

State of Colorado



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Independent Ethics Commission Conflicts Policy (Revised July 11, 2023)

1. Purpose. The purpose of this policy is to describe how the Colorado Independent Ethics Commission addresses conflicts of interest, potential conflicts of interest, and appearances of impropriety among its commissioners, employees, and/or legal counsel.
2. Definitions. The following definitions apply to this policy 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. “Closed session” has the same meaning as is given in the IEC’s Rules of Procedure.
 - c. “Conflict of interest” means a personal or financial interest incompatible with an individual’s duty to remain fair, impartial, or objective, or to fulfill official duties.
 - d. “IEC” means the Colorado Independent Ethics Commission.
 - e. “Individual” means any one of the IEC’s commissioners, employees, or legal counsel.
 - f. “Potential conflict of interest” means a situation in which an actual conflict of interest does not yet exist but may arise in the foreseeable future. “Potential conflict of interest” does not include a merely hypothetical or possible conflict of interest.
3. Policy:
 - a. The IEC and the individuals governed by this policy 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 this policy shall not permit familial, social, political, financial, or other personal interests or relationships to influence their conduct or judgment.
 - c. An individual governed by this policy shall not participate in any official IEC action if said individual has a financial interest in the outcome. An individual governed by this policy may not receive compensation or economic benefit from decisions made by the

individual or in consideration of a vote in which the individual was involved, except as permitted by law.

- d. The individuals governed by this policy shall endeavor to avoid conflicts of interest, appearances of impropriety, and other situations that erode the public trust.
 - e. Nothing in this policy is intended to conflict with legal counsel's obligations under the Colorado Rules of Professional Conduct. In the case of any such conflict, the Colorado Rules of Professional Conduct take precedence.
 - f. Nothing in this policy requires a commissioner's recusal for merely contributing to a political campaign prior to the IEC's consideration of a case involving the recipient of the contribution. A commissioner should disclose the contribution in a public meeting and consider the totality of the circumstances in deciding whether to recuse himself or herself.
 - g. In limited circumstances, the rule of necessity may apply, allowing commissioners to consider a complaint in which the requisite number of commissioners would have a disqualifying interest or the complaint could not otherwise be considered.
4. Procedures:
- a. Recusals.
 - i. Mandatory recusal. An individual governed by this policy is disqualified and shall recuse themselves from any official duty, responsibility, or privilege, when a conflict of interest exists.
 - ii. Permissive recusal.
 - 1. An individual governed by this policy may, in their own discretion, recuse themselves from any official duty, responsibility, or privilege, when an appearance of impropriety or potential conflict of interest exists.
 - 2. An individual considering whether to permissively recuse should take into account the particular circumstances giving rise to the appearance of impropriety or potential conflict of interest and whether failure to recuse would erode the public trust.
 - 3. An individual who does not recuse himself or herself when an appearance of impropriety or a potential conflict of interest exists should disclose the appearance of impropriety or potential conflict of interest to the IEC and, if permitted under the Commission's confidentiality requirements, to the public. The individual should explain the reasons why his or her fairness, impartiality, objectivity, and integrity will not or are not expected to be adversely impacted.
 - 4. A potential conflict of interest that ripens into an actual conflict of interest requires mandatory recusal.
 - iii. Manner of recusals. When an individual governed by this policy recuses himself or herself, he or she shall do so by making a public announcement of the recusal, if and when possible, or by making an announcement of the recusal to the IEC immediately after entering closed session if public disclosure is not permitted by the IEC's confidentiality requirements. For a recusal occurring during

deliberations, the affected individual should leave the room in which the deliberations are occurring.

b. Roles and Functions.

- i. Commissioners. Nothing in this policy is intended to prevent any commissioner from voting on a motion to enter closed session. A recused commissioner may vote on the motion to enter closed session, then leave and remain outside the room in which the closed session is occurring.
- ii. Executive Director.
 1. Any duties or responsibilities necessary for the proper administrative functioning of the IEC that cannot be fulfilled due to the executive director's recusal may be transferred to other employees or the IEC's legal counsel.
 2. Due to the limited staffing of the IEC, nothing in this policy prevents the IEC's executive director from performing ministerial duties or administrative responsibilities, provided the IEC is satisfied that fairness, impartiality, objectivity, and integrity are maintained.
- iii. Legal counsel. When legal counsel recuses himself or herself, the IEC may obtain alternate legal counsel.
- iv. Executive Director and Legal Counsel. When both the IEC's executive director and legal counsel recuse themselves, the IEC may obtain alternate legal counsel who, in the absence of other available IEC employees, will also perform necessary administrative functions.