



STATE OF NEW MEXICO
Educational Retirement Board

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**AMENDED AND RESTATED POLICY
REGARDING PLACEMENT AGENT DISCLOSURES**

I. POLICY.

It is the policy (this "Policy") of the Educational Retirement Board (the "ERB") to require (a) complete and timely disclosure of all agreements or other arrangements (collectively, "Agreements") with respect to any actual or proposed Compensation to be received by Placement Agents from Investment Managers and Investment Consultants in connection with the investment activity of the Educational Retirement Fund (the "Fund"), and (b) that Investment Managers bear all direct and indirect fees, costs and expenses associated with such Placement Agents. Certain capitalized terms used in this Policy are defined in Section III. This Policy is intended to:

- A. Assist the ERB in making Investment decisions that are consistent with its Investment Policy, dated June 10, 2011, as the same may be amended from time to time;
- B. Provide direction to Investment Managers and Investment Consultants in regard to the disclosures that are required to be made with respect to the actual and potential use of a Placement Agent in connection with any Investment;
- C. Provide additional information to the ERB's staff and its advisors for use in evaluating proposed Investments and providing advice and recommendations to the ERB; and
- D. Facilitate transparency regarding ERB investment activity.

Disclosure of the identity of third party marketers, and any fee, commission or retainer paid to a third party marketer, is required by Section 22-11-54 NMSA 1978, the text of which is set forth below in its entirety.

§ 22-11-54. Disclosure of third-party marketers; penalty

A. The board shall not make any investment, other than investments in publicly traded equities or publicly traded fixed-income securities, unless the recipient of the investment discloses the identity of any third-party marketer who rendered services on behalf of the recipient in obtaining the investment and also discloses the amount of any fee, commission or retainer paid to the third-party marketer for the services rendered.

B. Information disclosed pursuant to Subsection A of this section shall be included in the quarterly performance reports of the board.

C. Any person who knowingly withholds information required by Subsection A of this section is guilty of a fourth degree felony and shall be punished by a fine of not more than twenty thousand dollars (\$20,000) or by imprisonment for a definite term not to exceed eighteen months or both.

D. As used in this section, "third-party marketer" means a person who, on behalf of an investment fund manager or other person seeking an investment from the fund and under a written or implied agreement, receives a fee, commission or retainer for such services from the person seeking an investment from the fund.

The term "third-party marketers" as used in Section 22-11-54 is incorporated in the term "Placement Agent" as used in this Policy.

The ERB has determined that the adoption of this Policy will facilitate implementation and enforcement of Section 22-11-54 and that the investment and reinvestment of the Fund pursuant to Section 22-11-13 will benefit from its adoption.

This Policy sets forth the ERB's Placement Agent disclosure requirements. This Policy does not prohibit an Investment involving a Placement Agent, provided that this Policy is otherwise complied with. This Policy's disclosure requirements are not intended to apply to a "placement agent" that does not receive any Compensation from an Investment Manager or Investment Consultant with respect to an Investment. For purposes of example only, if an Investment Manager retained a placement agent that neither directly nor indirectly provided services or a benefit to, or acted on behalf of, the Investment Manager in securing an Investment from the Fund, and such placement agent did not receive any Compensation related to such Investment, this Policy's disclosure requirements would not apply to the services that such placement agent provided the Investment Manager with respect to any other investor.

II. EFFECTIVE DATE OF POLICY; APPLICATION.

This Policy, as amended and restated, is effective upon its adoption and applies to all Investments made by the Fund after the date of this Policy's adoption. Investments of the Fund prior to effective date of this amended and restated Policy (the "Amended Policy Effective Date") are subject to the Policy as it existed prior to the Amended Policy Effective Date.

In connection with Investments made by the Fund prior to the Amended Policy Effective Date, this Policy will apply to: (a) any new investment or commitment, co-investment and other similar investment and acquisition activity made after the Amended Policy Effective Date, and (b) any amendment of an agreement, contract or other document entered into after the Amended Policy Effective Date that extends the term of such agreement, renegotiates investment management fees, increases the amount of the Investment, or changes the Investment in any substantial manner, as determined by the ERB in its sole discretion. In neither event, however, will this Policy apply to the original Investment.

Notwithstanding the foregoing, the ERB encourages Investment Managers to voluntarily comply with this Policy and make the disclosures set forth herein with respect to Investments prior to the date of this Policy's adoption. Although registration of a Placement Agent with an appropriate

regulatory agency was not required before December 12, 2009, the voluntary disclosure should include a statement whether a Placement Agent was so registered. Investment Managers will not be required to update any voluntary disclosures made pursuant to this paragraph. In the event of such a voluntary disclosure, the remedies listed in Section VII, subparts C-F below shall not apply.

In cases where an Investment Manager entered into a contract or other agreement to retain a Placement Agent prior to the December 11, 2009 adoption of the ERB's original Policy Regarding Placement Agent Disclosures, where that contract or agreement provided that the Placement Agent would be entitled to compensation for any new Investment by the ERB after the initial Investment, registration with an appropriate regulatory agency as set forth below shall not be required in order for such compensation to be paid. The Investment Manager and Investment Consultants shall provide the disclosures required under Section IV and Section V, respectively, relating to the ERB's new Investment. In addition, the Investment Manager and Investment Consultant also shall provide a statement whether the Placement Agent was registered with an appropriate regulatory agency as set forth below at the time of the original Investment prior to December 11, 2009, and if not, whether the Placement Agent has since become registered with such an agency.

This Policy shall apply only to the ERB's and the Fund's participation in Investments and not to any underlying or secondary discretionary investments made by an Investment Manager. For purposes of example only, if a "placement agent" directly or indirectly provided services or a benefit to, or acted on behalf of, a third party seeking to secure an investment by a fund being managed by an Investment Manager, the activities of the "placement agent" representing such a third party would not be covered by this Policy.

III. DEFINITIONS.

- A. Affiliate(s) – With respect to a specified Person, a second Person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control, with respect to such specified Person.
- B. Compensation – any actual or proposed fee, commission, retainer, economic benefit or other consideration or benefit, to be paid, provided, or given to a Placement Agent that is or will be paid, provided, or given with respect to any Investment.
- C. Corporate Affiliate(s) – With respect to a specified Person, a second Person that directly, or indirectly through one or more intermediaries, ultimately (a) has one hundred percent (100%) economic interest and equity and voting control, (b) is under one hundred percent (100%) economic interest and equity and voting control, or (c) shares with one or more other Corporate Affiliates one hundred percent (100%) of the common economic interest and equity and voting control, with respect to such specified Person. Persons who are employees or contractors of the Investment Manager to whom the Investment is related shall be deemed to be a "Corporate Affiliate" of such Investment Manager for purposes of this Policy.
- D. Immediate Family Member – a spouse, father, mother, child (including adopted and step-children), father-in-law, mother-in-law, daughter-in-law or son-in-law.

E. Investment – shall mean without limitation any direct or indirect investment in private investment funds, real estate, real property assets, or securities by the Fund for the ERB and shall include investments by an Investment Manager on behalf of the Fund for the ERB held in or through a managed account or separate account with respect to which the Investment Manager has decision making discretion. The term “Investment” as used in this Policy shall not include investments in publicly traded equities or publicly traded fixed-income securities or investment.

F. Investment Consultant – a Person under contract with, or retained by, the ERB for the purpose of providing recommendations, advice or services relating to the investment, management and related activities of the Fund or a portion thereof but who does not exercise decision making discretion with respect to any Investment. The term Investment Consultant includes without limitation all principals, general partners, managers, officers, directors, members, Affiliates, and employees of the Investment Consultant. The term Investment Consultant does not include attorneys, actuaries, accountants, financial analysts, or economists under contract with the ERB to provide those professional services to the agency in connection with the investment, management and related activities of the Fund. Members of the foregoing professions who are under contract with or retained by the ERB primarily for the purpose of acting as Investment Consultants are not excluded from the definition of Investment Consultant. Employees of the ERB or the State of New Mexico whose responsibilities include managing or otherwise providing services with respect to any Investment are not Investment Consultants for purposes of this Policy.

G. Investment Manager – a Person that is seeking to be or that is retained by the ERB to make and/or manage Investments. The term Investment Manager includes without limitation all principals, general partners, managers, officers, directors, members, Affiliates, and employees of the Investment Manager. Employees of the ERB or the State of New Mexico whose responsibilities include managing or otherwise providing services with respect to any Investment are not Investment Managers for the purposes of this Policy.

H. Placement Agent – a Person that directly, or indirectly through one or more intermediaries, is hired, engaged, retained, or otherwise made use of, contracted with, represents, provides services or a benefit to, or acts on behalf of, or receives Compensation from, an Investment Manager, Investment Consultant or any other Person with respect to any actual or proposed Investment where such Compensation is related in whole or in part upon the ERB making or agreeing to such Investment. Placement Agents must be registered with an appropriate regulatory body (e.g., SEC, FINRA, or state regulator).

The term “Placement Agent” includes, but is not limited to, any Person who receives or seeks to receive Compensation for providing an introduction or access to the ERB or the Fund and any Person who receives Compensation who subcontracts with, assists, facilitates, or otherwise aids, a Placement Agent. The term “Placement Agent” does not include (a) Persons or firms acting in a broker or dealer capacity for publicly traded or over the counter transactions in publicly traded equity and debt securities, and (b) brokers or dealers of privately negotiated transactions in secondary limited partnership interests and individual private companies, real estate properties or similar transactions.

I. Person - an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, or any other legal or commercial entity.

IV. INVESTMENT MANAGER RESPONSIBILITIES.

Investment Managers shall comply with Section 22-11-54, this Policy and any other applicable state and federal statutes and rules and fully cooperate with the ERB, its staff and its Investment Consultants to insure satisfactory compliance with such statutes, rules and this Policy. Investment Managers are required to:

A. Provide a statement disclosing whether a Placement Agent has been involved in the applicable Investment and if so, whether such Placement Agent is a Corporate Affiliate (the "Placement Agent Information Disclosure"), in a timely and complete manner to ERB Investment Division staff and its Investment Consultants, as applicable, as part of the ERB's Investment due diligence process.

B. If a Placement Agent has been involved in the applicable Investment and if such Placement Agent is not a Corporate Affiliate, then the following must also be included as part of the Placement Agent Information Disclosure:

1. A statement disclosing and otherwise identifying all of the natural persons employed, hired, engaged, retained or otherwise affiliated (including, but not limited to, third party contractors, advisors and consultants) with the Placement Agent that provided services with respect to the Investment being considered by the ERB.

2. A full resume for each partner, manager, principal, director, officer and supervisor (each a "Senior Person," and, collectively, "Senior Personnel") employed by or affiliated with the Placement Agent detailing that individual's education, professional designations, regulatory licenses, and investment experience. Each Senior Person's resume should state whether such Senior Person or an Immediate Family Member of the individual is, or was within the preceding three (3) years, a member of the ERB, its staff, or an Investment Consultant. All Senior Personnel must have a minimum of three (3) years experience in the securities or investment management industry.

3. Copies of all contracts, agreements, understandings and arrangements by and between the Investment Manager and the Placement Agent(s) with respect to the Investment being considered by the ERB.

4. Copies of all correspondence, letters, facsimiles, memoranda, and e-mails, by and between the Investment Manager and the Placement Agent(s) specifically related to or that otherwise specifically discuss ERB and the Investment being considered by the ERB.

5. A description of the Compensation provided or to be provided to a Placement Agent, including the value, timing, and nature of the Compensation with respect to the ERB and the Investment being considered by the ERB.

6. A description of the services to be performed, or which are currently being performed, by the Placement Agent and a statement whether the Placement Agent is

utilized with all prospective investors or a subset of prospective investors (e.g., public pension funds, pension funds within a certain geographic region, etc.).

7. The names of any board member of the ERB, its staff or Investment Consultants who may have communicated in any form with the Investment Manager regarding the hiring, engagement or retention of a Placement Agent with respect to the ERB and the Investment being considered by the ERB. Such communications shall not include communications (a) for the purpose of obtaining the disclosures required by this Policy, or (b) that were otherwise part of the ERB's and/or its Investment Consultants' Investment due diligence process and did not otherwise relate to the hiring, engagement or retention of a Placement Agent.

8. The Investment Manager must provide a statement that the Placement Agent (or any of its Affiliates, if applicable) is registered with one or more regulatory bodies (e.g., SEC, FINRA, or state regulator) and provide details of such registration, including any disciplinary actions, fines, or suspensions of registration.

9. A statement whether the Placement Agent, or any of its Affiliates, is registered as a lobbyist with the State of New Mexico.

C. If a Placement Agent has been involved in the applicable Investment and if such Placement Agent is a Corporate Affiliate, then the following must also be included as part of the Placement Agent Information Disclosure:

1. A statement disclosing and otherwise identifying all of the natural persons employed, hired, engaged, retained or otherwise affiliated (including but not limited to third party contractors, advisors and consultants) with the Placement Agent (collectively, the "Placement Agent Personnel") that provided services specifically with respect to ERB and the applicable Investment.

2. A general description of the Compensation provided or to be provided to the Placement Agent Personnel, including the value, timing, and nature of the Compensation specifically with respect to the Investment being considered by the ERB.

3. A description of the services to be performed, or which are currently being performed by, the Placement Agent Personnel and a statement whether the Placement Agent and Placement Agent Personnel are utilized with all prospective investors or a subset of prospective investors (e.g., public pension funds, pension funds within a certain geographic region, etc.).

4. The names of any board member of the ERB, its staff or consultants who may have communicated in any form with the Investment Manager or the Placement Agent Personnel regarding the hiring, engagement or retention of a Placement Agent with respect to the Investment being considered by the ERB. Such communications shall not include communications (a) for the purpose of obtaining the disclosures required by this Policy, or (b) that were otherwise part of the ERB's and/or its Investment Consultants' Investment due diligence process and did not otherwise relate to the hiring, engagement or retention of a Placement Agent.

5. The Investment Manager must provide a statement that the Placement Agent (or any of its affiliates, if applicable) is registered with one or more regulatory bodies (e.g., SEC, FINRA, or state regulator) and provide details of such registration, including any disciplinary actions, fines, or suspensions of registration.

6. A statement whether the Placement Agent, or any of its affiliates, is registered as a lobbyist with the State of New Mexico.

D. Provide updates of any changes to the information included in the Placement Agent Information Disclosure within fourteen (14) calendar days of the date that the Investment Manager knew or should have known of a change in the information originally provided. The foregoing update requirement will apply to the Placement Agent Disclosure in the form and substance it was provided as of the day it was provided based on the facts and circumstances at such time, i.e., there is no continuing obligation to update the Placement Agent Disclosure with respect to events that occur subsequent to such date.

E. Represent and warrant the accuracy of the information provided in the Placement Agent Information Disclosure in any final written agreement with respect to the Investment to which the Investment Manager and the ERB are a party. In addition, such written agreement shall, among other things, incorporate the continuing obligation to update such information as set forth in Section IV(D), and the ERB remedies set forth in Section VII.

V. INVESTMENT CONSULTANT RESPONSIBILITIES.

Investment Consultants shall comply with Section 22-11-54, this Policy, and any other applicable state and federal statutes and rules and fully cooperate with the ERB and its staff to insure satisfactory compliance with such statutes, rules and this Policy.

A. The use of Placement Agents to secure a contract or other agreement to provide Investment Consultant services to the ERB is prohibited; Placement Agents may not provide services or a benefit to, or act on behalf of, an Investment Consultant seeking to provide such services to the ERB.

B. Investment Consultants evaluating and recommending an Investment to the ERB are required to:

1. Provide potential Investment Managers with a copy of this Policy, the current standard form template of the ERB Investment Manager disclosure letter, and the current standard form template of the ERB Placement Agent disclosure letter in the event there is a Placement Agent (collectively, the "*ERB Form Disclosures*") at the time that discussions are initiated with respect to a proposed Investment being considered by the ERB, regardless of which party initiates the discussion.

2. Provide a written statement to the ERB Investment Division staff disclosing whether, to the best of its knowledge, a Placement Agent has been hired, engaged or retained by the Investment Manager or any of its principals, partners, employees, directors, supervisors, officers, managers, general partners or owners with

respect to an Investment being considered by the ERB or that was otherwise underwritten or recommended by the Investment Consultant.

3. Confirm to the ERB in writing that the ERB Form Disclosures have been satisfactorily completed and provided to the ERB Investment Division staff prior to the completion of the ERB Investment due diligence process and, in any event, before any recommendation is made to the ERB or any of its committees or subcommittees regarding such prospective Investment (the information being provided pursuant to Section V(B)(2) and (3) collectively being the "Investment Consultant Placement Agent Disclosure").

4. Provide updates of any changes to the information in the Investment Consultant Placement Agent Disclosure within fourteen (14) calendar days of the date that the Investment Consultant knew or should have known of a change in the information originally provided. The foregoing update requirement will apply to the Investment Consultant Placement Agent Disclosure in the form and substance it was provided as of the day it was provided based on the facts and circumstances at such time, i.e., there is no continuing obligation to update the Investment Consultant Placement Agent Disclosure with respect to events that occur subsequent to such date.

5. Represent and warrant in a recommendation provided by the Investment Consultant with respect to a proposed Investment being considered by the ERB, the accuracy of the information provided in the Investment Consultant Placement Agent Information Disclosure, to the best of its knowledge at the time the recommendation was made. In addition, such written recommendation must, among other things, incorporate the continuing obligation to update such information as set forth in Section V(D).

6. As requested by the ERB or its general Investment Consultant, compile a quarterly report, with respect to each Investment recommended or otherwise underwritten by the Investment Consultant, containing the names and amount of Compensation agreed to be provided to each Placement Agent, if any, in connection with each Investment required to be reported pursuant to this Policy.

VI. PLACEMENT AGENT RESPONSIBILITIES.

Placement Agents, including Placement Agents that are Corporate Affiliates of the applicable Investment Manager, shall comply with Section 22-11-54, this Policy and any other applicable state and federal statutes and rules and fully cooperate with the ERB and its staff to insure satisfactory compliance with such statutes, rules and this Policy. Placement Agents are required to:

A. Be registered with an appropriate regulatory or oversight body (e.g., SEC, FINRA, or state regulator), comply with all requirements of the regulatory or oversight body pertaining to such registration and the Placement Agent's activities, and maintain such registration in good standing for a period of six (6) months beyond the date of the closing of the applicable Investment.

B. Provide the ERB Investment Division staff, the applicable Investment Consultant, and the applicable Investment Manager written notice of any alleged infractions of the regulatory or oversight body's rules, regulations, or guidelines that apply to the

Placement Agent, or change in status of the Placement Agent's registration, immediately upon receipt of notice of such infraction for a period of six (6) months beyond the date of the closing of the applicable Investment.

C. In all communications with members of the ERB and its staff, regardless of the location or setting in which the communication occurs, identify themselves as Placement Agents, if they have not previously done so, in communications with the individual member of the ERB or staff member.

VII. ERB RESPONSIBILITIES.

Under the direction of the ERB, staff is responsible for:

A. Confirming that the Investment Manager and Investment Consultant have received a copy of this Policy and the ERB Form Disclosures, as the same may be amended from time to time, at the time that discussions are initiated with respect to the proposed Investment, regardless of which party initiates the discussion.

B. Confirming that the Placement Agent Information Disclosure has been satisfactorily completed and received prior to the completion of any due diligence and before any recommendation is made to the ERB or any of its committees or subcommittees regarding the proposed Investment.

C. Declining to retain or initiate an Investment with any Investment Manager if the Placement Agent Information Disclosure reveals that a Placement Agent or one of the Senior Personnel of the Placement Agent is not registered with an appropriate regulatory body or if such registration has been suspended or revoked.

D. Declining to retain or initiate an agreement or other contract with an Investment Consultant if the Placement Agent Information Disclosure has not been properly provided in accordance with this Policy.

E. Securing, in the final written agreement between ERB and the Investment Manager, the following remedies in the event it is discovered that the Investment Manager knew or should have known about any material omission or inaccuracy in the Placement Agent Information Disclosure or any other violation of this Policy:

1. The reimbursement of the greater of any management, advisory or consulting fees for a period of two years or an amount equal to the amounts paid or promised to be paid to the Placement Agent; and

2. The authority, at the ERB's sole discretion, to terminate immediately any agreement with the Investment Manager without penalty, to withdraw without penalty from a limited partnership, limited liability company or other investment vehicle, or to cease making further capital contributions and paying any fees on these uncalled commitments to a limited partnership, limited liability company or other investment vehicle without penalty.

F. Confirming that Investment Managers enter into a written contract providing that the Investment Manager shall bear all direct and indirect fees, costs and expenses

associated with any Placement Agent and that the ERB shall not directly or indirectly bear any such fees, costs or expenses.

G. Prohibiting any Investment Manager from soliciting new investments from ERB for a two (2) year period after the ERB or its staff or consultants become aware of a material violation of this Policy.

H. Confirming that a copy of the completed Investment Consultant Placement Agent Disclosure and the Placement Agent Information Disclosure are available to the ERB and any of its committees whenever a decision to make a proposed Investment is presented for consideration or approval.

I. Compiling a quarterly report containing the names and amount of Compensation agreed to be provided to each Placement Agent by each Investment Manager as reported in the Placement Agent Information Disclosures, and providing the report to the Board.

J. Reporting to the ERB at least quarterly any material violations of this Policy.