



**KEAN
UNIVERSITY**

**ETHICS PROGRAM
FULL-TIME FACULTY/STAFF**

JANUARY 2018



Memorandum

To: All Kean University Officers, Full-time Staff and Faculty

From: Office of University Counsel

Re: Kean University Ethics Program

Date: January 22, 2018

As required by New Jersey law and regulation, all Kean University officers and employees, must comply with certain ethical standards and guidelines. During September 2006, the New Jersey State Ethics Commission adopted a Uniform Ethics Code which governs the conduct of all State employees and officers, including Kean University officers and employees. A copy of the Uniform Ethics Code is enclosed for your reference. The Uniform Ethics Code, with attachments, is also available at <http://www.state.nj.us/ethics/docs/ethics/uniformcode.pdf>.

In addition to the Uniform Ethics Code, the State Ethics Commission has adopted the enclosed Plain Language Guide to New Jersey's Executive Branch Ethics Standards ("Plain Language Guide"). New Jersey law requires that each Kean University officer and employee receive this guide and reviews the ethical principles, laws, and rules contained therein. Additionally, on March 2, 2015, the Kean University Board of Trustees adopted a Supplemental Ethics Code which was formally approved by the State Ethics Commission. The Supplemental Ethics Code provides a procedure and approval process by which employees of Kean University can contract with Kean University to further develop scientific and technological research initiated as a part of their employment at Kean University. Finally, as required by New Jersey law, each officer and employee must disclose outside employment or activities to the Office of University Counsel on a periodic basis or when there is a change in outside activity status. Copies of the Plain Language Guide, Supplemental Ethics Code, and the Outside Employment Questionnaire are enclosed for your reference.

To comply with the above requirements, each Kean University officer and employee must complete and sign the enclosed Acknowledgment of Receipt for the Uniform Ethics Code, Plain Language Guide, Supplemental Ethics Code, and Outside Activity Questionnaire. For your reference, instructions for completing these ethics forms are also attached. Please return all completed and signed forms to the Office of University Counsel, Kean University, Kean Hall 117, 1000 Morris Avenue, Union, NJ 07083.

All State employees, except Adjunct faculty members, must complete ethics training each year. This may be done by completing an online training module. The ethics training requirement can be satisfied by completion of an online training module labeled "State Employee Training Module" for all staff; and, "College and University Faculty Training Module" for full-time faculty, through the website of the State Ethics Commission, <http://www.state.nj.us/ethics/training/online/>. Please provide written or electronic proof of training completion to the Office of University Counsel, or forward your receipt to ethics@kean.edu, so that you can be credited for satisfying this legal requirement. State employees are required to receive the annual, mandatory ethics briefing in any year that they do not receive training. The briefing can be accessed at <http://www.state.nj.us/ethics.training/briefing/index.html>.

Please visit the Ethics Office Website at <http://www.kean.edu/offices/ethics-office> for updated information and web

links. We encourage you to become familiar with this information and the State Ethics Commission website at <http://www.state.nj.us/ethics/>. Any further inquiries regarding the Kean University Ethics Program may be directed to ethics@kean.edu. Thank you for your anticipated cooperation in complying with the above requirements.

Enclosures

Rev. January 2018



Instructions for Completion of Ethics Forms

Please read and follow the instructions provided below to ensure compliance with New Jersey's ethics laws and the Kean University Ethics Program:

1. Uniform Ethics Code - Each Kean University officer and employee must read and become familiar with the Uniform Ethics Code, including the provisions for disclosing outside activities or employment. The Uniform Ethics Code, with attachments, is also available at <http://www.state.nj.us/ethics/docs/ethics/uniformcode.pdf>.
2. Plain Language Guide to New Jersey's Executive Branch Ethics Standards - Each Kean University officer and employee must read and become familiar with the ethical principles and standards contained in this guide.
3. Kean University Supplemental Ethics Code – Each Kean University officer and employee must read and become familiar with the procedure and approval process by which employees of Kean University can contract with Kean University to further develop scientific and technological research initiated as a part of their employment at Kean University.
4. Receipt for the Uniform Ethics Code, Plain Language Guide, and Supplemental Ethics Code - After reading the Uniform Ethics Code, Plain Language Guide, and Supplemental Ethics Code, each officer and employee must complete and sign the Receipt form. This form cannot be altered or modified in any way.
5. Outside Activity Questionnaire – As required by New Jersey law, each officer and employee must disclose outside employment or activities to the Office of University Counsel on a periodic basis or when there is a change in outside activity status. Outside activity or employment is permitted only if the outside activity or employment does not constitute a conflict of interest as determined by the Office of University Counsel; occur at a time when the employee is expected to perform his/her assigned duties for Kean University; or diminish the employee's efficiency in performing his/her primary work obligation. Each officer and employee must complete and sign the Outside Activity Questionnaire form. Prior to returning this form to the Office of University Counsel, any outside employment or activity indicated on the form shall be approved by the employee's immediate supervisor.

After completing and signing the Receipt and Outside Activity Questionnaire, please return both forms to the Office of University Counsel, Kean University, Kean Hall 117, 1000 Morris Avenue, Union, NJ 07083.

Failure to complete and sign the above forms does not relieve any officer or employee of the legal obligation to become familiar with and comply with the Uniform Ethics Code, Plain Language, Supplemental Ethics Code, including those requirements for the Outside Activity Questionnaire.

Please note that all original signed receipt and disclosure forms will be placed in the employee's personnel file.

KEAN UNIVERSITY
UNIFORM ETHICS CODE
AND
ETHICS FORM



State of New Jersey

STATE ETHICS COMMISSION

PO Box 082

Trenton, NJ 08625-0082

www.nj.gov/ethics

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ANDREW S. BERNS, Esq.
Chair

PETER J. TOBER, Esq.
Executive Director

Tel: (609) 292-1892

(888) 223-1355 in NJ

Fax: (609) 633-9252

Email: ethics@ethics.state.nj.us

UNIFORM ETHICS CODE

FOREWORD

Pursuant to *N.J.S.A. 52:13D-23*, the State Ethics Commission has adopted this Uniform Ethics Code to govern and guide the conduct of State officers and employees and special State officers and employees in State agencies in the Executive branch of State Government.

The Uniform Ethics Code shall be the primary code of ethics for State agencies. It shall be supplemented by an agency code of ethics formulated with respect to the particular needs and problems of the agency to which said code is to apply. Each agency, in consultation with the Attorney General's Office, must review its enabling legislation to ensure that any agency-specific conflicts provisions are included in any supplemental agency code. An agency code must be approved by the Commission.

TABLE OF CONTENTS

I. DEFINITIONS3

II. GENERAL STANDARDS OF CONDUCT5

III. ACCEPTANCE OF GIFTS.....6

IV. ATTENDANCE AT EVENTS 7

V. POLITICAL ACTIVITY.....8

VI. OUTSIDE ACTIVITIES AND BUSINESS INTERESTS 8

VII. OFFICIAL STATIONERY10

VIII. POST-EMPLOYMENT RESTRICTIONS10

IX. RECUSAL ON OFFICIAL MATTERS12

X. CONTRACTS13

XI. RETIREMENT GIFTS15

XII. COMPENSATION FOR PUBLISHED WORKS15

XIII. FAMILY MEMBERS – CONFLICTS OF INTEREST.....16

XIV. CASINO-RELATED FAMILY MEMBER RESTRICTIONS17

XV. REPORTING COMPLAINTS18

XVI. PENALTIES.....18

APPENDICIES20

I. DEFINITIONS

As used in this Uniform Ethics Code, and unless a different meaning clearly appears from the context, the following terms shall have the following meanings.

“Commission” means the State Ethics Commission, established in but not of the Department of Law and Public Safety pursuant to *N.J.S.A. 52:13D-21*.

“Conflicts Law” means the New Jersey Conflicts of Interest Law, *N.J.S.A. 52:13D-12 et seq.*

“Ethics Liaison Officer” means the individual(s) designated by the agency head to assist the State Ethics Commission in implementing and enforcing the Conflicts Law and related ethics codes.

“Event” means a 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 the State official’s work location, is sponsored or co-sponsored by a supplier or a non-State government source and the invitation for which is extended to the State official because of his or her official position.

“Gift” means any fee, commission, service, compensation, gratuity, or other thing of value of any kind. If an item has more than a nominal monetary value, it will be characterized as a gift. A gift includes admission to an event for which a member of the general public would be charged, a meal, transportation, or offer of employment.

“Head of a State agency” means, in the case of the Executive branch of government, except with respect to interstate agencies, the department head or, if the agency is not assigned to a department, the Governor.

“Immediate Family Member” means an individual’s spouse, child, parent or sibling residing in the same household. *N.J.S.A. 52:13D-13(i)*.

“Interest” means (1) the ownership or control of more than 10% of the profits or assets of a firm, association, or partnership, or more than 10% of the stock in a corporation for profit other than a professional service corporation organized under the "Professional Service Corporation Act," P.L. 1969, c. 232 (C. 14A:17-1 et seq.); or (2) the ownership or control of more than 1% of the profits of a firm, association, or partnership, or more than 1% of the stock in any corporation, which is the holder of, or an applicant for, a casino license or in any holding or intermediary company with respect thereto, as defined by the “Casino Control Act,” P.L. 1977, c. 110 (C. 5:12-1 et seq.). The provisions of this act governing the conduct of individuals are applicable to shareholders, associates or professional employees of a professional service corporation regardless of the extent or amount of their shareholder interest in such a corporation.

“Interested party” means: 1. Any person, or employee, representative or agent thereof, who is or may reasonably be anticipated to be subject to the regulatory, licensing or supervisory authority

of the State official's agency; 2. Any supplier, or employee, representative or agent thereof; 3. Any organization that advocates or represents the positions of its members to the State official's agency; or 4. Any organization a majority of whose members are as described in paragraphs 1 through 3 above.

“Person” means any natural person, association or corporation.

“Published work” means any tangible medium of expression, including, but not limited to, literary, pictorial, graphic and sculptural matter; sound recordings; and software. *N.J.A.C. 19:61-6.2.*

“Relative,” as used in section XIII, means an individual’s spouse, and the individual’s or his/her spouse’s parent, child, sibling, 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.

“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, or (3) any person appointed as a New Jersey member to an interstate agency the duties of which membership are not full-time.

“State agency” means any of the principal departments in the Executive branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, and, to the extent consistent with law, any interstate agency to which New Jersey is a party and any independent State authority, commission, instrumentality or agency. A county or municipality shall not be deemed an agency or instrumentality of the State.

"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.

“Supplier” means any person that is providing or is seeking to provide or may reasonably be expected to provide goods and/or services to the State officer or employee’s or special State officer or employee’s agency, including, but not limited to, consultants, vendors and lessors.

“Unclassified office or position” means any office or position in the unclassified service of the civil service of the Executive branch of State government.

II. GENERAL STANDARDS OF CONDUCT

It is essential that the conduct of public officials and employees shall hold the respect and confidence of the people. Public officials must, therefore, avoid conduct that is in violation of their public trust or that creates a justifiable impression among the public that such trust is being violated. Accordingly, State officers and employees and special State officers and employees shall conform their conduct to the following standards.

1. No State officer or employee or special State officer or employee should 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 his/her duties in the public interest.
2. No State officer or employee or special State officer or employee should engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without promptly filing notice of such activity with the Commission.
3. No State officer or employee or special State officer or employee should act in his/her official capacity in any matter wherein he/she has a direct or indirect personal financial interest that might reasonably be expected to impair his/her objectivity or independence of judgment.
4. No State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his/her acts that he/she may be engaged in conduct violative of his trust as a State officer or employee or special State officer or employee.

Misuse of Official Position or Information

5. No State officer or employee or special State officer or employee should use or attempt to use his/her official position to secure unwarranted privileges or advantage for him/herself or others.
6. No State officer or employee or special State officer or employee, shall willfully disclose to any person, whether or not for pecuniary gain, any information not generally available to members of the public which he/she receives or acquires in the course of and by reason of his/her official duties. No State officer or employee or special State officer or employee shall use for the purpose of pecuniary gain, whether directly or indirectly, any information not generally available to members of the public which he/she receives or acquires in the course of and by reason of his/her official duties.

Representation/Appearance Before a State Agency

7. No State officer or employee, nor any partnership, firm or corporation in which he/she has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall 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 in connection with any cause, proceeding,

application or other matter pending before any State agency. Nothing contained herein shall be deemed to prohibit any such partnership, firm or corporation from appearing on its own behalf.

8. No special State officer or employee, nor any partnership, firm or corporation in which he/she has an interest, nor any partner, officer or employee of any such partnership, firm or corporation, shall 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 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 such special State officer or employee holds office or employment.

Nothing contained in this section shall be deemed to prohibit any State officer or employee or special State officer or employee from representing, appearing for or negotiating on behalf of, or agreeing to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any proceeding:

- i. Pending before any court of record of this State,
- ii. In regard to a claim for compensation arising under chapter 15 of Title 34 of the Revised Statutes (Workers' Compensation),
- iii. In connection with the determination or review of transfer inheritance or estate taxes,
- iv. In connection with the filing of corporate or other documents in the office of the Secretary of State,
- v. Before the Division on Civil Rights or any successor thereof,
- vi. Before the New Jersey State Board of Mediation or any successor thereof,
- vii. Before the New Jersey Public Employment Relations Commission or any successor thereof,
- viii. Before the Unsatisfied Claim and Judgment Fund Board or any successor thereof solely for the purpose of filing a notice of intention pursuant to P.L.1952, c.174, s.5 (C.39:6-65),or
- ix. Before any State agency on behalf of a county, municipality or school district, or any authority, agency or commission of any thereof except where the State is an adverse party in the proceeding and provided he is not holding any office or employment in the State agency in which any such proceeding is pending.

III. ACCEPTANCE OF GIFTS

No State officer or employee or special State officer or employee shall accept any gift, favor, service or other thing of value related in any way to the State official's public duties.

Upon the recommendation of the Special Counsel for Ethics Review and Compliance, the Commission has adopted a zero tolerance policy for acceptance of gifts. (See *Report of the Special Ethics Counsel to the Governor of the State of New Jersey*, dated March 14, 2005.) Accordingly, any gift that is offered to or received by a State officer or employee or special State officer or employee or, his/her spouse, immediate family member, partner or associate shall be immediately reported to the agency's Ethics Liaison Officer ("ELO"). Unless the State officer or employee or special State officer or employee is permitted to receive the gift or thing of value in

accordance with the Commission's rules on attendance at events (see section IV), no State officer or employee or special State officer or employee or, his/her spouse, immediate family member, partner or associate shall accept, either directly or indirectly, any gift, favor, service or other thing of value related in any way to the State official's public duties.

The exceptions to the zero tolerance rules for acceptance of gifts are set forth below.

1. 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.
2. A State officer or employee or special State officer or employee may receive a gift, favor, service or other thing of value from a vendor under the same terms and conditions as are offered or made available to members of the general public.
3. 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.
4. In accordance with *N.J.S.A. 52:13D-24*, gift provisions do not apply to the acceptance of contributions to the campaign of an announced candidate for elective public office.

The procedures for reporting receipt of a gift are set forth in Appendix A.

IV. ATTENDANCE AT EVENTS

Attendance at an event that is sponsored or co-sponsored by an entity other than the State must be approved by the agency's ELO.

A State employee must complete the form identified as "Request For Approval For Attendance At Event," prior to attendance.

A State employee shall not attend an event in his or her official capacity unless a legitimate State purpose will be served.

Costs associated with attendance at an event shall be paid or reimbursed in accordance with *N.J.S.A. 52:13D-24* and *N.J.A.C. 19:61-6.1 et seq.*

A State employee is prohibited from accepting honoraria in connection with his/her attendance or participation at an event. *N.J.S.A. 52:13D-24*.

A State employee is prohibited from accepting entertainment, or reimbursement for entertainment, that is collateral to an event, such as a golf outing, tickets to a sporting event or a meal taken other than in a group setting with all attendees present.

The Commission's rules on attendance at an event and the form that must be completed prior to attendance at an event are set forth in Appendix B.

V. POLITICAL ACTIVITY

Upon giving notice to the agency ELO, a State employee may be involved in political activities unless:

1. the State employee is prohibited from such activities by State or federal statute or agency rule; or
2. the political activity conflicts with the employee's official duties.

Pursuant to *N.J.S.A. 52:13D-14* and *N.J.S.A. 52:13D-24*, a State employee may accept a contribution to the campaign of an announced candidate for elective public office provided the contribution is not known to be given in lieu of a payment that is prohibited by the Conflicts Law. Further, a State employee is subject to the Department of Personnel's Administrative Code provisions governing political activity, *N.J.A.C. 4A:10-1.2*. Note that a State employee is not permitted to serve as a campaign treasurer on any campaign that is subject to the jurisdiction of the Election Law Enforcement Commission.

The Commission's Guidelines on Political Activities and the provisions of *N.J.A.C. 4A:10-1.2* are set forth in Appendix C.

VI. OUTSIDE ACTIVITIES AND BUSINESS INTERESTS

No State officer or employee or special State officer or employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his/her objectivity and independence of judgment in the exercise of his/her official duties.

A State officer or employee's participation in any service, activity or employment that is outside his/her official State duties may be prohibited by the Conflicts Law, other State or Federal law or regulation, or the code of ethics adopted by the employee's agency. Accordingly, a State officer or employee shall obtain the approval of the ELO prior to engaging in any of the following outside activities.

1. Commencement of any business, trade, profession or other compensated employment, including the acceptance of compensation for a speech or published work;
2. Uncompensated or volunteer work for or with any entity; or
3. Holding office or title in the governing or advisory board of any entity.

Notwithstanding the requirement to disclose outside employment and activities, a State agency may exempt disclosure of specific kinds of outside employment or activities if the agency is satisfied that such activity or employment does not present a conflict of interest.

A State officer or employee is not permitted to hold employment with, hold an interest in, or represent, appear for, or negotiate on behalf of a holder of or applicant for a casino license unless the Commission grants a waiver. A waiver is granted in circumstances where it is determined by the Commission that such casino activity will not interfere with the responsibilities of the State officer or employee and will not create a conflict of interest or the appearance of such conflict. A special State officer or employee is prohibited from holding an interest in or representing, appearing for or negotiating on behalf of a holder of or applicant for a casino license, or any holding or intermediary company with respect thereto, in connection with any matter. However, a special State officer or employee without responsibility for matters affecting casino activity may hold employment with a casino license holder or applicant and, if so employed, may hold an interest in or represent, appear for or negotiate on behalf of his/her casino employer. *N.J.S.A. 52:13D-17.2(b)*.

All State officers and employees shall complete the Outside Activity Questionnaire attached to this document as Appendix D, in accordance with the procedures adopted by his/her agency. These procedures shall, at a minimum, require that each current employee complete the questionnaire and that each new employee complete the questionnaire upon commencement of employment with the agency. The procedures shall also require that a State officer or employee amend his/her Outside Activity Questionnaire whenever there is a change in the employee's outside activity or State employment. A State agency shall require disclosure of additional information regarding the outside activities of its employees as necessary to address the particular needs and problems of the agency.

The agency ELO shall review all outside activity questionnaires and determine whether the outside activity is permissible in accordance with the Conflicts Law, the Uniform Ethics Code, the agency code of ethics or any other authority. A State officer or employee may appeal an agency ELO's decision to disapprove an outside activity. Such appeal shall be submitted in writing to the Commission within 60 days of the employee's receipt of the agency's decision. The appeal shall cite the relevant section(s) of the Conflicts Law, Uniform Ethics Code, agency code of ethics or other authority which supports the position of the employee that such outside activity should be permitted.

Each State agency shall develop a Conflict of Interest questionnaire for special State officers and employees of that agency. Each State agency shall develop a process for the review and retention of both Outside Activity Questionnaires and Conflict of Interest Questionnaires.

The Commission's Guidelines Governing Outside Activities are set forth in Appendix E.

Blind Trusts

A blind trust may be used by a State officer or employee, a special State officer or employee, his/her spouse or domestic partner or dependent children to avoid conflicts situations caused by financial interests. The trust must conform to the standards set forth in the Blind Trust Guidelines, Appendix F.

VII. OFFICIAL STATIONERY

Official stationery shall be used only in connection with the State agency's official business. The limitations on use of official stationery also apply to personal stationery paid for by an officer or employee if it is imprinted with the agency office or the title of the State officer or employee.

A State officer or employee or special State officer may not use official stationery to promote a candidate for elective office, endorse a State vendor or contractor, express a personal opinion on a matter that is not related to his/her official duties, or to promote his/her financial or other self-interest.

Exceptions: A State officer or employee or special State officer or employee may use official stationery to write a letter of recommendation for, or respond to an inquiry about, a current or former colleague or employee. These permissible uses are only acceptable so long as the use of official stationery does not create an impression that the State officer or employee is engaged in an unwarranted use of his/her position. For example, it would not be appropriate for a State employee to recommend an individual for inclusion in a program over which the State employee has supervisory or regulatory authority. In addition, there must be a reasonable connection between the officer's or employee's official duties and the use and purpose of the letter.

A State agency may not use official stationery to solicit a contribution from any interested party. Solicitation of any other entity must be reviewed and approved by the agency's ELO.

The Commission's Guidelines with respect to the use of official stationery are set forth in Appendix G.

VIII. POST-EMPLOYMENT RESTRICTIONS

Seeking Future Employment

State officers or employees who have direct and substantial contact with any interested parties must refrain from circulating resumes or in any manner seeking employment with those individuals or entities while still in State service. If an employee is solicited for potential employment by an entity with which he/she has direct and substantial contact, that solicitation must be disclosed immediately to the employee's management and to the agency's ELO. Employees who do not have direct and substantial contact with interested parties may circulate resumes and enter into discussions regarding potential employment with those individuals or entities so long as they avoid any situations that may give rise to an unwarranted advantage. All employees are cautioned that discussions, interviews, and negotiations shall not take place on State time.

Lifetime Ban

At no time subsequent to the termination of his/her office or employment in any State agency may a former State officer or employee or special State officer or employee represent, appear for, negotiate on behalf of, or provide information or services not generally available to members of the public, or agree to perform any of those activities, for any party other than the State in connection with a specific cause, proceeding, application or matter with which the State officer or employee or special State officer or employee had been substantially and directly involved at any time during the course of his/her office or employment. *N.J.S.A. 52:13D-17*. This lifetime ban applies not only to the State officer or employee or special State officer or employee personally, but also to the partnership, firm or corporation under the following circumstances: (1) if the former State officer or employee or special State officer or employee is a shareholder, associate or professional employee of a firm organized as a professional service corporation or (2) if the former State officer or employee or special State officer or employee owns or controls more than 10% of the stock of a corporation or more than 10% of the profits or assets of a firm, association or partnership.

One-Year Ban – Certain State Officials

In accordance with the recommendation of the Special Counsel for Ethics Review and Compliance, a one-year ban on the activities described in this section shall apply 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.

For one year after the termination of the State office or employment of any of the individuals noted above, he/she shall not 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 he/she served. The provisions of this subsection shall not apply to any partnership, firm or corporation in which he/she has an interest or is employed, or to any partner, officer, director or employee of such partnership, firm or corporation. Nothing contained in this section shall prohibit a State agency from contracting with a former State officer or employee to act on behalf of the State.

In addition, the governor and each head of a principal department in the Executive branch are prohibited, for one year after the termination of office or employment, from registering as a "governmental affairs agent," as that term is defined in *N.J.S.A. 52:13C-20*. *N.J.S.A. 52:13C-21.4*.

Two-Year Casino Employment Restriction

N.J.S.A. 52:13D-17.2 sets forth post-employment restrictions applicable to State officers or employees subject to financial disclosure by law or executive order, and State officers or employees or special State officers or employees with responsibility for matters affecting casino activities.

Such persons, and members of their immediate families, are prohibited from holding, directly or indirectly, an interest in, or holding employment with, a casino licensee or applicant for a casino license for a period of two years following the termination of their State employment. In addition, such persons may not represent, appear for, or negotiate on behalf of a casino.

If such person or a member of the person's immediate family is employed by a partnership, firm or corporation providing professional services to a casino licensee or applicant or holding or intermediary company of the licensee or applicant, the entity may engage in casino-related matters but the person or a member of the person's immediate family must be screened from these matters for a period of two years following the termination of the person's State employment.

If such person holds an equity interest in such entity, or is the former Governor, Lieutenant Governor, or Attorney General or a member of the immediate family of one of these individuals, then the entity is also prohibited from representing, appearing for, or negotiating on behalf of a casino licensee or applicant.

Waivers

In accordance with *N.J.S.A. 52:13D-17.2*, the Commission may grant an exception from the above casino employment restrictions for a person's immediate family member or an employee who was terminated as a result of a reduction in force, (provided that the employee did not hold a policy-making management position during the five years prior to termination of employment) whenever it determines that such waiver will not create a conflict of interest or the appearance of a conflict of interest.

The Commission's Guidelines with respect to Post-Employment Restrictions are set forth in Appendix H.

IX. RECUSAL ON OFFICIAL MATTERS

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter that involves any private sector individual, association, corporation or other entity that employed or did business with the State officer or employee or special State officer or employee during the one year prior to the employee's commencement of State service.

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter if he/she had any involvement in that matter, other than on behalf of the State, prior to commencement of his/her State service.

A State official is required to recuse himself or herself from an official matter that involves any individual, association, corporation or other entity from which the State official received a campaign contribution, individually or in the aggregate, in an amount required to be reported by *N.J.A.C. 19:25-10*. Recusal is required regardless of whether the State official is

elected to the office or position associated with the campaign contribution. The recusal shall remain in effect until the expiration of the term of office which the State official was seeking when the contribution was made.

A State officer or employee or special State officer or employee is required to recuse him/herself on an official matter if he/she has a financial or personal interest that is incompatible with the proper discharge of his/her public duties.

An incompatible personal or financial interest includes, but is not limited to, outside employment; a debtor/creditor relationship; a fiduciary relationship; a source of income; any matter pertaining to or involving a relative or cohabitant; a relationship with a person providing funds, goods or services without compensation; any matter pertaining to or involving a business associate or business investment; and a leadership role in a professional or trade organization, which interest might reasonably be expected to impair a State official's objectivity and independence of judgment in the exercise of his/her official duties or might reasonably be expected to create an impression or suspicion among the public having knowledge of his or her acts that he/she may be engaged in conduct violative of his/her trust as a State official.

Upon determining that a State official shall recuse him/herself on any matter, the State official shall execute the recusal in writing, and shall have no involvement with the subject matter of the recusal. If a State official cannot determine whether he/she should execute a letter of recusal in any matter, the State official shall contact his/her agency ELO or the Commission for guidance. A State official shall seek the advice of the State agency's counsel, agency ELO or the Commission as to the propriety of participation in a matter if any person requests that a State official recuse him/herself from that matter. Oral advice, followed up by a writing, shall be provided by the agency's counsel, the agency ELO or the Commission to avoid delay. Oral advice shall subsequently be memorialized by a writing or by inclusion in public minutes.

The Commission's regulations governing recusal, *N.J.A.C* 19:61-7.1 et seq., which include the required elements for a written recusal, are set forth in Appendix I.

X. CONTRACTS

With few exceptions, a State employee may not enter into a contractual agreement with the State.

An agency head, deputy head or assistant head is prohibited from engaging in any private business transactions with any employee in his/her agency.

Limitation on contracting by State officer or employee

Pursuant to *N.J.S.A.* 52:13D-19, no State officer or employee shall knowingly undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by any State agency. The exceptions to this prohibition are set forth below. As used in this section, State officer or employee also includes his or her partners, any other person for the use or benefit of the State employee or on his or her

account or any corporation which he/she controls or in which he/she owns or controls more than 1% of the stock.

Limitation on contracting by special State officer or employee

Pursuant to *N.J.S.A. 52:13D-19*, no special State officer or employee who has duties or responsibilities in connection with the purchase or acquisition of property or services by the State agency where he/she is employed or an officer shall knowingly undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25.00 or more, made, entered into, awarded or granted by that State agency. The exceptions to this prohibition are set forth below. As used in this paragraph, special State officer or employee also includes his/her partners, any other person for the use or benefit of the special State employee or on his/her account or any corporation which he/she controls or in which he/she owns or controls more than 1% of the stock.

The restrictions contained above shall apply to the contracts of interstate agencies to the extent consistent with law only if the contract, agreement, sale or purchase is undertaken or executed by a New Jersey member to that agency or by his/her partners or a corporation in which he/she owns or controls more than 1% of the stock.

Permissible Contracts with the State

(1) With the prior approval of the Commission, a State officer or employee or special State officer or employee is permitted to enter into the following:

(a) purchases, contracts, agreements or sales which are made or let after public notice and competitive bidding or which, in accordance with public bidding laws or regulations applicable to other State agencies, may be made, negotiated or awarded without public advertising for bids, or

(b) any contract of insurance entered into by the Director of the Division of Purchase and Property pursuant to *N.J.S.A. 52:27B-62*.

(2) A State officer or employee or a special State officer or employee or his partners or any corporation or firm in which he/she owns or controls more than 1% of the stock, assets or profits may enter into a contract or agreement with a State agency where the contract or agreement is 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 code of ethics for authorizing these contracts or agreements that minimizes actual conflicts of interest, and the code of ethics was approved in accordance with *N.J.S.A. 52:13D-23*, and the contract or agreement complies with that code procedure.

(3) A State officer or employee or a special State officer or employee or his/her partners or any corporation or firm in which he/she 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.

Please note that the Commission has never approved a request by a State officer or employee, or special State officer or employee, to enter into a contract with his/her own agency.

The Commission's Guidelines on Privatization, set forth in Appendix J, are applicable to a State employee's participation in an open competitive bid process for the privatization of services currently being provided by his/her agency.

XI. RETIREMENT GIFTS

A gift can be given to a State employee upon his/her retirement from State service. There are specific limits to the value of a permissible retirement gift. A State employee shall refer to Appendix K for the provisions governing retirement gifts.

XII. COMPENSATION FOR PUBLISHED WORKS

A State officer or employee or special State officer or employee may not solicit, receive, or agree to receive, compensation from sources other than the State for published work(s) created as part of his/her official duties on State time and/or using State resources.

However, a State officer or employee or special State officer or employee, other than a "designated State officer," (the Governor, cabinet-level officers and other principal administrative officers of the State) may, in connection with any service, advice, assistance, appearance, speech or other matter related to his/her official duties, receive or agree to receive, whether directly or indirectly, from sources other than the State, reasonable fees for published works on matters within his/her official duties not created on State time and/or using State resources.

In addition, a State officer or employee or special State officer or employee may accept compensation from sources other than the State for published work(s) on matters unrelated to his/her official duties created on his/her own time and with non-State resources.

Before agreeing to accept or accepting any compensation from a source other than the State for any published work, a State officer or employee or special State officer or employee must secure his/her State agency's approval to do so.

In determining whether to grant such approval, the State agency shall consider, among other things, whether the compensation is offered by an interested party, and whether the published work uses or discloses information not generally available to the public. The determination shall be consistent with applicable law and agency policy.

No State officer or employee or special State officer or employee may use his/her official title in soliciting compensation for a published work.

The Commission's Guidelines with respect to Published Works are set forth in Appendix L.

XIII. FAMILY MEMBERS - CONFLICTS OF INTEREST

1. No relative of the Governor may be employed in any unclassified office or position within the State.

2. No relative of a commissioner or department head may be employed in any unclassified office or position within the department over which the department head exercises authority.

3. A relative of an assistant or deputy department head may be employed in an unclassified office or position within the department in which the assistant or deputy serves, provided that he/she is not assigned to a position over which the assistant or deputy department head exercises authority.

4. A relative of a head or assistant head of a division within a department may be employed in an unclassified office or position within the department in which the division head or assistant division head serves, provided that he/she is not assigned to a position over which the assistant or deputy department head exercises authority.

5. A relative of an appointed member of a governing or advisory body of an independent authority, board, commission, agency or instrumentality of the State may not be employed in any office or position in that entity.

6. A relative of an appointed New Jersey member of a governing body of a bi-state or multi-state agency may not be employed in an office or position in that bi-state or multi-state agency, unless otherwise permitted by law.

7. No State officer or employee or special State officer or employee may supervise his/her relative, or exercise any authority with regard to personnel actions involving his/her relative

8. Each State agency shall require State officers and employees and special State officers and employees to disclose information sufficient for the agency to determine whether the employment of any individual within the agency is prohibited.

Cohabitation

The Commission has determined that the prohibition regarding personnel actions and the supervision of family members, set forth in paragraph 7 above, is 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.

Dating Relationship

In the case of individuals involved in dating relationships, the Commission has found violations of the Conflicts Law in situations where the State employee had official involvement in a matter affecting the individual with whom he/she had a dating relationship. Accordingly, a State officer or employee or special State officer or employee shall not have any involvement in his/her official capacity in any matter that pertains to or involves an individual with whom he/she has a dating relationship.

The Commission's guidelines with respect to "Official Interactions with Family Members/Cohabitants and Dating Relationships" is attached hereto as Exhibit M.

XIV. CASINO-RELATED FAMILY MEMBER RESTRICTIONS

Concurrent Employment Restriction

An immediate family member of a State officer or employee, or of any "person," as defined at *N.J.S.A. 52:13D-17.2(a)*, may not hold directly or indirectly, an interest in, hold employment with, or represent, appear for, or negotiate on behalf of a holder of, or applicant for, a casino license, or any holding or intermediate company with respect thereto.

However, an immediate family member of a State officer or employee or "person" may be employed by a casino in circumstances where it is determined by the Commission that such employment will not interfere with the responsibilities of the State officer or employee or "person" and will not create a conflict of interest or the appearance of such conflict. *N.J.S.A. 52:13D-17.2(b)*.

Post-Employment Restriction

An immediate family member of a "person," as defined at *N.J.S.A. 52:13D-17.2(a)*, may not hold, directly or indirectly, an interest in, 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 phase of casino development permitting, licensure, or any other matter related to casino activity, for a period of two years following the termination of the office or employment of such person.

However, an immediate family member of a "person" may be employed by a casino in circumstances where it is determined by the Commission that such employment will not interfere with the responsibilities of the "person" and will not create a conflict of interest or the appearance of such conflict. *N.J.S.A. 52:13D-17.2(c)(1)*.

Casino post-employment restrictions that apply to State officials defined as "persons" are noted in section VIII.

XV. REPORTING COMPLAINTS

Allegations that a State officer or employee or special State officer or employee has violated a provision of this Uniform Code, the Conflicts Law, the Commission's rules, an agency code of ethics or any other standard within the jurisdiction of the Commission should be reported to the appropriate agency ELO or the Commission staff. Allegations should contain as much detailed information as possible and, if the complainant chooses to identify him/herself, should include contact information so that the ELO or Commission staff can obtain additional information if necessary. A complainant is not required to disclose his/her identity when reporting an alleged ethics violation.

XVI. PENALTIES

The Commission is empowered to impose the following penalties in accordance with specific provisions of the Conflicts Law. Note that violations committed by a former State officer or employee or special State officer or employee may be subject to penalties so long as the Commission's investigation of same was initiated not later than two years following termination of service.

1. *N.J.S.A. 52:13D-17* provides that any person who willfully violates the general post-employment restrictions set forth in that provision is a disorderly person, and shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. In addition, for violations occurring after March 15, 2006, any former State officer or employee or former special State officer or employee found by the Commission to have violated any of the provisions of this section shall be assessed a civil penalty of not less than \$500 or more than \$10,000.

2. *N.J.S.A. 52:13D-17.2(h)* provides that any person who willfully violates the casino-related post-employment restrictions set forth in Section 17.2 (c) is a disorderly person, and shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. In addition, for violations of Section 17.2(c) occurring after March 15, 2006, any former State officer or employee or former special State officer or employee found to have violated any of the provisions of this section shall be assessed a civil penalty of not less than \$500 or more than \$10,000.

3. *N.J.S.A. 52:13D-21(i)* provides that any current or former State officer or employee or special State officer or employee found guilty by the Commission of violating any provision of the Conflicts Law, the Uniform Ethics Code, or any agency code of ethics, shall be fined not less than \$500 nor more than \$10,000, and may be suspended from office or employment by order of the Commission for a period not to exceed one year. In addition, for violations occurring after March 15, 2006, the State Ethics Commission may also order restitution, demotion, censure or reprimand.

This subsection further provides that if the Commission finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of the Conflicts Law, the Uniform Ethics Code or any agency code of ethics, it may order that person removed from office or employment and may further bar the 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 the person was found guilty by the Commission.

This subsection further provides that the Commission may impose a penalty of \$50 per day of violation for failure to file an appropriate financial disclosure statement required to be submitted to the Commission by law, regulation or executive order.

(See penalty provisions set forth at *N.J.A.C.* 19:61-3.1(j) and *N.J.A.C.* 19:61-5.6(c).)

4. *N.J.S.A.* 52:13D-23(d) provides that violations of the Uniform Ethics Code or any agency code of ethics shall be cause for removal, suspension, demotion or other disciplinary action by the State officer or agency having the power of removal or discipline. With respect to a person who is in the classified civil service, the procedure leading to such removal or discipline shall be governed by the Civil Service Act, *N.J.S.A.* 11A:1-1 et seq. and the Rules of the Department of Personnel. No action for removal or discipline shall be taken under this subsection except upon the referral or with the approval of the Commission.

5. *N.J.S.A.* 52:13D-26 provides that any person who willfully induces or attempts to induce a State officer or employee or special State officer or employee to violate any of the provisions of the Conflicts Law is a disorderly person, and shall be subject to a fine not to exceed \$500 or imprisonment not to exceed 6 months, or both.

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

Revised June 2014

TABLE OF CONTENTS

INTRODUCTION3
PRINCIPALS OF ETHICAL CONDUCT3
GENERAL STANDARDS OF CONDUCT.....4
GIFTS, FAVORS, SERVICES AND OTHER THINGS OF VALUE.....5
COMPENSATION FOR OFFICIAL DUTIES 5
ATTENDANCE AT EVENTS: HONORARIA, ACTIVITIES AND EXPENSES.....5
POLITICAL ACTIVITY8
OUTSIDE EMPLOYMENT/ACTIVITIES..... 9
CONFLICTS OF INTEREST..... 10
RULES REGARDING PUBLISHED WORKS 11
CONFIDENTIAL INFORMATION 12
USE OF OFFICIAL STATIONERY..... 12
SEEKING FUTURE EMPLOYMENT/POST-EMPLOYMENT RESTRICTIONS 13
NEPOTISM..... 13
RECUSAL 14
FINANCIAL DISCLOSURE 15
THE COMMISSION 15
COMPLAINTS AND INVESTIGATIONS 15
PENALTIES 16
ADVISORY OPINIONS 16
INFORMATION ON RELATED OFFICES..... 17

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 www.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 www.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*, www.nj.gov/ethics/statutes/guide/giftcode.html, and N.J.A.C. 19:61-6.9, www.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 www.nj.gov/ethics/statutes/guide/.

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 Not 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.A.C. 19:61-6.1 to -6.8*, at www.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 www.osc.gov.

Other Resources. For a more complete discussion of this subject, see “State Employees’ participation in Political Activities,” www.nj.gov/ethics/statutes/guide/political_activities.html.

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.

Neither you nor your immediate family members can hold employment with a holder of or applicant for a casino license unless the Commission grants a waiver. To ask for a waiver, contact the Commission. Neither you nor your immediate family members can hold an interest in, or represent, appear for, or negotiate on behalf of a holder of or an applicant for a casino license.

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 www.nj.gov/ethics/statutes/guide/outsideact_guide.html. See also, *Outside Activity Questionnaire*, at www.nj.gov/ethics/statutes/guide/outsideact.html.

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.

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 www.nj.gov/ethics/statutes/guide/outsideact_guide.html, *Guidelines Governing Published Works*, at www.nj.gov/ethics/statutes/guide/published_works.html, and *N.J.A.C. 19:61-6.7*, at www.nj.gov/ethics/statutes/rules/recusal.html.

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 www.nj.gov/ethics/statutes/guide/stationery.html.

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 Industry and for Lawyers. Additional and more stringent rules will apply to your post-employment activities if you file a Financial Disclosure Statement pursuant to law or executive order, or have responsibility for matters affecting casino activity, or are engaged in the practice of law. Questions concerning post-employment casino-related 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 www.nj.gov/ethics/statutes/guide/empl_restrictions.html.

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.

Casino-Related Conflict Issues. Only the casino-related provisions of the Conflicts Law contain prohibitions that specifically apply to a State official's immediate family members (defined as the person's spouse, child, parent, or sibling residing in the same household). Waivers of these prohibitions may be requested by contacting the Commission. A waiver of the casino 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 www.nj.gov/ethics/statutes/guide/famcode.html.

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 www.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 casino-related post-employment restriction. 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 www.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 www.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 www.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 visit the Commission offices between 9:00 a.m. and 4:00 p.m. on business days. 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. Summaries of many of the Commission’s opinions are available in the Commission’s newsletters, which can be found at www.nj.gov/ethics/publications/newsletters.

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) 984-6941

Local Government Ethics

Local Finance Board
Department of Community Affairs
P.O. Box 803
Trenton, NJ 08625-0803
Phone: (609) 292-0479
Fax: (609) 292-9073

Lobbyist Registration and Disclosure

Election Law Enforcement
Commission
P.O. Box 185
Trenton, NJ 08625-0185
Phone: (609) 777-1457

KEAN UNIVERSITY SUPPLEMENTAL ETHICS CODE

March 2015

Kean University 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 Kean University (KEAN). However, because KEAN is a public institution of higher education, there are special circumstances that are unique to its mission and regulations that are related to faculty and staff involvement with commercial enterprises. This Supplemental Ethics Code applies to all employees of KEAN, focusing on those who seek to develop commercial enterprises. In addition, it augments the Uniform Ethics Code in addressing particular needs and issues that are unique to KEAN.

B. 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://www.state.nj.us/ethics/docs/ethics/plainlanguage.pdf>

KEAN Ethics Website: <http://www.kean.edu/offices/ethics-office>

C. FACULTY OR STAFF INVOLVEMENT WITH COMMERCIAL ENTERPRISE- CONTRACTS WITH THE UNIVERSITY

1. Introduction

KEAN 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 KEAN, the KEAN employee, the commercial entity, the general public, and the economy of the State of New Jersey. Involvement of a KEAN employee with a commercial enterprise may create the possibility for conflicts of interest, interference with the KEAN employee's primary allegiance to KEAN and its mission, or inhibition of free exchange of information. While KEAN encourages this type of involvement, KEAN's integrity and its primary goals of education and open inquiry must be maintained.

There are times when a KEAN 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, KEAN's intellectual property policies, or other KEAN regulations or policies. The Supplemental Ethics Code prescribes a disclosure and approval process for KEAN employees' involvement with commercial enterprises for the purpose of commercializing intellectual property developed by the faculty member and owned by KEAN, 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 KEAN. The Supplemental Ethics Code recognizes the need for flexibility and the difficulty of anticipating all

situations that may arise by leaving discretion to KEAN to interpret the policy and weigh the potential benefits.

2. Approval Procedure

In order for KEAN 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 KEAN, and seeks to enter into a contractual affiliation (which may consist of one or more agreements) with KEAN, 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 KEAN.

Prior to entering into a contractual affiliation, an application must be filed with the Office of Technology Development, with a copy to the Ethics Liaison Officer. In addition, approvals must be obtained from the Departmental Head (in the case of administrative employees) or 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 KEAN, 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 KEAN employee and KEAN;
- 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 KEAN;
- 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 KEAN, 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 his or her 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.

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

A member of the ECTD jointly with General Counsel and/or the Executive Director of the Board of Trustees shall periodically report to the KEAN 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 a commercial enterprise shall not apply to KEAN administrators whose employment responsibilities include or encompass research administration. No KEAN 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 KEAN and that has a contractual affiliation with KEAN.

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 Dean.

Formally approved by the State Ethics Commission on January 20, 2015.