



CONFLICT OF INTEREST POLICY

<u>Policy Type:</u>	<u>Administration</u>	<u>Initially Approved:</u>	<u>BCM WFN 11/12-149 10/18/2011</u>
<u>Policy Sponsor:</u>	<u>Administration</u>	<u>Last Revised:</u>	
<u>Primary Contact:</u>	<u>Executive Director</u>	<u>Review Scheduled:</u>	
<u>Approver:</u>	<u>Chief and Council BCM WFN</u>		

## ~~Wahnapi'tae First Nation Conflict of Interest Policy~~

~~Amended by Chief and Council BCM WFN: 24/25-12  
At Chief and Council Meeting of: \_\_\_\_\_~~

~~Amended by Chief and Council BCM WFN: 20/21-03-238  
At Chief and Council Meeting of: March 23, 2021~~

~~Amended and Adopted by Chief and Council by BCM 15/16-17 on July 14, 2015~~

~~Adopted by Chief and Council by BCM 11/12 #149 on October 18, 2011~~

### 1. Purpose

1.1. The purpose of this conflict of Interest Policy is to enhance public confidence in the integrity of Wahnapi'tae First Nation council, committees, contractors and Administration by establishing clear rules of conduct with respect to conflict of interest.

### 2. Definitions

2.1. "Related person" means a spouse including a spouse in a common law relationship, parent, parent-in-law, sibling, child, grandchild, dependent, sister-in-law, brother-in-law, aunt, uncle, niece, nephew, or any person with whom that

person currently resides, or a business or corporation in which that person has an interest.

Other considerations of a conflict of interest are defined as follows:

- a person in respect of whom the individual or the individual's spouse is acting as guardian
- a person, other than an employee, who is financially dependent upon the individual or the individual's spouse or on whom the individual is financially dependent,
- an entity in which the individual or the individual in combination with any other person has a controlling interest
- any other person at the discretion of the Department Manager/Department Director
- Any employee or the spouse/partner of an employee shall not be a member on any governance committee regarding the same Department.
- Recruitment and Selection committees shall exclude employees who are directly related to an applicant.
- Any self-determined conflict of interest shall be declared prior to a meeting, discussion or decision-making/proceedings.
- Any perceived conflict of interest may be identified and determined by any meeting participant prior to any meeting, discussion or decision-making/proceeding.
- Any person determined in conflict of interest shall be excused from that portion of the meeting, discussion or decision-making/proceeding.
- Final determinations regarding staff conflicts shall be made by the Executive Director and/or Chief.

2.2. "Financial Benefit" includes but is not limited to:

- a) Employment benefits;
- b) Contract benefits;
- c) Educational, medical or other social benefits;
- d) Honorariums which are above those agreed upon;
- e) The payment of any money; and
- f) The allotment, leasing, or other grant of an interest in WFN lands

2.3 "Council or Councillor" means elected or appointed official representative of the First Nation that includes Chief, Councillors and the equivalent terminology used by the First Nation.

2.4 "Sibling" means brother or sister

2.5 "Personal interest" is defined as an interest the employee, contractor, or a member of their immediate family (siblings, parents, spouse or children), has in a matter involving the First Nation, including a monetary interest, or a perceived monetary interest and/or an opportunity to gain some benefit from a particular transaction or First Nation activity.

### **3. General Obligations**

1. Councillors, committee members, contractors and employees must avoid circumstances that could result in having a conflict of interest or an apparent conflict of interest.
2. In the performance of their duties and functions, Councillors, committee members, contractors and employees must act honestly and in good faith and in the best interests of the First Nation
3. Councillors, committee members, contractors and employees must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.
4. The Chief Administrative Officer/Executive Director must ensure that Councillors, committee members, contractors, and employees are informed of their obligations and must take steps to ensure these obligations are complied with.
5. A contractor must act at all times with integrity and honesty
  - in its dealings with the First Nation; and
  - in its dealing with any third party when the contractor is representing or acting on behalf of the First Nation.

A contractor must not attempt to obtain preferential treatment from the First Nation by offering gifts or benefits that a Councillor, committee member, or employee is prohibited from accepting.

A contractor must ensure that every employee or agent of the contractor who is engaged to perform duties or functions under the contract with the First Nation

is informed of their obligations and must take steps to ensure that these employees or agents comply with these obligations.

6. WFN recognizes that staff members may have family and/or personal relationships with other staff members or those served.

WFN staff members have an obligation to disclose a family and/or personal relationship to the person they directly report to and/or the Human Resource Manager and cooperate in providing information as required regarding the nature of the relationship and/or areas of potential concern. The following principles will govern decision-making:

Employees, who exercise supervisory authority or other discretionary control over others shall, wherever possible, disqualify themselves from dealing with related persons as defined in this policy under section 2.1.

## **Prohibition**

3.1. A Councillor, employee, or member of a committee of Council must avoid all circumstances that may result in an actual or perceived conflict of interest.

3.2 The following is strictly prohibited:

- favoring of WFN personnel or their friends or families over individuals not employed by WFN in the organization's delivery of service
- payment or any form of compensation (including gifts or honorariums) to or from another organization for the referral of persons served
- The direct referral or steering of persons served or their families to any private practices with which the organization's personnel are engaged

It is the responsibility of the Executive Director to immediately discuss any personal interest they may have with the Chief and Council.

## 4. When Conflict of Interest Arises

4.1. Under this policy, a conflict of interest will arise when:

- a) A Councillor, employee or committee member exercises an official power or performs an official duty or function in the execution of his or her office, job or committee and at the same time knows or ought to know that in the performance of that duty or function, or in the exercise of the power, there is opportunity to receive a Financial Benefit for themselves or to otherwise create an advantage for him or her or a related person over and above any other member of the public; or
- b) a Councillor's, employee's or committee member's personal interests supercede or compete with their duty to act in the best interests of the WFN.

4.2. For the purposes of this policy, a Councillor, employee or committee member has perceived conflict of interest if there is a reasonably informed person might have, that in the councillor's employee's or committee member's exercise of an official power or performance of an official duty or function, they may have been affected by his or her personal interest.

## 5. Duty to Avoid and Declare Conflict of Interest

5.1 Councillors, employees and committee members will arrange their private affairs and conduct themselves in a manner to avoid a conflict of interest under this policy.

5.2. A Councillor, employees or committee member with an actual or perceived conflict of interest will, without delay, declare the actual or perceived conflict of interest as follows:

- a) If Councillor or Executive Director, to council;
- b) If an Employee other than the Executive Director, to the Executive Director who will notify council; or
- c) If a committee member, to the relevant committee

5.3 If an employee has a personal interest in a matter that the employee is recommending for action, or making an individual decision on, that employee must make full disclosure directly to their Direct Supervisor or the Human

Resource Manager who will discuss the disclosure with the Executive Director. In the interim the employee must not participate in any discussion, decision-making or voting regarding these matters.

The Human Resource Manager will review the circumstances with the Executive Director and make a decision whether the matter is a conflict of interest or not. The determination will be based on legislation and employer requirements, and the consequences of the conflict. Following this discussion, the final decision will be communicated back to the employee in writing from the Human Resource Manager.

During the review, the Human Resource Manager along with the Executive Director have the authority to solicit additional information from the employee or any third party in the review of the matter in question and before rendering a decision.

If the Employee fails to comply with this policy (for a potential or real conflict), and if grounds for conflict of interest exists, the employee may be disciplined up to and including termination.

5.3. In any case where an actual or perceived conflict of interest has been declared, the council or chair of the relevant committee, as the case may be, will decide whether the perceived or actual conflict of interest does exist and advise as to the appropriate action in each case.

5.4. Where a councillor, employee or committee member is uncertain as to whether a conflict of interest may exist, the situation must be disclosed to council, to the committee or to the supervisor of an employee, as the case may be, for decision as to whether a conflict of interest does exist.

~~5.5. In the event a Councillor, employee or committee member believes another Councillor, employee or committee member to be in an actual or perceived conflict of interest, such person shall immediately report the matter to the Council, committee or supervisor of an employee, as the case may be, to ensure the application of this policy.~~

5.65. A Councillor, employee, or committee member with an actual or perceived conflict of interest will not exercise their powers as a Council member, employee or committee member and:

- a) Will not participate in any discussion or vote on any question in respect of the matter;
- b) Will immediately leave the meeting or part of the meeting during which the matter is under consideration;
- c) Will not sign a Band Council Resolution, Committee Resolution, or letter in respect of the matter; and
- d) Will not in any way, before during or after the meeting, attempt to influence the opinion or vote of the council or committee on any question in respect of the matter.
- e) The minutes of a Council meeting must record the Councillor's disclosure and note the Councillor's absence from the Council meeting when the circumstances in which the Councillor has a conflict of interest were being discussed or voted on.

## **6. Procedure for Undisclosed Conflict of Interest**

6.1. If a Councillor has reason to believe that another Councillor has a conflict of interest or an apparent conflict of interest in respect of a matter before the Council, the Councillor may request clarification of the circumstances at a Council meeting.

6.2. As a result of a clarification discussion under section 6.1, a Councillor is alleged to have a conflict of interest or an apparent conflict of interest and the Councillor does not acknowledge the conflict of interest or apparent conflict of interest and take the actions required under section 5.5, the Council must determine whether the Councillor has a conflict of interest or an apparent conflict of interest before the Council considers the matter.

6.3. The minutes of the Council meeting must record any determination made by the Council.

6.4. If the Council determines under section 6.2 that a Councillor has a conflict of interest or an apparent conflict of interest, the Councillor must comply with the procedures set out in section 5.5.

6.5. In the event an employee or committee member believes another employee or committee member to be in an actual or perceived conflict of interest, such person shall immediately report the matter to the Council, committee or supervisor of an employee, as the case may be, to ensure the application of this policy.

## **7. Acceptance of Gifts**

7.1. A Councillor, committee member, employee or a member of the councillor, committee member or employees family must not accept a gift or benefit that might reasonably be seen to have been given to influence the exercise of their powers or performance of their duties or functions

A gift or benefit may be accepted if it is considered within:

- a normal protocol exchanges or social obligations associated with the Councillor's office;
- a normal exchange common to business relationships
- a normal exchange common at public cultural events of the First Nation
- is not greater than a \$500 value
- is of a type of the policies or procedure of the First Nation that determines it would be acceptable if offered by the First Nation to another person

Any gift or benefit received by a Councillor, committee member or employee, including any of their immediate family, must disclose the gift or benefit to the Executive Director. The Executive Director will determine if that gift or benefit is acceptable or if the gift or benefit must be provided to the First Nation.

## **8. Confidential Information**

8.1 A Councillor, employee, contractor, agent or committee member must keep confidential all information that they receive while exercising their powers or performing their duties or functions unless the information is generally available

- to members of the public; or
- to members of the First Nation.

8.2. An employee must only use any confidential information referred to in section 8.1 for the specific purposes for which it was provided.

8.3. An employee must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the officer or employee's private interests or those of relatives, friends or associates.

## **9.1 Code of Conduct Declaration and Conflict of Interest Disclosure Forms**

9.1. At the beginning of their term of office, Council will read and understand the code of conduct and conflict of interest requirements and sign the Code of

Conduct Declaration and the Conflict of Interest Disclosure forms upon being elected and annually thereafter. Council will also disclose conflicts of interest as they occur and will follow the procedures set out in section 5.5.

9.2 On an annual basis, employees, contractors and agents will read, understand and sign the code of conduct forms.

9.3 At the beginning of their term and annually thereafter, committee members will read, sign and understand the code of conduct forms.

9.4. At the end of each fiscal year, the Executive Director will communicate, in writing, to Council members, committee members, Officers, employees, contractors and agents to obtain the signed Code of Conduct Declaration, and to obtain annual Conflict of Interest Disclosure forms from Council members.

9.5. The Executive Director will retain and file the signed Code of Conduct Declaration and signed Conflict of Interest Disclosure forms according to the relevant records management policy that protects the privacy of the persons making the disclosure.

9.6. Council will act if the required forms are not received within **90 days** of being notified by the Executive Director.

## **10. Outside Employment and Business Interests**

10.1. If a Council member, committee member, officer or employee is permitted under their terms of employment or terms of reference of the Committee to have outside employment or business interests, the Councillor, committee member, officer or employee must disclose these employment or business interests in writing to the Executive Director or, in the case of the Executive Director, to the chair of the Finance and Audit Committee and in the case of the committee member, to the chairperson of the committee.

10.2. A Council member, committee member, officer or employee must ensure that any permitted outside employment or business interests do not unduly interfere with the exercise of their powers or performance of their duties and functions and that these activities are conducted on their own time and with their own resources

## **11. Business Opportunities**

A contractor must not take advantage of a business or investment opportunity being considered by the First Nation and which the contractor becomes aware of while performing services for the First Nation unless the First Nation has determined not to pursue the opportunity.

## **12. First Nation Property and Services**

12.1 Employees must not use any personal property or services of the First Nation for any purposes unrelated to performance of their duties or functions unless that use is otherwise acceptable under the policies or procedures of the First Nation.

12.2 Employees must not acquire any personal property of the First Nation unless it is done in accordance with policies or procedures of the First Nation.

12.3 If a contractor has been provided the use of any property or services of the First Nation in order to perform services for the First Nation, the contractor must not use the property or services for any purposes unrelated to performance of those services.

## **611. Penalty**

6.1. Any Councillor, employee or committee member who fails to make a complete disclosure of a conflict of interest may lose their position without prejudice to any other disciplinary or legal action the Council, on behalf of WFN, may take.

## **712. Amendments**

This policy can be amended by the Chief and Council at any time at a duly convened meeting ~~with a simple majority vote~~ by way of motion.

## **13. REVISION HISTORY**

<b><u>Date: (mm/dd/yyyy)</u></b>	<b><u>Motions</u></b>
<u>07/14/2015</u>	<u>BCM WFN 15/16-17</u>
<u>03/23/2021</u>	<u>BCM WFN 20/21-03-238</u>

## **8143. Reviews**

This policy must be reviewed every 3 years from the date it is first adopted by Chief and Council.

## **154. Attachments**

- Code of Conduct Declaration
- Conflict of Interest Disclosure Form

## **Code of Conduct Declaration**

I hereby confirm that I have read and understand the Conflict of Interest Policy and the First Nation's Financial Administration Law ("the Law"), and agree to comply fully with them.

I agree that I will adhere to the following principles and responsibilities governing my professional and ethical conduct.

To the best of my knowledge and ability:

- I will comply with the Law, any other applicable First Nation law and any applicable standards
- I will act with honesty, good faith and in the best interest of the First Nation
- I will exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances
- I will avoid any real, potential, or apparent conflicts of interests
- I will act with due care, competence, and diligence, without misrepresenting material facts or allowing my independent judgement to be subordinated
- I will respect the confidentiality of information acquired in the course of my work or service except when authorized to do so in the performance of my duties or am otherwise legally obligated to disclose

- I will ensure responsible use of and control over all First Nation assets and resources entrusted to me
- I will adhere to Section C – Personal Conduct as detailed in the HR Policy
- I will be accountable for adhering to this declaration

**Declaration of Understanding:**

\_\_\_\_\_  
 Council member, Employee or Contractor  
 name (print)

\_\_\_\_\_  
 Council member, Employee or Contractor  
 name (signature)

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

**Conflict of Interest Disclosure Form**

A Council member, committee member, employee or contractor (“an individual”) has a “conflict of interest” when the individual exercises a power or performs a duty or function and at the same time knows or ought reasonably to have known that in the exercise of the power or performance of the duty or function there is an opportunity to benefit the individual’s private interests, otherwise known as personal gain at the expense of others.

All Council members, employees and contractors are required to declare any actual, potential or apparent conflicts of interest to the First Nation. Conflicts of interest could arise from “personal interests” which include:

- the individual’s spouse including a spouse in a common law relationship
- the individual’s parent, parent in-law
- the individual’s child or grandchild
- the individual’s sister or sister in-law
- the individual’s brother or brother in-law
- the individual’s aunt, uncle, niece or nephew
- any person with whom the individual resides with

- a business or corporation in which that person has an interest

**Declaration:** I disclose the following actual, potential or apparent conflicts of interest:

--

\_\_\_\_\_  
Council member, Committee member  
Employee or Contractor name (print)

\_\_\_\_\_  
Council member, Committee member,  
Employee or Contractor name (signature)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date