

SECTION 5

TERMS AND CONDITIONS OF EMPLOYMENT

5.03 CONFLICT OF INTEREST

AUTHORITY: TREASURY BOARD: TB#236/16

ADMINISTRATION: DEPUTY HEADS
CEO OF PEI PUBLIC SERVICE COMMISSION
CLERK OF THE EXECUTIVE COUNCIL

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1. PURPOSE

- 1.01 Public trust in government depends to a large degree on the honesty, integrity, fairness and good faith of civil service employees. This trust is compromised when an employee's interest and the public interest conflict.
- 1.02 This policy aims to strike a balance between protection of the public interest and protection of the employee's interest.
- 1.03 Employees earn the public's trust by consistent delivery of high quality service. To do this, employees must dispatch their duties with integrity. The performance of the employee's official duties must not be compromised by private or personal interests. The overriding interest to be served is always the public interest.
- 1.04 This policy is concerned with conflict of interest issues. Deputy Heads and employees must act in accordance with this code and other laws (e.g. Criminal Code of Canada; *Civil Service Act* Regulations, *PEI Human Rights Act*), policies (e.g. Prevention and Resolution of Harassment in the Workplace Policy) and directives regarding conduct of civil service employees.

2. DEFINITIONS

- 2.01 Conflict of interest exists in any situation in which an employee either for himself/herself or some other person(s) attempts to promote a private or personal interest which actually or apparently:
 - a) Interferes with the objective exercise of the employee's duties in the civil service;
 - b) Is advanced or enhanced because of the employee's position with the government.
- 2.02 **Deputy Head** means the Deputy Minister of a department or the Chief Executive Officer of a Crown corporation, agency, or commission.

Department means any department, Crown corporation, agency, or commission as identified in Section 3 of this policy.

Employee for the purpose of this policy means a person employed by the departments identified in Section 3 of this policy.

Government Property means any property owned, leased, rented, or otherwise controlled by the Government.

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Senior Executive means an employee to whom the Executive Division Conflict of Interest applies.

Someone Connected with Employee shall include a family member, friend, business associate or former business associate.

3. APPLICATION

- 3.01 The application of this policy is referenced to the schedules of the *Financial Administration Act* (FAA) and applies as follows:
- Schedule “A” - Departments except the Legislative Assembly
 - Schedule “B” - Crown corporations
 - Schedule “C” - School Boards and Hospital Authorities
 - Schedule “D” - Commissions
- 3.02 While this policy does not apply to the Legislative Assembly or Reporting Entities subject to alternate legislation, the spirit and intent of the policy should serve as a guideline for these entities in developing their own policies. The policies developed should be no less stringent than these guidelines.
- 3.03 With respect to 3.01 above, this policy applies to all employees as defined in section 1 (h) of the *Civil Service Act* which includes:
- executive division employees
 - permanent employees
 - probationary employees
 - provisional employees
 - contract employees and other employees employed in the casual division except relief and temporary employees with less than six months continuous service and student employees.
- 3.04 Senior Executives shall comply with the Executive Division Conflict of Interest Policy which sets out provisions which differ from, or are supplementary to, the provisions of this policy.
- 3.05 If questions arise that are not specifically dealt with by this policy, they should be settled in accordance with the principles stated below.

4. ADMINISTRATIVE RESPONSIBILITY

Deputy Head

- 4.01 The responsibility for administration of this policy within a department or agency rests with the Deputy Head.
- 4.02 The responsibility for determining whether or not an employee is in a conflict

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of interest rests with the Deputy Head. A Deputy Head who is uncertain of the interpretation of any of this policy shall seek clarification from the CEO of the Public Service Commission or the Ethics and Integrity Commissioner.

- 4.03 The responsibility for the overall administration of these guidelines across the civil service rests with the CEO of the Public Service Commission.

Manager/Supervisor

- 4.04 Managers and supervisors are responsible to ensure that their immediate subordinates are familiar with provisions of this policy, and apply or recommend any appropriate action necessary to ensure compliance.

Employee

- 4.05 An employee is responsible to make a disclosure to his/her Deputy Head as to the nature of the conflict of interest, should he/she suspect a conflict of interest.
- 4.06 An employee who is uncertain of the interpretation of this policy shall seek clarification from their Deputy Head.

5. ADMINISTRATIVE RESPONSIBILITY

Disclosure:

- 5.01 Employees are required to review the policy and complete the attached declaration statement upon initial hire into the civil service, upon a change in their circumstance, and/or, upon request by their Deputy Head.
- 5.02 Senior Executives shall comply with the disclosure requirements set out in the *Executive Division Conflict of Interest Policy*
- 5.03 The Chief Executive Officer (CEO) of the PEI Public Service Commission may examine the disclosure statement of any civil service employee other than Senior Executives as they are under the jurisdiction of the Ethics and Integrity Commissioner.

6. PRINCIPLES

- 6.01 Employees shall perform their official duties and arrange their private affairs in such a manner that public confidence and trust in their honesty, integrity, fairness, and good faith are conserved and enhanced.
- 6.02 Employees shall seek to serve the public interest by upholding both the letter and the spirit of established laws, policies and directives made pursuant to

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these laws.

- 6.03 Employees shall not divulge confidential or restricted information to any unauthorized person or release such information in contravention of their Oath of Office.
- 6.04 On appointment to employment within the civil service, and thereafter, employees shall arrange their private affairs in a manner that will prevent conflicts of interest from arising. If a conflict of interest arises the employee shall:
 - (a) report the matter immediately to the Deputy Head; and
 - (b) resolve the conflict in favour of the public interest.
- 6.05 Employees shall not knowingly place themselves in a position where they are under, or appear to be under, obligation to any person or organization who might benefit from or seek to gain special consideration or favour.
- 6.06 Employees shall not take advantage of, or appear to take advantage of their official position, or of information obtained in the course of their official duties unless the information is generally available to the public.
- 6.07 Employees shall not directly or indirectly use or allow the use of government property of any kind, including property leased to the government, for anything other than authorized activities.
- 6.08 Employees, after they leave public office, are expected to refrain from taking improper advantage of their previous office.
- 6.09 Employees in violation of the Conflict of Interest Policy may be subject to discipline.

7. FINANCIAL GAIN:

- 7.01 An employee who is found to be in a conflict of interest which was motivated by or resulted in financial gain to the employee or to someone connected to the employee shall be considered to have committed very serious misconduct. Financial gain includes:
 - (a) monetary gain;
 - (b) increase in value of assets
 - (c) decrease in value of liabilities
- 7.02 A person connected to the employee shall include a family member, friend, business associate or former business associate.

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8. GIFTS AND OTHER BENEFITS

- 8.01 Gifts, hospitality or other benefits that could influence employees in their judgement or in the performance of their official duties must be declined.
- 8.02 Employees shall not, either directly or indirectly demand or accept a gift, favour or service from any individual, organization or corporation other than:
- (a) The normal exchange of hospitality between persons doing business together;
 - (b) Tokens exchanged as part of protocol;
 - (c) The normal presentation of gifts to persons participating in public functions;
 - (d) The normal exchange of gifts between friends; and
 - (e) A gift, favour or service authorized by the Deputy Head.
- 8.03 Where an employee receives a gift or personal benefit that is connected directly or indirectly with the employee's position referred to above with a value that exceeds \$200, the employee shall within thirty days of such receipt file with their Deputy Head a written statement indicating the nature of the gift or personal benefit, its source, and the circumstances under which it was given and accepted. This subsection also applies to gifts and personal benefits where the total value received from one source in any twelve month period exceeds \$200.

9. PREFERENTIAL TREATMENT

- 9.01 Employees must avoid being placed, or appearing to be placed, under obligation to any person or organization that might profit from special consideration by the employee.
- 9.02 Employees must not accord preferential treatment in relation to any official matter to family members, friends, other persons or organizations in which the employee, family members or friends have a financial or other interest.
- 9.03 Employees must not, without prior permission, provide assistance in dealing with the government to any individual or entity where such assistance would result in preferential treatment to any person.
- 9.04 Employees who exercise a regulatory, inspectional or other discretionary control over others shall disqualify themselves from dealing with family

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members with respect to those functions unless the Deputy Head gives authorization to the employee to act.

10. COMMUNITY ACTIVITIES

- 10.01 Involvement in community activities by employees is supported by the Government unless the involvement results in a conflict of interest.
- 10.02 An employee who is involved in an activity that could give rise to a conflict of interest shall inform the Deputy Head. If a conflict occurs, the employee may be required to curtail, modify or cease the activity.
- 10.03 An employee who belongs to an organization (including other levels of government) which is seeking legislative or policy change or funding from Government shall not assume a role with the organization which might be perceived as being in conflict with the employee's position as a government employee.

11. OUTSIDE EMPLOYMENT

- 11.01 Employees may engage in supplementary employment, including self employment, provided that:
 - (a) Such employment does not interfere with the performance of the employee's duties by encroaching on time or attention which should be devoted to the employee's work;
 - (b) Such employment is confined solely to periods when the employee is not engaged in departmental duties;
 - (c) The employee does not use advantages derived from employment in the public service, such as confidential information;
 - (d) Such outside employment is not performed in such a way as to appear to be an official act or to represent Government opinion or policy;
 - (e) Such employment does not involve the use of Government premises, supplies, equipment (e.g., vehicle, photocopier,

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telephone) and/or personnel, etc., unless use is otherwise authorized by the Deputy Head;

- (f) Such employment does not otherwise give rise to a conflict of interest or bring the Government into disrepute.

12. POLITICAL ACTIVITY

12.01 An employee may participate in political activities only in accordance with the provisions of the *Civil Service Act*, Sections 38, 39, 40 and 41.

13. DISCLOSURE

13.01 Information concerning the private interest of an employee which is provided to a Deputy Head / Clerk shall be treated in complete confidence, subject to disclosure requirements established by this policy, the *Executive Division Conflict of Interest Policy* and by law.

13.02 Employees must disclose to the Deputy Head any situation, matter, outside employment or interest where they have a conflict of interest or the potential for a conflict of interest. (See attached Disclosure Form)

14. REVIEW OF DECISION

14.01 Where an employee is not satisfied with the decision of the Deputy Head that a conflict of interest exists, the employee may, within 14 days of being informed of the decision, request in writing that the CEO of the Public Service Commission establish a three person review panel to review the decision of the Deputy Head.

15. COMPLIANCE

15.01 Each employee is responsible for taking the necessary actions to prevent conflicts of interest from arising and resolving those that do arise. Necessary actions may include:

- (a) **Avoidance:** by avoiding or withdrawing from activities or situations that place the employee in a conflict of interest;
- (b) **Divestment:** where continued ownership would constitute a conflict

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of interest, the employee may elect to sell the asset in an arm's length transaction or place that asset in a trust over which the employee has no power of management or decision regarding assets.

15.02 The Deputy Head will determine the most appropriate method of compliance and, in doing so, will try to achieve mutual agreement with the employee.

16. FAILURE TO COMPLY

16.01 Failure to comply with the Conflict of Interest Policy may result in discipline.

**PROVINCE OF PRINCE EDWARD ISLAND
CONFLICT OF INTEREST POLICY**

CONFLICT OF INTEREST DECLARATION

Employee Name:	
Employee Number	
Position Title & Number (where applicable):	
Department Or Agency of Employment:	
Reason for Statement:	

I DO HEREBY DECLARE: (x)

- () I have reviewed the Government's Conflict of Interest Policy and and I have no real or personal property, business, financial, outside employment or community interest to declare pursuant to the aforesaid policy.

Date:	Employee Signature:

Date:	Deputy Head Signature:

PROVINCE OF PRINCE EDWARD ISLAND

CONFLICT OF INTEREST POLICY

CONFLICT OF INTEREST DISCLOSURE STATEMENT

Employee Name:	
Employee Number	
Position Title Number (where applicable):	
Department or Agency of Employment:	
Last Statement Date:	

I DO HEREBY SET OUT by way of complete and absolute disclosure to my Deputy Head all information pertaining to my involvement with or ownership of real and personal property of any nature or kind, and all involvement with business, financial, outside employment and community interests whatsoever of myself, my spouse and my dependent children which may conflict with Government's Conflict of Interest Policy.

FINANCIAL GAIN

1. **REAL PROPERTY** *except* primary residence and primary recreational property

Type & Location	Approximate Size	Owner	Relationship of Owner to Employee

2. PERSONAL PROPERTY:

- i) Shares listed on a Stock Exchange with a market value of \$5,000 or more and any other share holdings.
- ii) Other Financial Interests in companies, firms or bodies which have done, are doing or are negotiating to do business with the Government or any Government agency.

Note: An "interest" includes but is not limited to:

- a) a partnership interest;
- b) paid employment other than with the civil service;
- c) a loan by an employee to such a company, firm or body or other indebtedness no matter how secured of such a company, firm or body to the employee.

Company Name	Common or Preferred	Current Approximate market value	Name of Owner	Relationship of Owner to Employee

3. OUTSIDE EMPLOYMENT - (includes any paid employment, including self-employment which has not been disclosed above).

Name of Employer	Position Title	Nature of Duties

4. COMMUNITY ACTIVITIES - report any activity in which you, your spouse or dependent child participate where there is a possibility of a conflict between your participation in the activity and your job as a public servant. (Examples: public works employee sitting on a municipality's public works committee; agriculture employee acting on executive of agricultural association seeking funding or legislative change from Government).

Name of Organization**Nature of Duties**

I declare that the information set out in this document is complete and true.

Date:	Employee Signature:
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I have reviewed the Conflict of Interest Disclosure statement and have determined that there **does not** (), **does** () appear to be a conflict of interest.

If a conflict does exist, the following actions are to be undertaken to resolve the conflict.

Date:	Deputy Head Signature:
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