

Ethics Bulletin

The Newsletter of the New Jersey State Ethics Commission

New Jersey State Ethics Commission
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Web Site: <http://www.nj.gov/ethics>

THE STATE ETHICS COMMISSION

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HOLIDAY PARTIES AND GIFTS

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 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.

Gifts. Consistent with the zero tolerance policy adopted by the Commission in 2006, a State officer or employee is not permitted to accept a gift or anything of value related in any way to the State official's public duties. If you receive a gift that may have been given to you because of your State position, you must contact your Ethics Liaison Officer ("ELO"). The ELO shall return the gift or thing of value to the donor or shall otherwise properly dispose of it. The ELO is also responsible for keeping the records of all such occurrences, including the name of the employee who received the gift, the individual, and/or company from whom it was sent, and the final disposition of the gift or thing of value.

Items of a **perishable** nature may be donated to a charitable organization. Names and contact information for charitable organizations able to receive such donations have been provided to the Commission by various Ethics Liaison Officers and are listed at the end of this section. You may contact the Commission at (609) 292-1892 or by FAX at (609) 633-9252 to add a charitable organization to the list.

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. The receipt of such complimentary articles is not required to be reported to the ELO.

The zero tolerance policy does not apply to gifts between employees, including co-workers, supervisors or subordinates; you may exchange holiday gifts with your coworkers and colleagues. 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. The Commission staff and your ELO are available to assist with any questions regarding holiday parties and gifts.

Charitable Organizations

Anchor House

482 Center Street
Trenton, NJ 08611
Contact: June Albanowski
(609) 396-8329

Martin House

794 E. State Street
Trenton, NJ 08609
Contact: Father Brian McCormick
(609) 989-8143

Life Ties

2205 Pennington Road
Ewing, NJ 08638
Contact: Quiana Starr
(609) 771-1600

Good Samaritan Center

325 Market Street
Camden, NJ 08101
Contact: Kevin Moran
(856) 963-0857

Neighborhood Center

278 Kaighns Avnue
Camden, NJ 08103
Contact: Tess Holley
(856) 365-5295

Millhouse Convalescent Center

325 Jersey Street
Trenton, NJ 08611
Contact: Joan Kmiec
(609) 394-3400 ext. 116

Lighthouse Community Services

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

Trenton Rescue Mission

98 Carroll Street
P.O. Box 790
Trenton, NJ 08605
Contact: Wayne Frascella
(609) 695-1436 ext. 128

Leavenhouse

644 State Street
Camden, NJ 08102
Contact: William Wright, Res. Manager
(856) 254-5991 personal cell

Your Food Shelf

1500 Federal Street
Camden, NJ 08105
Contact: Bonnie White
(856) 365-6475

Cathedral Kitchen

1514 Federal Street
Camden, NJ 08105
Contact: Karen Talarico, Ex. Dir.
(856) 964-6771

Make a Wish Foundation of NJ

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

Lawrenceville Nursing & Rehabilitation Center

112 Franklin Corner Rd.
Lawrenceville, NJ 08648
Contact: Tom Miller
(609) 896-1494

Trenton, Soup Kitchen

72 1/2 Escher St
Trenton, NJ 08609
(609) 695-5456

Mercer Street Friends

151 Mercer Street
Trenton, NJ 08611
Contact: Dr. Barry Cole, Ex. Dir.
(609) 396-1506

Atlantic City Rescue Mission

2009 Bacharach Boulevard
P.O. Box 5358

Atlantic City, NJ 08404
Contact: Mr. Bill Southrey
(609) 345-5517

Contact: Susan Klejst
(609) 394-0136

Shelter Our Sisters
P.O. Box 217
Hackensack, NJ 07602
Contact: Elaine Meyerson, Ex. Dir.
(201) 836-1075

Hendricks House, Inc.
542 NW Boulevard
Vineland NJ 08360
Contact: Harry Morgan, Dir.
(856) 794-2443

Newark Emergency Services for Families
Victoria Human Services Plaza
982 Broad Street
Newark, New Jersey 07102
(973) 639-2100

Salvation Army Feeding Program
13 Trinity Place
Montclair, NJ 07042
Contact: Anna Marie Goglia, Family Services
(973) 744-3312

Interfaith Caregivers Trenton, Inc.-Faith in Action
229 Lawrenceville Road
Lawrenceville, NJ 08648
Contact: Sarah A. Thoma
(609) 393-9922
(609) 482-3737 Fax

Square Meal
46 Fairview Avenue
Jersey City, New Jersey 07306
(201) 332-0864

Eva's Kitchen
393 Main Street
Paterson, New Jersey 07501
Contact: Sister Gloria Perez, Ex. Dir.
Phone: (973) 523-6220

The Children's Home of Burlington County
243 Pine Street
Mount Holly, NJ 08060
Contact: Laura Alfieri
(609) 267-1550 ext. 175
1-877-TLC-KIDS

Food Bank of South Jersey
1501 John Tipton Boulevard
Pennsauken, NJ 08110-2303
(856) 662-4884

Womanspace, Inc.
Administrative Office
1212 Stuyvesant Avenue
Trenton, NJ 08618

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 provides, among other things, for 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 (Governor 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.

Employees must complete an approved ethics training program within 60 days of commencing employment. Training may be completed either in-person or through the Commission's on-line training program. The on-line ethics training program is accessible at any time. Please contact your ELO for information regarding the availability of in-person training.

The above-referenced ethics documents and 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 conflicts 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 updated its ethics training plan in June 2010 and revised the minimum ethics training requirements. Newly hired or appointed State employees and special State officers must complete the 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, each State employee and officer 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 program. This program 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.

REVISED FORMS

The Commission has recently amended the Request for Approval for Attendance at Event Form and the College and University Disclosure Form. The amended forms were published in the December 6, 2010 New Jersey Register.

Request for Approval for Attendance at Event Form. A State official is required to obtain the approval of his or her department head prior to attending an "event" as defined in the Commission's regulations. *N.J.A.C.* 19:61-6.8 sets forth the contents of the Request for Approval for Attendance at Event Form ("Attendance Form") that must be completed by State a official prior to attending an event.

The revisions to the Attendance Form are intended to enhance its usefulness and effectiveness. The required additional information will assist the ELO in determining whether an employee's attendance at an event is in compliance with statutes and regulations governing receipt of benefits or other things of value. The revised form includes a definition of an "interested party," and requires itemization of costs associated with attendance at the event

and identification of the source(s) of payment for the costs of the event.

College and University Disclosure Form. State officials acting in a "scholarly capacity" complete the College and University Disclosure Form ("Disclosure Form") to identify any travel, subsistence or entertainment expenses, honoraria, academic prizes, or other things of value received during the prior year. The disclosure period has been amended to coincide with the academic year, July 1st through June 30th. Other changes to the form include a requirement for disclosure of benefits received from an interested party. The amended forms are available on the Commission's website. <http://nj.gov/ethics/forms/>.

2011 ETHICS LIAISON OFFICERS' MEETING DATES

Pursuant to Executive Order No. 24, Commission is required to conduct quarterly meetings with all ethics liaison officers to ensure that the requirements of the Conflicts of Interest Law are understood and followed. The quarterly meetings for 2011 will be held at the Mary Roebling Building, 20 West State Street, Trenton, Room 219-220. The meetings start at 10 a.m. on the following dates:

Thursday, March 3

Wednesday, June 1

Thursday, September 8

Thursday, December 1

CASE SUMMARIES

Commission Case No. 29-08

Subject: Misuse of Official Position, Unwarranted Privilege.

Facts: This case involved a State employee in a high level position who exercised substantial authority and control over employees and other persons subject to the jurisdiction of his agency. During State time and in his official capacity, the State employee promoted various educational programs operated, for a fee, by an entity with which he was involved in his private capacity. During the workday, the employee discussed programs offered by this entity and suggested that employees under his supervision attend these programs. The State employee also encouraged relatives of individuals under the jurisdiction of his agency to attend programs offered by the private entity. According to some sources, the State employee expressed an interest in employment with the private entity after he retired from State service.

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

Reasoning: The employee exercised a substantial amount of authority and control over employees of his agency and individuals under the jurisdiction of his agency. Although not his intent, individuals over whom the State employee exercised supervision and control felt pressured and coerced to attend the programs offered by the private entity. The State employee's actions, which often took place during State time and in his official capacity, constituted the misuse of his official position to obtain an unwarranted advantage for the private entity.

Resolution: This case was resolved by a consent order. The employee acknowledged that because he held a high level position, his staff and others subject to the control and jurisdiction of his agency may have felt pressured to attend the programs offered by the entity with which he was affiliated. The employee, who is no longer in State service, agreed to pay a civil penalty of \$1,000.

Commission Case No. 11-07

Subject: Misuse of Official Position, Unwarranted Privilege, Recusal; Personal Relationship.

Facts: This case involved a State employee who commenced and continued a serious dating relationship with an individual who had applied for benefits administered through his agency. While the relationship with the applicant was ongoing, the State employee continued to have official involvement in her case. The State employee obtained unwarranted monetary benefits for the applicant, and misused his official position in an attempt to obtain information for her from another government agency.

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

Reasoning: Under the Conflicts Law and the Commission's rules, a State employee must recuse himself or herself from a matter if he or she has any direct or indirect personal interest that is incompatible with the discharge of his or her official duties. A dating relationship is one example of a direct personal interest that requires a State employee to recuse from an official matter. The State employee should have recused himself from any involvement in the matter when the dating relationship with the applicant commenced. The State employee misused his official position by obtaining unwarranted monetary benefits for the applicant and by attempting, in his official capacity, to obtain information that, while helpful to the applicant, was not related to his official duties.

Resolution: This case was resolved by a consent order. The employee acknowledged that he should have recused himself from any involvement in matters involving the person with whom he had commenced a dating relationship, and that his failure to recuse created the appearance of impropriety. The employee, who is no longer in State service, agreed to pay a civil penalty of \$1,750 and to

reimburse the State in the amount of \$2,500 for the unwarranted monetary benefits that he obtained for the applicant.

Commission Case No. 10-10

Subject: Post-Employment Restrictions.

Facts: This case involved the application of section 17 of the Conflicts Law (post-employment restrictions) to a former State employee who had responsibility for supervision of the inspection staff assigned to a multi-faceted State construction project. After leaving State service, the former employee sought permission to be involved in the same project on behalf of a private contractor with whom he is now employed.

In his official State capacity, the former employee had general responsibility and oversight for construction code inspection issues on the entire project, and direct supervision of subcode officials who conducted the inspections. He reviewed all inspection reports; made recommendations for Certificates of Occupancy or Approval; and had authority to issue a stop work order if he deemed it warranted. Construction on the project was authorized by individual permits issued to different contractors. Sixty-five permits issued while the former State employee supervised inspections for the project remained open after the employee left State service.

Ruling: The Commission determined that the former employee is prohibited from any involvement in the entire project on behalf of his current employer.

Reasoning: When analyzing a post employment matter, the Commission determines: (1) what constitutes the "matter" in which the employee was involved on behalf of the State; and (2) was the former employee's involvement in the matter "substantial and direct." In this case, the Commission determined that the matter at issue was the entire project for which the former State employee was responsible, rather than each individual element of the project. This determination was based in part on the State agency's consistent view of the project as one integrated matter, and the fact that the former employee was assigned by his agency to oversee the inspection work on the entire project. The Commission found that the former employee's involvement in the matter during his State employment was substantial and direct. The inspection work performed or supervised by the employee could be construed as "investigations," and any decisions he made regarding the results of the inspections could be construed as "rulings." Making an investigation or rendering a ruling are identified in the Conflicts Law as examples of substantial and direct involvement in a matter.

Resolution: The former State employee is prohibited from any involvement in the project on behalf of the private contractor. The Commission noted that determinations regarding post-employment restrictions are fact sensitive and that this determination is based on the specific facts

presented.

Commission Case No. 18-06/M

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

Facts: The State employee in this case was one of several individuals who accepted meals and other things of value from a vendor that did business with his agency. As part of his official duties, the State employee had occasion to interact with the vendor's employees. Evidence that the vendor paid for various meals for the employee and, on occasion, a golf outing, was reflected in the vendor's expense documents. The employee acknowledged that on certain occasions, the vendor paid for his meals. On other occasions, the vendor's expense documents indicated payment for the employee's meals, and the employee was unable to document that he paid for his meals.

Ruling: The Commission determined that the employee violated sections 14, 23(e) (6) and (7) of the Conflicts Law and the agency's Code of Ethics.

Reasoning: The State employee's acceptance of meals from a vendor that did business with his agency violates the Conflicts Law and the agency's Code of Ethics in effect at the time, which prohibited an employee from accepting anything of value from an organization doing business with his agency. Acceptance of things of value under these circumstances gives rise to an appearance that the vendor is improperly influencing the employee in the performance of his official duties.

Resolution: This case was resolved by a consent order. The employee acknowledged that he accepted meals paid for by a vendor to his agency and took insufficient care to document his payment for other meals, and paid a civil penalty of \$2,000.

Commission Case No. 18-06/AI

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

Facts: The State employee in this case accepted gifts from the vendor that did business with her agency. This employee had no direct contact with the vendor in her official capacity, but received some of the same benefits offered to her spouse, a high-ranking State employee whose official State duties required contact with the vendor. The State employee, her spouse, and two employees of the vendor traveled to New York City by limousine for dinner and a Broadway show. The vendor's employees paid for the limousine service, dinner and theater tickets for the employee and her spouse.

Ruling: The Commission determined that the employee violated sections 14, 23(e) (6) and (7) of the Conflicts Law and the agency's Code of Ethics.

Reasoning: The State employee's acceptance of gifts, including the limousine ride, meal and theater ticket from a vendor that did business with her agency violates the Conflicts Law and the Code of Ethics.

Resolution: This case was resolved by a consent order. The employee acknowledged that she accepted gifts paid for by a vendor to her agency and paid a civil penalty of \$1,800.

Commission Case No. 18-06/AD

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

Facts: The State employee in this case accepted things of value, including meals and spa services, from representatives of a vendor that did business with her agency.

The State employee admitted that she accepted the spa services from the vendor, and that there were occasions when she joined vendor representatives for meals that were paid for by the vendor.

Ruling: The Commission determined that the employee violated sections 14, 23(e) (6) and (7) of the Conflicts Law and the agency's Code of Ethics.

Reasoning: The State employee's acceptance of spa services and meals from a vendor that did business with her agency violates the agency's Code of Ethics provision prohibiting State employees from accepting things of value from an organization doing business with her agency. The employee also violated the Conflicts Law by accepting anything of value under circumstances in which it could appear that the thing of value was provided for the purpose of influencing the employee in the discharge of her official duties.

Resolution: This case was resolved by a consent order. The employee acknowledged that her acceptance of spa services and meals from a vendor to her agency constituted violations of the Conflicts Law and the agency Code of Ethics, and paid a civil penalty of \$2,000.

Commission Case No. 18-10

Subject: Misuse of Official Position.

Facts: The facts in this case revealed that the State employee used his agency's official letterhead to correspond with the Department of Treasury, Division of Taxation on a personal tax issue, and that he signed the letter using his official title. The letter also referenced the fact that the employee was appointed to his position by then

Governor Corzine. The Treasury employee who received the letter expressed concern that the employee's use of official agency letterhead created the impression that he was attempting to influence the Division of Taxation's handling of his personal tax issue based on his official State position.

Ruling: The Commission determined that the employee violated section 23(e)(7) of the Conflicts Law and section VII of the Uniform Ethics Code.

Reasoning: The pertinent part of section VII of the Uniform Ethics Code prohibits a State employee from using official stationery to promote his or her financial or other self-interest. The employee's use of his agency's letterhead for a personal matter was not inadvertent and was done to promote the employee's financial interest in resolving his personal tax issue. The Treasury employee believed that the employee was attempting to use his agency letterhead and official position to influence the Division of Taxation's handling of his personal tax matter. Such belief, and the subsequent referral of the matter, indicate that the employee's conduct created an appearance of impropriety.

Resolution: This case was resolved by a consent order. The employee acknowledged that using official State letterhead for a personal tax matter could create the reasonable appearance that he was engaged in conduct that violative of his trust as a State employee, and was not permitted under section VII of the Uniform Ethics Code. The employee paid a civil penalty of \$250.

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>