

New Jersey Institute of Technology Supplemental Ethics Code

A. PURPOSE

Pursuant to N.J.S.A. 52:13D-23, the State Ethics Commission (SEC) has promulgated the Uniform Ethics Code, which is the primary code of ethics for the New Jersey Institute of Technology (NJIT). However, because NJIT is a public institution of higher education, there are special circumstances that are unique to its mission and regulations that are applicable to employees who serve in a scholarly capacity. This Supplemental Ethics Code applies to all employees of NJIT, focusing on those who work in a scholarly capacity. In addition, it augments the Uniform Ethics Code in addressing particular needs and issues that are unique to NJIT.

B. DEFINITIONS

In addition to the definitions contained in the Uniform Ethics Code, “scholarly capacity” means any pedagogical, academic, artistic, educational or scholarly activity performed by an NJIT employee for NJIT.

C. REFERENCES

New Jersey Conflicts of Interest Law - <http://nj.gov/ethics/statutes/conflicts/>
Uniform Ethics Code - <http://nj.gov/ethics/docs/ethics/uniformcode.pdf>
Plain Language Guide – <http://nj.gov/ethics/plainlanguage.pdf>
NJIT Ethics Website: <http://ethics.njit.edu>

D. ATTENDANCE AT EVENTS (N.J.A.C. 19:61-6.4 and 19:61-6.5)

1. Notwithstanding the requirements and prohibitions regarding attendance at events set forth in Section IV of the Uniform Ethics Code, an NJIT employee, acting in a scholarly capacity, attending, participating in, or making presentations at colloquia, seminars, conferences, or similar scholarly gatherings may accept a direct or indirect benefit, including the acceptance of reasonable travel and subsistence expenses and allowable entertainment expenses. The NJIT employee, 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 in writing sharing his or her intellectual work.
2. Except as provided in (1) above, an NJIT employee acting in a scholarly capacity shall not accept entertainment collateral to the event, such as a golf outing, or meals taken other than in a group setting with all attendees, or reimbursement therefore.

E. COMPENSATION FOR PUBLISHED WORK(S) (N.J.A.C. 19:-61-6.7)

1. An NJIT employee acting in a scholarly capacity may require the use of his or her own published work(s) in a course that he or she teaches at NJIT. However, monies resulting from such use must be donated to NJIT.
2. An NJIT employee acting in a scholarly capacity may accept compensation for the use of his or her published work(s) 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. If he or she were involved in the selection of the published work, the provision in subparagraph (1) are applicable.

F. SOLICITATION OR ACCEPTANCE OF A THING OF VALUE (N.J.A.C. 19:61-6.9)

Notwithstanding the prohibitions contained in the Uniform Ethics Code and applicable regulations regarding acceptance of gifts and/or things of value, an NJIT employee serving 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 in writing sharing his or her intellectual work, acting in an editorial capacity for a journal or other publication or reviewing journal or book manuscripts, or grant or contract proposals, or participating in accreditation or other peer review activities.

G. ANNUAL SCHOLARLY CAPACITY DISCLOSURE

An NJIT employee serving in a scholarly capacity shall disclose annually 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. If the employee, serving in a scholarly capacity, has received no thing of value, that shall be reported as well.

H. FACULTY OR STAFF INVOLVEMENT WITH COMMERCIAL ENTERPRISE – CONTRACTS WITH THE UNIVERSITY

1. Introduction

NJIT recognizes that the potential to develop commercial enterprises to market university research based technology has increased, and further recognizes that such involvement can be, and has been, of significant benefit to NJIT, the NJIT employee, the commercial entity, the general public, and the economy of the State of New Jersey. Involvement of an NJIT employee with a commercial enterprise may create the possibility for conflicts of interest, interference with the NJIT employee's primary allegiance to NJIT and its mission, or inhibition of free exchange of information. While NJIT encourages this type of involvement,

NJIT's integrity and its primary goals of education and open inquiry must be maintained.

There are times when an NJIT employee's involvement with commercial enterprise may exceed the usual relationship developed as part of normal duties, in professional affiliations, or in a consulting role, and thus may not be covered by other provisions of the Uniform Ethics Code, NJIT's patent and copyright policies, or other NJIT regulations or policies. This section of the Supplemental Ethics Code prescribes a disclosure and approval process for NJIT employees' involvement with commercial enterprises for the purpose of commercializing intellectual property developed by the faculty member and owned by the university, wherein the employee or a member of the employee's family holds a financial interest of greater than 1% in any organization, firm, corporation or partnership that wishes to enter into a contract or agreement with NJIT. The Supplemental Ethics Code recognizes the need for flexibility and the difficulty of anticipating all situations that may arise by leaving discretion to the University to interpret the policy and weigh the potential benefits.

2. Approval Procedure

In order for NJIT to have an opportunity to evaluate carefully the benefits and burdens of an employee's equity interest in an enterprise that commercializes intellectual property invented by the employee, and owned by NJIT, and seeks to enter into a contractual affiliation (which may consist of one or more agreements) with the university, the employee must request prior approval in writing when the employee or a family member, business partner or associate owns substantial equity (greater than 1%) in the commercial enterprise that proposes to carry on business activities with NJIT.

Prior to entering into a contractual affiliation, approvals must first be obtained from the Departmental Head (in the case of administrative employees) or the Chair of the Department, followed by approval of the Dean (for all faculty). All requests for approval of such contractual affiliation must disclose fully the following aspects of the affiliation:

- a. Nature of the relationship between the employee and the commercial enterprise;
- b. Short and long-term commitment of time and effort;
- c. Financial aspects, including the extent of compensation, equity, direct or indirect benefits, and/or potential economic value;
- d. Expected benefit to the commercial enterprise;

- e. Expected benefits to the employee, to NJIT, to the public, and to the State of New Jersey; and
- f. The names of all other individuals who have an equity interest in the commercial enterprise.

Consideration will be given to the following criteria when evaluating such requests:

- a. There should be prospective benefits to the NJIT employee and NJIT;
- b. The relationship should not interfere with the employee's primary obligation to his or her university position, nor should it undermine the academic integrity of NJIT;
- c. There must be no foreseeable inappropriate reorientation of an academic or research program or student direction. Special attention must be given to protecting the intellectual property of students and in protecting students from performing work under any such contract or agreement that is out of proportion to the benefits received by the students for their performance of the work;
- d. In general, there should be free access to the results of all research conducted at NJIT, subject to restrictions related to protection of intellectual property, proprietary and classified information, as well as restrictions based on compliance with current contractual commitments.

After the Department Head or Dean (as applicable) reviews the disclosure, he or she shall forward the disclosure materials and their written recommendations to the Executive Committee on Technology Development (ECTD) for their review and approval. The Ethics Liaison Officer shall advise the Committee with respect to any issues raised in the application regarding compliance with the Conflicts of Interest law, regulations, Executive Orders, Uniform Ethics Code, or Supplemental Code of Ethics. The Committee shall ordinarily render a decision within thirty (30) days of receipt of the request for approval of the proposed contractual affiliation. The decision of the ECTD shall be final and binding, and shall be forwarded to the Ethics Liaison Officer. The approval granted may be rescinded by the ECTD, with notice to the employee and opportunity to be heard, if there is a material change in the underlying criteria upon which the approval was granted.

NJIT employees on leave without pay, or on sabbatical leave, or faculty members during the summer months continue to represent NJIT in the eyes of the public. The provisions of the Conflict of Interest law, the Uniform Ethics Code, the NJIT Supplemental Ethics Code, or other NJIT regulations and policies are applicable

during these periods. During these times, therefore, employees are required to request approval for any contractual affiliation covered by this Supplemental Ethics Code.

The Vice President for Research and Development jointly with General Counsel/Secretary of the Board of Trustees shall periodically report to the NJIT Board of Trustees all contractual affiliations approved under the above procedures.

3. Applicability to Senior Administrators and Research Administrators:

The foregoing provisions for approval of employee involvement with commercial enterprise shall not apply to NJIT administrators whose employment responsibilities include or encompass research administration. No NJIT administrator, including the President, Provost, Vice Presidents or Deans, General Counsel, or any employee of the Office of Research and Development, or any other member of the ECTD shall hold substantial equity (greater than 1%) in a commercial enterprise that commercializes intellectual property owned by NJIT and that has a contractual affiliation with NJIT.

4. Annual Review

Each employee who has received approval for any arrangement under this section of the Supplemental Ethics Code must annually submit a summary of activities undertaken to his/her Department Head, or Chair and Dean.