



## **ALBERTA LABOUR RELATIONS BOARD CODE OF CONDUCT**

### **PREAMBLE**

The Labour Relations Board is a quasi-judicial administrative tribunal which:

- Administers and enforces Alberta labour relations laws, and hears applications and appeals under those laws and other employment-related laws;
- Makes judgements about the rights and liabilities of parties that appear before it (an “adjudicative function”);
- Sets policy about the administration of those laws and the Board’s procedures in caucus and committees (a “policy function”);
- Educates and communicates with labour relations stakeholders and the public (an “ambassador function”).

The public, the Board’s stakeholders, and parties appearing before the Board have a right to a Board which performs these roles impartially and ethically. These obligations arise from the Board’s duty of natural justice and procedural fairness as a quasi-judicial administrative tribunal, and its role in ensuring confidence in the fairness of Alberta’s labour relations system. It requires that individuals acting on behalf of the Board not have, nor be seen to have, any conflict between their private interests and their duties with the Board.

The Board is an expert Board. Its Members are appointed because of their activity and expertise in labour relations. Members are also appointed on a roughly equal basis from the management or union side of the labour relations field. Their activities often continue during the Member’s appointment. This is a deliberate part of the nature of the Board. This Code of Conduct should be interpreted in a manner recognizing that Members bring experience and continuing perspectives informed by their work in labour relations, while avoiding direct conflicts of interest.

The purpose of this Code of Conduct is to provide guidance to the Board’s Members, Chairs and Vice-chairs, and employees regarding their ethical obligations in performing their duties with the Board.

## PART 1: DEFINITIONS

1. In this Code of Conduct:

“Chair” means the Chair of the Board designated pursuant to section 8(3) of the *Code*;

“Code” means the *Labour Relations Code*, RSA 2000, c L-1;

“Code of Conduct” means this Code of Conduct, as amended from time to time;

“Employee” means an employee of the Board appointed pursuant to section 10(1) of the *Code*;

“Member” means a member of the Board appointed pursuant to section 8(2) of the *Code*, except for the Chair and the Vice-chairs;

“Minor Child” means a child under the age of majority;

“Spouse” includes a party to a relationship who is living together with another person on a bona fide domestic basis, but does not include a spouse who is living apart from the person if they have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order;

“Vice-chair” means a vice-chair of the Board designated pursuant to section 8(3) of the *Code*.

2. A person to whom this Code of Conduct applies is in a “conflict of interest” if they:

- (1) take part in the adjudication of, or otherwise participates in, a Board file or decision or action by the Board, in the course of carrying out their duties, knowing that the Board’s decision or action might further a private interest of the person, their Spouse or Minor Child, or any business associate or organization with whom they are associated;
- (2) use their public role to influence or seek to influence a decision or action by the Board which could further a private interest of the person, their Spouse or Minor Child, or any business associate or organization with whom they are associated;
- (3) use or communicate information not available to the general public that was gained in the course of carrying out their duties, to further or seek to further a private interest of the person, their Spouse or Minor Child, or any business associate or organization with whom they are associated.

3. A “private interest” does not include an interest in a matter that is of general application, or that affects a person as one of a broad class of the public, or that is trivial.

**PART 2: GENERAL OBLIGATIONS OF THE CHAIR, VICE-CHAIRS AND EMPLOYEES**

4. This part of the Code of Conduct applies to the Chair, Vice-chairs, and Employees except where otherwise stated.
5. The Chair, Vice-chairs and Employees must act impartially and independently in carrying out their duties.
6. The Chair, Vice-chairs and Employees must not act in self- interest or further their private interests by virtue of their position with the Board or in carrying out their duties, or otherwise act in a conflict of interest.
7. The Chair, Vice-chairs and Employees must disclose all matters which would create a reasonable apprehension of bias in the performance of their duties, including any real or apparent conflict of interest.
  - (1) An Employee must disclose to the Chair or the Chair's designate at the earliest opportunity all circumstances where their private interests could conflict, appear to conflict, or do conflict with the performance of their duties.
  - (2) A Vice-chair must disclose at the earliest opportunity all circumstances where their private interests could conflict, appear to conflict, or do conflict with the performance of their duties, so the Chair may assign Vice-chairs to hearings appropriately.
  - (3) For matters arising during the Chair's or Vice-chair's conduct of a hearing or other adjudication of a Board file, the Chair or Vice-chair shall disclose the matter to the parties before determining whether a conflict of interest or reasonable apprehension of bias exists. For clarity, this obligation of disclosure does not apply to matters that are trivial.
8. Employment Matters
  - (1) Vice-chairs and Employees may take supplementary employment including self-employment unless such employment:
    - (a) causes an actual or apparent conflict of interest, or
    - (b) is performed in such a way as to appear to be an act of the Board, or to represent a Board decision, opinion or policy, or
    - (c) interferes with regular duties, or
    - (d) involves the use of Board premises, equipment or supplies, unless such use is otherwise authorized.

- (2) Prior to accepting supplementary employment, Employees or Vice-chairs shall notify the Chair or designate in writing about the nature of such supplementary employment, who shall review for any actual or apparent conflict of interest.
  - (3) The Chair, Vice-chairs and Employees shall not accept additional compensation for duties which they perform in the course of their employment with the Board.
  - (4) The Chair, Vice-chairs and Employees shall not allow the performance of their duties to be influenced by offers of future employment or the anticipation of offers of employment.
  - (5) The restrictions listed in subsection (1) also apply to volunteer activities.
9. The Chair, Vice-chairs and Employees shall not accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their duties, from any individual, organization or corporation, other than:
- (1) the normal exchange of gifts between friends;
  - (2) the normal exchange of hospitality between persons doing business together;
  - (3) tokens exchanged as part of protocol;
  - (4) the normal presentation of gifts to persons participating in public functions, awards, speeches, lectures, presentations or seminars.
10. The value of a gift or benefit permitted under section 9 should not exceed \$50 in value, and the total value of gifts or benefits from any one source in a calendar year shall not exceed \$100.
11. The Chair, Vice-chairs and Employees shall preserve the confidentiality of all information obtained as a result of their position, and shall adhere to the requirements of the Freedom of Information and Protection of Privacy Act.
12. The Chair, Vice-chairs and Employees shall foster a collegial and respectful approach to the performance of their duties and responsibilities

### **PART 3: SPECIFIC OBLIGATIONS OF THE CHAIR AND VICE-CHAIRS**

13. The Chair and Vice-chairs are restricted for a minimum period of six months after appointment from participating in hearings involving a party or representative with whom they were formerly in a significant business, professional or personal relationship.
14. As a senior official and designated senior official pursuant to the *Conflicts of Interest Act*, the Chair is subject to the following additional obligations under that *Act*.

- (1) In addition to the obligations in section 6, the Chair must not take part in a decision in the course of carrying out his or her office or powers knowing that the decision might further a private interest of the Chair, a person directly associated with the Chair, or the Chair's Minor child or adult child.
- (2) In addition to the obligations in section 6, the Chair must not use her or her office or power to influence or seek to influence a decision made by or on behalf of the Crown or the Board to further a private interest of the Chair, or a person directly associated with the Chair, or to improperly further any other person's private interest.
- (3) In addition to the obligations in section 11, the Chair must not use or communicate information not available to the general public that was gained by the Chair in the course of carrying out his or her office to further or seek to further a private interest of the Chair or any other person's private interest.
- (4) The Chair must not be involved in any other appointment, business, undertaking or employment, including self-employment, except with written approval of the Ethics Commissioner and in compliance with any conditions included in such approval.
- (5) The Chair is subject to restrictions on the ownership or beneficial interest in publicly traded securities, unless held in an approved arrangement pursuant to the *Conflicts of Interest Act*;
- (6) The Chair is subject to the filing of prescribed disclosure statements, and returns relating to persons directly associated with the Chair, with the Ethics Commissioner;
- (7) The Chair is subject to, for a period of 12 months after employment, the obligation to refrain from lobbying,
- (8) The Chair is subject to, for a period of 12 months after having direct and significant official dealings with a department or agency, the obligation to refrain from making representations to that department or agency;
- (9) The Chair is subject to, for a period of 12 months after having direct and significant official dealings with a department or agency, the obligation to refrain from soliciting or accepting a contract from that department or agency;
- (10) The Chair is subject to, for a period of 12 months after having direct and significant official dealings with an individual, organization or board of directors or equivalent body of an organization, the obligation to refrain from accepting

employment with that individual or appointment to the board or equivalent body of an organization;

- (11) With respect to the current Chair at the time of adoption of this Code of Conduct, the requirements of sections 14(4)-(10) only apply upon the earlier of:
- (a) the Chair's reappointment or contract renewal, or
  - (b) in the case of section 14(4), December 15, 2019, and in the case of sections 14(5)-(10), April 4, 2020.
15. To the extent of discrepancy between this Code of Conduct and the *Conflicts of Interest Act*, the Act governs. To the extent further persons with the Board are designated as designated senior officials, these obligations will apply to them and this Code of Conduct will be amended.

#### **PART 4: MEMBERS**

16. The Members of the Board are experienced labour relations practitioners, appointed because of their activity and expertise in the field of labour relations. Most Members will continue to practice in the field of labour relations, and the Member and organizations with which they are associated with may continue to appear as a party in matters before the Board. Subject to the rules established below, this does not place the Member in any conflict of interest or give rise to any reasonable apprehension of bias.
17. Members shall act independently in exercising their duties. While Members are appointed on a roughly equal basis from the management or union side of the labour relations field, Members are not appointed to represent, or as a delegate of, any particular group.
- (1) No person or organization has any right to recall or censure a Member for their Board activities.
  - (2) No Member's conduct in their Board adjudicative duties in any Board hearing or other adjudicative function on a Board file shall be influenced by or exercised on behalf of any individual, organization or group.
  - (3) The Board recognizes the Member's input into Board policy matters require the Member to bring to bear relevant considerations in their experience on the issue, and may be influenced by the views of organizations or groups with which the Member is associated. However, the Member's authority is ultimately their own, and not as a delegate for any other organization or group.
18. Members shall act impartially in exercising their duties. The Board recognizes Members are not biased, and there is no reasonable apprehension of bias, merely because the

Member has practiced or continues to practice on either the labour or management side of labour relations. Impartiality requires Members to adjudicate matters before the Board with an open mind to the evidence and arguments of the parties, free from irrelevant or inappropriate influences or prejudgment.

19. Members must not act in self-interest or further their private interests by virtue of their position with the Board or in carrying out their duties, or otherwise act in a conflict of interest.
  - (1) Members must decline assignment to any hearing of a matter where the decision may further a private interest of the Member, their Spouse or Minor Child, or any business associate or organization with whom they are associated.
  - (2) For clarity, a Member does not act in a conflict of interest merely because the decision from a Board hearing may result in a decision of general application which would be favorable to a business associate or organization with whom the Member is associated.
20. Members shall decline assignment to hearings with the Chair, Vice-chairs or other Members before whom the Member has appeared before as a witness, counsel, spokesperson or instructing representative, until such time as the decision in respect of that matter has been released.
21. As soon as possible, the Member must disclose to the Chair or Vice-chair appointed to chair the hearing, or their designate, all matters which would create a reasonable apprehension of bias in the performance of their duties, including any real or apparent conflict of interest. The Chair or Vice-chair shall determine whether it is necessary to disclose the matter to the parties before the Member determines whether a conflict of interest or reasonable apprehension of bias exists. For clarity, this obligation of disclosure to the parties does not apply to matters that are trivial.
22. There is no bar on other employment for Members. In performing other employment, Members must:
  - (1) Refrain from actions or statements in the course of other employment that appear to be acts of the Board, an exercise of the Member's Board-related duties, or appear to represent a Board decision, opinion or policy;
  - (2) Not accept additional compensation for duties which they perform in the course of their Board duties;
  - (3) Not allow the performance of their Board duties to be influenced by offers of compensation or advancement of their employment, future employment or the anticipation of offers of employment.

- (4) These restrictions also apply to volunteer activities.
23. Members shall not accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their Board duties, from any individual or organization, other than:
  - (1) the normal exchange of gifts between friends;
  - (2) the normal exchange of hospitality between persons doing business together;
  - (3) tokens exchanged as part of protocol;
  - (4) the normal presentation of gifts to persons participating in public functions, awards, speeches, lectures, presentations or seminars.
24. The value of a gift or benefit permitted under section 9 should not exceed \$50 in value, and the total value of gifts or benefits from any one source in a calendar year shall not exceed \$100.
25. The Board recognizes Members will associate with individuals and organizations who may appear before the Board in the course of their non-Board related labour relations activities, and may receive fees, gifts or other benefits that are not connected, either directly or indirectly, with the performance of their Board duties. This is not a violation of this Code of Conduct. However, Members are cautioned:
  - (1) The acceptance of fees, gifts or other benefits from a person or organization who has appeared as a party, witness, counsel, spokesperson or instructing representative at a hearing to which the Member was assigned, and for which the decision has not been released, should be avoided unless falling within the exceptions of section 23(1)-(4). If the matter would raise a reasonable apprehension of bias, it must be disclosed to the Chair or Vice-chair in accordance with section 21.
  - (2) In all other circumstances, Members should still consider whether the fee, gift or other benefit not connected with the performance of their Board duties would create a reasonable apprehension of bias if the Member accepted assignment to a hearing involving the donor.
26. Members shall foster their expertise and professional competence and knowledge of adjudication, relevant law and hearing procedure.
27. Members shall foster a collegial and respectful approach to the performance of their duties and responsibilities.

28. Members are encouraged to express and exchange strongly held views, in panel discussions on issues of substance as they work towards consensus in decision making, and in their policy discussions in Board caucus and committee functions.
29. Members shall preserve the confidentiality of all information obtained as a result of their position, and shall adhere to the requirements of the Freedom of Information and Protection of Privacy Act.

#### **PART 5: ADMINISTRATION AND REVIEW PROCESS**

30. The Chair is responsible for the administration of this Code of Conduct.
31. Persons subject to this Code of Conduct shall affirm in writing on an annual basis their understanding of, and commitment to, the obligations of this code.
32. Where a question concerning the application of the Code of Conduct arises in relation to the Chair, except in accordance with section 33, the Ethics Commissioner is responsible for the administration of this Code of Conduct.
33. The Chair, Vice-chairs and Members are adjudicative decision-makers owing duties of natural justice and procedural fairness to all parties in Board files. This Code of Conduct process does not replace the obligation and authority of the adjudicative decision maker to decide issues of fairness, including alleged conflicts of interest or alleged reasonable apprehensions of bias, arising during the conduct of a hearing or other adjudication of a Board file.
  - (1) All issues of fairness, including complaints of conflict of interest or reasonable apprehension of bias by a Chair, Vice-chair or Member, arising in the course of a Board file or hearing must be raised to the Board panel in the course of the hearing or Board file, following the Board's regular rules and procedures concerning submissions.
  - (2) The Chair, Vice-chair or Member is responsible for their own determination whether a conflict of interest or reasonable apprehension of bias exists, and shall advise the parties.
  - (3) As soon as practicable, the Vice-chair or Member shall advise the Chair of their determination of any such issue.
  - (4) The decision of the Chair, Vice-chair, Member or Board in these circumstances shall not be reviewed pursuant to section 34 of this Code of Conduct. Review of such a decision is available to parties by application for reconsideration to the Board or by judicial review of the decision.

34. Except for matters pursuant to section 33, any other complaint shall be made in writing to the Chair. The Chair or designate will review the circumstances, and notify the persons involved, who shall have the right to respond. The Chair or designate shall make a decision and report the result in a timely fashion.
  - (1) For complaints concerning the Chair, "Chair" in section 34 shall be deemed to refer to the Ethics Commissioner.
  - (2) Employees, Vice-chairs or Members may apply to the Ethics Commissioner for a review of a ruling of conflict of interest by the Chair under section 34.
  - (3) Employees, Vice-chairs or members who are found under this section not to comply with the standards of behaviour identified in this Code of Conduct may be subject to disciplinary action up to and including recommendation of removal of the Vice-chair or Member or termination of the Employee.
  
35. This Code of Conduct was submitted to the Ethics Commissioner by the Board for review and approval on April 30, 2018. Once approved by the Ethics Commissioner, the Code of Conduct, and any subsequent approved amendments to the Code of Conduct, will be made public for 90 days before becoming effective.