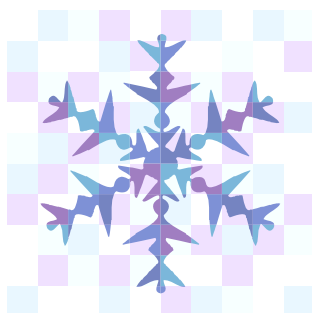




Ethics Bulletin

The Newsletter of the New Jersey State Ethics Commission

New Jersey State Ethics Commission
28 W. State Street
P.O. Box 082
Trenton, New Jersey 08625
609-292-1892
Web Site: <http://www.nj.gov/ethics>

THE STATE ETHICS COMMISSION

**Chair Paula A. Franzese, Commissioner John J. Farmer, Jr.,
Commissioner Stephen Dilts, Commissioner William E.
Schluter, Commissioner Stephanie Bush-Baskette,
Commissioner Kris Kolluri**

Executive Director Kathleen C. Wiechnik

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HOLIDAY PARTIES

The staff receives numerous inquiries during the holiday season about the appropriateness of State employees attending parties hosted by individuals or entities with which their agencies deal in an official capacity. The Commission's Attendance Rules, N.J.A.C. 19:61-6.1 et seq., are applicable to the majority of these invitations because most are extended to the State official because of his/her official position. In considering whether approval to attend an event should be granted, the Department head or designee, usually the Ethics Liaison Officer, must determine whether the party's host is an "interested party" and whether a legitimate State purpose will be served by attending. An interested party is defined in N.J.A.C. 19:61-6.2 as:

1. Any person, or employee, representative or agent thereof, who is or may reasonably be anticipated to be subject to the regulatory, licensing or supervisory authority of the State official's agency;
2. Any supplier, or employee, representative or agency thereof;
3. Any organization that advocates or represents the positions of its members to the State official's agency; or

4. Any organization a majority of whose members are as described in paragraphs 1 through 3 above.

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

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

GUIDELINES GOVERNING RECEIPT OF GIFTS AND FAVORS

1. Each department shall require full disclosure by employees to the office of the department head through the Ethics Liaison Officer upon receipt of a gift or any other thing of value related in any way to the State officer or employee's or special State officer or employee's public duties.
2. Each department should designate an Ethics Liaison Officer to monitor compliance with specific procedures under which officers and employees shall proceed upon receipt of a gift or any other thing of value related in any way to their public duties.
3. All officers and employees should be instructed that any gift or other thing of value offered to or by an officer or employee that is related in any way to his/her public duties must be reported and remitted immediately to the Ethics Liaison Officer. Similarly, any favor, service,

employment or offer of employment from such person or corporation must be reported immediately.

4. The Ethics Liaison Officer shall return a gift or thing of value that is related in any way to an officer or employee's public duties to the donor or shall otherwise appropriately dispose of it.

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

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

7. The zero tolerance policy does not apply to gifts between employees, including co-workers, supervisors or subordinates. If you exchange holiday gifts with your officemates, you can continue to enjoy that tradition. However, the Uniform Ethics Code advises that such gifts should not be excessive or inappropriate for a business environment. For more information, see the Uniform Ethics Code, III, Acceptance of Gifts and the Commission's Guideline - Gifts and Favors.

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

Perishable Items

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

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

Anchor House

82 Center Street
Trenton, NJ 08611
Contact: Judith Hutton
(609) 396-6100

Martin House

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

Triad House

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

Good Samaritan Center

325 Market Street
Camden, NJ 08101

Neighborhood Center

278 Kaighn Avenue
Camden, NJ 08103

Millhouse Convalescent Center

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

Lighthouse Community Services

487 Washington Avenue
Newark, NJ 07102
(973) 802-1802

Trenton Rescue Mission

98 Carroll Street
P.O. Box 617
Trenton, NJ 08604
(609) 695-1436

Leavenhouse

532 State Street
Camden, NJ 08102
(856) 966-4596

Your Food Shelf

1500 Federal Street
Camden, NJ 08105
(856) 365-6475

Cathedral Kitchen

642 Market Street
Camden, NJ 08102
(856) 964-6771

Make a Wish Foundation of NJ

1034 Salem Road
Union, NJ 07083
(908) 964-5055

Tandem Healthcare

Princeton Pike and Franklin Corner Rd.
Lawrenceville, NJ 08648
(609) 896-1494

El Centro

1035 Mechanic Street
Camden, NJ 08103

Trenton Soup Kitchen

72 ½ Escher Street
Trenton, NJ 08605
Contact: Cathy Ann Vandergrift
(609) 695-5456

Mercer Street Friends

151 Mercer Street
Trenton, NJ 08611
(609) 396-1506

Atlantic City Rescue Mission

2009 Bacharach Boulevard
Atlantic City, NJ 08401
(609) 345-5517

Shelter Our Sisters

P.O. Box 217
Hackensack, NJ 07602
(201) 836-1075

Hendricks House, Inc.

542 North West Boulevard
Vineland, NJ 08360
(609) 692-6012

Newark Emergency Services for Families

982 Brad Street
Newark, NJ 17102
(973) 643-5727

Salvation Army Feeding Program

13 Trinity Place
Montclair, NJ 07042
(973) 744-3312

Interfaith Caregivers Trenton, Inc.-Faith in Action

207 Hillcrest Avenue
Trenton, NJ 08618-3409
Phone: (609)393-9922 ask for Dale
Fax: (609)393-9955

Square Meal

46 Fairview Avenue
Jersey City, NJ 07306
(201) 332-0864

Eva's Kitchen

96 Hamilton Avenue
Paterson, NJ 07505
(201) 526-6220

The Children's Home of Burlington County

243 Pine Street
Mount Holly, NJ 08060
1-877-TLC-KIDS

Food Bank of South Jersey

1501 John Tipton Boulevard
Pennsauken, NJ 08110
(856) 662-4884

Womanspace, Inc.

Administrative Office
1212 Stuyvesant Avenue
Trenton, New Jersey 08618
Phone: 609-394-0136

CASE SUMMARIES**Commission Case No.10-06**

Subject: Representation of a Party Other Than the State Before a State Agency, Misuse of Official Position, Unwarranted Privilege, Recusal; Business and Personal Relationship

Facts: The State employee used State time and resources, including a State issued computer, to pursue his secondary employment. The State employee met with a vendor to his agency on State time for the benefit of a client of his outside business. The State employee used his official position to purchase services from companies with which he dealt with in the course of his private business. The employee used his State position to secure a promotion for the relative of a supervisor. The employee represented an outside entity before a State agency.

Ruling: The Commission determined that the employee violated sections 16(b), 23(e)(3) and (7) of the Conflicts Law and *N.J.A.C.* 19:61-7.4 (c).

Reasoning: The State employee's representation of a political action committee before the State Election Law Enforcement Commission violated the prohibition against State employees representing parties other than the State before any State agency. The State employee's use of a State-issued computer to pursue his secondary employment and meeting with a vendor to his agency on State time to advance the interests of an outside business client are misuses of official position, State time and resources. The employee's use of his State position to secure a promotion for the relative of subordinate is also a misuse of State position. The employee's personal and financial

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

relationship with a vendor to his agency required him to recuse himself from all aspects of awarding an agency contract to that vendor.

Resolution: This case was resolved by a consent order. The employee will pay a civil penalty of \$15,000. The employee also agreed that he will not seek or accept any employment with or appointment to any office or position in the executive branch of State government for a period of five years.

Commission Case No. 33-07

Subject: Misuse of Official Position, Unwarranted Privilege, Use of State Time and Resources for Outside Activities

Facts: The State employee used State time and resources, including a State issued computer, for secondary business activities. The State employee displayed and sold hand-made jewelry at work, including displaying sample necklaces and trays of gemstones in her State office, engaging in sales-related activities with fellow employees in the workplace and using her State computer in connection with her jewelry business. The employee continued to engage in sales related activities after receiving notification of the Commission's investigation of this matter. The employee also used her State computer in connection with her private practice of law.

Ruling: The Commission determined that the employee violated sections 23(e)(3) and (7) of the Conflicts Law and the Uniform Ethics Code, Appendix E, Guidelines Governing Outside Activities.

Reasoning: The State employee's use of a State-issued computer to pursue her secondary business activities of jewelry sales and the outside practice of law and her display of merchandise and engagement in sales related activities in the workplace are misuses of official position, State time and resources. Use of State time and resources for outside activities also violates the Uniform Ethics Code Outside Activity Guidelines.

Resolution: This case was resolved by a consent order. The employee will pay a civil penalty of \$2000.

Commission Case No. 18-06

Subject: Acceptance of Gifts., Favors, Services or Other Things of Value, Misuse of Official Position, Unwarranted Privilege.

Facts: The State employee accepted meals and gifts from a vendor that did business with his agency, including lunches, a fruit basket and liquor.

Ruling: The Commission determined that the employee violated sections 23(e)(3) and (7) and section 14 of the Conflicts Law.

Reasoning: The State employee's acceptance of meals and gifts from a vendor that did business with his agency violates the Conflicts Law provision prohibiting State employees from accepting things of value that are related to the employee's official State position. Acceptance of meals and gifts also constitutes misuse of official position.

Resolution: This case was resolved by a consent order. The employee acknowledged that he accepted meals paid for by a vendor and/or took insufficient care to document his payment for his meals. The employee will pay a civil penalty of \$1500.

Commission Case No. 57-06

Subject: Misuse of Official Position, Unwarranted Privilege.

Facts: The State officer used her position to promote her business interests and to disparage a business competitor. The State officer referred to her State position and to her access to information not generally available to the public to influence a client to use her services rather than the services of a competing business.

Ruling: The Commission determined that the State officer violated sections 23(e)(3) and (7) of the Conflicts Law.

Reasoning: The State officer's reference to her official state position and her access to information not generally available to the public to promote her business and disparage a competing business constitutes misuse of official position.

Resolution: This case was resolved by a consent order. The officer will pay a civil penalty of \$3000 and has agreed to resign her position as a Special State Officer.

Commission Case Nos. 57-05 and 27-06

Subject: Acting in an Official Capacity in a Matter Where the Employee has a Direct Personal Interest, Misuse of Official Position, Unwarranted Privilege, Recusal.

Facts: The State employees obtained outside employment with an entity that they inspected in their official capacity as State employees. The employees did not disclose or have their outside employment approved, and their outside employment was not approvable under their agency's code of ethics. In addition to their financial interest in the secondary employment, one of the employees had a personal friendship with the business owner.

Ruling: The Commission determined that the employee violated sections 23(e) (3), (4), (5) and (7) of the Conflicts Law and *N.J.A.C.* 19:61-7.4 (a) and (b) of the Commission's recusal rules.

Reasoning: State employees may not have outside employment with an individual or entity licensed or inspected by their agency. The employees' outside employment by an entity that they were inspecting in the course of their State jobs created an appearance of impropriety. Employment by an entity these employees inspected also constituted acting in an official capacity when a direct or indirect personal interest, such as the salary earned in the outside employment, might impair their objectivity in performing their State jobs. The employees should have recused themselves from inspecting this employer, based upon their outside employment with the company and based upon one employee's personal friendship with the business owner.

Resolution: This case was resolved by a consent order. One employee paid a civil penalty of \$500 and one employee paid a civil penalty of \$200. (The penalties applicable to the actions in this case allowed for a fine of \$100 to \$500.) The employee who was assessed the higher penalty had both a personal and financial relationship with the owner of the business where both employees obtained their outside jobs. The employee who was assessed the lower penalty had a financial relationship with the business owner.

COMPLIANCE UPDATE

The State Ethics Commission's Compliance Officer continues to conduct agency compliance reviews on a regular basis. All of the principal executive branch departments have been reviewed.

In 2008, the focus of the SEC's compliance reviews moved to independent commissions and authorities. However, following the issuance of the SEC's new regulations addressing State college/university employees acting in a scholarly capacity, the Commission's Compliance Officer has also commenced compliance reviews of the colleges and universities.

In 2008, the Ethics Commission conducted compliance reviews at the following entities:

Commission on Higher Education

Commission on Science and Technology

Economic Development Authority

Election Law Enforcement Commission

Governor's Council on Alcoholism and Drug Abuse

Higher Education Student Assistance Authority

Montclair State University

Motor Vehicle Commission

Office of Homeland Security and Preparedness

Rowan University

In 2009, the compliance review process will continue to focus on both independent commissions and authorities and the State colleges and Universities.

Please direct any questions on the Commission's Compliance Program to Jeff Stoolman, the SEC Compliance Officer, at 609-826-5542

TRAINING UPDATE

In 2008, ethics training continued in both principal departments and at authorities, boards and commissions. Highlights include providing instructor-led training to financial disclosure filers and executive staff members in seven of the principal departments and at one authority, conducting training at boards and commissions that had not previously received on-site training and providing retraining at some of the authorities that last received training in 2005.

In 2009, training will continue in the local offices of the Department of Children and Families. In the first quarter of 2009, training for financial disclosure filers and executive staff members will be available to departments upon request. Instructor-led training at authorities where employees utilized on-line ethics training in previous years or where employees have not been trained since 2005 will also be available on request.

The following entities completed ethics training in 2008:

Principal Departments

Banking & Insurance – FDS Filers – March 2008

Community Affairs – FDS filers – March 2008

Corrections – FDS filers – January 2008

Education – FDS filers – April 2008

Governor's Office – new FDS filers – April 2008

Human Services, Division of Family Development – September 2008

Human Services, Division of Medical Assistance –

September 2008
Labor – Disability Examiners – February 2008

Law and Public Safety – new FDS filers – April 2008

Parole Board – Board Members, Executive Staff, Fiscal & Community Programs October 2008

Authorities and Other Entities

Arts Council – April 2008

Casino Reinvestment Development Authority – July 2008

Commerce – January 2008

Governor's Council on Alcoholism & Drug Abuse – March 2008

Health Care Facilities and Financing Authority – May 2008

Highlands Council – March 2008

Historical Commission – May 2008

Housing and Mortgage Finance Agency – September 2008

Individual Health Coverage Program Board – April 2008

Inspector General - January 2008

Real Estate Commission – March 2008

Schools Development Authority – new employees – June 2008

Science and Technology – June 2008

Small Employer Health Benefits Program Board – April 2008

South Jersey Transportation Authority – FDS filers – February 2008

State Board of Education – March 2008

State Employment and Training Commission – November 2008

State Ethics Commission – November 2008

State Planning Commission – March 2008

Tax Boards, Commissioners and Employees – September 2008

Water Supply Authority – February 2008

ETHICS LIAISON OFFICERS' MEETINGS - 2009

Ethics Liaison Officers' meetings will be held at the Mary Roebling Building located at 20 West State Street, 2nd Floor, Rooms 219/220. The meetings will start at 10:00 a.m.

Thursday, February 26, 2009

Thursday, May 21, 2009

Friday, September 11, 2009

Wednesday, December 2, 2009

Regarding "Guidelines"

Please direct any comments or questions about "Guidelines" to

**Mark Holmes, Esq., Deputy Director,
New Jersey State Ethics Commission
P.O. Box 082
Trenton, NJ 08625
(609) 292-1892**

The Commission's newsletters are also available online at :

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