

STATEMENT of POLICY and PROCEDURE			
Chapter:	Administration & Human Resources	SPP No.	HR 2.13.OKIB
Section:	Employment Policies	Drafted:	Nov 15, 2018
Subject:	Conflict of Interest	Approved:	
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1 PURPOSE

1.01 The purpose of the Okanagan Indian Band Conflict of Interest Policy is to assist in the identification of situations that present potential conflicts and to provide a procedure to manage conflicts in accordance with legal requirements and the goals of accountability and transparency in all aspects of Band Administration.

2 SCOPE

2.01 This Statement of Policy and Procedure applies to all Employees when they are exercising a power, duty or responsibility relating to the Band.

3 DEFINITIONS

3.01 **Band** means the Okanagan Indian Band.

3.02 **Employee** means a person who holds a position as a contract of employment with the OKIB.

3.03 **Family Members and Related Persons** mean parents, children, siblings, grandparents, grandchildren, aunts, uncles, nieces and nephews, great grandparents and great aunts/uncles such as are described in the table of consanguinity in the Attachments, also included are:

- spouses, common-law spouses;
- step-children, foster children and adopted children;
- parents-in-law, siblings-in-law;
- any relative of the employee who resides permanently with the employee or with whom the employee permanently resides ; or
- a corporation or other organization in which the person has an interest.

3.04 **Financial Benefit** includes:

- Employment opportunity;
- Contract opportunity;
- Educational, medical or other social benefits;
- Honourariums;
- Payment of any money, or Valuable Consideration; or
- Allotment, lease or other grant of an interest in Reserve lands or Band-controlled lands.

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3.05 Indirect Interest means, without limitation, a benefit to a Family Members and Related Persons, in which the person has an interest, or a future interest that would arise.

3.06 **Nepotism** means the practice among those with power or influence of favoring relatives or friends, especially by giving them jobs.

3.07 **OKIB** means the Okanagan Indian Band.

3.08 **Potential or Perceived Interest** means there is a reasonable perception, which a reasonably informed person might have, that a person has a private interest that may affect their exercise of an official power.

3.09 **Spouse** means either of two persons who have entered into a legal marriage in good faith or have been living in a conjugal relationship for a period of at least **twelve** continuous months

3.10 **Valuable Consideration** means something of economic value, including money, goods and services.

4 POLICY

Conflict of Interest

4.01 A “conflict of interest” will arise where an Employee of the Band has an interest that is real, potential or perceived, and which competes or appears to compete with:

- (a) The interests of the Band; or
- (b) The individual’s powers, duties, functions or responsibilities as an employee.

4.02 Conflict of interests may be of a monetary nature as defined as a Financial Benefit, or may be related to increased social stature, career advancement or courting future good will from OKIB management or external persons.

4.03 Conflicts of interest do not arise where:

- (a) The interests are the same as those of a broad class of people or a broad class of Band members; and/or
- (b) The interests are so remote or insignificant that they could not reasonably be regarded as likely to influence the individual in the exercise of a power or performance of a duty or function.

4.04 This policy prohibits acting under a conflict of interest whether real, potential or perceived, and requires early and transparent disclosure of all real, potential or perceived conflicts. Acting in an official capacity where there is a conflict of interest is prohibited by this policy.

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4.05 Employees shall not use or permit the use of Band property or resources for activities not associated with their employment duties, unless they have received the prior written consent of their Director, or in the case of a Director, the Executive Director.

Avoidance of Conflicts of Interest

4.06 All persons to whom this policy applies will arrange their private affairs and conduct themselves in a manner to avoid a conflict of interest;

- (a) They must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation and who may expect to receive a benefit or preferential treatment; and
- (b) they must not be involved in any transaction, decision or matter where they are in a conflict of interest.

Employment of Family Members and Related Persons

4.07 Participating in the recruitment, selection, promotion, evaluation, scheduling or daily supervision of Family Members and Related Persons is considered a Conflict of Interest.

4.08 Every effort should be made to ensure that Family Members and Related Persons do not report directly or indirectly to one another. If this situation is unavoidable, the employees must identify their relationship to their Director, or in the case of the Director, to the Executive Director and to Human Resources.

4.09 Employees in direct or indirect reporting relationships shall not complete performance reviews, make changes to pay, or make promotion/transfer decisions.

4.10 The employment of Family Members and Related Persons is permitted provided that the following conditions are met:

- The Family Member and Related Person is the best candidate for an available position;
- The employed Family Member and Related Person is not involved in the recruitment process; and
- A Family Member and Related Person is not given preferential treatment during their employment.

4.11 In circumstances where the two positions where approval is needed and are relatives (as per the table of consanguinity), an unrelated senior employee must approve.

4.12 Employees must disclose to their supervisor the purchase of products or services from Family

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Members or Related Persons when an Employee purchases materials or services within their delegation of authority from a relative,

- 4.13 Another level of approval is required in respect to the recruitment, selection, promotion, evaluation, scheduling, daily supervision and approving timesheets of Family Members and Related Persons of current employees.

5 RESPONSIBILITIES

- 5.01 The Executive Director is responsible for informing the Division Directors, of their obligations under this Statement of Policy and Procedure and must take steps to ensure that they comply with these obligations and keeping a record of disclosures.
- 5.02 Every Division Director must ensure Employees under their supervision are informed of their obligations under this Statement of Policy and Procedure and must take steps to ensure that they comply with these obligations.
- 5.03 The Human Resources Manager is responsible for maintaining a register of all information disclosed for Employees, and Committees under this Statement of Policy and Procedure.
- 5.04 The Employee is responsible for disclosing conflicts of interest and providing an annual update on all disclosures of Conflict to their Director and Human Resources under this Statement of Policy and Procedure.
- 6.14 If an Employee is unsure of their obligations under this Statement of Policy and Procedure, they should take timely steps to determine their obligations. An Employee should seek clarification from their division Director.

6 PROCEDURE

Disclosure of conflicts of interest

- 6.01 When an Employee thinks that they are in or have a lingering doubt as to whether they may be in a conflict of interest, that person must disclose the nature and extent of the conflict to their Director at the earliest moment possible using the Conflict of Interest Declaration Form.
- 6.02 Written record of the discussion of the disclosed conflict of interest and the decision made as to whether or not the Employee has a real, Potential or Perceived conflict of interest shall be placed in the Employee's personnel file.
- 6.03 The Employee, Contractor or Agent must refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the Executive Director or his/her Director
- 6.05 If an Employee or any other person has reason to believe that another person is or may be in a

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conflict of interest, they shall notify Human Resources and the Executive Director. The Executive Director may request clarification of the circumstances.

- 6.06 If an Employee is alleged to have a conflict of interest and the person does not acknowledge the conflict of interest and take actions required under this Statement of Policy and Procedure, the Executive Director must determine whether the person has a conflict of interest before the Employee can continue to work on the project or file in relation to the conflict and the result of the decision shall be provided to the affected party and the reasons.
- 6.07 The Human Resources Manager must keep a record of any determination made under paragraph 6.06 and shall be recorded on the Declaration of Interest Form and forwarded to Human Resources to be placed in the Employee's Personnel File.
- 6.08 If an Employee person subject to paragraph 6.06 of this Statement of Policy and Procedure has a right to be heard on a matter the Employee in conflict should appoint another person to speak on the subject who will not be in conflict under this Statement of Policy and Procedure. A family whose interests should be represented in a matter should appoint a person who is not a Band Councillor and not employed with the Band to speak on their behalf.

Resolution Despite Conflict

- 6.12 The Executive Director may approve a transaction, decision or matter that is the subject of a conflict of interest where:
- (a) The Employee, has complied with the Procedures set out in this Statement of Policy and Procedure; and
 - (b) The Executive Director has determined that the transaction, decision or matter is fair and reasonable.
- 6.15 A Contractor or Agent must not attempt to obtain preferential treatment from the Band by offering gifts or benefits that an Employee is prohibited from accepting under this policy.

Consequences of failing to comply with this Statement of Policy and Procedure

- 6.16 Any Employee who fails to make a complete disclosure of a Conflict of Interest will pay to the Band a sum of money equal to the value of any and all Financial Benefits the Employee or Family Members and Related Persons received and benefited from the undisclosed Conflict of Interest notwithstanding any other disciplinary action the Director, or in the case of a Director, the Executive Director may take.
- 6.17 Failure to comply with this Statement of Policy and Procedure may result in the suspension or termination of employment for just cause.

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6.19 If a decision is made in contravention of this Statement of Policy and Procedure, by an Employee in contravention of this Statement of Policy and Procedure, the Executive Director may void the decision.

6.20 All declarations of a Conflict of Interest

7 ATTACHMENTS
Declaration of Conflict of Interest Form
Table of Consanguinity

8 REPEALS

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