



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

RULES GOVERNING CONFLICT OF
SUBJECT: INTEREST FOR BOARD POLICY NO.: BD - 05
MEMBERS
BOARD APPROVAL: _____
APPROVAL DATE: 09/10/96
BOARD ORDER NO.: _____
EFFECTIVE DATE: 10/01/96

REVOKED

APR 11 2006

POLICY STATEMENT

SECTION REFERENCE: **79, 92, 93, 96, 97, 101(1)**

POLICY: **RULES GOVERNING CONFLICT OF INTEREST FOR BOARD MEMBERS**

GENERAL INFORMATION

The **Workers' Compensation Act** of the Yukon Territory requires that the Board develop rules concerning conflict of interests that must:

- (i) define circumstances that will constitute conflict of interest for its members,
- (ii) govern disclosure of conflicts of interest, and
- (iii) provide guidelines regarding participation and voting at meetings of the board by a member who has a conflict of interest.

This policy provides rules that satisfy the requirements of the Workers' Compensation Act by providing conflict of interest guidelines and a code of conduct for Board members carrying on their duties as fiduciaries. The rules also provide guidance to Board members when they are acting in a judicial role.

POLICY

A. CONFLICT OF INTEREST RULES

- (1) The rules governing conflict of interest must meet the requirements under the common law and any applicable statutory law for fiduciaries, who are held to a high standard in law to act prudently and in the best interests of the corporate entity as a whole. The rules for fiduciaries arise from Board members being in a special position of confidence, having inside information and the complete control over funds which are not their own. A conflict of interest is a serious situation for a fiduciary because a fiduciary may be sued personally for breach of fiduciary duty.

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

Page 2

- (2) A conflict of interest occurs when a Board member has a direct or indirect private interest in the outcome of a particular decision the Board, Appeal Panel of the Board, or the President may make.
- (3) A private interest means an opportunity to produce a loss or a benefit because of a decision made by the Board, or the Appeal Panel of the Board, in respect of one's finances, business or commercial interests, family or personal relationships, or other activity or pursuits.
- (4) A potential conflict of interest exists where a conflict of interest is reasonably likely to arise at some point in the future.
- (5) A Board member shall take all reasonable steps to avoid a conflict of interest.
- (6) A Board member who believes that they
 - (a) have, or may have, a private interest with respect to an existing or proposed contract or transaction with YWCHSB,
 - (b) holds another position or office that creates or may create a conflict or a potential conflict of interest with their duties as a Board Member,
 - (c) owns, possesses, or controls property that creates, or may create, a conflict of interest with their duties as a Board Member, or
 - (d) who otherwise has, or may have, a direct or indirect private interest in the outcome of a particular decision that the Board, Appeal Panel of the Board or the President may make,shall disclose the information constituting the conflict or potential conflict of interest to the Board at the first opportunity after being appointed, or at the next meeting of the Board after the relevant information comes to the member's attention (see Appendix A).
- (7) The disclosure made by a member of the Board shall be in writing when
 - (a) the Chair requests that a particular disclosure be made in writing, or
 - (b) the disclosure is made by the Chair, or the alternate Chair when acting as the Chair.
- (8) When a Board member discloses a conflict , or a potential conflict of interest, the Board shall determine as soon as practicable whether a conflict or potential conflict exists. The member may participate in the deliberations until such time as the other Board members are satisfied that they are sufficiently informed of all the information, after which the Board shall make its decision without the member present.

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

Page 3

- (9) Any Board member may notify the Chair, in confidence if the member wishes, of a conflict or a potential conflict of interest perceived to exist for another Board member. The Chair shall at the earliest opportunity place the matter on the agenda of a Board meeting for discussion.

The member affected shall be given an opportunity to address the Board on the issue of whether a conflict or a potential conflict of interest exists. The member may participate in deliberations until such a time as the other Board members are satisfied that they are sufficiently informed of all the information, after which the Board shall make its decision without the member present.

- (10) If the Board, after deliberation determines that the member has an actual conflict of interest respecting a certain decision, the member shall not participate in the decision, unless the Board specifically authorizes the member to participate on such conditions, that the Board may set. In determining whether a member may participate, in spite of the conflict of interest, the Board may consider all the relevant circumstances, including but not limited to:

- (a) the members duty of undivided loyalty to the Board;
- (b) the nature and magnitude of the members private interest;
- (c) the consequences to the Board of the member not participating in the decision, especially any statutory imperatives;
- (d) the importance of having worker and employer perspectives on a particular decision;
- (e) the availability of alternate members who do not have a conflict;
- (f) the extent of possible harm or prejudice to a third party;
- (g) the impropriety of the member from profiting in any way from the Compensation Fund; and
- (h) the reputation of the Board being above reproach.

- (11) If the Board determines that the member has a potential conflict of interest with respect to any future decisions that the Board may make, the Board may impose conditions on the member's participation to ensure that no actual conflict of interest arises or, if it does arise, it is disclosed to the Board as an actual conflict of interest.

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

Page 4

- (12) When a member either refrains from declaring a conflict of interest, or knowingly participates in a situation where a conflict exists, or divulges confidential information, the Board may advise the Commissioner in Executive Council and recommend the removal of the member.
- (13) Board members may have a quasi-judicial function separate from their duties as a fiduciary. The common law courts have placed an obligation on appeal bodies to make decisions that are not only free of bias but that are also free of a reasonable apprehension of bias. A decision made by the Appeal Panel perceived to be biased may be set aside for breach of natural justice. Board members, who have a role on the Appeal Panel of the Board, shall disclose biases with respect to an appeal and remove themselves from the decision making process.
- (14) The minutes of the Board meeting shall record any disclosures made by a Board member under these rules.
- (15) The minutes shall record whether the Board has determined that a member has an actual conflict or a potential conflict of interest under item 8. In the event that the Board permits the member to participate in any decision, in spite of the conflict, the minutes shall record the decision and the reasons for it, and any conditions placed on the member.
- (16) The Board may, upon receiving new information, re-visit any decision at any time concerning a specific conflict or potential conflict of interest in respect of a member, and may vary its previous decision, provided this is documented in the minutes of the Board.

B. RULES OF THE CODE OF CONDUCT FOR BOARD MEMBERS CARRYING OUT THEIR DUTIES

(1) **REPRESENTATIVE ROLE OF BOARD MEMBERS**

Through representation on the Board, workers, who are beneficiaries of the system, and industry, which funds the system, provide guidance and direction in managing the corporation and setting policy for the benefit of the Board's stakeholders.

The representative nature of the Board places members in a position to ensure that the interests of workers and employers are put forward in decision making. However, stakeholders' interests are best served when the overall interests of Workers' Compensation Health and Safety Board are held paramount.

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

Page 5

(2) DUTIES OF BOARD MEMBERS CONDUCTING BOARD BUSINESS

Board members have the following general duties and responsibilities:

(a) Duty of Honesty

A Board member shall act honestly and in good faith with a view to the best interests of the board when conducting board business.

(b) Duty of Loyalty

A Board member shall act with undivided loyalty to the board when conducting board business.

(c) Duty of Care

A Board member shall use the same degree of prudence and diligence when conducting board business, as would any reasonable person under similar circumstances.

(d) Duty of Prudence

A Board member shall act with the same degree of precaution, attentiveness and good judgement when conducting board business, as would any reasonable person under similar circumstances.

(e) Duty of Diligence

A Board member shall act with the same degree of thought and concern when conducting board business as would any reasonable person under similar circumstances.

(f) Duty of Skill

A Board member shall act with the same degree of skill as may be reasonably expected from a person of their experience and knowledge.

(g) Duty of Independence

A Board member shall maintain the Board's independent relationship with government.

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

Page 6

(3) ROLE OF THE CHAIR

- (a) The Chair is appointed by the Commissioner in Executive Council and is neutral, i.e., not a representative member. The role of the Chair is to both serve and lead the Yukon Workers' Compensation Health and Safety Board members in the productive discharge of their duties and responsibilities. The Chair shall be impartial and fair.
- (b) The Chair is responsible for facilitating the decisions made by the members of the Board. The Chair shall provide leadership to unite the Board when it has difficulty rising above representative interests and shall help the Board reach common ground.
- (c) The Chair is the spokesperson on all matters within the jurisdiction of the Board.
- (d) The Chair shall preside at the annual meeting of the Workers' Compensation Health and Safety Board.
- (e) The Chair shall represent the Board in maintaining the Board's independent relationship with government.
- (f) The Chair must establish an Appeal Panel of the Board. In the event that the Appeal panel does not arrive at a decision, the Chair shall direct a new hearing before a new Appeal Panel. In the case that the Appeal Panel has not properly applied legislation or policy, the Chair shall bring the matter to the attention of the Board.
- (g) The role of the Chair applies to the alternate chair when acting as the Chair.

(4) CONFIDENTIALITY

A member of the Board shall not disclose information on any matter that comes to the member by way of their appointment to the Board unless the Board has authorized, in writing, the release of such information.

(5) ETHICAL CONSIDERATIONS

- (a) No Board member shall interfere, or attempt to interfere, with the administration or operation of the board.
- (b) No Board member shall seek to influence a decision in the quasi judicial decision making of an Appeal Panel to which they are not a member.

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

Page 7

- (c) No Board member shall step out of the role of a Board member to assist private entities or persons in their dealings with the board.
- (d) No Board member shall use their position to seek to influence a decision of another person to further the Board member's private interest.
- (e) No Board member shall use information gained as a Board member that is not available to the public to advance, or seek to advance the Board member's private interest during their tenure or for twelve (12) consecutive calendar months afterwards.
- (f) No Board member shall accept a fee, benefit or gift, except remuneration or benefits received from YWCHSB to which they are entitled, that is directly or indirectly connected to a member's performance of their duties and responsibilities as a Board member. A Board member may accept customary hospitality, a gift or personal benefits received as an incident of the protocol or social obligations that normally accompany the duties and responsibilities of a Board member. If the customary hospitality, gift or personal benefit is greater than one hundred and fifty dollars in Canadian funds (\$150.00 Canadian.) the Board member must disclose the nature of the hospitality, gift or personal benefit to the Board as soon as practicable. The Board may require that the hospitality, gift or personal benefit be returned or paid for by the member or donated to the YWCHSB.
- (g) Every Board member shall support all decisions of the Board. Furthermore, no Board member shall disclose or publicize any details, opinions, discussions or votes that may arise in debate and decision making by the members of the Board.

REFERENCES

Trustee Act

HISTORY

1. **Worker's Compensation Act, Chapter 16**, in force January 1st, 1993.
2. Policy, Rules Governing Conflict of Interest for Board Members Policy Statement, effective October 1, 1996.

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

**YUKON WORKERS' COMPENSATION HEALTH AND SAFETY BOARD
DISCLOSURE STATEMENT FOR BOARD MEMBERS**

NAME OF DECLARANT: _____

PERIOD COVERED BY DECLARATION: _____ TO _____

DATE OF STATEMENT: _____

I hereby declare:

1. That I and/or the following named member(s) of my family have, or may have, a private interest with respect to an existing or proposed contract or transaction with Yukon Workers' Compensation Health Safety Board.

NAME OF PERSON WITH PRIVATE INTEREST	DESCRIPTION OF PRIVATE INTEREST	DESCRIPTION OF CONTRACT

2. That I and/or the following named member(s) of my family have, or may have, a position or office that creates or may create a conflict or a potential conflict of interest with my duties as a Board Member.

NAME OF PERSON AND DESCRIPTION OF POSITION OR OFFICE	NAME OF ASSOCIATION OR CORPORATION	DESCRIPTION OF ASSOCIATION OR CORPORATION

APPENDIX A

RULES GOVERNING CONFLICT OF INTEREST
FOR BOARD MEMBERS

I, _____ do hereby declare to the best of my knowledge, information and belief, the statements contained in this declaration are true and complete. I have made this declaration for the purpose of disclosure pursuant to the Yukon Workers' Compensation Health and Safety Board Policy Statement Rules Governing Conflict of Interest for Board Members.

Declared before the Yukon Workers' Compensation Health and Safety Board

at _____,

Yukon, this _____ day of

_____, 19 _____

Chair

FOR USE BY THE OFFICE OF THE BOARD SECRETARY

DATE RECEIVED: _____

RECEIVED BY: _____ SIGNATURE: _____

DATE COPY RETURNED TO BOARD MEMBER: _____