

State of New Jersey
Department of Education
Code of Ethics

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**Department of Education
Code of Ethics
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New Jersey Department of Education

Code of Ethics

I. PURPOSE

This code is established and adopted in accordance with the New Jersey Conflicts of Interest Law (N.J.S.A. 52:13D-12 et seq.) and to specify the general standards of conduct necessary for the proper and efficient operation of the Department of Education. This Code of Ethics is adopted to maintain public trust and confidence, and to inform employees and department related persons of the standards of conduct expected of them.

II. APPLICABILITY

This Code supersedes all previous, departmental codes of ethics, and shall apply to all State officers or employees and all special State officers or employees under the supervision of the New Jersey Department of Education including, but not limited to, all the boards, councils, committees, commissions and other programs within the Department of Education. All State officers or employees and special State officers or employees must comply as well with the New Jersey Conflicts of Interest Law, regulations and guidelines of the Executive Commission on Ethical Standards.

III. DEFINITIONS

“Code” shall mean this Code of Ethics and any accompanying guidelines.

“Department” shall mean the Department of Education

“Departmental Ethical Standards Committee” shall mean an internal committee appointed by the Commissioner of Education to assist in making ethics determinations and to advise the Commissioner concerning ethics matters in the department.

“Ethics Liaison Officer” shall mean the person designated by the Commissioner of Education to implement this Code of Ethics.

“Immediate family” shall mean the spouse or domestic partner, child, parent or sibling residing in the household of the State officer or employee or of the special State officer or employee.

“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 oversight authority of

- the State official's agency; or
2. any supplier, or employee, representative or agent thereof; or
 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 described in 1 through 3 above.

“Special State officer and 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 officer and 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.

IV. BASIC POLICY AND STRUCTURE OF THE CODE

A. General Rule

The Department of Education, as a department of New Jersey State government, exists to serve the public interest. All State officers or employees and special State officers or employees must therefore conduct themselves, in the course of their duties, in a manner which fosters the respect, trust and confidence of the public. Each must avoid any activity or association which is, or appears to be, a violation of the public interest or trust.

B. Conflicting Activities

This Code of Ethics embraces three types of activities that could potentially undermine public trust and confidence in the Department:

1. Activities that so clearly constitute a conflict of interest or a violation of public trust by the employee that they are expressly prohibited; for example, the solicitation or acceptance of a bribe, gift or valuable favor from any person doing business with or regulated by the Department.
2. Activities that may raise questions about the integrity of an employee; for example, receiving an offer of a bribe, gift, or valuable favor. Although the State officer or employee or special State officer or employee may have done no wrong, he/she is under an obligation to report such activities to his/her division director and the Department Ethics Liaison Officer.

3. Activities that may result in the appearance of a conflict of interest, such as receiving a complimentary invitation to an event from any person doing business with the Department or engaging in any business or employment that may conflict with the duties of an employee with the Department. State officers or employees and special State officers or employees are required to obtain departmental permission before engaging in such activities.

In any instance in which a State officer or employee or special State officer or employee is not certain what the standard of conduct should be, he/she should seek the advice of the Department Ethics Liaison Officer to avoid the possibility of violating this Code of Ethics or the Conflicts of Interest Law.

V. USE OF STATE PROPERTY

A State officer or employee or special State officer or employee shall use the property and funds under his or her control in strict accordance with prescribed procedures and not for personal gain or benefit.

- A. State property, vehicles, equipment, supplies, funds or other assets shall be used only for Department business and not for personal use.
- B. Department employees shall not be directed to prepare personal communications, make personal phone calls or perform personal errands.
- C. Official stationery is to be used for the conduct of the Department's business. It should not be used for personal business or for any purposes that could create an impression that the State officer or employee or special State officer or employee was engaged in an unwarranted use of his or her position. Official stationery must also not be used to imply State or departmental endorsement of programs or events which have not been approved.

The following uses of State stationery are generally permissible: (1) to recommend a current or former department employee or colleague for another position, admission to a school or program, etc; and (2) to respond to inquiries from a private entity about a current or former department employee or colleague.

The following uses of State stationery are prohibited: (1) to promote a candidate for elective office; (2) to endorse a State vendor or contractor; (3) to express a personal opinion on a matter not related to one's official duties; and (4) to secure a personal financial gain or pursue a vested interest for oneself or others.

VI. ACCEPTANCE OF GIFTS

It is the policy of the Department of Education that no State officer or employee or special State officer or employee shall accept any gift or other item of value from any firm, organization, association or individual doing business with or regulated by the Department or those that could reasonably be expected to do business with the Department.

A. Gifts and Other Items

Any gift or other item of value offered by or received from a person, firm, corporation or regulated entity that the State officer or employee or special State officer or employee has contact with in his or her official capacity must be reported and remitted immediately to the Department Ethics Liaison Officer. The report shall clearly describe the gift, identify the donor and set forth the circumstances under which the gift was offered. All gifts, unless approved by the Ethics Liaison Officer, shall be returned to their source by the State officer or employee or special State officer or employee. It is not necessary to notify the Department Ethics Liaison Officer of receipt of unsolicited gifts or benefits of a trivial or nominal value such as pens, pencils, calendars, or other complimentary articles distributed by mass mailing to the general public; however, advertising matter shall not be displayed or used in such a manner to denote any kind of endorsement.

With respect to the acceptance or solicitation of any gift, favor, service at preferential rates, employment, offer of employment or any other thing of value, all State officers or employees or special State officers or employees are subject to the provisions of N.J.S.A. 52:13D-24, which provide as follows:

No State officer or employee, special State officer or employee, or member of the Legislature shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift or other thing of value from any source other than the State of New Jersey for any service, advice, assistance or other matter related to his or her official duties, except reasonable fees for speeches or published works on matters within his or her official duties and except, in connection therewith, reimbursement of actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of New Jersey.

B. Fees for Speeches

Reasonable fees for speeches or published works on matters within a State officer's or employee's or special State officer's or employee's official duties and reimbursements for actual expenditures connected therewith for travel and reasonable subsistence, which are not paid by the Department, may be accepted only after approval. Approval for State officers or employees or for special State

officers or employees shall be from the division director and Department Ethics Officer. Approval for special State officers shall be obtained from the Department Ethics Liaison Officer.

C. Food, Beverage and Travel

State officers or employees or special State officers or employees on approved State business are responsible for full payment of the costs of their meals, beverages, lodging, and travel. Upon proper approval, and in accordance with State travel regulations, the State will reimburse the reasonable expenses of the State officer or employee or special State officer or employee. They may not accept the same from any interested party, person, supplier or trade group which is licensed, regulated, inspected, or otherwise doing business with the Department, contemplating doing such business, or seeking to influence official actions.

A State officer or employee, or special State officer or employee with approval to attend an event sponsored by a Federal or non-New Jersey State, county or municipal government agency, instrumentality or organization may be reimbursed by the sponsoring agency for reasonable expenses incurred.

A State officer or employee or special State officer or employee who wishes to attend an event in his/her private capacity, with department approval, may be directly reimbursed by the sponsoring organization for reasonable expenses under the following circumstances.

1. If the event is of an organization not specifically licensed nor significantly nor substantially regulated by a State officer's or employee's or special State officer's or employee's agency, or with which the officer or employee has not had, does not have or is not reasonably expected to have dealings in the course of his/her official duties;
2. An event of an organization a majority of whose members are not licensed nor regulated by said agency, or with whom the officer or employee has not had, does not have, or is not reasonably expected to have dealings in the course of his/her official duties.

D. Services, Special Treatment and Favors

The acceptance by a State officer or employee or special State officer or employee or through members of their immediate family or through any partner or associate of any gifts, preferential loans, services at preferential rates, discounts, gratuities, and/or anything of monetary value from a person regulated by or doing business with the Department, or the granting of special treatment or favors to such persons for the purpose of obtaining personal gain is prohibited.

E. Business Related Functions

Any State officer or employee or special State officer or employee who receives an invitation to any business-related function (such as a conference, ground-breaking, ribbon cutting, meal, open house, cocktail party, fund-raiser, holiday party or other social function, an appearance involving an honorarium, etc.) shall report the invitation to his/her division director and the Department Ethics Liaison officer. A determination will then be made after taking into account appropriate Guidelines of the Executive Commission on Ethical Standards in consultation with appropriate persons, as to whether (1) representation of the Department is appropriate, (2) acceptance of the invitation is in conflict with the Code, or (3) the Department should underwrite the costs incurred for participation in the activity as an alternative to accepting the invitation as offered.

F. Guidelines Regarding Retirement Gifts

Typically, retirement functions comprise a get-together, with or without a meal, and the presentation of a gift or monetary token to the retiree, to his or her spouse, and/or to his or her dependent(s). In planning such events, the responsible group or individual must choose between two approved alternatives with regard to funding and the value of any and all gifts to be presented.

1. Gifts may be funded to a maximum contribution of \$5 per person, collected from invitees to the retirement function. If this method of funding is used, no maximum value is set for the cost of the gifts, but contributions of more than \$5 per invitee are not permitted.
2. The maximum value of retirement gifts cannot exceed \$1,000. If this method is used, there is no maximum set on individual contributions, but the total value of retirement gifts and/or monetary tokens to the retiree, spouse, and dependent(s) cannot exceed \$1,000.

If, instead of presenting gifts and/or monetary tokens to the retiree, spouse, and dependent(s), a decision is made to make a monetary contribution to a qualified organization [under I.R.S. Code 501 (3)], no limit is placed on the maximum value of the contribution.

VII. CONFLICTS OF INTEREST

A. General Rule

1. A State officer or employee or special State officer or employee shall not have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity that is in conflict or could appear to be in conflict with the proper discharge of his or her duties.
2. 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 that he or she may be engaged in conduct violative of his or her trust as a State officer or employee or special State officer or employee.

B. Recusal Process

A State officer or employee or special State officer or employee must 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/her official duties; or (2) any personal interest, direct or indirect, that is incompatible with the discharge of his/her official duties.

For purposes of recusal, 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 an employee'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 or she may be engaged in conduct violative of his or her trust as a State official.

All recusals must be approved in writing on forms provided by the Department Ethics Liaison Officer.

C. Contracting with the State

1. No State officer or employee shall knowingly himself, or by his partners or through any corporation which he controls or in which he owns or controls more than 1% of the stock, or by any other person for his use or benefit or on his account, undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25 or more, made, entered into, awarded or granted by any State agency, except as provided in subparagraph 2 of this section. No special State officer or employee having any duties or responsibilities in connection with the purchase or acquisition of property or services by the State agency where he is employed or an officer shall knowingly himself, by his partners or through any corporation which he controls or in which he owns or controls more than 1% of the stock, or by any other person for his use or benefit or on his account, undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25 or more, made, entered into, awarded or granted by that State agency, except as provided in subparagraph 2 of this section. The restriction contained in this subparagraph shall apply to the contract 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 partners or a corporation in which he owns or controls more than 1% of the stock.

2. The New Jersey Conflicts of Interest Law exempts only three categories of contracts from the general prohibition. Before entering into a contract falling within any of these categories, approval must be obtained from the Executive Commission on Ethical Standards through the Department Ethics Liaison Officer. The three categories of contracts are:
 - a. those purchases, contracts, agreements, or sales that are made after public notice and competitive bidding;
 - b. those that may be awarded without public advertising and competitive bidding pursuant to Section 5 of Chapter 48 of the Laws of 1944 (N.J.S.A. 52:34-10); and
 - c. any contract of insurance entered into by the Director of the Division Purchase and Property, Department of the Treasury, pursuant to Section 10 of Article 6 of Chapter 112 of the laws of 1944 (N.J.S.A. 52:27B-62).
3. No State officer or employee or special State officer or employee shall act as an officer or agent of a State agency for the transaction of any business with himself/herself or with a corporation, company, association, or firm in which he/she has an interest in the pecuniary profits. No State officer or employee or special State officer or employee of the Department shall act in his/her official capacity in any matter wherein he/she has a direct or indirect personal financial interest that might be expected to impair his/her objectivity or independence of judgment.
4. No State officer or employee shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, whether by himself or by or through any partnership, firm or corporation in which he has an interest or by any partner, officer or employee of any such partnership, firm or corporation any person or party other than the State in any negotiations for the acquisition or sale by the State or a State agency of any interest in real or tangible personal property, or in any proceedings relative to such acquisition or sale before a condemnation commission or court; provided, however, nothing contained in this section shall be deemed to prohibit any person from representing himself in negotiations or proceedings concerning his own interest in real property.

D. Appearance Before the State and the Department

1. No special State officer or employee, nor any partnership, firm or corporation in which he 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.
2. No State officer or employee, nor any partnership, firm or corporation in which he 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.
3. 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:
 - Pending before any court of record of this State,
 - In regard to a claim for compensation arising under chapter 15 of Title 34 of the Revised Statutes (Workers' Compensation),
 - In connection with the determination or review of transfer inheritance or estate taxes,
 - In connection with the filing of corporate or other documents in the office of the Secretary of State or any successor thereof,
 - Before the Division on Civil Rights or any successor thereof,
 - Before the New Jersey State Board of Mediation or any successor thereof,
 - Before the New Jersey Public Employment Relations Commission or any successor thereof,
 - 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, Sec. 5 (C.39:6-65), or

- 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. (See N.J.S.A. 52:13D-16(c).)

VIII. MISUSE OF OFFICIAL POSITION OR INFORMATION

- A. No State officer or employee or special State officer or employee shall use or attempt to use his or her official position with the Department to secure unwarranted privileges or advantages for oneself or others.
- B. No State officer or employee or special State officer or employee shall use or disclose any information not generally available to the public obtained in his or her work within the Department to further his or her private interests or the interests of others.

IX. OUTSIDE EMPLOYMENT AND ACTIVITIES

A. Employment and Activities Prohibited

No State officer or employee or special State officer or employee shall accept employment or render services for any private or public interest, whether compensated or not, when that employment or service is incompatible or in conflict with the discharge of his or her official duties or when that employment may tend to impair his or her objectivity or independence of judgment in the performance of such duties. In addition, the hours of outside employment may not conflict with work hours needed for the discharge of official duties. The secondary employment standards specified in Appendix # 1 are hereby incorporated into this code.

No State officer or employee or special State officer or employee shall 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.

B. Ethical Standards Questionnaire

All State officers or employees of the department must complete, certify and submit an Ethical Standards Questionnaire upon initial employment, and annually thereafter.

C. Approval for All Employment

All outside employment of State officers or employees, whether compensated or not, must be approved in writing prior to being undertaken on the Request for Approval of Dual Employment/Outside Activity form. Furthermore, under State law all Department outside employment forms must be forwarded to the New Jersey Executive Commission on Ethical Standards for review.

Service for any other State, county, regional or municipal governmental body, agency, commission, department or board, whether compensated or not, is also considered to be employment.

In order to be approved, outside employment must be limited in scope, so as to avoid the potential for having any dealings with entities, individuals, subsidiaries or affiliates who are regulated by or have business dealings with the Department.

It is the policy of the Department to encourage employee growth through participation in outside professional organizations. Employees participating in such organizations should not, however, utilize state equipment, supplies and time for professional organizational activities that are not related to their jobs and not approved by management. Furthermore, when participating in professional organizations employees should ensure that there is no conflict of interest or barrier to the fulfillment of their Department duties and responsibilities.

Outside voluntary activities which do not pose a conflict of interest with Department employment (e.g., Little League coach) need not be reported.

X. POLITICAL ACTIVITY

Under New Jersey Department of Personnel regulations, no State officer or employee shall directly or indirectly use or seek to use his/her authority or the influence of his/her position to control or modify the political action of another person. No State officer or employee shall engage in political activity during working hours; nor shall he/she utilize any State resource or property to conduct political activity; nor shall he/she at any other time participate in political activities which would impair his/her usefulness in the position in which he/she is employed.

XI. POST EMPLOYMENT RESTRICTIONS

A. General Rule

No State officer or employee or special State officer or employee, subsequent to the termination of his/her office or employment in any State agency, shall represent, appear for, negotiate on behalf of, or provide information not generally available to members of the public or services to, or agree to represent, appear

for, negotiate on behalf of, or provide information not generally available to members of the public or services to, whether by himself or through any partnership, firm or corporation in which he has an interest or through any partner, officer or employee thereof, any person or party other than the State in connection with any cause, proceeding, application or other matter with respect to which such State officer or employee or special State officer or employee shall have made any investigation, rendered any ruling, given any opinion, or been otherwise substantially and directly involved at any time during the course of his/her office or employment.

B. Future Employment

A conflict of interest may arise when an employee seeks employment with a local school district or charter school. For this reason, prior to submitting materials in application for such positions, employees are required to inform their division director and the Ethics Liaison Officer, in writing, of their intent to apply for a position.

Similarly offers of employment from a school district or charter school may give rise to a conflict of interest. Before responding to offers of employment, employees are required to inform their division director and the Ethics Liaison Officer, in writing, of their intent to respond to the employment offer.

XII. VIOLATIONS AND SANCTIONS

A State officer or employee or a special State officer or employee who violates the Department of Education Code of Ethics may be subject to sanctions in accordance with the Conflicts of Interest Law (N.J.S.A. 52:13D-12 et seq.), and the New Jersey Code of Criminal Justice (N.J.S.A. 2C:I-I et seq.) as initiated by the Commissioner of Education upon referral to the Executive Commission on Ethical Standards. Such sanctions include fines, removal or suspension from office, and ineligibility for future State employment. Given the severe consequences of violating this code, all State officers or employees or special State officers or employees are advised to strictly adhere to it and to seek advice from the Department Ethics Liaison Officer or the Executive Commission on Ethical Standards if they have any questions concerning their obligations under this code. Inquiries may be directed to the:

Ethics Liaison Officer
Office of Administration & Human Resources
Department of Education
P. O. Box 500
Trenton, NJ 08625-0500
(609) 292-7671

or

Executive Director
Executive Commission on Ethical Standards
P. O. Box 082
Trenton, NJ 08625-0082
(609) 292-1892

XIII. EFFECTIVE DATE

This Department Code of Ethics, subject to the approval of the Executive Commission on Ethical Standards, shall take effect immediately and supersedes any previously promulgated Department Code of Ethics.

Formally approved by the Executive Commission on Ethical Standards on July 3, 2003.

NEW JERSEY DEPARTMENT OF EDUCATION
SECONDARY EMPLOYMENT STANDARDS

The following chart is a specification of the types of secondary employment which the department views as either constituting an actual or perceived conflict of interest.

Secondary employment means any situation where the employee receives compensation outside his/her employment with the department. This includes but is not limited to: commissions; hourly pay; salaried pay; self-employment; consulting fees; partial or full ownership of an enterprise; honoraria for appearances or speaking engagements.

Circumstances marked with an "X" are judged as prohibited since they are seen as either being an actual conflict of interest or creating the appearance of a conflict of interest.

Circumstances marked with an "*" are seen as possibly permitted areas. However, each approval will be made on the particular circumstances of that request. Because an employment situation is specifically not prohibited does not mean it will be automatically approved.

Where a secondary employment request has been disapproved, or the employee believes there are special circumstances surrounding a seemingly prohibited practice, a two step appeal process exists. First, the department's Ethical Standards Committee may be asked to review the request. Second, the employee may appeal any department level determination to the state Executive Commission on Ethical Standards.

SECONDARY EMPLOYMENT PROHIBITIONS

<u>NON-PROFESSIONAL</u>	<u>PROFESSIONAL</u>	<u>MANAGEMENT</u>
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1) Employment supported by funds awarded by the Department of Education.

X	X	X
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2) Employment with an organization licensed, regulated, monitored or funded

*	*	X
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by the department, except that:

a. Adult school teaching, athletic coaching or tutoring at a local education

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agency or charter school is permitted as long as the employee's office is not funding, monitoring or regulating any program within the school.

b. Higher education teaching is permitted as long as the employee's office is

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not funding, monitoring or regulating any program within the academic department in which he/she is teaching.

SECONDARY EMPLOYMENT PROHIBITIONS

PROFESSIONAL

PROFESSIONAL

MANAGEMENT

- 3) Employment with or ownership of an organization or enterprise that even
* X X
though not specifically licensed, regulated, monitored or funded by the
department regularly does business with agencies licensed, regulated monitored
or funded by the department.
- 4) Self-employment or ownership of an enterprise by the employee which does
X X X
business with the department.
- 5) Self-promotion or marketing of printed materials and/or books authored by the
X X X
employee, their spouse, or member of their immediate family to any agency
licensed, regulated, monitored or funded by the department.
- 6) Employment or self employment in an education related business which creates
X X X
the opportunity for an employee to solicit, direct or accept as clients school age
children from agencies licensed, regulated, monitored or funded by the department.
- 7) Employment in or out of state where the activity is associated with the employee's
X X X
official position with the department or which is based upon specialized department
related material and/or information that is not generally available to the public.