

Winter 2007

New Jersey State Ethics Commission
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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 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. The State official must reimburse the sponsor for the cost of food and beverages if attending the event.



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The State Ethics Commission

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Vice-Chair Rolando Torres, Jr.
Commissioner John J. Farmer, Jr.
Commissioner Sharon Anne Harrington
Commissioner David J. Socolow
Commissioner William E. Schuler
Executive Director Kathleen Wiechnik

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. 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.

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.

*"gifts between employees should
not be excessive or inappropriate
for a business environment"*

Anchor House

482 Center Street
Trenton, NJ 08611
Contact: Judith Hutton
(609) 396-8329

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 Vandegrift
(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

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

Recent Commission Cases

Commission Case No. 38-06

Subject: Misuse of Official Position, Unwarranted Privilege

Facts: The State Employee used State e-mail and a State issued computer to conduct activities related to two outside, for profit businesses and also for matters related to a non-profit organization with which the employee was affiliated. Additionally, the State employee used a subordinate to create a resume for a family member on State time using State resources.



Ruling: The Commission determined, pursuant to N.J.A.C.19:61-3.1(h), that there were indications that the employee violated sections 23(e)(3) and (7) of the Conflicts Law and his department's code of ethics.

Reasoning: The use of State e-mail and other State resources to conduct activities related to two for-profit outside businesses and for volunteer activities rises beyond incidental personal use of the e-mail system and is a misuse of official position, State time and State resources. The use of an assistant to prepare a resume for a family member is also a misuse of official position, State time and State resources.

Commission Case No. 11-07

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

Facts: The State employee continued to handle pending matters at his agency after commencing a dating relationship with a party who was the subject of the pending matters. The State employee attempted to use his position with his agency to obtain information for the party he was dating that was unrelated to the employee's official state duties. In the course of performing his job duties, the State employee obtained unwarranted monetary benefits for the party he was dating.

Ruling: The Commission determined, pursuant to N.J.A.C.19:61-3.1(h), that there were 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: 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 the State employee's official duties. A dating relationship is one example of a direct personal interest that requires recusal. The State employee should have recused himself from the pending matter when the dating relationship with the sub-

ject of that matter commenced. The State employee's use of his official position to attempt to obtain information that was not job related and to obtain unwarranted monetary benefits for the party he was dating are both misuses of official position.

"you must not use your official position to secure unwarranted privileges, benefits or advantages for yourself, your family or friends"

Commission Case No.39-06

Subject: Misuse of Official Position, Unwarranted Privilege

Facts: The State employee used her official position to obtain confidential information for personal use, to obtain a letter of recommendation for a family member and to attempt to gain admission to an internship program for a family member.

Ruling: The Commission determined, pursuant to N.J.A.C. 19:61-3.1(h), that there were indications that the employee violated sections 23(e)(3) and (7) of the Conflicts Law.

Reasoning: The use of job-related contacts to obtain confidential information for personal use is a misuse of official position. State employees cannot use their official position to obtain unwarranted advantages or to benefit or appear to benefit themselves or family members. The use of job-related contacts to obtain special privileges for family members, such as letters of recommendation that are not related to the family member's job performance, are a misuse of official position.

It is also a misuse of official position to use job related contacts to obtain admission to an internship program for a family member when such means are not available to members of the general public.



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 in the course of his private business. The employee used his State position to secure a promotion for the relative of an agency board member. The employee represented an outside entity before a State agency.

Ruling: The Commission determined, pursuant to N.J.A.C.19:61-3.1(h), that there were indications 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.

Reasoning: The State employee's representation of a continuing political 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 on State time to advance the interests of an outside business client are misuses of official position, State time and resources.

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 an agency board member is also a misuse of State position. The employee's personal and financial relationship with a vendor to his agency required him to recuse himself from all aspects of awarding an agency contract to that vendor.

Compliance Update

Pursuant to changes in the New Jersey Conflicts of Interest Law, *N.J.S.A 52:13D-21(e)(3)*, in May 2006 the State Ethics Commission began conducting formal ethics compliance audits (reviews) of New Jersey Executive branch agencies. These reviews are designed to determine whether State agencies are meeting the ethics law's reporting, documentation and training requirements. Additionally, information is obtained during compliance reviews to assess the extent to which State agencies have sufficient mechanisms in place for detecting violations and enforcing ethics rules.

In calendar year 2007 the Ethics Commission conducted compliance reviews at the following agencies:

1. Department of Treasury
2. Department of Children and Families
3. Department of the Public Advocate
4. Board of Public Utilities
5. Meadowlands Commission
6. Sports and Exposition Authority

7. Turnpike Authority
8. Schools Construction Corporation
9. Casino Control Commission
10. South Jersey Transportation Authority
11. North Jersey Water Supply Commission
12. Passaic Valley Sewerage Commission

In the upcoming year the Commission plans to focus more of its compliance review efforts on independent commissions and authorities, as well as the State Colleges and Universities. The Commission also intends to incorporate a survey into the compliance review process to measure employee awareness of and attitudes about their agency's ethics program.

Questions concerning the Ethics Commission's Compliance Review Program should be directed to Jeffrey Stoolman, Esq. at 609-826-5541 or jeffrey.stoolman@ethics.state.nj.us.

Ethics Training Update

In 2007, ethics training continued in the principal departments. Highlights include providing instructor-led training to all employees of Treasury and the Department of Environmental Protection, conducting training in field locations at the Department of Human Services and commencing in-person training at New Jersey Transit. Ethics training was also provided at some of the authorities, as well as to authority board members.

In 2008, training will continue in the principal departments. Any authorities where employees utilized on-line ethics training in previous years will also receive instructor-led training in 2008.

The following completed ethics training in 2007:

Governor's Office – April 2007

Ethics Training Update (con't)

Principal Departments

Environmental Protection – December 2007

Law and Public Safety – Financial Disclosure Filers – March 2007

Military and Veterans Affairs – January 2007

Public Advocate – November 2006 and January 2007

Treasury – May 2007

Authorities and Other Entities

Authority Board Members – May 2007

Board of Public Utilities – Financial Disclosure filers – March 2007

Catastrophic Illness in Children Relief Fund Commission – January 2007

Child Care Advisory Council – June 2007

Child Fatality and Near Fatality Review Board – May 2007

Citizen Review Panel - May 2007

Civil Rights Commission – March 2007

Developmental Disabilities Council – March 2007

Environmental Infrastructure Trust – May 2007

Fort Monmouth Economic Revitalization Planning Authority –
September 2007

Department of Health Institutional Review Board – June 2007

Pinelands Commission – May 2007

Police Training Commission – June 2007

Public Health Council – April 2007

State Health Planning Board – January 2007

State Investment Council – March 2007

Task Force on Child Abuse and Neglect – May 2007

Tidelands Council – March 2007

Youth Suicide Prevention Advisory Council – October 2007

Commission Rules

The commission's new rule and amendments were published in the New Jersey Register on November 19, 2007.

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.

...

"Interested party" means:

1. (No change.)
2. Any grantee or grantor of the State official's agency, or employee, representative or agent thereof;

Recodify existing 2.-4. as 3.-5. (No change in text.)

...

"Scholarly capacity" means any pedagogical, academic, artistic, educational or scholarly activity performed by a State official for the institution of higher education that employs or has appointed such State official.

...

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

(a) (No change.)

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

1.-2. (No change.)

(c) (No change.)

(d) The requirements and prohibitions in (a) and (b) above shall not apply to a State official, acting in a scholarly capacity, attending, participating in, or making presentations at colloquia, seminars, conferences, or similar scholarly gatherings, so long as the State official notifies his or her department head of his or her attendance, participation or presentation. The direct or indirect benefit provided to the State official, acting in a scholarly capacity, may include the acceptance of reasonable travel and subsistence expenses and allowable entertainment expenses. The State official, acting in a scholarly capacity, may accept an honorarium, academic prize or other thing of value if the honorarium, academic prize or other thing of value reflects payment for orally sharing his or her intellectual property.

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

Recodify existing (e) and (f) as (f) and (g) (No change in text.)

(h) Except as provided in (d) above, the State official shall not accept an honorarium or fee for a speech or presentation at an event covered by this section.

Examples

...

A professor from a State law school, who has published extensively in the field of Constitutional Law, has been invited, by the publisher of legal textbooks, to attend a symposium and make a presentation on current trends in Constitutional Law. The publisher has offered to waive the costs of the symposium and pay for the professor's transportation, hotel, and meals during the symposium. In addition, each speaker will receive a \$ 1,000 honorarium. At the conclusion of the symposium, the publisher has offered to send the professor on a golf retreat to thank the professor for her participation in the symposium. Because the symposium is part of the professor's scholarly activities, she would be attending in her scholarly capacity and the honorarium reflects a payment for an oral presentation of her own intellectual property, the professor may accept the reasonable travel and subsistence expenses and the honorarium. However, the professor may not accept the golf retreat because the retreat is not an allowable entertainment expense.

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

(a) (No change.)

(b) The State official, acting in a scholarly capacity, may attend, participate in, or make presentations at colloquia, seminars, conferences, or similar scholarly gatherings, so long as the State official notifies his or her department head of his or her attendance, participation or presentation, in which case (a) above need not apply. The direct or indirect benefit provided to the State official, acting in a scholarly capacity, may include the acceptance of reasonable travel and subsistence expenses and allowable entertainment expenses. The State official, acting in a scholarly capacity, may accept an honorarium, academic prize or other thing of value if the honorarium, academic prize or other thing of value reflects payment for orally sharing his or her intellectual property.

(c) 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. (No change.)

Commission Rules (con't)

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 to State officials acting in a scholarly capacity or if the reimbursement or payment is made by:

i.-iii. (No change.)

(d) An interested party shall not provide a direct or indirect benefit to the State official in order to facilitate his or her attendance unless in accordance with (b) above.

(e) A State official making a speech or presentation at the event shall not accept an honorarium or fee from the sponsor unless in accordance with (b) above.

(f) (No change in text.)

Examples

...

A history professor at a State college has been asked by his department head to attend the dedication of a restored historic house museum and speak about the importance of maintaining New Jersey's historic resources. The professor has produced several films about New Jersey historic houses. The historic association has offered to provide the professor with a \$ 300.00 honorarium for his attendance and speech. The professor may attend the event and accept the honorarium since the professor is attending in his scholarly capacity, the event relates to his scholarly activities and the honorarium is essentially a payment for his oral presentation of his own intellectual property.

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

(a) Except as provided in (e) below, 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)-(c) (No change.)

(d) Except as provided in (e) below, the State official shall not use his or her official title in any way in soliciting compensation.

(e) A State official acting in a scholarly capacity may accept compensation for published works created as part of his or her official duties on State time utilizing State resources.

(f) A State official acting in a scholarly capacity may require the use of his or her own published work in a course that he or she teaches. However, monies resulting from such use must be donated to the college or university or other nonprofit institution.

(g) A State official acting in a scholarly capacity may accept compensation for the use of his or her published work in a course that he or she does not teach, provided that he or she was not involved in the selection of the published work for use in that course.

Examples

(No change.)

19:61-6.9 Solicitation or acceptance of a thing of value

(a) Except in accordance with the Commission's rules on attendance at events, *N.J.A.C. 19:61-6.4* and 6.5 and compensation for published works, *N.J.A.C. 19:61-6.7*, 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)-(e) (No change.)

f) Notwithstanding (a) through (e) above, a State official, acting in a scholarly capacity, may accept an honorarium, academic prize or other thing of value if the honorarium, academic prize or other thing of value reflects payment for *[orally or verbally] * sharing his or her intellectual property ***orally or in writing***, acting in an editorial capacity for a journal or other publication or reviewing journal or book manuscripts, or grants or contract proposals, or participating in accreditation or other peer review activities.

19:61-6.10 Annual disclosure

(a) A State official serving in a scholarly capacity shall disclose annually to his or her department head any travel, subsistence or entertainment expenses, honoraria, academic prizes, or other things of value related to activities performed in his or her scholarly capacity received in the prior calendar year. The sources of all such expenses and things of value shall be identified.

(b) A State official serving in a scholarly capacity shall use the following form for his or her annual disclosure. The completed forms shall be submitted to his or her department head, and the form shall be kept on file for a period of five years. Each State college and university shall forward copies of the forms to the Commission annually, at the end of each January.

College and University Disclosure Form

Date of Statement_____

For Calendar Year_____

First Name _____

Last Name _____

Institution _____

Department _____

Position _____

Daytime Telephone _____

Email Address _____

List below any benefit you received, from any source, including, but not limited to, travel, subsistence or entertainment expenses, honoraria, academic prizes, or other things of value related to activities performed in your scholarly capacity. Identify the source of each benefit received.

Type of Benefit

Amount of Benefit

Source

List below all compensation excluding salary from your employing institution, you received, from any source, in connection with work performed in your scholarly capacity. Identify each source.

Do you assign educational materials authored by you as a course requirement?

Yes___ No___

Do you receive royalties from those educational materials?

Yes _____ No _____