



**ALBERTA  
ENVIRONMENTAL APPEALS BOARD**

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**Code of Conduct and Ethics  
for the  
Environmental Appeals Board**

**Revised August 2018**

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## ENVIRONMENTAL APPEALS BOARD

### VISION

The Environmental Appeals Board's vision is to promote a high quality of life in Alberta through the timely and thorough review of environmental decisions that are appealed to the Board.

### MISSION

The Environmental Appeals Board will advance the protection, enhancement, and wise use of Alberta's environment by providing fair, impartial, and efficient resolution of all matters before it.

### MANDATE

The Environmental Appeals Board was created by the *Environmental Protection and Enhancement Act*, and is responsible for resolving appeals of specified decisions for regulated or directly affected parties as authorized under the applicable legislation. The Environmental Appeals Board provides a report and recommendations to the Minister with respect to most appeals, except where the legislation directs the Board to make the decision.

### Abbreviations used:

“APAGA” means the *Alberta Public Agency Governance Act*, S.A. 2009, c. A-31.5;

“CCEMA” means *Climate Change and Emission Management Act*, S.A. 2003, c. C-16.7;

“CCEPS” means the *Code of Conduct and Ethics of the Public Service of Alberta*;

“CIA” means the *Conflicts of Interest Act*, R.S.A. 2000, c. C-23;

“EPEA” means the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12;

“GOA” means the *Government Organization Act*, R.S.A. 2000, c. G-10; and

“PLA” means the *Public Lands Act*, R.S.A. 2000, c. P-40.

NOTE: As of August 1, 2018, no regulations have been passed under APAGA.

In this Code of Conduct and Ethics for the Environmental Appeals Board, citations have been included with certain sections. The citations correspond to different reference documents and are to assist in the interpretation of the Code of Conduct and Ethics. These reference documents are not intended to be binding.

Code of Conduct and Ethics  
for the Environmental Appeals Board  
(January 1, 2011; updated May 1, 2018; revised August 27, 2018)

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## **Code of Conduct and Ethics for the Environmental Appeals Board**

### **Introduction**

Preamble

The people of Alberta have a right to public services that are conducted with impartiality and integrity, and which uphold the reputation of the Environmental Appeals Board (the “Board”) as a public agency. This obligation to Albertans demands there not be, nor appear to be, any conflict between the private interests of the Board’s Members and the Board’s Employees and their respective duties to the public. At the same time, it is recognized the Board’s Members and the Board’s Employees have the same rights in their private dealings as any other citizen, unless it can be demonstrated a restriction to these rights is necessary to protect the public interest.

(CCEPS Preamble; APEGA Preamble; CIA Preamble)

Background

The *Alberta Public Agencies Governance Act*, S.A. 2009, c. A-31.5 (“APAGA”) came into force on July 8, 2009. The key element underlying APAGA is the need for transparency and accountability of the Government’s agencies, boards, and commissions. In accordance with section 1(1)(i)(iii) of APAGA, the Environmental Appeals Board is a “public agency” and subject to APAGA. The Board carries out an adjudicated function under APAGA. Section 11 of APAGA requires every public agency have a code of conduct governing its members and its employees. On December 15, 2017, amendments to the *Conflicts of Interest Act*, R.S.A. 2000, c. C-23 (“CIA”) came into force. These amendments brought members and employees of public agencies, boards, and commissions under the CIA. This is the Board’s Code of Conduct and Ethics required by APAGA and CIA.

### **Commitment to Alberta Public Service Values**

Commitment

The Board is committed to the values of the Alberta Public Service:

Respect

- we foster an environment in which each individual is valued and heard;

Accountability

- we are responsible for our actions and for contributing to the effectiveness of the public service;

Integrity

- we behave ethically and are open, honest, and fair;

Excellence

- we use innovation and continuous improvement to achieve excellence; and

Safe Work

Environment

- we are committed to a work environment where individuals are treated with dignity and respect.

Expected Conduct

The Board will not tolerate discriminatory, harassing, bullying, threatening, or abusive behaviour, by or against anyone, including its Board Members and Employees.

**Part I**  
**Definitions**

- Definitions      1   (1)      In this Code:
- (a)      “Authorization” means an approval, licence, disposition, or other right granted under the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 (“EPEA”), the *Climate Change and Emissions Management Act*, S.A. 2003, c. C-16.7 (“CCEMA”), the *Government Organization Act*, R.S.A. 2000, c. G-10 (“GOA”), the *Public Lands Act*, R.S.A. 2000 c. P-40 (“PLA”), or the *Water Act*, R.S.A. 2000, c. W-3;
  - (b)      “Board” means the Environmental Appeals Board established under section 90(1) of EPEA;
  - (c)      “Board Counsel” means the Employee of the Board holding the most senior Legal Officer position, or in the absence of an Employee holding a Legal Officer position, a member of the Law Society of Alberta retained to act as legal counsel for the Board;
  - (d)      “Board Member” means an individual appointed to the Board under section 90(1) of EPEA and includes the Chair;<sup>\*</sup>  

(CCEPS s. 1(1)(f))
  - (e)      “Chair” means the individual appointed to preside over the Board under section 90(1) of EPEA and who has the primary responsibility for the operations of the Board, and for the purposes of this Code, is a Senior Official;  

(APAGA s. 1(1)(d); CIA s. 23.921(3))
  - (f)      “Code” means this *Code of Conduct and Ethics for the Environmental Appeals Board*;  

(CCEPS s. 1(1)(a))
  - (g)      “Code Administrator” means the individual or individuals responsible for administering the Code as specified in section 4;
  - (h)      “Crown” means Her Majesty the Queen in Right of Alberta and includes, but is not limited to, a public agency as defined in APAGA;  

(CIA s. 1(1)(a))
  - (i)      “Deputy Head” means the Deputy Head of a department as specified in the *Public Service Act*, R.S.A. 2000, c. P-42;
  - (j)      “Designated Senior Official” means a designated senior official as defined in the CIA;  

(CIA s. 23.92(1)(d))
  - (k)      “Employee” means an individual who is not a Board Member, who undertakes work for the Board,<sup>\*</sup>

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<sup>\*</sup> Board Members, except the Chair, are cross-appointed to the Public Lands Appeal Board. Employees work for both the Environmental Appeals Board and the Public Lands Appeal Board.

- (i) including a wage employee, as defined under the *Public Service Act*, or an individual employed on a contractual basis to work directly for the Board, but
- (ii) not including an individual who is an independent contractor or who works for an independent contractor providing services to the Board;  
(CCEPS s. 1(1)(b))
- (l) “Enforcement Action” means the issuance of:
  - (i) an order under CCEMA;
  - (ii) an enforcement, environmental protection, or emergency environmental protection order under EPEA;
  - (iii) an enforcement orders under GOA;
  - (iv) an enforcement or stop order under PLA or any order under the *Public Lands Administration Regulation*, A.R. 187/2011; or
  - (v) a water management or enforcement order under the *Water Act*.
- (m) “Ethics Commissioner” means the Ethics Commissioner appointed under the CIA;
- (n) “Minister” means the Minister responsible for the Board under the GOA;
- (o) “Prescribed Screening” includes an academic background check, a reference check, a police background check, and any other background check required by the Government of Alberta;
- (p) “Public Service Commissioner” means the Public Service Commissioner appointed under the *Public Service Act*;
- (q) “Related Person” means a business associate or other person with whom the Board Member or Employee has a significant personal or business relationship, and includes:
  - (i) a corporation having share capital and carrying on business or activities for profit or gain and the Board Member or Employee is a director or officer of the corporation;
  - (ii) a private corporation carrying on business or activities for profit or gain and the Board Member or Employee owns or is the beneficial owner of the shares of the corporation;
  - (iii) a partnership of which a Board Member or Employee is a partner;
  - (iv) a partnership of which one of the partners is a corporation and a Board Member or Employee is associated with the corporation under sections 1(1)(q)(i) or 1(1)(q)(ii); or
  - (v) a person or a group of persons acting with the express or implied consent of the Board Member or Employee;
- (r) “Relative” includes a spouse, adult interdependent partner, minor or adult child, legal dependent, parent, sibling, in-law, grandparent, grandchild, niece, nephew, aunt, uncle, first cousin, and a person to  
(CIA s. 1(5))

whom the Board Member or Employee has demonstrated a settled intention to treat as a child of that individual's family;

(CIA s. 1(1)(e); CCEPS ss. 1(1)(c), 1(1)(e), 1(1)(g))

- (s) "Selection Panel Member" means a Board Member, Employee, or other individual assigned by the Board to participate in a selection or recruitment process;
- (t) "Senior Employees" means all Legal Officers employed by the Board, the Board Secretary, the Registrar of Appeals for the Board, and the Assistant Registrar of Appeals for the Board;  
(CCEPS s. 1(1)(f))
- (u) "Senior Official" means a senior official as defined in the CIA;  
(CIA s. 23.92(1)(k))
- (v) "Supervise" means to directly supervise or exercise influence over the assignment of duties, performance evaluation, or related responsibilities of a Board Member or Employee; and
- (w) "Temporary Employee" means an Employee working directly for the Board for three months or less.

Section  
References

- (2) Unless otherwise specified, where this Code refers to a section number, it is a section number of the Code.

Apparent Conflict  
of Interest

- (3) (a) In this Code, a "conflict of interest" includes an "apparent conflict of interest."
- (b) In this Code, an "apparent conflict of interest" shall be determined by:
  - (i) the Board Member or Employee who is in an apparent conflict of interest exercising the care, diligence, and skill that a reasonable and prudent Board Member or Employee would exercise in comparable circumstances; or
  - (ii) the Code Administrator, where the Code Administrator is required to make a decision under the Code.

Private Interest

- (4) In this Code, the "private interest" of a Board Member or Employee does not include an interest:
  - (a) in a matter that is of general application;
  - (b) that affects an individual as one of a broad class of the public; or
  - (c) that concerns the remuneration or benefits received from the Board.

(CIA s. 1(1)(g))

## **Part II**

### **Application**

Application

- 2 (1) This Code applies to all Board Members or Employees.

(APAGA s. 11(1); CIA s. 23.922(1); CCEPS s. 2(1))

Other Rules

- (2) This Code is in addition to:
  - (a) any legislation governing the actions of a Board Member or Employee, including in the case of an Employee the *Code of*

*Conduct and Ethics of the Public Service of Alberta* (the “CCEPS”);  
and

- (b) any binding written instructions the Government of Alberta or the Chair are authorized to issue.

(CCEPS s. 2(2))

Other Codes of Conduct (3) This Code is in addition to any other code of conduct, code of ethics, or rules of conduct a Board Member or Employee is required to comply with because of being a member of a regulated profession.

Intent of the Code (4) A conflict of interest between the private interests of a Board Member or Employee and their duty to the public, not specifically addressed in this Code, shall be dealt with according to the intent of this Code, and in keeping with the Board’s core values and guiding principles.

(CCEPS s. 2(3))

Resources (5) Where Board Members or Employees have questions regarding this Code and how to apply this Code, they should consult the Code Administrator.

### **Part III Interpretation**

Interpretation 3 (1) In interpreting this Code, the Board’s core values and guiding principles shall be taken into account.

Core Values (2) The Board’s core values include:

- (a) the Board applies the highest possible standards when addressing conflict of interest issues;
- (b) the Board’s purpose is to provide fair, impartial, and efficient resolution of all matters that come before it;
- (c) the Board is governed by the principles of natural justice and procedural fairness;
- (d) all persons who appear before the Board or have dealings with the Board shall be treated equally, and with respect and courtesy;
- (e) the Board’s processes are governed by the right of a person involved in an appeal to know the case that must be met and the right of that person to provide input into any decision that is made regarding the appeal; and
- (f) consensus-based decision-making (mediation) is the preferred way of dealing with matters that come before the Board.

Guiding Principles (3) The Board’s guiding principles include:

- (a) the Board recognizes that Board Members are selected based on their background and experience, and as such, it is likely that a conflict of interest will occur from time to time;
- (b) the Board proactively checks for conflicts of interest;

- (c) when an appeal is filed with the Board, the Board checks the appeal against potential conflicts of interest that have previously been disclosed by Board Members or Employees;
- (d) where a previously disclosed conflict of interest is identified, it is noted on the appeal file, appropriate mechanisms are put in place to prevent that Board Member or Employee from having dealings with the appeal, and appropriate disclosures are made to the persons involved with the appeal;
- (e) where a Board Member is assigned to a matter, either as the mediator or as a hearing panel member, the Board Member is required to review the appeal and disclose any conflicts of interest;
- (f) when new information is received by the Board, the Board Members assigned to the matter are required to review the new information and disclose any conflicts of interest;
- (g) where a conflict of interest is disclosed by a Board Member under sections 3(3)(e) or 3(3)(f), it is noted on the file and an appropriate course of action is decided upon and implemented, which may include but is not limited to disclosing the conflict of interest to the persons involved in the appeal and asking, in writing, if they waive the conflict of interest;
- (h) the persons involved in the appeal have the right to request a Board Member who is in a conflict of interest be removed from the matter; and
- (i) where the persons involved in the appeal waive a conflict of interest, the Board Member may continue to deal with the appeal.

**Part IV**

**Administration of the Code**

- |                     |   |         |   |
|---------------------|---|---------|---|
| Role of Chair       | 4 | (1)     | In this section, “Board Member” does not include the Chair.   |
| Code Administrator  |   | (2) (a) | The Chair is the Code Administrator for the Board Members and Employees.<br><br><div style="text-align: right;">(CCEPS s. 4)</div>                                |
|                     |   | (b)     | Any one Board Member and the Board Counsel, collectively, are the Code Administrator for the Chair.<br><br><div style="text-align: right;">(CCEPS s. 3(1))</div>  |
|                     |   | (c)     | In the event the Chair is absent or is unwilling or unable to act, the Board Counsel may act as the Code Administrator for the Board Members and other Employees. |
|                     |   | (d)     | In the event the Chair is absent or is unwilling or unable to act, any two Board Members may act as the Code Administrator for the Board Counsel.                 |
| Review of the Chair |   | (3)     | The Minister, any two Board Members, or any one Board Member and the Board Counsel may apply to the Ethics Commissioner in  |

writing for a review of any conflict of interest of the Chair, and such review shall be conducted in accordance with section 25.

Additional Rules (4) The Chair may, in writing, issue additional conflict of interest rules, which modify but do not detract from matters dealt with in this Code.

(CCEPS s. 3(2))

Delegation (5) With the exception of the Chair's authority under this section, where the Chair is authorized to act under this Code, the Chair may in writing delegate their authority to any Board Member or any Employee to act in the Chair's place.

### Complaint Procedures

Complaints 5 (1) (a) The Code Administrator is responsible for managing concerns and complaints regarding potential breaches of the Code, including conflicts of interest.

(CIA s. 23.922(2)(f))

(b) The Code Administrator shall ensure procedural fairness in all complaint processes.

(CIA s. 23.922(2)(f))

Compliance Reporting (2) (a) Board Members or Employees are required to report, in writing, breaches of this Code to the Code Administrator.

(b) When reporting a breach in good faith and with reasonable grounds, Board Members or Employees shall be protected from any retaliation for making such a report in compliance with section 24 of the *Public Interest Disclosure (Whistleblower Protection) Act*, S.A. 2012, c. P-39.5 ("*Whistleblowers Act*").

(CIA s. 23.922(2)(f); *Whistleblower Act*, s. 51)

Public Complaints (3) A member of the public may submit a written complaint regarding a potential breach of this Code to:

(a) the Board Counsel; or

(b) the Board Secretary if the complaint concerns the Board Counsel; who shall bring it to the attention of the Code Administrator.

Information in a Complaint (4) (a) The complaint shall include the name, address, and telephone number of the individual making the complaint.

(b) The complaint shall:

(i) identify the Board Member or Employee who committed the potential breach;

(ii) describe the potential breach;

(iii) identify the provisions of the Code governing the potential breach; and

(iv) provide documentary or other evidence supporting the potential breach.

- Responding to Potential Breach
- (5) (a) The Code Administrator shall notify the Board Member or Employee to whom the complaint relates and undertake an investigation of the complaint.
  - (b) Subject to section 5(c), the Board Member or Employee identified in the complaint has the right to complete information surrounding the complaint and has the right to respond fully to the complaint.
  - (c) The identity of the complainant shall not be disclosed unless required by law.
  - (d) The Code Administrator shall take into consideration the response of the Board Member or Employee to whom the complaint relates, reach a decision regarding the complaint, and complete a written report in a timely manner.
- (CIA s. 23.922(2)(f))
- (e) The Board Member or Employee to whom the complaint relates shall be provided with a copy of the written report.
  - (f) The member of the public who files a complaint shall be provided with a written response from the Code Administrator once the investigation is concluded.
  - (g) Where the Code Administrator determines the complaint was filed in bad faith or is frivolous, vexatious, or without merit, the Code Administrator may summarily dismiss the complaint.
- Consequences of a Breach
- (6) A Board Member or Employees who do not comply with the standards established in this Code shall be subject to appropriate disciplinary action commensurate with the severity of the infraction, as determined by the Code Administrator, and consistent with Part X of this Code.
- (CIA s. 23.922(2)(f))
- Review of Decision
- (7) A Board Member, Employee, or member of the public may apply, in writing, for a review of a decision made by the Code Administrator under section 5, and such review shall be conducted in accordance with section 25.

### **General Procedures**

- Written Summary
- 6 (1) When a Board Member or Employee discloses a conflict of interest to the Code Administrator, the Code Administrator may request the Board Member or Employee to provide a written summary of the conflict of interest.
- Agreement
- (2) When a Board Member or Employee discloses a conflict of interest to the Code Administrator, the Code Administrator shall discuss the conflict of interest with the Board Member or Employee, and attempt to reach an agreement as to how the conflict of interest shall be addressed.
- Decision
- (3) If the Board Member or Employee and the Code Administrator are unable to reach an agreement as to how a conflict of interest is to be

addressed under section 6(2), the Code Administrator shall, upon taking into account the comments of the Board Member or Employee, review the matter and make a decision as to how the conflict of interest shall be addressed.

- |                     |     |  |
|---------------------|-----|--|
| Resolution          | (4) | When an agreement is reached under section 6(2) or when the Code Administrator makes a decision under section 6(3), the Board Member or Employee shall implement the agreement or decision, subject to the review provisions detailed in section 25. |
| Record of Agreement | (5) | When an agreement as to how a conflict of interest shall be addressed is reached under section 6(2), the Code Administrator shall record the agreement in writing.   |
| Record of Decision  | (6) | When the Code Administrator makes a decision as to how a conflict of interest shall be addressed under section 6(3), the Code Administrator shall record the decision in writing and provide a copy of the decision to the Board Member or Employee. |
| Record to be Filed  | (7) | A copy of an agreement made under section 6(2) or a copy of a decision made under section 6(3) shall be maintained on the personnel file of the Board Member or Employee.  |

#### **Part V**

#### **Responsibilities under the Code**

#### **Impartiality and Integrity**

- |                            |   |     |  |
|----------------------------|---|-----|--|
| Impartiality and Integrity | 7 | (1) | Board Members and Employees shall conduct their duties with impartiality and integrity, in keeping with the principles of natural justice and procedural fairness, and in the best interests of the Board.<br><p style="text-align: right;">(APAGA s. 11(2)(a); CIA s. 23.922(2)(a); CCEPS s. 6)</p>                                     |
| Time and Attention         |   | (2) | Board Members shall devote sufficient time and attention to their duties as a Board Member to ensure their decision-making is informed, balanced, impartial, and in keeping with the principles of natural justice and procedural fairness.  |
| Background Check           |   | (3) | (a) Before being appointed to the Board, a potential Board Member shall undergo the Prescribed Screening.<br>(b) Before being employed by the Board, a potential Employee shall undergo the Prescribed Screening.<br>(c) The Code Administrator may exempt a Temporary Employee from being required to undergo the Prescribed Screening. |

#### **Disclosure**

- |            |   |     |   |
|------------|---|-----|---|
| Disclosure | 8 | (1) | A Board Member or Employee shall disclose to the Code Administrator any situation they are involved in where there is a conflict of interest, or where their impartiality or integrity may be called into question, as soon as possible upon becoming aware of the situation.<br><p style="text-align: right;">(APAGA s. 11(2)(c); CIA s. 23.922(2)(c); CCEPS ss. 7 and 9(4))</p> |
|------------|---|-----|---|

- |                                  |         |  |
|----------------------------------|---------|--|
| Proactive Disclosure             | (2) (a) | On or before March 31 <sup>st</sup> of each year, Board Members shall provide the Board with an updated curriculum vitae and a written statement, to the best of their knowledge, of any potential conflicts of interest that they may have with matters that may come before the Board. |
|                                  | (b)     | The documents required under section 8(2)(a) shall be confidential and shall not be disclosed to any person, with the exception of the Ethics Commissioner under section 25.   |
| Additional Disclosure            | (3) (a) | A Board Member or Employee shall disclose to the Code Administrator any charges against them concerning an offence under the <i>Criminal Code of Canada</i> , the <i>Controlled Drug and Substances Act</i> , or any other federal legislation.  |
|                                  | (b)     | A Board Member or Employee shall disclose to the Code Administrator any Enforcement Action taken against them.   |
| Code Administrator Determination | (4)     | In the event a Board Member or Employee makes a report under section 8(3), the Code Administrator shall determine if the Board Member or Employee has:   |
|                                  | (a)     | created a conflict of interest that impacts the Board’s interests; or  |
|                                  | (b)     | compromised the ability of the Board Member or Employees to continue to perform their role with the Board.   |
| Consequences                     | (5)     | If the Code Administrator makes a determination under section 8(4), the Board Member or Employee shall be subject to appropriate disciplinary action commensurate with the severity of the infraction, as determined by the Code Administrator, and consistent with Part X of this Code. |

**Furthering Private Interests**

- |                   |     |   |
|-------------------|-----|---|
| Private Interests | 9   | A Board Member or Employee must not:  |
| Decisions         | (1) | take part in a decision in the course of carrying out their office or powers knowing the decision might further their own private interest, a private interest of a person directly associated with them, or a private interest of a Related Person or Relative;  |
| Influence         | (2) | use their office or powers to influence or seek to influence a decision to be made by or on behalf of the Board to further their own private interest, the private interest of a person directly associated with them, the private interest of a Related Person or Relative, or to improperly further any other person’s private interest; or |
| Information       | (3) | use or communicate information not available to the general public that was gained by them in the course of carrying out their office or powers to further or seek to further their own private interest, the private interest of a Related Person or Relative, or any other person’s private interest.                                       |

(APAGA s. 11(2)(b); CIA ss. 23.922(2)(b) and 23.925; CCEPS s. 8)

### **Dealings with Others**

Board Members Disclosure	10	A Board Member who exercises regulatory, statutory, or other discretionary authority, shall disclose to the Code Administrator any relationship that is a conflict of interest or that may bring the Board Member's impartiality or integrity into question.
Employee Self-Disqualifications	11 (1)	An Employee who exercises discretionary authority shall be disqualified from dealing with any person appearing before the Board with whom they have a relationship that is a conflict of interest or that may bring the Employee's impartiality and integrity into question.
No Impairment of Service	(2)	In situations where the self-disqualification of an Employee would impair service delivery, the Employee shall advise the Code Administrator of the details of the disqualification before exercising any discretionary authority, and the Employee shall only exercise the discretionary authority in accordance with the instructions received from the Code Administrator. <p style="text-align: right;">(CCEPS s. 9(1))</p>
Employment	12 (1)	A Related Person or Relative of a Board Member or Employee may work for the Board provided there is no opportunity to exercise favouritism, and no conflict of interest exists for the Board Member or Employee involved.
Supervision	(2)	A Board Member or Employee may not Supervise a Related Person or Relative. <p style="text-align: right;">(CCEPS s. 9(2))</p>
Selection Panels	13	In selection or recruitment processes of any kind, a Selection Panel Member shall disqualify themselves from participating in the process where applicants include a Related Person, Relative, or other person where the continued participation of the Selection Panel Member may raise a question as to their impartiality. <p style="text-align: right;">(CCEPS s. 9(3))</p>

### **Outside Employment**

Chair Employment	14 (1) (a)	Recognizing the Chair is a part-time position, the Chair shall disclosed any appointment, employment, including self-employment, or income generating activity to the Minister, in writing.
	(b)	Recognizing the Chair is a part-time position, if the Chair is designated by the Lieutenant Governor in Council as a Designated Senior Official, the Chair must not be involved in any appointment, employment, including self-employment, or income generating activity, other than their position as Chair, without that undertaking being vetted by the Ethics Commissioner.* <p style="text-align: right;">(CIA s. 23.926)</p>

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\* The Chair has not been designated as Designated Senior Official.

Board Member Employment	(2) (a)	A Board Member shall disclose any appointment, outside employment, including self-employment, or income generating activities to the Code Administrator, in writing.  (CIA s. 23.922(2)(e))
Decision of Code Administrator	(b)	In response to a disclosure under section 14(2)(a), the Code Administrator shall review the matter and make a decision as to the appropriate action if in the Code Administrator’s opinion the Board Member’s appointment, outside employment, or income generating activities is a conflict of interest with the Board Member’s position on the Board.  (CIA s. 23.922(2)(e))
Employee Employment	(3)	An Employee may undertake outside employment, including self-employment, unless such employment: <ul style="list-style-type: none"> <li>(a) causes a conflict of interest with the Employee’s position with the Board;</li> <li>(b) is performed in such a way as to appear the Employee is acting in their capacity with the Board or representing the Board’s opinion or policy;</li> <li>(c) interferes with regular duties of employment; or</li> <li>(d) involves the use of the Board’s premises, equipment, or supplies, unless such use is expressly authorized, in writing, by the Code Administrator.</li> </ul> (CIA s. 23.922(2)(e); CCEPS s. 10(1))
Notification to Code Administrator	(4) (a)	Before accepting any outside employment, including self-employment, an Employee shall notify the Code Administrator, in writing, about the nature of the outside employment.
Decision of Code Administrator	(b)	In response to a disclosure under section 14(4)(a), the Code Administrator shall review the matter and make a decision as to the appropriate action if in the Code Administrator’s opinion the Employee’s outside employment is a conflict of interest with the Employee’s employment with the Board.  (CCEPS s. 10(2); CIA s. 23.922(2)(e))
Disclosure	(5)	When a Board Member or Employee believes a conflict of interest may result because of an appointment, outside employment, including self-employment, or other income generating activities, they shall disclose that information to the Code Administrator, in writing, and the Code Administrator shall investigate the matter and make a decision as to how to address the situation.
Compensation	(6)	A Board Member or Employee shall not accept compensation for duties they perform in the course of their work for the Board, other than the compensation provided by the Board.  (CCEPS s. 10(3))

- Future Employment (7) A Board Member or Employee shall not allow the performance of their duties at the Board to be influenced by offers of future employment, nor the anticipation of offers of employment.  
(CCEPS s. 10(4))
- Restriction on Post-Appointment Employment (8) A Board Member may not apply for employment with the Board until after 12 months has expired from the last day of the Board Member's appointment to the Board or the last day the Board Member did work for the Board, whichever is later.
- Restriction on Post-Employment Appointment (9) Unless expressly authorized by the Minister in writing, an Employee may not seek an appointment to the Board until after 12 month has expired from the last day of their employment.

### **Teaching**

- Teaching 15 (1) Board Members or Employees may teach courses at an educational institution or other organizations for a fee provided that:
- (a) Board information is protected, and privacy is respected;
  - (b) course preparation, instruction, and marking is done on the individual's own time, and does not rely upon the use of Board resources in any significant manner; and
  - (c) there are no conflicts of interest.
- (CIA s. 23.922(2)(e); CCEPS s. 8)
- Notification to Code Administrator (2) Before engaging in the teaching of courses at an educational institution or other organization, an Employee is required to notify the Code Administrator, in writing, about the nature of the teaching.
- Decision of Code Administrator (3) Should a conflict of interest arise in the course of teaching, Board Members or Employees shall inform the Code Administrator, and the Code Administrator shall investigate the matter and make a decision as to how to address the conflict of interest.
- Teaching Hours (4) An Employee may, with the consent of the Code Administrator, teach courses at an educational institution or other organization for a fee during normal working hours, provided the Employee maintains satisfactory performance of all regular duties.
- Withdrawal from Teaching (5) Where teaching by an Employee during normal working hours negatively impacts the performance of the Employee's regular duties, the Code Administrator may, by notice in writing, require the Employee to discontinue teaching as soon as reasonably practicable.

### **Speaking Engagements**

- Conferences 16 (1) A Board Member or Employee may speak at a conference or other similar event where they receive a fee, where their registration is provided for, or where an honourarium is paid provided that:
- (a) Board information is protected, and privacy is respected; and
  - (b) there are no conflicts of interest.

Disclosure (2) Where a Board Member or Employee speaks at a conference or other similar event associated with the Board's work, any fee, registration, or honourarium that is received by the Board Member or Employee, shall be disclosed, in writing, to the Code Administrator, on or before March 31<sup>st</sup> of the fiscal year in which it was received, as if it were a gift.

### **Volunteer Activities**

Disclosure of Volunteer Activities 17 (1) A Board Member or Employee who is actively involved or associated on a volunteer basis with any organization shall disclose, in writing, to the Code Administrator their interest in such an organization where a conflict of interest may arise.

(CIA s. 23.922(2)(e); CCEPS s. 12)

Self-Disqualification (2) Board Members or Employees who are actively involved or associated on a volunteer basis with any organization shall disqualify themselves from any Board activities that may relate to that organization.

(CCEPS s. 12)

### **Management of Private Assets**

Business or Financial Interests 18 (1) Where an actual or proposed business or financial interest of a Board Member or Employee, or a Related Person or Relative of that Board Member or Employee, is or may be affected by the actions taken or decisions made by the Board in which the Board Member or Employee participates, they shall disclose the business or financial interest to the Code Administrator.

(CCEPS s. 13(1))

Decision of Code Administrator (2) If a conflict of interest occurs under section 18(1), the Code Administrator shall review the matter and make a decision how to address the situation.

(CCEPS s. 13(2))

Confidential Information (3) Any information disclosed to the Code Administrator under section 18(2) is confidential and shall not be disclosed to any person, with the exception of the Ethics Commissioner under section 25.

(CCEPS s. 13(4))

### **Gifts**

Gifts 19 (1) (a) A Board Member or Employee shall not personally accept fees, gifts, or other benefits that may be perceived to be connected directly or indirectly with their duties at the Board, which could cause the perception of a conflict of interest.

(b) The Board or a Board Members or Employees may accept:

(i) the normal exchange of gifts between friends;

(ii) the normal exchange of hospitality between persons doing business together;

		(iii) token exchanges as part of protocol; or
		(iv) the normal presentation of gifts to persons participating in public functions provided no conflict of interest or perception of a conflict of interest results.
Limits	(2)	Gifts accepted by the Board or a Board Members or Employees must not:
	(a)	individually exceed a value of \$50; or
	(b)	exceed the value of \$50 from any one source within a fiscal year.
Disclosure	(3)	A Board Member or Employee shall disclose, in writing to the Code Administrator, all gifts received on or before March 31 <sup>st</sup> of the fiscal year in which they were received.
		(CIA s. 23.922(2)(d); CCEPS s. 14)
Public Disclosure	(4)	The Board shall publish a list of all gifts received, during the previous fiscal year, by the Board, its Board Members, and its Employees, on or before June 30 <sup>th</sup> of each year.
		<b>Political Activity</b>
Soliciting Political Contributions	20 (1)	Subject to section 20(5), a Board Member or Employee shall not participate directly in soliciting contributions of any kind for a political candidate, political party, or constituency association.
		(CCEPS s. 15(1)(a))
Federal and Provincial Office	(2)	A Board Member or Senior Employee may not seek nomination as a candidate in a federal or provincial election, nor hold office in a federal or provincial party or constituency association.
		(CIA s. 23.922(2)(e); CCEPS s. 15(1)(b))
Municipal Office	(3) (a)	A Board Member or Employee may become a candidate in a municipal election, with the prior written approval of the Code Administrator, who shall take into account the core values and guiding principles identified in this Code in making such a decision.
	(b)	The Chair may not become a candidate in a municipal election, except with the prior written approval of the Ethics Commissioner.
		(CIA ss. 23.922(2)(e) and 23.926; CCEPS s. 15(1)(b))
Leave of Absence	(4)	An Employee, who is not a Senior Employee, may run as a candidate in a federal or provincial election, but shall take a leave of absence without pay commencing on the day after the writ for the election is issued, or on the day their candidacy is publicly announced, whichever is later.
		(CCEPS s. 15(1)(c))
Exemption	(5)	Section 20(1) does not apply where a Board Member or Employee is running as a candidate for political office under sections 20(3) or 20(4).
		(CCEPS s. 15(1)(c))

- Resignation of Employment (6) An Employee who is elected to federal or provincial office shall resign their employment effective the day after the election.  
(CCEPS s. 15(2))
- Return to Employment (7) An Employee who seeks election, and is not elected, is entitled to return to the same position, effective the day after the election.  
(CCEPS s. 15(3))
- Municipal Office (8) A Board Member or Employee who is a candidate for municipal office shall, if elected, be subject to the provisions of this Code regarding outside employment.  
(CCEPS s. 15(4))

### **Public Statements**

- Matters before the Board 21 (1) A Board Member must consider the nature of their quasi-judicial role with the Board in any public statements they may make or publish, and a Board Member shall not comment publicly or privately on a matter that is actively before the Board.
- Generalized Statements (2) A Board Member shall use discretion in making generalized public statements that may be interpreted as bearing on any matter that is actively before the Board or that may be brought before the Board.
- Confidential Information (3) A Board Member or Employee who speaks or writes publicly shall not release confidential or privileged information obtained because of their work with the Board.  
(CCEPS s. 16(1))
- FOIP (4) Board Members or Employees shall adhere to the requirements of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25.  
(CCEPS s. 16(3))

### **Part VI**

#### **Crown Property**

- Acquiring Property 22 (1) A Board Member or Employee may acquire an interest in Crown property, personal or real, only if:
- (a) the Board Member or Employee obtains the prior written approval of the Code Administrator; and
  - (b) the Board Member or Employee discloses, in writing, to the Deputy Head of the department granting the interest that they are Board Member or Employee.  
(CCEPS s. 18(1))
- Renewal (2) If a Board Member or Employee obtains an interest in Crown property in compliance with this Code, they may renew the interest without further approval from the Code Administrator or further disclosure to the Deputy Head of the department granting the interest.  
(CCEPS s. 18(2))

Sale of Property (3) Where a Board Member or Employee has an interest in property, personal or real, being purchased by the Crown, they shall inform, in writing, the Code Administrator and shall disclose, in writing, to the Deputy Head of the department acquiring the interest that they are a Board Member or Employee.

(CCEPS s. 18(3))

## **Part VII**

### **Legislation Administered by the Board**

Authorization 23 (1) A Board Member or Employee may obtain an Authorization only if:

(a) the Board Member or Employee obtains the prior written approval of the Code Administrator; and

(b) the Board Member or Employee discloses, in writing, to the Deputy Head of the department granting the Authorization that they are a Board Member or Employee.

(CCEPS s. 18(1))

Renewal (2) If a Board Member or Employee obtains an Authorization in compliance with section 23(1), the Board Member or Employee may renew the interest without further approval from the Code Administrator or further disclosure to the Deputy Head of the department granting the interest.

(CCEPS s. 18(2))

## **Part VIII**

### **Advice**

Seeking Advice 24 (1) The Minister, the Chair, or the Code Administrator may apply to the Ethics Commissioner for advice regarding the interpretation of this Code, any additional conflict of interest rules, or the application of this Code or any additional conflict of interest rules.

(CCEPS s. 5)

Advice Provided in Confidence (2) The advice provided by the Ethics Commissioner shall be provided in confidence where it may affect the personal privacy of Board Members or Employees to which the advice relates.

Advice Not Binding (3) The advice provided by the Ethics Commissioner is not binding on the Minister, the Chair, the Code Administrator, or Board Members or Employees.

## **Part IX**

### **Review Process**

Request for Review 25 (1) An individual affected by a decision made by the Code Administrator may apply, in writing, to the Ethics Commissioner for a review of that decision.

(CCEPS s. 20(1))

Copy to Code Administrator (2) Where an individual applies to the Ethics Commissioner for a review under section 25(1), the individual requesting the review shall serve a copy of the request for a review filed on the Code Administrator.

Due Process (3) (a) Upon receiving a request for a review under section 4(3) and where the Ethics Commission decides to undertake a review, the Ethics Commissioner shall:

- (i) disclose the substance of the request for a review to the Chair;
- (ii) provide the Chair with an opportunity to provide a written response to the request for a review; and
- (iii) consider the written response in the review.

(b) Upon receiving a request for a review under section 5(7) and where the Ethics Commissioner decides to undertake a review, the Ethics Commissioner shall:

- (i) disclose the substance of the request for a review to the Board Member or Employee that is the subject of the review;
- (ii) provide the Board Member or Employee that is the subject of the review with an opportunity to provide a written response to the request for a review; and
- (iii) consider the written response in the review.

(c) Upon receiving a request for a review under section 25(1) and where the Ethics Commissioner decides to undertake a review, the Ethics Commissioner shall:

- (i) disclose the substance of the request for a review to the Board Member or Employee that is the subject of the review;
- (ii) provide the Board Member or Employee that is the subject of the review with an opportunity to provide a written response to the request for a review;
- (iii) consider the written response in the review.

Written Recommendations (4) Upon receipt of an application under sections 4(3), 5(7), or 25(1) the Ethics Commissioner may conduct a review and provide written recommendations to:

- (a) the individual who requested the review;
- (b) the individual or individuals who are the subject of the review;
- (c) the Code Administrator who made the decision if the review is of a decision made by the Code Administrator;
- (d) the Chair; and
- (e) the Minister, if the Chair is the subject of the review.

(CCEPS s. 20(2))

Alternative Review Process (5) (a) If the Ethics Commissioner is unwilling or unable to act under section 25, the individual requesting the review may apply to the Minister to determine an alternative review mechanism.

- (b) Where an individual applies to the Minister under section 25(5)(a), the individual shall serve a copy of the request on the Code Administrator.
- (c) Upon receiving an application under section 25(5)(a), the Minister shall consult with the Public Service Commissioner and shall, in writing, prescribe an alternative review mechanism that is consistent with the principles of natural justice and procedural fairness.

(CCEPS s. 20(3))

**Part X  
Consequences**

- |               |        |  |
|---------------|--------|--|
| Board Members | 26 (1) | A Board Member who does not comply with the provisions of this Code may face disciplinary action including suspension, fines, removal from files, and may, on the joint recommendation of the Code Administrator and the Minister, have their appointments repealed by the Lieutenant Governor in Council. |
| Employees     | (2)    | An Employee who does not comply with the provisions of this Code may on the recommendation of the Code Administrator, be subject to disciplinary action in accordance with the <i>Public Service Act</i> .   |

**Part XI  
Administrative Matters**

- |              |        |   |
|--------------|--------|---|
| Code Review  | 27 (1) | The Board shall review this Code every three years, and following the review, provide an updated version of the Code to the Minister.   |
|              | (2)    | Any amended Code shall be provided to the Minister and shall include a notice period establishing the date on which the amended Code will take effect.  |
|              | (3)    | Any amended Code shall be provided to the Ethics Commissioner and shall include a notice period establishing the date on which the amended Code will take effect.   |
| Distribution | 28 (1) | This Code is a public document and shall be published on the Board’s website and otherwise be made available to the public.<br>(CCEPS s. 11(3))   |
|              | (2)    | This Code shall be provided to all Board Members and Employees on commencement of their appointment or employment with the Board, and the Board Member or Employee shall sign a declaration acknowledging receipt of the Code.<br>(CCEPS s. 3(3)) |
|              | (3)    | Any amended Code shall be provided to all Board Members and Employees and shall include a notice period establishing the date on which the amended Code will take effect.   |
|              | (4)    | This Code shall be distributed to all Board Members and Employees on an annual basis and discussed annually at a meeting of the Board.  |

Coming into Force	29	The original Code came into force on January 1, 2011. This amended Code comes into force 30 days after being approved by the Ethics Commissioner.
Compliance	30	This Code complies with the requirements of section 11 of APAGA and Part 4.3 of the CIA.



**OFFICE OF THE ETHICS COMMISSIONER**

Hon. Marguerite Trussler, Q.C.  
Ethics Commissioner  
Officer of the Legislature

August 31, 2018

Honourable Shannon Phillips  
Minister of Environment and Parks  
Minister Responsible for the Climate Change Office  
Office of the Minister Environment and Parks  
208 Legislature Building  
10800 - 97 Avenue  
Edmonton, AB T5K 2B6

Dear Hon. Shannon Phillips,

Re: Codes of Conduct – Agencies, Boards and Commissions

I am writing to advise you that the Code of Conduct of the Environmental Appeals Board has been submitted to me for review and I am satisfied that the requirements of the Act have been met. The code may be published immediately.

Sincerely,

Hon. Marguerite Trussler, Q.C.  
Ethics Commissioner

cc: Alex MacWilliam, Chair, Environmental Appeals Board

Environmental Appeals Board

**306 Peace Hills Trust Tower, 10011 – 109 Street, Edmonton, Alberta, Canada, T5J 3S8**

**Telephone 780/427-6207, Fax 780/427-4693**

**[www.eab.gov.ab.ca](http://www.eab.gov.ab.ca)**

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