

Conflict of Interest Policy

Johnson County, Iowa

Johnson County addresses conflict of interest in the Employee Handbook and in the General Purchasing and Procurement Policy. This expanded policy incorporates the Board of Supervisors (Supervisors), appointed members of other boards and commissions, and introduces additional guidance for department heads and County employees. All other Elected Officials are encouraged to adopt and abide by this policy.

DEFINITIONS

- **Apparent Conflict of Interest:** One in which a reasonable person would think that the decisionmaker's judgment is likely to be compromised.
- **Closely Associated With:** In a close relationship or position in time or space.
- **Conflict of Interest:** A situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity.
- **Employee:** A person who works for another in return for financial or other compensation.
- **Family Member:** People related by marriage, blood relation, domestic partnerships, or adoption.
- **Financial Interest:** Any financial interest in or relationship or prospective relationship with an entity, including, but not limited to, ownership of stocks, bonds, partnerships or other equity interests, rights to patent or lease payments, receipt of consulting fees, salary, loans, gifts, compensation for serving on boards of directors, or other forms of remuneration.
- **Personal Interest:** To one person's interest or advantage. The pursuit of one's interest. Self interest.
- **Position of Authority:** One with a position of power, influence, and authority over another.
- **Potential Conflict of Interest:** A situation that may develop into a conflict of interest.

GENERAL

- A. Supervisors and employees of the County are required to comply with Iowa Code § 68B.2A: Conflicts of Interest. County officers or employees are also subject to other conflicts of interest sections including Iowa Code § 331.342, § 314.2, and § 721.2.
- B. Supervisors and employees shall promote the best interests of the Board and its departments consistent with policies, rules, regulations, and laws governing the Board and its employees. The duty of loyalty requires Supervisors to exercise their powers and duties in

the interests of the County and its departments and constituents and not in the Supervisor's own interest or in the interest of another person or organization.

- C. All Supervisors, appointed board/commission members, and employees must endeavor to remain free from the influence of, or appearance of, any conflicting interest in acting on behalf of the County or a department.

Actual or potential conflicts of interest may arise from the interests of the individual or the individual's spouse, significant other, close friends, or a family member. Such interests may include, but are not limited to, employment, ownership of a business, service on a board that has or may have relationships with the County.

A conflict exists whenever personal, professional, commercial, or financial interests outside of the County have the possibility, in actuality or in appearance of:

- i. interfering with one's ability to fulfill their employment obligations; or
 - ii. compromising one's professional judgment; or
 - iii. biasing or compromising, or giving the appearance of compromising, one's sound professional judgment; or
 - iv. resulting in personal gain for one, or one's immediate family, at the expense of the County.
- D. No Supervisor, appointed board/commission member, or employee may grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to all citizens. They must refrain from securing special privileges or exemption for themselves or their relatives beyond that which would be available to all citizens. They must not use privileged information for their own advantage or to provide friends or acquaintances with advantages or with information that could be used for financial advantage.
- E. No Supervisor, appointed board/commission member, or employee shall use or permit any other person to use the property owned by the County for any private purpose and for personal gain to the detriment of the County.

ANNUAL DISCLOSURE

- F. Each Supervisor, department head, and appointed board/commission member shall disclose, on an annual basis, any interests that may create an actual or potential conflict of interest and shall supplement the disclosure as new interests may appear. The conflict of interest disclosure form is supplied by the County.

- i. Supervisors shall complete the disclosure form within 30 days of the adoption of this policy. The disclosure forms shall be updated annually at the beginning of each calendar year.
 - ii. In the event of a Supervisor vacancy, the person filling the vacancy shall complete the disclosure form and submit it to the Human Resources department no later than 30 days after being sworn into office.
 - iii. Department heads should complete the form within 30 days of the adoption of this policy or upon hiring. The disclosure forms shall be updated annually at the beginning of each calendar year.
 - iv. Appointed board/commission members should complete the form within 30 days of the adoption of this policy or at the beginning of their term. The disclosure forms shall be updated annually at the beginning of each calendar year.
- G. Any and all employment, secondary employment, or outside employment shall be disclosed on the annual disclosure form.
- H. Any county employee with an actual or perceived conflict of interest must complete a disclosure form. Disclosure forms may be obtained and should be returned to the Human Resources Department. The disclosure process for employees is fully addressed in the Employee Handbook.
- I. Disclosure forms are considered public documents and are subject to open records requests.
- J. Disclosure forms will be collected annually, stored, and managed by Human Resources.

MANAGING CONFLICTS

- K. Each Supervisor, department head, and appointed board/commission member shall consult with the County Attorney on managing identified conflicts.
- i. For some conflicts, disclosure alone may be sufficient.
 - ii. Other conflicts may require recusal from participation on certain matters, divestiture of the interest, or resignation from a conflicting position.
- L. The following procedure shall be followed in the event a question arises with a Supervisor, department head, or appointed board/commission member regarding a conflict of interest:
- i. In all instances where someone has a question whether they may have a conflict of interest in a specific matter, such question shall be referred to the County Attorney for evaluation.

- ii. The Board office will consult with the Office of the County Attorney as necessary and appropriate to determine whether a conflict of interest is present and the manner in which it should be managed.
 - iii. If a Supervisor has a question about whether another Supervisor has a conflict of interest on a specific matter, the procedure noted above shall be followed, and the Supervisor having the alleged conflict shall be notified about the question at the time it is referred to the County Attorney.
- M. When a Supervisor has an interest, direct or indirect, in an entity proposing to offer a product or service to the Board or a department (including but not limited to committees, commissions, and more) under its jurisdiction, the Supervisor shall not have access to any information regarding the proposed transaction or any competing entity that is not otherwise available to the public or all entities competing under the proposed transaction.
- N. In the event of any dispute concerning the foregoing, the matter shall be referred to the County Attorney.

VIOLATIONS

- O. Violation of this policy may be cause for disciplinary action up to and including termination or removal from office.
- i. Complaints alleging conflicts of interest violations by local officials are filed with the County Attorney. (Iowa Code section 68B.34A.)
 - ii. Certain types of misconduct in office could be a serious misdemeanor. (Iowa Code section 721.2.)
 - iii. A contract entered into in violation of Iowa Code 331.342(2) is void. The exceptions to this are listed in this policy at “K”.
 - iv. For county employees including department heads, see the Employee Handbook Conflict of Interest section.
 - v. For appointed board/commission members, the Iowa Code and relevant Board bylaws will be referenced for guidance. In the absence of specific guidance, the Board of Supervisors will consult with the County Attorney.

EXCEPTIONS

- P. Based on Iowa Code § 331.342, this policy does not apply to:

- i. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
- ii. An employee of a bank or trust company, who serves as treasurer of a county.
- iii. Contracts made by a county upon competitive bid in writing, publicly invited and opened.
- iv. Contracts in which a county officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in paragraph “h”, or both, if the contracts are made by competitive bid, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this paragraph does not apply to a contract for professional services not customarily awarded by competitive bid.
- v. The designation of official newspapers.
- vi. A contract in which a county officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract shall not be renewed.
- vii. A contract with volunteer fire fighters or civil defense volunteers.
- viii. A contract with a corporation in which a county officer or employee has an interest by reason of stockholdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of the officer or employee.
- ix. A contract made by competitive bid, publicly invited and opened, in which a member of a county board, commission, or administrative agency has an interest, if the member is not authorized by law to participate in the awarding of the contract. The competitive bid qualification of this paragraph does not apply to a contract for professional services not customarily awarded by competitive bid.
- x. Contracts not otherwise permitted by this section, for the purchase of goods or services by a county, which benefit a county officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of six thousand dollars in a fiscal year.
- xi. A contract that is a bond, note, or other obligation of the county and the contract is not acquired directly from the county, but is acquired in a transaction with a third party, who may or may not be the original underwriter, purchaser, or obligee of the contract.

APPENDIX

Frequently Asked Questions

1. **What is a conflict of interest?** A conflict of interest arises when a board member or staff member has a personal interest that conflicts with the interests of Johnson County or arise in situations where a board member or staff member has divided loyalties (also known as a “duality of interest”). The former can result in situations that result in inappropriate financial gain to employees and persons in authority at Johnson County. Similarly, situations or transactions arising out of a conflict of interest can result in either inappropriate financial gain or the appearance of a lack of integrity in Johnson County’s decision-making process. Both results are damaging to Johnson County and are to be avoided.
 - a. *Example #1:* An employee or person in a position of authority may benefit financially from a transaction between Johnson County or an applicant for permits or other special consideration by Johnson County, and the board or staff member or others closely associated with the board or staff member may be affected financially. Family members, or their businesses, or other persons or the businesses of persons with whom the board member or staff member is closely associated, could benefit from similar transactions.
 - b. *Example #2:* A conflict of interest could be a direct or indirect *financial interest* such as those described above, or a *personal interest* such as the situation where a board member of Johnson County is also a board member of another nonprofit or for-profit entity in the community with which Johnson County collaborates or conducts business. These scenarios and situations include apparent conflicts of interest.
2. **Who might be affected by this policy?** Johnson County takes a broad view of conflicts. Board and staff members are urged to think of how a situation or transaction would appear to outside parties when identifying conflicts or possible conflicts of interest. In some circumstances, it may be difficult or challenging for the person with the apparent conflict of interest to notice the issue or identify the issue. Full, free, and annual disclosure is intended to assist Johnson County with remaining free from conflicts of interest in all of its dealings.
3. **Who should disclose conflicts of interest and when should they disclose?** Board members and staff are encouraged to disclose conflicts as they arise as well as to disclose those situations that are evolving that may result in a conflict of interest. Advance disclosure must occur so that a determination may be made as to the appropriate plan of action to manage the conflict. Staff should disclose to their

supervisor and board members should disclose to the board and Chairperson of the board as soon as the person with the conflict is aware of the conflict or potential conflict or appearance of a conflict.

4. **What are the procedures to manage conflicts?** For each interest disclosed, the full board should determine whether the board should: (a) take no action or (b) disclose the situation more broadly and invite discussion or resolution by the full board of what action to take, or (c) refrain from taking action and otherwise avoid the conflict. In most cases the broadest disclosure possible is advisable so that decisionmakers can make informed decisions that are in the best interests of the organization.
- a. When the conflict involves a decisionmaker, the person with the conflict (“interested party”): (i) should fully disclose the conflict to all other decisionmakers; (ii) should not be involved in the decision of what action to take (e.g., may not participate in the discussion leading up to a vote and may not vote on the matter).
 - b. In some cases, if the person with the conflict does not recuse themselves, then they may be asked to recuse themselves from sensitive discussions so as to not influence the discussion of the conflict.
 - c. In all cases, decisions will be made only by persons who do not have a manageable conflict of interest.
 - d. The fact that a conflict was managed and the outcome of the conflict management may be documented in the minutes of board meetings if the conflict was related to a board member. If the conflict was related to a staff member it may be reported by the board, Chairperson of the board, or other appropriate committee of the board.

All members of an appointed or elected board and department heads should monitor proposed or ongoing transactions of the designated organization or employees and staff (e.g., contracts with vendors and collaborations with third parties) for conflicts of interest and disclose them to the board chair, or Board of Supervisors Chair, as appropriate, whether discovered before or after the transaction has occurred.