



THE COMPASS

The latest News, Views, Announcements and Calendar from the
NJ State Ethics Commission

March 2023
Issue No. 2

MEETING SNACKS – THESE ARE OK! (SEE PAGE 6)

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Bagels

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Water

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Coffee/Tea

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Doughnuts



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CANNABIS TIPS



What do NJ state officials need to know?

Certain restrictions apply to State officials and their immediate family members regarding medical or personal use cannabis entities.

Keep in mind that “Immediate family members” for cannabis purposes include your spouse, domestic partner, civil union partner, child, parent, or sibling who resides in the same household with you.

State employees and members of their immediate family are prohibited from:

Holding an interest, directly or indirectly, of more than 1% in a medical cannabis permit holder, applicant, or entity, or personal use cannabis license holder, applicant, or entity; Representing, appearing for, or negotiating on behalf of a medical cannabis permit holder, applicant or entity, or personal use cannabis license holder, applicant, or entity, in connection with any cause, application, or matter; or Being employed by a medical cannabis or personal use cannabis entity without a SEC waiver granted to the State employee or immediate family member.

Most Special State Officers without responsibility for matters affecting cannabis activity are subject to the following rules:**

Prohibited from holding an interest, directly or indirectly, of more than 1% in a medical cannabis permit holder, applicant, or entity, or personal use cannabis license holder, applicant, or entity; Prohibited from representing, appearing for, or negotiating on behalf of a medical cannabis permit holder, applicant or entity, or personal use cannabis license holder, applicant, or entity, in connection with any cause, application, or matter; **However, a Special State Officer may be employed directly with a medical or personal use cannabis entity, and if so employed, may represent that employer as an employee and may hold an interest of more than 1% in that employer.**

****Special State Officers in the Departments of Health, Human Services, Education, and the Office of the Secretary of Higher Education who do not have responsibility for matters affecting cannabis activity are exempt from these rules.**

State officials who meet the definition of a “person” under the Conflicts of Interest Law, and their immediate family members, are subject to the following restrictions:

Prohibited from holding an interest, directly or indirectly, of more than 1% in a medical cannabis permit holder, applicant, or entity, or personal use cannabis license holder, applicant, or entity; Prohibited from representing, appearing for, or negotiating on behalf of a medical cannabis permit holder, applicant or entity, or personal use cannabis license holder, applicant, or entity, in connection with any cause, application, or matter; and Prohibited from being employed by a medical cannabis or personal use cannabis entity.

Waivers for employment with a medical or personal use cannabis entity are not permitted for State officials who are also “persons” as defined by Section 17.2a of the Conflicts of Interest Law but may still be granted to their immediate family members.

The cannabis restrictions and waiver rules can be confusing, especially as they relate to not just the State employee, but also the entity in question. ELOs and SEC Staff are available to answer questions from State officials who are considering ownership, representation, or employment with a medical or personal use cannabis entity.

Medical cannabis entities include:

- ✓ A holder of or applicant for a:
 - ✓ Medical cannabis cultivator permit; medical cannabis manufacturer permit;
 - ✓ Medical cannabis dispensary permit; or clinical registrant permit; and
 - ✓ Any entity that employs any certified medical cannabis handler to perform transfers or deliveries of medical cannabis.

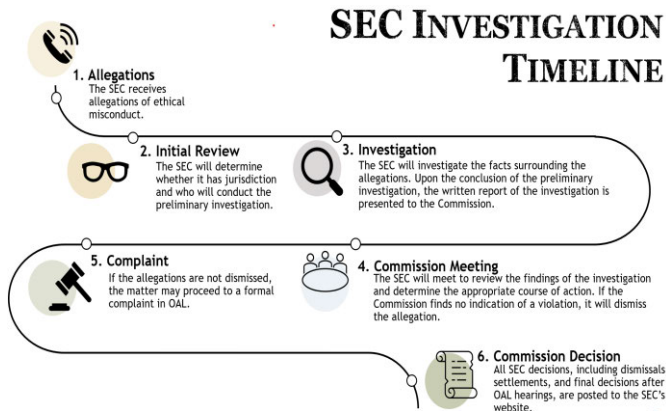
Personal use cannabis license holders or applicants, include:

- ✓ Cannabis cultivator license; cannabis manufacturer license;
- ✓ Cannabis wholesaler license; cannabis distributor license; cannabis retailer license; cannabis delivery service license; and
- ✓ Any entity that employs or uses a certified personal use cannabis handler to perform work for or on behalf of a licensed cannabis establishment, distributor, or delivery service.

ANATOMY OF A CONFIDENTIAL SEC INVESTIGATION



The SEC conducts confidential investigations of matters that come to the Commission from Agencies, ELOs, members of the public, and anonymous complaints.



Have you ever wondered what exactly the SEC Legal Specialists do when investigating an alleged ethics violation? Look no further! While every investigation varies, the below outline delineates the framework we follow to investigate cases and make our recommendations to the Commission.

1. Allegation Received

- Anonymous or named complainant submits allegations to the SEC via phone, mail, or email, OR
- State agency refers a complaint to the SEC for an ethics violation.

2. Initial Review

- Does the SEC have jurisdiction?
 - Is the target a current executive branch employee or one who has left State service within the past 2 years? AND
 - Do the allegations fall under the UEC and/or Conflicts Law?

3. Investigation Process

- Acquire personnel, Ethics-related, and disciplinary records of the target (from ELO)
- Interview complainant (if named)
- Interview other witnesses who may have relevant information.
- Gather evidence.

- E.g., promotional interview score sheets, ethics paperwork (OAQs), social media, internet history, call logs, emails
 - Fun fact: the SEC does have subpoena power to compel document production and witnesses to testify.
- e. Interview target

4. Presentation to the SEC

- At the conclusion of our confidential investigation, Staff presents the facts of the case, summarizes the interviews, and showcases the relevant evidence, analyzes applicable SEC case precedent, and makes a recommendation to the Commission as to whether they should find there was or was not an ethics violation.

5. Commission Meeting

- Commissioners review the confidential case, discuss the merits, and decide whether there was an ethics violation or not.
 - If there WAS a violation – SEC Staff will attempt to negotiate a consent order for a settlement with the target (fines between \$500 and \$10,000). If the target does not sign the proposed consent order, the matter is referred as a complaint to the Office of Administrative Law (OAL)
 - If no violation – charge is dismissed.

6. Commission Decision

- All SEC decisions, including dismissals, settlements, and final decisions after OAL hearings are posted on the SEC website.

To report a matter to the NJ State Ethics Commission, call 609-292-1892 or send an email to Ethics@Ethics.nj.gov

SEC Staff will respond as soon as practicable. All matters are handled confidentially.

POST-SERVICE RESTRICTIONS FOR SPECIAL STATE OFFICERS

KNOW BEFORE YOU GO!

After service as a Special State Officer (SSO)* ends, an SSO cannot represent a party other than the State regarding any matter in which they were substantially and directly involved while serving as an SSO. “Matter” is defined very narrowly, and refers to a specific matter, project, contract, proceeding, application or grant.

When a contract expires and a new contract is executed, the new contract is considered a new matter. For example, if an SSO was substantially and directly involved in a contract on behalf of their Agency, the SSO cannot work on that contract for a non-State entity after leaving State service. The SSO could however, work on the successor agreement because it is considered a new matter. In this context, substantial and direct involvement is a fact sensitive determination.

Be aware that post-service restrictions extend to any partnership, firm, or corporation that employs the exiting SSO if the SSO holds more than a 10% interest in the entity, or if the employer is a professional services corporation. Note there is no time limit on post-service restrictions.

The SEC recognizes that post-service restrictions are case and fact sensitive. There are additional factors that may come into play, so should there be any questions about what work might be prohibited, after leaving state service, the SSO should consult the SEC for guidance.

It is always better to know before you go; prior to leaving State service, the SSO should consult the agency ELO for information about any post-service restrictions.



** N.J.S.A13D-13 (e) "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.*

POST-EMPLOYMENT RESTRICTIONS FOR STATE EMPLOYEES

- ❖ There is no “side-switching” permitted after leaving State employment. If you were working on a specific matter on behalf of the State, you are prohibited from switching sides and working on the same matter for any other party. Former State employees cannot be involved on behalf of any party other than the State in any specific matter in which they had substantial and direct involvement during their state employment.
- ❖ Post-employment restrictions do not prevent employees from working in their field of expertise when they leave State employment. These restrictions are limited to specific matters that the former employee was substantially and directly involved in during their State employment.
- ❖ When a State employee leaves State service, they will receive a post-employment restrictions letter that will explain the post-employment rules that apply to them.
- ❖ In some instances, the post-employment restrictions can apply not only to the employee, but also to their new employer, meaning that if the employee cannot work on the matter, neither can the new employer.
- ❖ The restrictions apply to the new employer when the new employer is a partnership, firm, or corporation in which the employee owns or controls more than 10% of the assets or profits.
- ❖ It also applies if the new employer is a professional services corporation or PSC, regardless the level of ownership or control if the employee is a shareholder, associate, or professional employee of the PSC. Think law firms, accounting firms, and engineering firms formed as PSCs.



SEEKING FUTURE EMPLOYMENT

CERTAIN RULES APPLY WHEN A STATE EMPLOYEE IS SEEKING FUTURE EMPLOYMENT!

- WHILE STILL EMPLOYED BY THE STATE, A STATE EMPLOYEE CANNOT SOLICIT EMPLOYMENT FROM INTERESTED PARTIES WHERE THERE HAS BEEN SUBSTANTIAL AND DIRECT CONTACT IN THE STATE JOB.
- IF CONTACTED BY AN INTERESTED PARTY REGARDING POTENTIAL EMPLOYMENT, A STATE EMPLOYEE MUST REPORT THIS CONTACT TO THEIR AGENCY ELO.
- IF THE INTERESTED PARTY PUBLICLY POSTS A JOB, SUBMITTING A RESUME IN RESPONSE TO THE POSTING IS NOT CONSIDERED PROHIBITED SOLICITATION. THEN, THE STATE EMPLOYEE MUST INFORM THEIR AGENCY ELO OF THE SUBMISSION AND SEEK RECUSAL GUIDANCE.



Your agency ELO can provide guidance on restrictions and recusals related to job searches and all discussions are held in strict confidence.

A MESSAGE FROM THE DEPUTY DIRECTOR



CHRISTINA FULLAM

MEETING SNACKS

THE “SANDWICH RULE” OR “BAGEL RULE”

“

... Examples of meeting snacks include doughnuts, pastries, cookies, coffee, tea, water, and—you guessed it—bagels.

”

Since October 2019, I have served with the State Ethics Commission in various capacities—first, as its Ethics Training Officer; then, for a brief period, as an Ethics Liaison Officer (ELO) with an executive branch agency; and since July 2022, full-time as the Deputy Director of the Commission. I have been given the awesome opportunity and responsibility to assist in leading our small team of ten employees, and to interact with every State executive branch agency in the training, compliance, and enforcement of the Conflicts of Interest Law. I want to thank our Executive Director, Joy-Michele Johnson, as well as our immediate predecessors, former Executive Director Mark Holmes, and former Deputy Director Sherry Wilson, for their confidence in me.

When I was the Ethics Training Officer, I used to conduct live in-person and live virtual trainings for State executive branch officials, and one of the most popular discussion items brought up by State employees was meeting snacks. This rule has alternately been called the “sandwich rule” or the “bagel rule” over the years. State officials who are attending a meeting hosted or co-sponsored by outside parties may accept meeting snacks, which include nominal, modest food and nonalcoholic beverage items served in a meeting setting. Examples of meeting snacks include doughnuts, pastries, cookies, coffee, tea, water, and—you guessed it—bagels.

Other food items, such as sandwiches, salads, and buffet-style meals, exceed nominal value and cannot be accepted as meeting snacks, even if they are offered in a meeting setting. State officials are also prohibited from accepting food items from non-State parties outside of a meeting setting, even if the item would be considered a snack. Examples include State officials being offered food or drink while performing site inspections for regulated entities, or a non-State party having food delivered to a State office.

Keep in mind that you may always accept food paid for by your own agency, and you may usually accept food from another State agency when you attend a meeting, even if those items would exceed nominal value. There are some additional nuances to this general rule if you are attending an event in your official capacity that is sponsored or co-sponsored by a non-State party and which takes place away from your State office.

If you have questions about this rule, please contact your ELO or the State Ethics Commission for guidance. We are always available to assist State officials with their ethics questions.

ANNOUNCEMENTS



ETHICS TRAINING

The Conflicts Law requires mandatory ethics training and a mandatory ethics briefing. N.J.S.A. 52:13D-21.1.

- ✓ Full ethics training must be completed by all State officials in the Executive Branch of Government every three years.
- ✓ In the years that full training is not required, employees and officers and Special State Officers (SSOs) must complete the ethics briefing.
- ✓ Special State Officers from agencies and authorities under the supervision of the Governor's Authorities Unit are subject to the more frequent training requirements set forth in Executive Order 41 (Codey). EO 41 requires that board members of authorities overseen by the Authorities Unit (GAU) receive full training annually.
- ✓ *There are several options available to State officials to comply with the ethics training requirements:*
 - *If your agency partners with the CSC LMS program or has its own LMS system with the SEC modules, the online training modules are available through such LMS.*
 - *The SEC website offers updated, online, full Ethics Training and Ethics Briefing modules. State College and University Faculty will find their ethics training modules here as well.*
 - *The SEC Training Officer and/or your ELO is available to lead virtual or in-person training sessions upon request.*

“
*Ethics is
knowing the
difference be-
tween what
you have a
right to do
and what is
right to do.*
”

-Potter Stewart-

Former Associate Justice of the Supreme
Court of the United States

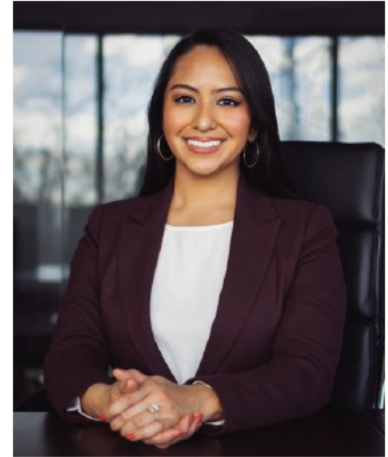


ANNOUNCEMENTS

SPOTLIGHT ON SEC CHAIR

Stephanie A. Brown, Esq.

Stephanie A. Brown has served as the Chair of the State Ethics Commission since appointed to the role in April 2021 by Governor Phil Murphy



Governor Murphy initially appointed Stephanie Brown to serve as Chair of the State Ethics Commission in 2021 to finish the term of the former Chair, and then re-appointed her to a full term in 2022.

Stephanie currently leads government and community affairs work at Wonder, a food-technology start-up with a growing presence across New York and New Jersey. At Wonder, Stephanie is responsible for the strategy and day-to-day management of government relations at the state and local levels, including building relationships with the governments, communities, and key stakeholders that Wonder serves, and furthering Wonder's Impact work.

Prior to joining Wonder, Stephanie served as associate counsel in the Governor's Authorities Unit, which provides oversight of the governance and operations of more than 50 independent state and bi-state agencies. Prior to joining the Murphy administration, Stephanie worked as assistant corporation counsel to Jersey City Mayor Steven Fulop, focusing on labor and employment matters. In all her previous roles, Stephanie has worked closely on diversity, equity, and inclusion (DEI) policies and initiatives to ensure fair and equitable practices.

Stephanie has also previously served as a board member of New Leaders Council New Jersey, Trustee for the Hispanic Bar Association of New Jersey, Commissioner on the Human Relations Commission for the Township of West Orange, member of the New Jersey Supreme Court Committee on Minority Concerns, and as a mentor in the NJLEEP and American Dream Pipeline Programs.

"...STEPHANIE HAS WORKED CLOSELY ON DIVERSITY, EQUITY, AND INCLUSION (DEI) POLICIES AND INITIATIVES TO ENSURE FAIR AND EQUITABLE PRACTICES."

CALENDAR

DATES TO NOTE

2023 CALENDAR

Commission Meeting Dates:

Tuesday, January 24 ✓

Tuesday, March 21, 2023

Tuesday, June 12

Tuesday, August 1

Tuesday, September 26

Tuesday, November 28

ELO Quarterly Meeting Dates:

Thursday, February 16 ✓

Thursday, April 27

Thursday, October 12
(non-college)

Thursday, October 19
(college)

Thursday, December 14

ELO Orientation Dates:

Thursday, February 2 ✓

Thursday, April 20

Thursday, June 22

Thursday, September 7

Thursday, November 16



NOTE

THE DEADLINE FOR 23d SUBMISSIONS AND REQUESTS FOR ADVISORY OPINIONS FOR THE MARCH 2023 SEC COMMISSION MEETING IS MARCH 3, AND MAY 30 FOR THE JUNE 2023 MEETING.

SEC MEMBERS

Commission Members

Stephanie A. Brown, Esq., Chair
(Public Member)

Patricia C. Morgan, Esq., Vice Chair
(Public Member)

Christine Norbut Beyer, Commissioner
N.J. Department of Children and Families

Babatunde P. Odubekun, Esq.
(Public Member)

Victor J. Herlinsky, Jr., Esq.
(Public Member)

Tahesha L. Way, Esq.
New Jersey Secretary of State

Sarah Adelman, Commissioner
N.J. Department of Human Services

Staff Members

Joy-Michele Johnson, Esq., Executive Director

Christina C. Fullam, Esq., Deputy Director

Rachel L. Santitoro, Esq., Compliance Officer

Susan J. Flynn-Hollander, Esq.,

Training Officer; Editor, *The Compass*

Mary Ann Keys, Esq., Legal Specialist

Article Contributor, *The Compass*

Jessica Calella, Esq., Legal Specialist

Zachary Egan, Esq., Legal Specialist

Laura Wilton, Esq., Legal Specialist

Shanna Cook, Administrative Assistant

Karema Griffin, Legal Secretary

Victor Kushnir, MIS Administrative Analyst

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STATE ETHICS COMMISSION

State of New Jersey

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