

THE CORPORATION OF THE CITY OF WINDSOR
POLICY

Service Area:	Chief Administrative Office	Policy No.:	
Department:	Corporate Wide	Approval Date:	July 20, 2015
Division:		Approved By:	M287-2015
		Effective Date:	Oct. 21, 2002; amended Nov. 8, 2010; amended Jul. 20, 2015
Subject:	City of Windsor Employee and Volunteer Code of Ethics and Conflict of Interest Policy	Procedure Ref.:	Code of Ethics and Conflict of Interest Procedure for Annual Review of Department Head Rulings CECI 001
Review Date:	June 1, 2020	<i>Pages:</i>	Replaces: Conflict of Interest Policy CR402/2010
Updated By:	Diane Ryan		Date: October 21, 2010

1. POLICY

- 1.1** The Mayor, all City of Windsor Councillors, Appointees and Employees, including Volunteers are required to maintain a high standard of ethics and avoid any conflicts of interest in the exercise of their duties.
- 1.2** This Policy governs breaches of ethics and conflicts of interest of Employees of The Corporation of the City of Windsor and its Agencies and Corporate Subsidiaries (where the governing body has not adopted its own policy), and Volunteers, except those Volunteers who are Council appointees to agencies, boards, commissions and committees who are governed as per section 1.3 below.
- 1.3** The Mayor, Councillors and Council appointees to agencies, boards, commissions and committees are governed by the Code of Conduct for Members of Council and Local Boards (Restricted Definition) (CR 409/2007)

2. PURPOSE

- 2.1** The purpose of the Employee and Volunteer Code of Ethics and Conflict of Interest Policy is to state the values and principles by which employees and volunteers are to govern their actions in the exercise of their duties.
- 2.2** The Code of Ethics and Conflict of Interest Policy is not a complete code and as such, Employees and Volunteers should not view this policy as exhaustive. All Employees and Volunteers have a duty to be vigilant and determine the potential for a breach of ethics or conflict of interest in all actions and govern themselves accordingly. If, in the sole discretion of the Chief Administrative Officer (CAO), a breach of ethics or a conflict of interest has occurred, action may be taken to resolve the breach or conflict in accordance with this policy. This includes disciplinary action, up to and including dismissal, where necessary.

3. SCOPE

- 3.1** This policy applies to all non-union, professional, and unionized employees of the City of Windsor (“Employees”) inclusive of all regular full time, part time, contract and temporary employees, including seasonal recreation staff and students.
- 3.2** This policy also applies to individuals engaged in providing unpaid placements/services to the Corporation and Volunteers as defined in the Corporate Volunteerism Policy (“Volunteers”) except those Volunteers who are Council appointees to agencies, boards, commissions and committees who are governed as per section 1.3 above.
- 3.3** This policy covers all actions taken by Employees or Volunteers in the exercise of their duties. This includes personal relationships and community activities where there is a potential for a breach of ethics or conflict of interest in the employment context.
- 3.4** Application of this policy will be in accordance with applicable provisions within the collective agreements and memoranda between the Corporation and its unions and associations.
- 3.5** Notwithstanding any other provisions to the contrary in any other policies of the City of Windsor, where there is a conflict between this policy and any other policy the more stringent policy will apply.
- 3.6** Notwithstanding the reporting obligations of any other policy of the City of Windsor, if there is reason to believe that a breach of this policy has occurred, the reporting procedures in this policy shall be followed concurrently with any other reporting obligations.

4. RESPONSIBILITY

- 4.1** The Chief Administrative Officer is responsible for the application of this policy within the Corporation.
 - 4.1.1** The CAO shall ensure that this policy is communicated to all Employees and Volunteers.
 - 4.1.2** The CAO shall ensure that any related policies are updated to reflect the requirements of this policy.
- 4.2** The Corporate Leadership Team (CLT) and all Department Heads are responsible for the application and communication of this policy within their respective departments.
 - 4.2.1** The Corporate Leadership Team and all Department Heads shall ensure that all Employees and Volunteers whom they supervise are made aware of this policy on an annual basis through the Employee Performance Appraisal or otherwise.
 - 4.2.2** The Corporate Leadership Team and all Department Heads shall carry out their roles as decision makers under this policy in good faith and in a timely and expeditious manner.

4.2.3 The Executive Director of Human Resources shall ensure all new Employees review and sign an acknowledgement of review of this Policy at time of hire and prior to actively commencing work.

4.3 Employees and Volunteers are responsible to report all breaches of ethics and conflicts of interest in accordance with this Policy.

5. GOVERNING RULES & REGULATIONS

5.1 Employee and Volunteer Code of Ethics

5.1.1 Employees and Volunteers shall demonstrate integrity in all public and personal relationships so as to merit respect, trust and confidence of the governing officials of the City of Windsor, their employee colleagues and members of the public.

5.1.2 Accountability: Employees and Volunteers shall recognize and be accountable for their responsibilities in the exercise of their duties and shall demonstrate loyalty to the Corporation of the City of Windsor.

5.1.3 Confidentiality: Employees and Volunteers shall demonstrate professional integrity with respect to the issuance and management of information and records and shall not disclose confidential corporate or personal information without appropriate authorization whether through reference to the *Municipal Freedom of Information and Protection of Privacy Act* or any other law or policy.

5.1.4 Professionalism: Employees and Volunteers shall act with professionalism in their work relationships and shall respect the rights of their colleagues.

5.1.5 Conflicts of Interest: Employees and Volunteers shall actively avoid conflicts of interest or the appearance of conflicting interests and shall perform their duties without the expectation of personal gain other than their employment compensation.

5.1.6 Other Professional Codes: Professional Employees and Volunteers who are governed by a Professional Code of Conduct, Code of Ethics or other statement of ethical obligations shall be governed by that code or statement and where there is a conflict between that code or statement and the Code of Ethics and Conflict of Interest Policy, the more stringent document shall apply.

5.1.7 Local Political Activity: Employees may engage in political activity only to the extent that such activity does not violate the Employee's duty of loyalty to the City of Windsor.

5.1.7.1 In accordance with the Code of Conduct for Members of Council (Bylaw 420-2001), no Employee shall provide re-election campaign services to members of Council during the Employee's hours of employment. In accordance with the Municipal Elections Act, an Employee running for Mayor or Council must take a leave of absence for the duration of the election and if elected is deemed by law to have resigned from his or her employment as of the date of swearing in.

5.1.8 Vagueness or Ambiguity: Employees and Volunteers shall err on the side of caution in any action that may create the appearance of a breach of ethics or conflict of interest wherever the interpretation of an action or decision may be ambiguous or vague.

5.1.9 Breaches: Breaches of this Code of Ethics may result in disciplinary action being taken in accordance with this policy, up to and including dismissal. Reference may also be made to any other applicable Corporate Policy governing the actions considered to be in breach in determining the appropriate response.

5.2 Conflicts of Interest

5.2.1 Conflicts of interest arise when an Employee or Volunteer has a personal interest in the outcome of an action or decision that may influence the Employee or Volunteer's judgement. Conflicts of interest may be real or perceived. This policy applies to both real and perceived conflicts of interest and where the term "conflict of interest" is used, it is deemed to include both real and perceived conflicts of interest.

5.2.2 This policy incorporates by reference the following City of Windsor Policies:

5.2.2.1 Human Rights Policy (CR 746/2005)

5.2.2.2 Workplace Harassment Policy (CR 217/2010)

5.2.2.3 Workplace Violence Policy (CR 217/2010)

5.2.2.4 Employee Standards of Department Policy (CR 746/2005)

5.2.2.5 Concerned Employee Policy (M14-2015)

5.2.2.6 Fraud and Misuse of Assets Policy (M140-2015)

5.2.2.7 Family Relationships - under Employment Policy (M251-2013)

5.2.2.8 Acceptable Use Policy (M109-2013)

5.2.2.9 Donations (M20-2013)

5.2.2.10 Purchasing By-Law Number 93-2012

5.2.2.11 Corporate Volunteerism Policy (CR157/2007)

5.2.3 This policy incorporates by reference all applicable provincial and federal legislation and specifically, without limitation, the following statutes:

5.2.3.1 Municipal Act, 2001, S.O. 2001, c. 25

5.2.3.2 Municipal Conflict of Interest Act, R.S.O. 1990, M. 50

5.2.3.3 Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, M 56

5.2.3.4 Municipal Elections Act, S.O. 1996, c.32

5.2.4 Conflicts of interest are categorized (without limitation) as follows:

5.2.4.1 Monetary conflicts: where an Employee or Volunteer may benefit financially from an action or decision including, without limitation, receipt of money, gifts or benefits, use of corporate property, professional advancement or an increase in the value of property or investments owned by an Employee or Volunteer

or a person with whom the Employee or Volunteer is in a personal relationship.

5.2.4.1.1 When an Employee or Volunteer believes he/she is in a monetary conflict of interest he/she shall submit a Conflict of Interest Disclosure Form to his/her Department Head or, in the case of a Department Head or the CAO, to his/her immediate supervisor or the Mayor and Council respectively.

5.2.4.1.2 For further clarity, no Employee or Volunteer shall accept any gift, favour or services or other financial benefit in the course of the performance of their employment duties other than:

5.2.4.1.2.1 Normal hospitality among persons doing business where normal hospitality is restricted to food and beverages;

5.2.4.1.2.2 Seasonal gift baskets or flowers which cannot be reasonably returned and which are shared equitably within the receiving department or donated to charity;

5.2.4.1.2.3 Token exchanges as part of a protocol;

5.2.4.1.2.4 Normal presentations made to persons participating in public functions;

5.2.4.1.2.5 Acceptance of an invitation to any social or recreational event flowing from a business relationship related to the Employee's or Volunteer's employment with the City of Windsor where the Employee or Volunteer pays for all entry fees and participates on their own time;

5.2.4.1.3 All monetary conflicts of interest including the above noted exceptions shall be disclosed on a Conflict of Interest Disclosure Form and in the case of invitations to events, they shall be disclosed in advance of attendance.

5.2.4.1.4 In determining whether or not there is a monetary conflict of interest, the Department Head, CAO or Mayor and Council, as the case may be, shall take into consideration the following:

5.2.4.1.4.1 Is the financial benefit one that is received in the ordinary course of business between colleagues (e.g. meals or awards, etc.)

5.2.4.1.4.2 Is the financial benefit less than \$50.00 or less than a total of \$200 in a calendar year?

5.2.4.1.4.3 If the Employee or Volunteer receives a financial benefit through the increase in the

value of his or her personal property or investments, what role did he or she play in the decision and who else received the same benefit?

5.2.4.1.5 Where the Department Head, CAO or Mayor and Council determines that the financial benefit creates a monetary conflict of interest, he/she shall direct the Employee or Volunteer to decline or return the benefit or gift. Where necessary, the Employee or Volunteer will be removed from any position of decision making in respect of the possible financial benefit.

5.2.4.2 Personal and Fiduciary conflicts:

5.2.4.2.1 Personal conflicts: where an Employee or Volunteer may be in a position to give differential treatment to a colleague or member of the public by virtue of being in a personal relationship with that person. Personal relationships are defined in the Family Relationships Hiring Policy and specifically, for the purposes of this policy include sexual, dating, romantic and any other close personal relationship with relative or otherwise.

5.2.4.2.2 Fiduciary conflicts: where an Employee or Volunteer may be in a position to take advantage of a vulnerable person due to a relationship of trust or power. A vulnerable person includes a child, person with impaired capacity, or person with whom an Employee or Volunteer is in a relationship of trust as defined by law.

5.2.4.2.3 When an Employee or Volunteer believes he/she is in a personal conflict of interest, he/she shall submit a Conflict of Interest Disclosure Form to their Department Head or in the case of a Department Head or the CAO, to his/her immediate supervisor or the Mayor and Council respectively.

5.2.4.2.4 In determining whether or not there is a personal or fiduciary conflict of interest, other than one relating to a recruitment, the Department Head, CAO or Mayor and Council, as the case may be, shall take into consideration the following:

5.2.4.2.4.1 Does the conflict of interest involve another Employee or Volunteer of the City of Windsor?

5.2.4.2.4.2 Does the conflict of interest involve a client, customer or contractor of the City of Windsor?

5.2.4.2.4.3 Does the conflict of interest involve a vulnerable person as defined by law?

5.2.4.2.5 Where the Department Head, CAO or Mayor and Council determines that there is a personal or fiduciary conflict of interest involving another Employee or Volunteer of the City of Windsor, he/she may do any or all of the following:

5.2.4.2.5.1 Direct that the Employee or Volunteer fill out a Family Relationships Hiring Form and follow the procedures contained in the Family Relationships Hiring Policy; or

5.2.4.2.5.2 Remove the Employee or Volunteer from any position of decision making in respect of the other Employee or Volunteer, client, customer, contractor or vulnerable person.

5.2.4.2.6 In cases of recruitment, the Executive Director of Human Resources (or designate) shall be responsible for determining whether there is a personal or fiduciary conflict of interest. Where it is determined that a personal or fiduciary conflict exists, the Executive Director of Human Resources shall direct the hiring department to take appropriate steps to reduce or eliminate the conflict and submit a Conflict of Interest Disclosure Form to the CAO.

5.2.4.2.7 In cases of procurement activities, Employees and Volunteers to disclose any personal or close relationships with vendors where the employee is the participant, influencer or decision maker in the vendor selection/award process or where the Employee or Volunteer is also a vendor. The City Solicitor shall rule on Disclosure Forms submitted for Employee/Volunteer-Vendor relationships and submit a summary of these disclosures to the CAO each year.

5.2.4.2.8 Employee or Volunteers who enter into a sexual, romantic and/or dating relationship with their Supervisor or subordinate are deemed to be in a personal conflict of interest.

5.2.4.2.8.1 For clarity, Supervisor includes any person in the Corporate hierarchy who may have the authority to direct the Employee or Volunteer's work or workplace or make any human resources decisions about the Employee or Volunteer, including hiring, termination, promotion or grievance decisions. In these cases, the Employee or Volunteer and Supervisor or subordinate are required to immediately notify the Department Head or

CAO, as appropriate, of the conflict. The Department Head or CAO shall take the necessary steps to resolve the conflict, including the transfer or resignation of an Employee or Volunteer as required.

5.2.4.2.9 Where the Department Head, CAO or Mayor and Council determines that there is a personal or fiduciary conflict of interest, the Department Head, CAO or Mayor and Council shall remove the Employee or Volunteer from any position of decision making in respect of the Employee or Volunteer, client, customer, contractor or vulnerable person.

5.2.4.3 Professional conflicts: where an Employee or Volunteer is in a conflict between the obligations of a Professional Code of Conduct or Ethics and an action requested or required in the context of their employment.

5.2.4.3.1 When an Employee or Volunteer believes that he/she is in a professional conflict of interest, he/she shall submit a Conflict of Interest Disclosure Form to his/her Department Head or in the case of a Department Head or the CAO, to his/her immediate supervisor or the Mayor and Council respectively.

5.2.4.3.2 In determining whether or not there is a professional conflict of interest, the Department Head, CAO or Mayor and Council, as the case may be, shall take into consideration the following:

5.2.4.3.2.1 What is the nature of the professional conflict of interest?

5.2.4.3.2.2 What sanction may be imposed by the professional organization on the Employee or Volunteer in the event of a conflict of interest?

5.2.4.3.2.3 What possible options exist to remedy the conflict of interest?

5.2.4.3.3 Where the Department Head, CAO or Mayor and Council determines that there is a professional conflict of interest, the more stringent of the conflicting Codes shall apply.

5.2.4.3.4 Where the Professional Employee or Volunteer disagrees with the decision of the Department Head, CAO or Mayor and Council as to the existence of a conflict of interest, he/she may refuse to enact any decision related to the conflict and may report the conflict to the next highest decision making authority, including Council sitting In Camera and/or to their

professional college or lawful board of governors.

5.2.4.3.5 No disciplinary action may be taken against a Professional Employee or Volunteer who takes action under section 6.6.4 in good faith.

5.2.4.4 Political conflicts: where an Employee or Volunteer may be in a position to challenge a decision of Council or represent an agency, group or business (whether for-profit or not-for-profit) before Council in a personal capacity.

5.2.4.4.1 It is not a breach of this policy for a union or association member or a member of a professional body to support a position taken by their union, association or professional body.

Where an Employee or Volunteer believes he/she is in a political conflict of interest he/she shall submit a Conflict of Interest Disclosure Form to his/her Department Head or in the case of a Department Head or the CAO, to his/her immediate supervisor or the Mayor and Council respectively.

5.2.4.4.2 In determining whether or not there is a political conflict of interest, the Department Head, CAO or Mayor and Council, as the case may be, shall take into consideration the following:

5.2.4.4.2.1 Is the Employee or Volunteer acting on behalf of an agency, board, group or business, whether for-profit or not-for-profit to which he/she has been appointed by Council or the Corporation?

5.2.4.4.2.2 Is the Employee or Volunteer acting on behalf of an agency, board, group or business, whether for-profit or not-for-profit to which he/she has sought appointment?

5.2.4.4.2.3 Can the interests of the agency, board, group or business, whether for-profit or not-for-profit be represented any other way or by any other person who is not an Employee or Volunteer or in a personal relationship with an Employee or Volunteer?

5.2.4.4.2.4 Is the Employee running for school board, municipal, provincial or federal office or actively supporting a candidate who is running for school board, municipal, provincial or federal office?

5.2.4.4.2.5 Is the Employee or Volunteer's union, association or professional association actively supporting a candidate who is running for municipal, provincial or federal office?

5.2.4.4.2.6 Is the conflict such that it forms part of the duties of the Employee or Volunteer's position?

5.2.4.4.3 Where the Department Head, CAO or Mayor and Council determines that there is a political conflict of interest involving an agency, board, group or business, whether for-profit or not-for-profit, he/she shall direct that the Employee or Volunteer not appear in front of Council on behalf of the agency, board, group or business, whether for-profit or not-for-profit, or, if appropriate, shall request that Council rescind the appointment to the agency, board, group or business, whether for-profit or not-for-profit, if the appointment was made by Council or in the course of employment.

5.2.4.4.4 Where the Department Head, CAO or Mayor and Council determines that there is a political conflict of interest involving political activity in respect of a school board, municipal, provincial or federal election, he/she shall advise the Employee or Volunteer to exercise caution to avoid the appearance of conflict in the conduct of their duties as an Employee or Volunteer, including their duty of loyalty.

5.2.4.4.5 Where an Employee or Volunteer files their intention to run for the office of Mayor or Councillor in the City of Windsor, section 5.1.7.1 of this Policy shall apply.

5.2.4.5 Other conflicts: where another person, acting reasonably, has reason to believe that an Employee or Volunteer may be in a conflict of interest not otherwise described in this Policy.

5.2.4.5.1 Where an Employee or Volunteer believes that he/she may be in a conflict of interest not otherwise described in this Policy, he/she shall submit a Conflict of Interest Disclosure Form to his/her Department Head or in the case of a Department Head or the CAO, to his/her immediate supervisor or the Mayor and Council respectively.

5.2.4.5.2 In determining whether or not there is a conflict of interest, the Department Head, CAO or Mayor and Council, as the case may be, shall take into consideration the following:

5.2.4.5.3 Would a reasonable person, apprised of all the facts, believe that the Employee or Volunteer is in a conflict of interest?

5.2.4.5.4 What possible options exist to remedy the conflict of interest?

5.2.4.5.5 Where the Department Head, CAO or Mayor and Council determines that there is a conflict of interest, he/she shall direct the Employee or Volunteer to take such steps as deemed appropriate to remedy the conflict of interest.

5.2.4.6 Disclosure Requirements

5.2.4.6.1 Conflicts of Interest may be disclosed in the following ways:

5.2.4.6.1.1 By the Employee or Volunteer in the potential conflict, using the Conflict of Interest Disclosure Form, as soon as they become aware of the existence of a potential conflict. Failure to disclose a known conflict may result in discipline under this policy.

5.2.4.6.1.2 By any other Employee or Volunteer, using the Conflict of Interest Disclosure Form, who is aware of a potential conflict as soon as they become aware of the existence of a potential conflict. Failure to disclose a known conflict may result in discipline under this policy.

5.2.4.6.1.3 Through an anonymous report to the Chief Administrative Office. Anonymous reports will be transcribed onto the Disclosure Form and processed in accordance with this policy.

5.2.4.7 Breaches of this Policy

5.2.4.7.1 Breaches of the Code of Ethics and Conflict of Interest Policy are considered in the same manner as the contravention of any other rule or policy of the Corporation of the City of Windsor and are therefore subject to disciplinary action up to and including dismissal.

5.2.4.7.2 Failure to report a conflict of interest by any Employee or Volunteer will be treated as a serious contravention of this policy. Employees or Volunteers who are aware of the conflict of interest of another Employee or Volunteer will be considered in violation of this section if they knowingly failed to report the conflict at their earliest possible convenience and in any event, no later than 5 business days from becoming aware of the possible breach.

5.2.4.7.3 Where an Employee or Volunteer reports a breach of ethics or conflict of interest in good faith, in accordance with this policy, he/she shall be entitled to the same protections as are provided in the Concerned Employee Policy.

5.2.4.7.4 Where an Employee or Volunteer reports a breach of ethics or conflict of interest and it is determined that this action was not taken in good faith, the Employee or Volunteer will be subject to discipline up to and including dismissal.

6. RECORDS, FORMS AND ATTACHMENTS

6.1 The form applicable to this policy is the Conflict of Interest Disclosure Form.

6.2 All documentation related to matters under this policy shall be securely filed in the office of the respective Department Head making a ruling under this Policy or otherwise in the Chief Administrative Office and shall be retained and / or destroyed in accordance with the record retention requirements of the Municipal Freedom of Information and Protection of Privacy Act and the Corporate Records Retention By-Law No. 21-2013.

6.3 This Policy shall be reviewed every five years from the date it becomes effective or sooner as directed by the Chief Administrative Officer.

6.4 The Chief Administrative Officer may create forms and procedures as necessary for the orderly and consistent application of this Policy.