

MISSOULA COUNTY CONFLICT OF INTEREST POLICY

A. Purpose

This policy sets forth a code of ethics which prohibits conflict between public duty and private interest.

B. Scope

This policy is applicable to all County departments and entities.

C. Administration

The Missoula County Auditor is responsible for the administration of this policy.

D. References

Montana Code Annotated Title 2, Chapter 2, "Standards of Conduct;" Missoula County Human Resources Policies, Section 502, "Political Activity".

E. Definitions

As used in this policy, the following definitions apply:

1. "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.
2. "Compensation" means any money or economic benefit conferred on or received by any person in return for services rendered or to be rendered by the person or another.
3. "Gift of substantial value" means a gift with a value of \$50 or more for an individual. The term does not include:
 - a. A gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization or the state and that is not claimed as a charitable contribution for federal income tax purposes;
 - b. Food and beverages consumed on the occasion when participation in a charitable, civic, or community event bears a relationship to the employee's office or employment or when the employee is in attendance in an official capacity;
 - c. Educational material directly related to County duties;
 - d. An award publicly presented in recognition of public service;
 - e. Educational activity that:
 - i. Does not place or appear to place the recipient under obligation;
 - ii. Clearly serves the public good; and
 - iii. Is not lavish or extravagant.

4. "Employee" includes elected officials, appointed members of County boards, commissions, and councils, and all other temporary or permanent employees.
5. "Key staff" means the 5 officers and the 11 elected officials of Missoula County.
6. "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.
7. "Private interest" means an interest held by an employee that is:
 - a. An ownership interest in a business;
 - b. A creditor interest in an insolvent business;
 - c. An employment or prospective employment for which negotiations have begun;
 - d. An ownership interest in real property;
 - e. A loan or other debtor interest; or
 - f. A director or officer position in a business.

F. Rules of Conduct for Missoula County Employees

1. Proof that an employee has committed any act enumerated in this section is proof that the employee's public duty has been breached. An employee may not:
 - a. Disclose or use confidential information acquired in the course of official duties to further the employee's personal economic interests; or
 - b. Accept a gift of substantial value or a substantial economic benefit tantamount to a gift:
 - i. That would exert improper influence leading to a departure from the faithful and impartial discharge of a person's public duties; or
 - ii. That the person knows or should know that the gift is primarily a reward for official action taken.
 - c. An economic benefit tantamount to a gift includes a loan at an interest rate substantially below the commercial rate for similar loans and compensation for private services provided at a rate substantially above the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.
 - d. Subject to subsection (F)(7), an employee may not:
 - i. Use public time, facilities, equipment, supplies, personnel, or funds for the employee's private business purposes;
 - ii. Engage in a substantial financial transaction for the employee's private business purposes with a person whom the employee inspects or supervises in the course of official duties;

- iii. Assist any person for a fee, contingent fee, or other compensation in obtaining a contract, claim, license, or other economic benefit from the employee's department;
 - iv. Perform an official act having a direct and substantial economic benefit to a business or other undertaking in which the employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or
 - v. Solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom the employee regulates in the course of official duties without first giving written notification to the employee's supervisor and department head.
- 2. Except as provided in subsection (F)(2)(c), an employee may not receive salaries from two separate public employment positions that overlap compensated hours, unless:
 - a. The employee reimburses the County for the salary paid while absent; or
 - b. The employee's compensation is reduced by the amount of salary received from the other public employer to avoid duplicating compensation for the overlapping hours.
 - c. Subsection (F)(2)(c) does not prohibit:
 - i. An employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment.
 - ii. To determine compliance with this subsection (F)(2)(c), an employee subject to this subsection (F)(2)(c) shall disclose the amounts received from the two separate public employment positions to the Commissioner of Political Practices.
- 3. Except as provided in subsection (F)(3)(d), an employee may not use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:
 - a. Authorized by law; or
 - b. Properly incidental to another activity required or authorized by law, such as the function of an elected official or the official's staff, in the normal course of duties.
 - c. As used in this subsection (F)(3)(b), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. With respect to ballot issues, properly

incidental activities are restricted to the activities of key staff or the activities of members of their staff related to determining the impact of passage or failure of a ballot issue on County government operations.

- d. This subsection (F)(3)(d), is not intended to restrict the right of an employee to express personal political views.
4. A candidate, as defined in MCA 13-1-101(6)(a), may not use or permit the use of county funds for any advertisement or public service announcement in a newspaper, on radio, or on television that contains the candidate's name, picture, or voice except in the case of a county emergency and then only if the announcement is reasonably necessary to the candidate's official functions.
5. An employee may not participate in a proceeding when an organization, other than an organization or association of local government officials, of which the employee is an officer or director is:
 - a. Involved in a proceeding before the County that is within the scope of the employee's job duties; or
 - b. Attempting to influence a local, state, or federal proceeding in which an employee represents the County.
6. An employee may not engage in any activity, including lobbying, as defined in MCA 5-7-102, on behalf of an organization, other than an organization or association of local government officials, of which the employee is a member while performing employee's job duties. The provisions of this subsection do not prohibit an employee from performing charitable fundraising activities if approved by the employee's supervisor or authorized by law.
7. A listing by an employee in the electronic directory provided for in MCA 30-17-101 of any product created outside of work at the County is not in violation of subsection (F)(1)(d) of this section. The employee may not make arrangements for the listing in the electronic directory during work hours.
8. A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (F)(1)(d)(iv) if participation is necessary to the administration of a statute and if the person complies with the disclosure procedures under MCA 2-2-131. Subsection (F)(1)(d)(iii) does not apply to a member of a board, commission, council, or committee unless the member is also a full-time County employee.

9. Subsections (F)(1)(d)(ii) and (F)(1)(d)(iv) do not prevent a member of the governing body of the County from performing an official act when the member's participation is necessary to obtain a quorum or to otherwise enable the body to act. The member shall disclose the interest creating the appearance of impropriety prior to performing the official act.

G. Ethical Requirements for Missoula County Employees

1. The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of employment in County government.
2. Except as provided in subsection (G)(4), an employee may not acquire an interest in any business or undertaking that may directly and substantially benefit by official action taken by the County.
3. An employee may not, within 12 months following the voluntary termination of office or employment, obtain other employment with an organization where the employee will be in a position to take direct advantage, unavailable to others, of matters with which the employee was directly involved at the County. These matters are rules, other than rules of general application, which the employee actively helped formulate, and applications, claims, or contested cases that the employee actively deliberated.
4. When an employee who is a member of a body with rulemaking authority is required to take official action on a matter in which the employee has a personal or private interest, the appearance of impropriety must be avoided through the disclosure of the interest prior to any participation in the official action.
5. An employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the employee has a substantial personal interest in a competing firm or undertaking.

H. Annual Disclosure Requirements for Staff

1. On July 1 annually, the Missoula County Auditor shall distribute a Conflict of Interest Disclosure form (see Exhibit A) to the 16 key staff of Missoula County. The completed form will be returned to the County Auditor and placed in the key staff member's personnel file.
2. All grants program directors are required to complete a Conflict of Interest Disclosure form annually. These disclosures must be available for audit by the County Auditor, external auditors, or federal agencies.

**Missoula County
Conflict of Interest Disclosure**

I hereby acknowledge and certify that I have received, read, and fully understand Missoula County's Conflict of Interest Policy, as my signature below attests. In addition, I acknowledge that I will comply with the policy by bringing any potential conflict of interest situations that arise in the future to the attention of the Board of County Commissioners.

☐ I understand the Conflict of Interest Policy and acknowledge that no conflict of interest exists.

☐ I am currently involved in the following potential conflict situations as reported below.

Signature of Staff Member

Date

Staff Member Name (print)