



THE COMPASS

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

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Issue No. 6



WHAT'S NEW AT THE SEC?

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ETHICS TIPS AND QUIPS

BROUGHT TO YOU BY THE SEC STAFF

1. When considering whether an Attendance at Events Form needs to be completed/submitted, recall the elements required of an event for Ethics purposes: An “event” is a meeting, conference, etc. that (1) takes place away from the State official’s workplace; (2) is sponsored or co-sponsored by a supplier or non-state government source; and (3) is extended to the State official because of their official position. All 3 elements must apply. See N.J.A.C. 19:61-6.2

Jess Calella, Legal Specialist

2. Factors that could trigger the need for recusal from a matter before the agency, or regarding a supervisory arrangement, include the personal relationship a State official may have with a co-worker, family member, or friend. Close relationships must be disclosed to determine if a recusal is necessary.

Harvey Coffman, Legal Secretary

3. Remember, there are only three authorized sources for recusal advice: your Ethics Liaison Officer (ELO), agency counsel, or the State Ethics Commission (SEC).

Rachel Eger, Compliance Officer

4. The SEC newsletter is fittingly named *The Compass*, because the SEC believes that an informed and trained State official is much like a compass, always pointing and being guided in the right direction.

Susan Flynn-Hollander, Training Officer



NEWS

The NJ State Ethics Commission and Staff are pleased to share the news that we are transitioning to a new, web-based Financial Disclosure Statement (FDS) filing system through SimpliGov. State employees, State officers, and special State officers required to file an FDS will be provided a link to the SimpliGov system to complete and submit their statements. Filers may access the link through any internet-connected device (i.e., computer, tablet, and/or phone). This is a feature not currently available to our FDS filers and will surely be enthusiastically appreciated.

Most first-time filers must submit their forms within 120 days of appointment. Thereafter, FDS submissions are due by May 15 of each year. A \$50 per-day penalty is assessed for each day past the deadline for late filers.

Currently the SEC is using the SimpliGov system for Conflict of Interest forms completed by State college and university trustees and is piloting the new system for FDSs. FDS filers who received a filing notice prior to July 1, 2024 may still use the previous PDF-based filing system or may complete the new form through SimpliGov. The PDF-based system will be discontinued on 10/31/24.

The SEC is very excited to offer this new filing system to its FDS filers, and thanks the Staff members who worked diligently to meet deadlines, test, and design the system. As always, SEC Staff are available to assist you with technical issues or to answer general questions. You may call our office at 609-292-1892 during regular business hours or email ethics@ethics.nj.gov for help.



RECENTLY ASKED Q&As

FROM THE SEC ANNALS

1. Employees James and Pamela have reported to Human Resources that they have a dating relationship. There is no formal supervisor/supervisee relationship between the two of them. However, when James's supervisor is out of the office, Pamela is responsible for assigning time-sensitive projects to employees within James's unit. Pamela has sole discretion to determine who will receive each project. Does Pamela need to execute a recusal with respect to James? Can she continue to assign projects to James and/or the co-workers in his unit?

Answer: Yes, a written recusal is required. As part of the recusal, Pamela cannot be responsible for assigning work to employees in James's unit.

Section XIII of the Uniform Ethics Code states that a State official "shall not have any involvement in his/her official capacity in any matter that pertains to or involves an individual with whom he/she has a dating relationship." Although Pamela does not supervise James, she is occasionally given discretion to decide whether a project should be assigned to her significant other. Pamela cannot be responsible for deciding who in James's unit will receive these assignments. Another individual should be designated to assign work to James's unit in his supervisor's absence.

2. A special State officer from the Board of Commissions contacts you. He is considering purchasing an ownership interest in a New Jersey cannabis entity. He heard that the cannabis restrictions recently changed and asks whether he is permitted to own such an interest. He does not have any responsibility for matters affecting cannabis activity in his official State capacity. How do you advise him?

Answer: You should advise that under the revised statute, special State officers are still prohibited from holding an interest, directly or indirectly, of more than 1% in a New Jersey medical or personal use cannabis entity, unless the special State officer is employed by the entity in which they own an interest.

The recent changes to the statute relate only to the representation prohibition. Special State officers without responsibility for cannabis activity are now permitted to represent, appear for, or negotiate on behalf of a medical or personal use cannabis entity, regardless of whether they are employed by the entity.

Note that the cannabis industry prohibitions do not apply to special State officers, without responsibility for matters affecting cannabis activity, serving in the Department of Education, the Department of Health, the Department of Human Services, and the Office of the Secretary of Higher Education.

3. An employee from the Department of Divisions is invited to speak at an event hosted by a non-interested party. The sponsor of the event is offering a \$250 honorarium to all speakers. The employee asks if she can accept and keep the honorarium and, if not, can she donate the money to a charity. How do you advise?

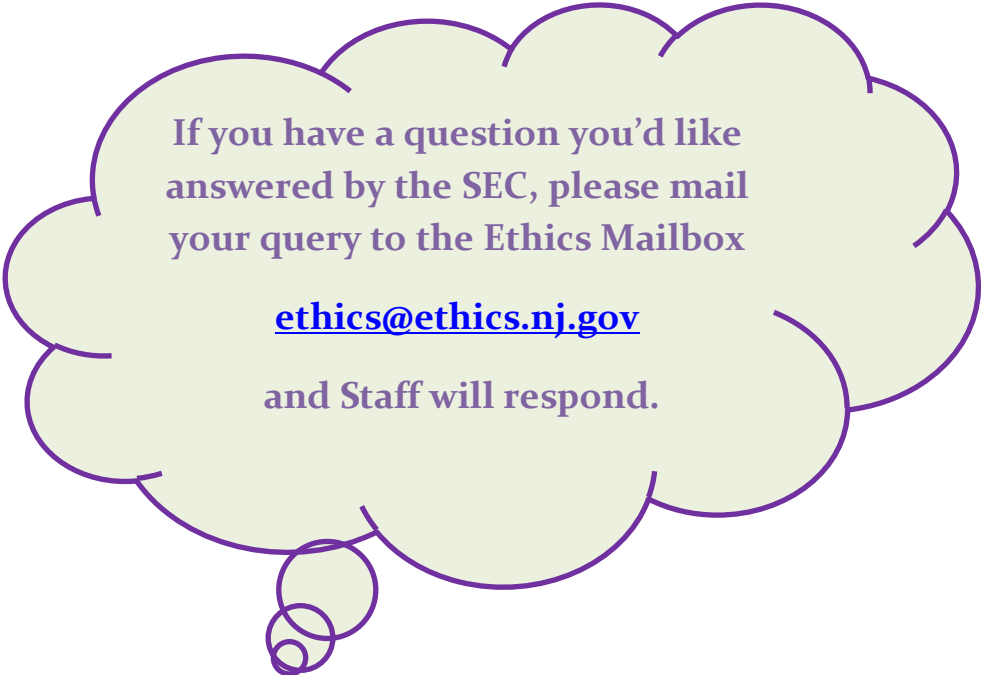
Answer: The employee must decline the honorarium and cannot donate it to a charity.

Under *N.J.A.C. 19:61-6.5(e)*, a State official making a speech or presentation at an event shall not accept an honorarium. *N.J.A.C. 19:61-6.5(b)* provides a limited exception for State college and university faculty members, serving in a scholarly capacity, who are orally sharing their intellectual property. Note that these faculty members would be required to disclose the honorarium on their Annual College and University Disclosure Form. The employee would also not be permitted to donate the honorarium to charity. Even though the employee is not keeping the money, this donation could lead to a financial benefit for a charity of the employee's choice, unwarranted tax benefits for the employee, and/or intangible benefits associated with the employee's status as a donor.

4. The Department of Divisions is considering procuring shirts with the Department's logo to sell to employees at cost. (It is not anticipated that there will be any money left over.) Do the ethics rules allow the Department to sell these items to employees? Are there any potential issues that you might flag?

Answer: If employees are advised that the purchase of the shirts is completely voluntary, it is permissible from an ethics perspective for the Department to sell these items. The Department should consult its procurement and fiscal personnel regarding how the items may be ordered and paid for.

As to the employees' potential use and display of the branded items, the Department may wish to consider whether it will have a policy on wearing or displaying the gear. Inappropriate display or use of branded items could result in ethics issues for State officials, and other State agencies have experienced issues when an agency official wears or displays items with an agency logo and attempts to receive an unwarranted benefit (for example, an impermissible discount or break on a traffic ticket).



If you have a question you'd like answered by the SEC, please mail your query to the Ethics Mailbox

ethics@ethics.nj.gov

and Staff will respond.

CASINO AND CANNABIS RULE CHANGE -REMINDER

The Conflicts of Interest Law changed (January 2024) with respect to Special State Officers (SSOs) who are not full-time State employees. Now, in general, SSOs ***who do not have responsibility for matters affecting casino or medical or personal use cannabis activity*** can represent casino and cannabis entities in their private

capacity. This is significant for the public members of Boards, particularly for attorneys or other professionals who serve as public members and whose private practices or businesses have been impacted by the Conflicts of Interest Law's previous ban on such representation.

SEEK ADVICE

THE CASINO AND MEDICAL AND PERSONAL USE CANNABIS RULES REGARDING RESTRICTIONS AND WAIVERS CAN BE CONFUSING, SO PLEASE SEEK GUIDANCE FROM THE SEC OR YOUR ELO IF YOU HAVE QUESTIONS. THE CHANGE TO THE CONFLICTS OF INTEREST LAW WITH REGARD TO REPRESENTATION APPLIES ONLY TO SPECIAL STATE OFFICERS. ALL OTHER CASINO AND CANNABIS ETHICS RULES, RESTRICTIONS AND WAIVERS REMAIN IN FULL FORCE AND EFFECT, INCLUDING POST-SERVICE PROHIBITIONS AND OWNERSHIP.



NEPOTISM



SPECIFICS REGARDING NEPOTISM CAN BE FOUND IN THREE MAIN SOURCES:

- **N.J.S.A. 52:13D-21.2 - RESTRICTIONS ON CERTAIN STATE EMPLOYMENT FOR CERTAIN RELATIVES OF STATE EMPLOYEES AND OFFICERS**
- **N.J.A.C. 19:61-5.7 – RESTRICTIONS ON EMPLOYMENT**
- **UEC SECTION XIII AND APPENDIX M**

DEFINITION OF RELATIVE IN THE STATUTE:

- Essentially, includes any relative by blood, marriage, or adoption, except for cousins. These include spouses, parents, children, brothers, sisters, aunts, uncles, nieces, nephews, grandparents, grandchildren, son/daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, and half-sister.

COHABITANTS AND DATING RELATIONSHIPS:

- While not included in the statute, the regulations and UEC provide additional restrictions for supervision of cohabitants and people within dating relationships. N.J.A.C. 19:61-5,7(b) provides that a State official shall not supervise, or exercise authority regarding personnel actions over, a relative or cohabitant of the State official. The UEC at Section XIII, expands upon cohabitation to include “dating relationships.”

**IF YOU HAVE QUESTIONS ABOUT A POTENTIAL NEPOTISM SITUATION OR REQUIRE ASSISTANCE, ASK YOUR ELO, OR REACH OUT TO THE SEC AT:
609-292-1892 – ETHICS@ETHICS.NJ.GOV**

POST-EMPLOYMENT



If you are a State official seeking future employment or you are leaving State service for some other reason – perhaps retirement – you need to know the rules of the game before you go. If you have any questions prior to leaving, you should contact your ELO. After you leave, contact the SEC with any questions.

A few important things to consider:

1. Pursuant to UEC Section VIII, State employees are not permitted to solicit employment from interested parties with which they have direct and substantial contact.
2. Employees are required to notify their supervisor and ELO prior to commencing employment discussions with parties with whom they have contact in the course of their job (UEC Section VIII). The ELO will ensure a recusal letter is signed, and that there is no official contact with the other party.

YOUR ELO CAN PROVIDE GENERAL GUIDANCE ON POST-EMPLOYMENT MATTERS, INCLUDING THE RESTRICTION ON DISCLOSING INFORMATION NOT GENERALLY AVAILABLE TO THE PUBLIC, THE LIFETIME BAN REGARDING WORKING ON MATTERS IN WHICH THE STATE OFFICIAL WAS SUBSTANTIALLY AND DIRECTLY INVOLVED IN DURING STATE SERVICE, AND IN CERTAIN CASES – THE PROHIBITION FROM APPEARING BEFORE THEIR FORMER AGENCY FOR ONE YEAR AFTER LEAVING STATE SERVICE.

3. Certain State officials, including agency heads, deputy agency heads, assistant agency heads, and other positions listed in UEC Section VIII are prohibited from appearing before their former agency for one year after leaving State service.
4. Employees who are required to file a financial disclosure statement by law or executive order have a two-year post-employment restriction related to casino and cannabis activity, following the termination of their State service.

A MESSAGE FROM THE EXECUTIVE DIRECTOR



CHRISTINA C. FULLAM, ESQ.

“

...I am thrilled to welcome Deputy Director Shamecca Bernardini to the SEC...and look forward to working closely with her to address the business of the Commission.

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Although summer is coming to an end, autumn forecasts several new endeavors at the State Ethics Commission!

Thank you to the Commission for the honor of appointing me as the new Executive Director of the SEC. As most of you know, I previously served in the role of Deputy Director of the SEC, which has proven helpful in ensuring a smooth transition to my new ED role. I am excited to lead the Commission and Staff and continue the progress that former ED Johnson—now Judge Johnson—and I have put into motion.

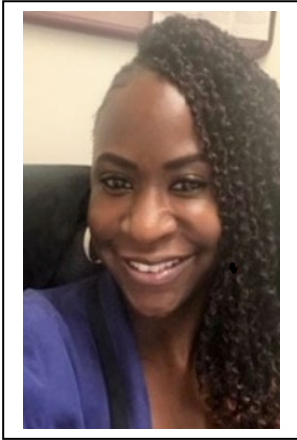
To help in that regard, I am thrilled to welcome Deputy Director Shamecca Bernardini to the SEC. Her diverse and vast experience in State government, including most recently at the Department of Labor, will be invaluable to our office, and I look forward to working closely with her to address the business of the Commission.

DD Bernardini and I are also onboarding new staff and growing the SEC family. Recently we posted job announcements to hire an additional Legal Specialist to assist Rachel Eger, our Compliance Officer, and an IT Assistant to support Victor Kushnir, our Administrative Analyst. With these new positions, we seek to take on more compliance projects for the benefit of our agencies, and ensure the technology we use in our training, forms, and databases is as efficient and modernized as possible.

Of course, all this growth requires additional office space. Expansion of our suite at 225 East State Street to create more offices and interview rooms safeguards the confidentiality of the work of our Commission and staff. Construction on our space starts soon, but we remain available to serve and assist all executive branch agencies in New Jersey during our expansion.

Although there are several changes being made at the SEC, our goals and mission remain the same—to ensure that New Jersey’s executive branch agencies and employees are administering and enforcing our State’s comprehensive ethics laws. We are always available to promote ethical day-to-day decision making, to give general advice regarding ethical conduct, to provide easy reference to sources, and to explain the role, activities, and jurisdiction of the Commission.

GET TO KNOW OUR NEW DD



Shamecca joins the NJ State Ethics Commission from the Department of Labor where she served as ELO, EEO and EEOO, with oversight for NJDOL's Diversity & Inclusion Programs.

SHAMECCA BERNARDINI, ESQ.

The SEC is pleased to welcome Shamecca Bernardini as its Deputy Director. Prior to joining the SEC, Ms. Bernardini served as the Ethics Liaison Officer and Equal Employment Opportunity Officer (since 2022) for the New Jersey Department of Labor. In addition to her roles as ELO and EEOO, Shamecca also was responsible for oversight of NJDOL's EEO and Diversity & Inclusion programs.

Ms. Bernardini has participated in public service throughout her career and shares that being in the service of the public good has always been important to her when choosing work opportunities. The Camden County Superior Court is grateful for the time Shamecca served as its EEO Officer and prior to other employment with the State, this public servant worked in the emergency department of a busy urban hospital as a mental health therapist.

As the Ethics Liaison Officer for DOL, Shamecca enjoyed assisting employees with understanding and navigating the Uniform

Ethics Code (UEC) to meet their goals and needs. Her office worked diligently to implement an automated system for various SEC forms including the Outside Activity Questionnaire (OAQ) and Request for Attendance at Events (RAAE). Ms. Bernardini highly recommends that ELOs conduct audits and run reports on required documentation, whether on a quarterly or biannual basis, to assess departmental/agency compliance rates.

Deputy Director Bernardini brings a wealth of related ethics and management experience to her new role at the SEC and looks forward to engaging with the more than 100 state agency ELOs who assist the SEC to achieve its goals. Shamecca has worked closely with the SEC staff on matters ranging from audit preparation to handling tricky allegations involving potential "corporate espionage." In that case, the investigation concluded that there were no ethics violations. However, Ms. Bernardini points out that in addition to utilizing available resources, including SEC decisions and guidance memos, the SEC staff is always willing to assist ELOs to walk through issues, suggest questions to ask, and identify information necessary to reach an appropriate determination. Deputy Director Bernardini recalls the opportunities, support and access she had as an ELO to work closely with Senior Management to meet departmental needs while ensuring that the DOL was compliant with the UEC and Conflicts of Interest Law.

Deputy Director Bernardini is married to her husband Mike, an attorney with Legal Services. Mike and Shamecca have two sons, and in quiet moments think about adding a dog to the household – someday, maybe.

Shamecca and Mike enjoy many activities with their sons and niece, including hiking, learning new dance moves, trying new restaurants, reading, and bingeing TV shows. While our new Deputy Director engages in cardio kickboxing and Pilates, she saves her real passion for contributing towards social and economic justice in any way she can. Volunteer activities include helping at food pantries through the Garden State Bar Association, working with the Immigration Justice Campaign, and Volunteer Lawyers for Justice.

Travel is often enjoyed by the family, notably taking in the art and architecture of Paris, the food and beaches of Positano, Italy, and the calm and vibrance of the lagoon in Bacalar, Mexico. Avid foodies, this clan loves adventure in the form of food and especially enjoys Indian cuisine – a good choice considering Mike is plant based and one son is vegetarian!

Shamecca looks forward to her new role as SEC Deputy Director and is honored to have been selected for this important addition to the SEC Staff. It is her hope to successfully fill the shoes of her predecessors and meet the expectations of the SEC Team and department/agency ELOs, while contributing her unique experience, knowledge, and perspective to the role. Welcome Shamecca!

*“It takes less time to do things
right than to explain why you did it
wrong.”*



Henry Wadsworth Longfellow

SPOTLIGHT ON SEC COMMISSIONER



Victor J. Herlinsky, Jr., Esq.

Mr. Herlinsky is a member of the law firm, Sills Cummis & Gross, a commercial law firm with offices in New Jersey, New York and Florida. An experienced litigator, Mr. Herlinsky specializes in commercial litigation, land use, redevelopment law, and government investigations.

Commissioner Herlinsky's long history of public service and political involvement enables him to advise and counsel clients on best practices in negotiating often complicated processes. Throughout his illustrious career, Mr. Herlinsky has been appointed to numerous public service positions.

After graduating from Bucknell University, Mr. Herlinsky entered American University Washington College of Law. While there, he clerked in the antitrust Division of the United States Department of Justice.



Subsequently, several different governors bestowed appointments upon him, from the New Jersey Interagency Council to Prevent and Reduce Homelessness, the Board of Trustees for the New Jersey Policy Perspectives, to President of the 56th Electoral College of New Jersey, member of transition teams for several public officials in NY and NJ, as well as municipal and county administrations. He is also a sitting member to the President's Advisory Committee on the Arts of the John F. Kennedy Center for the Performing Arts.

In March of 2021, NJ Governor Phil Murphy selected Mr. Helinsky as a public member to the New Jersey State Ethics Commission where he continues to apply a consistently thoughtful and practical approach to the matters that come before the Commission.



DATES TO NOTE

2024 CALENDAR

Commission Meeting Dates:

- Tuesday, January 23 ✓
- Tuesday, March 12 ✓
- Tuesday, April 9 ✓
- Tuesday, June 25 ✓
- Tuesday, September 17 ✓
- Tuesday, December 3

ELO Quarterly Meeting Dates:

- Thursday, February 15 ✓
- Thursday, June 20 ✓
- Thursday, October 3
(non-college)
- Thursday, October 10
(college)
- Thursday, December 12

ELO Orientation Dates:

- Thursday, February 1 ✓
- Thursday, April 25 ✓
- Thursday, July 11 ✓
- Thursday, September 26 ✓
- Thursday, November 21



NOTE

*THE DEADLINE FOR 23d
SUBMISSIONS AND REQUESTS
FOR ADVISORY OPINIONS IS
NOVEMBER 8, 2023, FOR THE
DECEMBER SEC 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)

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

Brian Bridges, Ph.D.
Secretary of Higher Education

Staff Members

Christina C. Fullam, Esq., Executive Director

Shamecca Bernardini, Esq., Deputy Director

Rachel L. Eger, Esq., Compliance Officer

Susan J. Flynn-Hollander, Esq.,

Training Officer; Editor, *The Compass*

Jessica Calella, Esq., Legal Specialist

Zachary Egan, Esq., Legal Specialist

Claudia Gallagher, Esq., Legal Specialist

Alicia M. Reaves, J.D., Legal Specialist

Shanna Cook, Executive Assistant

Harvey Coffman, Legal Secretary

Victor Kushnir, MIS Administrative Analyst

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STATE ETHICS COMMISSION

State of New Jersey

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