

COLORADO PARKS AND WILDLIFE COMMISSION POLICY

Title: Identifying and managing conflicts of interest
Effective Date: May 6, 2021

I. PURPOSE

The purpose of this policy is to assist voting members of the Commission in identifying and managing conflicts of interest as required by the Colorado Code of Ethics, §§ 24-18-101–113, CRS (Code).

II. AUTHORITY

CRS § 24-3.7-102 (Best practices for state boards and commissions) (18-HB-1198); CRS §§ 24-18-101–113 (Colorado Code of Ethics).

III. DEFINITIONS

- A. "Conflict of interest" means a situation where a Commissioner's personal interest is incompatible with a Commissioner's public duty. Voting members of the Commission shall not perform an official act which may have a direct economic benefit on any business, including nonprofits, in which such member has a direct or substantial financial interest. CRS § 24-18-108.5(2).
- B. "Financial interest" means 1) an ownership interest in any business; 2) a creditor interest in an insolvent business; 3) an employment or a prospective employment for which negotiations have begun; 4) an ownership interest in real or personal property; 5) a loan or any other debtor interest; or 6) a directorship or officership in any business. CRS § 24-18-102(4).
- C. "Official act" or "official action" means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority. § 24-18-102(5), CRS.
- D. "Appearance of impropriety" means an official act that would lead a reasonable person to conclude the Commissioner has engaged in conduct that reflects adversely on the Commissioner's honesty, impartiality, temperament, or fitness to serve the public trust. An appearance of impropriety may exist even though the facts and circumstances of the matter do not constitute an actual conflict of interest as defined by CRS § 24-18-108.5(2) above.

IV. POLICY STATEMENT

Serving on the Commission is a public trust, created by the confidence which the public reposes in the integrity of public officials. Commissioners shall perform their duties for the benefit of the people of the state, act in a fair and impartial manner, and avoid the appearance of impropriety.

V. IMPLEMENTATION

A. Self-Recusal

Commissioners must recuse themselves if they believe they have an actual conflict of interest as defined by CRS § 24-18-108.5(2) above.

Commissioners may also recuse themselves if they believe their participation would give rise to an appearance of impropriety.

Self-recusal should occur prior to any substantive discussion on an action item or as soon thereafter as the Commissioner perceives an actual conflict of interest or appearance of impropriety. The Commissioner need not disclose the legal or factual bases for their recusal. After recusing themselves, the Commissioner must not participate in the proceeding in any way, including deliberations.

B. Disclosure to Commission

If a Commissioner has an ethical concern, the Commissioner may disclose the basis for such concern to the Commission before any substantive discussion in the proceeding occurs, or as soon thereafter as possible. Provided an actual conflict of interest as defined by CRS § 24-18-108.5(2) above is not at issue, the Commissioner may continue to participate in the proceeding after such disclosure.

An official act that affects a group of industries or businesses does not, in and of itself, constitute an actual conflict of interest even though the Commissioner may work for or otherwise have an interest in one of the industries or businesses impacted by the official act.

C. Disqualification

If a Commissioner discloses a perceived conflict of interest of any sort, but does not recuse themselves, any other voting Commissioner may make a motion to disqualify such Commissioner. The motion to disqualify, if approved, is binding and such Commissioner shall not participate in the proceeding in any way, including deliberations.

D. Rule of Necessity

Notwithstanding the foregoing, if recusal of the Commissioner(s) in question would result in the loss of a quorum of six voting Commissioners, the Commissioner(s) may participate, in spite of a conflict of interest, if they have complied with the disclosure requirements set forth in Section E below.

E. Disclosure to Secretary of State

Prior to acting in a manner which may impinge on the Commissioner's fiduciary duty

and the public trust, any Commissioner may disclose the nature of their private interest to the Secretary of State.

Such disclosure must be in writing, list the amount of the Commissioner's financial interest, if any, the purpose and duration of their services rendered, if any, and the compensation received for the services or such other information as is necessary to describe their interest. If the Commissioner then performs the official act involved, the Commissioner shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction. § 24-18-110, CRS (Colorado Code of Ethics; Voluntary disclosure).