



Ethics Bulletin

The Newsletter of the New Jersey State Ethics Commission

New Jersey State Ethics Commission
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THE STATE ETHICS COMMISSION

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CONTENTS

Introduction to Ethics Standards	Page 1
Recent Commission Cases	Page 2
Secondary Employment in the Workplace	Page 2
Gifts and Attendance at Events	Page 3
Misuse of Official Position	Page 4

AN INTRODUCTION TO NEW JERSEY EXECUTIVE BRANCH ETHICS STANDARDS

Employees of New Jersey State government come from diverse work backgrounds including federal, county or municipal government positions and positions in the private sector. In those former positions, employees have been subject to various corporate codes of conduct or federal or local government ethics laws and regulations. Upon commencing employment with a State agency in the executive branch of State government, employees are subject to ethics standards established by New Jersey statutes, regulations and executive orders. Ethics standards and requirements for Executive branch employees are different in many respects from those applicable to the private sector or federal and local government employees.

New employees in the executive branch become aware of ethics responsibilities and obligations through several means. They receive the Uniform Ethics Code ("UEC"), which contains the ethics standards applicable to all executive branch employees, and the Plain Language Guide to New Jersey's Executive Branch Ethics Standards ("Plain Language Guide"), which explains ethics standards

in a narrative format. If a supplemental code of ethics has been adopted by an agency to address its particular needs and problems, a copy will be provided to a new employee.

All employees must complete an Outside Activity Questionnaire ("OAQ"). The OAQ requires, among other things, disclosure of secondary employment and volunteer activities. The Ethics Liaison Officer ("ELO") reviews the completed OAQ to ensure that outside activities do not conflict with the State employee's official duties and responsibilities.

Pursuant to Executive Order 24 (Christie) certain categories of employees, including agency heads, assistant or deputy heads, directors and assistant directors, must file a Financial Disclosure Statement ("FDS") with the State Ethics Commission ("Commission") within 120 days of commencing employment. In each subsequent year of employment, the FDS must be filed on or before May 15th.

The above-referenced ethics documents and mandatory ethics training are designed to ensure that employees understand the ethics rules that apply to them during and after their State employment. In the event an ethics question arises, the UEC and the Plain Language Guide also serve as reference materials for employees. Additionally, your agency's ELO is an important resource for employees whenever potential ethics issues arise in the workplace or in connection with your State employment. The ELO, designated pursuant to Executive Order 24, is an agency employee who has been trained in the ethics requirements and can assist employees with ethics issues. Your ELO's

contact information is available on the Commission's website: <http://nj.gov/ethics/agency/>.

If you have not received the ethics documents mentioned in this article, or if you have any questions regarding executive branch ethics, please contact your ELO.

TRAINING REQUIREMENTS

The State Ethics Commission's training plan requires that newly-hired or appointed State employees and special State officers complete the Commission's comprehensive ethics training program, either in-person or on-line, within 60 days of commencement of their State employment or office. (In special circumstances, the Commission permits an employee to substitute the ethics brochure, Ethics Standards in Brief, for in-person or on-line ethics training.) Thereafter, State employees and officers must complete comprehensive ethics training every three calendar years.

In any year in which an employee or officer does not receive comprehensive ethics training, he or she is required to complete the ethics briefing. The briefing is available on the Commission's website at <http://nj.gov/ethics/training/online/index.html>, and on the Human Resource Development Institute's Learning Management System platform.

Recent Commission Cases

Secondary Employment in the Workplace

All State employees must report outside activities such as second jobs and volunteer activities on an OAQ and receive the approval of their supervisor and ELO before starting a second job, business or volunteer activity. After a second job or outside activity has been approved, as a condition of approval, employees are advised of the following prohibitions:

No use of State time for secondary employment or outside activities.

No use of State resources or materials for secondary employment, including but not limited to computers, telephones, facsimile machines, e-mail, copy machines, mail service and office supplies.

No solicitation of coworkers or outside business contacts as clients for outside businesses or activities, including but not limited to legal services, real estate services, accounting services, consulting services and

sales businesses for cosmetics, kitchenware, jewelry, candles and other products.

When State employees use State work time and materials to conduct outside business, the Commission has found violations of both the UEC and the sections of the Conflicts Law that prohibit an employee from using his official position to secure unwarranted privileges or advantages for himself or others and engaging in conduct that creates the impression that he has violated the public trust. Uniform Ethics Code, Appendix E, *N.J.S.A. 52:13D-23(e)(3)* and (7).

Here are two recent cases where the Commission found that employees violated the Conflicts Law and the Uniform Ethics Code by conducting outside business in their State offices.

Church business in the State workplace, Recusal. Case 36-10

The investigation involved allegations that a State employee, who was also the Pastor of a church, directed his subordinates to perform work for his church using State materials and State time, directed State employees to perform work for another church and for his son-in-law, and supervised a relative in his agency.

The investigation revealed that the employee frequently used his State office, telephone, computer, e-mail, copy machines and fax machines to conduct church business. He also asked State employees under his supervision to perform work for his church and asked a subordinate to proofread the church newsletter. The employee also failed to submit a recusal letter when his brother-in-law was hired to work in his agency under his chain of command.

Although the employee argued that he regularly worked long hours for which he was not paid overtime, that he always worked a full day for the State, and that his church activities never interfered with his official State duties, the Commission found that the employee violated the UEC and the Conflicts Law by using State time and resources to conduct church business. The Commission also found that the employee violated the recusal rule by failing to issue a recusal from any direct supervision of his brother-in-law and involvement in personnel matters affecting his brother-in-law.

The employee entered into a consent order acknowledging that his use of State resources to conduct church matters could be viewed as violations of the ethics laws, that the subordinate he asked to perform work for another church on non-State time might have felt pressured to perform duties unrelated to his position at the agency to gain favor with him as

his supervisor, and that he should have issued a memorandum recusing himself from any direct supervision of his brother-in-law and any involvement in personnel matters involving his brother-in-law. The employee, who is no longer in State service, paid a \$2,000.00 fine for these violations.

Jewelry Business and High School Reunion activities in the State Workplace.

Case 62-11

This investigation involved an allegation that a State employee was engaged in outside employment selling jewelry doing so from her State office, using State equipment, and doing so without first completing an OAQ and obtaining approval from her agency ELO to engage in this outside employment. It was also alleged that the employee used State equipment to organize her high school class reunion.

The investigation revealed that the employee engaged in outside employment selling jewelry for two years before she reported this outside activity on an OAQ and obtained the approval of her agency to engage in the secondary employment. The employee used her State computer and State e-mail account to send and receive over two hundred e-mails related to her outside jewelry business and over eighty-five e-mails related to her involvement in organizing her high school reunion.

The Commission found that the employee did not obtain the required approval of her agency before engaging in her outside jewelry business and that she improperly used her State computer and State e-mail to conduct her outside employment and reunion activities.

The employee entered into a consent order acknowledging that her use of State resources for her outside jewelry business and reunion activities violated the Conflicts Law. The employee paid a \$2,000 fine for the violations.

Gifts and Attendance at Events

There is a zero tolerance policy regarding acceptance of gifts related to an employee's official State position. When employees accept gifts, the Commission has regularly found violations of the Uniform Ethics Code's zero tolerance provision. Uniform Ethics Code Section III. The Commission has also found violations of the sections of the Conflicts Law that prohibit acceptance of things of value as well as the sections that prohibit employees from using their official

position to secure unwarranted privileges or advantages for themselves or others and engaging in conduct that creates the impression that they have violated the public trust. *N.J.S.A. 52:13D-14 and 23 (e)(3), (7) and 24.*

When employees attend events or meetings away from their office, they are often in a position to be offered gifts such as meals and outings. The Commission has adopted regulations that cover employees' attendance at events and business trips which provide guidance regarding what they can and cannot accept in the course of business events or travel. *N.J.A.C. 19:61-6.1 et seq.*

A recent Commission case addressed an employee who violated the Conflicts Law and the Uniform Ethics Code by accepting gifts related to her official position.

Acceptance of Meals and Entertainment from a Vendor.

Case 18-06AK

The Commission received an allegation that numerous employees of an agency violated the Conflicts Law and the Treasury Code of Ethics by accepting meals and other things of value from a vendor to the agency.

The investigation revealed that this employee accepted meals from the vendor on numerous occasions. In addition, the employee received a spa treatment that was paid for by the vendor when she attended a work-related event. The employee reimbursed the vendor for the cost of the spa treatment four months later when she stated that she first learned that the vendor paid for the spa treatment. The Commission found that the employee's acceptance of meals and a spa treatment from the vendor was not permissible under the Conflicts Law or the Treasury supplemental Code of Ethics.

The employee entered into a consent order acknowledging that she accepted meals from the vendor and accepted a spa treatment from the vendor that she did not reimburse until four months later. She acknowledged that her acceptance of meals from the vendor violated the Conflicts Law and the Treasury Code of Ethics and she paid a \$1,325 penalty for the violations.

Misuse of Official Position

The Commission uses the phrase "misuse of official position" to describe a broad array of different actions that raise ethics concerns under *N.J.S.A. 52:13D-23 (e)(3) or (7)*. State officials are not permitted to use their official positions to provide an unwarranted

benefit to themselves or someone else, or in a way which creates the appearance that decisions or actions taken in their official capacity may have been influenced by their outside interest in a matter. Below are some recent cases providing examples of situations in which the Commission found a misuse of official position.

**Misuse of Official Position to Benefit another Person.
Case 81-06**

This case involved an employee who allegedly used his official position to assist a high ranking employee within his agency with a personal matter. The investigation revealed that the high ranking employee was trying to locate her ex-husband, who was delinquent on making court-ordered child support payments. The high ranking employee asked the employee for assistance in locating her ex-husband. The employee first asked a subordinate to use his State Lexis/Nexis account to locate the ex-husband. That effort was unsuccessful. Based on advice from a Judge to the high ranking employee that she contact a law enforcement agency and request assistance to locate her ex-husband, the employee then used his contacts with a law enforcement agency to obtain the location of the ex-husband on behalf of the high ranking employee.

Although the employee stated that he believed he was only assisting the high ranking employee with following the advice of a Judge, the Commission found that the employee's use of State resources to assist the other employee in locating her ex-husband was a misuse of State resources that violated his public trust. The case was resolved by consent order. The employee acknowledged that his actions could create the impression that he engaged in conduct that violated the public trust and he paid a penalty of \$1,000.

**Misuse of Official Position to Benefit a Significant Other, Recusal.
Case 49-11**

This case involved an allegation that an employee was engaged in a dating relationship with a subordinate. The investigation revealed that the employee selected his girlfriend as one of several people to be interviewed for a position under his chain of command. He then participated in the panel that interviewed candidates for the position, including his girlfriend. After his girlfriend was hired, the employee directly supervised her.

The Commission found that the employee violated the ethics laws by failing to recuse from the hiring process

and violated the public trust by his involvement in hiring his girlfriend and then directly supervising her. The matter was resolved by consent order. The employee acknowledged that his failure to recuse from all matters affecting his girlfriend violated the Commission's recusal rule and provided an unwarranted benefit to his girlfriend. The employee paid a penalty of \$2,000.

**Misuse of Official Position, Recusal.
Case 35-10**

This case addressed an allegation that an employee was involved in a matter affecting another agency while he was engaged in employment discussions with that agency. The investigation revealed that the employee was directly involved in his employer's efforts to promote the development, implementation and use of health information technology and electronic records by public and private entities. As part of this effort, the employee assisted another State agency in the preparation of a grant application seeking federal funds to establish and operate a regional center to accomplish these purposes. On its federal grant application, the other agency listed the employee as a potential Executive Director of the proposed regional center. After being listed on the grant application, the employee continued to make contacts with various State and federal officials who had influence over the grant decision in support of the other agency's application. After the agency was awarded the grant money, the employee retired from his position and became the Executive Director of the regional center for the second agency.

The Commission found that employee should have recused from any further involvement in the other agency's grant application once he became a candidate for employment with that agency, and that he misused his position by continuing his involvement in support of the grant application once he knew he was being considered for a position with the other agency.

The matter was resolved by consent order. The employee acknowledged he should have recused from all matters involving that other agency once he became a candidate for the Executive Director position at its proposed regional center, and that his failure to recuse could be viewed as creating the impression that he violated the public trust. The employee paid a \$3,500.00 fine.

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

The Commission's newsletters are also available at:

<http://www.nj.gov/ethics>