



Executive Committee

Information Item III-A

November 18, 2021

**Annual Board Member
Ethics Training**

Washington Metropolitan Area Transit Authority

Board Action/Information Summary

☐ Action ☒ Information

MEAD Number:
202312

Resolution:
☐ Yes ☒ No

TITLE:

2021 Board Member Ethics Training

PRESENTATION SUMMARY:

This presentation satisfies the annual ethics training requirement in the Board's Code of Ethics.

PURPOSE:

To fulfill the requirement to provide annual ethics training for Board members.

DESCRIPTION:

The Board's Code of Ethics requires annual ethics training.

There are no Interested Parties in this matter.

Key Highlights:

This session will fulfill the training requirement and will cover Board member responsibilities under the Code, including fiduciary duties; identifying and resolving conflicts of interest; reporting gifts; and making disclosures.

Background and History:

On September 26, 2019, the Board adopted an updated Code of Ethics. The last annual ethics training for the Board was on November 5, 2020.

Discussion:

The approved Code of Ethics requires Board members to complete annual ethics training.

FUNDING IMPACT:

| Define current or potential funding impact, including source of reimbursable funds. | |
|---|---|
| Project Manager: | Patricia Lee/Phillip Staub/Jennifer Ellison |
| Project | COUN/SECT |

Department/Office: _____

TIMELINE:

| | |
|---|---|
| Previous Actions | September 2019 - Board approved revised Code of Ethics November 2020 - Board received annual ethics training |
| Anticipated actions after presentation | Ongoing - Ethics training for newly-appointed Board members 2022 - Board annual ethics training for 2022 |

RECOMMENDATION:

Complete Code of Ethics-required training for Board members at the November 18, 2021 Executive Committee meeting.

Board Code of Ethics

2021 Annual Board Ethics Training

Patricia Y. Lee
Phillip T. Staub
November 18, 2021



Purpose

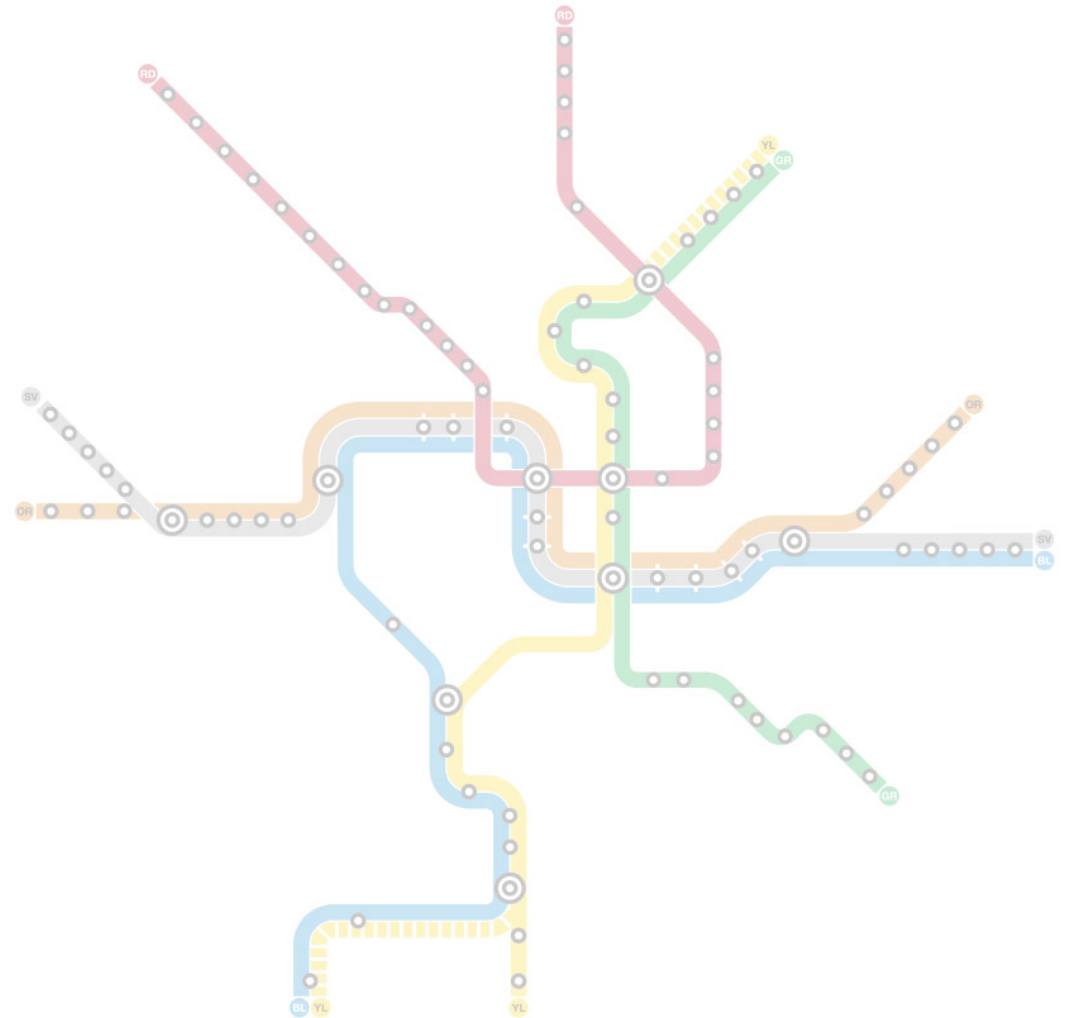
- Annual ethics training as required by the Code of Ethics
- Regularly review Code of Ethics
- Agenda:
 - Fiduciary Duties
 - Conflicts of Interest
 - Gifts
 - Disclosures
 - Scenarios

To whom do Board Members owe their Fiduciary Duties?

- WMATA is “an instrumentality and agency of each of the signatory parties” and a “body corporate and politic.” Compact, Art. III, Sec. 4
- “As a result, Board Members owe fiduciary duties to WMATA and their respective Jurisdiction.” Code of Ethics, Art. II

Fiduciary Duties

- Duty of Loyalty
- Duty of Confidentiality
- Duty of Care
- Duty to Avoid Conflicts of Interest



Duty of Loyalty

- Act in the best interest of WMATA and of your Jurisdiction, in good faith, and do so objectively and independently
- Example:
 - Actions should not be in the interest of yourself, another person, or another organization

Duty of Confidentiality

- Keep confidential all non-public information learned through your Board service
- Example:
 - Disclosure to third parties or your Jurisdiction could result in statutory violations (e.g., privacy laws) or loss of attorney-client privilege

Duty of Care

- Act with appropriate attention and be fully apprised of all reasonably available information
- Examples:
 - Attend Board meetings
 - Review Board materials
 - Ask questions
 - Gather information to make an informed decision

Duty to Avoid Conflicts of Interest

- Avoid any action that would diminish the public's confidence in the integrity of the Board or WMATA
- Examples:
 - Do not use your Board position for favored treatment of any person or entity
 - Do not use your Board position for personal gain
 - Do not solicit or accept gifts, money, or any other thing of value in connection with your service as a Board member

What is a Conflict of Interest?

- A Conflict of Interest is when a Board Member's ability to perform their duties fairly and objectively would be compromised
- Conflicts of Interest include but are not limited to when a Board Member has a Substantial Interest or Duty in an Interested Party

Resolving Conflicts of Interest

Action

- Recusal
- Declaration

Approval

- None; Notify Chair(s)
- Ethics Officer Recommendation & Board Approval

Participate in Board action

- No
- Yes

Gifts

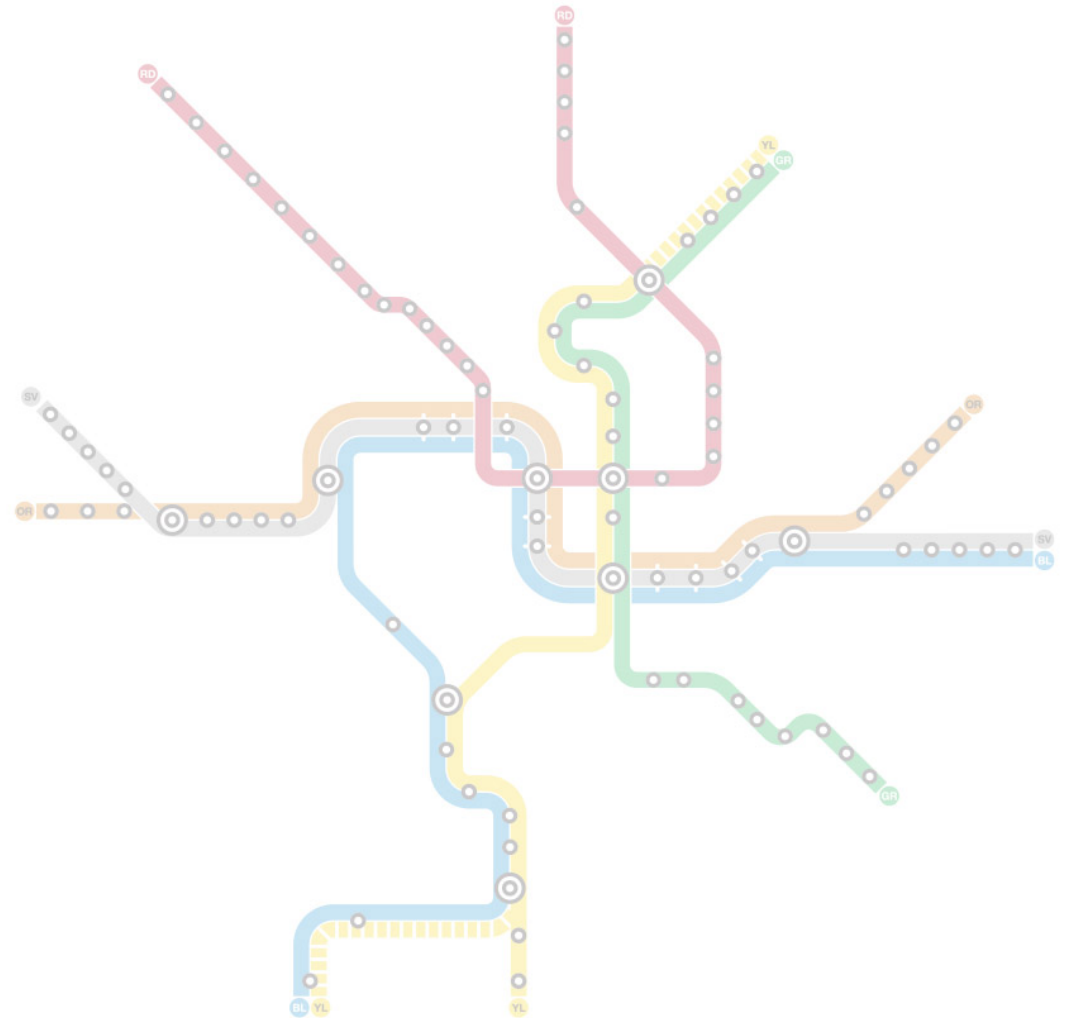
- General rule against soliciting/accepting gifts from Prohibited Source
- Prohibited Source – “because of the Board Member’s position”
- Limited exceptions to accepting gifts (Appendix 1)
- Household Members
- Disclosure

Disclosures

- Annual Disclosure Statement
- Continuing Disclosure Obligation
- Gift Disclosures

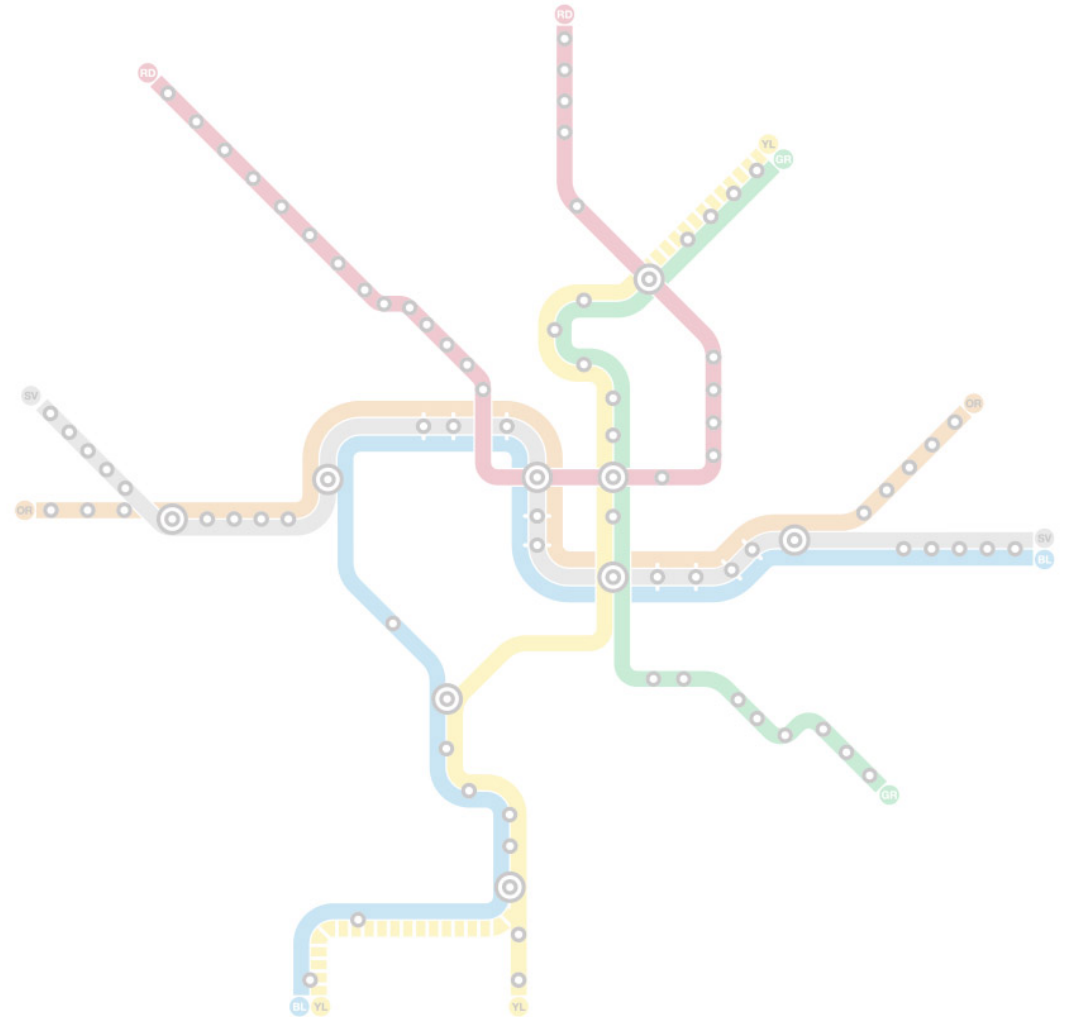
Scenario 1

My spouse's employer has been a subcontractor to a WMATA vendor, ABC Corp. Currently, my spouse's employer has no active business with ABC. Can I participate in matters affecting the interests of ABC?



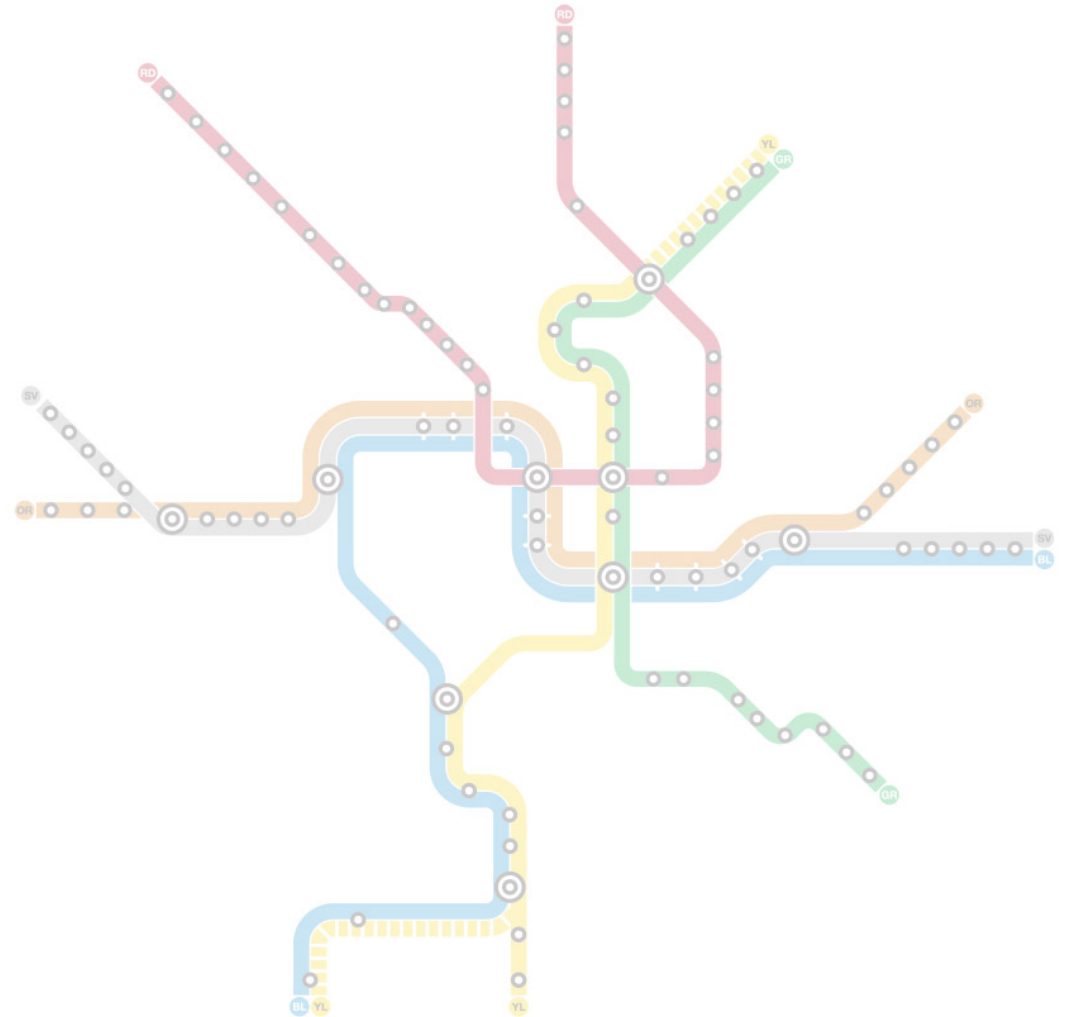
Scenario 2

I am a board member of the Union of Concerned Engineers, which advocates for infrastructure investment. Do I need to disclose that I am on the non-profit's board?



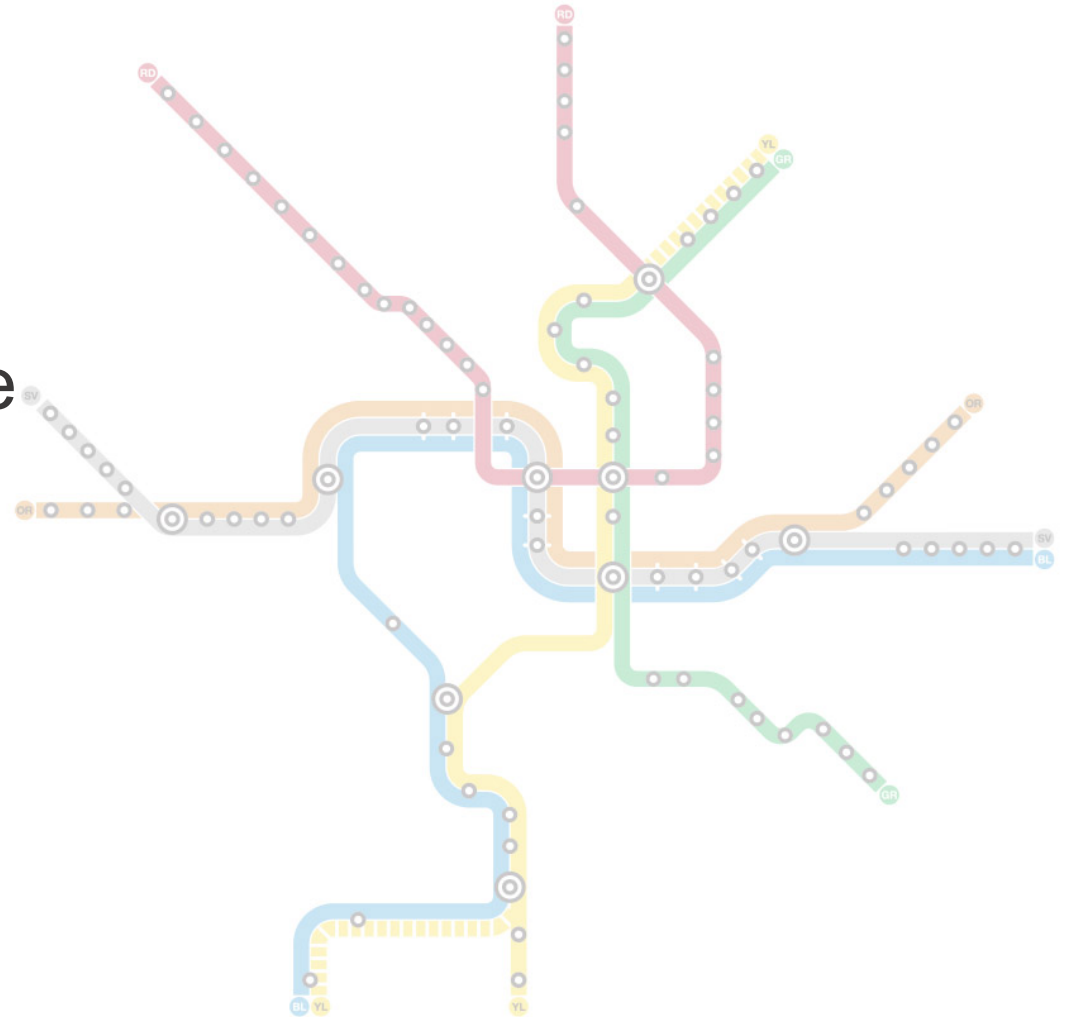
Scenario 3

I am employed by a company that provides financial consulting services. Can my employer perform work that is not related to WMATA for a client that is a WMATA vendor?



Scenario 4

During the American Public Transportation Association annual conference can I visit a hospitality suite hosted by a WMATA vendor, which is open to all attendees?



THANK YOU

- REVIEW THE CODE OF ETHICS
- SEEK ADVICE
- DISCLOSE, DISCLOSE, DISCLOSE



CODE OF ETHICS
FOR MEMBERS OF THE WMATA BOARD OF
DIRECTORS

Article I: Policy and Scope

The Board and leadership of the Washington Metropolitan Area Transit Authority (“**WMATA**”) are responsible for fostering high ethical standards for WMATA and its officers and employees, thereby strengthening public confidence that WMATA's programs are conducted with impartiality and integrity. The Board adopts this Code of Ethics (“**Code**”) to assure the highest degree of confidence and public trust in WMATA, and that the judgment of Board Members will not be compromised or affected by conflicting interests. If the Board determines that a Board Member has knowingly violated this Code, the Board may take appropriate action as specified herein.

This Code governs the conduct of all Directors and Alternates of the Board of Directors in all their activities relating to their positions as Board Members. It also applies to all individuals, corporations and other entities in their dealings with WMATA. This Code does not supersede or abrogate any laws, rules or regulations of the United States or of the Jurisdiction of the Board Members.

Article II: Board Members’ Fiduciary Duties

The WMATA Compact (“Compact”) § 4 establishes WMATA as a body corporate and politic and an instrumentality and agency of each of the signatory parties (District of Columbia, Maryland, and Virginia). As a result, Board Members owe fiduciary duties to WMATA and to their respective Jurisdiction.

A Board Member’s fiduciary duties include separate duties of loyalty, confidentiality, care and to avoid conflicts of interest and to earn and retain public trust through loyal, diligent, honest, faithful, and disinterested service.

A. Duty of Loyalty

Board Members shall act in the best interests of WMATA and their respective Jurisdiction in carrying out their duties as Board Members, rather than in the Member's interest or in the interest of another person or organization with which the Board Members are personally associated. Board Members also shall not engage in conduct that would bring discredit upon WMATA. Board Members owe their duties of loyalty to WMATA and to their respective Jurisdiction and not to any other person or organization.

B. Duty of Confidentiality

Board Members owe a duty of confidentiality to WMATA and to their respective Jurisdiction. Board Members shall keep confidential all matters involving WMATA and their respective Jurisdiction that have not been disclosed to the public except as described herein.

Board Members may disclose information obtained in their capacity as Board Members (including information obtained in Executive Session) to the leadership of their respective Jurisdiction. Board Members should request that the leadership of their Jurisdiction treat disclosed confidential information in a manner consistent with its sensitive nature. Leaders of the Jurisdiction will use their discretion in treating the information in a confidential manner consistent with the sensitive nature of the information disclosed. Any information that includes an actual or prospective personnel action, personnel evaluation or any other personnel information the disclosure of which is restricted by applicable statute shall be disclosed only pursuant to agreement of the recipient to maintain the confidentiality of such information.

C. Duty of Care

Board Members owe a duty to their respective Jurisdiction to provide liaison continuously and comprehensively with regard to plans, policies, and actions requiring consideration in the planning for transit and in the development of planned transit facilities. Board Members shall make reasonable efforts to be diligent, attentive, and prudent, including giving due consideration of matters before making decisions for WMATA. Board Members shall exercise their duty of care in the interests of WMATA, their respective Jurisdiction and the public, and therefore consider the views and policies of public officials, government bodies, and other individual stakeholders during the decision-making process. Once a decision has been voted by the Board, Board Members shall work together to implement that decision.

D. Duty to Avoid Conflicts of Interest

Board Members shall avoid conflicts of interest and place ethical principles and compliance with the law above private gain and personal interest inconsistent with their responsibility to WMATA and to their respective Jurisdiction. Regardless of whether specifically prohibited by this Code, Board Members shall endeavor to avoid conflicts of interest, refrain from using their positions for personal profit or gain, or for any other personal advantage; refrain from the appearance of favored treatment to any person or entity; avoid compromising independence or impartiality; and avoid any other action that is likely to adversely affect the confidence of the public in the integrity of the Board or of WMATA.

Article III: Definitions

Capitalized terms in this Code are defined as follows:

A. “**Board Member**” means a Director or Alternate of the Board of Directors of WMATA.

B. “**Business**” means a sole proprietorship, corporation, partnership, company, joint venture, association, joint stock company, or any other form of entity recognized by law that is engaged in trade, commerce, or the transaction of business, and any parent of a business entity. A “parent of a business entity” owns or controls more than fifty percent (50%) of that entity (i.e., by value or voting power).

C. “**Business Associate**” means a person who is engaged with a Board Member in a venture expected to result in a benefit to the Board Member or any of the Board Member's

Household Members in the form of money or other thing of value.

D. **“Financial Transaction”** means any arrangement from which a Business or individual anticipates receiving or transferring money or any other thing of value including, but not limited to, arrangements for purchase, sale, lease or other transfer or conveyance of any interest in real or personal property; construction or improvement of any facility or property; and procurement of services, both personal and consulting.

E. **“Gift”** means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, other item having monetary value, or similar consideration for which the recipient does not pay market value or that is not offered to the public generally. A gift therefore includes, but is not limited to, cash, a meal, merchandise, services, admission to a sporting event, admission to a theatrical, musical or other spectator event, admission to an event or activity in which persons are participants (e.g., a conference or golfing event), travel, transportation and lodging. It does not matter whether a gift is provided to the recipient in kind or in the form of a ticket, a payment in advance or a reimbursement of an expense that has been incurred; in all these cases, the benefit provided is considered a Gift.

F. **“Household Member”** means a Board Member’s spouse, domestic partner, any dependent child within the meaning of Section 152 of the Internal Revenue Code living in the Board Member’s household, and any other relative over whose financial affairs the Board Member has substantial legal or actual control.

G. **“Interested Party”** means any Business that has or is seeking a contract or agreement with WMATA, has interests that can be directly affected by decisions or actions of WMATA, or may realize a reasonably foreseeable benefit or detriment as a result of an action or decision by the Board.

H. **“Jurisdiction”** means the Signatories to the Compact (Maryland, Virginia and the District of Columbia), the bodies authorized by the Compact to appoint Board Members, and the counties, cities and political subdivisions that Board Members represent.

I. **“Participate”** means to vote, address, discuss, or otherwise attempt to influence a decision of the Board of Directors or any action undertaken by WMATA staff.

J. **“Property”** means real property, including land, together with any structures improvements, and any rights or interests in land and/or improvements.

K. **“Prohibited Source”** means an Interested Party or a Business or individual offering a Gift because of the Board Member's position on the WMATA Board of Directors. For the purposes of this definition, “Business” also includes the officers, employees and agents of the Business.

L. **“Relative”** means a relation of the Board Member who is not a Household Member and is a: father, mother, grandfather, grandmother, child, granddaughter, grandson, brother, sister, uncle, aunt, nephew, niece, father-in-law, mother-in-law, daughter-in-law, son in-law, sister-in-law or brother-in-law.

M. “**Substantial Interest or Duty**” means any of the following:

1. Ownership of Interest in a Business. Ownership interest (e.g., shares of stock or other securities) in a Business that exceeds three percent (3%) of the total equity of the Business, has a fair market value greater than \$15,000, or yields more than \$1,000 in annual income.

2. Ownership of Interest in Property. Ownership interest in Property, other than a primary residence, that has a fair market value greater than \$15,000 or yields more than \$1,000 in annual income.

3. Ownership of Interest in or Employment by a Business Receiving Income from an Interested Party. Employment by or Ownership of Interest in a Business receiving revenues from an Interested Party of at least \$10,000 or three percent (3%) of the Business’s gross income for its current or preceding fiscal year, whichever is greater.

4. Income. Income in any form (whether or not deferred) from a Business or Property, including, but not limited to, wages, salaries, fringe benefits, interest, dividends, or rent that exceeds or may reasonably be expected to exceed \$1,000 annually. Income also includes potential income; for example, from an upcoming job or offer of employment with a Business.

5. Pledge or surety. Personal liability (incurred or assumed) on behalf of a Business that exceeds the lesser of three percent (3%) of the asset value of the Business or \$1,000.

6. Loan or debt. Personal indebtedness of \$1,000 or more to a Business, except a debt incurred in the ordinary course of business on usual commercial terms (e.g., a mortgage liability secured by a personal residence of the Board Member or the Board Member's spouse; a loan liability secured by a personal motor vehicle, household furniture, or household appliances; a personal revolving line of credit or capital contribution loan liability; a debit, credit or other revolving charge account liability).

7. Personal Representation. Personally representing or providing professional services to a Business, including legal, audit, accounting, financial, and consulting services, regardless of the specific subject matter of the representation or amount of compensation received.

8. Fiduciary Duty. The duty owed to a Business by a director, officer or general partner of the Business, even without financial remuneration from the Business.

9. Imputed Interest. The financial and other interests in a Business or Property held by Household Members are imputed to the Board Member.

Exclusions. The following interests are excluded from “Substantial Interest or Duty”: checking or savings accounts; money market accounts and other demand deposits; government bonds; certificates of deposit; government employment; and diversified mutual funds, pension plans, employee benefit plans, trusts, estates and other similar funds, plans and entities administered by an independent party without participation by the Board Member or Household Members in the selection or designation of financial interests held by the fund, plan or entity.

Article IV: Conflicts of Interest

A Conflict of Interest arises whenever a Board Member's ability to perform his or her duties fairly and objectively would be compromised, including but not limited to a Board Member having a Substantial Interest or Duty in an Interested Party.

Article V: Resolving Conflicts of Interest

A. Recusal

1. Board Members with a Conflict of Interest shall recuse themselves from Participating in any matter in which they have a Conflict of Interest, unless they make a Declaration in accordance with this Article.

2. Board Members shall recuse themselves when Participating would otherwise violate this Code, such as decisions by the Board or WMATA to hire, appoint, employ or promote, or to enter into a Financial Transaction with a Relative of the Board Member under Article IX.B.2, or when Participating would violate a law to which they are subject.

3. A Board Member will promptly notify the Board or Committee Chair before whom the matter is being considered of the recusal. The Board Member will also cause the Board's official records to reflect the Board Member's recusal from participating in the matter. The fact of the conflict and recusal shall be publicly announced at any meeting of the Board or a Committee at which the matter is considered.

4. A Board Member shall not at any time Participate in, attempt to Participate in, or discuss with other Board Members or WMATA personnel, any matter from which the Board Member is recused. (Members may, however, consult the Ethics Officer regarding compliance with the provisions of this Code at any time.) The Board Member may remain present for any public portion of a meeting at which the matter is considered, provided the Board Member does not remain at the Board or committee table or dais during the discussion and consideration. The Board Member may not attend any portion of an executive session closed to the public at which the matter is considered.

B. Declaration in Lieu of Recusal

If a Board Member believes that he or she is able to participate in a matter fairly and objectively in the interests of WMATA notwithstanding a Conflict of Interest, the Board Member may Participate in the matter after obtaining a recommendation from the Ethics Officer and approval of the full Board. If the full Board approves the Board Member's participation, the Board member shall make a Declaration in Lieu of Recusal. In the Declaration the Member shall explain: (1) the nature of the Board Member's personal interest in the parties or matter, and (2) why the Board Member is able to Participate in the matter fairly and objectively in the interest of WMATA. The Declaration in Lieu of Recusal will be effective upon concurrence by the full Board. The presiding Chair will read the approved Declaration into the record at any meeting of the Board or a Committee at which the matter is considered prior to action being taken.

C. Facilitating Compliance with Conflicts of Interest Restrictions

1. In order to facilitate compliance with the conflicts of interest provisions of this Code, the Board Secretary shall include in the materials mailed to the Board or Committee a list of Interested Parties in matters scheduled for consideration at the upcoming meeting.

2. Boards Members are entitled to rely on the accuracy of information supplied to them by the Board Secretary pursuant to this subsection as one source of information to identify Conflicts of Interest; provided, however, that Board Members have a continuing obligation to identify and disclose any sources of Conflicts of Interest.

3. Board Members shall review the information at the time it is supplied against their current holdings, and shall, as necessary, either recuse themselves from Participating in any matter in which they have a Conflict of Interest or make a Declaration in Lieu of Recusal regarding the matter.

Article VI: Restricted Interests

A. Board Members are prohibited from being “financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the Board or the Authority is a party.” Compact § 10.

B. Board Members and Household Members shall not knowingly have a Substantial Interest or Duty in an Interested Party during the Board Member's term of service, unless it is resolved in accordance with Article V.

Article VII: Gifts

A. Non-Solicitation

1. Board Members shall not, “in connection with services performed within the scope of [their] official duties, solicit or accept money or any other thing of value in addition to the compensation or expenses paid to [them] by the Authority.” Compact § 10.

2. Board Members shall not solicit a Gift from a Prohibited Source or from any WMATA employee, except when soliciting the general public by mass communication or other widely-distributed means that may incidentally be addressed to or include Prohibited Sources or WMATA employees.

B. Limits Upon Accepting Gifts

1. Board Members and Household Members may not accept a Gift from a Prohibited Source, except as specifically permitted by the exceptions set forth in Appendix 1 to this Code. In addition, Board Members and Household Members should not accept Gifts even though permitted by an exception, on such a frequent or regular basis that a reasonable person could be led to believe they are using their position with WMATA for personal gain or are not performing the duties of their position in an impartial manner.

2. Board Members may not designate, recommend or otherwise specify that a Gift be provided to or accepted by another Business or individual.

3. Board Members are encouraged to seek the Ethics Officer's advice when determining whether a particular offer may constitute a Gift that may not be accepted.

4. A Board Member who has received a Gift that may not be accepted under this Code shall do one of the following: pay the giver the Gift's market value; return the Gift to the giver; or in cases where returning the gift is impracticable, deliver the gift to the Ethics Officer, who will make proper disposition of it. Market value may be estimated by reference to the retail cost of similar items or services of like quality. The Ethics Officer should be consulted when estimating the market value of a gift. Subsequent reciprocation by the Board Member to the giver does not constitute payment of the market value of a gift.

Article VIII: Bona Fide Religious, Charitable and Political Contributions

Provided all other provisions of this Code are satisfied, a Board Member or Household Member may solicit bona fide religious, charitable and political contributions. A Board Member may accept such contributions only to the extent consistent with the law of the Board Member's Jurisdiction and where it cannot reasonably be inferred that the contribution is offered in an effort to influence the Board Member's action upon a WMATA matter or offered as a reward for the Board Member's action upon a WMATA matter.

Article IX: Use of Official Position

A. Use of Official Position

Board Members shall not use, nor give the appearance that they are using, their official position with WMATA in a manner inconsistent with their responsibilities to WMATA and their respective Jurisdiction. Board Members shall not:

1. Use their position with WMATA for their own personal financial gain, for the endorsement of any product, service or enterprise in which they have a Substantial Interest or Duty, or for the private financial gain of friends, relatives, individuals, or entities with which they are affiliated, including nonprofit organizations of which they are officers or members, or with which they have or are seeking employment or business relations;

2. Use or permit others to use information not generally available to the public obtained from WMATA through the Board Member's official position with WMATA to further the Substantial Interests or Duties of a Board Member, a Household Member, a Board Member's Business Associate, or any Interested Party;

3. Disclose or permit others to disclose to anyone outside WMATA other than to staff of their respective Jurisdiction information obtained through their official position with WMATA and not generally available to the public except where and to the extent necessary to fulfill the Board Member's Fiduciary responsibilities; provided, however, that disclosure of confidential information shall be made only in accordance with the terms of Article II (B);

4. Use WMATA property other than for authorized purposes, nor seek assistance from other WMATA personnel, while in duty status, to assist them in connection with business enterprises (including self-employment, home-based businesses, consulting, purchase or sale of real estate or other professional services) or personal matters (non-WMATA matters including a Board Member's social, religious or educational interests);

5. Offer money or anything of value for or in consideration of obtaining an appointment, promotion or privilege in their employment with the Authority (Compact § 10); or

6. Receive compensation from WMATA except for reimbursement for necessary expenses incurred incident to the performance of their duties, in accordance with and to the extent permitted under WMATA's expense reimbursement policies. Board Members are expected to exercise prudence when incurring expenses in connection with official duties.

B. Influence with Regard to Household Members and Relatives

1. No Board Member or Household Member shall be employed by WMATA during the Board Member's term of service. In addition, no Board Member, Household Member, or Business that is wholly or substantially owned or controlled by a Board Member or Household Member shall be a party to a contract with WMATA during the Board Member's term of service. For purposes of this section, a Business will be considered "substantially" owned or controlled if the Board Member or a Household Member singly or in combination owns or controls more than fifty percent (50%) of the Business (i.e., by value or voting power).

2. A Board Member shall not Participate in a decision by the Board or WMATA management to hire, appoint, employ or promote, or to enter into a Financial Transaction with a Relative of the Board Member.

C. Post WMATA Service Restrictions

1. Board Members shall not, for a period of two years following the end of their term or effective date of their resignation, accept employment with any private third party to work on a matter in which the Board Member has Participated.

2. In addition, a Board Member, his or her Household Members or any Business that is wholly or substantially owned or controlled by that Board Member or his or her Household Member, shall not be a party to a contract with WMATA for two years following the conclusion of the Board Member's term of service.

3. For purposes of this section, a Business is "substantially" owned or controlled if the Board Member or Household Member singly or in combination owns or controls more than fifty percent (50%) of the Business (i.e., by value or voting power).

Article X: Disclosures and Acknowledgements

A. Within thirty (30) days of assuming a position as a Board Member and annually on or before April 30 thereafter, each Board Member shall submit a disclosure statement to the Board Secretary ("Disclosure Statement"), using a form provided by WMATA.

B. Continuing Disclosure Obligation. Whenever there is a change to the information reported in a Board Member's Disclosure Statement, the Board Member shall notify the Board Secretary, in writing, within ten (10) calendar days of the change and its details, using a form provided by WMATA. Such statement shall be maintained with the Board Member's most recent Disclosure Statement.

C. Disclosure of Gifts. Board Members shall disclose to the Board Secretary any Gift solicited or accepted from a Prohibited Source by the Board Member or a Household Member pursuant to an applicable exception of this Code. Gifts shall be disclosed in writing at the time of solicitation or acceptance (or as soon as possible thereafter). The disclosure shall briefly describe the Gift, state its value and identify its source. Gift disclosures shall be maintained by the Board Secretary for compilation and filing with each Board Member's annual Disclosure Statement.

D. Disclosures will be submitted to the Board Secretary. The Board Secretary will review each disclosure for completeness and request the Board Member to provide any incomplete information. The Board Secretary will provide each completed disclosure to the Ethics Officer for review.

E. Acknowledgement of Fiduciary Duties and Responsibilities. Immediately upon being sworn in as a Board Member, and annually in the Disclosure Statement thereafter, each Board Member shall acknowledge the Board Member's understanding of his or her fiduciary obligations to the WMATA to the Board Secretary.

F. Acknowledgement of Ethics Obligations. The Ethics Officer will provide Board Members with a copy of this Code upon assuming their position as Board Member. Within thirty (30) days of receiving the Code, Board Members shall provide the Ethics Officer with a written acknowledgement that they have read and will comply with the Code.

G. All statements required by this section shall be available for public review in the office of the Board Secretary.

Article XI: Other Reports of Conflicts of Interest and Suspected Ethics Violations

A. Board Members shall disclose to the Ethics Officer any Conflicts of Interest and any suspected violations of this Code.

B. Any person may report suspected violations of this Code or Conflicts of Interest. Such reports: (1) must be made in writing, (2) must involve a Board Member's conduct in the Board Member's capacity as a Board Member of the WMATA Board, and (3) should be materially related to a violation of this Code, law, rule, regulation or duty, as opposed to a complaint about a policy or a matter of judgment. The report shall be submitted to the Ethics Officer and may be made anonymously.

Article XII: Ethics Officer

A. The Ethics Committee shall designate in public session a WMATA employee to serve as the Board's Ethics Officer, who shall continue in that position until the designation is rescinded

by the Ethics Committee.

B. The Ethics Officer is charged with fostering the highest ethical standards for WMATA Board Members, thereby strengthening public confidence that the business of WMATA is conducted with impartiality and integrity. Specifically, the Ethics Officer is responsible for:

1. distributing copies of this Code to Board Members;
2. reviewing disclosures submitted by Board Members;
3. receiving allegations of violations of this Code, and advising the Ethics Committee regarding further action;
4. advising Board Members, the Ethics Committee and Board about the application of this Code to specific questions or situations presented by Board Members, and providing written opinions on the resolution of Conflicts of Interest; and
5. arranging for the preparation and delivery of ethics training materials and sessions; and
6. serving as primary support staff to the Board's Ethics Committee (see Article XIII).

C. Ethics Opinions

1. Board Members may request a written opinion from the Ethics Officer regarding the application of this Code to specific questions or situations that they encounter. Any Board Member may request an opinion regarding the application of this Code to specific questions or situations regarding other Board Members. Requests for written opinions will include a full and accurate disclosure of all material facts.

2. No Board Member shall be found to have violated this Code if the alleged violation followed from good faith reliance on a written opinion from the Ethics Officer that was made after a full and accurate disclosure by the Board Member of all material facts.

D. Role of General Counsel

The Ethics Officer shall consult with WMATA's General Counsel, as necessary, in connection with carrying out the above-described duties.

Article XIII: Ethics Committee

A. Formation

1. The Executive Committee will serve as the Ethics Committee. The Board Chair will serve as the Chair of the Ethics Committee, or in his or her discretion, designate another member of the Ethics Committee to serve as Chair. In matters involving the Board Chair, the First Vice Chair will perform these duties. An Ethics Committee member who is unable to fulfill his or

her duties on the Committee due to a Conflict of Interest (“**Conflicted Member**”) may not designate his or her own replacement; instead the Conflicted Member will so inform the Chair of the Ethics Committee, who will select a replacement. The Chair, after consulting with the other Board Members from the Jurisdiction of the Conflicted Member and other members of the Ethics Committee, will select a replacement representing the same Jurisdiction as the Conflicted Member, provided there is a member from that Jurisdiction who can fulfill the responsibilities of a member of the Ethics Committee (e.g., does not have a conflict).

2. When considering suspected violations, any Ethics Committee consisting of an even number of members will add one additional member. The additional member will be chosen on a rotating basis established randomly by the Ethics Officer. The additional member must be a non-conflicted Board Member.

B. Quorum and Meetings

Four members of the Ethics Committee, consisting of at least one member representing each Signatory, constitute a quorum. The Ethics Committee will meet in and follow the procedures for Executive Sessions, except that attendance is limited to the members of the Ethics Committee, the Ethics Officer, WMATA’s General Counsel, and persons the Ethics Committee deems necessary for the discussion.

C. Consideration of Suspected Violations by the Ethics Committee

1. The Chair of the Ethics Committee will promptly schedule an executive session to consider reports of suspected violations of the Code or Conflicts of Interest, and notify the Ethics Officer and WMATA’s General Counsel. The Board Member whose alleged conduct is the subject of Ethics Committee consideration will be given notice and an opportunity to be heard in writing and in person, either directly or through a representative.

2. If the matter can be resolved promptly, such as by finding that the allegation has no merit, or by requiring the affected Board Member to file an updated Disclosure Statement or to recuse himself/herself from any matter in which he/she has a Conflict of Interest, the Chair of the Ethics Committee will inform the affected Board Member of the necessary action (e.g., recusal, declaration, disclosure) that must be completed within five (5) business days. The Ethics Committee’s determination will be maintained by the Board Secretary and be made publicly available.

3. Unless the matter can be promptly resolved as described in the immediately preceding paragraph, then the Ethics Committee will refer the matter to WMATA’s Inspector General who will promptly conduct an investigation, unless the Inspector General declines to investigate for reasons of Inspector General independence or conflicts. If the Inspector General declines to investigate, the Ethics Committee will retain outside counsel to conduct the investigation.

4. At the conclusion of the investigation, the Inspector General, or the outside counsel, will brief the Ethics Committee and then promptly provide the Board with a written public summary report of the findings of fact. If the investigation is conducted by the Inspector General, the investigation, briefing and written public summary report will be done in a manner consistent

with the Inspector General's established investigative policies and procedures. Nothing in this paragraph restricts the Inspector General's authority to conduct any other or additional investigation, audit or evaluation relating to any WMATA activities, including activities relating to the matter referred to the Inspector General under this paragraph.

D. Board Action Upon Written Public Summary Report

1. The Board will consider in public session the Inspector General's, or the outside counsel's, written public summary report of findings of fact. The Ethics Officer will attend the session to provide guidance. The Board may request further investigation by the Inspector General or outside counsel.

2. The Board will make a written determination in the form of a Board resolution of whether a violation has occurred, and if so, the appropriate sanction. The standard for finding an ethics violation is whether the evidence shows that it is more likely than not that the affected Board Member violated this Code. The affected Board Member and any other conflicted Board Member may not Participate in the Board's consideration of the determination. The determination will be maintained by the Board Secretary and be made publicly available.

E. Sanctions

1. If the Board determines that a Board Member has knowingly violated this Code or a related applicable law, the Board shall confer with the Board Member's appointing authority to consider what action they determine to be appropriate, which may include but is not limited to: issuing a public reprimand; directing involuntary recusal; removal from positions held on Committees; giving written notice of the violation to the Board Member's appointing authority; submitting a request to the Board Member's appointing authority that the Board Member be removed; any other appropriate action regarding the Board Member; and appropriate action regarding any contract or agreement that is related to the violation (e.g. voiding or canceling a contract), to the extent permitted by law.

2. Any Board Member who willfully violates any provision of Compact § 10, "Conflict of Interest," shall, as specifically set forth in § 10(b) and at the discretion of the Board, forfeit the Board Member's position with WMATA. The Board shall confer with the Board Member's appointing authority when exercising its discretion in this part, and a Board Member may be removed or suspended from office only as provided by the law of the Board Member's Jurisdiction. The Board shall provide the Board Member notice and an opportunity to be heard, in writing and in person, directly or through a representative, before taking official action to cause the Board Member to forfeit the position.

3. Any Financial Transaction to which WMATA is a party made in contravention of Compact § 10 may be declared void by the Board. The Board shall provide notice and an opportunity to be heard, in writing and in person, directly or through a representative, to any Business whose Financial Transaction with the Board or WMATA is considered to contravene these sections before taking action to void the transaction.

4. The Board may seek guidance from the Ethics Officer or legal advice from WMATA's General Counsel regarding appropriate sanctions.

Article XIV: Interpretation and Training

A. The Board is responsible for enforcing this Code. It may seek general guidance regarding interpretation of the Code from the Ethics Officer.

B. The Ethics Officer will arrange for all Board Members to receive in-person ethics training and accompanying training materials within four weeks of the start of their term and thereafter on an annual basis.

Article XV: Severability

The provisions of this Code shall be severable and if any phrase, clause, sentence or provision is declared invalid, the validity of the remainder shall not be affected thereby.

Article XVI: Effective Date; Duration; Amendment

This Code shall become effective when adopted by the Board and shall remain in effect unless and until amended or revoked by the Board in accordance with § 8 of the Compact. The Board may review and amend this Code in consultation with the Ethics Officer and WMATA's General Counsel.

APPENDIX 1
TO CODE OF ETHICS FOR MEMBERS OF THE WMATA BOARD
OF DIRECTORS

EXCEPTIONS TO RULE AGAINST ACCEPTING GIFTS

1. Gifts of \$25 or Less. Board Members and Household Members may accept a Gift, other than cash, of \$25 or less, so long as the aggregate market value of individual Gifts a Board Member or Household Member receives from the same Prohibited Source in a calendar year does not exceed \$50. If the market value of a Gift exceeds \$25 (or the aggregate market value of multiple gifts exceeds \$50), a Member may not pay the excess value over \$25 (or \$50) in order to accept the gift.

2. Personal Gifts. Board Members and Household Members may accept a Gift that is given under circumstances that make it clear that the Gift is motivated by a personal friendship or family relationship rather than the position of the Board Member. Relevant factors in deciding whether a Gift is motivated by a personal friendship or family relationship include the history of the friendship or relationship, and whether the cost of the gift is paid by the individual with whom the friendship or relationship exists or by the individual's employer.

3. Widely Attended Gatherings. Board Members and Household Members may accept a gift of free attendance at a widely attended gathering or any portion of such an event that is open or part of a regularly-scheduled program. A gathering is not widely attended, open or part of the regularly-scheduled program if it is, for example, by invitation only or focused on a particular business rather than transit more generally.

Free attendance to a widely attended gathering may include the provision of food, refreshments, entertainment, instruction and instructional materials, each of which is furnished to all attendees as an integral part of the gathering. Free attendance may not include the provision of travel or lodging.

4. Speaking Engagements and Events. Board Members and Household Members may accept free attendance from the sponsor of an event at which they are speaking, presenting information or otherwise participating on behalf of WMATA. Free attendance may include food, refreshments and entertainment furnished to all attendees as an integral part of the event. Free attendance may not include the provision of travel or lodging. Participation in the event on the day of the Board Member's or Household Member's participation is viewed as a customary and necessary part of the performance of their positions and does not constitute a Gift.

5. WMATA-Sponsored Events. Board Members and Household Members may accept free attendance to an event that is sponsored solely by WMATA to recognize one or more Authority officers or employees or a WMATA achievement or milestone, or that is sponsored, in whole or in part, by WMATA to raise funds for a charitable organization or cause. Free attendance to such an event may include the provision of food, refreshments and entertainment.

6. Gifts to Household Members. Household Members may accept a Gift that results from the business or employment activities of the recipient, and it is clear from the circumstances that the gift is not being offered or given because of the Board Member's position with WMATA.

7. Prizes. Board Members may accept a gift that is a prize given to successful competitors in competitive contests or events or to persons based upon random drawings (including door prizes given randomly). Board Members may accept a gift, not addressed in the prior sentence, that is provided as a favor or in recognition of attendance to all attendees at a widely attended gathering or at an event identified in paragraph (4) or (5), so long as the value of the gift is less than \$25.

8. Gifts to WMATA. A Member representing or acting on behalf of WMATA may accept and use gifts of property for WMATA. Property accepted under this section and proceeds from that property must be used, as nearly as possible, under the terms of the gift, if any. These include: (a) ceremonial gifts given to Board Members (e.g., by representatives of governmental units) while serving as a representative of WMATA that are accepted on behalf of WMATA; and (b) gifts of food or refreshments provided Board Members at events they are attending as representatives of WMATA, where it is clearly in the interest of WMATA that it be present at the event through one or more official representatives. In the case of ceremonial gifts, Board Members are to turn the gifts over as soon as practicable to the Ethics Officer for disposition.

9. Approved Gifts. The Ethics Committee may, in an open public meeting, approve a Board Member's acceptance of a gift not otherwise falling within one of the foregoing exceptions if it determines that the acceptance would not be detrimental to the impartial conduct of the business of WMATA.