
VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

Commonwealth of Virginia

Board Policy 3.0: Conflict of Interest and Funding Eligibility

It is the policy of the Board to avoid conflicts of interest that present an unacceptable appearance of impropriety and that will affect the confidence of the public in the Board's ability to perform its duties impartially. The purpose of the State and Local Government Conflict of Interests Act (Va. Code. Sec. 2.2-3100, *et. seq.*) is to assure the citizens of the Commonwealth that the judgement of public officers and employees will not be compromised or affected by inappropriate conflicts between the personal economic interests and the official duties of Virginia's public servants.

I. Definitions

- A. "Officer" and "Employee" as used in the conflicts Act includes all VBPD Board members, employees, and interns or fellows working directly with and receiving compensation from VBPD.
- B. "Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may be reasonably anticipated to exceed, \$10,000 from ownership in real or personal property in a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually; (iv) ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.
- C. "Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a government agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.
- D. "Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business, or represents any individual or business and such property, business or represented individual (i) is the subject of the transaction or (ii) may

realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction.

- E. "Contract" means an agreement to which a government agency is a party, or any agreement on behalf of a government agency that involves the payment of money appropriated by the General Assembly, whether or not such contract is executed in the name of the Commonwealth. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own government agency.
- F. "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include honorary degrees or presents from relatives as defined in the Act.

II. Duties and Responsibilities

- A. The Executive Director and Board Chair shall communicate annually to all Board officers, members and employees the importance and necessity of maintaining the highest standards of conduct, and avoiding even the appearance of impropriety arising out of personal economic interests and the conduct of the business of the Commonwealth.
- B. All officers and employees shall be responsible for reviewing the provisions of the Virginia State and Local Government Conflict of Interest Act, Chapter 31 of Title 2.2, Code of Virginia (Va. Code Section 2.2-3100 *et. seq.*) upon initial appointment to or employment by the Board, or within 90 days of the effective date of this policy.
- C. As a condition of assuming office, Board members must file a disclosure of their personal interests and such other information as is required on the form as specified in Section 2.2-3118 and thereafter shall file such form annually on or before January 15.
- D. The Executive Director and employees of VBPD as designated or required by the Secretary of Health and Human Resources shall file a disclosure of their personal interests and such other information as is required on the form specified in Section 2.2-3118, and thereafter shall file such form annually on or before January 15.
- E. Employees of VBPD shall immediately disclose to the Executive Director any personal interest in a contract or transaction with VBPD other than his/her own contract of employment. Such disclosure shall be in writing and conform to the requirements of Va. Code Section 2.2-3114E or F, and be maintained on file by the Executive Director for a period of 5 years.
- F. The Executive Director and any member of the Board shall immediately disclose to the Chairperson of the Board any personal interest in a contract or transaction with

VBPD other than his/her own contract of employment or Board appointment. Such disclosure shall be in writing and conform to the requirements of Va. Code 2.2-3114E or F, and be maintained on file by the Executive Director for a period of 5 years.

III. Funding Eligibility:

A. Generally, no officer or employee of VBPD shall have a personal interest in a contract with VBPD other than his/her own contract of employment. However, VBPD may consider an application for grant funding in which a board member has a personal interest under certain limited conditions.

1. The personal interest of the board member meets a specific exception set forth in either Section 2.2-3106B or C, or 2.2-3110 of the Code of Virginia;

a) All exceptions should be reviewed. However, Code of Virginia, 2.2-3110(a)(4) is of particular relevance to Board members whose organizations may submit proposals for funding.

An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$10,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

2. The minutes of the board clearly reflect the member's disclosure of personal interest, the specific exception relied upon by the board, and a copy of the board members written disclosure is attached to the record of the board's proceedings;

3. The board member who has a personal interest in the contract or grant application shall recuse him/herself from all participation in the board's discussion and deliberation, and shall absent him/herself from that portion of the Board's meeting, if reasonably able to do so.

B. To avoid the appearance of a conflict or impropriety and to maintain the integrity of Board sponsored programs, a current participant of a Board sponsored program (Policy Fellow, Partners in Policymaking, Youth Leadership Forum, or any future Board sponsored program) shall not be eligible to submit a grant for Board funding during the time they are participating in a Board sponsored program when they are directly involved in the project being submitted for funding consideration.

1. An organization that employs a current participant of a Board sponsored program may apply for Board funding.
2. The Board shall not fund any project that is a requirement of participation in a Board Sponsored program, e.g., Partners in Policymaking final projects.
3. Former participants of Board sponsored programs shall be eligible to submit proposals for Board funding if they otherwise meet funding eligibility criteria.

IV. Requests for Advisory Opinion

Officers and employees are strongly urged to request an advisory opinion from the Attorney General through the Executive Director pursuant to Section 2.2-3126(A)(3) of the Code of Virginia as to whether the facts in a particular case would constitute an impermissible conflict of interest.

Adopted by the Virginia Board for People with Disabilities
Date: March 26, 2004