

The Standards of Ethical Conduct for Directors of Public Sector Organizations

The fundamental relationship between a director and the public sector organization on which the director serves should be one of trust; essential to trust is a commitment to honesty and integrity. Ethical conduct within this relationship imposes certain obligations.

The purpose of this document is to set out minimum standards of ethical conduct expected of all directors appointed by the Province of British Columbia to public sector organizations.

1. COMPLIANCE WITH THE LAW

- 1.1 Directors should act at all times in full compliance with both the letter and the spirit of all applicable laws.
- 1.2 In his/her relationship with the organization, no director should commit or condone an unethical or illegal act or instruct another director, employee, or supplier to do so.
- 1.3 Directors are expected to be sufficiently familiar with any legislation that applies to their work to recognize potential liabilities and to know when to seek legal advice. If in doubt, directors are expected to ask for clarification.
- 1.4 Falsifying any record of transactions is unacceptable.
- 1.5 Directors should not only comply fully with the law, but should also avoid any situation which could be perceived as improper or indicate a casual attitude towards compliance.

2. CONFLICTS OF INTEREST

- 2.1 In general, a conflict of interest exists for directors who use their position at the organization to benefit themselves, friends or families.
- 2.2 A director should not use his or her position with the organization to pursue or advance the director's personal interests, the interests of a related person¹, the director's business associate, corporation, union or partnership, or the interests of a

¹ "related" person means a spouse, child, parent or sibling of a director who resides with that director.

person to whom the director owes an obligation.

- 2.3 A director should not directly or indirectly benefit from a transaction with the organization over which a director can influence decisions made by the organization.
- 2.4 A director should not take personal advantage of an opportunity available to the organization unless the organization has clearly and irrevocably decided against pursuing the opportunity, and the opportunity is also available to the public.
- 2.5 A director should not use his or her position with the organization to solicit clients for the director's business, or a business operated by a close friend, family director, business associate, corporation, union or partnership of the director, or a person to whom the director owes an obligation.
- 2.6 Every director should avoid any situation in which there is, or may appear to be, potential conflict² which could appear³ to interfere with the director's judgment in making decisions in the organization's best interest.
- 2.7 There are several situations that could give rise to a conflict of interest. The most common are accepting gifts, favours or kickbacks from suppliers, close or family relationships with outside suppliers, passing confidential information to competitors or other interested parties or using privileged information inappropriately. The following are examples of the types of conduct and situations that can lead to a conflict of interest:

² "*conflict*" means a conflict of interest or apparent conflict of interest

³ "*apparent*" *conflict of interest* means any situation where it would appear to a reasonable person that the director is in a conflict of interest situation.

- (i) influencing the organization to lease equipment from a business owned by the director's spouse;
- (ii) influencing the organization to allocate funds to an institution where the director or his or her relative works or is involved;
- (iii) participating in a decision by the organization to hire or promote a relative of the director;
- (iv) influencing the organization to make all its travel arrangements through a travel agency owned by a relative of the director;
- (v) influencing or participating in a decision of the organization that will directly or indirectly result in the director's own financial gain.

2.8 A director should fully disclose all circumstances that could conceivably be construed as conflict of interest.

3. DISCLOSURE

3.1 Full disclosure enables directors to resolve unclear situations and gives an opportunity to dispose of conflicting interests before any difficulty can arise.

3.2 A director should, immediately upon becoming aware of a potential conflict of interest situation, disclose the conflict (preferably in writing) to the board chair. This requirement exists even if the director does not become aware of the conflict until after a transaction is complete.

3.3 If a director is in doubt whether a situation involves a conflict, the director should immediately seek the advice of the board chair. If appropriate, the board may wish to seek advice from the organization's ethics advisor or legal advice.

3.4 Unless a director is otherwise directed, a director should immediately take steps to resolve the conflict or remove the suspicion that it exists.

3.5 If a director is concerned that another director is in a conflict of interest situation, the director should immediately bring his or her concern to the other director's attention and request that the conflict be declared. If the other director refuses to declare the conflict, the director should immediately bring his or her concern to the attention of the board chair. If there is a concern with the board chair, the issue

should be referred to the governance committee or equivalent committee of the board that deals with board governance issues.

3.6 A director should disclose the nature and extent of any conflict at the first meeting of the board after which the facts leading to the conflict have come to that director's attention. After disclosing the conflict, the director:

- (i) should not take part in the discussion of the matter or vote on any questions in respect of the matter (although the director may be counted in the quorum present at the board meeting);
- (ii) if the meeting is open to the public, may remain in the room, but shall not take part in that portion of the meeting during which the matter giving rise to the conflict is under discussion, and shall leave the room prior to any vote on the matter giving rise to the conflict;
- (iii) should, if the meeting is not open to the public, immediately leave the meeting and not return until all discussion and voting with respect to the matter giving rise to the conflict is completed; and
- (iv) should not attempt, in any way or at any time, to influence the discussion or the voting of the Board on any question relating to the matter giving rise to the conflict.

4. OUTSIDE BUSINESS INTERESTS

4.1 Directors should declare possible conflicting outside business activities at the time of appointment. Notwithstanding any outside activities, directors are required to act in the best interest of the organization.

4.2 No director should hold a significant financial interest, either directly or through a relative or associate, or hold or accept a position as an officer or director in an organization in a material relationship with the organization, where by virtue of his or her position in the organization, the director could in any way benefit the other organization by influencing the purchasing, selling or other decisions of the organization, unless that interest has been fully disclosed in writing to the organization.

4.3 A "significant financial interest" in this context is any interest substantial enough that decisions of the organization could result in a personal gain for the director.

- 4.4 These restrictions apply equally to interests in companies that may compete with the organization in all of its areas of activity.
- 4.5 Directors who have been selected to the board as a representative of a stakeholder group or region owe the same duties and loyalty to the organization and when their duties conflict with the wishes of the stakeholder or constituent, their primary duty remains to act in the best interests of the organization.

5. CONFIDENTIAL INFORMATION

- 5.1 Confidential information includes proprietary technical, business, financial, legal, or any other information which the organization treats as confidential.
- 5.2 Directors should not, either during or following the termination of an appointment, disclose such information to any outside person unless authorized.
- 5.3 Similarly, directors should never disclose or use confidential information gained by virtue of their association with the organization for personal gain, or to benefit friends, relatives or associates.
- 5.4 If in doubt about what is considered confidential, a director should seek guidance from the board chair or the CEO.

6. INVESTMENT ACTIVITY

- 6.1 Directors should not, either directly or through relatives or associates, acquire or dispose of any interest, including publicly traded shares, in any company while having undisclosed confidential information obtained in the course of work at the organization which could reasonably affect the value of such securities.

7. OUTSIDE EMPLOYMENT OR ASSOCIATION

- 7.1 A director who accepts a position with any organization that could lead to a conflict of interest or situation prejudicial to the organization interests, should discuss the implications of accepting such a position with the board chair recognizing that acceptance of such a position might require the director's resignation from the organization's board.

8. ENTERTAINMENT, GIFTS AND FAVOURS

- 8.1 It is essential to fair business practices that all those who associate with the organization, as suppliers, contractors or directors, have access to the organization on equal terms.
- 8.2 Directors and members of their immediate families should not accept entertainment, gifts or favours that create or appear to create a favoured position for doing business with the organization. Any firm offering such inducement should be asked to cease.
- 8.3 Similarly, no director should offer or solicit gifts or favours in order to secure preferential treatment for themselves or the organization.
- 8.4 Under no circumstances should directors offer or receive cash, preferred loans, securities, or secret commissions in exchange for preferential treatment. Any director experiencing or witnessing such an offer should report the incident to the board chair immediately.
- 8.5 Gifts and entertainment should only be accepted or offered by a director in the normal exchanges common to established business relationships for the organization. An exchange of such gifts should create no sense of obligation on the part of the director.
- 8.6 Inappropriate gifts received by a director should be returned to the donor.
- 8.7 Full and immediate disclosure to the board chair of borderline cases will always be taken as good-faith compliance with these standards.

9. USE OF THE ORGANIZATION'S PROPERTY

- 9.1 A director should require the organization's approval to use property owned by the organization for personal purposes, or to purchase property from the organization unless the purchase is made through the usual channels also available to the public.
- 9.2 Even then, a director should not purchase property owned by the organization if that director is involved in an official capacity in some aspect of the sale or purchase.

10. RESPONSIBILITY

- 10.1 The organization should behave, and be perceived, as an ethical organization.
- 10.2 Each director should adhere to the minimum standards described herein and in the organization's code of conduct, and to the standards set out in applicable policies, guidelines or legislation.
- 10.3 Integrity, honesty, and trust are essential elements of the organization's success. Any director who knows or suspects a breach of the organization's code of conduct and ethics has a responsibility to report it to the board chair.
- 10.4 To demonstrate determination and commitment, each director should review and declare compliance with the organization's code of conduct and ethics annually.

11. BREACH

- 11.1 A director found to have breached his/her duty by violating the minimum standards set out in this document may be liable to censure or a recommendation for dismissal to the Government.

12. WHERE TO SEEK CLARIFICATION

- 12.1 Normally, the board chair or the governance committee chair should be responsible to provide guidance on any item concerning standards of ethical behaviour.

13. FORM OF DECLARATION

- 13.1 The following is a sample form of declaration that may be used by organizations.

I ACKNOWLEDGE that I have read and considered the Code of Conduct and Conflict of Interest Guidelines for Directors of the _____ [*name of organization*] and agree to conduct myself in accordance with the Code of Conduct and Conflict of Interest Guidelines for Directors.

Signature

Print Name