

GUIDELINES

The Newsletter of the New Jersey Executive Commission on Ethical Standards

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THE EXECUTIVE COMMISSION ON ETHICAL STANDARDS

Chairwoman Janice Mitchell Mintz, Commissioner Maureen Adams, Commissioner Gregory Adkins, Commissioner Alisha Griffin, Commissioner Laurie Gutshaw, and Commissioner Deborah Jones; Executive Director Rita L. Strmensky.

The cases presented in "Guidelines" are designed to provide State employees with examples of conflicts issues that have been addressed by the Executive Commission. Specific questions regarding a particular situation should be addressed directly to the Commission.

Holiday Gifts and Parties. Because the holidays will soon be upon us, this issue of the newsletter includes the Commission's Guidelines Governing Receipt of Gifts and Favors and the Commission's position on attendance at holiday parties.

GUIDELINES GOVERNING RECEIPT OF GIFTS AND FAVORS BY STATE OFFICERS AND EMPLOYEES

1. Each department shall require full disclosure by employees to the office of the department head through the Ethics Liaison Officer upon receipt of a gift or any other thing of value, from a person, corporation, or association with whom they have had contact in their official capacity.

2. Each department should designate an Ethics Liaison Officer to monitor compliance with specific procedures under which officers and employees shall proceed upon receipt of a gift or any other thing of value, from a person, corporation, or association with whom they have had contact in their official capacity.

3. All officers and employees should be instructed that any gift or other thing of value received from a person or corporation with whom they have had contact in their official capacity must be reported and remitted immediately to the Ethics Liaison Officer. Similarly, any favor, service, employment or offer of employment from such person or corporation must be reported immediately.

4. Unsolicited gifts or benefits of trivial or nominal value, such as complimentary articles offered to the public in general, and gifts received as a result of mass advertising mailings to the general business public may be retained by the recipient or the recipient's department for general use if such use does not create an impression of a conflict of interest or a violation of the public trust. An impression of a conflict may be created, for example, if an employee of a regulatory agency uses a pocket calendar conspicuously marked with the name of a company that it regulates or if an office in a State agency displays a wall calendar from a vendor, creating the impression of an endorsement. If circumstances exist which create a reasonable doubt as to the intention with which the gift or benefit was offered, the other paragraphs of these Guidelines govern.

5. The Ethics Liaison Officer shall determine whether the gift, favor, employment, offer of employment, or anything of value was given or offered with the intent to influence or reward the performance of the recipient's public duties and responsibilities, or whether it may be reasonably inferred to have been given or offered with the intent to influence the performance of his or her public duties and responsibilities, or whether the use of the item will create an impression of a conflict of interest or a violation of the public trust.

6. Upon a determination that there was an intent or it could be reasonably inferred that there was an intent to influence the performance of the recipient's public duties and responsibilities, or that the use of the item will create the impression of a conflict or a violation of the public trust,

the Ethics Liaison Officer shall return the gift or thing of value to the donor.

7. The Ethics Liaison Officer will have the responsibility of keeping the records of all such occurrences; names of the employees, individuals, and companies involved, and the final disposition of the gift or thing of value.

8. The assistance of the Director of the Executive Commission will be available to all Ethics Liaison Officers to aid them in the evaluation of individual cases.

Return of Gifts

If the Ethics Liaison Officer determines that a gift cannot be accepted, the Commission staff recommends that, in the case of non-perishable items, the gift be returned to the donor along with a brief note thanking the individual and advising that State ethics rules prohibit the acceptance of gifts.

Items of a perishable nature should be donated to a charitable organization. Listed below are the names of organizations that have been provided to the staff by various Ethics Liaison Officers.

If you have an organization that you would like to place on this list, please contact Donna Schmitz at (609) 292-1892 or FAX at (609) 633-9252.

Anchor House

482 Center Street
Trenton, NJ 08611
Contact: David Brown
(609) 396-8329

Lift Inc.

225 North Warren Street
Trenton, NJ 08618
Contact: Alma Hill
(609) 695-5456

Martin House

802 East State Street
Trenton, NJ 08606
Contact: Father McCormick
(609) 989-1040

Triad House

2205 Pennsylvania Road
Ewing, NJ 08638
(609) 771-1600

Good Samaritan Center

523 Stevens Street
Camden, NJ 08103

Neighborhood Center

278 Kaighn Avenue
Camden, NJ 08103

Millhouse Convalescent Center

325 Jersey Street
Trenton, NJ 08611
Contact: Kelly Steele
(609) 396-5378

Trenton Soup Kitchen

72 ½ Escher Street
Trenton, NJ 08605
Contact: Pierine Phayer
(609) 695-5456

Lighthouse Community Ser.

487 Washington Avenue
Newark, NJ
(973) 802-1802

Trenton Rescue Mission

P.O. Box 617
Trenton, NJ 08604
Contact: Executive Director

Leavenhouse

644 State Street
Camden, NJ 08102

Your Food Shelf

1500 Federal Street
Camden, NJ 08105

Cathedral Kitchen

15 N. 7th Street
Camden, NJ 08102

Make a Wish Foundation of NJ

P.O. Box 40281034
Salem Road
Union, NJ 07083
Contact: Norma Godwin
Executive Director
(908) 964-5055
1(800) 252-9474
FAX (908) 964-0082

El Centro

1035 Mechanic Street
Camden, NJ 08103

HOLIDAY PARTIES

The staff receives numerous inquiries during the holiday season about the appropriateness of State employees attending parties hosted by individuals or entities that their agencies deal with in an official capacity. The Commission's Attendance Rules, *N.J.A.C.* 19:61-6 et seq., are applicable to the majority of these invitations because most are extended to the State official because of his/her official position. In considering whether approval to attend an event should be granted, the Department head or designee, usually the Ethics Liaison Officer, must determine whether the party's host is an "interested party" and whether a legitimate State purpose will be

served by attending. An interested party is defined in *N.J.A.C. 19:61-6.2* as:

1. Any person, or employee, representative or agent thereof, who is or may reasonably be anticipated to be subject to the regulatory, licensing or supervisory authority of the State official's agency;
2. Any supplier, or employee, representative or agency thereof;
3. Any organization that advocates or represents the positions of its members to the State official's agency; or
4. Any organization a majority of whose members are as described in paragraphs 1 through 3 above.

A "person," as used in the definition, is a natural person, association, organization, firm, partnership or corporation. A "supplier" is a private sector person that is providing or seeking to provide or may reasonably be expected to supply goods and/or services to the State official's agency, including but not limited to, consultants, vendors and lessors.

In the case of purely social events sponsored by an interested party, the rule indicates that State officials cannot attend as guests of the sponsor.

SECONDARY EMPLOYMENT

At its July 27, 2000 meeting, the Commission considered a request for clarification regarding various outside activities engaged in by Division of Youth and Family Services' ("DYFS") employees. Over the past year, the staff has had similar requests from other ELOs. The issues that the Commission addressed

are compensated employment and volunteer activities for an entity that contracts with or receives funding from the Department of Human Services ("DHS") or a division of the DHS.

The Commission reviewed its existing precedent and authorized the staff to issue revised Secondary Employment Guidelines to reflect the positions summarized below.

In the absence of enabling legislation, code of ethics or other applicable guidelines, regulations, or policies that prohibit such activity, review of all outside employment situations involving grant or contractual relationships should take into account the following factors, in addition to the factors included in the existing Secondary Employment Guidelines, in determining whether approval may be granted.

- Whether the position in question was created as a result of the State grant or contract.
- Whether the State employee is in a policymaking or decisionmaking position.
- Whether the State employee had any involvement in the drafting or review of the RFP, the award of the grant, negotiation of the contract, or has oversight responsibilities in connection with the grant or contract.
- Whether the State employee, in his/her official capacity, has authority to refer clients to the outside entity.
- Whether the outside position is in the same geographic area as the employee's State position.

- Whether the State employee has had or can be expected to have any official interaction with the grant recipient or contractor in his/her official capacity.

As soon as a revision of the Commission's Secondary Employment Guidelines is completed, the Guidelines will appear in the newsletter and will also be available on the Commission's web site.

Visit Our Website

The Commission's website, at www.state.nj.us/lps/ethics, provides access to all the Commission's guidelines as well as the codes of ethics of all the principal departments and major agencies. In addition, previous editions of "Guidelines" can be read or downloaded.

Regarding "Guidelines"

Please direct any comments or questions about "Guidelines" to Jeanne A. Mayer, Esq., Deputy Director, Executive Commission on Ethical Standards, P.O. Box 082, Trenton, NJ 08625, (609) 292-1892.