

04-05. Conflicts of Interest Policy

Internal Policies and Procedures of the Utah State Board of Education	
Policy	04-05
Subject	Conflicts of Interest
Date	April 1, 2022
Policy Owner	Director of Human Resources
Policy Officer	Deputy Superintendent of Operations
References	Utah Code §76-10-1204.5 Utah Code Chapter 67, Part 16, Utah Public Officers' and Employees' Ethics Act; DHRM Administrative Rule R477-9, Employee Conduct

I. Purpose and Scope

- The purpose of this policy is to ensure that private or outside economic, social, or political activities of a USBE employee do not interfere (or have the appearance of interfering) with an employee's duties and responsibilities as an agent of the State, or raise a reasonable question about the potential for such interference.
- This policy applies to all USBE employees.
- This policy relies on the following definitions:
 - *Enterprise*: A type of business association, including a profit or not-for-profit corporation, partnership, sole proprietorship, limited liability company, or cooperative association.
 - *Substantial interest*: The ownership, either legally or equitably, by a USBE employee, their spouse, or their children, of at least 10% of the outstanding capital stock of a corporation or at least 10% in any other business entity.
 - *Conflict of interest activity*: A situation where a USBE employee's private or outside economic, social, political, or volunteer interests interfere (or have the appearance of interfering) with that employee's duties and responsibilities as an agent of the State.
 - *Official action*: A recommendation, approval, providing significant input, evaluation, advice, counsel, or guidance with regard to a Board matter.
 - *Personal financial interest*:
 - A current or prospective employment arrangement of an individual employee or an immediate family member of an employee, including discussions leading to a prospective employment arrangement;

- Direct or indirect financial interest such as investment, stock ownership, or other equity interest in an enterprise; or
- An agreement to receive compensation in any form, either directly or indirectly, from an enterprise.
- Includes the financial interests of an employee's immediate family member, which are considered the personal financial interests of the employee.

II. Policy

- USBE employees shall comply with all provisions of Utah Code Chapter 67, Part 16, Utah Public Officers', and Employees' Ethics Act; Division of Human Resources Management Rule R477-9, as well as all provisions of this policy.
- A USBE employee may not accept outside employment that creates a conflict of interest; have substantial interest in a business that creates a conflict of interest; or participate in any activity, including volunteer activity, that is a conflict of interest.
- Stipend payments from outside entities shall not be accepted for work that is part of an employee's regular duties. Exceptions will be made if the employee performs the work on their own time or takes leave to perform the work, and does not represent themselves as a USBE employee.
- Responsibility to comply with the Ethics Act, Division of Human Resource Management Rules, and this policy rests with individual employees. It is not the responsibility of the Superintendency to keep employees out of conflict of interest situations.
- USBE employees shall receive a copy of this policy and be informed of this policy by their supervisor upon hire.
- A USBE employee may not take an official action with regard to any matter or enterprise in which the employee possesses a personal financial interest.
- A USBE employee whose official duties would require the employee to take official action with regard to a matter in which the employee possesses a personal financial interest shall immediately disclose such interest to the employee's supervisor in writing and request to be recused from taking such official action.
- The employee's supervisor shall excuse the employee from taking official action, in writing, if it is in the best interest of the Board; otherwise, the employee shall divest of the personal financial interest prior to taking the official action.

III. Procedures

Declaring Conflicts of Interest

- Prior to engaging in an activity (outside of religious activities) that may constitute a conflict of interest, a USBE employee shall report this to the employee's supervisor and complete the USBE Potential Conflict of Interest Declaration, and update or submit a new form annually.
- Whenever an employee's position with regard to such outside employment or activities changes, a new declaration shall be filed before the change takes place, or within 30 days of such change if it is not possible to submit the declaration beforehand.
- An employee seeking approval to engage in outside employment or other activities that may constitute a conflict of interest shall supply relevant information to the employee's supervisor regarding the activity or employment, and how it overlaps with USBE employment duties.
 - Relevant information may include position, authority, decision making involvement, contacts, clients, programs, access to information, interaction with government, location, etc.
- A USBE Potential Conflict of Interest Declaration that covers one of the following situations shall be forwarded to the applicable Deputy Superintendent for approval:
 - Outside employment exceeding 20 hours per week.
 - Outside employment with a contractor who currently provides services to clients of the USBE;
 - Outside work involves:
 - Providing services to a current client of the USBE or to a person who has been a client within the preceding six months;
 - The employee has or previously had direct work-related contact with the client; and
 - The outside work 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.
 - The outside volunteer service includes service on a policy making or advisory board of an institution or agency that does business with the USBE.
- Supervisors may convene a panel to review a USBE Potential Conflict of Interest Declaration. The panel will consider the following criteria in making their recommendation:
 - Does the outside employment interfere with efficient performance of the employee's position with the state?
 - Does the outside employment conflict with the interests of the USBE or the state of Utah?
 - Is the employment the type that could reasonably give rise to criticism or suspicion of conflicting interests or duties?
 - Would the outside employment provide a proven benefit to the state?
 - Would failure to approve the outside employment prove an extreme

hardship to the client or employee?

- If the decision is made to deny the employee, the employee shall be informed in writing that the activity considered is a conflict of interest, and a copy shall be placed in the employee's personnel file.
- A USBE employee may appeal a decision, in writing, to the Superintendent.

Reporting and Violations

- Employees may consult their immediate supervisor, any other supervisor in their direct chain of command, or the Division of Human Resource Management regarding conflict of interest questions.
- If an employee is concerned about a potential violation of the conflicts of interest policy, they may report it verbally or in writing to their immediate supervisor, any other supervisor in their direct chain of command, or the Division of Human Resource Management.
- Any violation of this policy may result in disciplinary and/or legal action, as appropriate. Violations of this policy will be reviewed and handled in accordance with the USBE's established disciplinary procedures.

IV. History

This policy was updated October 5, 2020 and replaces Board Policy 1005 and revisions to Policy 04-05, which was originally adopted October 6, 2020.