Orange County Executive to limit the acquisition of real property from the County of Orange by County staff under the supervision and direction of the Orange County Executive by Executive Order.<sup>7</sup>

## **Section 5. DISCLOSURE**

1. Persons subject to this law whose job titles are listed pursuant to Section 5, Paragraph 2 hereof shall annually file the disclosure form. The disclosure form may, upon proper written application to the Board of Ethics, be made available for viewing by the public. The form may not be photocopied for public distribution. Written application for public viewing shall state a proper and sufficient reason for the requests. All written requests for access to

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<sup>7</sup> Paragraphs 8a, b and c of Section 4A were added to Local Law No. 2 of 1994 by Local Law No. 7 of 2000.

disclosure forms shall be kept on file by the Board of Ethics and shall be available for public access, but shall not be photocopied. The County Legislature may adopt, amend, modify and/or change, in whole or in part, said disclosure form at any time by Legislative resolution.

2. The Orange County Legislature shall adopt a list indicating the job titles of those persons who must file the disclosure form with the Orange County Board of Ethics. The County Legislature may adopt, amend, modify and/or change, in whole or in part, said list of job titles at any time by Legislative resolution.<sup>7</sup>

3. The disclosure forms shall be filed annually with the Board of Ethics on or before January 31st of each year.<sup>8</sup> The date by which said forms must be filed by all persons collectively subject thereto may be extended by either the Board of Ethics or by resolution of the County Legislature. The Board of Ethics may grant to individuals on a case-by-case basis an extension of time within which to file as provided elsewhere in this local law. The date by which said forms must be filed by all persons collectively subject thereto may be amended by resolution of the County Legislature.<sup>9</sup>

4. The disclosure forms shall be filed by:

- a. all elected officials of Orange County;
- b. all those whose positions appear on the list of titles adopted by the County Legislature pursuant to this law, which list may be amended at any time by resolution of the County Legislature;
- c. any person who shall become a candidate for the office of any elected official of Orange County. The disclosure forms shall be filed by the candidate within seven (7) days after the filing of the nominating petitions of said candidate.
- d. all others who wish to file voluntarily.

5. a. The disclosure form shall contain information which accurately discloses facts and circumstances concerning the time period beginning on January 1st of the calendar year preceding that in which the form is filed up to December 31<sup>st</sup> of that year.

b. Any officer or employee who accepts a new position and as a result of holding the new position is newly required thereby to file a disclosure form shall within thirty (30) days of accepting said new position file a disclosure form with the Board of Ethics.

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<sup>7</sup> See Resolution No. 252 of 2006 attached hereto for the most recent list of positions and agencies subject to disclosure requirements.

<sup>8</sup> Section 5, Paragraph 3 of Local Law No. 2 of 1994 was amended by deleting the date of "May 15<sup>th</sup>" there from and substituting therefore the date "January 31<sup>st</sup>" by Local Law No. 6 of 2000.

<sup>9</sup> Section 5, Paragraph 3 of Local Law No. 2 of 1994 was amended by deleting from the last sentence thereof the words: "... advanced to an earlier annual date only by an enactment of the County Legislature," and substituting therefor the words: "... amended by resolution of the County Legislature" by Local Law No. 6 of 2000.

6. Any officer or employee who has, will have or intends to acquire a direct or indirect interest in any matter being considered by the Legislature of the County of Orange or by any other official, board, agency, officer or employee of the County of Orange, and who participates in the discussion before, or who gives an opinion or gives advice to, any board, agency or individual considering the same, shall publicly disclose on the official record the nature and the extent of such interest. Said officer or employee shall also file a written summary of said public disclosure with the Board of Ethics within 10 days after said public disclosure.

7. Any officer or employee of the County of Orange who has knowledge of any matter being considered by any board, agency, officer or employee of the County of Orange in which matter he or she has or will have or intends to acquire any direct or indirect interest, shall be required immediately to disclose, in writing, his or her interest to such board, agency, officer or employee, and the nature and the extent thereof, to the degree that such disclosure gives substantial notice of any potential conflict of interest. Said officer or employee shall also file said writing with the Board of Ethics within 10 days after said disclosure.

8. Any person who is required to file an annual statement of financial disclosure may request, prior to the filing date, an extension of time to file the disclosure. Such request shall be made in writing and shall request a specific period of time for said extension. The Board of Ethics shall by a vote of the membership either grant or deny the request. Should the Board of Ethics grant an extension of the filing date, it shall in its decision specify the new filing date.

9. Any person who is required to file an annual statement of financial disclosure may by written request seek from the Board of Ethics a waiver exempting said person from the requirement of filing all or any part of the disclosure form. If said person presents to the Board of Ethics sufficient reasons why he or she should not be required to file, the Board of Ethics may grant a waiver. The Board of Ethics may grant a waiver of all or of part of the disclosure.

10. Any person denied an extension of time, an exemption or a waiver, in whole or in part, shall be entitled to an adjudicatory proceeding before the Board of Ethics regarding same. Said adjudicatory proceeding shall be conducted pursuant to the "Regulations for Adjudicatory Proceedings" adopted hereunder.

11. Where the reporting officer, employee or appointed official, or the spouse of such person, practices law, is licensed by the Department of State as a Real Estate Broker or Agent, or practices a business or profession licensed by any Department of the State of New York or by any Federal Agency or Department, or operates a business as a sole proprietor, the reporting individual need not list the names of individuals, clients, customers or patients. When



completing the disclosure for, the reporting individual shall give the name under which the business or profession is conducted and the total income, investments, or debts, of such business or profession for the reporting period as such may be required by law. Nothing contained herein shall require disclosure of any information otherwise protected and rendered confidential by law.

## Section 6. **ETHICS BOARD**

### 1. **Establishment**

The Legislature of the County of Orange, pursuant to Article 18 of the New York State General Municipal Law, hereby establishes the Orange County Board of Ethics responsible for ensuring full compliance with this Code of Ethics and disclosure. The Board of Ethics shall consist of seven members, four of whom shall be nominated by the Chairman of the Orange County Legislature, three of whom shall be nominated by the County Executive of Orange County. Of the four nominated by the Chairman of the Orange County Legislature, no more than three shall be of the same enrolled party affiliation. Of the three nominated by the County Executive, no more than two shall be of the same enrolled party affiliation. All appointments shall be confirmed by the Legislature. Failure to gain approval or in the instance of the creation of a vacancy, such succeeding member shall be determined by the entity through which the original member was selected. Any action of the Board requires four affirmative votes.

### 2. **Membership**

Members of the Board of Ethics shall serve without compensation, but shall be entitled to reimbursement of reasonable expenses and for mileage, in accordance with rules established by the County Legislature. Members of the Board of Ethics shall be construed under this local law as policy-making officials, and thus be subject to all of the appropriate ethics and disclosure requirements.

The members of the Board of Ethics shall serve staggered three-year terms. The first appointments to the Board of Ethics shall be as follows: one member appointed by the Chairman of the Orange County Legislature and one member appointed by the County Executive each for a one year term; one member appointed by the Chairman of the Orange County Legislature and one member appointed by the County Executive each for a two year term; two members appointed by the Chairman of the Orange County Legislature and one member appointed by the County Executive each for a three year term. The term of office for each member shall commence on January 1<sup>st</sup> of the year within which he or she is appointed. At the expiration of the term of office of any member of the Board of Ethics, said member shall

continue to serve until reappointed or replaced by a new member. Members of the Board of Ethics shall not serve more than two full three year terms.

### 3. **Removal**

In addition to the penalties defined specifically for violation of the Orange County Ethics Law, and other pertinent sections of local, state and federal law, members of the Board of Ethics may be removed for cause by a two-thirds vote of the County Legislature. Prior to removal, the Board of Ethics member shall be given written notice of the grounds for removal and an opportunity to demand and receive an adjudicatory proceeding before a neutral and disinterested hearing officer to be provided by the County of Orange. Said proceeding shall be conducted according to "Regulations for Adjudicatory Proceedings" which shall be adopted by the Orange County Legislature.

### 4. **Powers and Duties**

a) The Board of Ethics shall possess all powers and duties authorized by law.

b) The Board of Ethics shall be the repository for completed annual statements of financial disclosure, pursuant to Section 808(5) of the General Municipal Law and this local law and such written instruments, affidavits, and disclosures as required under this local law.

c) The Board of Ethics shall possess, exercise and enjoy all the rights, powers and privileges necessary and proper to the enforcement of the Code of Ethics and completion and filing by reporting officers, employees and appointed officials of the County of annual statements of financial disclosure required by this act.

d) The Board of Ethics shall upon receipt of the disclosure forms determine if all of those required to file have in fact filed. The Board shall then review all such forms and determine if the forms are complete, if any further information is necessary and if any conflicts exist.

e) The Board of Ethics shall abide by rules, regulations and ordinances adopted by the County Legislature in order to insure that the rights of those who have filed disclosure forms are protected. Said rules and regulations shall provide that once a disclosure form is filed it becomes the property of the Board of Ethics. The rules and regulations shall permit public access to the disclosure forms upon application and for a legitimate purpose.

f) The Board of Ethics shall abide by rules, regulations and ordinances adopted by the County Legislature in furtherance of its powers and duties enumerated herein. Said rules and regulations shall include rules governing the conduct of adjudicatory proceedings and appeals relating to the actions and decisions of the Board. The Board of Ethics has the power to subpoena any individual, whether or not a County officer, employee or appointed official, and

any document or thing which the Board of Ethics deems necessary to the resolution of any pending adjudicatory proceeding or matter.

g) The Board of Ethics shall render advisory opinions in writing regarding specific matters pertaining to filings and other subjects addressed in this local law to officers, employees and appointed officials of the County with respect to this local law and Article 18 of the General Municipal Law. Such opinions shall be rendered only upon written request by the officer, employee or appointed official concerning only the subject of the inquiry as it pertains to the requesting individual's own filing requirements.

h) Such opinions shall not be made public or disclosed unless required by the Freedom of Information Law (Public Officers Law Article 6) or required for use in a disciplinary proceeding or proceeding under Article VII of this local law involving the officer, employee or appointed official who requested the advisory opinion.

i) The Board of Ethics shall designate an attorney admitted to practice in the State of New York to serve as counsel to the Board of Ethics.

j) The Board of Ethics shall be empowered to request support staff assistance from the County Legislature or the County Executive in furtherance of its duties and responsibilities.

## **Section 7. PENALTIES**

Any officer or employee who knowingly and willfully conducts himself or herself in such a manner that he or she violates the Code of Ethics as described in Section III herein is subject to a civil penalty in an amount not to exceed ten thousand dollars. A reporting individual who knowingly and willfully fails to file an annual statement of financial disclosure or who knowingly and willfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this section is subject to a civil penalty in an amount not to exceed ten thousand dollars.

Assessment of a civil penalty hereunder shall be made by the Orange County Board of Ethics. For a violation of this section, other than for conduct which constitutes a violation of subdivision twelve of section seventy-three of the Public Officers Law, the Orange County Board of Ethics may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a Class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a value or amount reported hereunder is incorrect unless such reported information is falsely understated willfully or intentionally. Upon an appropriate determination and vote, the Orange County Board of Ethics may file a written recommendation with the County Executive and

County Legislature and other legally necessary and appropriate disciplinary body, establishing grounds for removal for cause, in accordance with other provisions of the State and Orange County laws pertaining to officers, officials and employees and rules governing conduct. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. The Orange County Legislature shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules shall provide for due process procedural mechanisms substantially similar to those set forth in Article 3 of the State Administrative Procedure Act but such mechanisms need not be identical in terms of scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the Orange County Board of Ethics pursuant to Article 78 of the Civil Practice Law and Rules. Such Regulations for Adjudicatory Proceedings of the Board of Ethics shall be appended hereto and considered a part hereof.

**Section 8. ANNUAL STATEMENT OF FINANCIAL DISCLOSURE**

The Orange County Legislature hereby designates the “**ANNUAL STATEMENT OF FINANCIAL DISCLOSURE FORM,**” as attached, as the official annual statement of financial disclosure for the purposes of fulfilling the requirements of Section 5 of the **ORANGE COUNTY ETHICS AND DISCLOSURE LAW**. This form may be adopted, amended, modified and/or changed, in whole or in part, at any time by resolution of the County Legislature.

**Section 9. SEVERABILITY**

Should any part of this local law or its subject matter be declared invalid by competent authority, the remainder shall continue in full force and effect.

**Section 10. EFFECTIVE DATE**

This local law shall take effect in the manner provided hereinabove and as provided by the Municipal Home Rule Law.

# ORANGE COUNTY LEGISLATURE

Committee: Personnel and Compensation  
Sponsors: Pillmeier, Brescia  
Co-Sponsor:

Agenda No. 22

## RESOLUTION NO. 252 OF 2006

**RESOLUTION AMENDING LOCAL LAW NO. 2 OF 1994, SECTION 5, PARAGRAPH 2, REQUIRING CERTAIN OFFICERS AND LOCAL POLITICAL OFFICIALS TO FILE A FINANCIAL DISCLOSURE FORM, PURSUANT TO GENERAL MUNICIPAL LAW BY DELETING THE CURRENT LIST AND ADOPTING AN AMENDED LIST IN ITS PLACE.**

**WHEREAS**, Section 5, Paragraph 2 of Local Law No. 2 of 1994 entitled "Disclosure," provides for the amendment of the list of positions subject thereby by Resolution.

**NOW, THEREFORE**, it is hereby

**RESOLVED**, that the list of positions referenced in the subject to Local Law No. 2 of 1994, as last amended by Resolution No. 316 of 2004, is hereby deleted and the modified list as attached hereto is hereby adopted and incorporated herein, and it is further

**RESOLVED**, that a certified copy of this Resolution be forwarded to the Board of Ethics and its counsel.

**APPROVED: OCTOBER 5, 2006**

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**EDWARD A. DIANA, COUNTY EXECUTIVE**  
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**ORANGE COUNTY GOVERNMENT**  
**POSITIONS BY DEPARTMENT SUBJECT TO ETHICS LAW FINANCIAL**  
**DISCLOSURE**  
**(with proposed additions(a)and deletions(d)effective October 2006)**

**LEGISLATIVE BOARD**

Chairman of the Legislature  
Majority Leader  
Minority Leader  
Legislator  
Legislative Counsel

**CLERK OF THE LEGISLATIVE BOARD**

Clerk of the Legislature  
Deputy Clerk of the Legislature

**OFFICE OF THE DISTRICT ATTORNEY**

District Attorney  
Chief Assistant District Attorney  
Chief Trial Assistant District Attorney  
Executive Assistant District Attorney  
Senior Assistant District Attorney  
Assistant District Attorney IV  
Assistant District Attorney III  
Assistant District Attorney II  
Assistant District Attorney I

**CORONERS**

Chief Administrative Coroner  
Coroner

**OFFICE OF THE COUNTY EXECUTIVE**

County Executive  
Administrative Officer  
Director of Operations and Cost Control  
Economic Development Zone Director

**Division of Central Services**

Assistant to the County Executive  
Staff Assistant

**Division of Risk Management**

Risk Management Officer

**Employment and Training Administration**

Employment and Training Director  
Assistant Director, Employment and Training  
Supervisor of Employment Services  
Fiscal Manager, Employment & Training

**Youth Bureau**

Youth Bureau Director

**DEPARTMENT OF FINANCE**

Commissioner of Finance  
Deputy Commissioner of Finance

**Division of Purchases**

Director of Purchases  
Purchasing Agent

**Division of Real Property Tax Service Agency**

Director of Real Property Tax Service Agency  
Assistant Director of Real Property Tax Services

**OFFICE OF THE BUDGET**

Budget Director  
Deputy Budget Director

**OFFICE OF THE COUNTY CLERK**

County Clerk  
Deputy County Clerk

## **DEPARTMENT OF LAW**

County Attorney  
Chief Assistant County Attorney  
Senior Assistant County Attorney  
Assistant County Attorney

## **DEPARTMENT OF PERSONNEL**

Commissioner of Personnel  
Deputy Commissioner of Personnel  
Director of Personnel Management  
Director of Civil Service  
Director of Labor Relations

## **BOARD OF ELECTIONS**

Commissioner of Elections  
Deputy Commissioner of Elections

## **DEPARTMENT OF PUBLIC WORKS**

Commissioner of Public Works  
Deputy Commissioner of Public Works-Division of Engineering  
Deputy Commissioner of Public Works-Division of Environmental Facilities  
Deputy Commissioner for Infrastructure Services  
Director of Professional Services  
Plant Operations Manager  
Director of Aviation

### **(a) Director of Facilities**

## **DEPARTMENT OF INFORMATION SERVICES**

Commissioner of Information Services  
Director of Client Services  
Director of Systems Integration  
Assistant Director of Client Services  
Assistant Director of Systems Integration

### **(a) Geographic Information Systems Manager**



## **EMERGENCY SERVICES**

Commissioner of Emergency Services

Deputy Commissioner of Emergency Services-Division of Emergency Communications

Deputy Commissioner of Emergency Services-Division of Emergency Management

Deputy Commissioner of Emergency Services-Division of Emergency Medical Services (part-time)

Deputy Commissioner of Emergency Services-Division of Fire Services

Deputy Commissioner of Emergency Services-Division of Police Liaison Services (part-time)

Fire Training Center Manager

### **(a) Director of Operations (911)**

## **OFFICE OF THE SHERIFF: CIVIL DIVISION**

Sheriff

Undersheriff

Deputy Sheriff and Chief

## **OFFICE OF THE SHERIFF: CORRECTIONS DIVISION**

Corrections Administrator

Assistant Corrections Administrator

Staffing and Training Coordinator

## **DEPARTMENT OF PROBATION**

Probation Director II

## **DEPARTMENT OF HEALTH**

Commissioner of Health

Deputy Commissioner of Health

Director of Environmental Health Services

Director of Patient Services

Director of Early Intervention Services

Director of Public Health Emergency Response

## **DEPARTMENT OF MENTAL HEALTH**

- Commissioner of Mental Health
- Deputy Commissioner of Mental Health
- Director of Chemical Dependency Services
- Director of Mental Health Program Services
- Director of Developmental Disabilities Program Services
- (a) Director of Clinical Services (Mental Health)**
  - Administrative Officer - Mental Health
  - Director of Children's Services
- (d) Director of Forensic Services (abolished 3/06)**

## **DEPARTMENT OF SOCIAL SERVICES**

- Commissioner of Social Services
- Deputy Commissioner of Social Services
- Administrative Officer - DSS
- Director of Human Services
- Director of Economic Independence
- Fiscal Director
- Assistant to the Commissioner of Social Services
- Director of Program Integrity
- Managed Care Director
- Senior Case Supervisor
- Chief Social Welfare Examiner
- Staff Development Coordinator
- Senior Network Support Specialist
- (d) Coordinator of Child Support Enforcement (abolished 12/05)**
  - Fiscal Manager
  - Contract Monitor
  - Supervisor of Administrative Support Services
  - Medical Transportation Supervisor

## **DEPARTMENT OF RESIDENTIAL HEALTH CARE SERVICES**

Commissioner of Residential Health Care Services  
Deputy Commissioner, Residential Health Care Services  
Director of Nursing

### **(d) Fiscal Director (abolished 5/06)**

Associate Director of Nursing  
Assistant Director of Nursing  
Director of Admissions and Human Services  
Director of Clinical Services  
Senior Pharmacist  
Rehabilitation Therapies Coordinator  
Director of Dietary Services  
Reimbursement Analyst  
Director of Staff Resources  
Director of Social Services  
Executive Housekeeper  
Accounting Supervisor  
Director of Activities and Volunteers  
Resource Manager

## **VETERANS' SERVICE AGENCY**

Director, Office of Veterans' Services  
Senior Deputy Director of Veterans' Services  
Cemetery Superintendent

## **DEPARTMENT OF CONSUMER AFFAIRS**

Commissioner of Consumer Affairs  
Assistant Director of Consumer Affairs

## **OFFICE FOR THE AGING**

Director, Office for the Aging  
Assistant Director, Office for the Aging  
Nutrition Program Director

**DEPARTMENT OF PARKS, RECREATION AND CONSERVATION**

Commissioner of Parks, Recreation and Conservation

**(a) Deputy Commissioner of Parks, Recreation and Conservation**

**(d) Director of Fiscal Management (abolished 3/06)**

Director of Park Construction and Maintenance

Park Maintenance Supervisor

**COUNTY HISTORIAN**

County Historian

**DEPARTMENT OF PLANNING**

Commissioner of Planning

Deputy Commissioner of Planning

Senior Planner

Tourism Coordinator

Grants Coordinator

**OFFICE OF COMMUNITY DEVELOPMENT**

Director of Community Development

**(a) Assistant Director of Community Development**

Rehabilitation Planner

**HUMAN RIGHTS COMMISSION**

Executive Director, Orange County Human Rights Commission

**MEMBERS OF THE FOLLOWING AGENCIES, COUNCILS,  
COMMISSIONS, BOARDS OR BUREAUS OF ORANGE COUNTY ARE  
SUBJECT TO FILING OF DISCLOSURE FORMS:**

Board of Directors for the Orange County Water Authority

Industrial Development Agency

Orange County Human Rights Commission

**Affiliated with the Office of the County Executive/Employment &  
Training:**

Orange County Private Industry Council

**Affiliated with the Department of Probation:**

Orange County Conditional Release Commission

**Affiliated with the Department of Public Health:**

Orange County Board of Health

**Affiliated with the Department of Parks, Recreation & Conservation:**

Orange County Parks, Recreation & Conservation Board

**Affiliated with Orange County Community College:**

Orange County Community College Board of Trustees

**Affiliated with Orange County Legislature:**

Orange County Board of Ethics

Board of Directors of Orange County Soil and Water Conservation District

Foreign Trade Zone Management Board

**Affiliated with the Office of Community Development:**

Community Development Advisory Committee

## **REGULATIONS FOR ADJUDICATORY PROCEEDINGS**

**Sec.**

- 1. Intent and Purpose**
- 2. Definitions**
- 3. Notice of Hearing or Proceeding**
- 4. Time and Place of Hearing or Proceedings**
- 5. Evidence and Proof**
- 6. Representation**
- 7. Oaths**
- 8. Adjournments**
- 9. Time Limits**
- 10. Decision after Hearing or Proceeding**
- 11. Conduct of Hearings**
- 12. Hearing Officer**
- 13. Powers and Duties of Hearing Officer**
- 14. Fines, Penalties**
- 15. Record of Hearing or Proceeding**
- 16. Privacy/Confidentiality**

### **1. Intent and Purpose.**

The Board of Ethics of Orange County has statutory authority to follow rules and regulations governing the conduct of adjudicatory proceedings and appeals relating to compliance with this local law, the Ethics in Government Act, and the conduct of hearings held thereunder.

These rules and regulations shall apply to all proceedings undertaken by the Board. Persons subject to the requirements of the law shall be entitled to receive an adjudicatory proceeding as to every action or decision as to them taken by the Board, including but not limited to extensions of time, waivers and/or exemptions from the disclosure requirement.

### **2. Definitions**

(a) "Board" shall mean the Board of Ethics established pursuant to Local Law No. 1 of 1991.

(b) "Ethics in Government Act" shall mean Chapter 813 of the Laws of 1987, as amended.

(c) "Annual Statement" shall mean the annual statements of financial disclosure which are required to be filed with the Board pursuant to Local Law No. 1 of 1991.

(d) "Hearing Officer" shall mean the presiding officer in adjudicatory hearings or proceedings conducted pursuant to these regulations, who shall be independent of the Board and of the County of Orange, and shall be provided by the County.

### **3. Notice of Hearing or Proceeding (form).**

(a) Where the Board elects to go forward with a proceeding to determine compliance with the requirements of State and local law, or to take such other action as may be authorized by law, the Board shall serve a written notice, by certified mail or other appropriate method of service authorized under the Civil Practice Law and Rules, to the parties and their representatives of record at least twenty (20) calendar days prior to the date of any hearing or proceeding under these rules. The Notice of Hearing or Proceeding shall contain the following:

- (i) a statement of the time and place of the hearing or proceedings;
- (ii) a statement of the nature of the hearing or proceeding;
- (iii) a reference to the particular statutes and rules relevant to the hearing or proceeding;
- (iv) a short, plain language statement of violations asserted, if any; and
- (v) a statement for hearing impaired parties and participants concerning the provision of deaf interpretation services without charge.

(b) A copy of these regulations shall accompany each Notice of Hearing or Proceeding which is sent pursuant to these regulations.

(c) The Notice of Hearing or Proceeding shall contain information concerning circumstances under which an adjournment may be granted and the result of failure to appear for a scheduled hearing or proceeding.

(d) The Notice of Hearing or Proceeding shall inform the parties and their representatives of the right of each party to be represented, to testify, to produce witnesses, to present documentary evidence, and to examine opposing witnesses and evidence.

#### **4. Time and Place of Hearing or Proceeding.**

(a) The time and place of the hearing or proceeding shall be contained in the Notice of Hearing or Proceeding.

(b) The time and place of the hearing or proceeding shall not be changed unless a party formally requests a change pursuant to the adjournment request procedure contained in Section 8.

(c) The time and place of the hearing or proceeding shall, as far as practicable, take into account the convenience of the parties and the availability of witnesses.

#### **5. Evidence and Proof.**

(a) The formal rules of evidence do not apply to adjudicatory hearings or proceedings conducted pursuant to these rules. However, the rules of privilege recognized by law shall be given effect. Objections to evidentiary offers may be made and shall be a part of the record. Subject to these rules, any party may, for the purpose of expediting the hearing or proceeding and when the interests of the parties will not be substantially prejudiced thereby, submit all or part of the evidence in written form.

(b) The hearing officer may exclude irrelevant or unduly repetitive evidence or cross-examination from any hearing or proceeding.

(c) The burden of proof shall be upon the Board of Ethics to establish by clear and convincing evidence the facts and findings which support its decisions, including but not limited to a finding that non-compliance with the requirements of law has had or will have a material bearing on the discharge of the official duties of the person subject thereto.



(d) No decision or determination by the hearing officer or the Board shall be made except on consideration of the record as a whole, or such portions thereof as may be cited by any party to the hearing or proceeding and as supported by and in accordance with substantial evidence.

(e) Each party shall have the right of cross-examination.

(f) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the Board. When official notice is taken, every party shall be given notice thereof and shall, on timely request, be afforded an opportunity prior to decision to dispute the fact or its materiality.

(g) All findings of fact shall be based exclusively on the evidence in record and on matters officially noticed.

(h) In making its findings and decisions and carrying out its duties with regard to ensuring compliance with State and local ethics laws, the Board shall in every case evaluate whether any non-compliance by any person subject thereto affects in any manner the ability of such person to fully and faithfully carry out the responsibilities and duties of their position. Only if the Board finds by clear and convincing evidence that information required to be reported has a material bearing on the discharge of the reporting person's official duties, and that such information was willfully omitted or inaccurately reported, can the enforcement and punitive powers of the Board be exercised.

## **6. Representation.**

Any person compelled to appear in person, or who voluntarily appears in any hearing or proceeding conducted according to these rules, shall be accorded the right to be accompanied, represented, and advised by counsel. Nothing herein shall be construed either to grant or to deny to any person who is not a lawyer the right to appear for or represent others in any hearing or proceeding therein.

## **7. Oaths.**

(a) All oaths required by these rules may be taken before any person authorized to administer oaths within the State of New York.

(b) Oaths shall be administered to all witnesses who testify or appear in any hearing or proceeding conducted pursuant to these rules.

## **8. Adjournments.**

(a) Adjournments of any hearing or proceeding conducted pursuant to these rules shall be granted only for good cause.

(b) Written request for adjournment shall be submitted to the hearing officer in the hearing or proceeding for which the adjournment is sought. The request must be accompanied by an affidavit which contains sufficient detail to allow the hearing officer to rule on the request.

## **9. Time Limits.**

(a) Under these rules, adjudicatory proceedings shall be conducted in an expeditious manner with all due regard for the rights of the parties concerned. Every effort should be made by the parties to effectuate a speedy disposition of the case.

(b) Parties to any hearing or proceeding are required to file all papers, statements, proofs, and other evidence with the hearing officer at a time to be designated by the officer. An extension of time for filing those items will be granted by the hearing officer only upon formal request.

## **10. Decision after Hearing or Proceeding.**

(a) All final recommendations of the hearing officer and all decisions and determinations of the Board shall be in writing or stated in the record and shall include findings of fact, conclusions of law, and reasons for the decision or determination and, when appropriate, shall direct that specific action be taken by the parties. The final decisions or determinations of the Board shall be binding upon the Board.

(b) A copy of all final decisions and determinations of the Board and recommendations of the hearing officer shall be made available to the parties to the hearing or proceeding, and shall be delivered or mailed forthwith to each party and to its representative of record.

(c) Except as required for the disposition of ex parte matters authorized by law, members of employees of the Board assigned to make a determination or decision, or to make findings of fact and conclusions of law in any hearing or proceeding, shall not communicate directly or indirectly, in connection with any issue of fact, with any person or party, nor in connection with any issue of law, with any party or its representative, except upon notice and opportunity for all parties to participate. Any member or employee of the

Board may communicate with other members or employees and may have the aid and advice of agency staff, other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or a factually related case.

(d) The Board shall maintain the final decision or determination in any hearing or proceeding in a file with an index by name of party and subject matter. The index and the notice of civil assessment, if any, shall not be made available for public inspection and copying except as provided in Section 16 of these rules. Each decision or determination shall be so filed and indexed within sixty (60) days after having been rendered.

### **11. Conduct of Hearings.**

The hearing officer, exercising discretion, may elect to conduct any hearing or proceeding under these rules ex parte after a showing that the party who is the subject of the hearing and its representative of record have been notified by certified mail of the pending hearing or proceeding or otherwise served with notice of the hearing. The party who is the subject of the hearing shall at no time be deprived of the opportunity to appear. However, if a party has been served with two (2) written notices of a hearing and fails to appear after each notice, the hearing officer, upon proof of service, shall have the authority to proceed with the scheduled hearing. Proof of service shall consist of a signed certified mail receipt or affidavit.

### **12. Hearing Officer.**

All hearing or proceedings under these rules shall be conducted by a hearing officer, retained and provided by the County of Orange, who shall have the power and authority of presiding officers or hearing officers as defined by the State Administrative Procedure Act (SAPA), any other pertinent statute or local law, ordinance, or resolution, and these regulations. The hearing officer shall be an individual who has in no way been involved with the action or proceeding in question.

### **13. Powers and Duties of Hearing Officer.**

A hearing officer is authorized to do the following in any hearing or proceeding to which he or she is assigned:

- (a) administer oaths and affirmations;

(b) at the request of any party, sign and issue subpoenas in the name of the Board requiring the attendance and giving of testimony by witnesses and the production of books, papers, documents and other evidence. Subpoenas shall be regulated by the Civil Practice Law and Rules. Nothing herein contained shall affect the authority of an attorney for a party to issue subpoenas under the Civil Practice Law and Rules;

(c) provide for the taking of testimony by deposition;

(d) regulate the course of the hearings, set the time and place for continued hearings and the time for filing of briefs and other documents;

(e) direct the parties to appear and confer to consider the simplification or settlement of the issues by consent of the parties; and

(f) prepare findings of fact and recommendations.

#### **14. Fines, Penalties.**

(a) At the close of the hearing or proceeding, the hearing officer shall make findings of fact and a recommendation as to the appropriate penalty or fine to be assessed or any other action to be taken. The proposed findings of fact and recommendation shall be transmitted to the Board for approval and simultaneously mailed or delivered to the parties to the proceeding. The parties shall have an opportunity to respond in writing, in the form of a brief, to the findings of fact and recommendation of the hearing officer, and such written response shall be directed to the Board for its consideration within fifteen (15) days after the service of the hearing officer's findings and recommendations upon the parties. In their brief submitted in response to the findings of fact and recommendation of the hearing officer, the parties may not submit or discuss evidence which is not a part of the official record of the hearing or proceeding. The Board shall act on the findings of fact and recommendation as expeditiously as possible. The Board may affirm or reverse the findings of fact and recommendation of the hearing officer in whole or in part, or it may remand and/or dismiss the proceeding based upon the record produced at the hearing.

(b) The assessment of civil penalties under the applicable law and procedures shall not preclude the referral of an appropriate violation to a prosecutor for prosecution of criminal charges, except where the violation is imposed under General Municipal Law Section 812(6) for failure to file or a false filing of an annual statement.

(c) If the alleged violation has been established, and the Board determines in light of all the circumstances that the violation is not serious enough to warrant assessment of a civil penalty, or if the imposition of civil penalties is not otherwise authorized by law, the Board in its discretion may take such other action as appropriate, including but not limited to a written admonition or a recommendation that disciplinary action be taken or a referral to a prosecutor for prosecution of criminal charges. The Board may forward a copy of such admonition or a recommendation for disciplinary action to the individual's appointing authority, as appropriate.

#### **15. Records of Hearing or Proceeding.**

(a) The record in hearing or proceeding under these rules shall include:

- (i) all notices, pleadings, motions, and intermediate rulings;
- (ii) evidence presented;
- (iii) a statement of matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose;
- (iv) questions and offers of proof, objections thereto, and rulings thereon;
- (v) proposed findings and exceptions, if any;
- (vi) any findings of fact, conclusions of law, or other recommendations made by the hearing officer; and
- (vii) any decision, determination, opinion, order, or report rendered.

(b) The Board shall make a complete record of all hearings and proceedings conducted before it. For this purpose, unless otherwise required by statute, the Board may use whatever means it deems appropriate, including but not limited to the use of stenographic transcriptions or electronic recording devices. Within a reasonable time after the Board gives notice of its decision, determination, opinion, or order, but before commencement of judicial review, any party to the hearing or proceeding may request the Board to prepare the record or any part thereof, together with any transcript of the hearing or proceeding or any part thereof. The Board shall then prepare the requested

portions of the record and transcript within a reasonable time and furnish a copy to the requesting party at no charge.

**16. Privacy/Confidentiality.**

(a) Notwithstanding the provisions of Article 6 of the Public Officers Law, the only records of the Board which shall be available for public inspection are:

- (i) the information set forth in the annual Disclosure Statement;
- (ii) notices of delinquency sent by the Board;
- (iii) notices of hearing or proceeding;
- (iv) notices of civil assessment imposed under General Municipal Law Section 812(6); or
- (v) all written requests for access to annual disclosure forms on file with the Board.

(b) Notwithstanding the provisions of Article 7 of the Public Officers Law, no meeting or proceeding of the Board shall be open to the public, except as expressly provided otherwise by the Board.

(c) Information which would reveal confidential material protected by Federal or State statute shall be deleted from any final decision, order, determination, or declaration issued by the Board.