

STATE ETHICS COMMISSION

CHAPTER 61

STATE ETHICS COMMISSION

Authority

N.J.S.A. 52:13D-12 et seq.

Source and Effective Date

R.2006 d.292, effective July 19, 2006.
See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

Chapter Expiration Date

Chapter 61, State Ethics Commission, expires on July 19, 2011.

Chapter Historical Note

Chapter 61, Executive Commission on Ethical Standards, was adopted as R.1972 d.32, effective February 18, 1972, and codified as N.J.A.C. 1:1 through 1:5. See: 4 N.J.R. 55(a). An amendment regarding the filing of advisory opinions and disciplinary actions with the Division of Administrative Procedure was adopted as R.1972 d.57, effective March 15, 1972, and codified at N.J.A.C. 19:20-5.2, with all Commission rules to be codified at N.J.A.C. 19:20. See: 4 N.J.R. 79(d). N.J.A.C. 19:20 was recodified to N.J.A.C. 19:61 by an administrative change, effective January 3, 1984. See: 16 N.J.R. 56(c). Pursuant to Executive Order No. 66(1978), Chapter 61 expired on July 7, 1991.

Chapter 61, Executive Commission on Ethical Standards, was adopted as R.1992 d.97, effective March 2, 1992. See: 23 N.J.R. 3436(b), 24 N.J.R. 864(a).

Subchapter 6, Attendance at Events, Acceptance of Honoraria, and Acceptance of Compensation for Published Works, was adopted as R.1995 d.108, effective February 21, 1995. See: 26 N.J.R. 4757(a), 27 N.J.R. 763(a).

Pursuant to Executive Order No. 66(1978), Chapter 61, Executive Commission on Ethical Standards, was readopted as R.1997 d.88, effective January 24, 1997. See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Chapter 61, Executive Commission on Ethical Standards, was re-adopted as R.2001 d.395, effective September 27, 2001. As part of the provisions of R.2001 d.395, Subchapter 7, Recusal Process, was adopted as new rules, effective November 5, 2001. See: 33 N.J.R. 2259(a), 33 N.J.R. 3757(b).

Chapter 61, Executive Commission on Ethical Standards, was re-adopted as R.2006 d.292, effective July 19, 2006. As a part of R.2006 d.292, effective August 21, 2006, Chapter 61, Executive Commission on Ethical Standards, was renamed State Ethics Commission. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ORGANIZATION

19:61-1.1 Scope of rules

The rules in this chapter shall constitute the practices and procedures of the State Ethics Commission and shall govern all activities of the Commission pursuant to N.J.S.A. 52:13D-12 et seq.

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

Substituted "State Ethics Commission" for "Executive Commission on Ethical Standards".

19:61-1.2 Meetings and offices

The Commission shall meet at the call of its Chair upon not less than three days notice to members thereof. The Commission may maintain offices in such place or places as it may deem advisable.

Amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

19:61-1.3 Presiding member

The Chair shall preside, but in case of absence or inability to serve, the Vice Chair shall temporarily preside in his or her stead. In the absence of both, the senior member attending shall preside. Seniority of the members of the Commission shall be determined by the order of their respective appointments to the Commission.

Amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

19:61-1.4 Quorum

Four 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.

Amended by R.2004 d.390, effective October 18, 2004.

See: 36 N.J.R. 2316(a), 36 N.J.R. 4842(a).

Substituted "five" for "four" preceding "members of the Commission".

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

Substituted "Four" for "Five".

19:61-1.5 Executive or open meetings

Meetings of the Commission, including open and executive sessions, shall be conducted in compliance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.

19:61-1.6 Majority vote

No determination of the Commission shall be rendered unless supported by the vote of members constituting a majority of the quorum present. Minutes of Commission meetings may be approved by a majority of eligible members. A member is eligible to vote on minutes of meetings that he or she attended.

19:61-1.7 Conflict with agency rules

Any conflict between the rules established by the Commission and those developed by the various State agencies to

implement their respective Codes of Ethics shall be resolved in favor of the rules established by the Commission.

19:61-1.8 Enlargement of time

A reasonable extension of time for the taking of any action for which these rules prescribe a time limitation may be granted by the Commission upon a clear showing of good cause and the absence of prejudice.

19:61-1.9 Administrative head

The Commission may appoint an Executive Director who shall serve as the administrative head of the Commission. In the absence of an administrative head, the Chair may designate an individual to serve as acting administrative head.

Amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

19:61-1.10 Definitions

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

"Chair" and "Vice Chair" shall mean the members of the Commission designated by the Governor to serve as the Chair and Vice Chair thereof.

"Cohabitant" shall mean any person, whether related by blood or adoption or not, who is actually residing with the State official.

"Commission" shall mean the State Ethics Commission continued and established in but not of the Department of Law and Public Safety by the provisions of N.J.S.A. 52:13D-12 et seq.

"Financial disclosure statement" means a comprehensive statement of assets, liabilities, business interests and sources of income which persons occupying certain positions in State government are required to file annually with the Commission pursuant to statute or Executive Order.

"Person" means any natural person, government entity, association, organization, firm, partnership or corporation.

"Preliminary investigation" means the investigative process undertaken by the Commission and/or its staff and/or a State agency's ethics liaison officer or State agency's ethics committee with regard to an allegation prior to review of and final action on the allegation by the Commission at a public meeting, pursuant to either N.J.A.C. 19:61-3.1(h) or (i).

"Relative" shall mean an individual's spouse or the individual's or spouse's parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother or half sister, whether the relative is related to the

Amended by R.2006 d.292, effective August 21, 2006.
See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).
Rewrote the section.

19:61-5.5 Positions in State government with responsibility for matters affecting casino activity

(a) The Commission has, in consultation with the Attorney General's Office, determined that the following positions in State government have responsibility for matters affecting casino activity and therefore are subject to the restrictions of the Casino Ethics Amendment (N.J.S.A. 52:13D-17.2):

1. Department of Environmental Protection; Land Use Regulation Program; or successor agencies:

i. Bureau of Coastal Regulation or successor agency (One chief and three regional supervisors classified as Supervising Environmental Specialists or successors performing those functions);

ii. Tidelands Resources Council or successor agency (members of the Council);

2. Department of Community Affairs (Division of Codes and Standards) or successor agencies:

i. Bureau of Construction Project Review or successor agency (Chief; assistant chief; supervisor, plans approval or successors performing those functions);

ii. Bureau of Housing Inspection or successor agency (Chief; supervisor, Housing Code Compliance assistant regional supervisor, Housing Code Enforcement or successors performing those functions);

3. State Athletic Control Board or successor agency (Commissioner; three members or successors performing those functions).

(b) The list in (a) above is in addition to the persons identified in N.J.S.A. 52:13D-17.2(a) as being covered by the provisions of the Casino Ethics Amendment.

Recodified from 19:61-5.5 to 19:61-5.6 by R.1989 d.520, effective October 2, 1989.

See: 21 N.J.R. 1508(a), 21 N.J.R. 3179(c).

Recodified from 19:61-5.6 by R.1992 d.97, effective March 2, 1992.

See: 23 N.J.R. 3436(b), 24 N.J.R. 864(a).

Deleted (b)1, definition of "person". Recodified old 19:61-5.5 to 19:61-5.4.

Amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Amended Agency references.

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

In (a), deleted "Executive" preceding "Commission"; and deleted "on Ethical Standards" preceding "has, in consultation with".

19:61-5.6 Financial disclosure statements

(a) On an annual basis, each State agency shall, upon request of the Commission, identify each State official within the agency who is required by law or Executive Order to file a financial disclosure statement.

(b) The Commission shall provide instructions for filing the financial disclosure statement to each person identified by a State agency as a person required by law or Executive Order to file a financial disclosure statement.

(c) The Commission shall impose a civil penalty for failure to file a financial disclosure statement. The penalty shall be \$50.00 for each day of the violation, and may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S.A. 2A:58-1).

(d) A financial disclosure statement required to be submitted to the Commission by law, regulation or executive order shall be made available to the public on the Internet site of the Commission promptly after receipt and review by the Commission.

New Rule, R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

19:61-5.7 Restrictions on employment

(a) Relatives of persons in the positions in (a)1 through 6 below in State government are subject to the employment restrictions set forth in this subsection and (b) below.

1. A relative of the Governor shall not be employed in an office or position in the unclassified service of the civil service of the State in the Executive Branch of State government.

2. A relative of a commissioner or head of a principal department in the Executive Branch of State government shall not be employed in an office or position in the unclassified service of the civil service of the State in the principal department over which the commissioner or head of the principal department exercises authority, supervision, or control.

3. A relative of an assistant or deputy commissioner or head of a principal department in the Executive Branch of State government who is employed in an office or position in the unclassified service of the civil service of the State may be employed in the principal department in which the assistant or deputy commissioner or head serves, but shall not be assigned to a position over which the assistant or deputy commissioner or head exercises authority, supervision, or control.

4. A relative of a head or assistant head of a division of a principal department in the Executive Branch of State government who is employed in an office or position in the unclassified service of the civil service of the State may be employed in the principal department in which the head or assistant head of a division serves, but shall not be assigned to a position over which the head or assistant head exercises authority, supervision, or control.

5. A relative of an appointed member of a governing or advisory body of an independent authority, board, commission, agency or instrumentality of the State shall not be

employed in an office or position in that independent authority, board, commission, agency or instrumentality.

6. A relative of an appointed New Jersey member of a governing body of a bi-state or multi-state agency shall not be employed in an office or position in that bi-state or multi-state agency, to the extent permitted by law.

(b) A State official of a State agency in the Executive Branch shall not supervise, or exercise authority with regard to personnel actions over, a relative or cohabitant of the State official.

(c) All State agencies subject to the jurisdiction of the Commission shall develop written procedures that require State officials to disclose information sufficient to determine whether the employment of any individual within the agency is prohibited by (a) or (b) above. A State official shall contact his or her agency ethics liaison officer or the Commission for guidance as necessary to determine whether an employment relationship is prohibited by (a) or (b) above.

New Rule, R.2006 d.292, effective August 21, 2006.
See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

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

19:61-6.1 Applicability

The rules in this subchapter apply to all State officials in the Executive branch of State government.

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.

“Approval” means, for the purposes of N.J.A.C. 19:61-6.4 and 6.5, written permission from the department head to attend and/or participate in an event and/or to accept direct or indirect benefits in connection with attendance.

“Department head” means the administrative or executive head of the State official’s agency or his or her designee.

“Direct benefit” means acceptance by a State official from the sponsor of an event or any other person of travel, meals,

accommodation, waiver of conference or event fee or any other costs associated with attending the event for which no payment is made by the State but is not intended to mean nominal refreshments such as nonalcoholic beverages and snacks (doughnuts, pastries and cookies).

“Event” means a meeting, conference, seminar, speaking engagement, symposium, training course, ground-breaking, ribbon-cutting, meal, open house, cocktail party, fundraiser, holiday party, social function, or similar event that takes place away from the State official’s work location, is sponsored or co-sponsored by a supplier or a non-State government source and the invitation for which is extended to the State official because of his or her official position.

“Indirect benefit” means acceptance by a State official from the event sponsor or any other person of reimbursement for costs of travel, meals, accommodation, event fees, or any other costs associated with attending the event for which no reimbursement is made by the State but is not intended to mean nominal refreshments such as nonalcoholic beverages and snacks (doughnuts, pastries and cookies).

“Interested party” means:

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 agent 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.

“Personal funds” means funds of a State official. It does not include funds that are loaned, advanced, promised or reimbursed to a State official for any purpose by an interested party.

“Published work” means any tangible medium of expression, including, but not limited to, literary, pictorial, graphic and sculptural matter; sound recordings; and software.

“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.

“Supplier” means any person that is providing or is seeking to provide or may reasonably be expected to provide goods and/or services to the State official’s agency, including, but not limited to, consultants, vendors and lessors.

“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 indebt-

edness; 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; meal; or any other thing of value offered to or solicited or accepted by a State official in connection with his or her official position.

Amended by R.2004 d.390, effective October 18, 2004.
See: 36 N.J.R. 2316(a), 36 N.J.R. 4842(a).

Added "Allowable entertainment expenses", "Reasonable expenditures for travel or subsistence", and "Thing of value".

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

Deleted definitions "Commission", "Person" and "State official"; in definition "Approval", deleted "; to accept an honorarium or fee;"; in definition "Event", inserted "a supplier or"; and in definition "Supplier", deleted "private sector" following "means any".

19:61-6.3 Granting of approval

(a) For the purposes of N.J.A.C. 19:61-6.4 and 6.5, when a department head grants approval to attend an event, the department head shall determine whether a legitimate State purpose will be served by attendance and shall consider the provisions of the Conflicts of Interest Law, the uniform ethics code and the agency code of ethics, any applicable Executive Orders, the guidelines and rules of the Commission, any departmental administrative policies and any other relevant considerations. Relevant considerations include, but are not limited to:

1. The identity of the sponsor;
2. The purpose of the event;
3. The identity of other expected participants;
4. Whether attendance and/or participation in the event will assist the State official in carrying out his or her official duties and support the mission of the agency; and
5. The monetary value and character of the costs and benefits provided by the sponsor, including whether the costs and benefits are comparable to those offered to or purchased by other attendees.

(b) Approval shall be requested in writing on the form provided in N.J.A.C. 19:61-6.8. Such forms shall be retained by the State agency for a period of five years from the date of approval of the form.

(c) When an agency has numerous divisions or similar subunits with very diverse missions, the department head may request that the Commission permit that such divisions rather than the department be treated as agencies for the purposes of this subchapter. The department head shall provide the Commission with information identifying the diversity of the missions of the divisions and justifying their separate treatment as agencies.

Amended by R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

In (b), amended N.J.A.C. reference.

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

In the introductory paragraph of (a), substituted "uniform ethics code and the agency" for "departmental"; in (a)4, substituted "and/or" for "/"; rewrote (a)5; in (b), substituted "the form" for "a form similar to that", and substituted "State agency" for "department".

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

(a) The State official shall secure the prior approval of the department head to attend such an event.

(b) Except as provided in (c) below:

1. The State shall pay the reasonable expenses of the State official associated with attending the event.

2. Neither the State official nor the State shall receive any direct or indirect benefit from any other source.

(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 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;

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

iii. Any agency of the Federal government, any agency of another state or of two or more states, or any political subdivision of another state.

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

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

(f) The State official may pay his or her own expenses with his or her personal funds.

(g) The State official shall not accept an honorarium or fee for a speech or presentation at an event covered by this section.

Examples

An employee of the Department of Environmental Protection has been invited to attend a conference of the Association of Environmental Authorities and has been asked to present a short program to explain a new series of forms being proposed by the Department. The Association has offered to waive the \$200.00 conference fee; the conference program includes morning and afternoon refreshments and lunch. If the Department head approves the employee's attendance and participation in the conference, the employee may accept the waiver of the fee and the refreshments and meal included in the program. A copy of the Department head's approval must be forwarded to the Commission.

The Motor Vehicle Commission (MVC) is considering the purchase of new pollution testing equipment. One of the companies that plans to submit a bid invites several MVC employees to a demonstration of the equipment to be held at a hotel conference center. A seafood buffet will be served after the demonstration. With proper approval, the employees may attend the demonstration, but because the company plans to submit a bid to provide this equipment and is therefore an interested party with respect to the MVC, the employees may not partake of the seafood buffet at the expense of the vendor. The employees may, however, pay the cost of the buffet personally.

Three employees from different units of the Department of Transportation are responsible for weekly monitoring of a construction project. Each Friday morning, they meet with the contractor's representative at the site field office to review the week's progress and to assess projected schedules. The meetings generally last one to two hours; coffee is available, but no other refreshments or meals are served or offered. Because no direct or indirect benefits are offered or provided and because the meetings are part of the employees' job responsibilities, the meetings are not "events" for the purposes of this subchapter.

Amended by R.1995 d.329, effective June 19, 1995.

See: 27 N.J.R. 1376(a), 27 N.J.R. 2465(a).

Amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

In (e), added third Example.

Amended by R.2004 d.390, effective October 18, 2004.

See: 36 N.J.R. 2316(a), 36 N.J.R. 4842(a).

Rewrote (c); added new (d) and (e); recodified existing (d) and (e) as (f) and (g).

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

In (c)2i, deleted "or" from the end; in (c)2ii, inserted "; or" at the end; added (c)2iii; and in "Examples", substituted "Motor Vehicle Commission (MVC)" for "Division of Motor Vehicles", and "MVC" for "Division" two times.

Case Notes

Agency commissioner who accepted meals from and participated in basketball league sponsored by regulated industry would be barred from public employment for five years. Executive Commission on Ethical Standards v. Salmon, 96 N.J.A.R.2d (ETH) 1.

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

(a) The State official shall secure the prior approval of the department head to attend such an event.

(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;
 - ii. A nonprofit organization that does not contract with the State to provide goods, materials, equipment, or services; or
 - iii. Any agency of the Federal government, any agency of another state or of two or more states, or any political subdivision of another state.

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

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

(e) Under no circumstances shall a State official accept entertainment collateral to the event, such as a golf outing, or meals taken other than in a group setting with all attendees, or reimbursement therefor.

Examples

An employee of the Commerce, Economic Growth and Tourism Commission has been invited, by the Mexican Tourist Bureau, an agency of the Mexican government, 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. The employee may attend the meetings but is not permitted to accept an honorarium in connection with his speech. 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.

A local non-profit organization would like to hold a dinner/fundraiser honoring a Technical Assistant at the Department of Insurance who has been a long-time supporter of the organization. The organization plans to use the Technical Assistant's picture, name and official title on the promotional literature. The Technical Assistant may attend the event but is prohibited from allowing such use of his official title for fundraising purposes.

Amended by R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Deleted (b); and recodified former (c) through (e) as (b) through (d).
Amended by R.2004 d.390, effective October 18, 2004.
See: 36 N.J.R. 2316(a), 36 N.J.R. 4842(a).

Rewrote the section.
Amended by R.2006 d.292, effective August 21, 2006.
See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

In (b)2i, deleted "or" from the end; in (b)2ii, inserted "; or" at the end; added (b)2iii; and in "Examples", substituted "the Commerce, Economic Growth and Tourism Commission" for "Travel and Tourism at the Department of Commerce".

19:61-6.6 Use of official title for private fundraising

A State official shall not permit the use of his or her official title for the purpose of fundraising for a private organization.

New Rule, R.1997 d.88, effective February 18, 1997.
See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Former section recodified to N.J.A.C. 19:61-6.7.

19:61-6.7 Compensation for published work(s)

(a) A State official shall not accept compensation for published work(s) created as part of his or her official duties on State time utilizing State resources, but may accept compensation for published works not created as part of his or her official duties.

(b) A State official shall secure the permission of the department head to accept compensation for published work(s) not created as part of his or her official duties. In determining whether such approval can be granted, the Department head shall consider the provisions of the Conflicts of Interest Law, the uniform ethics code, the agency code of ethics, any applicable Executive Orders, the Commission's Guidelines Governing Outside Activities, any other applicable guidelines or rules of the Commission, any applicable administrative policies of the agency, and the following conditions:

1. Whether compensation is being paid by an interested party;

2. Whether the published work(s) uses or discloses information not generally available to the public;

(c) The State official shall prepare the published work(s) on his or her own time, without using the services of other State officials or resources owned by the State.

(d) The State official shall not use his or her official title in any way in soliciting compensation.

Examples

As part of his official duties, a Department of Transportation employee evaluates surveying equipment and trains Department employees on its use. The employee recently completed an in-depth evaluation of ten different types of surveying instruments and made a recommendation to the purchasing unit. The employee would like to publish the entire report in Transportation Magazine. He has been offered \$500 for the article. The Department must make a policy decision as to whether the article may be published. The employee is prohibited from accepting compensation for the article, even if the Department grants permission for the publication, since it was created as part of his official duties prepared on State time and utilizing State resources.

An Environmental Technician at the Department of Environmental Protection has been asked to write an article for an environmental journal on how New Jersey's automobile emission standards differ from those of Pennsylvania. He has been offered \$500 for the article. The Environmental Technician is permitted to publish the article and receive compensation since it is on a subject matter related to, but not a part of, his official duties, so long as he prepares the article at home, on his own time, without using any State resources.

Recodified from 19:61-6.6 and amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Substantially amended (b)1 and (b)2; and recodified (b)3 and (b)4 as (c) and (d). Former section recodified to N.J.A.C. 19:61-6.8.

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

In introductory paragraph of (b), inserted "the uniform ethics code", substituted "agency" for "departmental" preceding "code of ethics", deleted "departmental" preceding "administrative policies" and inserted "of the agency"; and in (d), deleted "and shall indicate that his or her views do not represent those of the State" from the end.

Amended by R.2007 d.67, effective February 20, 2007.

See: 38 N.J.R. 4685(a), 39 N.J.R. 670(a).

In the introductory paragraph of (b), substituted "Governing Outside Activities" for "for Secondary Employment".

19:61-6.8 Approval request form

(a) State officials shall use the following form to request approval to attend events.

**REQUEST FOR APPROVAL FOR
ATTENDANCE AT EVENT**

DEPARTMENT OF _____
 Name _____ Division _____
 Title _____ Telephone _____ FAX _____
 E-mail address _____
 Event _____
 Sponsor _____
 Is the sponsor an "interested party"? Yes ___ No ___
 Is the State official a speaker, panel participant or resource person? Yes ___ No ___
 Is the sponsor an agency of the federal government, one or more other states or a political subdivision thereof? Yes ___ No ___
 Is the sponsor a nonprofit organization? Yes ___ No ___
 If Yes, is the employee or agency a member? Yes ___ No ___
 Does the nonprofit organization have any contracts with the State? Yes ___ No ___
 Location _____ Date(s) _____
 Overnight accommodation required? Yes ___ No ___
 Out-of-state travel required? Yes ___ No ___
 Estimated cost? \$ _____
 Agency to pay cost? Yes ___ No ___
 Sponsor to pay cost? Yes ___ No ___
 Employee to pay cost? Yes ___ No ___
 Reason for attendance: _____

Will sponsor offer an honorarium or fee? Yes ___ No ___

Employee Signature _____ Date _____

NOTE: Any substitutions or changes of circumstances must be reported.

Attendance approved Yes ___ No ___ Note: Acceptance of honoraria or fees is not permitted.

Conditions: _____

Signature _____ Date _____

Recodified from 19:61-6.7 and amended by R.1997 d.88, effective February 18, 1997.

See: 28 N.J.R. 4755(b), 29 N.J.R. 593(a).

Added the "Note" relating to substitutions or changes to the request form.

Amended by R.2004 d.390, effective October 18, 2004.

See: 36 N.J.R. 2316(a), 36 N.J.R. 4842(a).

Rewrote the section.

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

Section was "Sample approval request form". Rewrote the section.

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

(a) Except in accordance with the Commission's rules on attendance at events, N.J.A.C. 19:61-6.4 and 6.5, no State official, whether by himself or herself or through his or her spouse, or member of his or her family or through any partner or associate, shall solicit or accept, directly or indirectly, any thing of value that is related in any way to the State official's public duties.

(b) A State official must disclose and remit to his or her Department head any offer or receipt of any thing of value that is related in any way to the State official's public duties.

(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 nonprofit 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. The provisions of (b), (c) and (e) above do not apply to items of trivial value.

(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.

New Rule, R.2004 d.390, effective October 18, 2004.

See: 36 N.J.R. 2316(a), 36 N.J.R. 4842(a).

Amended by R.2007 d.67, effective February 20, 2007.

See: 38 N.J.R. 4685(a), 39 N.J.R. 670(a).

Rewrote (a); in (b), substituted "that is related in any way to the State official's public duties" for "from an interested party"; and in (d), added the last sentence.

19:61-6.10 (Reserved)

New Rule, R.2004 d.390, effective October 18, 2004.

See: 36 N.J.R. 2316(a), 36 N.J.R. 4842(a).

Amended by R.2006 d.292, effective August 21, 2006.

See: 38 N.J.R. 1804(a), 38 N.J.R. 3318(a).

In (b) and (d), deleted the last sentence.

Repealed by R.2007 d.67, effective February 20, 2007.

See: 38 N.J.R. 4685(a), 39 N.J.R. 670(a).

Section was "Solicitation or acceptance of a thing of value from an entity other than an interested party".

SUBCHAPTER 7. RECUSAL PROCESS

19:61-7.1 Purpose

The purpose of this subchapter is to provide State officials with guidance regarding the circumstances under which a State official must recuse himself or herself and procedures as to properly effectuating a recusal.