

CATEGORY	LOCAL GOV'T ETHICS LAW N.J.S.A 40A:9-22.1 et.seq	NJ CRIMINAL CODE N.J.S.A. 2C:27- Bribery and Corrupt Influence N.J.S.A. 2C:30-2 et. seq. Official Misconduct	STATE OF NEW JERSEY ETHICS STATUTES AND REGULATIONS N.J.S.A.52:13D-12 et.seq. N.J.A.C.19:61-1 et.seq.	OTHER LAWS AND OTHER COMMENTS
<b>CONFLICTS</b>	N.J.S.A. 40A:9-22.5a: No local government officer or employee or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.	<b>2C:27-9 Unlawful official business transaction where interest is involved; grading; conditions.</b>  A public servant commits a crime of the fourth degree if, while performing his official functions on behalf of a governmental entity, the public servant knowingly transacts any business with himself, a member of his immediate family, or a business organization in which the public servant or an immediate family member has an interest. For purposes of this section, an interest in a business organization shall not include aggregate familial ownership or control of one percent or less of an interest in the capital or equity of the business organization. A public servant shall not be guilty of an offense under this section if the public servant's performance of official functions would not affect the public servant, family member or business organization differently than such performance would affect the public generally, or would not affect the public servant, family member or business organization, as a member of a business, profession, occupation	<b>52:13D-18. Vote or any other action by member of legislature with personal interest; statement required</b>  a. No member of the Legislature shall participate by voting or any other action, on the floor of the General Assembly or the Senate, or in committee or elsewhere, in the enactment or defeat of legislation in which he has a personal interest.  b. A member of the Legislature shall be deemed to have a personal interest in any legislation within the meaning of this section if, by reason of his participation in the enactment or defeat of any legislation, he has reason to believe that he, or a member of his immediate family, will derive a direct monetary gain or suffer a direct monetary loss. No member of the Legislature shall be deemed to have a personal interest in any legislation within the meaning of this section if, by reason of his participation in the enactment or defeat of any legislation, no benefit or detriment could reasonably be expected to accrue to him, or a member of his immediate family, as a	<ul style="list-style-type: none"> <li>• 18 U.S.C. § 208, Federal Conflicts Law/Abuse of Position</li> <li>• Conflict statutes include <i>benefit</i> and <i>bias</i> The benefit does not have to be actual cash Will your interests benefit as a result of your "official" action?</li> <li>• What would a reasonable person conclude?</li> <li>• An interest need not be financial to create a conflict of interest. According to the law, even a chance or thought of a conflict of interest is enough for a violation -- <b>NO TANGIBLE OUTCOME IS NEEDED.</b></li> </ul>

		or group, differently than such performance would affect any other member of such business, profession, occupation or group.	member of a business, profession, occupation or group, to any greater extent than any such benefit or detriment could reasonably be expected to accrue to any other member of such business, profession, occupation or group.	
INDEPENDENCE OF JUDGMENT	<p>N.J.S.A.40A:9-22.5(d) No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.</p> <p>N.J.S.A. 40A:9-22.5e No local government officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties.</p>	See. N.J.S.A. 2C: 27-10 [below under "Gifts"]	<p><b>52:13D-20. Representation of state agency in transaction involving pecuniary interest for legislator or state officer employee</b> No member of the Legislature or State officer or employee or special State officer or employee shall act as officer or agent for a State agency for the transaction of any business with himself or with a corporation, company, association or firm in the pecuniary profits of which he has an interest (except that ownership or control of 10% or less of the stock of a corporation shall not be deemed an interest within the meaning of this section).</p>	
INFORMATION	<p>N.J.S.A. 40A: 9-22.5(g) No local government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his</p>	<p><b>2C:30-3. Speculating or wagering on official action or information</b> A person commits a crime if, in contemplation of official action by himself or by a governmental unit with which he is or has been associated, or <i>in reliance on information to which he has or has had access in an official capacity and which has not been made public</i>, he:</p>		

	<p>immediate family, or any business organization with which he is associated</p>	<p>a. Acquires a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official; or</p> <p>b. Speculates or wagers on the basis of such information or official action; or</p> <p>c. <i>Aids another to do any of the foregoing, while in office or after leaving office with a purpose of using such information</i></p> <p>[Emphasis added]</p>		
<p><b>GIFTS</b></p>	<p>N.J.S.A. 40A:9-22.5(f) No local government officer or employee, member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contributions, service, promise of future employment, or other <b>thing of value</b> based upon an understanding that the gift, favor, loan, contribution, service, promise or other thing of value was given or <b>offered for the purpose of influencing him</b>, directly or indirectly, in the discharge of his official duties.</p> <p>This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the local government officer has no knowledge or reason to believe that the campaign</p>	<p>N.J.S.A. 2C:27-2. Bribery in official and political matters A person is guilty of bribery if he directly or indirectly offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another:</p> <p>a. Any benefit as consideration for a decision, opinion, recommendation, vote or exercise of discretion of a public servant, party official or voter on any public issue or in any public election; or</p> <p>b. Any benefit as consideration for a decision, vote, recommendation or exercise of official discretion in a judicial or administrative proceeding; or</p> <p>c. Any benefit as consideration for a</p>	<p>52:13D-14. State officer or employee or member of legislature; acceptance of thing of value to influence public duties No State officer or employee, special State officer or employee, or member of the Legislature shall accept from any person, whether directly or indirectly and whether by himself or through his spouse or any member of his family or through any partner or associate, any gift, favor, service, employment or offer of employment or any other thing of value which he knows or has reason to believe is offered to him with intent to influence him in the performance of his public duties and responsibilities. This section shall not apply to the acceptance of contributions to the campaign of an announced candidate for elective public office.</p>	<ul style="list-style-type: none"> <li>• Bribery 18 U.S.C. § 201-</li> <li>• Bribery 18 U.S.C. § 203</li> </ul>

contribution, if accepted, was given with the intent to influence the local government officer in the discharge of his official duties.

violation of an official duty of a public servant or party official; or

d. Any benefit as consideration for the performance of official duties.

For the purposes of this section "benefit as consideration" shall be deemed to mean any benefit not authorized by law.

It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason.

In any prosecution under this section of an actor who offered, conferred or agreed to confer, or who solicited, accepted or agreed to accept a benefit, it is no defense that he did so as a result of conduct by another constituting theft by extortion or coercion or an attempt to commit either of those crimes.

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**2C:27-10 Acceptance or receipt of unlawful benefit by public servant for official behavior.**

Acceptance or receipt of unlawful benefit by public servant for official behavior.

		<p>a. A public servant commits a crime if, under color of office and in connection with any official act performed or to be performed by the public servant, the public servant directly or indirectly, knowingly solicits, accepts or agrees to accept any benefit, whether the benefit inures to the public servant or another person, to influence the performance of an official duty or to commit a violation of an official duty.</p> <p>b. A public servant commits a crime if, under color of office and in connection with any official act performed or to be performed by the public servant, the public servant directly or indirectly, knowingly receives any benefit, whether the benefit inures to the public servant or another person, to influence the performance of an official duty or to commit a violation of an official duty.</p> <p>c. In addition to the definition set forth in N.J.S.2C:27-1, "benefit" as used in this act includes any benefit from or by reason of a contract or agreement for goods, property or services if the contract or agreement is awarded, made or paid by the branch, subdivision, or agency of the government that employs the public servant.</p> <p>d. The provisions of this section shall not apply to:</p>		
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		<p>(1) Fees prescribed by law to be received by a public servant or any other benefit to which the public servant is otherwise legally entitled if these fees or benefits are received in the manner legally prescribed and not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty;</p> <p>(2) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the recipient if these gifts or benefits are within otherwise legally permissible limits and are not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty; or</p> <p>(3) Trivial benefits the receipt of which involve no risk that the public servant would perform official duties in a biased or partial manner.</p> <p>e. An offense proscribed by this section is a crime of the second degree. If the benefit solicited, accepted, agreed to be accepted or received is of a value of \$200.00 or less, any offense proscribed by this section is a crime of the third degree.</p> <p><u>Not just the "receipt or acceptance"</u></p>		
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		<p>of the “gift/benefit” violates the statutes but “offer” as well:</p> <p><b>2C:27-11 Offer of unlawful benefit to public servant for official behavior.</b></p> <p>Offer of unlawful benefit to public servant for official behavior.</p> <p>a. A person commits a crime if the person offers, confers or agrees to confer any benefit, whether the benefit inures to the public servant or another person, to influence a public servant in the performance of an official duty or to commit a violation of an official duty.</p> <p>b. A person commits a crime if the person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.</p> <p>c. In addition to the definition set forth in N.J.S. 2C:27-1, "benefit" as used in this act includes any benefit from or by reason of a contract or agreement for goods, property or services if the contract or agreement is awarded, made or paid by the branch, subdivision, or agency of the government that employs the public servant.</p> <p>d. The provisions of this section shall not apply to:</p> <p>(1) Fees prescribed by law to be</p>		
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		<p>received by a public servant or any other benefit to which the public servant is otherwise legally entitled if these fees or benefits are received in the manner legally prescribed and not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty;</p> <p>(2) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the recipient if these gifts or benefits are within otherwise legally permissible limits and are not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty; or</p> <p>(3) Trivial benefits the receipt of which involve no risk that the public servant would perform official duties in a biased or partial manner.</p> <p>e. (1) An offense proscribed by subsection a. of this section is a crime of the second degree. If the benefit solicited, accepted or agreed to be accepted is of a value of \$200.00 or less, any offense proscribed by subsection a. of this section is a crime of the third degree.</p> <p>(2) An offense proscribed by subsection b. of this section is a crime</p>		
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		of the third degree. If the gift or other benefit is of a value of \$200.00 or less, an offense proscribed by subsection b. of this section is a crime of the fourth degree.		
<b>ABUSE OF OFFICE/ UNWARRANTED PRIVILEGES</b>	N.J.S.A. 40A: 9-22.5© No local government officer or employee shall use or attempt to use his official position to secure <b>unwarranted privileges</b> or advantages for himself or others.	N.J.S.A. 2C:30-2 Official Misconduct A public servant is guilty of official misconduct when, with purpose to obtain a benefit for himself or another or to injure or to deprive another of a benefit:  a. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized or he is committing such act in an unauthorized manner; or  b. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.		<ul style="list-style-type: none"> <li>• “Do you know who I am” statutes</li> <li>• 18 U.S.C. § 208, Federal conflicts Law/Abuse of Position</li> </ul>
<b>REPRESENTATION</b>	NJSA 40A:9-22.6 (h) No local government officer or employee, member of his immediate family, or business organization in which he has an interest, shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any agency in the local government in which he		<b>52:13D-15. Representation, appearance or negotiation, directly or indirectly, for acquisition or sale of property by state</b> No member of the Legislature or 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	

serves.

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 or intangible 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.

**52:13D-16. Representation, appearance or negotiation on proceeding pending before particular office, bureau, etc., or state agency**

a. 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

			<p>or system in which such special State officer or employee holds office or employment.</p> <p>b. No State officer or employee or member of the Legislature, 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. Nothing contained herein shall be deemed to prohibit any such partnership, firm or corporation from appearing on its own behalf. This subsection shall not be deemed to prohibit a member of the Legislature or an employee on the member's behalf from: (1) making an inquiry for information on behalf of a constituent, which may include ascertaining the status of a matter, identifying the statutes or regulations involved in a matter or inquiring how to expedite a matter; (2) assisting the constituent in bringing the merits of the constituent's position to the attention of a State agency; or (3) making a recommendation on a matter or indicating support for a constituent's position to a State agency if no fee, reward,</p>	
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			<p>employment, offer of employment, or other thing of value is promised to, given to or accepted by the member of the Legislature or an employee therefor, whether directly or indirectly, and the member or employee does not endeavor to use his official position to improperly influence any determination. As used in this subsection "constituent" shall mean any State resident or other person seeking legislative assistance. Nothing contained herein shall authorize contact with State agencies by members of the Legislature or their employees which is otherwise prohibited by the criminal law, this act or the Code of Ethics and nothing contained herein shall authorize contact with an administrative law judge or agency head during the hearing of a contested case.</p>	
<p>POST EMPLOYMENT</p>	<p>N.J.S.A. 40A:9-22.5b.          No independent local authority shall, for a period of one year next subsequent to the termination of office of a member of that authority:</p> <p>(1) award any contract which is not publicly bid to a former member of that authority;</p> <p>(2) allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or</p>		<p><b>52:13D-17. Post-employment restrictions on State officers or employees; penalties</b>          No State officer or employee or special State officer or employee, subsequent to the termination of his 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,</p>	

	<p>(3) employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey Statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.</p> <p>The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.</p>		<p>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 office or employment.</p> <p>Any person who willfully violates the provisions of this section is a disorderly person, and shall be subject to a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both.</p> <p>In addition, for violations occurring after the effective date of P.L.2005, c. 382, any former State officer or employee or former special State officer or employee of a State agency in the Executive Branch found by the State Ethics Commission to have violated any of the provisions of this section shall be assessed a civil penalty of not less than \$500 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.).</p>	
NEPOTISM			See. 52:13D-21.2. Restrictions on	

			State employment of relatives of certain State employees; definition of "relative"	
CORRUPTION OF PUBLIC RESOURCES		<p>N.J.S.A 2C:27-12a</p> <p>A person commits the crime of corruption of public resources if, with respect to a public resource which is subject to an obligation to be used for a specific purpose or purposes, the person knowingly uses or makes disposition of that public resource or any portion thereof for an unauthorized purpose.</p>		
DISBURSING MONEY IN EXCESS OF APPROPRIATION		<p><b>2C:30-4. Disbursing moneys, incurring obligations in excess of appropriations</b></p> <p>A person or member of a board or body charged with or having the control of a State office, division, department or institution or a member of a county or municipal governing body or a member of a board of education, commits a crime of the fourth degree if he purposely and knowingly:</p> <p>a. Disburses, orders or votes for the disbursement of public moneys, in excess of the appropriation for that office, division, department, institution, board or body; or</p> <p>b. Incurs obligations in excess of the appropriation and limit of expenditure provided by law for that</p>		

		office, division, department, institution, board or body.  Nothing contained in this section shall be construed to prevent a board of education from keeping open the public schools.		

**COMMENTS**

Under the Local Government Ethics Law, “**interest**” means the ownership or control of more than 10% of the profits, assets or stock of a business organization but shall not include the control of assets in a non-profit entity or labor union. N.J.S.A. 9-22.3(d).

Under the State of New Jersey Ethics statutes, “**Interest**” means (1) the ownership or control of more than 10% of the profits or assets of a firm, association, or partnership, or more than 10% of the stock in a corporation for profit other than a professional service corporation organized under the “Professional Service Corporation Act,” P.L.1969, c. 232 (C. 14A:17-1 et seq.); or (2) the ownership or control of more than 1% of the profits of a firm, association, or partnership, or more than 1% of the stock in any corporation, which is the holder of, or an applicant for, a casino license or in any holding or intermediary company with respect thereto, as defined by the “Casino Control Act,” P.L.1977, c. 110 (C. 5:12-1 et seq.). The provisions of this act governing the conduct of individuals are applicable to shareholders, associates or professional employees of a professional service corporation regardless of the extent or amount of their shareholder interest in such a corporation. N.J.S.A. 52D:13-13g

Pursuant to criminal statutes, “**benefit**” means the gain or advantage, or anything regarded by the beneficiary as a gain or advantage, including a pecuniary benefit or a benefit to any other person or entity in whose welfare he is interested. N.J.S.A. 2C:27-1a

Pursuant to criminal statutes, “**public servant**” means any officer or employee of government, including legislators or judges, and any person participating as a juror, advisor, consultant or otherwise, in performing a governmental function, but the term does not include witnesses. N.J.S.A. 2c:27-1g.

Pursuant to criminal statutes, “**public resource**” means any funds or property provided by the government or a person acting on behalf of the government, which shall include but is not limited to: (1) money or equivalent money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than the fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates or other obligations that would normally be required in the execution of a contract, that are paid, reduced, charged less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is repaid on a contingent basis; (5) money loan by an entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations of the government. For the purpose of this section [NJSA 2C:27-12], a purpose is unauthorized if it is not the specific purpose or purposes for which a public entity resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given his approval for such use. N.J.S.A. 2C:27-12c.

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