



COLORADO
Department of
Labor and Employment
Division of Oil and Public Safety

Underground Damage Prevention Safety Commission
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Underground Damage Prevention Safety Commission Code of Conduct

Implemented in conjunction with the Bylaws
Effective 1/29/2019

Definitions

The following definitions apply to these Policies and Procedures unless the context requires otherwise:

- A. "Appearance of impropriety" means conduct perceived by a reasonable person to impair the ability to carry out official responsibilities with fairness, impartiality, objectivity, and integrity.
- B. "Conflict of interest" means a situation in which an individual's personal or financial interest conflicts with the individual's official responsibilities.
- C. "Individual" means any one of the Safety Commission's members, administrative support staff, or legal counsel.
- D. "Potential conflict of interest" means a situation in which an actual conflict of interest does not yet exist but may exist in the foreseeable future.
- E. "Safety Commission" means the Underground Damage Prevention Safety Commission formed pursuant to the Excavation Requirements in Title 9 Article 1.5 Sections 104.2, 104.4, 104.7 and 104.8 of the Colorado Revised Statutes (CRS) and the Review Committee members, when working in such a capacity.

Application of Policy

This policy is adopted pursuant to the requirements of the section 24-18-108.5, CRS; Rules of conduct for members of boards and commissions. It is applicable to Safety Commission members and is intended to supplement, but not replace, federal and state laws governing conflicts of interest applicable to commissions. Persons covered under this policy, as well as their spouses or dependent children, are hereinafter referred to as "individuals."

- A. The individuals governed by these policies and procedures shall perform their duties and responsibilities with fairness, impartiality, and objectivity, and shall maintain the integrity of the public trust vested in them.
- B. The individuals governed by these policies and procedures shall not permit family, social, political, financial, or other personal interests or relationships to influence the individual's conduct or judgment.

Purpose

The purpose of these policies and procedures is to describe how the Safety Commission, within Colorado Department of Labor and Employment, Division of Oil and Public Safety (OPS), handles conflicts of interest, potential conflicts of interest, or the appearance of impropriety among its commission members, administrative support staff, and/or legal counsel.

- A. A member of the Safety Commission who receives no compensation other than necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.
- B. Nothing in these policies and procedures is intended to interfere with the Safety Commission's independent internal governance; the Safety Commission may deviate from these policies and procedures to the extent it deems necessary and as permitted by law.

Roles and Functions

Pursuant to the Bylaws and statute, Safety Commission members are nominated by the applicable industry category and appointed by the Governor's Office. According to the process within the Bylaws, 3-5 members of the Safety Commission (at various times) serve on the Review Committee. Nothing in this policy is intended to prevent any Safety Commission members from voting on a motion to enter executive session.

Conflict of Interest

A conflict of interest may exist when the interests or concerns of an individual may be seen as competing with the interests or concerns of the Safety Commission. There are a variety of situations that raise conflict of interest concerns including, but not limited to, the following:

- A. Financial interests: A financial conflict does exist where an individual directly benefits or profits as a result of a decision, policy or transaction made by the Safety Commission.
- B. Other interests: A conflict also may exist where an individual obtains a non-financial benefit or advantage that he/she would not have obtained absent his/her relationship with the Safety Commission. A conflict of interest exists only when the Safety Commission members decide there is a conflict.

Disclosure of Potential Conflicts of Interest

An individual is under a continuing obligation to disclose to the Safety Commission any potential conflict of interest as soon as it is known or reasonably should be known.

Procedures for Review of Potential Conflicts

Whenever there is reason to believe that a potential conflict of interest exists between the Safety Commission and a Safety Commission member, or between a Safety Commission member and the persons involved in a complaint hearing, the Safety Commission shall determine the appropriate response. This shall include, but not necessarily be limited to, invoking the procedures described within this document with respect to a specific proposed action, policy or transaction, and following the Safety Commission Bylaws.

- A. An individual is responsible for bringing a potential conflict of interest to the attention of the Safety Commission promptly for action at the next regular meeting of the Safety Commission.
- B. Recusal: An individual governed by this policy may, in his or her own discretion, recuse himself or herself from any official duty, responsibility, or privilege, when a potential conflict of interest exists.

Procedures for Addressing Conflicts of Interest

An individual who has an actual or potential conflict of interest with respect to a proposed action, policy or transaction of the Safety Commission shall not participate in any way in the deliberations and decision-making vote of the Safety Commission with respect to such action, policy or transaction.

- A. The individual shall have an opportunity to provide factual information about the proposed conflict and/or action, policy or transaction. Also, the Safety Commission may request that the individual be available to answer questions.
- B. The disinterested members of the Safety Commission may approve the proposed action, policy or transaction upon finding that it is in the best interests of the Safety Commission. Approval by the disinterested members of the Safety Commission shall be by vote of a majority of members in attendance at a meeting at which a quorum is present.
- C. The individual shall not be counted for purposes of determining whether a quorum is present, nor for purposes of determining what constitutes a majority vote of Safety Commission members in attendance.
- D. The minutes of the meeting shall reflect that the conflict disclosure was made to the Safety Commission, the vote taken and, where applicable, the abstention from voting and participation by the individual. Whenever possible, the minutes should frame the decision of the Safety Commission in such a way that it provides guidance for consideration of future conflict of interest situations.
- E. In limited circumstances, the rule of necessity applies and allows Safety Commission members to hear a case in which the requisite number of other Safety Commission members would also have a disqualifying interest or the case could not otherwise be heard.

Violations of Conflict of Interest Policy

If the Safety Commission has reason to believe that an individual has failed to disclose a potential conflict of interest, it shall inform the individual of the basis for such belief and allow the individual an opportunity to explain the alleged failure to disclose. If the Safety Commission decides that the individual has in fact failed to disclose a possible conflict of interest, the Safety Commission shall take such disciplinary and corrective action as the Safety Commission shall determine.

Agreement

This Code of Conduct shall be reviewed at minimum upon appointment to the Safety Commission.