

**DEPARTMENT OF TRANSPORTATION
CODE OF ETHICS**

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DEPARTMENT OF TRANSPORTATION

CODE OF ETHICS

I. PURPOSE

To state the Code of Ethics policy for the New Jersey Department of Transportation (hereinafter referred to as the "Department").

This Code is intended to complement the New Jersey Conflicts of Interest Law (*N.J.S.A. 52:13D-12 et seq.*) and to establish the general standards of conduct necessary for the proper and efficient operation of the Department.

It is also intended to supersede all previous codes of ethics. This Code of Ethics shall apply to all employees of the Department.

II. DEFINITIONS

Chain of Command - a hierarchial series of superior-subordinate relationships wherein there is authority over the assignment of work responsibilities, salary determination, awarding of overtime, discipline, performance assessment, and/or influence over career progress.

Code - shall mean this Code of Ethics.

Employee - shall mean both State officer and employee and special officer and employee holding an office or employment with the Department.

Ethics Liaison Officer - shall mean the Assistant Commissioner, Finance and Administration or designee.

Immediate family - shall mean for purposes of Section XIII, the employee's spouse, child, parent, or sibling residing in the same household.

Reassignment - the in-title movement of an employee to a new job function, shift, location, or supervisor within the Department.

Relative - shall mean for purposes of Sections IX and XI of this Code, a spouse, child, parent, grandparent, grandchild, aunt, uncle, first cousin, mother, father, brother, sister, in-law, step-parent, step-child, or step-sibling.

Special State officer or employee - means (1) any person holding an office or employment in a State agency, excluding an interstate agency, for which office or employment no compensation is authorized or provided by law, or no compensation other than a sum in reimbursement of expenses, whether payable per diem or per annum, is authorized or provided by law; (2) any person, not a member of the Legislature, holding a part-time elective or appointive office or employment in a State agency, excluding an interstate agency.

State officer or employee - means any person, other than a special State officer or employee, (1) holding an office or employment in a State agency, excluding an interstate agency, other than a member of the Legislature, or (2) appointed as a New Jersey member to an interstate agency.

Vendor - is defined as any general contractor, subcontractor, consultant, person, firm, corporation, or organization engaging in or seeking to do business with the Department.

Work Unit - shall mean for purposes of Section IX of this Code, an operational group of employees who have the same immediate supervisor and together perform duties related to their unit's mission.

All reference in this Code to "special Department officer or employee" shall be deemed to incorporate the definitions of "special State officer or employee" contained in *N.J.S.A. 52:13D-13*. All references in this Code to "State agency," "person," "interest," "cause," "proceeding," "application or other matter," "member of the immediate family," and other similar terms shall be deemed to incorporate the definitions of those terms contained in *N.J.S.A. 52:13D-13*.

III. SUPERSEDES

This policy supersedes Policy Number: 2.109-D

IV. BASIC POLICY AND STRUCTURE OF THE CODE

The New Jersey Department of Transportation, as a department of the State government, exists to serve the public interest. All employees must therefore conduct themselves in the course of their duties so as to hold the respect, trust, and confidence of the public. They must avoid any activity or association which is, or appears to be, a violation of the public interest.

To maintain public trust and confidence, this Code of Ethics is adopted. Its purpose is to inform Department employees of the standards of conduct and responsibilities that govern them.

This Code of Ethics differentiates among three types of activities that could potentially undermine public trust and confidence in the Department.

- A. Activities that so clearly constitute a conflict of interest and violation of public trust that they are expressly prohibited. For example, the acceptance of a gift or favor from anyone doing business with the Department or the solicitation of a bribe.
- B. Activities that may give rise to questions about an employee's integrity.

Although the employee may have done no wrong, he or she is under an obligation to report such activities to the Department's Ethics Liaison Officer. For example, the receipt of an offer of a bribe or gift.

- C. Activities that may appear to give rise to a conflict of interest. Employees are required to notify the Department's Ethics Liaison Officer and, in some cases, obtain permission before engaging in such activities. For example, receiving an invitation to an event from someone doing business with the Department.

In any instance where an employee is not certain what the standard of conduct should be, the employee should seek the advice of the Department's Ethics Liaison Officer in order to avoid the possibility of violating this Code.

V. USE OF STATE PROPERTY

An employee shall use the property and funds under his or her official control in strict accordance with prescribed procedures and not for personal gain or benefit.

- A. Department property, equipment, funds, or other assets shall be used only for Department business and not for personal use.
- B. Department employees shall not be directed to type personal communications, make personal phone calls, or run personal errands.

VI. ACCEPTANCE OF GIFTS

It is the policy of the Department of Transportation that no employee shall accept any gift or other item of value from any firm, organization, association, or individual doing business with the Department or those that could reasonably be expected to do business with the Department.

Any gift or other item of value offered by or received from a person, firm, or corporation that a Department officer or employee has contact with in his or her official capacity must be reported and remitted immediately to the Department's Ethics Liaison Officer who shall then make a determination as to whether or not the gift, favor, employment, offer of employment, or other thing of value can be accepted. The report shall clearly describe the gift, identify the donor, and set forth the circumstances under which the gift was offered. It is not necessary to notify the Department's Ethics Liaison Officer or designee upon receipt of

unsolicited gifts or benefits of a trivial or nominal value, such as complimentary pens or pencils, offered to the general business public through mass mailings. Note, however, that if a gift or benefit of a nominal value does create an impression of a conflict of interest or a violation of a public trust, it cannot be accepted but must be transmitted to the Ethics Liaison Officer for return to the sender.

- A. With respect to the acceptance or solicitation of any gift, favor, service at preferential rates, employment, offer of employment or any other thing of value, all employees are subject to the provisions of *N.J.S.A. 52:13D-24*, which provide as follows:

No State officer or employee, special State officer or employee, or member of the Legislature shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift or other thing of value from any source other than the State of New Jersey for any service, advice, assistance or other matter related to his or her official duties, except reasonable fees for speeches or published works on matters within his or her official duties and except, in connection therewith, reimbursement of actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of New Jersey (*N.J.S.A. 52:13D-24*).

Reasonable fees for speeches or published works on matters within his or her official duties and reimbursements for actual expenditures connected therewith for travel and reasonable subsistence, which are not paid by the Department, may be accepted only after approval by the Assistant Commissioner for Finance and Administration.

Except as noted elsewhere, employees are responsible for full payment of the costs of their meals, beverages, lodging, travel and entertainment and may not accept the same from any entity, person, partnership or corporation doing business with the Department, contemplating such business, or seeking to influence official actions.

- B. The acceptance of any gifts, preferential loans, services at preferential rates, discounts, gratuities or anything of monetary value from a person or organization doing business with the Department or the granting of special treatment or favors to such persons or organizations for the purpose of obtaining personal gain, is a conflict of interest. Under this section, the term person includes employees or agents of organizations doing business with the Department, contemplating doing business with the Department or seeking to influence official actions.

This section covers gifts, loans, services, discounts, gratuities or anything of monetary value that are made directly or indirectly to an employee. Made indirectly means made to an employee's relative or organization designated by the employee. Relative refers to the immediate family of an employee or the immediate family of an employee's spouse.

- C. Examples of gifts include cash, liquor, food, personal or household goods, use of cars, lodging and other favored treatment. This section also includes a special prohibition, with the limited exception of subsection D below, against the acceptance of beverages or entertainment from persons or firms doing business with the Department or contemplating doing business with it or seeking to influence official actions.
- D. Any employee who receives an invitation to any business-related function (a conference, ground breaking, ribbon cutting, meal, open house, cocktail party, fund-raiser, holiday party or other social function or appearance involving honorarium, etc.) from or with a firm or person doing business with the Department or contemplating doing business with the Department, shall report the invitation to the Department's Ethics Liaison Officer with a copy to his or her supervisor. A determination in consultation with appropriate persons will then be made, and the employee will be advised accordingly.

Detailed information and procedures with regard to employee attendance at functions can be found in the Department's Guidelines for Attendance at Outside Events/Functions found in the Appendix at the end of this booklet.

E. Guidelines Regarding Retirement Gifts

Typically, retirement functions comprise a get-together, with or without a meal, and the presentation of a gift or monetary token to the retiree, to his or her spouse, and/or to his or her dependents(s). In planning such events, the responsible group or individual must choose between two approved alternatives with regard to funding and the value of any and all gifts to be presented.

1. Gifts may be funded by a maximum contribution of \$5 per person, collected from invitees to the retirement function. If this method of funding is used, no maximum value is set for the cost of the gifts, but contributions of more than \$5 per invitee are not permitted.

2. The maximum value of retirement gifts cannot exceed \$1,000. If this method is used, there is no maximum set on individual contributions, but the total value of retirement gifts and/or monetary tokens to the retiree, spouse, and dependent(s) cannot exceed \$1,000. If, instead of presenting gifts and/or monetary tokens to the retiree, spouse, and dependents(s), a decision is made to make a monetary contribution to a qualified organization (under I.R.S. Code 501 (3), no limit is placed on the maximum value of the contribution.

VII. CONFLICTS OF INTEREST

A. General

1. A Department employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity that is in conflict or could appear to be in conflict with the proper discharge of his or her duties.
2. No Department employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public that he or she may be engaged in conduct violative of his or her trust as a State officer or employee.

B. Contracting with the State

1. The Conflicts of Interest Law prohibits an employee from knowingly undertaking or executing (in whole or in part) any contract, agreement, sale or purchase of the value of \$25 or more that is made, entered into, awarded or granted by any state agency. Note, special State officers and employees are only prohibited from such contracting activities if they have responsibilities in connection with the purchase or acquisition of property or services by the state agency where they are employed or hold an office.

The above prohibition also extends to partners and business associates. An employee is prohibited from executing an agreement of sale with a state agency through any corporation in which he or she owns or has control of more than 1% of the stock. Similarly, an employee is prohibited from using any other person to execute an agreement or sale with a State agency for his or her own use or benefit. (See *N.J.S.A. 52:13D-19*.)

2. The New Jersey Conflicts of Interest Law exempts only three categories of contracts from the general prohibition. Before entering into a contract falling within any of these categories, approval must be obtained from the Executive Commission on Ethical Standards through the Department's Ethics Liaison Officer. The three categories of contracts are:
 - those purchases, contracts, agreements, or sales that are made after public notice and competitive bidding;
 - those that may be awarded without public advertising and competitive bidding pursuant to Section 5 of Chapter 48 of the Laws of 1944 (*N.J.S.A. 52:34-10*); and
 - any contract of insurance entered into by the Director of the Division of Purchase and Property, Department of the Treasury, pursuant to Section 10 of Article 6 of Chapter 112 of the Laws of 1944 (*N.J.S.A. 52:27B-62*).
3. The Law states that no employee shall act as an officer or agent for a State agency for the transaction of any business with a corporation, company, association, or firm in the pecuniary profits of which he or she has an interest (except that ownership or control of 10% or less of the stock of a corporation shall not be deemed an interest within the meaning of the law). The codes of ethics of all State agencies also contain a provision to the effect that an employee shall not act in his or her official capacity in any matter wherein he or she has a direct or indirect personal financial interest that might be expected to impair his or her objectivity or independence of judgment. There is also a rule of common law that no government official or employee may act in any matter in which he or she has a direct or indirect interest. (See *N.J.S.A. 52:13D-20*.)
4. No State officer or employee of the Department shall represent, appear for, or negotiate on behalf of or agree to represent, appear for, or negotiate on behalf of, whether by himself or herself or by or through any partnership, firm, or corporation in which he or she has an interest or by any partner, officer, or employee of any such partnership, firm, or corporation any person or party other than the State in any negotiations for the acquisition or sale by the State or a State agency of any interest in real or tangible or intangible personal property, or in any proceedings, relative to such

acquisition or sale before a condemnation commission or court; provided, however, nothing contained in this section shall be deemed to prohibit any person from representing himself or herself in negotiations or proceedings concerning his or her own interest in real property. (See *N.J.S.A. 52:13D-15.*)

5. The Conflicts of Interest law provides that despite the other provisions of the statute a State officer or employee or a special State officer or employee or his partners or any corporation or firm in which he owns or controls more than 1% of the stock, assets or profits may enter into a rental agreement with a State agency which operates a facility which rents space or provides services to assist small businesses which employ 50 people or less, pursuant to the same terms and conditions as those offered to members of the public generally. (See, *N.J.S.A. 52:13D-19.2.*)

Also note that the Conflicts of Interest law does not alter or affect any other laws regulating public contracts. Department employees must, therefore, be mindful that this Code of Ethics and the Conflicts of Interest law contracting provisions are not the only public contracting provisions with which they must comply. (See, *N.J.S.A. 52:13D-19.3.*)

C. Appearances Before the State/Department

1. State officers or employees are specifically prohibited from either agreeing to, or in fact representing, appearing for, or negotiating on behalf of any person or party, other than the State, in connection with any cause, proceeding, application, or other matter pending before any State agency other than those listed below. Special State officers or employees are prohibited from the above activities only in connection with any cause, proceeding, application, or other matter pending before the particular office, bureau, board, council, commission, authority, agency, fund, or system in which the special Department employee or officer holds office or employment. This prohibition extends to any partnership, firm, or corporation in which the State officer or employee or special State officer or employee has an interest or any partner, officer, or employee of any such partnership, firm, or corporation.

As an example of the above, a licensed Department engineer would be prohibited by law from submitting dam inspection reports, surveys, etc., or otherwise making contacts on behalf of a private

land owner (client) with the New Jersey Department of Environmental Protection.

All Department employees are **not** prohibited from representing a person or party in any of the following instances:

- before a court of record;
- in regard to a claim for workmen's compensation;
 - in a proceeding related to the determination or review of transfer, inheritance or estate taxes;
 - in connection with the filing of corporate or other documents in the office of the Secretary of State;
 - before the Division on Civil Rights;
 - before the New Jersey State Board of Mediation;
 - before the New Jersey Public Employment Relations Commission;
 - before the Unsatisfied Claim and Judgment Fund Board solely for the purpose of filing a notice of intention; or
 - in any proceeding on behalf of a county, municipality, school district or any authority, agency or commission of any thereof **except where the State is an adversary party and provided that the employee is not holding office or employment in the State agency in which any such proceeding is pending.** (See *N.J.S.A. 52:13D-16(a)*, *N.J.S.A. 52:13D-16(b)*, *N.J.S.A. 52:13D-16.*)

VIII. MISUSE OF OFFICIAL POSITION OR INFORMATION

- A. No employee shall use or attempt to use his or her official position with the Department to secure unwarranted privileges or advantages for himself, herself or others.
- B. No employee shall use confidential information (information not available to the public) obtained in his or her work within the

Department to further his or her private interests or the interests of others.

IX. INTERNAL EMPLOYMENT OF RELATIVES

It is the policy of the New Jersey Department of Transportation to base employment decisions on operational needs, job qualifications and other work related criteria which are consistent with the State Conflicts of Interest law, anti-discrimination laws, other laws, and labor relations principles.

Employees are prohibited from using their State positions to secure an unwarranted privilege or advantage for any relative. Furthermore, Department employees are prohibited from acting in any Department employment matter involving a relative, wherein they have a direct or indirect financial interest, or wherein their actions might create the appearance of ethical misconduct.

In furtherance of the Department's policy to eliminate work place nepotism, guidelines regarding the employment, promotion and/or the reassignment of relatives have been developed. These guidelines are particularly designed to prevent favoritism and unlawful job discrimination, and work place conflict, which can arise whenever an employee has supervisory or other authority over his/her relative.

A. Guidelines

The Department will exercise sound business judgment in the placement of related employees in accordance with the following rules:

1. No employee will be permitted to work within the "chain of command" of a "relative."
2. Relatives will be prohibited from working together within the same work unit, as co-workers, whenever it is reasonably believed that because of their family relationship they cannot perform their duties in an independent, objective and conflict free manner.
3. Whenever an employee's marriage, promotion or reassignment creates a conflict or violation of the just noted Guidelines, the employee, relative, or cohabitant, must be reassigned at the earliest possible time.

NOTE: If a reassignment of an employee cannot be made within a reasonable period of time and in an accommodating manner, subsequent to a marriage, promotion or other job move which causes a nepotism/conflict problem, then the Ethics Liaison Officer should be contacted for advice.

B. Responsibilities

- All employees are responsible for expeditiously disclosing to their immediate supervisors any personal employment situation which creates a conflict or appearance of conflict as outlined in this policy. Management is responsible for immediately bringing these matters to the attention of the Ethics Liaison Officer for review and possible referral to the Department Ethics Advisory Committee. Failure by employees and managers to make timely disclosures may result in disciplinary action.
- The Ethics Liaison Officer, or the Ethics Advisory Committee, will review the specific situation and determine an appropriate course of action. The Department will work to fashion a reasonable accommodation that will be consistent with the Code, and which fully considers the employee's rights and interests.
- Management is directly responsible for ensuring that plans of action identified to address specific situations are adhered to.
- The Ethics Liaison Officer is responsible for providing clarification and interpretation of this Code of Ethics section on the Internal Employment of Relatives. All questions or requests for advice on this section should be forwarded to the Ethics Liaison Officer.

C. Exceptions

Due to an extreme circumstance, an exception to this Code section may be granted when the appropriate Assistant Commissioner, with authority over the affected employee, makes a written request to the Ethics Liaison Officer prior to making a final determination.

X. SUPERVISOR/SUBORDINATE ETHICS CONFLICTS

Consistent with determinations of the New Jersey Executive Commission on Ethical Standards, non-related employees who share the same household (cohabitants) under circumstances where there is a financial interdependence, shall not work together in a direct supervisor-subordinate

relationship. There must be an intermediate supervisory level between the two, and the higher placed employee should have no supervisory or signatory authority regarding personnel matters affecting the subordinate employee.

Further, all employees must disclose any outside employment, business or financial relationship with other Department employees, particularly subordinates or supervisors in their chain of command. Questions on supervisor/subordinate ethics conflicts should be referred to the Department's Ethics Liaison Officer.

For further information, refer to the Department's *Procedure 2.1091-C*, as amended.

XI. OUTSIDE EMPLOYMENT AND ACTIVITIES

A. Employment and Activities Prohibited

No employee shall accept employment or render services for any private or public interest when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her objectivity or independence of judgment in the performance of such duties. In addition, the hours of outside employment may not conflict with work hours needed for the discharge of official duties.

No Department employee shall act in his or her official capacity in any *matter* wherein he or she has a direct or indirect personal financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment. (See *N.J.S.A. 52:13D-23(e)4*.)

1. Approval for All Employment

All employee outside employment, whether compensated or not, must be disclosed in writing on the Department's PR-102 form entitled *Certification by Employee Regarding Outside Employment/Activity*, prior to being undertaken and is subject to Department approval. Furthermore, under state law all Department outside employment forms must be forwarded to the New Jersey Executive Commission on Ethical Standards for review.

Service for any other State, county, regional or municipal governmental body, agency, commission, department or board whether compensated or not is also considered to be employment.

In order to be approved, outside employment must be limited in scope, so as to avoid the potential for having any dealings with entities, individuals, subsidiaries or affiliates who have business dealings with the Department or who are likely to have business dealings with the Department. In this regard, business dealings include direct dealings as a contractor or vendor and indirect dealings as a subcontractor, architect, engineer, accountant, attorney or any other role.

It is the policy of the Department to encourage employee growth through participation in outside professional organizations. Employees participating in such organizations should not, however, utilize state equipment and time for professional organizational activities that are not related to their jobs and not approved by supervision. Furthermore, when participating in professional organizations employees should ensure that there is no conflict of interest or barrier to the fulfillment of their Department duties and responsibilities.

Outside voluntary activities which do not pose a conflict of interest with Department employment (e.g., CYO Director or Little League coach) need not be reported.

2. Notification of Relative's Employment

All employees are required to notify Department management regarding any relative employed by a contractor, consultant, vendor or any other company or firm doing business with the Department. Such notification shall be provided in writing on Department form PR-102.

3. Notification of License

An employee licensed by a specific agency of State government to engage in any particular business, profession, trade or occupation shall disclose that information on the Department's PR-102 form which by law must be forwarded to the New Jersey Executive Commission on Ethical Standards for review. Such licenses shall include, but are not limited to, those for accountants, architects, attorneys, electricians, insurance brokers, land surveyors, plumbers, professional engineers, professional planners, real estate agents and brokers, etc.

4. Employee's Circulation of Résumés

Employees of the Department of Transportation who have direct and substantial contact with any vendor doing business with the Department must refrain from circulating résumés or in any manner seeking employment with that vendor until such contact ceases. If an employee is solicited for potential employment by a vendor with which he/she has direct and substantial contact, that solicitation must be disclosed immediately to the employee's management and to the Department's Ethics Liaison Officer to avoid violation of the Conflicts of Interest law.

Direct and substantial contact means:

- A. Participation in selecting, negotiating or determining the scope of a contract with a vendor, including change orders.
- B. Responsibility for monitoring and approving the work of a contracted vendor.

Employees are not prohibited from soliciting employment (circulating résumés, engaging in formal discussions involving an offer, etc.) with vendors when they do not have contact as described above. Employees are cautioned, however, that discussions, interviews, and negotiations shall not take place on state time.

If any employee has any question as to the propriety of soliciting or discussing employment with any particular vendor, he/she should contact the Department's Ethics Liaison Officer before proceeding.

XII. POST-EMPLOYMENT RESTRICTIONS

An employee, officer and special officer of the Department is subject to the provision of the New Jersey Conflicts of Interest Statute (*N.J.S.A. 52:13D-17*), which states:

No State officer or employee or special State officer or employee, subsequent to the termination of his or her office or employment in any State agency, shall represent, appear for or negotiate on behalf of, or provide information not generally available to members of the public or services to, or agree to represent, appear for, negotiate on behalf of, or provide information not generally available to members of the public or services to, whether by himself or through any partnership, firm or corporation in which

he or she has an interest or through any partner, officer or employee thereof, any person or party other than the State in connection with any cause, proceeding, application or other matter with respect to which such State officer or employee or special State officer or employee shall have made any investigation, rendered any ruling, given any opinion or been otherwise substantially and directly involved at any time during the course of his or her office or employment. Any person who willfully violates the provisions of this section is a disorderly person and shall be subject to a fine not to exceed \$500 or imprisonment not to exceed 6 months, or both.

As an example, under the above statutory section, a former Department project manager could not represent, appear for or negotiate for a new employer, e.g., a consultant, before the Department, on a project he/she managed while employed with the Department. The former employee could, however, work on a new project that has arisen since he/she left the state, or on a project which he/she did not have direct or substantial involvement while employed with the Department.

Direct and substantial involvement, as stated in this statute, may exclude persons who have been engaged in a cause, issue or project on a routine, non-decision-making basis.

Questions concerning possible post-employment conflicts should be addressed to the Department's Ethics Liaison Officer prior to termination of employment.

XIII. SPECIAL CASINO-RELATED CONSIDERATIONS

A. Concurrent Employment Restrictions

No State officer or employee, nor any person, nor any member of their immediate families, or any partnership, firm or corporation with which any Department officer or employee is associated or in which he or she has an interest, or any partner, officer, director or employee or person while he or she is associated with such partnership, firm or corporation, shall hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of any holder of or applicant for a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application or matter, except that (1) a State officer or employee other than a State officer or employee included in the definition of person, and (2) a member of the immediate family of a State officer or employee, or of a person may hold employment with the holder of, or applicant for, a casino license

if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the State officer or employee, and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest on the part of the State officer, employee, or person. (See *N.J.S.A. 52:13D-17.2(b)*.)

B. Post-Employment Casino Restrictions

No employee of the Department who is subject to financial disclosure by law or executive order or who has responsibility for matters affecting casino activity, or any member of his or her immediate family, or any partnership, firm or corporation with which such person is associated or in which he or she has an interest, or any partner, officer, director or employee while he or she is associated with such partnership, firm or corporation, shall, within two years next immediately following termination of the office or employment of such person, hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of any holder of, or applicant for, a casino license in connection with any cause, application or matter, or any holding or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development permitting, licensure or any other matter whatsoever related to casino activity, except that:

(1) a member of the immediate family of a person may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the person and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the person; and

(2) an employee who is terminated as a result of a reduction in the workforce at the agency where employed, other than an employee who held a policy-making management position at any time during the five years prior to termination of employment, may, at any time prior to the end of the two-year period, accept employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not create a conflict of interest, or reasonable risk of

the public perception of a conflict of interest, on the part of the employee. In no case shall the restrictions of this subsection apply to a secretarial or clerical employee. (See *N.J.S.A.* 52:13D-17.2(c) (1) and (2).)

C. Expiration

In the event that the Legislature repeals or suspends Section 4 of P.L. 1981 c. 142 (C. 52:13D-17.2), in whole or in part, the companion sections of this code shall, to the same extent, be deemed repealed or suspended and of no effect.

XIV. POLITICAL ACTIVITY

DEFINITIONS

Elective Office - shall mean any office that is voted upon at a primary, special or general election, but does not include political party office.

Employee - shall mean any person holding an office or employment with the Department.

Nonpartisan Election - shall mean an election where none of the candidates are representing a party any of whose candidates for Presidential elector received votes in the last Presidential election at which Presidential electors were selected.

State Officer or Employee - shall mean for purposes of Hatch Act coverage an individual employed by a State agency whose principal employment is in connection with an activity that is financed in whole or part by loans or grants made by the United States or a Federal agency, but does not include:

1. An individual who exercises no functions in connection with that activity; or
2. An individual employed by an educational or research institution, establishment, agency or system that is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic or cultural organization.

Department of Personnel regulation requires that:

An employee shall not directly or indirectly use or seek to use his or her authority or influence of his or her position to control or modify the political action of another person. An employee during the hours of duty shall neither engage in political activity; nor shall he or she at any other time participate in political activities so as to impair usefulness in the position in which he or she is employed. A State employee retains the right to vote as he or she chooses and to express his or her opinions on political subjects and candidates.

Hatch Act Prohibitions

There are certain constraints on the political activity of State employees covered by the Hatch Act. Under the Hatch Act, Executive branch employees in any State agency whose principal employment is in connection with an activity financed in whole or in part by federal loans or grants:

- may be a candidate for public office in a nonpartisan election.
- may campaign for and hold elective office in political clubs and organizations.
- may actively campaign for candidates for public office in partisan and nonpartisan elections.
- may contribute money to political organizations or attend political fund-raising functions.
- may participate in any activity not specifically prohibited by law or regulation.
- may **not** be a candidate for public office in a partisan election.
- may **not** use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office.
- may **not** directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

A violation on the part of an employee may possibly subject such employee to criminal prosecution under the Department of Personnel statutes and may be cause for removal or a loss of Federal loans or grants to the Department.

Questions in this regard may be referred to the Department's Ethics Liaison Officer.

NOTE: Employees who intend to run for partisan elective public office must submit an Outside Employment/Activities (PR-102) Form to supervision and the Ethics Liaison Officer prior to becoming a candidate for such office.

XV. VIOLATIONS AND SANCTIONS

Any Department employee found guilty by the Executive Commission on Ethical Standards of a violation of any provision of the Conflicts of Interest law shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law (*N.J.S.A. 2A:58-1*), and may be suspended from his or her office or employment by order of the Commission for a period not in excess of one year. If the Commission finds that the conduct of the employee constitutes a willful and continuous disregard of the provisions of the Conflicts of Interest law or of a code of ethics promulgated pursuant to the provisions of this law, it may order such person removed from his or her office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period not exceeding five years from the date on which he or she was found guilty by the Commission. These penalties may be in addition to any other punishment provided by law. (See *N.J.S.A. 52:13D-21(i)*.)

In addition to the above, Department employees who violate this Code of Ethics are subject to disciplinary action by the Department as detailed in the Department's *Guidelines for Discipline*.

NOTE: Any time there is a violation of the Department Code of Ethics, and discipline is to be considered, approval must first be obtained from the New Jersey Executive Commission on Ethical Standards. Unionized employees who are the target of an ethics investigation have the right, upon their request, to union representation at any investigatory interview or meeting.

XVI. REPORTING COMPLAINTS ALLEGING VIOLATIONS

Employees wishing to file a complaint regarding an alleged violation should prepare a memorandum/letter describing the incident(s) and forward it to the Department's Ethics Liaison Officer.

NOTE: Under the New Jersey Conscientious Employee Protection Act, *N.J.S.A. 34:19-1 et seq.*, as outlined in Department Policy No. 1.1124, it is

unlawful for a Department manager or supervisor to take an adverse employment action against an employee who discloses, objects to, or refuses to participate in certain activities that the employee reasonably believes are either illegal or in violation of a clear public policy.

APPENDIX

GUIDELINES FOR ATTENDANCE AT OUTSIDE EVENTS/FUNCTIONS, ACCEPTANCE OF HONORARIUM, AND COMPENSATION FOR PUBLISHED WORKS

I. ATTENDANCE AT OUTSIDE EVENTS AND FUNCTIONS

A. Approval Process

During the course of their careers, most state officials at one time or another are invited to events or functions sponsored by persons or groups working outside State government. These invitations, extended to the State official because of his or her government position, must be carefully reviewed and approved by the Department's Ethics Liaison Officer prior to attendance to avoid any possible ethics conflicts.

In determining whether employee attendance at an outside event or function is appropriate, it is necessary for the Department to evaluate whether the attendance serves a legitimate state purpose. Considerations which are relevant to this determination generally include, but are not limited to:

- ① The purpose of the event or function (meeting, conference, seminar, training course, ground breaking ceremony or social get-together).
- ② The identity of the sponsor (Department contractor, consultant, supplier, trade organization, professional association, etc.) and/or other participants.
- ③ Whether attendance/participation will assist the Department employee in carrying out his or her official duties and will support the Department's mission.
- ④ 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.

It is the policy of the State to deny requests for attendance at outside events that strictly serve a social or entertainment function, such as golf outings.

Note that a Department official or employee need not first receive the approval of the Department to attend any outside event or function in a private capacity on non-state time for which he/she was not invited because of his/her state position and which is not being sponsored by an interested party. For purposes of these Guidelines an "Interested Party" is defined as any person, association, organization, firm, partnership or corporation, 1) which is or may reasonably be anticipated to be subject to the regulatory, licensing or supervisory authority of the Department of Transportation; 2) any supplier that is providing or seeking to provide goods/services to the Department of Transportation, including but not limited to, consultants, vendors and lessors; 3) any organization that advocates or represents the positions of its members to the Department of Transportation; or 4) any organization a majority of whose members are as described in paragraphs 1 through 3.

B. Acceptance of Benefits In Connection With Event Attendance

Frequently, Department officials or employees are invited to events wherein complimentary benefits are offered. These benefits range from payment of travel expenses, accommodations, meals, waiver of conference or event fees, or any other costs associated with attending the event. (Note, complimentary and nominal food benefits such as nonalcoholic beverages and snacks, doughnuts, pastries and cookies, can be accepted.)

Any Department official or employee who is offered complimentary benefits in conjunction with an event sponsored by an "interested party" must decline acceptance of these benefits. The only exception to this rule is when the Department official or employee is making a speech or participating on a panel at the event. In such situations where an official or employee is making such a speech or participating on a panel, the official or employee, as well as an accompanying resource person, is permitted to accept the benefits, which must be identical to the benefits provided to other speakers or panel participants.

Note that any time the Department approves the receipt of complimentary benefits for an official or employee who speaks or participates in an event sponsored by an interested party, the Department is required to notify the New Jersey Executive Commission on Ethical Standards.

Any employee who desires to attend an outside event or function which arises out of and/or is related to his/her official duties must first fill out and submit to the Department's Ethics Liaison Officer an "Attendance Approval Request Form." This form, a copy of which is located at the end of this Codebook, should, when reasonably practicable, be submitted to the Ethics Liaison Officer at least two weeks prior to the scheduled event or function. The Department employee's immediate supervisor must approve the attendance prior to submission of the form to the Ethics Liaison Officer. A written determination will then be made on the employee's request by the Ethics Liaison Officer.

II. ACCEPTANCE OF HONORARIUM

Occasionally, State officials are offered a payment for their speaking or participating at an outside event or function, e.g. conference. This payment of an honorarium may be accepted from a sponsor who is not an interested party. Under State ethics regulations, a State official cannot accept an honorarium from an interested party for a speech or presentation given at any kind of event or function.

III. COMPENSATION FOR PUBLISHED WORKS

Under State ethics rules, a State official is prohibited from accepting compensation for published works created as a part of his/her official duties on State time utilizing State resources, but may accept compensation for published works not created as part of his/her official duties.

EXAMPLE: As part of his official duties an Department 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.

Note that a State employee cannot accept compensation for a published work from an interested party, even if the published work was not created as a part of his or her official duties.

On a related subject, a State official cannot use his or her official title in any way in soliciting compensation and must indicate that his or her views do not represent those of the Department.

Prior to accepting compensation for published works on a subject matter related to but not part of his or her official duties, a State official must receive the permission of the Assistant Commissioner for Finance & Administration or the Department Ethics Liaison Officer.