



Office of Information Technology Services

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Office of Information Technology Policy	No: ITS-P06-004
ITS Policy: Ethics Responsibilities of ITS Employees	Updated: 06/15/2023
	Issued By: NYS Office of Information Technology Services Owner: Division of Legal Affairs

1.0 Purpose and Benefits

The purpose of this policy is to ensure that New York State Office of Information Technology Services (ITS) employees are aware of their ethical responsibilities.

2.0 Authority

Section 1 of Executive Order No. 117¹, issued January 2002, charges the State Chief Information Officer with overseeing and supervising the management and operations of ITS. *Section 102(2) of the State Technology Law* gives the Director of ITS responsibility for the administration of ITS. Details regarding this authority can be found in NYS ITS Policy, [NYS-P08-002 Authority to Establish Enterprise Information Technology \(IT\) Policies, Standards and Guidelines.](#)

3.0 Scope

This policy applies to all ITS employees.

4.0 Information Statement

It is each employee's own responsibility to comply with all federal and state laws and regulations with respect to their ethical duties and responsibilities.

¹ All references to Executive Order 117 refer to that which was originally issued by Governor George E. Pataki on January 28, 2002 and continued by Executive Order 5 issued by Governor Eliot Spitzer on January 1, 2007, Executive Order 9 issued by Governor David A. Patterson on June 18, 2008, Executive Order 2 issued by Governor Andrew M. Cuomo on January 1, 2011, and Executive Order 6 issued by Governor Kathy Hochul on October 8, 2021.

Many situations arise in the course of employment that could result in an inadvertent ethical violation under the law or accompanying regulations. Situations relating to accepting gifts from certain sources; participating in certain outside activities or certain outside employment; the hiring of a spouse or relative as an ITS consultant; being offered an honorarium or travel reimbursement; negotiating future employment with an entity that does business with ITS; working as an ITS consultant within two (2) years of leaving ITS's employment; or even engaging in certain political activities could result in conflicts of interest or other ethics violations.

The following is meant to provide a general overview of an employee's obligations under the Public Officers Law and the Commission on Ethics and Lobbying in Government's (Commission) regulations. It is not meant to be comprehensive.

When encountering these or similar situations during the course of employment, employees should seek guidance from the Ethics Officer at the Division of Legal Affairs before proceeding.

4.1 Public Officers Law and Commission Regulations

The restrictions and prohibitions contained in the Public Officers Law and corresponding Commission regulations are applicable to all employees.

4.2 Financial Disclosure by State Employees

An annual financial disclosure statement (hereinafter "FDS" or the "statements") is required of all policymakers and employees who -- unless exempted by the Commission -- earn compensation in excess of the job rate of Salary Grade 24. Part-time employees whose annualized full-time salary would exceed the threshold (but whose actual compensation is less) are required to file an FDS. The FDS requires filers to provide information concerning their personal financial interests, including but not limited to, a list of major assets, sources of income, liabilities, names of spouses and unemancipated children, whether they are licensed by or do business with a State agency, offices held with a political party, sources of gifts, reimbursements, trusts, deferred income, and real property. An FDS is a publicly available record; however, the Commission automatically redacts a filer's home address and the name of any minor child. In addition, employees may request that the Commission redact specific information from the copy made publicly available, or not answer specific questions on the FDS regarding a spouse or minor child. The FDS is usually filed around May 15th of each calendar year in which the required filers are employed by New York State, and within 30 days of beginning employment for new employees. A filer may request an extension of time to file an FDS on the basis of justifiable cause or undue hardship. The Commission can exempt from filing individuals at Salary Grade 24 or higher who are not policymakers and who do not perform certain job duties. The Ethics Officer maintains a list of titles for which the Commission has granted an FDS filing exemption. This list is available upon request.

4.3 Restrictions Concerning Conflicts of Interests

Employees may not engage in activities that would create or appear to create a conflict with their public duties. Specifically, employees: (1) may not sell, lease, or rent real property, goods or services to the State or any agency of the State except through a

competitively bid contract; (2) may not appear before any State agency or render services for compensation in a matter before any State agency in connection with such matters as the purchase, sale, rental or lease of real property, or goods or services, rate making, funding, adoption, or repeal of any rule or regulation having the force and effect of law, licensing, or any proceeding relating to a franchise provided for in the Public Service Law; and (3) may not have any interest in or engage in any business or activity "in substantial conflict" with the discharge of their public duties.

4.4 Restrictions Concerning Outside Activities and Employment

While there is no general prohibition against employees engaging in outside activities or employment, certain requirements do apply. All outside employment must be approved by ITS in writing prior to commencement and must be reapproved annually, unless otherwise authorized by the Ethics Officer (see Form HR-09). Certain outside activities require similar approval. Such outside activities or employment may necessitate recusal or preclusion in certain circumstances in order to prevent an actual conflict of interest or to avoid even the appearance of a conflict of interest. The Ethics Officer may rescind approval at any time for any reason, including but not limited to changes in work duties, performances, or failure to comply with ITS or State policies.

Outside activities or employment: (1) cannot interfere with the performance of the employee's duties at ITS; (2) cannot be performed during the employee's working hours at ITS without charging appropriate leave accruals after receiving appropriate leave permission; (3) cannot be performed at the employee's worksite, involve any use of State property, equipment, supplies, facilities, or resources; (4) cannot require the disclosure of confidential or other official information obtained through the employee's duties; and (5) cannot create a conflict of interest, appearance of a conflict of interest, or appearance of impropriety.

Generally, an outside activity with an ITS vendor creates the presumption of a conflict of interest, the appearance of a conflict of interest, or the appearance of impropriety. Factors that rebut that presumption include the nature of the requestor's ITS responsibilities and work duties, the nature of the outside activity work, and the manner by which the requestor would be compensated (i.e., revenue sharing with an ITS Vendor is not permitted).

Additional Commission regulations apply to certain employees, including policymakers, with respect to outside activities or employment. Additional regulations also apply for Political Activities (see Section 4.5).

4.5 Restrictions Concerning Political Activities

ITS employees interested in becoming prospective candidates for an election, participating in a campaign, or engaging in fundraising activities for political candidates must seek guidance from the Ethics Officer before proceeding.

4.5.1 Candidates

ITS employees that do become prospective candidates are prohibited from: (1) using any ITS resources or personnel to aid in their campaign; (2) campaigning or soliciting/accepting contributions toward their candidacy during work hours or at the

worksite/ITS facilities; (3) soliciting or accepting any contributions from individuals or entities that do business with ITS; (4) using their government position to gain any special advantage; or (5) indicating in any way that ITS endorses them in their candidacy. In addition, employees may be required to comply with certain Federal restrictions.

4.5.2 Participating in Campaigns or Fundraising

ITS employees that do participate in a campaign or in fundraising activities for political candidates **must**: (1) not solicit or accept contributions from individuals or entities that do business with ITS; (2) comply with Civil Service Law §107, which prohibits discriminatory practices based on political affiliation; and (3) comply with Penal Law §200.56, which prohibits the use or promise to use, directly or indirectly, any official authority or influence to secure or help secure any office or public employment. In addition, employees may be required to comply with certain Federal restrictions.

4.5.3 Hatch Act

The “Hatch Act” is a federal law that restricts the political activities of certain governmental employees. Under the Hatch Act, ITS employees may not: (1) be candidates for public office in partisan elections² if they are paid completely, directly, or indirectly, by loans or grants made by the United States or a federal agency; (2) use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; and (3) directly or indirectly coerce contributions from other state or local employees.

4.6 Restrictions Concerning Participation in Professional Events and Conferences, Travel Reimbursements, and Acceptance of Honoraria

During the course of employment, employees must contact the Ethics Officer seeking approval at least four (4) weeks before the scheduled speech, presentation, panel, seminar, or conference to determine whether participation in such may be permitted. Employees should consult ITS Policy ITS-P10-002 – Request for Event(s) Participation and the Event Participation Request Form. Employees may contact the Ethics Officer at its.sm.ethics@its.ny.gov for questions prior to submitting the form.

4.6.1 Travel Reimbursements

Travel reimbursements are often associated with participation at professional events and are offered along with or as payment in lieu of an honorarium.

4.6.2 Honoraria

An honorarium is a payment offered in exchange for a professional service or activity, such as giving a speech, writing an article, or serving on a panel at a seminar or conference, that is not part of the ITS employee’s official duties. An honorarium includes expenses incurred for travel, lodging, and meals related to the service performed.

4.6.3 Commission Regulations

² An election is considered partisan if any candidate is running under a political party.

Commission regulations require prior approval or subsequent reporting for FDS Filers depending upon the nature and/or amount of the payment and the position of the individual receiving the payment. If an employee is offered air or ground travel reimbursement, or reimbursement for lodging or meals, to attend or speak at an event, then this invitation must be vetted with the Ethics Officer before acceptance.

4.7 Restrictions Concerning Acceptance of Gifts

If an individual or entity offers an employee a gift in the course of the employee's employment, then that employee must contact the Ethics Officer to determine whether the gift may be accepted. This also applies when the gift is offered to the agency itself and presented to the ITS employee for acceptance.

A gift is anything of more than nominal value (fair market value exceeding \$15.00) and includes, but is not limited to: money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance of an obligation, or a promise that has monetary value. Employees may not solicit or accept gifts except under certain circumstances. Generally, food and drink offered to all participants at an event or small promotional items (such as pens or notebooks) are not considered gifts.

A gift that cannot be accepted also cannot be redirected to another, i.e., it may not be donated or given away to a third party (such as to a spouse, parent, sibling, child, relative, friend, or charity). Additionally, spouses and minor/un-emancipated children of employees cannot solicit, accept, or receive gifts from registered lobbyists.

4.8 Restrictions Concerning Negotiation of Future Employment

Whether an offer is solicited or unsolicited, an employee must promptly notify their supervisor and the Ethics Officer of a job offer regardless of whether or not they intend to pursue that job offer.

Employees are prohibited from soliciting an employment opportunity with an entity or individual that has a specific pending matter before them. An employee may only solicit an employment opportunity with that individual or entity after waiting 30 days from the date the pending matter is closed or waiting 30 days after the date the employee has no further involvement with the matter because of recusal or reassignment.

If an employee receives an unsolicited job offer from an entity or individual that has a specific pending matter before that employee, then they cannot pursue employment with that entity or individual unless they seek recusal from the matter and any further official contact with the entity or individual and waits 30 days from such recusal to enter into any future employment discussions with the entity or individual.

4.9 Restrictions Concerning Post-Employment Bans

There are certain post-employment restrictions that apply to all employees, including part-time and seasonal employees.

Former employees are subject to a two-year bar prohibiting them from appearing or practicing before ITS or receiving compensation for any services rendered in relation to any case, proceeding, application, or other matter at ITS. This two-year bar starts from the date the employee leaves employment at ITS.

Former employees are subject to a lifetime bar prohibiting them from appearing or practicing before ITS or receiving compensation for any services rendered in relation to any case, proceeding, application, or other matter at ITS in which they personally participated while employed at ITS, or which was under their active consideration.

Former private-sector employees entering employment are subject to a reverse two-year bar requiring them to recuse themselves from matters at ITS involving their former private sector employers for two years beginning from when they start their employment at ITS.

Student assistants have different post-employment restrictions and should contact the Ethics Officer or the Commission for more information.

4.10 Restrictions Concerning Nepotism

When encountering an issue concerning nepotism, employees must notify their immediate supervisor, and if no resolution is available, must seek guidance from the Ethics Officer before proceeding.

Employees are prohibited from: (1) participating in any decision to hire, promote, discipline, or discharge a relative; (2) awarding contracts to a relative; and/or (3) investing public funds in any security in which a relative has a financial interest. A “relative” is broadly defined as: (1) any person living in the same household as the employee (children, spouse, roommate, etc.); (2) any person who is a direct descendant of the employee’s grandparent(s) (siblings, parents, uncles, aunts, or first cousins); or (3) the spouse of such a descendant (spouse of the employee’s sibling, parent, uncle, aunt, or first cousin).

4.11 Restrictions Concerning Charitable Solicitations

ITS employees may generally solicit for charitable donations in the workplace, so long as the restrictions laid out in this section are followed. Examples of acceptable charitable solicitations generally include: Girl Scout cookies, school candy sales, and monetary or participation sponsorships for races or events, with proceeds going to various charitable causes (specific restrictions apply to supervisors regarding these types of solicitations, discussed below in 4.11.B). This section only applies to charitable causes. Any form of sales or other marketing for non-charitable causes must comply with the requirements for outside activities in this policy.

Employees should consult with their supervisors prior to engaging in any solicitation for charitable causes. Supervisors may limit any activities that are deemed disruptive.

A. Guidelines regarding solicitations.

1. Only ITS employees shall be permitted to solicit employees on ITS premises. No outside solicitations will be permitted on ITS premises.
2. Employees may not use their official title, position, or authority in fundraising effort. Employees may also not use State equipment or services in soliciting contributions.
3. Employees may not solicit contributions from State vendors or contractors.

4. Supervisors may not solicit contributions from subordinates in their business unit but may solicit from coworkers or managers.
5. Employees may not solicit during work time. This does not include breaks or before or after work. Leaving pledge forms, “honor system” items, or other materials in a break or common area is not considered solicitation during work time and is allowed.
6. Under no circumstances must employees be instructed to donate or participate.

B. Special Considerations for Supervisors

Managers and supervisors should be aware that by virtue of their position, the employees in their business units may feel compelled or obligated to participate in charitable giving. Accordingly, managers and supervisors should use caution to avoid any activity that could be perceived as potentially coercive. Employees in positions of authority should seek guidance from the Ethics Officer before engaging in any charitable solicitation or other activities that may be perceived as coercive, but are generally prohibited from soliciting charitable donations from subordinates, but may solicit from coworkers or managers.

The following types of activities are generally not considered solicitations and are permissible. However, managers should still be cautious when asking subordinates to participate in any non-work-related activities.

- Collecting money for gifts for employees, such as birthdays, major life events, or leaving State service.
- Having flyers or posters in your office or cubicle for non-political events, such as plays, festivals, or concerts.
- Reminding employees of State sponsored charitable events, such as food drives.

C. SEFA and State Sponsored Charitable Events

The State Employees Federated Appeal (“SEFA”) is a State-sponsored program to allow staff to make charitable gifts as part of their payroll deductions. ITS encourages employee participation in SEFA, but consistent with this guidance, participation in SEFA is an individual choice which should be made without coercion. Employees are free to participate or not and are free to select to support a charity of their choice from the wide variety available. Other State or Agency sponsored events may include food or clothing drives, blood drives, and other events. Employees are encouraged, but not required, to participate in these events.

5.0 Compliance

This policy shall take effect upon publication. Compliance is required with all enterprise policies and standards. ITS may amend its policies and standards at any time; compliance with amended policies and standards is required.

6.0 Definitions of Key Terms

Except for terms defined in this policy, all terms shall have the meanings found in <http://www.its.ny.gov/glossary>.

7.0 Contact Information

Submit all inquiries and requests for future enhancements to the policy owner at:

Division of Legal Affairs – Ethics Officer
Reference: ITS-P06-004
NYS Office of Information Technology Services
State Capitol, ESP, P.O. Box 2062
Albany, NY 12220
Telephone: (518) 473-5115
Email: its.sm.ethics@its.ny.gov

Statewide technology policies, standards, and guidelines may be found at the following website: [Policies | Office of Information Technology Services \(ny.gov\)](#)

8.0 Revision History

This policy should be reviewed consistent with the requirements set forth in [NYS-P09- 003 Process for Establishing Information Technology Policies, Standards and Guidelines](#).

Date	Description of Change	Reviewer
05/01/2006	Original Policy Issued	CIO/OFT
05/01/2008	Revised and Updated	CIO/OFT
12/01/2008	Revised to Include Required Annual Training	CIO/OFT
08/24/2009	Revised for Clarity and Change in Contact Information	CIO/OFT
05/04/2010	Revised to include Travel Reimbursement restrictions and rider.	CIO/OFT
09/19/2012	Revised – format/logo only	ITS
10/18/2013	Revised and Updated	ITS
10/18/2014	Scheduled Review	ITS
04/26/2017	Revised and Updated	Division of Legal Affairs

Date	Description of Change	Reviewer
12/18/2018	Updated authority added list of JCOPE exempt titles	Division of Legal Affairs
05/23/2019	Revised and updated	Division of Legal Affairs
04/23/2020	Revised JCOPE exemption information and ethics email address	Division of Legal Affairs
04/05/2021	Section 4.6 was revised, and template was updated	Division of Legal Affairs
11/15/2021	Cursory review, authority updated	Division of Legal Affairs
06/15/2023	Updated to reflect the change from JCOPE to COELIG, as well as clarifying solicitation of charitable donations.	Division of Legal Affairs

9.0 Related Documents

ITS-P10-002 Internal External Speaking and Exhibit Booth Engagement Policy

Event Participation Request Form

HR-09 Request for Approval of Outside Employment Form

[Commission on Ethics and Lobbying in Government Laws and Regulations](#)