



# GUIDELINES

The Newsletter of the New Jersey Executive Commission on Ethical Standards

28 W. State Street  
P.O. Box 082  
Room 1407  
Trenton, New Jersey 08625  
609-292-1892  
Web Site: <http://www.state.nj.us/lps/ethics>  
Email: [ethics@eces.state.nj.us](mailto:ethics@eces.state.nj.us)

## THE EXECUTIVE COMMISSION ON ETHICAL STANDARDS

Chair Brendan T. Byrne, Vice-Chair Susan Bass Levin, Commissioner Bradley M. Campbell, Commissioner Ida L. Castro, Commissioner James F. Keefe, Esq., Commissioner Sharon Anne Harrington, Commissioner Jack Lettiere, Commissioner William L. Librera, Commissioner Seema M. Singh; Executive Director Rita L. Strmensky

### Contents

Commission Cases	Page 1
ELO Meetings	Page 3
Proposed Rules	Page 3
Job Opening	Page 7
On-line Training	Page 8
Increase in Fines	Page 8

### COMMISSION CASE NO. 32-03

**SUBJECT:** Outside Activity.

**FACTS:** The State agency requested advice from the Commission regarding whether the agency's Executive Director was permitted to serve as an advisor, in his private capacity, to a nonprofit organization that had recently submitted a funding application to the agency.

**RULING:** The Executive Director was prohibited, under sections 23(e)(1), (e)(5) and (e)(7) of the Conflicts Law, from serving as an advisor to the nonprofit organization.

**REASONING:** The proposed outside activity was not approvable under the Commission's precedent. In addition, because the proposed activity involved an

organization that was a grant recipient, consideration was given to the factors set forth by the Commission in Case No. 20-00. Among these factors are whether the State employee is in a policymaking or decision-making position; whether the State employee had any involvement in the award of the grant or has oversight responsibilities in connection with the grant; and whether the State employee has had or can be expected to have any official interaction with the grant recipient in his/her official capacity. In the situation at issue, these factors were answered in the affirmative. The Executive Director was in a decision-making position and was also involved in awarding the grant. In addition, he had and was expected to continue to have interaction with the organization in his official capacity.

### COMMISSION CASE NO. 33-03

**SUBJECT:** Casino Post-Employment Restriction.

**FACTS:** A former Department Chief of Staff requested an opinion from the Commission as to the applicability of the section 17.2(c) casino post-employment restriction to him. The former State employee served as an Assistant Commissioner from June 20, 2000 until July 29, 2001. On July 30, 2001, he became Chief of Staff. He resigned the Chief of Staff position, effective February 22, 2002.

**RULING:** The Commission advised the former State employee that the 2-year casino post-employment ban of section 17.2(c) terminated on July 29, 2003, 2 years after he left the covered position of Assistant Commissioner.

**REASONING:** Section 17.2(c) prohibits a "person" from holding, directly or indirectly, an interest in, or holding employment with, or representing, appearing for,

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.

or negotiating on behalf of, any holder of, or applicant for, a casino license in connection with any cause, application or matter, or any holding or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development, permitting, licensure or any other matter whatsoever related to casino activity. This prohibition extends for a period of 2 years. Pursuant to section 17.2(a), a "person" means, among other positions, any State officer or employee subject to financial disclosure by law or executive order. The restrictions contained in section 17.2(c) also apply to any partnership, firm or corporation with which such "person" is associated or in which he/she has an interest.

During his tenure as Assistant Commissioner, the former State employee was required to file an FDS under Executive Order No. 2. The former employee served as Chief of Staff from July 30, 2001 through February 22, 2002. The Chief of Staff position was not listed in Executive Order No. 2 (Whitman 1994) as a required filing position. Under the Commission's precedent, the Chief of Staff's filings are for informational purposes only. Thus, the 2-year casino post-employment ban applicable to the former employee commenced on July 29, 2001 and expired on July 29, 2003, 2 years after he left the covered position of Assistant Commissioner.

#### **COMMISSION CASE NO. 43-03**

**SUBJECT:** Outside Activity.

**FACTS:** The Department requested an opinion from the Commission as to whether Division of Fire Safety Fire Inspectors and Fire Safety/Fire Code Assistance Representatives were permitted to serve as Fire Officials and Fire Inspectors within their municipalities. The Division is responsible for the certification of all Fire Officials and Fire Inspectors and also monitors the local entities to ensure that the Uniform Fire Code ("Code") is being enforced. Monitoring involves a schedule of random visits, as well as visits in response to complaints. The Division directs corrective action as needed and may assess fees and penalties. Thus, Division employees are monitoring their coworkers and colleagues in their secondary employment roles.

**RULING:** The Commission advised the Department that Division employees are prohibited under sections 16(b), 23(e)(1), and 23(e)(7) of the Conflicts Law from holding employment as municipal Fire Officials or Fire Inspectors.

**REASONING:** In reviewing the specifics of this situation under the Commission's Guidelines for Secondary Employment, the Commission found significant overlap between the State employees' official duties and their outside employment activities. The two positions dealt with the same general area; the duties and responsibilities of the two positions were similar; one position fell under the control or supervision of the other; the Division in which the employee worked had control or supervision over the outside position or decisions made there; decisions

made by the person in one position influence or may appear to influence actions taken in the other position; there were individuals, organizations, and entities that could reasonably be expected to deal with the State employees in both positions; and the outside position required that the person represent an entity other than the State before or against the State agency. The Commission has consistently denied a State employee's outside employment when there is significant overlap in the duties and responsibilities of the two positions, as there were in this situation.

The outside employment in question was also problematic under sections 16(b), prohibited representational activities; 23(e)(1), interest in substantial conflict with official duties; and 23(e)(7), appearance of impropriety. The Division is responsible for monitoring municipalities to ensure that the Code is being properly enforced. If the Division determined that a municipality had failed to enforce the Code properly, the Division directs corrective action and may impose penalties for noncompliance and could be faced with a situation of taking action against one of its own employees. In addition, the Fire Official would be the person required to respond to any Division charge that the municipality had failed to enforce the Code. This would require that the Fire Official represent the municipality before the Division, an activity prohibited under section 16(b) of the Conflicts Law. While section 16(c) provides for an exception where the State employee is representing a municipality, this exception does not apply in connection with the matter before the State employee's own agency and when the State is an adverse party.

As to certification, the Division may revoke a certification, assess a monetary penalty, or issue a letter of reprimand. An individual may contest any order imposing sanctions either before the Division's Review Committee or at an Administrative Hearing. Again, the Division would be placed in the position of taking action against one of its own employees. If the Division revoked the certification because of an infraction committed in his/her outside employment, the individual would no longer possess one of the requirements of his/her State position, a valid certification. Division employees are not required to hold employment as Fire Officials in order to maintain certification. The Commission has noted in the past that the integrity of the inspection system is paramount. A member of the public could legitimately question the objectivity of an investigation in which a Division employee was investigated by a coworker.

#### **COMMISSION CASE NO. 09-04**

**SUBJECT:** Representational Activity.

**FACTS:** The law firm with which a Commissioner of a County Board of Taxation was associated requested an opinion from the Commission as to whether the firm, a professional service corporation, was permitted, under section 16 of the Conflicts Law, to represent clients in connection with tax appeals before County Boards of

Taxation and in Tax Court. The Tax Board member was a senior partner in the firm. County Tax Boards are State agencies for the purposes of the Conflicts Law. Tax Board Commissioners serve part-time; thus, pursuant to section 13 (e) of the Conflict Law, they are special State officers.

**RULING:** The Commission advised the law firm that the County Board of Taxation member and the law firm were permitted, under section 16(a) of the Conflicts Law, to represent clients before County Boards of Taxation, other than the Board on which the member of the firm served.

The Commission also advised that the County Tax Board member and the firm were permitted to represent clients in Tax Court, as long as the firm member had no involvement in the particular matter in his role as a County Tax Board Commissioner.

The Commission also advised that requests for advice on the application of the rules of professional conduct should be directed to the Supreme Court Advisory Committee on Professional Ethics.

**REASONING:** Section 16(a) of the Conflicts Law prohibits special State officers and employees and any partnership, firm or corporation in which he/she has an interest from representing any party other than the State before the particular office, bureau, board, council, commission, authority, agency, fund or system in which such special State officer or employee holds office or employment. The prohibition does not apply to a court of record. *N.J.S.A.52:13D-16(c)*. In the present situation, the Commission determined that each of the independent tax boards could be viewed as a separate entity. The restrictions contained in section 16(a) apply to the partnership, firm or corporation under the following circumstances: (1) If the special State officer or employee is a shareholder, associate or a professional employee of a firm organized as a professional service corporation or (2) If the special State officer or employee owns or controls more than 10% of the stock of a corporation or more than 10% of the profits or assets of a firm, association or partnership.

The restrictions extend, therefore, to special State officers or employees personally and to any employees or officers of any professional service corporation with which he/she is employed or associated or is a shareholder. In addition, the restriction extends to those employees or officers of partnerships, firms or corporations in which the special State officer or employee has more than 10% ownership or control. If a special State officer or employee is employed by a company in which he/she does not have any more than a 10% interest, and the company is not a professional service corporation, the restrictions contained in the Conflicts Law pertain to him/her personally but do not extend to the corporation by which he/she is employed.

The Board member in question was a Commissioner on a County Board of Taxation and was also a senior partner in a professional service corporation. Thus,

the Board member and the firm were prohibited from representing clients before the County Board of Taxation on which he served. However, the Board member and the firm were permitted to represent clients before County Boards of Taxation, other than the one on which he served.

As to the representation of clients in Tax Court, the Commission determined that the Board member's and firm's representation should be restricted to matters in which the Board member had no involvement in his role as a County Tax Board Commissioner to avoid any appearance of impropriety, section 23(e)(7), or disclosure of information not generally available to the public, section 25.

### **Ethics Liaison Officers' Meetings**

Executive Order No. 10 (McGreevey, 2002), Section IV.3, requires that the Executive Commission staff hold quarterly meetings with all ethics liaison officers. The purpose of these meetings is to ensure that the requirements of the Conflicts Law and the Order are being understood and followed.

The following meetings have been scheduled for the remainder of the year:

Thursday, July 29, 2004, 9:00 a.m. to 10:30 a.m.

Monday, November 22, 2004, 9:00 a.m. to 10:30 a.m.

All meetings will be held in room 219/220, 20 West State Street (Mary G. Roebling Building), Trenton.

### **Executive Commission on Ethical Standards Rules**

The Commission recently proposed new rules and amendments to existing rules as follows:

**Proposed Amendments: N.J.A.C. 19:61-1.4, 2.2, 6.2, 6.4, and 6.5**

**Proposed New Rules: N.J.A.C. 19:61-6.9 and 6.10**

### **Summary**

The Executive Commission on Ethical Standards (Commission) is proposing amendments and new rules at *N.J.A.C. 19:61* to provide additional standards for agency codes of ethics and to reflect the requirements of P.L. 2003, c.160 and P.L. 2003, c.255 with respect to attendance at events and acceptance of things of value.

These rules are necessary so that all State officials in the Executive branch are aware of the standards that apply to their conduct and so that the public can be assured that State officials are not compromised in the discharge of their duties by having been the guests of interested parties at events sponsored or paid for by such entities or by having accepted things of value from interested parties.

The Commission proposes to amend *N.J.A.C.* 19:61-1.4 due to the statutory increase in the membership of the Commission from seven to nine members (P.L. 2003, c.160). The Commission proposes to change the quorum requirement of *N.J.A.C.* 19:61-1.4 from four members to five members.

*N.J.A.C.* 19:61-2.2 contains requirements for agency codes of ethics. The Commission proposes to amend *N.J.A.C.* 19:61-2.2 by adding two requirements.

New subsection (d) of amended *N.J.A.C.* 19:61-2.2 will require agency codes of ethics to include a provision that prohibits agency heads and deputy and assistant heads from having contractual or business relationships with employees or officers of the agency. This provision will provide appropriate notice to affected individuals.

New subsection (e) of amended *N.J.A.C.* 19:61-2.2 will require agency codes of ethics to include express notice to agency employees that there are other conflicts/ethics provisions that may apply to their conduct in addition to the agency code of ethics.

Subchapter 6 was originally adopted in 1995 and amended in 1997 to formalize standards for State officials regarding attendance at events sponsored by non-State agencies, acceptance of honoraria and compensation for published works and the use of one's official title for private fundraising. The Commission is proposing amendments and new rules at *N.J.A.C.* 19:61-6 to incorporate recent amendments to *N.J.S.A.* 52:13D-24 (P.L. 2003, c.255).

A section-by-section description of the proposed amendments and new rules at *N.J.A.C.* 19:61-6 follows:

At *N.J.A.C.* 19:61-6, the phrase "And Acceptance of Things of Value" is proposed to be added to the heading to accurately reflect the contents of the subchapter.

At *N.J.A.C.* 19:61-6.2, the Commission proposes to add definitions for the terms "allowable entertainment expenses," "reasonable expenditures for travel or subsistence," and "thing of value." These terms are used in applying the monetary limits on expenses and reimbursements and the limit on accepting gifts in P.L. 2003, c.255.

At *N.J.A.C.* 19:61-6.4, the Commission proposes to amend the criteria for benefits that a State official may accept from an interested party by incorporating the new statutory limits and the new statutory distinction between in-State and out-of-State travel. In addition, two sentences that were originally included in *N.J.A.C.* 19:61-6.4(c) are recodified as *N.J.A.C.* 19:61-6.4(d) and (e) for clarity. Existing *N.J.A.C.* 19:61-6.4(d) and (e) are recodified with no changes in text.

At *N.J.A.C.* 19:61-6.5, the Commission proposes

to amend the criteria for benefits that a State official may accept from an entity other than an interested party by incorporating the new statutory limits and the new statutory distinction between in-State and out-of-State travel. A sentence that was originally included in *N.J.A.C.* 19:61-6.5 (b) is recodified as *N.J.A.C.* 19:61-6.5(c) for clarity. Existing *N.J.A.C.* 19:61-6.5(c) is recodified as *N.J.A.C.* 19:61-6.5(d), and the Commission proposes to amend the language to prohibit a State official from accepting a fee or honorarium in connection with a speech or presentation. This amendment is required by the recent amendment to *N.J.S.A.* 52:13D-24 (P.L. 2003, c.255). The statutory amendment prohibits State officials from accepting honoraria and eliminates the previously existing exception for reasonable fees for speeches. *N.J.A.C.* 19:61-6.5(d) is recodified with no change in text. The Commission proposes to amend the first example in *N.J.A.C.* 19:61-6.5 to reflect the proposed amendments to *N.J.A.C.* 19:61-6.5 (b) and (d).

The Commission proposes a new rule at *N.J.A.C.* 19:61-6.9, which states that State officials cannot accept things of value from interested parties and provides direction for the return of things of value. Standards are provided to determine if items of trivial value can be accepted and used. Recordkeeping is required.

The Commission proposes a new rule at *N.J.A.C.* 19:61-6.10, which states the conditions under which State officials may accept things of value and/or items of trivial value from entities other than interested parties. Recordkeeping is required.

The Commission has determined that the comment period for this proposal shall be 60 days; therefore, pursuant to *N.J.A.C.* 1:30-3.3(a)5, this proposal is excepted from the rulemaking calendar requirement.

### **Social Impact**

The proposed amendment to *N.J.A.C.* 19:61-1.4 is required by the enactment of P.L. 2003, c.160 and only impacts the Commission's procedural framework necessary for conducting its business.

The effect of the proposed amendments to *N.J.A.C.* 19:61-2.2 is to provide notice of the standards applicable to agency heads, deputy and assistant heads and all State officers and employees and special State officers and employees. The proposed amendments will have a beneficial social impact in that there is a published standard of conduct for all agency heads, deputy and assistant heads and State officers and employees and special State officers and employees. There will also be a beneficial social impact by the enhancement of the public awareness of all the conduct standards applicable to all State officers and employees.

The proposed amendments and proposed new rules at *N.J.A.C.* 19:61-6 will affect all officers and employees of the Executive branch of State government.

The proposed amendments will provide additional standards for accepting benefits in connection with attendance at events. The proposed rules on accepting things of value will have a beneficial social impact because there will be a published standard of conduct for all officers and employees. There will also be a beneficial social impact because the public will have additional assurance that appropriate standards are being applied to the conduct of State officials to protect against any ethical impropriety in the discharge of public duties. Further, records will be maintained so that State officials and the public will be able to determine the circumstances under which any given State official accepted a thing of value.

### **Economic Impact**

The proposed amendment to *N.J.A.C.* 19:61-1.4 will have no discernible economic impact on the public, individual State officers or employees and special State officers or employees since the amendment only affects the Commission's organization.

The proposed amendments to *N.J.A.C.* 19:61-2.2 may have a minimal economic impact on State agencies because each agency must print sufficient copies of the amended codes of ethics for distribution to its employees.

The proposed amendments to *N.J.A.C.* 19:61-6 may have an economic impact on State agencies due to the new statutory limit of \$500.00 on reimbursement or payment of travel expenses under specified conditions. State agencies may be responsible for expenses that exceed the \$500.00 limit.

The proposed new rules at *N.J.A.C.* 19:61-6.9 and 6.10 may have a minimal impact on State agencies because additional recordkeeping will be required.

### **Federal Standards Statement**

The proposed amendments and new rules are not subject to any Federal standards, and, therefore, a Federal standards analysis is not required.

### **Jobs Impact**

The proposed amendments and new rules will not result in the generation or loss of jobs.

### **Agriculture Industry Impact**

The proposed amendments and new rules will have no impact on agriculture in the State of New Jersey.

### **Regulatory Flexibility Statement**

The proposed amendments and new rules impose no reporting, recordkeeping, or other compliance requirements upon small businesses, as defined under the Regulatory Flexibility Act, *N.J.S.A.* 52:14B-16 et seq. The proposed amendments at *N.J.A.C.* 19:61-1.4 and 2.2

provide for an increase in the number of members required for a quorum and provide notice of the standards applicable to agency heads, deputy and assistant heads and State officers and employees and special State officers and employees. The proposed amendments and new rules at *N.J.A.C.* 19:61-6 provide standards for accepting benefits in connection with attendance at events and for accepting things of value.

### **Smart Growth Impact**

The proposed amendments and new rules will have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

#### 19:61-1.4 Quorum

[Four] Five members of the Commission shall constitute a quorum. If a quorum does not attend a session of the Commission, the presiding member may adjourn the Commission, or, in the absence of all the members, the Executive Director or his or her designee may adjourn the Commission from day to day.

#### 19:61-2.2 Agency codes of ethics

(a) – (c) (No change.)

(d) Each agency code of ethics shall include a provision which expressly prohibits the agency head and deputy and assistant heads from having any personal contractual or business relationship with another officer or employee or special State officer or employee of the agency.

(e) Each agency code of ethics shall provide notice to its State officers and employees and special State officers and employees that in addition to the agency code of ethics they are also subject to the requirements of the New Jersey Conflicts of Interest Law, *N.J.S.A.* 52:13D-12 et seq. and applicable regulations of the Executive Commission on Ethical Standards, *N.J.A.C.* 19:61.

SUBCHAPTER 6. ATTENDANCE AT EVENTS, ACCEPTANCE OF HONORARIA, [AND] ACCEPTANCE OF COMPENSATION FOR PUBLISHED WORKS, AND ACCEPTANCE OF THINGS OF VALUE

#### 19:61-6.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Allowable entertainment expenses” means the costs for a guest speaker, incidental music and other ancillary

entertainment at any meal at an event, provided they are moderate and not elaborate or excessive, but does not include the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may occur as part of that event.

...

“Reasonable expenditures for travel or subsistence” means commercial travel rates directly to and from an event and food and lodging expenses which are moderate and neither elaborate nor excessive.

...

“Thing of value” includes, but is not limited to, compensation; money; a stock, bond, note or other investment in an entity; employment, offer of employment; gift; reward; honorarium; favor; goods, service; loan; forgiveness of indebtedness; gratuity; property or real property; labor; fee; commission; contribution; rebate or discount in the price of any thing of value; an automobile or other means of personal transportation; entertainment; or any other thing of value offered to or solicited or accepted by a State official in connection with his or her official position.

19:61-6.4 Attendance at an event sponsored by an interested party

(a) - (b) (No change.)

(c) The requirement and prohibition in (b) above need not apply if the event is designed to provide training, dissemination of information, or the exchange of ideas and the State official is making a speech, is participating in a panel at the event or is an accompanying resource person for the speaker and/or participant, subject to the reasonable approval of the department head. The direct or indirect benefit provided to the State official by the sponsor of the event [must be identical to the benefits provided to other speakers or panel participants.] may include the following:

1. Reimbursement or payment of actual and reasonable expenditures for travel or subsistence and allowable entertainment expenses associated with attending an event in New Jersey if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey;

2. Reimbursement or payment of actual and reasonable expenditures for travel or subsistence outside New Jersey, not to exceed \$500.00 per trip, if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey. The \$500.00 per trip limitation shall not apply if the reimbursement or payment is made by:

i. A nonprofit organization of which the State official is, at the time of reimbursement or payment, an active member as a result of the payment of a fee or charge for membership to the organization by the State; or

ii. A nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services.

(d) If an actual conflict or the appearance of a conflict could arise under the application of [this subsection] (c) above, (b) above shall govern.

(e) Approvals granted under [this exception] (c) above must be forwarded to the Commission for review.

Recodify existing (d)-(e) as (f)-(g). (No change in text.)

19:61-6.5 Attendance at an event sponsored by an entity other than an interested party

(a) (No change.)

(b) The State may pay the reasonable expenses of the State official associated with attending the event or may permit the State official to accept direct or indirect benefits. Direct or indirect benefits may include the following:

1. Reimbursement or payment of actual and reasonable expenditures for travel or subsistence and allowable entertainment expenses associated with attending an event in New Jersey if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey;

2. Reimbursement or payment of actual and reasonable expenditures for travel or subsistence outside New Jersey, not to exceed \$500.00 per trip, if expenditures for travel or subsistence and entertainment expenses are not paid for by the State of New Jersey. The \$500.00 per trip limitation shall not apply if the reimbursement or payment is made by:

i. A nonprofit organization of which the State official is, at the time of reimbursement or payment, an active member as a result of the payment of a fee or charge for membership to the organization by the State; or

ii. A nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services.

(c) An interested party shall not provide a direct or indirect benefit to the State official in order to facilitate his or her attendance.

[(c)] (d) A State official making a speech or presentation at the event [may] shall not accept an honorarium or fee from the sponsor.

[(d)] (e) (No change in text.)

#### *Examples*

An employee of Travel and Tourism at the Department of Commerce has been invited, by the Mexican Tourist Bureau, to attend a series of meetings on promoting tourism in both countries. The employee will be giving a speech at dinner on the final day of the meetings and has been offered a \$500.00 honorarium. [With proper approval, the] The employee may attend

the meetings [and may] but is not permitted to accept an honorarium in connection with his speech. [In addition, he] He may accept, directly or by reimbursement, actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State, not to exceed the statutory limit of \$500.00.

19:61-6.9 Solicitation or acceptance of a thing of value from an interested party

(a) A State official shall not solicit or accept, directly or indirectly, any thing of value from an interested party.

(b) A State official must disclose and remit to his or her Department head any offer or receipt of any thing of value from an interested party.

(c) The Department head shall return the thing of value to the donor or, in the case of a perishable thing of value, transfer it to an appropriate non-profit entity in the name of the donor.

(d) A State official or his or her agency may retain and use unsolicited gifts or benefits of trivial value, such as complimentary articles offered to the general public, and gifts received as a result of mass advertising mailings to the general business public 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 a State official in 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 endorsement. If circumstances exist which create a reasonable doubt as to the intention with which the gift or benefit was offered, (c) above shall govern.

(e) The Department head shall keep records of all such occurrences, names of the State officials, individuals, and companies involved, and the final disposition of the thing of value.

19:61-6.10 Solicitation or acceptance of a thing of value from an entity other than an interested party

(a) A State official must disclose to his or her Department head any offer or receipt of a thing of value from an entity other than an interested party.

(b) The Department head shall determine whether the thing of value was given or offered with the intent to

influence or reward the performance of the State official'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 violation of the public trust. The Department head shall also determine whether the thing of value is offered by a lobbyist or legislative agent, as defined in N.J.S.A. 52:13C-18, and whether its acceptance by a State official will exceed the calendar year limit of \$250.00 established by N.J.S.A. 52:13D-24.1.

(c) Upon a determination that there was an intent to influence 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 an impression of a conflict or a violation of the public trust, the Department head shall return the thing of value to the donor or, in the case of a perishable thing of value, transfer it to an appropriate non-profit entity in the name of the donor.

(d) Upon a determination that a State official may accept a thing of value from an entity other than an interested party, the Department head shall so notify the State official. Such notification shall include an indication of whether the State official, in accepting the thing of value, has exceeded or will exceed the \$250.00 calendar year limit with respect to a lobbyist or legislative agent.

(e) A State official or his or her agency may retain and use 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 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 a State official in 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, (c) above shall govern.

(f) The Department head shall keep records of all such occurrences, names of the State officials, individuals, and companies involved, and the final disposition of the thing of value.

**Job Opening.**

The Commission currently has an opening for a Legal Specialist/Investigator.

**SALARY:** Competitive Salary Commensurate with Experience (\$50,000 - \$65,000)

**DESCRIPTION OF JOB:** As assigned, investigates allegations of violations of the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq., on the part of State officers

and employees and special State officers and employees, completes documentation, and/or prepares reports concerning investigations; performs legal research and analysis in connection with investigations and requests for advice; performs other related duties as required.

**EXAMPLES OF WORK:**

- As assigned, assists Deputy Director and Executive Director with legal research and analysis.
- Conducts interviews and reviews documents pertinent to investigations.
- Analyzes, interprets and evaluates information obtained.
- Prepares clear, concise, accurate and informative reports of all investigative work.
- Abstracts statutes, rules, regulations and other legal data and compiles materials needed for the completion of investigations as well as for presentation of cases by the Deputy Director and Executive Director for Commission meetings.
- Reviews financial disclosure statements for completeness and for potential or existing conflicts of interest.
- Cooperates with other law enforcement agencies in related investigations.
- Testifies at administrative hearings.
- Prepares correspondence in the course of official duties.
- Distributes relevant legal decisions, requests for public records, and other legal communications and information. Coordinates requests for legal advice from the Attorney General's Office.

**REQUIREMENTS:**

**Education:** J.D. from an accredited law school.

**Experience:** Two (2) years of experience involving legal or legislative research, drafting of rules, regulations, legislation, amendments, and/or the interpretation of statutes.

Resumes should be forwarded to:  
Jeanne A. Mayer, Deputy Director  
Executive Commission on Ethical Standards  
P.O. Box 082  
Trenton, New Jersey 08625-0082  
FAX – (609) 633-9252  
Email – [jmayer@eces.state.nj.us](mailto:jmayer@eces.state.nj.us)

Reply by August 2, 2004.

**On-Line Training.**

The Commission has on-line training on its website and encourages all State officers and employees and special State officers and employees to utilize these training modules. Topics include attendance at events, Executive Order No. 10, gifts, outside activities, post-employment and recusal.

**Increase in Fines.**

The Conflicts Law was recently amended to increase the range of fines for violations of the statute from \$100-\$500 to \$500-\$10,000. This is the first time since 1972 that the fine structure has been increased.

**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**

**The Commission's newsletters are also  
available online at :**

**<http://www.state.nj.us/lps/ethics/newsletters.htm>**