

Conflicts and Confidentiality Policy

Thank you for your service. This Policy provides you with guidance on ethical considerations related to your advisory board service. Please address any questions you may have about the concepts in this document to the NYSERDA Ethics Officer.

1. Purpose and Objectives

- a. It is anticipated that the members of this group or board will have knowledge, contacts or interests, financial or otherwise, in fields directly relevant to NYSERDA and its business. It is therefore expected that some members may occasionally have business or personal interests that could give rise to a Conflict of Interest. Accordingly, all members will be required to comply with this Policy. This Policy requires that all Conflicts of Interest be disclosed; establishes a process for the determination of significance of the Conflict of Interest; and requires recusal from any involvement in a matter in which a material Conflict of Interest has been determined to exist.
- b. The member will not use their position or Confidential Information for their personal benefit or for the benefit of any other organization outside of NYSERDA, or to further their own financial interests or the financial interests of other entities or persons.

2. Confidentiality Policy

- a. Confidential Information means inside information, confidential or proprietary information obtained through the member's position as a member of the advisory board or group to which he or she may become privy in the context of his or her service. Confidential Information shall not include: information that (a) has been or becomes publicly available; (b) was previously known to the member; (c) is independently developed by the member; (d) is received from a third party who, to the knowledge of the member, is entitled to disclose it; (e) is disclosed by the member with NYSERDA's prior written approval.
- b. The member shall protect the Confidential Information of NYSERDA and shall not use such Confidential Information for his or her personal benefit or to the benefit of any entity in which the member or his or her Close Relative has a Material Interest, or use such Confidential Information or his or her position as a member to his or her personal advantage and/or to the detriment of NYSERDA.
- c. The member shall not disclose Confidential Information to any of its employees other than those who have a need to review the information and are legally obligated to honor the confidentiality provisions herein.
- d. The member shall comply with NYSERDA's Data Governance Policy, practices and procedures as they apply to the protection of Confidential Information.

3. Conflicts Policy

a. Definitions

- i. "Business Relationship" means any actual or proposed contract, transaction, arrangement, or similar financial or commercial relationship between NYSERDA and any unaffiliated party.

- ii. “Close Relative” means a spouse or domestic partner, brother or sister, parent (or parent of a spouse or domestic partner), child, or grandchild.
- iii. “Compensation” includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.
- iv. “Material Interest” means that an entity or a person or his or her Close Relative has, or may have, directly or indirectly:
 - 1. An ownership or investment interest constituting more than five percent (5%) of outstanding economic or voting interests in any publicly-traded company or any private company, with which NYSERDA has or contemplates initiating a Business Relationship, or in an entity that has a direct competing interest with, such Business Relationship or proposed Business Relationship;
 - 2. An ownership or investment interest, which produces a significant amount of income for or constitutes a significant part of the net worth of that entity or person (including Close Relatives), in an entity with which NYSERDA has or contemplates initiating a Business Relationship, or in an entity that has a direct competing interest with, such Business Relationship or proposed Business Relationship;
 - 3. An arrangement, whether for Compensation or otherwise, as an officer, director, manager, partner, contractor, consultant, advisor, or employee, or otherwise with any entity or individual with which NYSERDA has or contemplates initiating a Business Relationship, or in an entity that has a direct competing interest with, such Business Relationship or proposed Business Relationship; or
 - 4. A potential ownership or investment interest in, or potential Compensation arrangement with, any entity or individual with which NYSERDA has or contemplates initiating a Business Relationship, or in an entity that has a direct competing interest with, such Business Relationship or Proposed Business Relationship.

b. Procedure

- i. Recusal. Any member who deems that his or her interests or relationships present a Conflict of Interest should recuse himself or herself from working on that matter. Recusal means not voting on or participating in any board or group discussions related to your conflict.
- ii. Duty to Disclose. Each member who has a Conflict of Interest regarding any matter involving NYSERDA shall disclose the existence of such Conflict of Interest, and all material facts concerning the nature of his or her Conflict of Interest, to the responsible NYSERDA Project Manager as soon as reasonably practicable upon learning of such conflict. The NYSERDA Project Manager shall then consult with his or her Program’s assigned NYSERDA Counsel on the appropriate path forward regarding recusals.
- iii. Determining Whether a Substantial Conflict of Interest Exists. After the NYSERDA Counsel has reviewed the facts disclosed regarding any Conflict of Interest, the NYSERDA Counsel shall determine whether further discussion with the member is necessary regarding the significance

of such Conflict of Interest with respect to the matter in question. At his or her discretion, the NYSERDA Counsel may submit the facts to NYSERDA's General Counsel for consultation. The NYSERDA Counsel will make a final determination of whether the circumstances rise to a material Conflict of Interest.

iv. Corrective Measures. If the NYSERDA Counsel determines that a material Conflict of Interest exists, and the member has not earlier voluntarily recused himself or herself from all matters regarding the relevant matter, the NYSERDA Counsel shall determine what corrective measures should be put in place with respect to the member's participation in discussions, meetings, solicitation review, program planning, proposal reviews, etc. which may include a requirement that the member recuse himself or herself from all such actions regarding that matter.

v. Disclosure Statement. Members actively under contract with NYSERDA shall provide routine disclosure statements to NYSERDA's Project Manager on a monthly basis that outline any and all relationships with NYSERDA-affiliated companies and programs.

c. Violations of the Conflicts of Interest Policy. If the NYSERDA Counsel has reasonable cause to believe that a member has failed to disclose a Conflict of Interest, he or she shall consult with the member and request additional information if needed. If, after such consultation and review of the relevant information, the NYSERDA Counsel determines that such member has in fact failed to disclose a Conflict of Interest, the NYSERDA Counsel shall advise the member and take other appropriate corrective measures.

4. Nepotism

a. Members should not participate in any way in a decision to hire, promote or discipline a family member paid by NYSERDA.

5. Gifts

a. Members shall not accept anything of value where (a) it could reasonably be inferred that it is a gift intended to influence you in the performance of your board or group duties; or (b) was given to you as a sign of appreciation for your board or group service. Ask NYSERDA's General Counsel or Ethics Officer to determine the appropriate course of action in a particular circumstance.