

NJ Commerce and Economic Growth Commission Code Of Ethics

A. Mission Statement

The New Jersey Commerce and Economic Growth Commission promotes economic vitality now and builds a foundation for world economic leadership in the 21st century. The Commission stimulates dynamic economic growth by providing resources and services to citizens, businesses and institutions, in partnership with other government agencies and the private sector, to create jobs. By nurturing, expanding and attracting industry, we can achieve the highest quality of life and ensure economic security for all our citizens.

The focus of this Commission is to:

Maintain continuous liaison with the business community and its leadership to assist in the formulation and direction of economic policy to provide business and industry the optimum climate within which enterprises may grow.

Serve as a focal point for economic development activities in the State in cooperation with other entities, both public and private.

Serve as the coordinating entity for the State on matters relating to the economy.

Be responsible for activities that support development of business and industry through aid, promotion and advertising.

B. Purpose / Applicability

This code of ethics for the Commission is promulgated pursuant to N.J.S.A. 52:13D-23 of the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq. Accordingly, it conforms to the general standards set forth in the law and is intended to compliment the law by addressing the particular needs and problems faced by employees and Board members of the Commission, without changing, revising, or superseding the law itself, which remains applicable to all Commission employees and Commission Board Members. This code is also intended to supersede all previous codes of ethics of the Commission on the effective date of adoption.

C. General Definitions

Code - shall mean the Code of Ethics of the Commission.

Commission - shall mean the New Jersey Commerce and Economic Growth Commission, in but not of, the Department of Treasury, its departments, offices, boards, commissions, and other instrumentalities within or created by the Commission, and in, but not of, the Commission.

Chief Executive Officer/Secretary - shall mean the Chief Executive Officer/Secretary of the Commission.

Employee - shall mean any person employed by the Commission.

Immediate family - shall mean the person's spouse, child, parent or sibling residing in the same household.

Commission Board Member - shall mean any of the five ex-officio representatives, two members appointed by the Governor, and three public appointed members, and any other individuals officially designated to lawfully vote on Commerce Commission matters.

D. General Provisions

- 1) No employee or Commission Board Member shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or hold any office outside of State government office, position or employment which is in substantial conflict with the proper discharge of his or her duties in the public interest.
- 2) No employee or Commission Board Member shall 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 Executive Commission on Ethical Standards.
- 3) No employee or Commission Board Member should use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others.
- 4) No employee or Commission Board Member should act in his or her official capacity in any matter wherein he or she has a direct or indirect personal financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment.
- 5) No employee or Commission Board Member should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his or her objectivity and independence of judgment in the exercise of his or her official duties.
- 6) No employee or Commission Board Member should accept any gift, favor, service or thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing him or her in the discharge of his or her official duties.
- 7) No employee or Commission Board Member should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his or her acts that he or she may be engaged in conduct in violation of his or her trust as an employee or Commission Board Member.
- 8) Confidential information (information not available to the general public) received or acquired in the course and by reason of the official duties of an employee or Commission Board Member shall not be:
 - (a) Willfully disclosed directly or indirectly to unauthorized persons either during State service or after separation from State service;
 - (b) Used by the employee or Commission Board Member to further his or her private interests or the private interests of others;
 - (c) Used by the employee or Commission Board Member, directly or indirectly, for pecuniary gain or to make any investments or other financial transactions for himself or herself or others.

E. Permitted Activities

Employees may publish articles, accept speaking engagements, or take part in educational endeavors, provided such are consistent with the obligations placed on employees by the Conflicts of Interest Law and this Code. Employees shall notify the Vice President supervising their department when such activities involve compensation and are related to the normal course of employment. Vice Presidents shall notify the Ethics Liaison Officer of the same.

F. Guidelines on Specific Subjects

(1) Attendance at Events or Functions

Review and approval for attendance at events or functions shall be obtained from the Vice Presidents for their employees and the Ethics Liaison Officer (ELO) for the Vice Presidents and Commission Board Members. The employee shall submit a "Request for Approval for Attendance at Events" where deemed appropriate. "Events" 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 non-State government source and the invitation for which is extended to the State official because of his/her official position. Review and approval of these requests shall conform with N.J.A.C. 19:61-6.2, 6.3, 6.4 and 6.5.

The Vice Presidents and ELO shall consider the following:

- (a) All attendance at business related functions should take into consideration whether a legitimate State purpose will be served by attendance. Relevant considerations include:
 - i) Whether the sponsor is an "interested party" as defined by N.J.A.C. 19:61-6.2.
 - ii) The purpose of the event.
 - iii) The identity of other expected participants.
 - iv) Whether attendance/participation in the event will assist the employee in carrying out his/her official duties and support the mission of this Commission.
 - v) The monetary value and character of the reimbursements, benefits, meals and/or honoraria provided by the sponsor including whether the reimbursements, meals, benefits and/or honoraria are comparable to those offered to or purchased by other attendees.
- (b) Employees and Commission Board Members are only permitted to accept a direct benefit from the sponsor of an event, such as a meal, travel, accommodation, honoraria or waiver of the conference or event fees, where expressly permitted by the regulations of the Executive Commission on Ethical Standards, N.J.A.C. 19:61-6.1 et seq.

(2) Compensation for Published Work(s)

(a) An employee or Commission Board Member shall not accept compensation for published work(s) created as part of his or her official duties on State resources, but may accept compensation for published works not created as part of his or her official duties, N.J.A.C. 19:61-6.7.

(b) An employee or Commission Board Member shall secure the permission of the department head to accept compensation for published work(s) not created as part of his or her official duties. In determining whether such approval can be granted, the Department head shall consider the provisions of the Conflicts of Interest Law, the departmental code of ethics, any applicable Executive Orders, the Commission's *Guidelines for Secondary Employment*, any other applicable guidelines or rules of the Commission, any applicable departmental administrative policies, and the following conditions:

1. Whether compensation is being paid by an interested party;
2. Whether the published work(s) uses or discloses information not generally available to the public;

(c) An employee or Commission Board Member shall prepare the published work(s) on his or her own time, without using the services of other State officials or resources owned by the State.

(d) An employee or Commission Board Member shall not use his or her official title in any soliciting compensation and shall indicate that his or her views do not represent those of the State.

(3) Receipt of Gifts and Favors

All employees and Commission Board Members shall report to the Ethics Liaison Officer any gift or other thing of value received from a person or corporation with whom they have contact in their official capacity. The Ethics Liaison Officer shall determine whether the item may be accepted or returned, by considering whether such receipt would create an impression of a conflict of interest, appearance of impropriety or violation of the public trust.

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, may be retained by the recipient or the recipient division for general use if it does not create an impression of a conflict of interest or violation of the public trust.

During the normal course of business involving international trade activities, it is customary for dignitaries and foreign officers to exchange gifts. This practice is recognized as acceptable behavior. Such gifts, however, shall be reported to and placed in the custody of the Ethics Liaison Officer as soon as possible for appropriate consideration.

(4) Promotion of State Products

In accordance with this Commission's mission, and acknowledging that trade missions and reverse investment missions provide this Commission with the opportunity to promote New Jersey and its products, an employee or Commission Board Member may act as a conduit for the presentation of a gift item(s) provided by a firm which is to be presented to another firm or official during the course of such business. This is predicated upon the following conditions:

- (a) The gift(s) will encourage trade or reverse investment.
- (b) The gift(s) is not for personal use to any employee or Commission Board Member.

- (c) The gift(s) is an indication of the products produced in this State and will promote such products.

(5) Retirement Gifts

A group or individual planning a retirement event must choose between the following two approved alternatives with regard to funding and the value of any and all gifts to be presented to the retiree, to his or her spouse, and/or to his or her dependents:

- (a) Gifts may be funded by a maximum contribution of \$5.00 per person, collected from invitees to the retirement function. If this method of funding is chosen, then no maximum value is set for the cost of the gifts, but the maximum contribution for the cost of the gift may not exceed \$5.00 per invitee; or
- (b) There is no maximum set for individual contributions, but the total value of the retirement gifts and/or monetary tokens to the retiree, spouse and dependant(s) cannot exceed \$1,000.00.

If, instead of presenting gifts or monetary tokens to the retiree, spouse and dependents, a decision is made to make a monetary contribution to a qualified organization (under IRS Code 501 (c)(3), no limit is placed on the maximum value of the contribution.

(6) Use of State Information, Property and Funds: Use of Official Stationary

Regarding the use of State information property and funds:

- (a) An employee or Commission Board Member shall use the information, property and funds under his or her official control in accordance with prescribed procedures and not for personal gain or benefit.
- (b) An employee or Commission Board Member shall not use or disclose information not generally available to members of the public, which information is obtained during the course of official duties, other than such use or disclosure connected with the employee's official duties.
- (c) In addition to all other official uses, the following uses of official stationary are generally permitted:
 - 1) To recommend a current or former employee or colleague for another position, admission to a school program, etc.
 - 2) To respond to inquiries from a private entity about the employment status of a current or former employee or colleague.

No other uses are permitted without the approval of the Ethics Liaison Officer.
All questions regarding this issue should be referred to the Ethics Liaison Officer.

(7) Joint Ventures

In accordance with this Commission's mission and focus, joint ventures are permitted. However, proposals for joint ventures must be reviewed and approved by the Vice President of the supervising department and the Ethics Liaison Officer, and may be reviewed, modified or rejected by the Executive Commission on Ethical Standards. The following information shall be considered:

- (a) The nature of the event or activity funded, including approximate date, time duration, location, cost and identities of participants and attendees.

- (b) The identities, financial ability of joint sponsors or donors, and other relationship to the Commission, including disclosure of any interest (as defined in the Conflicts of Interest Law) held in any joint sponsor or donor by an employee, Commission Board Member, or member of the immediate family of an employee or Commission Board Member or employee.
- (c) Identity of any amenities that could accrue to the personal benefit of an employee or Commission Board Member.
- (d) Identification of the role to be played by the State Agency.

The Ethics Liaison Officer shall copy the CEO/Secretary and the Executive Commission on Ethical Standards on all joint venture and private financing determinations.

(8) Secondary Employment

The CEO/Secretary may allow employees to hold outside office or employment provided there is no conflict of interest with the employee's Commission job, and the employee does not use his or her Commission office or Commission time for the conduct of outside office or employment, whether compensated or uncompensated. Forms, as needed, may be obtained from the Ethics Liaison Officer. All secondary employment must be approved in advance.

Pursuant to N.J.A.C. 19:61-2.2, the Ethics Liaison Officer shall send copies of all secondary employment forms to the Executive Commission on Ethical Standards for review.

(9) Post-Employment Guidelines

Employees and Commission Board Members who plan to leave State service may request a copy of detailed post employment guidelines from the Ethics Liaison Officer or Personnel Office. The Ethics Liaison Officer shall distribute the detailed post-employment guidelines to all those leaving State service.

N.J.S.A. 52:13D-17 prohibits a former State officer or employee or special State officer or employee from representing, appearing for, negotiating on behalf of, providing information or services not generally available to the public or agreeing to perform any of those activities for any party, other than the State, in connection with those causes, proceedings, applications or other matters in which the officer or employee had made any investigation, rendered any ruling, given any opinion or been otherwise substantially and directly involved while in State employment. There is no time limit on this prohibition.

It is important to note that these restrictions apply to specific causes, proceedings, applications or other matters in which a former State officer or employee or special State officer or employee was "substantially and directly involved" while in State employment. This restriction does not extend to "determinations of general applicability or the preparation or review of legislation that is no longer pending before the Legislature of the Governor."

(10) Recusal Guidelines (*new section*)

The recusal provisions of N.J.A.C. 19:61-7.1 et seq. are intended to apply to all State officers and employees as well as special State officers and employees. Accordingly, the recusal guidelines outlined in this section of the NJ Commerce Code of Ethics apply to NJ Commerce Commission Board Members as well as NJ Commerce employees.

(a) A NJ Commerce employee or NJ Commerce Commission Board Member shall recuse himself or herself from a matter if he or she has:

1. Any financial interest, direct or indirect, that is incompatible with the discharge of his or her duties as a NJ Commerce employee or NJ Commerce Commission Board Member; or
 2. Any personal interest, direct or indirect, that is incompatible with the discharge of his or her duties as a NJ Commerce employee or NJ Commerce Commission Board Member.
- (b) For purposes of (a) above, an incompatible financial or personal interest includes, but is not limited to, outside employment; a debtor/creditor relationship; a fiduciary relationship; a source of income; any matter pertaining to a relative or cohabitant; a relationship with a person providing funds, goods or services without compensation; any matter pertaining to a business associate or business investment; and a leadership role in a professional or trade organization; which interest might reasonably be expected to impair the NJ Commerce employee or NJ Commerce Commission Board Member's objectivity and independence of judgment in the exercise of his or 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 or she may be engaged in conduct violative of his or her trust as a NJ Commerce employee or NJ Commerce Commission Board Member.
- (c) An incompatible financial or personal interest may exist in other situations that are not clearly within the provisions of (a) and (b) above, depending on the totality of the circumstances. The NJ Commerce employee or NJ Commerce Commission Board Member shall contact the NJ Commerce Ethics Liaison Officer or the Commission for guidance in such cases.
- (d) A NJ Commerce employee or NJ Commerce Commission Board Member shall seek the advice of the NJ Commerce Ethics Liaison Officer or the Commission as to the propriety of participation in a matter if a person requests that the NJ Commerce employee or NJ Commerce Commission Board Member recuse himself or herself from that matter. Oral advice, followed up by writing, may be provided by the NJ Commerce Ethics Liaison Officer or the Commission to avoid delay. Oral advice should subsequently be memorialized by in writing.
- (e) If a NJ Commerce employee or NJ Commerce Commission Board Member finds, or is advised by the NJ Commerce Ethics Liaison Officer, or the Commission's counsel, that an incompatible financial or personal interest exists on a matter, the NJ Commerce employee or NJ Commerce Commission Board Member must recuse himself or herself from that matter or seek advice from the Executive Commission on Ethical Standards. The recusal must be absolute, that is, the NJ Commerce

employee must have no involvement with the matter from which he or she has recused himself or herself.

(f) All recusals, other than those provided for in (g) below, shall be memorialized in writing. See (h) below for samples. The writing shall:

1. Specify the reason for and the date of the recusal;
 2. Specify the duration of the recusal (which may be expressed in terms related to the pendency of the matter in the NJ Commerce);
 3. Specify the effect of the recusal on the NJ Commerce employee or NJ Commerce Commission Board Member and the NJ Commerce (for example, that the NJ Commerce employee or NJ Commerce Commission Board Member is not to be contacted or involved or participate in any manner concerning the matter from which he or she has been recused);
 4. Name the person who is to assume responsibility and authority for the matter from which the NJ Commerce employee or NJ Commerce Commission Board Member has been recused (if applicable); and
 5. Be disseminated to all persons who might be affected by the NJ Commerce employee or NJ Commerce Commission Board Member's recusal and to the NJ Commerce Ethics Liaison Officer, who shall maintain the writing for as long as the NJ Commerce employee or NJ Commerce Commission Board Member serves in his or her position.
- (g) In the case of a Board or Commission meeting where a public record of a proceeding is maintained, formal written recusal is not required; however, the following procedures must be followed:
1. To the extent feasible, meeting materials involving a matter from which the NJ Commerce employee or NJ Commerce Commission Board Member must recuse himself or herself should not be distributed to the NJ Commerce employee or NJ Commerce Commission Board Member;
 2. At the subject meeting, the NJ Commerce employee or NJ Commerce Commission Board Member must place his or her recusal and the reason for such recusal on the record prior to any discussion of the matter; and
 3. The NJ Commerce employee or NJ Commerce Commission Board Member shall leave the room at a non-public portion of the meeting while the matter in question is under discussion.

(h) Sample Recusal Statements

Sample Recusal Statement: Seeking Employment

DATE: _____

TO: NJ Commerce Ethics Liaison Officer
Executive Commission on Ethical Standards

FROM: Name of Employee

SUBJECT: Recusal--Seeking Employment with (Name of Outside Organization)

This is to notify you that I am seeking employment with (Name of Outside Organization). My seeking employment may present an actual or appearance of a conflict of interest; therefore, I must disqualify/recuse myself from any official duties that involve the above organization. I understand that I may not participate in any way as a NJ Commerce employee in any matters regarding the above organization. Furthermore, I understand that it would be appropriate for any matters specifically involving the above-named organization to be referred to my supervisor without consulting me or informing me that such matters are pending. This action is taken with the concurrence of my Division Director, as indicated below. I understand that this recusal will remain in effect until I advise in writing that all employment seeking activity has terminated and I receive written permission from the NJ Commerce Ethics Liaison Officer to resume interactions with the outside organization.

(Employee's Name)

Recommend: _____
(Name of Employee's Director/Supervisor) Date

Approve: _____
(Ethics Liaison Officer) Date

Sample Recusal Statement: Conflicts

DATE: _____

TO: Designee(s)

FROM: Name of Employee

SUBJECT: Recusal

Because I may be seen to have a conflict of interest in matters affecting (names of individuals/companies), I am delegating all responsibility and authority for handling any such matters to you. Please ensure that I am screened from any information or communications on any such matters. By copy of this memorandum, I am instructing (names of colleagues or subordinates) to ensure that I do not receive any communication on any matters affecting (names of individuals/companies).

c: Subordinates responsible for screening communications
 NJ Commerce Ethics Liaison Officer
 Executive Commission on Ethical Standards