PLAIN LANGUAGE GUIDE TO NEW JERSEY'S EXECUTIVE BRANCH ETHICS STANDARDS

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INTRODUCTION

This is a Guide for State officers and employees and special State officers and employees in the Executive Branch of New Jersey State Government. If you are one of these persons, you should read this Guide carefully. It explains the ethics rules and laws found in the New Jersey Conflicts of Interest Law ("Conflicts Law"), *N.J.S.A.* 52:13D-12 *et seq*., and in the rules of the State Ethics Commission, *N.J.A.C.* 19:61-1.1 *et seq*. In addition to those laws and rules, you are also bound by the Uniform Ethics Code and any supplemental ethics code adopted by the agency for which you work. You are responsible for knowing the laws and rules described in this Guide, as well as the specific policies and procedures of your particular agency.

As we in State government do our work, it is important that the public have the highest degree of confidence in our conduct. Our fellow employees depend on us to make lawful, ethical decisions. This Guide provides general information on the minimum ethical standards and does not have the force and effect of law. It does not replace any actual laws or rules, and it does not address every ethical restriction contained in the laws and rules it summarizes. It does not cover the requirements contained in your agency's supplemental ethics code, to which you are also subject if your agency has adopted such a code. Ethical issues may also be addressed in procurement, personnel, and travel rules, as well as in open meetings, open records, and criminal laws. The statutes creating your agency may also contain ethical prohibitions. In addition, members of particular professions (such as lawyers and accountants) are subject to their own codes of professional responsibility.

Information in this Guide derives from detailed statutes, regulations, and executive orders. There are, however, simple principles that will guide you through the details.

PRINCIPLES OF ETHICAL CONDUCT

- **Exploitation of Official Position.** You may not use your position to secure a job, contract, governmental approval or special benefit for yourself, a friend or family member.

- **Compensation for Official Duties.** Your paycheck is your only permitted compensation. You may not accept any other compensation for performing your State job.

- **Gifts and Favors.** You may not accept any gift of more than nominal value related in any way to your official duties.

- **Attendance at Events: Honoraria, Activities, and Expenses.** You may not be "wined and dined" by people with whom your agency conducts business. You may not accept honoraria. Official travel reimbursements require prior approval from your agency or the Ethics Commission.

- **Outside Employment, Business Interests and Political Activity.** You must disclose to your agency any outside employment, business interests and political activities, compensated or uncompensated, in which you engage. You must obtain prior approval before commencing any secondary employment or business activity.

- **Conflicts of Interest.** You may not act in any official matter in which you, your family, or your close friends have a direct or indirect personal or financial interest. Rather, you should recuse yourself and ask someone else to perform the State task.

- **Prior Business Relationships.** You may not have any involvement in official matters that involve any private sector individual or entity that employed you or did business with you during the one year prior to the commencement of your State employment.

- **Prohibition on Use of Confidential Information.** You may not disclose confidential information acquired through your position to any unauthorized person.

- **Nepotism.** You may not hire, promote, or supervise a relative.

- **Post-Employment Lifetime Restrictions.** After you leave public employment, you may not represent or assist a person concerning a particular matter if you were substantially and directly involved in that particular matter while in State employ. Further, you may not use or disclose any information not generally available to members of the public, gained during the course of your employment.

- **When in Doubt, Ask!** If you think you have a conflict of interest or are unsure of any of these rules, ask your Ethics Liaison Officer ("ELO") or the Commission. If you suspect any wrongdoing, report your suspicion. Complaints may be made anonymously to the Commission and are kept confidential.

If you have questions (and most of us do, from time to time), you should contact your supervisor, Department Head or ELO. Most of the reporting requirements discussed in this Guide refer you to your agency's ELO. A list of ELOs is available at https://nj.gov/ethics/agency/. You may also address questions directly to the State Ethics Commission (which we refer to in this Guide as the "Commission").

To obtain more information, call the Commission at (609) 292-1892 or 1-888-223-1355. You may also visit our web site at https://nj.gov/ethics/.

GENERAL STANDARDS OF CONDUCT

These rules promote the principle that public office is a public trust. Where government is based upon the consent of its citizens, the public is entitled to have complete confidence in the integrity of government. The business of New Jersey must be conducted in a manner intended to assure the citizens of our State that the character and conduct of its officials and employees are above reproach. To achieve this result, the State has ethics rules that are general in nature, as well as rules that deal with very specific situations. Under the general rules, you must **not**:

- have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of your duties in the public interest;

- use or attempt to use your official position to secure privileges or advantages for yourself or others;

- act in your official capacity in any matter in which you have a direct or indirect personal financial interest that might reasonably be expected to impair your objectivity or independence of judgment; or

- knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of your acts that you may be engaged in conduct violative of your trust as an officer or employee of the State.

These rules apply if you are a State officer or employee (holding office or employment in a State agency or a full-time New Jersey member of an interstate agency) or a special State officer or employee (holding office or employment in a State agency for which you receive no compensation, except possibly reimbursement of expenses, a part-time employee or a New Jersey member of an interstate agency if your duties are not full-time).

GIFTS, FAVORS, SERVICES AND OTHER THINGS OF VALUE

Upon the recommendation of the Special Counsel for Ethics Review and Compliance, the Commission has adopted a zero tolerance policy for acceptance of gifts offered to you, your spouse, immediate family member, partner or associate, that are related in any way to your official duties. Unless you are permitted to receive the gift or thing of value in accordance with the Commission's rules on attendance at events, you, your spouse, immediate family member, partner or associate shall not accept, either directly or indirectly, any gift, favor, service or other thing of value related in any way to your official public duties. Some things of value are obvious, such as money, stock, debt forgiveness, real estate, or automobiles. But less obvious things also have value, including offers of employment, loans, labor, rebates, price discounts, entertainment, and meals.

Reporting Requirement. You are required to disclose and remit to your ELO any offer or receipt of a thing of value from any person or entity.

Unsolicited Gifts of Nominal Value. 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. The receipt of such complimentary articles is not required to be reported to the ELO.

Caution Against Inappropriate Uses. An item that is otherwise permissible to accept might be impermissible if it is used or displayed in an inappropriate manner. For instance, an official in a regulatory agency should not use a pocket calendar conspicuously marked with the name of a company that is regulated by the agency, as this might create the impression of favoritism. A State agency should not display in any of its offices a wall calendar from a vendor, as this might create the impression of an endorsement.

Gifts in the Workplace. A State employee is permitted to give or receive a gift from a co-worker, a supervisor or a subordinate. The gift should not be excessive or inappropriate for a business environment. Such gift shall not be reported to the ELO.

Other Resources. For a more complete discussion of this subject, see *Guidelines Governing Receipt of Gifts and Favors by State Officers and Employees*, https://nj.gov/ethics/statutes/guide/giftcode/, and *N.J.A.C.* 19:61-6.9, https://nj.gov/ethics/statutes/rules/.

COMPENSATION FOR OFFICIAL DUTIES

Your State Paycheck is Your Only Permitted Compensation. The only compensation or other thing of value that you are allowed to accept for doing your State duties is your State paycheck. Payment or reimbursement of your expenses for attending events is not compensation, and is addressed below under the heading "*Attendance at Events: Honoraria, Activities, and Expenses.*"

Other Resources. For a more complete discussion of this subject, see the Commission's guidelines on various topics, at https://nj.gov/ethics/statutes/guide/famcode/.

ATTENDANCE AT EVENTS: HONORARIA, ACTIVITIES, AND EXPENSES

An *event* is any meeting, conference, seminar, speaking engagement, symposium, training course, ground-breaking, ribbon-cutting, meal, open house, cocktail party, fundraiser, holiday party, social function, or similar event that takes place away from your work location, is sponsored or co-sponsored by a supplier or a non-State government source and the invitation for which is extended to you because of your official position.

Meetings that you attend at other State agencies in the course of your official duties are not *events.*

- You must obtain prior approval from your ELO to attend any event.

- You are not allowed to accept an honorarium or fee for a speech or presentation at an event.

- You are not allowed to use your official title for the purpose of fundraising for a private organization (whether at an event or elsewhere).

- Regardless of the sponsor or the purpose of the event, you are permitted to accept nominal refreshments such as nonalcoholic beverages and snacks (doughnuts, pastries and cookies).

If the Event is <u>Not</u> Sponsored by an Interested Party (See definition below***)***

The State may pay your reasonable expenses associated with attending the event or it may permit you to accept (but not from an interested party) travel, meals, accommodation, waiver of conference or event fees or any other costs associated with attending the event, or reimbursement for such costs.

You are prohibited from accepting entertainment that is collateral to the event, such as a golf outing, or meals taken other than in a group setting with all attendees, or reimbursement for such items.

Examples: An employee of the Office of Economic Growth has been invited, by the Mexican Tourist Bureau, an agency of the Mexican government, to attend a series of meetings on promoting tourism in both countries. The employee will be giving a speech at a dinner on the final day of the meetings and has been offered a $500 honorarium. The employee may attend the meetings but is not permitted to accept an honorarium in connection with his speech. He may accept, directly or by reimbursement, actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State, not to exceed the statutory limit of $500.

A local non-profit organization would like to hold a dinner/fundraiser honoring a Technical Assistant from the Department of Banking and Insurance who has been a long-time supporter of the organization. The organization plans to use the Technical Assistant's picture, name, and official title on the promotional literature. The Technical Assistant may attend the event but is prohibited from allowing the use of his official title for fundraising purposes.

If the Event is Sponsored by an Interested Party

An interested party is*:*

- *a person or entity that is or may reasonably be anticipated to be subject to the regulatory, licensing, or supervisory authority of your agency, or any employee, representative or agent of that person or entity;*

- *a supplier to your agency (meaning any person or entity that is providing or is seeking to provide or may reasonably be expected to provide goods and/or services to your agency) or any employee, representative, or agent of a supplier;*

- *an organization that advocates or represents the positions of its members to your agency; or*

- *an organization a majority of whose members are interested parties.*

- *In general, an interested party is any person or entity that you or your agency deal with, contact, or regulate in the course of official business.*

You or the State must pay your reasonable expenses associated with attending the event, and neither you nor the State can receive travel, meals, accommodation, waiver of conference or event fees or any other

costs associated with attending the event, or reimbursement for such costs, from any source. There may be an exception to this rule if you take an active role in the event (see below).

If You Take an Active Role in the Event. If an event is designed to provide training, dissemination of information, or the exchange of ideas, and you will be making a speech, participating in a panel at the event, or acting as an accompanying resource person for the speaker and/or participant, you must seek approval from your ELO. If he or she determines that doing so will not create a conflict or the appearance of one, your ELO can permit you to attend the event and permit the interested party sponsor to reimburse or pay for the following expenses associated with attending the event, if those expenses are not paid for by the State:

- ***Allowable Entertainment Expenses*** -The costs for a guest speaker, incidental music, and other ancillary entertainment at any meal at an event, provided they are moderate and not elaborate or excessive; but not the costs of personal recreation, such as being a spectator at or engaging in a sporting or athletic activity which may be offered as part of that event.

- ***Actual and Reasonable Expenditures for Travel or Subsistence*** – Includes commercial travel rates directly to and from the event and food and lodging expenses which are moderate and neither elaborate nor excessive. For an event outside New Jersey, this amount must not exceed $500 per trip, for expenditures for travel or subsistence and entertainment expenses that are not paid for by the State of New Jersey. The $500 per trip limitation does not apply if the reimbursement or payment is made by:

- a nonprofit organization and you are an active member of the organization because the State pays a membership fee or charge;
- a nonprofit organization that does not contract with any State agency to provide goods, materials, equipment, or services;
- any agency of the federal government or a private sector entity with a contract with a federal agency to provide meeting, conference, travel or related services;
- any agency of another state or of two or more states; or
- any political subdivision of another state.

Examples: An employee of the Department of Environmental Protection has been invited to attend a conference of the Association of Environmental Authorities and has been asked to present a short program to explain a new series of forms being proposed by the Department. The Association has offered to waive the $200 conference fee; the conference program includes morning and afternoon refreshments and lunch. If the ELO approves the employee's attendance and participation in the conference, the employee may accept the waiver of the fee and the refreshments and meal included in the program. A copy of the ELO's approval must be forwarded to the Commission.

The Motor Vehicles Commission is considering the purchase of new pollution-testing equipment. One of the companies that plans to submit a bid invites several MVC employees to a demonstration of the equipment to be held at a hotel conference center. A seafood buffet will be served after the demonstration. With proper approval, the employees may attend the demonstration, but because the company plans to submit a bid to provide this equipment, and is therefore an interested party with respect to the MVC, the employees may not partake of the seafood buffet at the expense of the vendor. The employees may, however, pay the cost of the buffet personally.

Three employees from different units of the Department of Transportation are responsible for weekly monitoring of a construction project. Each Friday morning, they meet with the contractor's representative at the site field office to review the week's progress and to assess projected schedules. The meetings generally last one to two hours; coffee is available, but no other refreshments or meals are served or offered. Because no direct or indirect benefits are offered or provided, and because the meetings are part of the employees' job responsibilities, the meetings are not considered "events" for the purposes of this Guide.

Considerations in Granting Approval. Your ELO must determine whether a legitimate State purpose will be served by your attendance at an event, and must consider applicable laws, regulations, the Uniform Ethics Code, any agency supplemental ethics code, guidelines, departmental administrative policies, and any other relevant considerations. These might include the identity of the sponsor and the other participants, the purpose of the event, whether the event will assist you in carrying out your official duties and support your agency's mission, and the value and character of the costs, and/or benefits provided by the sponsor (including whether they are comparable to those offered to or purchased by other attendees). In some instances, the ELO is required to forward the approval to the Commission for review.

Scholarly Capacity. Special rules apply to State officials acting in a scholarly capacity, as that term is defined in *N.J.A.C.* 19: 61-6.2. State officials acting in a scholarly capacity may accept honoraria related to their scholarly activities, and must complete an annual disclosure form that discloses reimbursement for any travel, subsistence or entertainment expenses, honoraria, academic prizes, or other things of value related to activities performed in a scholarly capacity that were received during the prior calendar year.

Other Resources. For a more complete discussion of this subject, see *N.J.AC.* 19:61-6.1 to -6.8, at https://nj.gov/ethics/statutes/rules/.

POLITICAL ACTIVITY

You are permitted to be involved in partisan political activities, provided there is no provision in your agency's supplemental code of ethics prohibiting those activities. The supplemental ethics codes of the Election Law Enforcement Commission, the State Ethics Commission, and several other agencies have specific provisions prohibiting such activities. Under no circumstances may you use State time or State resources in pursuit of political activities. You should notify your ELO prior to engaging in partisan political activities so that your situation can be reviewed to determine what, if any, restrictions apply.

The restrictions on your soliciting or accepting things of value do not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office. However, you cannot accept a campaign contribution if you know it is being given in lieu of a payment that you would otherwise be prohibited from accepting.

Federal Hatch Act. On December 19, 2012, Congress passed the Hatch Act Modernization Act of 2012. The Act allows State and local government employees to run for partisan political office unless the employee's salary is paid for entirely by federal loans or grants. Prior to this change, State and local government employees were prohibited from running for partisan office if they worked in connection with programs financed in whole or in part by federal loans or grants. The Hatch Act continues to prohibit covered State or local government employees from engaging in coercive political conduct or misusing their official authority for partisan purposes.

Covered State and Local Employees May:

- run for public office in partisan elections;
- actively campaign for candidates for public office in partisan and nonpartisan elections; and
- contribute money to political organizations and attend political fundraising functions.

Covered State and Local Employees May Not:

- use official authority or influence to interfere with or affect the results of an election or nomination; or

- directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

The Hatch Act is a federal statute, not under the jurisdiction of the Commission. An interested party may request an advisory opinion from the Office of Special Counsel, Hatch Act Unit, 1730 M Street, N.W., Suite 300, Washington, D.C. 20036-4505. Telephone: 800-85-HATCH (800-854-2824) or 202-254-3650. You may also visit the website of the United States Office of Special Counsel, at osc.gov.

Other Resources. For a more complete discussion of this subject, see "State Employees' participation in Political Activities," https://nj.gov/ethics/statutes/guide/political-activities/.

OUTSIDE EMPLOYMENT/ACTIVITIES

Special Rules Applicable to Designated State Officers. The Governor, the Attorney General, Commissioners of State agencies, heads of the other Executive Branch departments, specified members of the Governor's staff, and certain other persons are identified in *N.J.S.A.* 52:13D-24(d) as ***designated State officers***. These persons are subject to stricter rules which generally prohibit them from receiving any compensation, salary, honoraria, and other forms of income from any source other than their State paycheck.

Unless you are a **designated State officer,** you may have a second job or personal business interest and engage in an outside volunteer activity, but only if it is compatible with your agency rules and your State responsibilities. You must **not**:

- undertake any employment or service which might reasonably be expected to impair your objectivity and independence of judgment in the exercise of your official duties;
- engage in any business, profession, trade, or occupation that is subject to licensing or regulation by a specific agency of State Government, without promptly filing notice of that activity with the Commission;
- engage in any business, transaction, or professional activity that is in substantial conflict with the proper discharge of your duties in the public interest; or
- use State time, personnel, or other State resources for the other job or activity.

Casino and Cannabis Restrictions.

State Officers and Employees. Neither a State officer or employee nor a member of their immediate family may hold employment with a holder of or applicant for a casino license, a medical cannabis entity[1], or a

[1] Medical cannabis entity includes a holder of or applicant for a medical cannabis cultivator permit, medical cannabis manufacturer permit, medical cannabis dispensary permit, or clinical registrant permit, any entity that employs any certified medical cannabis handler to perform transfers or deliveries of medical cannabis, or any holding or intermediary company with respect thereto.

personal use cannabis entity[2] unless the Commission grants a waiver. To ask for a waiver, contact your ELO for more information. Neither a State officer or employee nor a member of their immediate family may hold an interest in, or represent, appear for, or negotiate on behalf of a holder of or an applicant for a casino license, a medical cannabis entity, or a personal use cannabis entity.

Special State Officers and Employees. Special State Officers and Employees, excluding those serving in the Departments of Education, Health, or Human Services, or in the Office of the Secretary of Higher Education, may not hold an interest in a casino licensee or applicant, medical cannabis entity, or personal use cannabis entity. However, Special State Officers and Employees who do not have responsibility for matters affecting casino activity may represent, appear for, or negotiate on behalf of a casino licensee or applicant, or hold employment with a casino licensee or applicant, and if so employed, may hold and interest in and represent, appear for, or negotiate on behalf of that employer. Similarly, Special State Officers and Employees who do not have responsibility for matters affecting medical or personal use cannabis activity may represent, appear for, or negotiate on behalf of a medical cannabis entity or personal use cannabis entity, or hold employment with a medical cannabis entity or personal use cannabis entity, and if so employed, may hold and interest in and represent, appear for, or negotiate on behalf of that employer.

Conclusion- Outside Employment/Activities. Prior to engaging in any outside employment or other activity, you must obtain approval from your agency. Ask your ELO.

If you are not certain whether you are permitted to take on a job or other outside activity according to these rules, you should ask the Commission for an advisory opinion. These cases are frequently very fact-sensitive, and the Commission decides each individually.

Other Resources. For a more complete discussion of this subject, see *Guidelines Governing Outside Activities*, at https://nj.gov/ethics/statutes/guide/outsideact_guide/. See also, *Outside Activity Questionnaire*, at https://nj.gov/ethics/statutes/guide/outsideact/.

CONFLICTS OF INTEREST

As a State officer or employee or special State officer or employee, you are prohibited from acting in your official capacity in any matter in which you have a direct or indirect personal or financial interest that might be expected to impair your objectivity or independence of judgment. As a practical matter, this means that you should not participate, even informally, on a matter in which you have a personal or financial interest.

You could have an incompatible personal or financial interest through such things as:

- A purchase, sale, lease, contract, option, or other transaction;
- Property or services;
- Employment or negotiations for prospective employment; and
- Your relationship to a party involved in the matter, such as a relative, cohabitant, or person who is providing funds, goods or services to you.

The Conflicts Law contains an exception that permits you to represent yourself in negotiations or proceedings concerning your own interest in real property.

[2] Personal use cannabis entity includes a holder of or applicant for a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, cannabis retailer, or cannabis delivery service license, any entity that employs or uses a certified personal use cannabis handler to perform work for or on behalf of a licensed cannabis establishment, distributor, or delivery service, or any holding or intermediary company with respect to thereto.

Prohibitions on Contracts with a State Agency

Special State Officers and Employees. You may not knowingly undertake or execute any contract, agreement, sale or purchase valued at $25 or more with the State agency with which you are affiliated if you have any duties or responsibilities in connection with the purchase or acquisition of property or services. This prohibition also applies to your partners and to any corporation that you control, or in which you own or control more than 1% of the stock. The prohibition does not extend to other State agencies.

State Officers and Employees. You, along with your partners or any corporation you control or in which you own or control more than 1% of the stock, may not knowingly undertake or execute any contract, agreement, sale or purchase valued at $25 or more with any State agency, *whether or not* it is the agency for which you work.

Limited Exceptions to these Prohibitions. Three categories of contracts are exempt from the general prohibition on contracting with the State. However, before entering into a contract falling within any of these categories, approval must first be obtained from the Commission. The three categories are:

- Those purchases, contracts, agreements, or sales that are made after public notice and competitive bidding. The Commission typically approves such contracts unless the contract in question is with the State employee's own agency. In these situations, the Commission has determined that such contracts raise the issue of an appearance of impropriety under section 23(e)(7) of the Conflicts Law.

- Those contracts that may be awarded without public advertising and competitive bidding pursuant to *N.J.S.A*. 52:34-10.

- Any contract of insurance entered into by the Director of the Division of Purchase and Property, Department of Treasury, pursuant to *N.J.S.A.* 52: 27B-62.

In addition, there are two statutory exemptions that do not require advance approval by the Commission:

- Contracts for the development of scientific or technological discoveries or innovations: Section 19.1 of the Conflicts Law excepts contracts for the development of scientific or technological discoveries or innovations in which the State agency has a property right, if the State agency has a procedure in its supplemental code of ethics authorizing these contracts that minimizes actual conflicts of interest, and the contract complies with the code procedure.

- Certain rental agreements with State agencies: Section 19.2 of the Conflicts Law excepts rental agreements with a State agency that operates a facility which rents space or provides services to assist small businesses employing fifty people or less, pursuant to the same terms and conditions as those offered to members of the public generally.

Prohibitions on Representing Parties other than the State. There are severe restrictions on your ability (and that of any partnership, corporation, or firm in which you have an interest) to represent, appear for, or negotiate on behalf of a person other than the State in connection with any cause, proceeding, application, or other matter, including a negotiation concerning the acquisition or sale of property of any sort, pending before any State agency. See *N.J.S.A.* 52:13D-15 and 16.

Representation does not only involve personally appearing before a State agency on behalf of an individual or entity. Under Commission precedent, representational activities also include:

- correspondence to a State agency on behalf of a third party;

- telephone calls to a State agency on behalf of a third party; and

- a State employee's signature on an application or other document submitted to a State agency on behalf of a third party (e.g., an engineering report).

You should carefully review these restrictions or consult with your ELO if you are considering taking any action on behalf of another person or entity that might be considered representing, appearing for, or negotiating on behalf of that person or entity in opposition to the State or before a State agency.

For special State officers or employees, the restriction on representing parties other than the State is limited to their own agencies.

Advisory Opinions. If you think that you may have a conflict of interest, you should ask your ELO or the Commission for an opinion. These cases are frequently very fact-sensitive, and the Commission decides each individually. See *Advisory Opinions*, below, for information on how to find advisory opinions that the Commission has issued on this topic and on how to request an advisory opinion concerning your particular circumstances.

RULES REGARDING PUBLISHED WORKS

The Commission staff frequently receives inquiries concerning State employees' activities in connection with authoring and publishing research papers, articles, and books. Based on applicable rules and Commission precedent, you may accept compensation for published works only if you meet all of these conditions:

- There is no prohibition governing that activity in the Uniform Ethics Code or your department's enabling legislation or supplemental code of ethics;

- You obtain prior approval from your ELO;

- The published work does not use or disclose information that is not generally available to the public;

- You do not use State time or resources in connection with the published work;

- You do not use your official title in connection with publication or promotion of the published work;

- You do not promote, advertise, or solicit sales of the published work to co-workers or individuals or entities with whom you have official dealings;

- You do not contract to sell the published work to the State, except in compliance with section 19 of the Conflicts Law; and

- The published work is not prepared as part of your official duties.

Note that the term ***published work*** includes not only research papers, articles, and books, but also any tangible mediums of expression, such as literary, pictorial, graphic and sculptural matter, sound recordings, and software.

Examples: As part of his official duties, a Department of Transportation 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.

An Environmental Technician at the Department of Environmental Protection has been asked to write an article for an environmental journal on how New Jersey's automobile emission standards differ from those of Pennsylvania. He has been offered $500 for the article. The Environmental Technician is permitted to publish the article and receive compensation since it is on a subject matter related to, but not part of, his official duties, so long as he prepares the article at home, on his own time, without using any State resources.

Other Resources. For a more complete discussion of this subject, see *Guidelines Governing Outside Activities*, at https://nj.gov/ethics/statutes/guide/outsideact_guide/, *Guidelines Governing Published Works*, at https://nj.gov/ethics/statutes/guide/published-works/, and *N.J.A.C.* 19:61-6.7, at https://nj.gov/ethics/statutes/guide/recusals/.

CONFIDENTIAL INFORMATION

You may not divulge any information that you obtain in the course of your official duties that is not generally available to members of the public. You may not use any such confidential information for your own benefit, whether direct or indirect. These restrictions continue even after you are no longer a State employee.

USE OF OFFICIAL STATIONERY

Agency stationery can only be used for agency purposes. Use of official stationery for personal purposes will result in disciplinary action by the agency or administrative action by the Commission.

For additional information, see *Guidelines Governing the Use of Official Stationery.* The Guidelines can be found at https://nj.gov/ethics/statutes/guide/stationery/.

SEEKING FUTURE EMPLOYMENT/POST-EMPLOYMENT RESTRICTIONS

Seeking Future Employment. If you have direct and substantial contact with any interested parties, you must refrain from circulating resumes or in any manner seeking employment with those individuals or entities while you are still in State service. If you are solicited for potential employment by an entity with which you have direct and substantial contact, that solicitation must be disclosed immediately to your management and to your ELO to avoid a situation where you may appear to be using your official position to gain an unwarranted advantage. If you do not have direct and substantial contact with interested parties, you may circulate your resume and enter into discussions concerning potential employment with those individuals or entities, so long as you avoid any situation that may give rise to an unwarranted advantage. Your discussions, interviews, and negotiations should not take place on State time.

Dealing with the State after your Departure. As a former employee, you will be prohibited from representing or assisting a person concerning a particular matter if you were *substantially and directly involved in that particular matter while in State employment*. This prohibition does not extend to "determinations of general applicability or to the preparation or review of legislation that is no longer pending before the Legislature or the Governor." The statute, rules, and precedent governing these prohibitions are complex. Questions about the nature of matters with which you had involvement during

the course of your official duties should be directed to the Commission, for determination on a case-by-case basis.

Certain State Officials – One-Year Ban – Former Agency. A one-year post-employment ban applies to any head, deputy head or assistant head of any principal department, board, commission or authority, the Superintendent of State Police, the Governor's Chief of Staff, Chief of Management and Operations, Chief of Policy and Communications, Chief Counsel, Director of Communications, Policy Counselor, and any deputy or principal administrative assistant to any of the aforementioned members of the staff of the Office of the Governor. If you hold one of the enumerated positions, you are not permitted to represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of any person or party other than the State with or before any officer or employee of the State agency in which you served for a period of one year following your State service.

Special Rules for the Casino, Medical Cannabis, and Personal Use Cannabis Industries and for Lawyers. Additional and more stringent rules will apply to your post-employment activities if you are a State officer or employee required to file a Financial Disclosure Statement pursuant to law or executive order, have responsibility for matters affecting casino, medical cannabis, or personal use cannabis activity, or are engaged in the practice of law. Questions concerning post-employment casino-related activities, as well as post-employment medical cannabis or personal use cannabis activities, should be directed to the Commission. Lawyers may request advice on the application of the Rules of Professional Conduct from the Supreme Court Advisory Committee on Professional Ethics.

Contracting with your Former Agency. Nothing in the Ethics Laws prevents an agency from contracting directly with a former employee.

Other Resources. For a more complete discussion of this subject, see *Post-Employment Restrictions for State Employees*, at https://nj.gov/ethics/statutes/guide/empl-restrictions/.

NEPOTISM

The Commission staff frequently receives inquiries concerning the propriety of State officials interacting in the course of their official duties with family members. The majority of inquiries concern relatives employed by the same State agency, or interactions with family members employed in the private sector. Prior to 2006, the Conflicts Law did not contain a nepotism provision. However, the statute was amended, effective March 15, 2006, to prohibit certain relatives of certain State officials from holding particular government positions and also to prohibit State officials from supervising, or exercising authority with regard to personnel actions over, a relative of the State official.

If a relative (defined as an individual's spouse or the individual's or spouse's parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother or half sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption) is employed by or is an applicant for an unclassified position with the agency where you are employed, please contact your ELO to determine if you or your relative are affected by the statutory restrictions.

Family Members Working for the Same Agency. In the case of relatives who work for the same agency, direct supervisor/subordinate relationships are not permitted.

Hiring Family Members. With respect to the hiring of family members, the Commission looks at the totality of circumstances surrounding the hire to determine whether any unwarranted privilege has been afforded the family member. Note that the Conflicts Law prohibits hiring in some circumstances. See *N.J.S.A.* 52:13D-21.2.

Interacting with Family Members in the Private Sector. With respect to interactions with family members or their private sector employers, the Commission generally recommends recusal from matters involving the relative and/or the relative's employer, in order to eliminate any appearance of impropriety.

Dating and Other Relationships. The Commission's policy concerning spouses who work in the same agency is also applicable to non-related individuals who share the same household with the same financial interdependence that the Commission views as creating a conflict in spousal situations. In the case of individuals involved in a dating relationship, the Commission has found violations of the unwarranted privilege and appearance sections of the statute in situations where the State employee had official involvement in a matter affecting the individual with whom he/she had a dating relationship.

Conflict Issues Involving Immediate Family Members. Three areas of the Conflicts Law contain prohibitions that specifically apply to a State official's immediate family members (defined as the person's spouse, civil union partner, domestic partner, child, parent, or sibling residing in the same household). These include: casino-related activity; medical cannabis activity; and personal use cannabis activity. Waivers of these prohibitions may be requested by contacting the Commission. A waiver of the casino employment restriction, medical cannabis employment restriction, or personal use cannabis employment restriction will be granted if, in the Commission's judgment, the 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.

Other Resources. For a more complete discussion of this subject, see *Official Interactions with Family Members/Cohabitants and Dating Relationships*, at https://nj.gov/ethics/statutes/guide/famcode/.

RECUSAL

Prior Business Relationships. You are required to recuse yourself, for one year after commencing State service, on an official matter that involves any private sector individual, association, corporation or other entity that employed or did business with you during the year prior to your commencement of State service.

Prior Involvement in Matter. You are required to recuse yourself on an official matter if you had any involvement in that matter, other than on behalf of the State, prior to commencement of your State service.

Personal or Financial Interest. Sometimes, conflicts situations occur because of your personal relationships or financial circumstances. For example, you may be involved in reviewing vendor qualifications for a contract your agency is preparing to issue, and discover that your sibling's company has submitted a proposal. To avoid that inherent conflict of interest, you must formally recuse yourself from the review by assigning another individual to handle the matter (or advising your supervisor of the need to do so), and by ensuring that you are screened from any communications about the review. See the Commission's rule on recusal, at *N.J.A.C.* 19:61-7.1 *et seq.* for more information about when and how to recuse yourself.

FINANCIAL DISCLOSURE

Some State officers and employees and special State officers and employees are required by statute, executive order, or other law to file annual financial disclosure statements with the Commission. Information about financial disclosure requirements, forms, and instructions is available on the Commission's website at https://nj.gov/ethics/. The Commission is empowered to impose a civil penalty of $50 per day for failure to file a required disclosure.

State officers and employees who must file financial disclosure statements, and their immediate family members, are subject to a two-year post-employment restriction on certain types of employment. These include casino-related employment, medical cannabis-related employment, and personal use cannabis-

related employment. See *N.J.S.A.* 52:13D-17.2(c). This restriction does not apply to most of the special State officers and employees who are required to file financial disclosure statements.

THE COMMISSION

The Commission is responsible for providing advice and investigating matters pertaining to ethics and related rules governing the official conduct of State officers and employees and special State officers and employees. You are encouraged to seek guidance from the Commission or your ELO whenever you have questions about what you should do.

COMPLAINTS AND INVESTIGATIONS

Allegations come to the Commission from various sources and can be made orally or in writing. The complainant may remain anonymous. If the complainant does identify him/herself, that information remains confidential.

Allegations may also be filed with the State agency employing the State officer or employee, in accordance with the procedures established by the agency. Upon receipt of an allegation, the State agency is required to file a copy with the Commission. It is within the discretion of the Commission to direct the State agency to transfer the matter to it.

Investigations of violations alleged to have occurred during State service must be commenced within two (2) years of the individual's termination of State service.

When the Commission receives an allegation, the staff first reviews it for an initial determination as to whether the alleged conduct falls within the jurisdiction of the Commission. Once it has been determined that the Commission has jurisdiction, the staff initiates a preliminary investigation which may include interviews of the complainant, the State officer or employee involved, and any other individuals who possess knowledge of the circumstances surrounding the alleged conduct. Interviews are conducted under oath and are tape-recorded. An attorney or a union representative may accompany the interviewee, if he/she so desires, but such representation is not required. It is not appropriate for an interviewee to be accompanied by the agency's ELO. A copy of the taped interview will be provided to the interviewee upon his/her request, after the Commission has reviewed the matter. Interviews are occasionally conducted via telephone. Investigations also frequently involve the review of documents.

If the Commission determines that the testimony of any person is required, and that person refuses to appear, a subpoena may be issued.

During the course of a preliminary investigation, no information concerning an allegation is made public. Upon the conclusion of the preliminary investigation, a written report is presented to the entire Commission. The Commission's meeting is not a formal hearing. No witnesses appear. A full due process hearing is held at the Office of Administrative Law ("OAL"), if and when the Commission determines that indications of a violation exist. The Commission meeting dates are posted on the Commission's website, at https://nj.gov/ethics/. Its meetings are open to the public. Reports of the Commission's preliminary investigations are privileged communications between the staff and Commission members, and are considered in closed session.

If the Commission finds that there has been no violation of the Conflicts Law, the Uniform Ethics Code or the relevant agency's supplemental code of ethics, as alleged, it will dismiss the allegation. This occurs in an open public session. If the Commission determines that there are indications of a violation warranting further proceedings, a complaint is issued and the matter is transferred to the Office of Administrative Law for a hearing, pursuant to the requirements of the Administrative Procedure Act, *N.J.S.A.* 52:14B-1 *et seq*., and the Uniform Administrative Procedure Rules, *N.J.A.C.* 1:1 *et seq.* Although the Commission is also authorized to hold hearings, they are not normally done due to time constraints. Prior to an OAL hearing,

witnesses may be interviewed by the investigative staff. After the OAL hearing is concluded, a decision is issued in accordance with the time frame set forth in the Administrative Procedure Act.

In the past, the Commission has permitted individuals to enter into consent agreements with the Commission, either prior to or after the issuance of a complaint. Consent orders are included in the individual's personnel file. Consent orders and complaints are public records.

Other Resources. For a more complete discussion of this subject, see *Investigative Process*, at https://nj.gov/ethics/procedures/investigative/.

PENALTIES

When a person is found to have violated the Conflicts Law, the Uniform Ethics Code or an agency's supplemental code of ethics, the Commission can levy fines ranging from $500 to $10,000 and may order restitution, demotion, censure or reprimand. The Commission is also authorized to order that the violator be suspended from office or employment for a period of one year. If the person willfully and continuously disregarded the provisions of the Conflicts Law, the Uniform Ethics Code or an agency's supplemental code of ethics, the Commission may order that the person be barred from holding any public office or employment in this State, in any capacity whatsoever, for a period of up to five years.

ADVISORY OPINIONS

Most of us working for the public will, at some point, find ourselves facing an ethics dilemma. It might concern whether we can accept a favor or gift from an agency contractor or vendor. Perhaps it will arise in connection with a second job or volunteer work. Maybe a spouse's business will want to do business with your agency.

One of the primary functions of the Commission is to respond to questions from State employees and others concerning how a particular situation might be analyzed under State ethics rules and to offer advice.

This can happen in a number of ways, ranging from very informal advice, to official written opinions. In many cases, questions can be answered with a telephone call or a visit with Commission staff. In other cases, employees might want to get a written opinion from the staff that is "unofficial," but documents the advice sought and received.

An "official" advisory opinion is one that is presented to the full Commission at a public meeting. Such an opinion is given in situations that are less clear, or for which there is little precedent. If you receive and follow formal advice and guidance from the Commission, you will be immune from charges of violations of the provisions of the Conflicts Law. The Commission cannot grant immunity from the provisions of the Code of Criminal Justice governing crimes such as bribery.

If You Want to Request an Advisory Opinion Concerning Your Situation. To obtain an official advisory opinion from the Commission, you should write to the Executive Director of the Commission. You should provide as much information as possible concerning the request, and include any relevant documentation. In the event that additional information is required, a Commission investigator will contact the appropriate individuals or organizations. Requests for advisory opinions and replies to requests for advisory opinions may be made available to the public, after consideration by the Commission at a public meeting. For further information, see *Requests for Advice*, at https://nj.gov/ethics/procedures/requests/. If you are unsure which level of response is most appropriate in your situation, give the Commission a call at (609) 292-1892. The most important thing is that you seek advice before engaging in a potentially questionable activity.

If You Want to Review Existing Advisory Opinions. To review official advisory opinions issued in the past by the Commission, contact the Commission's staff at (609) 292-1892 or 1-888-223-1355, or email ethics@ethics.nj.gov. While a review of prior opinions may be useful, bear in mind that every situation is

unique, and that responses to one person may not necessarily apply to another, due to subtle factual differences between situations or to subsequent changes in the applicable laws or rules. Also, bear in mind that advisory opinions are only binding with respect to the facts and circumstances reviewed and considered in the specific request. Many of the Commission's opinions are available on the Commission's website at https://nj.gov/ethics/.

INFORMATION ON RELATED OFFICES

Legislative Ethics
Joint Legislative Committee on Ethical Standards
Office of Legislative Services
P.O. Box 068
Trenton, NJ 08625-0068
Phone: (609) 847-3901
Toll Free: (800) 792-8630
TDD: (609) 777-2744
Fax: (609) 943-3557

School Ethics
School Ethics Commission
P.O. Box 500
Trenton, NJ 08625-0500
Phone: (609) 376-9115

Local Government Ethics
Local Finance Board
Department of Community Affairs
P.O. Box 803
Trenton, NJ 08625-0803
Phone: (609) 292-6613
Fax: (609) 292-9073

Lobbyist Registration and Disclosure
Election Law Enforcement Commission
P.O. Box 185
Trenton, NJ 08625-0185
Phone: (609) 292-8700