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| <b>UTAH DEPARTMENT OF HUMAN SERVICES<br/>POLICY AND PROCEDURES</b>  |   |                    |
| <b>Reference: 02-02</b>   | <b>Effective Date: July 1, 1991<br/>Revision Date: May 19, 2011</b> | <b>Page 1 of 8</b> |
| <b>Subject: CONFLICT OF INTEREST</b>  |   |                    |
| <b>Rationale: To ensure that the private or outside economic, social or political activities of Department employees, volunteers and division board members do not interfere (or have the appearance of interfering) with their duties and responsibilities as agents of the State, or raise a reasonable question about the potential for such interference.</b> |   |                    |

**I. Definitions:**

- A. **Conflict of Interest** is defined as a situation where a DHS employee's, volunteer's or board member's private or outside economic, social, political, or volunteer interests interfere (or have the appearance of interfering) with that employee's, volunteer's, or board member's duties and responsibilities as an agent of the State.
- B. **Potential Conflict of Interest** is defined as any situation where an employee's, volunteer's, or board member's private or outside economic, social, political, or volunteer activities rise to the level where there is a "substantial likelihood" that a conflict of interest could take place or exist.
- C. **Substantial Interest** is defined as the ownership, either legally or equitably, by an employee, volunteer, or board member, their spouse, or their minor children, of at least 10% of the outstanding capital stock of a corporation or at least 10% in any other business entity.

**II. Policy:**

- A. Employees, volunteers, and members of division policy boards shall comply with and abide by all provisions of Utah Code 67-16-1 et. seq., Utah Public Officers' and Employees' Ethics Act, Governor's Executive Order 2007-0001: Establishing an Ethics Policy for Executive Branch Agencies and Executive Branch Employees, Department of Human Resources Management Rules R477-9, Employee Conduct, as well as all provisions of this policy.
- B. Responsibility to comply with the Ethics Act, the Governor's Executive Order Establishing an Ethics Policy for Executive Branch Agencies and Executive Branch Employees, Department of Human Resource Management Rules, and this policy rests with individual employees, volunteers, and board members. It is not the responsibility of the Department to keep employees, volunteers, and board members out of conflict situations or those that are potential conflicts of interest.
- C. It is the responsibility of Department employees, volunteers, and division policy board members to ensure that they are not, or will not, become involved with employment or activities, including volunteer activities, which are conflicts of interest or potential conflicts of interest.
- D. No employee, volunteer, or division policy board member shall accept employment, have substantial interest in a business of any kind, or participate in any activities, including volunteer activities, that are conflicts of interest or potential conflicts of interest.

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- E. All full-time or part-time employees, contract employees, volunteers, or board members shall submit a completed Conflict of Interest form to their supervisors before accepting any outside employment or becoming involved in activities which could be a conflict of interest or a potential conflict of interest.
- F. Upon hire or appointment, or annually by July 1, employees, volunteers, or board members shall file a completed Conflict of Interest form.
- G. Whenever an employee's, volunteer's, or board member's position with regard to such outside employment or activities changes, a new Conflict of Interest form shall be filed before the change takes place, or within 30 days of such change if it is not possible to submit the Conflict of Interest form beforehand.
- H. A Declaration of Outside Compensation form shall be completed, notarized, and distributed as required by employees who receive or have agreed to receive compensation from another person or business entity that may have transactions involving an agency, division, or office of the Department of Human Services, or is subject to regulation of the department.
- I. A Conflict of Interest form shall be completed and submitted by any Department employee, volunteer, or board member prior to engaging in any Department of Human Services' procurement request, e.g., bidding on a request for proposal, sole source contracts, etc.
- J. Agency management may direct an employee to modify or to cease any outside employment or activity which may be a conflict of interest or potential conflict of interest, even if previously approved on a conflict of interest form.

### **III. Guidelines:**

- A. In determining whether a conflict or potential conflict of interest exists, the Department will take into consideration all relevant information that can help in the decision. Employees seeking to engage in outside employment or activities must supply relevant information regarding the activity or employment sought to be approved as well as information regarding his/her work for the Department. Relevant information might include such things as: position, authority, decision-making involvement, contacts, clients, programs, access to information, interaction with government, location, etc.
- B. Any employee with a second job is required to complete a Conflict of Interest form.
- C. In addition to completing a Conflict of Interest form, any employee who receives or has agreed to receive compensation from another person or business entity that may have transactions involving an agency, division, or office of the Department of Human Services, or is subject to regulation of the department is also required to complete a Declaration of Outside Compensation form.

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D. A variety of situations including the situations listed below could determine if there is a conflict of interest or a potential conflict of interest. (The situations listed below are examples given for the employee's, volunteer's, or board member's understanding and are not intended to include every possible scenario.)

E. Political Conflicts

1. Using, or attempting to use, one's position within the Department to secure special privileges or exemptions for self or others.  
*(This situation cannot be considered for approval.)*
2. Engaging in a business venture with an organization that is conducting business with the Department or that is soliciting business from the Department.
3. Representing clients from outside employment before any State agency, board, committee, or other state entity.
4. Having financial or other interests in the firms selected for award of State contracts.
5. Participating in outside volunteer service that is involved with the programs or clients of the Department, including service on a policy making or advisory board of an institution or agency which contracts with or provides services for the Department.
6. Hatch Act: During work time or during off time, when employees' principal activity is directly related to a federally-financed program (even if their salary is not paid by the federal program), employees may not: 1) use their position and authority to influence or affect the outcome of an election or nomination; 2) coerce other employees to make contributions for political purposes; or; 3) be a candidate for partisan political office. (See: Hatch Act and Attorney General's Opinion No. 92-18 dated July 27, 1995, and DHRM Rules regarding political activity.) *(This situation cannot be considered for approval.)*
7. Soliciting political contributions from other State employees or anyone during hours of employment.  
*(This situation cannot be considered for approval.)*

F. Related-Party Conflicts

1. Directly supervising individuals with whom you have external relationships: family, shared external investments, ties to your household, etc.
2. Having personal investments or ownership interest in any business entity where such investment or interest creates a conflict between the employee's private interests and public duties.

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3. Being employed by the Department or being a board member and related through blood or marriage to a director, officer, partner, or others with the authority to make decisions for and in behalf of an organization that is contracting with the State.
4. Being employed by the Department or being a board member and having a business relationship of substantial interest or financial gain with a director, officer, partner, or others with the authority to make decisions for and in behalf of an organization that is contracting with the State.

**G. Time Conflicts**

1. Engaging in volunteer or other unpaid service for any employer or entity during the same hours one is scheduled to be working for the Department unless approved.
2. Being incapable of performing at full capacity for the Department because of fatigue, anxiety, or other impairments caused by outside activities.
3. Using Department work time for activities other than Department business, including paid work for another employer.  
*(This situation cannot be considered for approval.)*
4. Performing State duties to obtain outside compensation (e.g., kickbacks, patents, etc.)  
*(This situation cannot be considered for approval.)*
5. Engaging in political activity during work time.  
*(This situation cannot be considered for approval.)*
6. Compromising work responsibilities to expedite outside personal gains.  
*(This situation cannot be considered for approval.)*

**H. Personal Gain Conflicts**

*(None of the following situations may be considered for approval.)*

1. Disclosing information acquired by reason of position with the Department for the private gain or benefit of oneself or others.
2. Utilizing the Department's resources and/or materials for purposes other than those required by the position held with the Department.
3. Developing non-professional or non-work related relationships with one's own clients or clients for whom there is a supervisory assignment.

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4. Accepting any gift, offer of travel, unusual hospitality or anything valued at \$50.00 or more provided by any person or entity in connection with any business or transaction of the State and given to employees, board members, or their immediate family members.
5. Accepting a gift or other compensation, even less than \$50.00, that might be intended to influence or reward the individual in the performance of official business (see the Governor's Executive Order Establishing an Ethics Policy for Executive Branch Agencies and Executive Branch Employees).
6. Exploiting one's position over other employees for personal favors and/or gain.

**I. Employer Conflicts**

1. Accepting employment or volunteer responsibilities that would impair independence of judgment in the performance of Department duties.
2. Being involved in any outside employment or activity that may require improper disclosure or use of information obtained through Department sources. (See Utah Code 67-16-4.)
3. Accepting other employment that one might expect would interfere with the ethical performance of one's public duties.

**J. Other areas specifically mentioned in the Utah Code 67-16.**

**IV. Procedures:**

- A. Department of Human Services' employees will be informed of this policy by their supervisors, and/or in New Employee Orientation.
- B. Employees, volunteers and board members are required to complete the DHS Conflict of Interest form upon hire or appointment, and annually by July 1, whether they engage in outside activities or not, and prior to engaging in any outside employment or any volunteer activity that could result in a conflict of interest or potential conflict of interest.
- C. In addition to the Conflict of Interest form, employees (only) are required to complete and attach the Declaration of Outside Compensation form to the Conflict of Interest form if they receive or have agreed to receive compensation from another person or business entity that may have transactions involving an agency, division, or office of the Department of Human Services.
- D. The employee's or volunteer's immediate supervisor, unless otherwise directed by the employing division/office director, will review and approve or deny in writing the outside employment and/or the activities that could be considered a conflict or a potential conflict. The DHS Executive Director or designee will review and approve or deny in writing the Conflict of Interest forms for board members.

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- E. In the case of potential conflicts described above in section "II. Policy," item I (regarding procurement requests), employees or volunteers must submit the Conflict of Interest form to the division or office director. Board members must submit the Conflict of Interest form to the DHS Executive Director or designee.
- F. Completed conflict of Interest forms covering employment and activities that meet the criteria listed below must be forwarded to the director of the division/institution/region/office for approval.
1. The outside employment exceeds 20 hours per week. (Supervisors will submit with the Conflict of Interest form an analysis of the impact the employment could have or has upon the employee's ability to perform assigned work.)
  2. The outside employment is with a contractor who currently provides services to the Department or to clients of the Department.
  3. The Department employee himself is a contractor with the Department.
  4. Prior to bidding on any Department of Human Services request for proposal, while an employee, volunteer, or board member for the Department.
  5. The outside employment:
    - a. provides services to a current client of the Department or to a person who has been a client within the preceding six months, or
    - b. is such that the employee has or previously had direct work-related contact with clients of the Department, or
    - c. involves a fee when such fees are paid directly to the employee, a relative of the employee, or a business owned wholly or in part by the employee.
  6. The outside volunteer service includes service on a policy making or advisory board of an institution or agency that does business with the Department.
- G. Division/institution/region/office directors have the option to convene a panel of senior managers/supervisors to review Conflict of Interest forms received. The panel will consider the following criteria in making their recommendation for director approval:
1. Does the outside employment interfere with the efficient performance of the employee's position with the State? (R477-9-2(1)(a).)
  2. Does the outside employment conflict with the interests of the agency or the State of Utah? (R477-9-2(1)(b).)
  3. Is the employment the type that could reasonably give rise to criticism or suspicion of conflicting interests or duties? (R477-9-2(1)(c).)

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4. Would the outside employment provide a proven benefit to the State?
5. Would failure to approve the outside employment prove an extreme hardship to the client or employee?

**V. Submission and Maintenance of Forms:**

**A. Conflict of Interest Forms**

1. All full-time, part-time employees, contracted employees, volunteers, or board members are required to submit a Conflict of Interest form to their immediate supervisor upon hire or appointment, and annually by July 1. In addition, before employees start new outside employment or a new activity with a potential conflict, a Conflict of Interest form must be submitted to their immediate supervisors.
2. Status changes in previously approved outside employment or activities require a new submission of an updated form before the change takes place or within 30 days of such status change if it is not possible to submit the Conflict of Interest form beforehand.
3. All Conflict of Interest forms, whether approved or denied for involvement in an outside employment or activity, are to be filed in the employee's personnel file.

**B. Declaration of Outside Compensation Forms**

As applicable, an employee will file a Declaration of Outside Compensation form attached to a completed Conflict of Interest form:

1. Upon hire or appointment as a department employee, if already receiving or having agreed to receive outside compensation,
2. Within two weeks of receiving or having agreed to receive compensation, if already a department employee, or
3. Within two weeks whenever a department employee's position in the outside business entity changes significantly or if the value of his or her interest in the entity is significantly increased.
4. All Declaration of Outside Compensation forms attached to Conflict of Interest forms, whether the conflict of interest was approved or denied, are to be filed in the employee's personnel file, and a copy distributed to the State Attorney General, State Agency Council Division.

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**VI. Violations and Disciplinary Actions:**

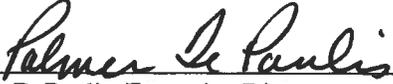
- A. If an employee fails to disclose on the Conflict of Interest form (and Declaration of Outside Compensation form, if applicable) and is subsequently determined to be engaged in outside employment or activity that should have been reported, management may take appropriate disciplinary action up to and including dismissal. The disciplinary action will take into consideration Utah Code 67-16-12, 67-19-18, and DHRM Rules R477-11.
- B. If agency management directs an employee to modify or cease outside employment or activity, whether previously approved or not, and the employee fails to do so, management may take appropriate disciplinary action up to and including dismissal.
- C. A supervisor may terminate the service of a volunteer if he/she fails to disclose on the Conflict of Interest form and is subsequently determined to be engaged in an outside activity that should have been reported. The Department of Human Services may take appropriate action with a board member who is deemed to be in violation of this policy.

**VII. Appeals:**

- A. An employee who disagrees with a supervisor's denial of outside activities may appeal to the division/institution/region/office (DIRO) director for reconsideration within 10 working days of the receipt of the denial.
- B. Appeals from a DIRO director decision may be made to the Executive Director or Deputy Director within 10 working days of the receipt of the decision. The decision of the Executive Director or Deputy Director is final.

**VIII. Audits:**

- A. During the internal audit of an organization, or at any other time considered appropriate, the Bureau of Internal Review and Audit (BIRA) will review a representative number of employee Conflict of Interest forms and Declaration of Outside Compensation forms.
- B. The audit will review proper and timely submissions, approvals or denials, and conformity of approvals or denials to current Department and State policy.

  
 \_\_\_\_\_  
 Palmer DePaulis, Executive Director  
 Department of Human Services

DATE: May 19, 2011

**UTAH DEPARTMENT OF HUMAN SERVICES  
CONFLICT OF INTEREST FORM**

|   |  |  |
|---|--|--|
| <b>NAME</b>   |  | <b>DATE</b>  |
| <b>EMPLOYEE / VOLUNTEER / BOARD MEMBER STATEMENT</b>  |  |  |
| <b>1. CURRENT DHS POSITION</b>  |  |  |
| Position Title:   |  | Agency:                      Unit:                             |
| Supervisor:   |  | Hours worked per week:   |
| Duties:   |  |  |
|   |  |  |
| <b>2. OUTSIDE ACTIVITY</b>  |  |  |
| Name of Organization:   |  | Position Title:  |
| Duties:   |  |  |
|   |  |  |
| <input type="checkbox"/> Employed <input type="checkbox"/> Volunteer <input type="checkbox"/> None  |  | Work / Activity Schedule:                      Hours per week: |
| Expected duration of employment / volunteer activity / other:   |  |  |
| <b>If you receive or have agreed to receive compensation from another person/business entity that may have a transaction(s) involving an agency, division, or office of the Department of Human Services you MUST also complete a Declaration of Outside Compensation form.</b> |  | Relationship Disclosure<br>Name:<br>Relationship:              |
| Other Disclosure:   |  |  |
| <b>3. ACTIONS TAKEN TO ENSURE THAT CONFLICTS OR POTENTIAL CONFLICTS WILL NOT OCCUR</b>  |  |  |
|   |  |  |
| <b>4. CERTIFICATION</b>   |  |  |
| I have read the DHS Conflict of Interest policy and feel that: <i>(check one)</i>   |  |  |
| <input type="checkbox"/> My outside activity does not constitute a conflict of interest.<br><input type="checkbox"/> My outside activity may constitute a conflict, but request review/approval.  |  |  |
| _____   |  | _____  |
| Employee Signature  |  | Date   |
| <b>SUPERVISOR ACTION</b>  |  |  |
| <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Referred   |  |  |
| If "Referred" block is checked, outside activity appears to meet requirements of the Department Conflict-of-Interest policy which requires submission to director of the division, office, region, or institution for review.   |  |  |
| _____   |  | _____  |
| Supervisor Signature  |  | Date   |
| <b>DIRECTOR ACTION</b>  |  |  |
| <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Conditional Approval   |  |  |
| If "Conditional Approval" block is checked, terms of approval are:  |  |  |
| _____   |  | _____  |
| Director Signature  |  | Date   |



**SWORN STATEMENT DECLARING OUTSIDE COMPENSATION, p. 2**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
Day Month Year

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Employee Name (printed)

Subscribed and Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**EMPLOYEE** is responsible to distribute copies of this declaration and shall provide them to:

1. The head of my own division/agency/office.
2. The head of the business entity.
3. DHRM Field Office for the Department of Human Services  
195 N. 1950 W., Second Floor  
Salt Lake City, Utah 84116  
Attention: DHRM Field Office Manager

**DHRM FIELD OFFICE for the Department of Human Services** is responsible to distribute a copy of this declaration to:

1. Employee's personnel file
2. State Attorney General, State Agency Council Division  
Heber Wells Building  
160 E. 300 S., Fifth Floor  
Salt Lake City, Utah 84111  
Attention: Ed Lombard

Date received by DHRM: \_\_\_\_\_

Date distributed to the Attorney General: \_\_\_\_\_

Name of Human Resource Technician: \_\_\_\_\_

# **Governor's Executive Order Establishing an Ethics Policy for Executive Branch Agencies and Executive Branch Employees**

Issued: January 26, 2010

## **EXECUTIVE ORDER**

### Establishing an Ethics Policy for Executive Branch Agencies and Employees

WHEREAS, State employees hold themselves to high ethical standards and act with integrity in their positions of public trust;

WHEREAS, confidence in government increases when State employees make decisions based upon the best interests of the public at large, without influence by those who may seek special favors and without regard to personal gain;

WHEREAS, public confidence is enhanced when State employees avoid situations and transactions that create the appearance of impropriety;

WHEREAS, compliance with a strong ethics policy protects public employees from any perception of wrongdoing; and,

WHEREAS, the Utah State law governing ethical standards of public employees can and should be improved;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of this State do hereby order that the Executive Branch and all Executive Branch employees are subject to the following restrictions:

#### 1. Application

- a. This order applies to all Executive Branch department or agency employees and replaces and supersedes any prior Executive Order establishing an Ethics Policy for Executive Branch Agencies and Employees. This order may be adopted by independently elected officers and their employees. This order does not apply to any Legislative Branch employee or Judicial Branch employee.
- b. Each Executive Branch department or agency shall amend their existing policy to be consistent with the restrictions set forth below.

#### 2. Prohibition Against the Receipt of Gifts

- a. Subject to the exceptions set forth below, an employee covered by this order is prohibited from accepting a gift or other compensation, either directly or indirectly, that might be intended to influence or reward the individual in the performance of official business. This prohibition shall apply notwithstanding Utah Code Ann. Section 67-16-5, which provides that gifts up to \$50 may be allowed in certain circumstances. Additionally, this order does not abrogate any restriction imposed by the Utah Procurement Code contained in Title 63G, Chapter 6, Utah Code Annotated.
- b. For purposes of this order, the term "gift" does not include:
  - i. campaign contributions received in accordance with Title 20A, Chapter 11, Utah Code Annotated;
  - ii. food, refreshments, or meals of limited value;

- iii. an item presented on behalf of a foreign government that becomes the property of the State;
  - iv. opportunities, discounts, rewards and prizes open to the general public or all employees of the State of Utah;
  - v. plaques or mementos recognizing service;
  - vi. trinkets or mementos of nominal value;
  - vii. gifts from family members, extended family members, or other employees of the State of Utah;
  - viii. gifts from personal friends where it is clear that the gift is motivated by personal friendship and not by the employee's position with the State;
  - ix. small efforts of common courtesy or other services of nominal monetary value;
  - x. funeral flowers or memorials;
  - xi. bequests, inheritances and other transfers at death;
  - xii. attendance or participation at events sponsored by other governmental entities;
  - xiii. attendance or participation at widely attended events that are related to governmental duties; and
  - xiv. travel to and from widely attended events related to governmental duties where acceptance of such travel would result in financial savings to the State of Utah.
- c. If an employee receives a gift, either directly or indirectly, that cannot be accepted, the employee may return the gift, pay its market value, or donate the gift to the State of Utah. If the gift is perishable or not practical to return, the gift may, with approval of the Department or Agency head, be shared with co-workers or given to charity.

### 3. Prohibition Against Nepotism in Hiring and Contracting

- a. An employee covered by this order may not take part in any hiring or employment decision relating to a family member. If a hiring or employment matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter. This prohibition shall apply notwithstanding the exceptions contained in Utah Code Ann. Section 52-3-1.
- b. An employee covered by this order may not take part in any contracting decision: (i) relating to a family member; or (ii) relating to any entity in which a family member is an officer, director or partner, or in which a family member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.
- c. For the purposes of this order, the term "family member" shall mean an employee's spouse, siblings, step-siblings, siblings-in-law, parents, step-parents, parents-in-law, children, step-children, children-in-law, and any person living in the same household as the employee.

4. Prohibition Against Lobbying Executive Branch Department or Agency Employees
  - a. An employee covered by this order may not knowingly permit a former employee, previously subject to this order during the course of his/her employment in the Executive Branch, to lobby the current employee unless a two year period has passed since the former employee's employment was terminated.
  - b. For purposes of this order, the terms "to lobby" and "lobbying" shall mean to receive compensation or other remuneration for attempting to influence executive action as defined in Utah Code Ann. Section 36-11-102(2).

5. Penalties

An employee covered by this order who violates this order is subject to appropriate discipline as provided in Utah Administrative Rule R477-11 and as determined by the Executive Branch department or agency head or the Governor's Chief of Staff.

IN WITNESS WHEREOF, I have here unto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol Building in Salt Lake City, Utah, this 26th day of January 2010.

(State Seal)

Gary R. Herbert  
Governor

ATTEST:

Greg Bell  
Lieutenant Governor