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DIRECTIVE 2007-35

December 11, 2007

To: ALL COUNTY BOARDS OF ELECTIONS AND ALL EMPLOYEES OF THE OHIO SECRETARY OF STATE'S OFFICE

Re: Adoption of the Secretary of State's Ethics Policy

This directive concerns the creation of an ethics policy. To assure Ohio citizens that Ohio elections officials are maintaining the highest level of integrity and complying with all legal requirements, it is necessary to have a comprehensive ethics policy for Ohio elections officials that is consistently applied throughout the state. A comprehensive ethics policy also provides guidance to Ohio elections officials when questions arise. Therefore, in accordance with my authority under Title 35 of the Ohio Revised Code, I adopt the Secretary of State's Ethics Policy attached to this Directive.

Members and Employees of the Boards of Elections

All members and employees of the boards of elections must comply with Ohio's ethics laws and the provisions of the Secretary of State's Ethics Policy applicable to them. All current and future members and employees of the boards of elections shall complete the Ethics Policy Acknowledgment Form (SOS Form No. 350) attached to this directive. A copy of the completed form shall be returned to the secretary of state's Elections Division.

Poll Workers

All poll workers (including election judges, rovers, scouts, and other similar, temporary election-day positions) appointed by the boards of elections must comply with Ohio ethics laws and the provisions of the Secretary of State's Ethics Policy applicable to them. All current and future poll workers shall complete the Ethics Policy Acknowledgment Form (Form No. 351) attached to this directive. The board of elections shall keep the completed form for poll workers.

Employees of the Secretary of State

All employees of the secretary of state must comply with Ohio ethics laws and the provisions of the Secretary of State's Ethics Policy applicable to them. All current and future employees of the secretary of state shall complete the Ethics Policy Acknowledgment Form (SOS Form No. 350) attached to this directive. The completed form shall be kept in the employee's personnel file.

Appointees of the Secretary of State

All individuals appointed to uncompensated and advisory positions by the secretary of state must comply with Ohio ethics laws and the provisions of the Secretary of State's Ethics Policy applicable to them. All such appointees shall complete the Ethics Policy Acknowledgment Form (Form No. 352) attached to this directive and return the completed form to the secretary of

state. The completed form for all uncompensated and advisory appointees shall be kept on file in the secretary of state's office.

The Ethics Policy may be amended from time to time, and this office will notify the boards of elections of any amendments through Advisories.

If you have any questions or need additional information then please contact the Elections Division legal staff assigned to your board at 614-466-2585.

Sincerely,



Jennifer Brunner

Ohio Secretary of State Jennifer Brunner
Ethics Policy for Employees of the Secretary of State and
Members and Employees of Ohio's Boards of Elections

Issued December 11, 2007

Introduction

Employees of the secretary of state and members and employees of Ohio's boards of elections hold positions of public trust. The citizens of the State of Ohio expect a government that is open, fair, responsive, professional, and free of conflicts of interest. In order to promote public confidence in Ohio government and elections, all employees of the secretary of state and members and employees of the boards of elections shall comply with Ohio ethics laws and the ethics policy of the Ohio Secretary of State.

I. Professionalism

Government exists for the public good, and public officials and employees must place the public good ahead of personal interests. Employees of the secretary of state and members and employees of the boards of elections shall perform their duties in a professional manner. Professionalism requires that all citizens be treated with dignity, courtesy, and respect. The same standard applies to interactions with co-workers and employees of other government agencies in personal communications and in electronic communications. All employees of the secretary of state and members and employees of the boards of elections shall comply with the secretary of state's non-discrimination policy in the performance of their duties.¹

Professionalism also requires openness and responsiveness. All public records requests shall be addressed promptly and timely provided, or an explanation provided to the person requesting the information if the information cannot be provided. To the extent that Ohio's open meetings law (sunshine law) applies to board of elections meetings, members and employees of the boards of elections shall comply with Ohio's open meetings law in the performance of their duties.

Employees of the secretary of state and members and employees of boards of elections must be careful stewards of public funds and make expenditures wisely in furtherance of their public duties.

II. Compliance with Ohio Ethics Laws

- A. Ohio ethics laws are enumerated in Ohio Revised Code Chapters 102 and 2921 as well as in the Ohio Ethics Commission's advisory opinions and in case law. All employees of the Ohio Secretary of State and members and employees of the

¹ The office of the secretary of state is an Equal Opportunity Employer and shall not discriminate on the basis of race, color, religion, sex, national origin, disability, age, sexual orientation, gender identity or expression, veteran status or ancestry of any person.

Ohio boards of elections shall familiarize themselves with Ohio ethics laws and comply with Ohio ethics laws at all times.

B. Key provisions of Ohio ethics laws include:²

1. Public officials and employees are prohibited from authorizing or using their position to secure authorization of contracts that benefit themselves, their family members, and their business associates.
2. Public officials and employees are prohibited from authorizing or using their position to secure the authorization of investment of public funds in any security to benefit themselves, their family members, and their business associates.
3. Public officials and employees are prohibited from receiving any benefit from contracts entered into by their public agency.
4. Public officials and employees are prohibited from hiring or securing contract benefits for their family members, including spouses, parents, grandparents, children, grandchildren, or siblings, or any other relatives living in their home.
5. Public officials and employees are prohibited from soliciting or accepting substantial things of value, including, but not limited to, gifts, travel, meals, and lodging.
6. Public officials and employees are prohibited from participating in matters that will result in something of value being received by the public official or employee, their family members, their business associates, or others with whom they have a close tie that could impair the public official or employee's objectivity.
7. Public officials and employees are prohibited from disclosing or using information that is deemed confidential by law.
8. Public officials and employees are prohibited from representing parties before any public agency in a matter in which the public official or employee was involved as a public servant, both during and for one year after leaving public service.

An example of prohibited conduct would be an employee of the secretary of state or a board of elections soliciting or receiving a gift personally benefiting the employee from a person seeking to file a declaration of candidacy with the secretary of state or a board of elections.

² Ohio Ethics Commission, *General Information Fact Sheet* (2007).

Employees of the secretary of state and members and employees of the boards of elections should consult with the Ohio Ethics Commission for more specific information about Ohio ethics laws: www.ethics.ohio.gov or 614-466-7090.

C. Prohibition Against Hiring Family Members

Under Ohio ethics laws, a member or employee of the board of elections may not take any part in the decision to hire his or her family member³ as a board employee. Moreover, Secretary of State Directive 2007-01 specifically prohibits boards of elections from hiring relatives of board of elections members, directors, and deputy directors, **except for** hiring poll workers (which includes election judges, rovers, scouts, and other similar, temporary election positions). Therefore, the remaining board of elections members **may** hire/appoint poll workers who are family members of an individual board member, the director, or the deputy director, as long as the individual board member, director, deputy director, or board employee does not participate in the decision to hire his/her own family member or in any decision specifically concerning the terms and conditions of his/her own family member's employment/appointment.

D. Compliance with Codes of Professional Conduct

Employees of the secretary of state and members and employees of the boards of elections who are licensed professionals shall comply with the codes of professional conduct for their professions. For example, employees of the secretary of state and members and employees of the boards of elections who are attorneys admitted to the Ohio Bar shall comply with the Ohio Rules of Professional Conduct as promulgated and interpreted by the Supreme Court of Ohio and the advisory opinions authored by the Board of Commissioners on Grievances and Discipline.

III. *Political Activity*

- A. Under R.C. 124.57, all officers and employees of the state of Ohio who are classified civil service employees are prohibited from engaging in political activity beyond voting and exercising their First Amendment right to express political opinions.
- B. All employees of the secretary of state who are not classified civil service employees and all members and employees of the boards of elections shall comply with the provisions of Ohio law that limit their political activity:
 - 1. Under R.C. 3501.052, the secretary of state shall not serve as campaign treasurer or in any other official capacity for any campaign committee for any candidate for any federal, state, or local office (except for an office for which the secretary of state is a candidate), for any committee named in initiative or

³ For the purpose of this ethics policy, "family member" includes spouse, domestic partner, mother, father, step-mother, step-father, mother-in-law, father-in-law, brother, sister, step-brother, step-sister, half brother, half sister, brother-in-law, sister-in-law, grandmother, grandfather, aunt, uncle, child, step-child, son-in-law, daughter-in-law, or other family member living in the same household.

referendum petition, for any person making disbursements for the direct cost of producing or airing electioneering communications, or any other committee regulated under Chapter 3517 of the Revised Code.

2. Under R.C. 3501.15, no member, director, deputy director, or employee of a board of elections shall be a candidate for elective office while employed the board of elections, except for candidates for election as delegate or alternate to a political party convention, presidential elector, member of a political party committee, or board of directors of a county agricultural society.
 3. R.C. 3501.15 also prohibits poll workers from serving in any precinct where the poll worker is a candidate on the ballot, except for unopposed candidates for a political party county central committee.
 4. Under R.C. 3517.092(B), the secretary of state, her campaign committee, and employees of the secretary of state's office may not knowingly solicit or accept contributions from employees of the secretary of state.
 5. R.C. 3517.092(D)(1) prohibits all public employees from soliciting contributions from anyone while the public employee is performing his or her duties or is in the areas of a public building where official business is transacted or conducted.
 6. R.C. 3517.092(D)(2) prohibits anyone from soliciting contributions from any public employee while the public employee is performing his or her duties or is in the areas of a public building where official business is transacted or conducted.
- C. The public policy behind these statutory prohibitions favors the separation of politics from the elections duties of the secretary of state, employees of the secretary of state, and the members and employees of the boards of elections to ensure public confidence in Ohio elections. Consistent with these public policy considerations and policies of prior administrations, employees of the secretary of state and members and employees⁴ of the boards of elections shall not engage in the following political activities:
1. Serving as caucus coordinator for any presidential candidate at a congressional district caucus to select delegates and alternates to a political party convention.

⁴ For the purposes of section III, C of this policy, "employees of the boards of elections" **do not include** poll workers, election judges, rovers, scouts, or other similar, temporary election workers. For specific restrictions on poll workers and other similar, temporary board of election employees, see **section V** below.

2. Circulating a petition for any candidate (other than their own petition for an elected or political party office), issue, initiative, referendum, or constitutional amendment, when that employee's regular or intermittent duties involve the processing of the petitions in question, including but not limited to the determination of the sufficiency and validity of the petition in question. (See section III, G below).
 3. Wearing or distributing shirts, buttons, stickers, or other campaign paraphernalia for or against any candidate or issue at the office of the Secretary of State, at the office of the board of elections, or at any polling place.
 4. Engaging in any political activity while on state time or board of elections time.
- D. Also consistent with these public policy considerations and policies of prior administrations, employees of the secretary of shall not engage in the following political activities:
1. Employees of the secretary of state shall not be a candidate for elected office while employed by the secretary of state, except for candidates for election as delegate or alternate to a political party convention, presidential elector, or member of a political party committee.
 2. Any employee of the secretary of state who is seeking elected office, other than the political party offices listed in this section, shall resign his or her position upon the certification of his or her candidacy by a board of elections or the secretary of state.
 3. Employees of the secretary of state shall not serve as campaign treasurer, paid campaign staff, paid consultant, or any other official campaign capacity for any statewide candidate, any candidate who files paperwork with the secretary of state, or any statewide issue, initiative, referendum, or constitutional amendment while serving as an employee of the secretary of state.
 4. Employees of the Secretary of State shall not serve as poll workers.
- E. Also consistent with these public policy considerations and policies of prior administrations, employees⁵ of the boards of elections shall not engage in the following political activities:
1. Board of elections members and employees shall not serve as campaign treasurer, paid campaign staff, paid consultant, or any other paid campaign

⁵ For the purposes of section III, E of this policy, "employees of the boards of elections" **do not include** poll workers, election judges, rovers, scouts, or other similar, temporary election workers. For specific restrictions on poll workers and other similar, temporary board of election employees, see **section V** below.

capacity for any candidate, issue, initiative, or referendum in the county or within the jurisdiction of the board of elections while serving as a board member or employee of the board of elections.

2. Any board of elections member or employee seeking elected office, other than the offices listed in R.C. 3501.15 (see section II,B,2 above), shall resign his or her position with the board of elections upon the certification of his or her candidacy by a board of elections or the secretary of state.

F. Employees of the secretary of state who are not classified civil service employees, and members and employees of the boards of elections, may be members of political parties, hold political party offices, serve as a member of political party committees and caucuses, serve as delegate or alternate to a political party convention, serve as a presidential elector, contribute to candidate and issue campaign committees, sign candidate and issue petitions (as an elector), and engage in other political activities when not performing their official duties, not in public buildings or polling places, and not on state or board of elections time, as long as the political activities do not violate this ethics policy, Ohio law, or federal law.

G. No service or benefit may be provided by an employee of the secretary of state or a member or employee of a board of elections while performing his or her official duties to any political party, candidate, or issue group unless the same service or benefit is available on the same terms to all political parties, candidates, and issue groups.

H. Employees of the board of elections (other than the director and deputy director) may circulate petitions for candidates, issues, initiatives, and referenda **only if** they do not participate in any way in reviewing or determining the sufficiency or validity of those petitions filed with or reviewed by the board of elections.

IV. Avoiding Conflicts of Interest and the Appearance of Impropriety

A. Employees of the secretary of state and members and employees of the boards of elections shall not participate in the consideration of any matter involving family members,⁶ business associates,⁷ or other individuals or entities with whom they have a close association. For example, an employee of the secretary of state may not perform a review of the business filing of a family member or business associate for the purposes of approving the filing. Similarly, a member of a board of elections shall not participate in the consideration of any matter related to the certification of the candidacy of his or her family member or business associate.

⁶ See footnote 3, above for the definition of "family member."

⁷ For the purpose of this ethics policy, "business associate" means any person with whom the election official is pursuing an ongoing business enterprise. See Ohio Ethics Commission Advisory Opinion No. 2003-02. Examples include, but are not limited to, the election official's employer, employee, and business partner.

- B. Employees of the secretary of state or members or employees of the board of elections shall not participate in the consideration of any matter in which they have a personal or economic interest. For example, no employee of a board of elections may review the petition of a committee seeking a referendum repealing a zoning ordinance affecting his or her real property or that of a family member or business associate.
- C. Employees of the secretary of state and members and employees of the boards of elections should avoid actions and associations that create an appearance of impropriety, that undermine public confidence in Ohio elections officials, or that interfere with the performance of duties by Ohio elections officials.
 - 1. Employees of the secretary of state and members and employees of the boards of elections are hereby advised not to write letters to the editor of a newspaper or post comments on an internet blog in favor of or against any candidate or issue, identifying his or her position as an Ohio elections official.
 - 2. Employees of the secretary of state and members of the board of elections who sign candidate and issue petitions as an elector should not participate in any way in reviewing or determining the sufficiency or validity of those petitions filed with or reviewed by the board of elections.

V. Pollworkers

- A. R.C. 3501.15 prohibits poll workers from serving in any precinct where the poll worker is a candidate on the ballot, except for unopposed candidates for a political party county central committee.
- B. Poll workers (including elections judges, rovers, scouts, or similar, temporary election workers) may not serve in any precinct in which a family member or business associate is a candidate for elected office, unless the candidate is unopposed, including no declared write-in candidates for the office.
- C. Pollworkers (including elections judges, rovers, scouts, or similar, temporary election workers) shall not wear or distribute shirts, buttons, stickers, or other campaign paraphernalia for or against any candidate or issue at the office of the Secretary of State, at the office of the board of elections, or at any polling place.
- D. Pollworkers (including elections judges, rovers, scouts, or similar, temporary election workers) shall not engage in any political activity while on board of elections time.
- E. Pollworkers (including elections judges, rovers, scouts, or other similar, temporary election workers) should avoid actions and associations that create an appearance of impropriety, that undermine public confidence in Ohio elections officials, or that interfere with the performance of duties by Ohio elections officials.

VI. *Vendors and Appointees of the Secretary of State*

- A. All individuals and entities that contract with the office of the secretary of state shall certify that they are in compliance with Ohio ethics laws and that they will continue to abide by Ohio ethics laws.
- B. All individuals appointed to uncompensated positions and advisory boards (such as the Voting Rights Institute) by the secretary of state shall sign a statement indicating their knowledge of and familiarity with Ohio ethics laws and the secretary of state's ethics policy, that they will comply with Ohio ethics laws and the secretary of state's ethics policy, and that they will not use their appointed position for personal gain or to improperly influence the employees of the secretary of state or members or employees of the boards of elections in the performance of their official duties. The statement shall be kept by the secretary of state.

VII. *Training, Reporting, and Enforcement*

- A. All current and future employees of the secretary of state and current and future members and current and future employees of the boards of elections (including pollworkers, election judges, rovers, scouts, and other similar, temporary election employees appointed by the boards of elections) shall sign a statement indicating their knowledge of and familiarity with Ohio ethics laws and the secretary of state's ethics policy. For employees of the secretary of state, the signed statement shall be kept in the employee's personnel file. For board of elections members and employees, a copy of the completed form shall be forwarded to the secretary of state's Elections Division. For pollworkers (including election judges, rovers, scouts, and other similar, temporary election employees) the completed form shall be kept at the board of elections.
- B. All employees of the secretary of state and members and employees of the boards of elections shall participate in any training offered by the secretary of state regarding ethics that is developed by the legal services, elections, and human resources divisions of the secretary of state's office in coordination with other state ethics agencies.
- C. For employees of the secretary of state, questions about this ethics policy may be addressed to your supervisor, director, the legal services division, or the chief of staff. Questions about Ohio ethics laws may also be addressed by the Ohio Ethics Commission: www.ethics.ohio.gov or 614-466-7090.
- D. For members and employees of the boards of elections, questions about this ethics policy may be addressed to the elections attorney assigned to your county, the director of elections in the Secretary of State's office, or your regional liaison. Questions about Ohio ethics laws may also be addressed by the Ohio Ethics Commission: www.ethics.ohio.gov or 614-466-7090.

- E. For employees of the secretary of state, violations of this policy may be reported to your supervisor, your director, the legal services division, or the chief of staff. Reports also may be made anonymously by submitting a written statement in a sealed envelope to a location designated by the chief of staff.
- F. For members and employees of the boards of elections, violations of this policy may be reported to the director of elections in the secretary of state's office, your regional liaison, or the elections attorney assigned to your county. Reports also may be made anonymously by mailing a written statement in a sealed envelope to the secretary of state's office to the attention of the director of elections.
- G. For pollworkers (including elections judges, rovers, scouts, or other similar, temporary election workers), violations of this policy may be reported to the director or deputy director of the board of elections. Reports also may be made anonymously by mailing a written statement in a sealed envelope to the board of elections to the attention of the director or deputy director.
- H. Violations of Ohio ethics laws may also be reported to the Ohio Ethics Commission: www.ethics.ohio.gov or 614-466-7090.
- I. Violations of this ethics policy by an employee of the secretary of state may result in discipline, which may include dismissal of the employee.
- J. Violations of this ethics policy by a member or employee of the boards of elections may result in disciplinary action in accordance with the secretary of state's statutory authority under Title 35 of the Ohio Revised Code, including removal of a board member or board employee.
- K. Violations of this ethics policy by a pollworker (including elections judges, rovers, scouts, or other similar, temporary election workers) may result in dismissal from service and no opportunities for further service as a pollworker.
- L. Violations of Ohio ethics laws may be a criminal offense and may result in criminal sanctions.

ETHICS POLICY ACKNOWLEDGMENT FORM

To be completed by members and employees of the Ohio boards of elections and employees of the secretary of state. For board of elections members and employees, a copy of this completed form is to be filed with the Secretary of State's Election's Division. For Secretary of State employees, return the completed form to your supervisor.

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I _____ hereby acknowledge that I have reviewed the
(Printed name of board member or board/sos employee)

Secretary of State's Ethics Policy and Ohio ethics laws, that I will comply with the same, and that failure to comply with the ethics policy or Ohio ethics laws may result in disciplinary action, which may include dismissal for employees of secretary of state or removal for members and employees of the boards of elections.

(Signature of board member or board/sos employee)

(Date signed)

ETHICS POLICY ACKNOWLEDGMENT FORM

To be completed by poll workers/elections judges/rovers/scouts/temporary election workers at the beginning of their appointment. The completed form is to be kept by the board of elections.
Directive 2007-35

I _____ hereby acknowledge that I have received training
(Printed name of poll worker/elections judge/rover/scout)
from the board of elections regarding the secretary of state's ethics policy and Ohio ethics laws, that I will comply with the same, and that failure to comply with the ethics policy or Ohio ethics laws may serve as good and sufficient reason for my removal from my appointed position.

(Signature of poll worker/elections judge/rover/scout
or temporary election worker)

(Date signed)

ETHICS POLICY ACKNOWLEDGMENT FORM

To be completed by all appointees of the secretary of state to uncompensated positions/advisory boards.
Return the completed form to the secretary of state.
Directive 2007-35

I _____ hereby acknowledge that I have reviewed the
(Printed name of appointee for uncompensated/advisory position)
secretary of state's ethics policy and Ohio ethics laws, that I will comply with the same, and that
I will not use my appointed position for personal gain or to improperly influence the employees
of the secretary of state or members or employees of the boards of elections in the performance
of their official duties.

(Signature of appointee for uncompensated/advisory position)

(Date signed)