

**RESPONSES TO INQUIRIES REGARDING STATE INVESTMENT
COUNCIL'S POLICY CONCERNING POLITICAL CONTRIBUTIONS AND
PROHIBITIONS ON INVESTMENT MANAGEMENT BUSINESS**

N.J.A.C. 17:16-4.2 Definitions

- “Investment management professional”

Question: Is a senior officer of an investment management firm considered a “supervisor” of an investment management professional if the senior officer does not have direct authority over the investment professional or otherwise exercise control or influence over the day-to-day activities of the investment management professional?

Answer: A senior officer of an investment management firm would be considered a “supervisor” of an investment management professional only (1) if he or she has some degree of supervisory responsibility (whether or not relating to investment management activities) over the investment management professional, or (2) he or she is a member of the management or executive committee.

- “Investment management services”

Question: Is an investment management professional considered to be engaged in the provision of “investment management services,” if he or she advises or manages a private equity or hedge fund in which a State pension fund invests?

Answer: A person in the business of advising or managing a private equity or hedge fund in which a State pension fund invests is considered to be engaged in the provision of “investment management services.”

- “Political contribution”

Question: Does the term “State office” in the definition of “political contribution” include local offices, such as mayor of a city or county offices, or statewide offices other than the office of Governor, such as state assemblyman or senator?

Answer: The term “State office” in the definition of “political contribution” includes the office of Governor and the office of state assemblyman and senator. It does not include local offices. However, it should be noted that a contribution for the purpose of influencing an election for local office is included as a “political contribution” if the recipient is a State official or an employee or advisor of either a State official or the State. In addition, contributions routed through committees of any sort for the purpose of influencing a state election are impermissible.

Question: Does the term “political contribution” include payments to local or federal officeholders who later become a candidate for State office, if the person making the payment was unaware at the time of the officeholder’s intention to run for office?

Answer: No.

- “Political party”

Question: Does the term “political party” include State legislative leadership committees?

Answer: The term “political party” includes any political committee organized in the State, including State legislative leadership committees and county committees.

N.J.A.C. 17:16-4.3 Restrictions

Question: Is the Division of Investment precluded from engaging an investment management firm if a third party solicitor engaged by the investment management firm makes a political contribution or payment to a political party, but the solicitor does not solicit investment management business from the State, but instead solicits investment management business from other entities?

Answer: Political contributions and payments to political parties by a third party solicitor who does not solicit investment management business from the State are not prohibited payments under N.J.A.C. 17:16-4.3.

Question: Is the Division of Investment required to terminate a contract with an investment management firm if, during the term of the engagement, a political contribution or payment to a political party is made by a third party solicitor who is no longer soliciting investment management business from the State on behalf of the investment management firm?

Answer: If a third party solicitor is no longer associated with an investment management firm, payments by the solicitor would not be an automatic cause for termination of the contract with the investment management firm.

N.J.A.C. 17:16-4.4 Solicitations

Question: Is the Division of Investment precluded from engaging an investment management firm if the firm or its associated investment management professionals solicited political contributions within the previous two years?

Answer: The Division of Investment is precluded from engaging an investment management firm for at least two years if the firm or any investment management professional or third party solicitor undertakes any of the prohibited solicitation activities set forth in N.J.A.C. 17:16-4.4. It should be noted that solicitation activities that took place prior to April 18, 2005 are not covered by the rule.

Question: Do payments to a national party committee, out-of-state political committee, or 527 organization constitute improper solicitation of contributions, if such committee or organization, without direction from the contributor, subsequently contributes to an election for State office?

Answer: It is not the role of the State Investment Council to set policies governing political activity involving federal or non-New Jersey committees. Payments to organizations that are not included within the definition of “political party” are not per se prohibited when such organizations subsequently contribute to an election for State office. However, it should be noted that any attempt to avoid the restrictions of the rule by means of making payments to such committees or organizations to influence State elections is prohibited by N.J.A.C. 17:16-4.5.

Question: Are political contributions by family members of investment management professionals prohibited, absent a showing of direction by the investment management professional?

Answer: Political contributions by family members (as well as non-family members) are prohibited to the extent that they are funded by the investment management professional. If the investment management professional does not fund such a contribution, it would not be per se prohibited under N.J.A.C. 17:16-4.4. However, it should be noted that any attempt to avoid the restrictions of the rule by means of using family members to make political contributions or by any other indirect means is prohibited by N.J.A.C. 17:16-4.5.

N.J.A.C. 17:16-4.11 Effectiveness

Question: Do the Rule’s prohibitions and disclosures apply to contributions made as of April 18, 2005 (the effective date of the regulation) or as of August 18, 2004 (the effective date of the Council’s Political Contributions Policy)?

Answer: The Rule’s prohibitions and disclosures apply to contributions made as of April 18, 2005. They do not apply to contributions made prior to April 18, 2005.