

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

"State official" means any State officer or employee or special State officer or employee as defined in the Conflicts of Interest Law, N.J.S.A. 52:13D-13(b) and (e).

"Supplier" means any private sector 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.

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 departmental 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/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, benefits and/or honoraria provided by the sponsor, including whether the costs, benefits and/or honoraria are comparable to those offered to or purchased by other attendees.

(b) Approval shall be requested in writing on a form similar to that provided in N.J.A.C. 19:61-6.8. Such forms shall be retained by the department 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.

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 must be identical to the benefits provided to other speakers or panel participants. If an actual conflict or the appearance of conflict could arise under the application of this subsection, (b) above shall govern. Approvals granted under this exception must be forwarded to the Commission for review.

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

(e) 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 Division of Motor Vehicles is considering the purchase of new pollution testing equipment. One of the companies that plans to submit a bid invites several Division 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 Division, 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.

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

(c) A State official making a speech or presentation at the event may accept an honorarium or fee from the sponsor.

(d) 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 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 a dinner on the final day of the meetings and has been offered a \$500.00 honorarium. With proper approval, the employee may attend the meetings and may accept an honorarium in connection with his speech. In addition, 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.

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).

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 departmental code of ethics, any applicable Executive Orders, the Commission's Guidelines for Secondary Employment, any other applicable guidelines or rules of the Commission, any applicable departmental administrative policies, 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 and shall indicate that his or her views do not represent those of the State.

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.

19:61-6.8 Sample approval request form

(a) The following form, or one containing substantially similar elements, may be used to request approval to attend events, accept honoraria, and/or accept compensation for published works.

REQUEST FOR APPROVAL FOR ATTENDANCE AT EVENT

DEPARTMENT OF _____

Name _____ Division _____

Title _____ Telephone _____ FAX _____

Event _____

Sponsor _____

Is the sponsor an "interested party"? 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 ___

Amount of honorarium \$ _____

Employee Signature _____ Date _____

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

Attendance approved Yes ___ No ___

Acceptance of honorarium approved Yes ___ No ___

Conditions: _____

Employee 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.