

THE COMPASS

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

THE NJ STATE ETHICS COMMISSION HAS THE POWER TO:

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Undertake investigations

02

Impose Penalties for Violations of the COIL and UEC

03

Hold Hearings

04

Issue Advisory Opinions on Ethics Issues



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CANNABIS AND CASINO LEGISLATION CHANGES REPRESENTATION RULE FOR CERTAIN SPECIAL STATE OFFICERS

Governor Murphy signed New Jersey's Senate and Assembly approved legislation to allow certain special State officers to represent cannabis and casino businesses/applicants.



In the early part of January 2024, Senator Nicholas Scutari filed Senate Bill 4268 to amend current law regulating Cannabis in New Jersey. After several amendments to the language of the bill were made by the Legislature, the bill passed both houses and was signed into law by Governor Phil Murphy on January 16, 2024. Under the previous law, only special State officers or employees serving in the Departments of Education, Health, Human Services, and the Office of Higher Education were excluded from the prohibitions on representing, appearing for, or negotiating on behalf of casino and cannabis businesses, applicants, and other related entities.

The amended law (summarized and cited below) permits a special State officer or employee without responsibility for matters affecting casino activity to represent, appear for, negotiate on behalf of, or be employed by, a casino licensee or applicant (or any holding or intermediary company), and if so employed, may hold an interest in or represent, appear for, or negotiate on behalf of that casino employer. The amended law also permits a special State officer or employee without responsibility for matter affecting medical or personal use cannabis activity to represent, appear for, or negotiate on behalf of a medical or personal use cannabis entity, or to be employed by a medical or personal use cannabis entity, and if so, employed may hold an interest it or represent, appear for, or negotiate on behalf of that cannabis related employer.

*Special State officers and employees, excluding those serving in the Departments of Education, Health, or Human Services, or in the Office of the Secretary of Higher Education, are prohibited from holding an interest in a casino licensee or applicant, or any holding or intermediary company with respect thereto, a medical cannabis entity, or a personal use cannabis entity. However, **a special State officer or employee without responsibility for matters affecting casino activity** may represent, appear for, or negotiate on behalf of a casino licensee or applicant or any holding or intermediary company thereof, or hold employment with a casino licensee or applicant or any holding or intermediary company thereof, and, if so employed, may hold an interest in or represent, appear for, or negotiate on behalf of that casino employer. Similarly, **a special State officer or employee without responsibility for matters affecting medical cannabis activity or personal use cannabis activity** may represent, appear for, or negotiate on behalf of a medical cannabis entity or a personal use cannabis entity, or hold employment with a medical cannabis entity or a personal use cannabis entity, and if so employed, may hold an interest in or represent, appear for, or negotiate on behalf of that cannabis-related employer. See N.J.S.A. 52:13D-17.2(b).*

SEC CASE REVIEWS – FOCUS ON RECUSAL



Read several interesting cases from the files of the State Ethics Commission

The Recusal rule is straightforward on its face: State officials are required to recuse themselves if they have a financial or personal interest that is incompatible with the proper discharge of their public duties. And, where it may not be clear, there is also the potential for the appearance or suspicion of wrongdoing that may call into question a possible violation of the public trust. Seek advice and call the SEC if you have a situation that may require recusal and you are not certain how to proceed.

Case 46-17

In Case 46-17, decided by the Commission on January 24, 2023, the Commission approved of a consent order settling a matter where they had previously determined that the former Director of a State agency violated the Recusal Rule, *N.J.A.C. 19:61-7.1, et seq.* and UEC Section IX, by failing to recuse from involvement in the scheduling and conducting of a tour of State facilities for a donor to a private school, where the State employee's brother-in-law was the school's headmaster.

Recusal is required from matters where the State employee or official has an incompatible personal or financial interest. Incompatible personal interest includes matters involving relatives, which interest might reasonably be expected to impair a State official'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/she may be engaged in conduct violative of his/her trust as a State official. Brother-in-law is included in the definition of relative.

Civil Penalty of \$500 (which was the amount donated at the private school's auction for the tour)



Case 32 -18

In Case 32-18, decided by the Commission on November 29, 2022, the Commission approved of a consent order settling a matter where they had previously determined that the State employee failed to recuse from matters concerning a State vendor with which the State employee also conducted business with his outside company, in violation of the Recusal Rule, *N.J.A.C. 19:61-7.1*, et seq. and UEC Section IX, and dismissed the remaining allegations. The investigation revealed that the State employee did not receive any reduced rates from the State vendor for their private business or that the State employee gave the State vendor any special favor or increased business for the State; however, the State employee failed to recuse from matters involving State vendor, with whom he had a private business relationship.

The Recusal Rule requires that a State officer or employee or special State officer or employee is required to recuse him/herself if he/she has a financial or personal interest that is incompatible with the proper discharge of his/her public duties. Incompatible personal or financial relationships include sources of income and private business associates, which interest might reasonably be expected to impair a State official'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/she may be engaged in conduct violative of his/her trust as a State official.

Civil Penalty of \$500

Case 19-20

In Case 19-20, decided by the Commission on June 13, 2023, the Commission approved of a consent order settling a matter where they had previously determined that the State Official failed to recuse from matters involving their romantic partner with whom they cohabitated and their partner's employer, who was an interested party to the State agency.

The Commission found indications that State Official violated the Recusal Rule, *N.J.A.C. 19:61-7.1*, et seq., as well as section 23(e)(7) of the Conflicts Law (conduct violative of the public trust), by participating in State matters involving their partner and the partner's employer. Specifically, the Commission found the State official submitted bid waivers to the State agency's governing board that included the private employer, attended a meeting with the private employer in their official State capacity, and asked at least one subordinate State employee to attend a meeting with their partner.

The Recusal Rule requires that a State officer or employee or special State officer or employee is required to recuse him/herself if he/she has a financial or personal interest that is incompatible with the proper discharge of his/her public duties. Incompatible personal or financial relationships

include matters involving dating/romantic partners or cohabitants and their employers, which interest might reasonably be expected to impair a State official'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/she may be engaged in conduct violative of his/her trust as a State official.

Civil Penalty of \$1,500.

Case 39-21

In Case 39-21, decided by the Commission on August 1, 2023, the Commission approved of a consent order settling a matter where they had previously determined that the State employee violated Sections 23(e)(3), (5), and (7) of the Conflicts Law, Section 5.9 of the Commission Regulations and Section VI of the UEC, and the Recusal Rule, *N.J.A.C. 19:61-7.1, et seq.*, by failing to disclose and receive Ethics approval for the creation of their outside business, failing to report the outside business on their OAQ, engaging in private business with a vendor to their State agency with whom they directly worked in their State capacity, earning income (in excess of \$7,000) from the State vendor through their outside business, and failing to recuse from matters involving the State vendor in their State capacity.

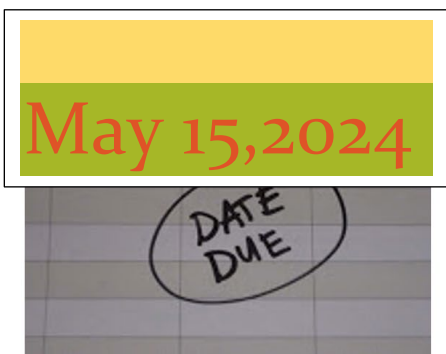
The Recusal Rule requires that a State officer or employee or special State officer or employee is required to recuse him/herself if he/she has a financial or personal interest that is incompatible with the proper discharge of his/her public duties. Incompatible personal or financial relationships include sources of income and private business associates, which interest might reasonably be expected to impair a State official'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/she may be engaged in conduct violative of his/her trust as a State official.

Civil Penalty of \$8,500, which was paid in payment plan.

SPECIAL ANNOUNCEMENT


On March 18, 2024, the New Jersey Senate confirmed the appointment of Joy-Michele Johnson as a judge of the Superior Court in Passaic County. We wish Joy all the best as she transitions from her position as Executive Director of the State Ethics Commission to her new role as a Superior Court Judge.

What is the FDS filing deadline?



*DON'T MISS
THE DEADLINE!*

IF YOU ARE NOTIFIED THAT YOU ARE REQUIRED TO FILE A FINANCIAL DISCLOSURE FORM (FDS) WITH THE SEC – MAKE SURE TO FILE EARLY, CHECK THE FAQs TO AVOID COMMON ERRORS AND CALL THE SEC AT 609-292-1892 OR SEND AN EMAIL TO: ETHICS@ETHICS.NJ.GOV WITH ANY QUESTIONS!

What is the late filing fee?	
	•\$50 Per Day

AVOID THE PENALTY BOX AND LATE FEES! FILE YOUR FDS EARLY!

A MESSAGE FROM THE SEC DEPUTY DIRECTOR



CHRISTINA C. FULLAM

“
Have questions about recusal? Please contact your agency ELO or the State Ethics Commission with your questions or concerns.
”

The Compass this quarter focuses on one of issues that we see the most frequently at the State Ethics Commission: recusals. Recusal means disqualification from a matter because there is either an actual conflict of interest or the appearance of a conflict of interest. The appearance of impropriety standard is both broadly based and perception-oriented, and if a State official’s participation in a matter creates even an appearance of a conflict of interest, then that official must be recused from that matter.

More specifically, recusal is required when a State official has a financial or personal interest that is incompatible with the discharge of their public duties, or when there is an appearance of a conflict of interest. Some examples of financial or personal interests that might cause a conflict are sources of income, including outside employment, investments, or ownership interests in businesses; leadership roles in professional or trade organizations; matters related to business associates, friends, relatives, cohabitants, or romantic partners; and debtor/creditor relationships. This list is not exhaustive, and please know that incompatible personal or financial interests may exist in other situations that are not clearly outlined in our rules. (See *N.J.A.C. 19:61-7.4(d)-(f)*.)

While it can sometimes be difficult to determine when recusal is required, State officials do not have to make the decision to recuse on their own, but **they must** seek recusal guidance from an authorized source. Under the State Ethics Commission’s rules, there are only three authorized sources for recusal advice: the State agency’s counsel; the agency ethics liaison officer; or the State Ethics Commission. (See *N.J.A.C. 19:61-7.4(g)*.) This means that a State official’s co-worker, supervisor, fellow board member, or personal attorney are not authorized sources of recusal guidance for State Ethics purposes, unless that person is also serving as agency counsel or agency ELO.

If a State official recuses from a matter, that recusal must be absolute, meaning that the State official may not participate in any part of that matter, including reviewing paperwork associated with the matter, participating in discussion on the matter, or voting on the matter. Further, if the matter is discussed in a closed or executive session meeting, the recused State official must leave the meeting for the duration of the executive session discussion of that matter. Recusal may be done in writing, in conformance with the SEC’s rules, or on the record at a public meeting. If done on the record, the recusal must be contained in the meeting minutes. (See *N.J.A.C. 19:61-7.5*.)

Have questions about recusal? Please contact your agency ELO or the State Ethics Commission with your questions or concerns. A list of agency ELOs is posted on our website, <https://www.nj.gov/ethics/agency>. The SEC staff members are also available to give guidance on recusal issues, and you can reach us by calling 609-292-1892 or emailing ethics@ethics.nj.gov.

GET TO KNOW AN ELO



Arundhati Mohankumar

Say hello and welcome to one of our newer ELOs, Arundhati Mohankumar from the Cannabis Regulatory Commission (CRC). Aruna joined the CRC in May of 2023 as Deputy Counsel, with a focus on ethics, diversity, and licensing. Prior to this role, Aruna served as a law clerk for a Magistrate Judge in the United States District Court in Trenton, served 5 years as a DAG in the Office of the Attorney General (Health and Human Services section), and clerked immediately after graduating from Rutgers Law School (Newark) in the Appellate Division.

As Deputy Counsel, Aruna advises the Commission on trending matters, and handles a range of issues including the review of applications for cannabis business licenses and medicinal cannabis permits, ensuring compliance, and answering internal and external questions related to the cannabis market.

Aruna finds being responsible for ethics issues interesting as seemingly minor details often completely impact the guidance she provides. The ELO role means getting to interact with everyone at the CRC and she finds that this is a good way to make herself known so that when an ethics situation arises, there is an existing comfort level in knowing that she is available to assist.

Aruna has developed strategies to keep track of training and ethics related information and her

number one recommendation is to keep detailed spreadsheets. She is quick to give praise to her Chief Counsel Christopher Riggs and Co-Deputy Counsel Dave Tuason who handled ethics matters at the CRC before her arrival, along with Amanda Truppa and Jacquelyn Weimer from Treasury, and credits them, along with SEC Staff, with sharing insight that has proven helpful in her expanded role. Aruna has found full support at all levels of CRC management and notes that her analyses and recommendations are appreciated.

In her Out Of Office time, Aruna loves to travel, spend time with friends and family, listen to good music and eat great food. She and her husband, Sreenath, a marketing executive, (and undeterred evening law student at Temple University), share their 4-year-old son Avi, who keeps the trio totally immersed in Bluey and Blaze and the Monster Machines. It is not clear yet whether Avi has inherited his Mom's love of art – after graduation from Oberlin College, Aruna did a post-baccalaureate program in Studio Arts at Brandeis University, showcasing her work in an exhibition. Not surprisingly, one of her paintings was quickly purchased by an astute collector.

As with several of our featured ELOs, Aruna's household includes their 2 dogs – adorable Cavapooos from the same litter, Oscar, and Ginger. Described by Aruna as very different, they do share traits of being super affectionate, smart, bouncy, great cuddlers, and energetic. These 11-year-old pups have long been an integral part of the family.

Born in Trivandrum, Kerala (a state in the southwestern tip of India) Aruna has lived in the United States since the age of 6, and is fluent in English and Malayalam, the native tongue of Kerala. Avi is exposed to both languages in the home, as Sreenath and his family are also native to Trivandrum.

A happy place for Aruna is anywhere she can be near or climbing mountains. Recent trips have included Chilean Patagonia, Machu Picchu, Iceland, and the Azores. A drive through the Himalayas to get to Ladakh, India, remains a favorite memory due to the breathtaking views. Next destinations on the list are

New Zealand, Norway, and a climb up Mt. Kilimanjaro with the entire family! Given that traveling almost always includes sampling local cuisine, this family of foodies plans their vacations around the food they want to sample. Despite being the lone vegetarian in the family, Aruna is not afraid to try bites of traditional local meals even when they are meat based. Aruna feels passionately that missing out on that experience would deprive her of full immersion in local traditions and learning about other cultures. Of course, that includes returning home from abroad to share good old American wood-fired pizza!

Aruna Mohankumar is a phenomenal example of the talented, diverse, multi-lingual, creative, well-traveled, dedicated, and capable, Executive Branch ELOs who provide extraordinary service to the citizens of New Jersey every day.


"I think both the biggest challenge and most rewarding aspect of being a new ELO has been to get a system in place for all things ethics related. It's stressful, but it feels good to know that once a system is in place, things will move more smoothly. I am a big fan of spreadsheets to track information!"

Reaching the Iconic Towers (Chilean Patagonia)



Ginger and Oscar



SUPER WEDNESDAYS ETHICS TRAINING 
SESSIONS NOW OFFERED IN LIVE VIRTUAL
FORMAT BY THE SEC! CALL [609-292-1892](tel:609-292-1892) FOR
INFORMATION AND TO CHECK AVAILABILITY
TO REGISTER FOR UPCOMING DATES.

ANNOUNCEMENTS

SPOTLIGHT ON SEC COMMISSIONER

BABATUNDE P. ODUBEKUN



“Service on a State Commission is a unique opportunity, and it has been a privilege for me to serve in such a meaningful capacity.”

SEC COMMISSIONER BABATUNDE ODUBEKUN

Governor Murphy appointed Babatunde Odubekun to a four-year term on the State Ethics Commission (SEC) in April 2021.

Born in Livingston, NJ Commissioner Odubekun grew up in Essex, Mercer, and Middlesex Counties, before he moved overseas with his family. He experienced stints in Abuja, Nigeria; Colombo, Sri Lanka; Kampala, Uganda; and then Nairobi, Kenya where he graduated high school before moving back to Newark, NJ where he still resides. Commissioner Odubekun lends his time and expertise as a trustee/officer of the non-profit Newark Print Shop, and Centurion, a Princeton based non-profit that holds the distinction of being the oldest group in the nation dedicated to innocence work. He shares a fun-fact that Centurion’s founder, Jim McCloskey, is the inspiration for the main character in John Grisham’s 2019 novel *The Guardians*.

In private life, Commissioner Odubekun serves as Vice-President and Counsel at CleanCapital, a renewable energy investment firm based in New York City. The firm owns and develops solar and battery storage facilities in more than 26 states, as well as the District of Columbia and Guam. As Counsel, Commissioner Odubekun focuses on project documents including asset management, operations and maintenance agreements, the company’s corporate government functions, and Special Purpose Vehicle (SPV) compliance.

In discussing his responsibilities as a member of the SEC and handling ethics issues, Commissioner Babatunde notes that applying the Uniform Ethics Code (UEC) to a varied and disparate set of facts that arise across the Executive Branch of State government makes the law come to life in ways that are not possible to see by merely reading the UEC or the Conflicts of Interest Law (COIL). He also points out that the SEC Commissioners take their role very

seriously, recognizing that State officers or employees may face potential disciplinary action, including monetary penalties or even termination of their State positions. Commissioner Odubekun observes that the board has on certain occasions exercised its discretion to find that even where a *technical* violation exists, the spirit of the UEC can weigh against a finding that could lead to disciplinary action against a State officer or employee. He makes clear that while this doesn't happen often, the ability to fairly apply this discretion after consideration of all the facts is very satisfying to the board members. Commissioner Odubekun is adamant that dealing with ethics issues is always difficult given the potential penalties, however he finds most *disappointing*, cases where an individual has clearly violated the ethics laws/rules, and in the process has taken extraordinary steps to cover their tracks.

A proud Rutgers graduate – B.A. in Economics, and J.D. from Rutgers Law School where he served as Editor-in-Chief of the *Rutgers Computer & Technology Law Journal*, Commissioner Odubekun is a true Jersey Guy. He and his wife, Nilani (a Prosecutor), met at Rutgers in 2011, and stayed together through law school (Villanova and Rutgers). They were married last September in a series of three ceremonies: (1) at Church; (2) in a traditional Sri Lankan Poruwa ceremony (a part of the Sinhalese Buddhist culture in Sri Lanka for over 2000 years, it uses a decorated wooden platform symbolizing a lotus flower which denotes purity and serenity); and (3) in a traditional Yoruba (Nigerian) engagement/wedding ritual.

The couple loves to travel – especially anywhere with beautiful islands, blue skies, white sand, and clear water. Top winner is this category – The Maldives – truly paradise, and an especially good location for a honeymoon, according to newlywed Commissioner Odubekun. A soccer aficionado, he also gives high marks to South Africa where he watched three group stage games during the 2010 FIFA World Cup. Not

surprisingly, he is looking forward to enjoying the 2026 World Cup right here at home.

If there is a penchant for travel, food is not far behind and Commissioner Odubekun is a recognized patron at the Tops Diner in East Newark and Triumph in Princeton. On the to-do list? Practicing meal prep from the ever-growing collection of cookbooks in the couple's home. Currently when left to his own devices, this would-be-foodie usually heads out to a favorite NJ eating establishment. Calories consumed are not an issue as you may encounter the Commissioner out running. He has completed, yes, finished – three marathons, and is currently training for his fifth half marathon. He finds the half marathons at 13.1 miles to be a good compromise – not too long, and not too short. The Commissioner also plays ice hockey at Ice Vault in Wayne, and Chelsea Piers in NYC. On a more leisurely note, he and Nilani enjoy hikes and long walks on weekends, followed by a well-deserved late lunch or dinner at one of their favorite restaurants.

Commissioner Odubekun has neither admitted to, nor ruled out future political aspirations, choosing at this point in his career and busy life to focus on protecting the natural environment. He views this as one of the most important issues facing the world right now – preserving open spaces, keeping rivers and lakes clean, and minimizing carbon emissions. When he comes up for air (and Nilani agrees) they may look to adopt a rescue dog; hopefully one that can keep pace with this fast-moving Jersey Guy.



CALENDAR

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 13

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



PLEASE NOTE

***THE DEADLINE FOR
23^d SUBMISSIONS AND
REQUESTS FOR
ADVISORY OPINIONS
FOR THE JUNE SEC
COMMISSION
MEETING IS MAY 31.***

SEC MEMBERS

Commission Members

- Stephanie A. Brown, Esq., Chair
- Patricia C. Morgan, Esq., Vice Chair
- Christine Norbut Beyer,
Commissioner, DCF
- Babatunde P. Odubekun, Esq.
- Victor J. Herlinsky, Jr., Esq.
- Brian Bridges, Ph.D.
Secretary of Education
- Sarah Adelman,
Commissioner, DHS

Staff Members

- Joy-Michele Johnson, Esq.,
Executive Director
- Christina C. Fullam, 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 Reaves, J.D., Legal Specialist
- Shanna Cook, Executive Assistant
- Victor Kushnir, MIS Administrative
Analyst

TELEPHONE: 609-292-1892

EMAIL: Ethics@ethics.nj.com

WEBSITE: <https://www.nj.gov/ethics>

STATE ETHICS COMMISSION
State of New Jersey
P.O. Box 802
Trenton, NJ 08625-0082