

At a Glance

Conflicts of Interest Act

Requirements for public agencies

This summary is intended to provide a high-level overview of the various requirements and obligations that the *Conflicts of Interest Act* places upon public agencies and their members, employees, Chairs and CEOs. It is not intended as legal or other professional advice. Readers are encouraged to review the *Conflicts of Interest Act* in its entirety. In the event of a discrepancy between this summary and the *Conflicts of Interest Act*, the latter will prevail.

Application

To public agencies

The *Conflicts of Interest Act* (COIA) applies to all public agencies under the *Alberta Public Agencies Governance Act* (APAGA), as well as subsidiaries of Alberta Health Services. In the future, additional public agencies may be designated by Order in Council as subject to COIA.

To people

COIA requires that public agencies have codes of conduct with several required elements. These codes of conduct must apply to all employees and board members.

Additional requirements apply to all public agency board chairs and CEOs (or equivalent executive positions), who are referred to as “senior officials” and subject to specific obligations and restrictions. Certain senior officials from significant public agencies will also be considered as “designated senior officials” and subject to additional requirements. There are several factors to consider in designating “significant” agencies and senior officials, including whether the agency is involved in the following activities:

- Performing a regulatory function
- Making autonomous decisions and/or binding decisions
- Managing or allocating substantial amounts of public funding
- Extensive interaction with the private sector.

Requirements

For public agencies

Each agency is required to establish a code of conduct that:

- Requires board members and employees to conduct themselves impartially, disclose real and apparent conflicts of interest and places restrictions on:
 - Acting in self-interest or furthering private interest
 - Accepting gifts, including establishing a maximum cash value for gifts received
 - Concurrent employment or other offices, and a process by which these appointments may be reviewed.
- Includes a process for receiving and investigating complaints alleging a breach of the code of conduct.

For senior officials

Senior officials, which includes all public agency board chairs and CEOs, are subject to the following obligations and restrictions:

- Restrictions on Furthering Private Interests

Senior officials may not take part in a decision knowing that the decision might further their private interests or those of a person directly associated with them (for instance, spouses or companies they own). “Private interests” do not include interests that are trivial, of general application, affect an individual as member of a broader class, or concern an individual’s remuneration and benefits with the agency.

- Restrictions on Using Influence

Senior officials may not use their office or powers as a senior official to influence or try to influence a decision of the Crown or a public agency to further their private interest, the interest of a person directly associated with them, the interest of their minor child, or to improperly further any other person’s interest.

- Restrictions on Using Insider Information

Senior officials may not use or communicate information, not available to the general public, that they gained in the course of carrying out their office or powers as a senior official in order to further or try to further their private interest or any other person’s private interest.

- Disclosure of Real and Apparent Conflicts of Interest

Senior officials must appropriately and adequately disclose real and apparent conflicts of interest. What constitutes appropriate and adequate disclosure will vary depending on the circumstances in which the conflict arises.

In addition to the above, all CEOs (or equivalent executive positions) are subject to the following requirement:

- Restrictions on Concurrent Employment

These CEOs and equivalents may not participate in any outside appointment, business, undertaking or employment, including self-employment, unless they apply for and receive the approval of the Ethics Commissioner.

The Ethics Commissioner may approve such participation if the Ethics Commissioner determines that their involvement will not constitute a real or apparent conflict of interest.

For designated senior officials (DSOs)

Certain senior officials from significant public agencies will be designated by an Order in Council as being a Designated Senior Official (DSO) and made subject to the following additional obligations and restrictions:

- Restrictions on Holding Publicly-Traded Securities

DSOs may not hold publicly-traded securities without the approval of the Ethics Commissioner, who may direct that such securities be held in a blind trust or another investment arrangement.

- Disclosure to the Ethics Commissioner

DSOs must provide the Ethics Commissioner a full financial disclosure of the assets, liabilities, investments, holdings and other interests of the DSO, their spouse or interdependent partner, minor children or any corporation controlled by the DSO, his or her spouse or adult interdependent partner.

- Post-Employment Restrictions

DSOs may not conduct certain activities or accept employment with certain entities for a period of 12 months after the last day they hold their position as a DSO.

These post-employment restrictions include restrictions on lobbying public office-holders, making representations in connection with matters that the former DSO directly worked on, soliciting or benefiting from a contract with their former public agency, and accepting employment with an organization or an appointment to the board of an organization with which the former DSO had direct and significant official dealings as a DSO.

Former DSOs may apply to the Ethics Commissioner for a waiver or reduction of the 12-month restriction if the Ethics Commissioner determines that no real or apparent conflict exists.