

**ERIE COUNTY WATER AUTHORITY
HR Policies/Procedures**

**Re: EMPLOYMENT POLICY
AND PROCEDURES**

Policy No. 92

Application: All Employees

Adopted: 10/04/2012

Amended: 03/26/2013

02/21/2019

08/22/2019

10/20/2022¹

09/20/2023

PURPOSE

The purpose of this Policy is to set guidelines for a fair and open process for the hiring, promoting, and terminating Authority personnel. This Policy includes procedures relating, but not limited, to the posting of employment opportunities, submission, and review of employment applications and/or resumes, and notifications, communications, and confirmations necessary for the appointment, promotion, and termination of an individual to positions classified as exempt, competitive, or non-competitive, or to positions for which jurisdictional classification is pending.

POLICY

The Authority is an equal employment opportunity employer, committed to hiring and promoting qualified individuals based on merit and fitness, without regards to race, national origin, religion, gender, age, sexual orientation, military status, marital status, disability, or other legal status protected by law. Pursuant to Public Authorities Law § 1053(3), all appointments made by the Authority are subject to the civil service laws of the State of New York and such rules as may be adopted and made applicable to the Authority by the Erie County Personnel Department.

¹ This Employment Policy & Procedures revises and replaces H.R. Policy No. 92.0 (Employment Policy and Procedures).

PROCEDURE

Section 1 Definitions.

- (a) “Appointing Resolution” means a resolution adopted by the Board to appoint a person to an exempt position.
- (b) “Appointment Notice” means a notice sent by a Division Head to the Board, indicating a person whom the Division Head intends to appoint or promote to a position.
- (c) “Appointment Letter” means a letter sent by the Secretary to a person who has been offered an appointment or Promotion to a position at the Authority.
- (d) “At-Will Position” includes all exempt positions, positions pending jurisdictional classification, and all non-competitive positions classified as “confidential and policy influencing titles” as listed in Appendix B of the Rules for the Classified Civil Service of the County of Erie, issued by the Erie County Commissioner of Personnel, and as amended and approved by the State Civil Service Commission.
- (e) “Attorney” means the Authority’s Attorney, who serves as the Authority’s General Counsel and chief legal advisor.
- (f) “Authority” means the Erie County Water Authority.
- (g) “Board” means the Authority’s Board of Commissioners.
- (h) “Board Meeting” means a regular or special meeting of the Authority’s Board.
- (i) “Chief Financial Officer” means the position or individual designated by the Board to oversee the Authority’s fiscal, financial, and accounting operations.
- (j) “Closed Position” means a position that may only be filled by Authority personnel and for which an individual outside of the Authority is not eligible for appointment. Such a position requires both experience working within the Authority and training which is only provided by the Authority.

- (k) “Division” means the one of the four divisions overseen by the Board. These divisions include Office of the Secretary, Legal, Operations, and Finance & Administration.
- (l) “Division Head” means one of four executive management positions who report directly to the Board. These Division Heads include the Secretary of the Authority, Attorney (aka General Counsel), Executive Director (aka the Chief Operating Officer), and Chief Financial Officer. Division Heads are appointed by, and serve at the pleasure of, the Board.
- (m) “Eligible Applicants” means an individual reachable on a competitive civil service list.
- (n) “Employment Inventory” means all positions within the Authority, created, and authorized by the Board and approved by the Erie County Personnel Department, which may be funded and to which individuals may be appointed.
- (o) “Executive Director” means the Authority’s Chief Operating Officer who oversees the operation of the Authority’s physical plants, facilities, infrastructure, and water system.
- (p) “Hiring Process” includes the review of all resumes and/or employment applications, the ranking of applicants based on qualifications, the interview of applicants, and the deliberation over which applicant(s) should be recommended for employment.
- (q) An “Interview Committee” shall include the Secretary, the Director of Human Resources, and the Division Head, or his/her designee. When the position involves a Division Head, the Interview Committee will include all Division Heads and the Director of Human Resources. At its discretion, the Interview Committee may designate other Authority personnel to participate in the Hiring Process.
- (r) “PJC” means a position subject to classification, but not yet classified, and listed within the Authority’s Employment Inventory as “pending jurisdictional classification” or “PJC.”
- (s) “Policy” means Policy No. 92, entitled Employment Policy & Procedures.

- (t) “Promotion” means, for purposes of this Policy, the selection of an Authority employee for a Closed Position within the Authority or the selection of an Authority employee from a promotional civil service list for a position classified as competitive. For purposes of this Policy, an Authority employee who has been offered another position with more responsibilities or a higher salary grade is not considered a Promotion unless the position is Closed, or the selection is made from a promotional civil service list. An appointment to a new position is subject to other policies and procedures set forth in this Policy.
- (u) “Recruitment Plan” means the plan devised by the Secretary and the Division Head, to solicit a group of individuals to be considered for appointment to a position. If the position is an exempt position, then the Board must approve the Recruitment Plan. A plan for an exempt position may target a single individual who is sought for employment without posting or advertising the position to the public. If the plan is intended to solicit a group of potential applicants, then the plan will set forth the method for soliciting or targeting applicants. Such methods may include, but are limited to, advertising and posting the position in a variety of publications, engaging the services of a professional headhunter, or contacting professional or educational organizations having recruitment/placement resources.
- (v) “Secretary” means the Secretary of the Authority.
- (w) “Selected Applicant” means an applicant to whom a Division Head may offer an employment opportunity.
- (x) “Termination Decision” means a decision made by the Division Head, after consulting with the Secretary and Director of Human Resources, or a decision made by two or more Division Heads, to take the necessary steps to terminate the employment of an individual working within a division.
- (y) “Termination Resolution” means a resolution adopted by the Board to terminate a person who serves at the Board’s pleasure.
- (z) “Termination Notice” means a notice sent by one or more Division Head(s) to the Board, indicating a person whom the Division Head(s) intend[s] to terminate.

- (zz) “Termination Letter” means a letter sent by the Secretary to any person whose employment has been terminated.

Section 2 Classified Civil Service Positions.

Pursuant to Public Authorities Law § 1053(3), the Authority may determine the qualifications and duties for all employment positions contingent upon the approval of the Erie County Personnel Department. The compensation for all employment positions is recommended by Authority staff, and subsequently approved by the Board. The Erie County Personnel Department and the New York State Civil Service Commission will determine whether such positions will be classified as exempt, competitive, non-competitive, or labor.

Section 3 Positions Classified as Competitive.

Positions classified as competitive are subject to a civil service examination. No person may be offered a permanent competitive position without being an Eligible Applicant on an open or promotional civil service list.

3.1 Appointments from Open and Promotional Lists.

- (a) Appointments from a Civil Service List.
- (1) When a competitive position is vacant, and an open/promotional civil service list exists, the Authority will canvas all reachable candidates at their discretion. Candidates on a promotional list will be canvassed before candidates on an open list. If a promotional list exists, that list must be exhausted before the Authority may canvas candidates on an open list.
 - (2) The Authority will interview reachable applicants, at their discretion, who affirmatively respond to the canvas letter.
 - (3) The Interview Committee will conduct interviews.
 - (4) After the interviews have been conducted, the Interview Committee, will select the applicant(s) for employment with the Authority.

- (5) The Office of the Secretary will arrange with the Selected Applicant(s) a background check and a physical examination. If a Selected Applicant(s) passes both the background check and the physical examination, the Office of the Secretary will notify the Selected Applicant(s) and arrange a start date, coordinating it with the Authority's Employee Benefit Specialist. The Office of the Secretary will then send an appointment letter to the Selected Applicant(s).
 - (6) Once the Selected Applicant(s) has accepted the position and has received his/her Appointment Letter, the Office of the Secretary will prepare and forward a PO-1M form to the Erie County Personnel Department for approval.
 - (7) When the Authority has completed the selection of applicant(s) for any competitive position and no longer needs to canvas other applicant(s), the Office of the Secretary will return the certified open and/or promotional civil service list(s) to the Erie County Personnel Department, along with the necessary documents pursuant to the Erie County Personnel Rules and Regulations.
- (b) Provisional Appointments.
- (1) When a competitive position is vacant, but no civil service list is in existence, the Secretary and the Division Head shall devise a Recruitment Plan to fill the vacant position on a provisional basis, pending a competitive examination. At minimum, the job specification for the vacant position shall be posted on the Authority's website for at least a one-week period. The posting notice must indicate the position is for a provisional appointment and subject to a civil service examination prior to any permanent appointment.
 - (2) The Interview Committee shall review employment applications and/or resumes of any individual who submitted a resume for the provisional appointment.
 - (3) After the employment applications and/or resumes have been reviewed, the Interview Committee will decide which applicant(s) should be granted an interview.

- (4) After the interviews have been conducted, the Interview Committee will select the applicant(s) for employment with the Authority.
- (5) The Office of the Secretary will arrange with the Selected Applicant(s) a background check and a physical examination.
- (6) If the Selected Applicant(s) passes both the background check and the physical examination, the Division Head shall notify the Board of his/her intent to offer the Selected Applicant(s) a provisional appointment by sending an Appointment Notice pursuant to the procedure set forth in Section 9 of this policy.
- (7) Unless the Board moves to hold the appointment in abeyance, the Office of the Secretary will notify the Selected Applicant(s) of the appointment and that he/she will hold the position only on a provisional basis. Any permanent appointment is subject to a civil service examination with all selections being made from a certified civil service list.
- (8) The Office of the Secretary will arrange a start date with the Selected Applicant(s), coordinating it with the Authority's Employee Benefit Specialist. The Office of the Secretary will then send a provisional Appointment Letter to the Selected Applicant(s).
- (9) Once the Selected Applicant(s) has accepted the position and has received his/her Appointment Letter, the Office of the Secretary will prepare and forward a PO-1M form to the Erie County Personnel Department for approval.

(c) Civil Service Exams.

- (1) The Erie County Personnel Department will notify the Authority when an examination will be offered for the competitive position.

3.2 Promotion Not Subject to Examination.

If an Authority employee is eligible for appointment to a Closed Position such appointment may be made at the discretion of the Division Head subject to budget restraints.

3.3 Termination.

- (a) A Division Head will notify the Secretary of any proposed termination of an individual who is serving as a permanent, probationary, or temporary employee in a position classified as competitive and who works under the supervision of that Division Head.
- (b) The Secretary and the Director of Human Resources will consult with the Division Head regarding the proposed termination and whether such employment may be terminated pursuant to the provisions of any collective bargaining agreement and/or the civil service laws of the State of New York and the County of Erie.
- (c) If the Secretary or the Director of Human Resources determines the proposed termination is subject to provisions of a collective bargaining agreement and/or civil service laws, then the Director of Human Resources will consult with the Authority's Attorney, or his/her designee, and will take the necessary steps to counsel, discipline, or terminate the employee in accordance with the applicable provisions of the collective bargaining agreement, if any, or the applicable provisions of the civil service laws and regulations.
- (d) Subject to the applicable provisions of a collective bargaining agreement, or the applicable provisions of the civil service laws and regulations, two or more Division Heads may file with the Board a Termination Notice to seek the termination of an Authority employee who is not under the supervision of either Division Head.
- (e) Before one or more Division Head(s) take the necessary steps to terminate an Authority employee, the Board must be given a Termination Notice .
- (f) Subject to the applicable provisions of a collective bargaining agreement, or the applicable provisions of the civil service laws and regulations, two or more Division Heads may file with the Board a Termination Notice to seek the termination of an Authority employee who is not under the supervision of either Division Head.

- (g) Subject to the Board holding any Termination Decision in abeyance, the Secretary will either issue a Termination Letter to any Authority personnel whose employment has been terminated or direct the Director of Human Resources to file charges subject to the provisions of a collective bargaining agreement and/or the provisions of the civil service laws and regulations.
- (h) In cases where termination is not appropriate, the Director of Human Resources will be responsible for the issuance of any other notices relating to job performance including, not limited to, a counsel notice, an oral or written warning, a suspension notice, or other appropriate forms of progressive discipline.

Section 4 Positions Classified as Non-Competitive.

4.1 Appointments.

- (a) When a non-competitive position is vacant, the Secretary and the Division Head shall devise a recruitment plan to fill the vacant non-competitive position. At minimum, the job specification for the vacant position shall be posted on the Authority's website for at least a one-week period.
- (b) The Interview Committee shall review the employment applications and/or resumes of any individual seeking appointment to a non-competitive position to determine whether the applicant has the minimum qualifications.
- (c) After the employment applications and/or resumes have been reviewed, the Interview Committee shall decide which applicant(s) should be granted an interview.
- (d) The Interview Committee will conduct interviews.
- (e) After the interviews have been conducted, the Interview Committee, will select the applicant(s) for employment with the Authority.
- (f) The Office of the Secretary will arrange with the Selected Applicant(s) a background check and a physical examination.

- (g) If the Selected Applicant(s) passes both the background check and the physical examination, the Division Head shall notify the Board of his/her intent to offer the Selected Applicant(s) a non-competitive appointment by sending an Appointment Notice pursuant to the procedure set forth in Section 9 of this policy.
- (h) Unless the Board moves to hold the appointment in abeyance, the Office of the Secretary will notify the Selected Applicant(s) of the non-competitive appointment.
- (i) The Office of the Secretary will arrange a start date with the Selected Applicant(s), coordinating it with the Authority's Employee Benefit's Specialist. The Office of the Secretary will then send an Appointment Letter to the Selected Applicant.
- (j) Once the Selected Applicant(s) has accepted the position and has received his/her Appointment Letter, the Office of the Secretary will prepare and forward a PO-1M form to the Erie County Personnel Department for approval.

4.2 Promotion.

If an Authority employee is eligible for appointment to a Closed Position such appointment may be made at the discretion of the Division Head and the Secretary subject to budget restraints.

4.3 Termination.

- (a) A Division Head will notify the Secretary of any proposed termination of an individual who is serving as a permanent, probationary, or temporary employee in a position classified as non-competitive and who works under the supervision of that Division Head.
- (b) The Secretary and the Director of Human Resources will consult with the Division Head regarding the proposed termination and whether such employment may be terminated pursuant to the provisions of any collective bargaining agreement and/or the civil service laws of the State of New York and the County of Erie.

- (c) If the Secretary or the Director of Human Resources determines the proposed termination is subject to provisions of a collective bargaining agreement and/or civil service laws, then the Director of Human Resources will consult with the Authority's Attorney, or his/her designee, and will take the necessary steps to counsel, discipline, or terminate the employee in accordance with the applicable provisions of the collective bargaining agreement, if any, or the applicable provisions of the civil service laws and regulations.
- (d) Subject to the applicable provisions of a collective bargaining agreement, or the applicable provisions of the civil service laws and regulations, two or more Division Heads may file with the Board a Termination Notice to seek the termination of an Authority employee who is not under the supervision of either Division Head.
- (e) Before one or more Division Head(s) take the necessary steps to terminate an Authority employee, the Board must be given a Termination Notice .
- (f) Subject to the applicable provisions of a collective bargaining agreement, or the applicable provisions of the civil service laws and regulations, two or more Division Heads may file with the Board a Termination Notice to seek the termination of an Authority employee who is not under the supervision of either Division Head.
- (g) Subject to the Board holding any Termination Decision in abeyance, the Secretary will either issue a Termination Letter to any Authority personnel whose employment has been terminated or direct the Director of Human Resources to file charges subject to the provisions of a collective bargaining agreement and/or the provisions of the civil service laws and regulations.
- (h) In cases where termination is not appropriate, the Director of Human Resources will be responsible for the issuance of any other notices relating to job performance including, not limited to, a counsel notice, an oral or written warning, a suspension notice, or other appropriate forms of progressive discipline.

Section 5 Positions Classified as Labor.

5.1 Appointments.

- (a) When a labor position is vacant, the Secretary and the Division Head shall devise a Recruitment Plan to fill the vacant labor position. At minimum, the job specification for the vacant position shall be posted on the Authority's website for at least a one-week period.
- (b) The Interview Committee shall review the employment applications and/or resumes of any individual seeking appointment to a labor position to determine whether the applicant has the minimum qualifications for appointment.
- (c) After the employment applications and/or resumes have been reviewed, the Interview Committee shall decide which applicant(s) should be granted an interview.
- (d) The Interview Committee will conduct interviews.
- (e) After the interviews have been conducted, the Interview Committee, will select the applicant(s) for employment with the Authority.
- (f) The Office of the Secretary will arrange with the Selected Applicant(s) a background check and a physical examination.
- (g) If the Selected Applicant(s) passes both the background check and the physical examination, the Division Head shall notify the Board of his/her intent to offer the Selected Applicant(s) a labor appointment by sending an Appointment Notice pursuant to the procedure set forth in Section 9 of this Policy.
- (h) Unless the Board moves to hold the appointment in abeyance, the Office of the Secretary will notify the Selected Applicant(s) of the labor appointment.
- (i) The Office of the Secretary will arrange a start date with the Selected Applicant(s), coordinating it with the Authority's Employee Benefit's Specialist. The Office of the Secretary will then send an Appointment Letter to the Selected Applicant.

- (j) Once the Selected Applicant(s) has accepted the position and has received his/her Appointment Letter, the Office of the Secretary will prepare and forward a PO-1M form to the Erie County Personnel Department for approval.

5.2 Promotion.

If an Authority employee is eligible for appointment to a Closed Position such appointment may be made at the discretion of the Division Head and the Secretary subject to budget restraints.

5.3 Termination.

- (a) A Division Head will notify the Secretary of any proposed termination of an individual who is serving as a permanent, probationary, or temporary employee in a position classified as non-competitive and who works under the supervision of that Division Head.
- (b) The Secretary and the Director of Human Resources will consult with the Division Head regarding the proposed termination and whether such employment may be terminated pursuant to the provisions of any collective bargaining agreement and/or the civil service laws of the State of New York and the County of Erie.
- (c) If the Secretary or the Director of Human Resources determines the proposed termination is subject to provisions of a collective bargaining agreement and/or civil service laws, then the Director of Human Resources will consult with the Authority's Attorney, or his/her designee, and will take the necessary steps to counsel, discipline, or terminate the employee in accordance with the applicable provisions of the collective bargaining agreement, if any, or the applicable provisions of the civil service laws and regulations.
- (d) Subject to the applicable provisions of a collective bargaining agreement, or the applicable provisions of the civil service laws and regulations, two or more Division Heads may file with the Board a Termination Notice to seek the termination of an Authority employee who is not under the supervision of either Division Head.

- (e) Before one or more Division Head(s) take the necessary steps to terminate an Authority employee, the Board must be given a Termination Notice .
- (f) Subject to the applicable provisions of a collective bargaining agreement, or the applicable provisions of the civil service laws and regulations, two or more Division Heads may file with the Board a Termination Notice to seek the termination of an Authority employee who is not under the supervision of either Division Head.
- (g) Subject to the Board holding any Termination Decision in abeyance, the Secretary will either issue a Termination Letter to any Authority personnel whose employment has been terminated or direct the Director of Human Resources to file charges subject to the provisions of a collective bargaining agreement and/or the provisions of the civil service laws and regulations.
- (h) In cases where termination is not appropriate, the Director of Human Resources will be responsible for the issuance of any other notices relating to job performance including, not limited to, a counsel notice, an oral or written warning, a suspension notice, or other appropriate forms of progressive discipline.

Section 6 Probationary Period.

Newly hired and promoted employees are subject to a probationary period as set forth in Rule XIII of the Rules for the Classified Civil Service of the County of Erie, issued by the Erie County Commissioner of Personnel and as amended and approved by the State Civil Service Commission and in Policy 4 of the Authority's Employees Policies and Procedure Manual.

Section 7 Positions Classified as Exempt.

- (a) The Board shall adopt an appointment resolution to appoint any individual to an exempt position. All individuals in an exempt position serve at the Board's pleasure.
- (b) The following are positions classified as exempt: Secretary of the Authority, the Attorney (aka General Counsel), the Executive Director (aka Chief Operating Officer), the Chief Financial Officer, Sr. Associate Attorney, Associate Attorney (full-time), Associate Attorney (part-time), Comptroller (full-time), and Executive Engineer.

7.1 Appointments.

- (a) When an exempt position is vacant, the Secretary and the Division Head shall devise a Recruitment Plan, approved by the Board, to fill the vacant exempt position.
- (b) The Interview Committee will review the employment applications and/or resumes of individuals seeking appointment to an exempt position.
- (c) After the employment applications and/or resumes have been reviewed, the Interview Committee shall decide which applicant(s) should be granted an interview.
- (d) The Interview Committee will conduct interviews.
- (e) After the Interviews have been conducted, the Interview Committee will select the applicant(s) for employment with the Authority.
- (f) The Office of the Secretary will arrange with the Selected Applicant(s) a background check and a physical examination.
- (g) If the Selected Applicant(s) passes both the background check and the physical examination, the Interview Committee shall notify the Board of its recommendation.
- (h) Such recommendation should contain the resume of the applicant, the number of individuals applying for the exempt position and the facts sufficient to support the recommendation. Upon request of any Board member, the Secretary may provide copies of resumes of those applicants.
- (i) Unless the Board moves to hold the appointment in abeyance, the Board shall adopt an Appointing Resolution, setting forth the name of the appointee, date of appointment, and the salary grade and step.
- (j) Once the Selected Applicant(s) has accepted the position and has received his/her Appointment Letter, the Office of the Secretary will prepare and forward a PO-1M form to the Erie County Personnel Department for approval.

7.2 Termination.

- (a) Only the Board may terminate the employment of an individual whose position is classified as exempt.
- (b) The Board is responsible for the supervision of Division Heads who serve at the Board's pleasure.
- (c) A Division Head, however, is responsible for the supervision of all other exempt employees. Like other Authority personnel, the Division Head is responsible for evaluating and counseling exempt employees as to matters relating to job performance.
- (d) One or more Division Head(s) may recommend to the Board the termination of an exempt employee by sending a confidential, detailed report to the Board and request the matter be discussed at an executive session of a Board Meeting.

Section 8 Positions Pending Jurisdictional Classification.

8.1 Appointments.

- (a) When a position listed as PJC becomes vacant, the Authority shall follow the procedures set forth in Section 4 of this Policy for the individuals seeking appointment for a non-competitive position, unless the Authority has explicitly made a request to the Erie County Personnel Department to have the position classified as exempt.
- (b) When the Authority has explicitly made a request to the Erie County Personnel Department to have a PJC position classified as exempt, the Authority shall follow the procedure set forth in Section 7 of this Policy to fill any vacancy.

8.2 Termination.

- (a) When the Authority has explicitly made a request to the Erie County Personnel Department to have a PJC position classified as exempt, the Authority shall follow the procedure set forth in Sub-section 7.2 of this Policy to terminate an individual who holds a position classified as PJC.

- (b) For other positions classified as PJC, the Authority shall follow the procedures set forth in Sub-section 4.3 of this Policy to terminate individuals holding such positions.

Section 9 Appointment Notices and Recommendations to the Board for Individuals to Serve a Provisional or Temporary Appointment to a Position Classified as Competitive, Non-Competitive, or Labor, or an Applicant to Serve in a Position Classified as PJC or any other At-Will Position.

9.1 Appointments.

- (a) Pursuant to this Policy, the Division Head shall notify the Board of his/her intent to offer the applicant a position classified as competitive, non-competitive, labor, PJC or any other At-Will position.
 - (1) The Appointment Notice to the Board should contain:
 - (a) the resume of the applicant,
 - (b) a proposed date of appointment, if known, and
 - (c) the starting salary, along with the salary grade and step for the position.
 - (2) The Appointment Notice should be scanned and emailed to all Board members. A Board member has three business days after receiving the Appointment Notice via email to notify the Secretary that the appointment needs to be discussed in an executive session of a Board Meeting. When such request for an executive session has been timely given to the Secretary, the appointment will be held in abeyance until the matter is heard in an executive session of a Board Meeting.
 - (3) When a Board member has requested an executive session, the Secretary will put the executive session on the staff portion of the next regularly scheduled Board Meeting and will state the reason pursuant to Public Officers Law.

9.2 Termination Notices and Recommendations to the Board.

- (a) A Division Head must notify the Board of his/her intent to terminate the employment of an individual serving in a provisional or temporary appointment to a competitive position, or holding a non-competitive position, or holding a position classified PJC or any other At-Will Position.
- (b) The Termination Notice to the Board should contain:
 - (1) the name and a title of the person for whom termination is sought; and
 - (2) whether the employee's termination is subject to a collective bargaining agreement, or the procedures set forth in § 75 of the Civil Service Law.
- (c) The Termination Notice should be scanned and emailed to the Board members. A Board member has three (3) business days after receiving the Termination Notice via email to notify the Secretary that the proposed termination needs to be discussed in an executive session of a Board Meeting. When such request for an executive session has been timely given to the Secretary, the termination will be held in abeyance until the matter is heard in an executive session of a Board Meeting.
- (d) When a Board member has requested an executive session, the Secretary will put the executive session on the staff portion of the next regularly scheduled Board Meeting and will state the reason pursuant to Public Officers Law.