

The Public Employment Relations Commission

Supplemental Code of Ethics

The Uniform Ethics Code promulgated by the State Ethics Commission establishes standards of conduct for all State officers and employees and applies to all officers and employees of the Public Employment Relations Commission (“Commission”). A copy is attached. The Commission promulgates this supplemental Code of Ethics to address and govern the conduct of its officers and employees in light of the need for strict neutrality in conducting Commission business.

The Commission is a neutral agency that fosters an effective labor relations process in the public sector. Its mission cannot be accomplished unless its neutrality, integrity, and professionalism are safeguarded. Therefore, in addition to the purposes and goals stated in N.J.S.A. 52:13D-12 and N.J.S.A. 52:13D-23, the Commission promulgates this code to ensure public confidence in the agency’s neutral administration and enforcement of the New Jersey Employer-Employee Relations Act and related laws, to protect the integrity of the agency’s superintendence of the labor relations process, and to promote the agency’s professionalism and the public’s respect for its services.

I. GENERAL DUTIES OF OFFICERS AND EMPLOYEES

- A. Officers and employees hold office or employment as a public trust and must strive to preserve and protect the public’s confidence in the Commission’s fair and neutral execution of its duties.
- B. Officers and employees must make decisions on a fair and impartial basis and without regard to race, creed, color, national origin, nationality, ancestry, age,

sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, disability, or political affiliation.

- C. Officers and employees must perform their duties with professionalism and with courtesy to other officers and employees of the Commission and all members of the public.
- D. The Uniform Code of Ethics provides that 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.

Accordingly, a PERC employee should not offer to any police officer information that he or she works for PERC or the State of New Jersey. If stopped by a police officer, an employee should explain that he or she is going to or coming from a meeting at the school or municipality or other relevant site. If the police officer demands more specific information, an employee may give it, but you must report those circumstances to the agency Ethics Liaison Officer.

II. SPECIAL OBLIGATIONS OF COMMISSIONERS, ATTORNEYS, HEARING EXAMINERS AND HEARING OFFICERS, MEDIATORS, FACT-FINDERS, CONCILIATORS, SUPER-CONCILIATORS AND ARBITRATORS

- A. The Commission is composed of two members representative of public employers, two members representative of public employee organizations, and three members representative of the public. The Chairman is a full-time public

member and the other six Commissioners all serve on a per diem basis. N.J.S.A. 34:13A-5.2. While the Legislature desired the expertise and shared perspectives of employer and employee organization representatives, the State Ethics Commission has ruled that Commissioners may not participate in votes or Commission discussions of cases involving organizations with which they are affiliated or over which they have jurisdiction, or involving organizations that are affiliated with the organization they represent.

- B. Attorneys must comply with the New Jersey Rules of Professional Conduct and other court rules, directives, or statutes governing their conduct.
- C. Mediators must comply with the Code of Professional Conduct for Labor Mediators.
- D. Interest Arbitrators, Conciliators, Super-Conciliators and Fact-finders must comply with the Code of Professional Conduct for Labor Mediators and the Code of Professional Responsibility for Arbitration of Labor-Management Disputes of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service as each code applies to the function they are performing at any given time.
- E. Arbitrators shall be guided by the objectives and principles set forth in the Code of Professional Responsibility for Arbitration of Labor-Management Disputes of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service.
- F. Hearing Examiners and those serving as Hearing Examiner/Officers must comply

with the following:

1. A Hearing Examiner/Officer shall uphold the integrity and independence of the administrative process. An independent and honorable administrative process is indispensable to justice in our society. A Hearing Examiner/Officer should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the administrative process will be preserved.
2. A Hearing Examiner/Officer shall avoid impropriety and the appearance of impropriety in all activities.
 - A. A Hearing Examiner/Officer shall respect and comply with the law and at all times shall act in a manner that promotes public confidence in the integrity and impartiality of the administrative process.
 - B. A Hearing Examiner/Officer shall not allow family, social, political, or other relationships to influence the Hearing Examiner/Officer's judgment. A Hearing Examiner/Officer shall not lend the prestige of the office to advance the private interests of the Hearing Examiner/Officer or others; nor shall a Hearing Examiner/Officer convey or permit others to convey the impression that they are in a special position to influence the Hearing Examiner/Officer. A Hearing Examiner/Officer shall not

testify voluntarily as a character witness.

C. A Hearing Examiner/Officer shall not hold membership in any organization that practices invidious discrimination as defined by Federal law and the New Jersey Law Against Discrimination.

3. A Hearing Examiner/Officer shall perform the duties of the office impartially and diligently. In the performance of these duties, the following standards apply.

A. Adjudicative responsibilities:

(1) A Hearing Examiner/Officer shall hear and decide assigned matters except those in which disqualification is required.

(2) A Hearing Examiner/Officer shall be faithful to the law and maintain professional competence in it. A Hearing Examiner/Officer shall be unswayed by partisan interests, public clamor, or fear of criticism.

(3) A Hearing Examiner/Officer shall maintain order and decorum in proceedings before the Hearing Examiner/Officer.

(4) A Hearing Examiner/Officer shall be patient, dignified, and courteous to litigants, witnesses, attorneys, representatives, and others with whom the Hearing Examiner/Officer deals in an official capacity, and shall require similar conduct of attorneys, representatives, staff members, and others subject to the Hearing Examiner/Officer's direction and control.

(5) A Hearing Examiner/Officer shall perform duties without bias

or prejudice. A Hearing Examiner/Officer shall not, in the performance of his or her duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, disability, political affiliation, or socioeconomic status, and shall not permit staff and others subject to the Hearing Examiner/Officer's direction and control to do so.

(6) A Hearing Examiner/Officer shall accord to all persons who are legally interested in a proceeding, or their representative, full right to be heard according to law, and except as authorized by law, neither initiate nor consider ex parte or other communications as to substantive matters concerning a pending or impending proceeding. On notice, a Hearing Examiner/Officer may obtain the advice of a disinterested expert on the law applicable to a proceeding before the Hearing Examiner/Officer, by amicus curiae or as otherwise authorized by law, if the Hearing Examiner/Officer affords the parties reasonable opportunity to respond. A Hearing

Examiner/Officer may with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the Hearing Examiner/Officer. A Hearing Examiner/Officer may initiate or consider any ex parte communications when expressly authorized by law to do so.

(7) A Hearing Examiner/Officer shall dispose of all matters promptly, efficiently, and fairly.

(8) A Hearing Examiner/Officer shall abstain from public comment about a pending or impending proceeding in any court or tribunal and shall require similar abstention on the part of personnel subject to the Hearing Examiner/Officer's direction and control. This subsection does not prohibit Hearing Examiner/Officers from making public statements in the course of their official duties or from explaining for public information the hearing procedures of agencies.

(9) A Hearing Examiner/Officer shall not disclose or use, for any purpose unrelated to official duties, nonpublic information acquired in an official capacity.

B. Administrative responsibilities:

(1) A Hearing Examiner/Officer shall diligently discharge assigned administrative responsibilities, maintain professional competence in administrative responsibilities, and facilitate the

performance of the administrative responsibilities of other Hearing Examiner/Officers.

(2) A Hearing Examiner/Officer shall require staff and other persons subject to the Hearing Examiner/Officer's direction and control to observe the standards of fidelity and diligence that apply to the Hearing Examiner/Officer.

(3) A Hearing Examiner/Officer shall initiate appropriate disciplinary measures against a lawyer for unprofessional conduct of which the Hearing Examiner/Officer may become aware.

C. Disqualification:

(1) A Hearing Examiner/Officer shall disqualify himself or herself in any proceeding in which the Hearing Examiner/Officer's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the Hearing Examiner/Officer has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the Hearing Examiner/Officer is a resident of the municipality, school district, fire district or other local jurisdiction involved in the proceeding;

(c) in private practice the Hearing Examiner/Officer participated in the matter in controversy, or a lawyer with

whom the Hearing Examiner/Officer previously practiced law served during such association as a lawyer concerning the matter, or the Hearing Examiner/Officer or such lawyer has been a witness concerning it;

(d) the Hearing Examiner/Officer has served in governmental employment and in such capacity participated in the matter in controversy or expressed an opinion concerning the merits of the particular case in controversy;

(e) the Hearing Examiner/Officer knows that he or she, individually or as a fiduciary, or his or her spouse or child residing in the Hearing Examiner/Officer's household, or any other member of the Hearing Examiner/Officer's family or a person treated by the Hearing Examiner/Officer as a member of the Hearing Examiner/Officer's family residing in the Hearing Examiner/Officer's household, has a more than de minimis financial interest in the subject matter in controversy or is a party to the proceeding, or any other more than de minimis interest that could be substantially affected by the outcome of the proceeding; generally, receiving service from a particular public utility is a de minimis interest;

(f) the Hearing Examiner/Officer or the Hearing Examiner/Officer's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(I) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as, or is in the employ of or associated in the practice of law with, a lawyer or other representative in the proceeding;

(iii) is known by the Hearing Examiner/Officer to have a more than de minimis interest that could be affected by the outcome of the proceeding;

(iv) is to the Hearing Examiner/Officer's knowledge likely to be a witness in the proceeding.

(2) A Hearing Examiner/Officer shall inform himself or herself about the Hearing Examiner/Officer's personal and fiduciary financial interests, and make a reasonable effort to inform himself or herself about the personal financial interests of his or her spouse and minor children residing in the Hearing Examiner/Officer's household.

(3) For the purposes of this Code the following words or phrases shall have the meaning indicated:

(a) The degree of relationship is calculated according to the common law;¹

(b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "financial interest" means ownership of a more than de minimis legal or equitable interest, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(I) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the Hearing Examiner/Officer participates in the management of the fund;

(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) the proprietary interest of a policy holder in a mutual insurance company, or a depositor in a

¹ An individual's relatives within the third degree by consanguinity are the individual's: (1) parent or child (relatives in the first degree); (2) brother, sister, grandparent, or grandchild (relatives in the second degree); and (3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual.

mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities;

(v) ownership of one share of stock is more than a de minimis interest.

(d) "proceeding" includes prehearing or other stages of litigation.

III. OUTSIDE ACTIVITIES AND EMPLOYMENT

Introduction

New Jersey's Conflicts of Interest Law distinguishes between the need of governmental agencies to deliver their services ethically and efficiently and the ability of governmental employees to engage in outside employment and activities that do not impede the agency's mission or operations. This policy provides guidelines for making that distinction in light of PERC's mission and its employees' interests.

The agency's reputation for neutrality is its life blood; collectively, Commission employees hold that reputation in trust for the agency, for each other, and for the public. This policy protects that reputation. It presumes that agency employees will act consistently with

these guidelines and that outside employment and activities will be permissible if they are not inconsistent with a rule or principle described in this policy.

A. General Rules

1. Employees of the New Jersey Public Employment Relations Commission may not engage in any outside employment or activity that creates a conflict of interest with their Commission employment or that creates a justifiable impression that such a conflict of interest may exist or that the Commission's neutrality can be reasonably questioned. The Commission's Ethics Officer must be satisfied that any outside employment or activity does not create such a conflict or impression.

2. Except as permitted under B.2, Commission employees may not be employed by any governmental entity covered by the New Jersey Employer-Employee Relations Act or any party, practitioner, attorney, or law firm of an attorney who regularly appears before the agency.

3. Each full-time employee's position with the Commission must be the employee's primary employment and the employee's agency duties must take precedence over all outside employment.

4. Outside employment may not be performed during the employee's work hours unless the employee charges vacation time or administrative leave.

5. Outside employment may not involve the use of Commission equipment, materials, supplies, secretarial services, computers or data bases. Employees may receive or make an occasional phone call during working hours but cannot routinely use Commission offices for outside business.

6. Outside employment may not require or induce disclosure of sensitive information obtained while working as a Commission employee.
7. Every Commission employee must fill out an Outside Activity Questionnaire annually. That questionnaire requires disclosure of all outside employment and activities. The questionnaire must be filed with the Director of Administration and reviewed by the Ethics Officer. Every Commission employee must fill out an amended Outside Activities Questionnaire promptly disclosing each new outside employment arising after an annual questionnaire has been filed.
8. Commission employees must receive advance approval from the Ethics Officer of all outside employment involving employment relations. In addition, employees must notify their section directors of all outside employment.
9. Commission employees may participate in civic and charitable activities that do not reflect adversely upon impartiality or interfere with the performance of Commission duties.
10. Commission employees shall not fund-raise for public bodies, such as school or fire districts, or employee organizations over which the Commission has jurisdiction. Employees may fund-raise for non-profit charitable organizations, including but not limited to PTOs or athletic booster clubs. However, Commission employees shall not permit the use of the prestige of Commission employment for fund-raising or membership solicitation.

B. Specific Applications

1. Arbitration and Mediation

a. A Commission employee may not be a member of any arbitration or mediation panels maintained by the Commission or the New Jersey State Board of Mediation.

b. A Commission employee may not accept employment as an arbitrator or mediator or as a research or writing assistant to an arbitrator or mediator in any labor relations disputes within New Jersey.

c. A Commission employee may not accept employment as an arbitrator or mediator or as a research or writing assistant to an arbitrator or mediator in any out-of-state case paid for by any party, practitioner, attorney, or law firm of an attorney who regularly appears before the agency.

d. A Commission employee receiving a case appointment as an arbitrator or mediator or as a research or writing assistant to an arbitrator or mediator must immediately send the Ethics Officer a memorandum listing the parties, representatives, and attorneys involved in that appointment. An employee's section director must be notified of the dates and times of an arbitration or mediation to be conducted by that employee.

2. Teaching

a. This policy encourages Commission employees to share their employment relations expertise by teaching. In addition to the requirements of A.8, any teaching opportunity involving employment

relations subjects must be approved in advance by the Chairman. An employee wishing to teach an employment relations subject must submit to the Chairman a memorandum describing the course desired to be taught, the institution where offered, and the time and dates that the course is to meet. The Chairman will consult with the Ethics Officer and issue a memorandum approving or disapproving the request. The request will presumably be granted absent any neutrality concerns or conflicts of interest.

b. If an employee is compensated to teach any course at a public institution within New Jersey, the employee must recuse himself or herself from any Commission proceeding involving that institution.

c. Any employee teaching any course at a public institution cannot be a member of a negotiations unit of that institution or be involved personally or professionally, except as permitted by B.2b, with any labor-management issues at the institution.

3. Practice of Law

a. An attorney employed by the Commission may not appear in court to represent any party other than the Commission, or engage in the private practice of law in any other way, whether or not the attorney receives compensation; except that an attorney may, without compensation, represent himself or herself or a member of his or her immediate family.

b. A prior written request seeking any such exception must be

submitted to the General Counsel and written authorization must be received.

4. Compensation for published work(s)

N.J.A.C. 19:61-6.7 governs this topic. Consistent with that regulation:

- a. A Commission employee may not accept compensation for published works created as part of his or her duties on Commission time using Commission resources.
- b. A Commission employee may not accept compensation for published work(s) from any party, practitioner, attorney, or law firm of an attorney who regularly appears before the agency.
- c. A Commission employee may accept compensation for published works if B.4a and B.4b are not violated, if the requirements of A.8 are satisfied, and if approval is received from the Chairman. An employee wishing to write a work for publication must submit a memorandum describing the work to be produced, the identity of the publication, and the compensation to be received. In determining whether to grant such approval, the Chairman will consult with the Ethics Officer and determine whether publishing the article will create any conflict of interest or justifiable impression of such a conflict or any question about the Commission's neutrality. Published works concerning subjects besides employment relations will presumably be approved.
- d. The Commission employee must prepare the published work(s) on

his or her own time, without using the services of other Commission employees or resources.

e. The Commission employee may not use her or his title in soliciting compensation and must indicate that views expressed do not represent those of the agency.

5. Labor Relations Consulting or Training

a. A Commission employee may not be employed as or by a consultant or trainer in connection with any employment relations matters or issues within New Jersey.

b. A Commission employee may not be employed as or by a consultant or trainer by any party, practitioner, attorney, or law firm of an attorney who regularly appears before the Commission.

c. A Commission employee may not be employed as or by a consultant or trainer by a firm or entity that is aligned with either management or unions in labor relations disputes.

d. In addition to the requirements of A.8, any employment relations consulting or training employment must be approved in advance by the Chairman. An employee wishing to serve as an employment relations consultant or trainer must submit to the Chairman a memorandum describing the consulting or training program, the employer, and the times and dates of the consulting or training. Such request will be reviewed to ensure that the agency's neutrality will be preserved and that no conflict of

interest exists. The Chairman will consult with the Ethics Officer and issue a memorandum approving or disapproving the request.

IV. POLITICAL ACTIVITIES

Introduction

Because the Commission regulates entities involved in politics, the Commission's overriding concern for neutrality encompasses safeguarding against inappropriate political activities. In particular, the agency as a whole and its staff members as individuals must make decisions and render services on a fair and impartial basis, without regard for any partisan affiliations or political considerations, and without any appearance that staff members are engaging in political activities involving regulated entities or expressing public opinions that may reasonably appear to compromise their perceived impartiality and effectiveness as labor relations neutrals. Staff members should be conscious of the effects that such conduct may have on the integrity and independence of the agency and their own acceptability and effectiveness and seek to avoid any harm.

These concerns warrant the prohibitions set forth in this policy as to staff generally and professional staff specifically. Any staff member who has a doubt as to whether an activity is permitted or prohibited must disclose that activity in advance to the Ethics Liaison Officer. The Ethics Liaison Officer will then determine whether the activity would violate this policy.

A. Prohibitions Applicable to All Staff

1. No employee may engage in the following partisan political activity or non-partisan political activity if it involves an entity regulated by the Commission:
 - a. Be a candidate for or hold any public or political party office.

- b. Organize or reorganize a political party, organization, committee or club or be an officer, leader, or spokesperson of any such party, organization, committee, or club.
 - c. Solicit, receive, collect, handle, disburse or account for assessments or other funds for a political purpose.
 - d. Engage in political activity during the hours of duty or at any other time so as to interfere with the agency's operation.
 - e. Use State property or resources in connection with political activities.
 - f. Use or seek to use the authority or influence of his or her position to control or modify the political action of another person, to coerce contributions from other employees in support of any political cause, or to interfere with or influence any political matter.
 - g. Circumvent the requirements of any statute governing contributions.
 - h. Display a political picture or sticker on PERC property or while on duty display indicia of political affiliation visible to any parties or the public.
2. No employee may engage in any other political activity that may reasonably be considered to compromise his or her perceived impartiality or effectiveness in discharging his or her duties as a Commission employee. In

particular, a PERC employee must not:

- a. Engage in any political activity in a manner that calls attention to or in any way relies on his or her status or position as a Commission employee, or
- b. Publicly express opinions about political parties, political candidates, public officials, or public issues in a way that may reasonably be considered to compromise his or her perceived impartiality or effectiveness as a Commission employee.

C. Prohibitions Applicable to Professional Staff Members

1. In connection with an election for a municipal, county, school board, or State office in New Jersey or an election for a federal office in which any candidate is an official or representative of an entity subject to the Commission's jurisdiction, no professional employee may:
 - a. Publicly endorse or oppose any candidate.
 - b. Participate or assist in a campaign.
 - c. Make speeches on behalf of a political organization involved in that campaign.
 - d. Attend political functions, or
 - e. Contribute funds for a political purpose.

V. ASSISTANCE

Officers and employees who have a doubt or question concerning the Uniform Ethics Code or this supplemental code, or other Commission regulation or policy or under the Conflicts of

Interest Law or regulations promulgated by the State Ethics Commission should seek the assistance of the Commission's Ethics Officer to resolve the doubt before taking that action. Such assistance should also be sought when a doubt or question exists as to the application or meaning of any provision of the Uniform Code, this supplemental code, or the Conflicts of Interest Law.

VI. PENALTIES

Persons who violate this Code of Ethics may be subject to disciplinary action.

VII. EFFECTIVE DATE

This supplemental Code of Ethics, subject to the approval of the State Ethics Commission, takes effect immediately. It supersedes any previous code.