

Conflict of Interest Policy

(City Council on August 1, 2, 3 and 4, 2000, adopted this Clause, without amendment.)

The Administration Committee recommends:

- (1) the adoption of the Recommendation of the Personnel Sub-Committee embodied in the communication (July 10, 2000) from the City Clerk; and**
- (2) that all Agencies, Boards, Commissions and Special Purpose Bodies be requested to implement policies consistent with the provision of this policy and advise the Chief Administrative Officer within six months of their actions taken in this regard; and the Chief Administrative Officer be requested to submit a report thereon to the Administration Committee after this six month period on the results to date.**

The Administration Committee submits the following communication (July 10, 2000) from the City Clerk:

Recommendation:

The Personnel Sub-Committee at its meeting held on July 10, 2000 recommended to the Administration Committee the adoption of the report (June 27, 2000) from the Executive Director of Human Resources, recommending that:

- (1) the proposed Conflict of Interest policy, as amended, be approved;
- (2) the proposed Conflict of Interest policy replace all existing policies and by-laws relating to conflict of interest or code of conduct; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The Personnel Sub-Committee at its meeting held on July 10, 2000 had before it a report (June 27, 2000) from the Executive Director of Human Resources, advising that the Language under the section "Representing Others" has been changed to more clearly define the situations where management and professional staff are restricted from representing others, which addresses the concerns raised by Local 79 on this section; and recommending that:

- (1) the proposed Conflict of Interest policy, as amended, be approved;
- (2) the proposed Conflict of Interest policy replace all existing policies and by-laws relating to conflict of interest or code of conduct; and

- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

The Personnel Sub-Committee also had before it a report (April 20, 2000) from the Executive Director of Human Resources, in connection with the foregoing matter. At its meeting held on May 8, 2000, the Personnel Sub-Committee, in response to a deputation from Local 79, directed that discussions be held with Local 79 and that the report be amended to clarify or address Local 79's concerns as appropriate.

The Sub-Committee's recommendations are noted above.

(Report dated June 27, 2000, addressed to the
Personnel Sub-Committee from the
Executive Director of Human Resources)

Recommendations:

It is recommended that:

- (1) the proposed Conflict of Interest policy, as amended, be approved;
- (2) the proposed Conflict of Interest policy replace all existing policies and by-laws relating to conflict of interest or code of conduct; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Comments:

At its meeting of May 8, 2000, Personnel Sub-Committee considered the recommended Conflict of Interest Policy. In response to a deputation from Local 79, Personnel Sub-Committee directed that discussions be held with Local 79 and that the report be amended to clarify or address Local 79's concerns as appropriate.

A meeting was held between HR staff and Local 79 to review their comments regarding sections of the report; Representing Others and Appointments, under Guidelines for Management and Professional Staff.

Language under the section Representing Others has been changed to more clearly define the situations where management and professional staff are restricted from representing others. This addresses the concerns raised by Local 79 on this section.

Staff were unable to agree with Local 79's request to remove the restrictions on appointments.

The amended policy as recommended is presented in Appendix A.

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Appendix A
Conflict of Interest Policy - Amended June 23, 2000

Policy Statement:

Employees of the City of Toronto are expected to conduct themselves with personal integrity, ethics, honesty and diligence in performing their duties for the organization. Employees are required to support and advance the interests of the organization and avoid placing themselves in situations where their personal interests actually or potentially conflict with the interests of the City.

Application:

This policy applies to all City of Toronto employees. The standards outlined in this policy are particularly relevant to employees who are in a position to make or influence decisions of the organization.

Definition:

A conflict of interest refers to a situation in which private interests or personal considerations may affect an employee's judgement in acting in the best interest of the City of Toronto. It includes using an employee's position, confidential information or corporate time, material or facilities for private gain or advancement or the expectation of private gain or advancement. A conflict may occur when an interest benefits any member of the employee's family, friends or business associates.

Conditions:

The rules and examples that follow do not exhaust the possibilities for conflict of interest, but they identify obvious situations covered by the policy.

Special Treatment:

Employees are not allowed to use their positions to give anyone special treatment that would advance their own interests or that of any member of the employee's family, their friends or business associates.

Receiving Fees or Gifts:

Employees may not accept gifts, money, discounts or favours including a benefit to family members, friends or business associates for doing work that the city pays them to do. The exceptions to this are promotional gifts or those of nominal value e.g. coffee mug or letter opener with the company's logo or the occasional lunch.

Outside Work or Business Activities:

Employees may not engage in any outside work or business activity:

- (a) that conflict with their duties as city employees;
- (b) which use their knowledge of confidential plans, projects or information about holdings of the corporation; and
- (c) that will, or is likely to, negatively influence or affect them in carrying out their duties as city employees.

Using City Property:

Employees may not use, or permit the use of, items of city property, facilities, equipment, supplies or other resources for activities not associated with their work. Any exceptions to this must be expressly approved by either Council or the commissioner of the affected department.

Confidential Information:

Employees may not disclose confidential or privileged information about the property, or affairs of the organization, or use confidential information to advance personal or others' interests. Employees cannot divulge confidential or privileged information about the city's employees without those employees' written authorisation.

Note on confidential information: The rule against giving out confidential information does not apply to an employee who alleges wrong doing on the part of the city or its Council members, officers, employees, agents or contractors - as long as the disclosure of such information is not frivolous, vexatious or slanderous - and making the disclosure serves the public interest and is made in accordance with the provisions of this policy. This reporting of wrongdoing is known as whistle-blowing.

Financial Interest:

Employees who knowingly have financial interests in a city contract, sale or other business transaction, or have family members, friends or business associates with such interests, must not represent or advise the organization in such transactions.

Guidelines for Management and Professional Staff:

Some positions in the organization are more susceptible than others to conflicts of interest. The following two sections are specifically for executives, managers and employees who give professional advice or assistance, or who work on program policies or budgets. These sections also refer to employees in confidential positions working with the above mentioned staff.

Representing Others:

Staff described in the paragraph above may not appear before Council or a city committee on behalf of a private citizen other than himself/herself, his/her spouse, his/her parents, or his/her minor children, where the employee is either paid, or is involved in any way in the issue/policy.

Appointments:

Staff who hold positions described above may not seek or accept appointment to a city committee or board (except in the capacity of a city employee) and require permission from their executive directors/general managers or designate before accepting appointments to other municipal, provincial or federal commissions boards and committees. Staff who hold positions as board members on community agencies that deal with issues related to their work at the city should inform their executive directors/general managers or designates of their appointments. When agency issues arise that place them in actual or potential conflict with city policy or procedures, they should declare a conflict of interest.

Conduct Respecting Lobbyists:

Expectations on dealing with lobbyists are described in Appendix 2. These are consistent with the Code of Conduct for members of Council.

Requirement to Report Conflict of Interest:

If employees or their family members, friends or business associates have a personal or financial interest that might present a conflict or bias in connection with their duties as city employees, they must report this conflict to their executive directors/general managers or designates in writing.

Reporting a Conflict of Interest:

When an employee reports a conflict of interest to his/her executive director/general manager or designate in writing, a copy is forwarded to the chief administrative officer. If an employee alleges wrong doing on the part of the city or its Council members, officers, employees, agents or contractors he/she should report this in writing directly to the chief administrative officer.

Failure to Comply With the Policy:

Employees who fail to comply with this policy are subject to disciplinary action up to and including dismissal.

Implementation:

Managers and supervisors must make the policy available to all employees and must discuss the entire policy with their employees and highlight any of the rules that have particular relevance, given the nature of the employees' work. Managers and supervisors who need assistance interpreting rules and how they apply to specific situations must talk to their departments' executive directors or general managers. Serious consequences may result from the contravention of this policy. Employees should check with management if they need assistance

in interpreting whether a situation they have experienced or are confronting puts them in a conflict of interest situation.

A brochure will identify the rules of this policy and provide examples to assist employees in understanding these rules. Sample questions and answers can also be found in Appendix 1.

Appendix 1

Sample Questions and Answers:

The specific rules and examples that follow do not exhaust the possibilities for conflict of interest, but they do identify obvious situations covered by the policy. The accompanying questions and answers are merely illustrations to help explain each rule.

Special treatment:

Employees are not allowed to use their positions to give anyone special treatment that would advance their own interests or that of any member of the employee's family, their friends or business associates.

Sample question: "A member of my family asked me to bring home an extra permit. I could get an extra permit because I work in the Permits Office, but won't do that. Everyone has to follow the standard procedure for permit applications. Am I right?"

Answer: Yes, you are right. Bending the rules to favour a family member or friend would be a conflict of interest.

Receiving fees or gifts:

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Question: "What should I do if a client gives me a gift or some money to thank me for doing a good job?"

Answer: Politely refuse the gift or money. You could explain that while you appreciate the offer, accepting it would not be proper according to the city's conflict of interest policy. Someone might interpret the gift as a bribe to get special treatment.

Outside work or business activities:

Employees may not engage in any outside work or business activity:

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- (c) that will, or is likely to, negatively influence or affect them in carrying out their duties as city employees

Question: I am a buyer in the Purchasing & Materials Management Division and a friend who is bidding on a city contract has asked me to coach him on the preparation of his bid. Am I permitted to assist him?

Answer: No you cannot assist him even if you are not directly involved in the assessment of the contract on which he is bidding. Your knowledge of city contracts could lead to the perception that your friend would have an advantage over other bidders.

Question: I am a paramedic and I have been asked by an accredited institution to teach a course on CPR. I will be paid a fee for this course. Am I permitted to teach the course?

Answer: Yes, as long as you are not teaching individuals that you would normally be teaching as part of your job and do not wear a city uniform when teaching the course.

Question: I am a licensing enforcement officer and I own an adult entertainment establishment Is this a conflict of interest? What should I do?

Answer: This may well be a conflict. You must disclose this involvement in writing to your executive director or general manager.

Using City property:

Employees may not use, or permit the use of, items of city property, facilities, equipment, supplies or other resources for activities not associated with their work. Any exceptions to this must be expressly approved by either Council or the commissioner of the affected department.

Question: "Sometimes I'm allowed to take one of my department's pick-up trucks home overnight so I can go directly to my work site in the morning. Would it be all right for me to use the truck to help a friend move to a new apartment?"

Answer: No, it would not be acceptable to use a city vehicle for that kind of thing.

Question: "I do a lot of charity and volunteer work. Can I use my position and access to city property to assist those charities in their fund raising or other activities?"

Answer: No. Your volunteer work is important to the community and while the city supports volunteerism, use of city property is not appropriate.

Confidential information:

Employees may not disclose confidential or privileged information about the property, or affairs of the organization, or use confidential information to advance personal or others' interests. Employees cannot divulge confidential or privileged information about the city's employees without those employees' written authorisation.

Question: “In my work I sometimes learn confidential information about prices the city intends to offer for property purchases. I assume it would be wrong for me to share that information with a friend who works for a development company that sometimes competes with the city to buy sites. Am I correct?”

Answer: Yes, you are right. That would be a conflict of interest.

Note on confidential information. The rule against giving out confidential information does not apply to an employee who alleges wrong doing on the part of the city or its Council members, officers, employees, agents or contractors - as long as the disclosure of such information is not frivolous, vexatious or slanderous - and making the disclosure serves the public interest and is made in accordance with the provisions of this policy. This reporting of wrongdoing is known as whistle-blowing.

Financial interest:

Employees who knowingly have financial interests in a city contract, sale or other business transaction, or have family members, friends or business associates with such interests, must not represent or advise the organization in such transactions.

Question: I own a piece of land in Toronto that the city wants to buy for a new park it is planning. Would that prevent me, a city official, from serving as an advisor to the city on land-assembly for the park?”

Answer: That’s right. You should declare your conflict of interest and the city would probably assign somebody else to replace you on that particular project.

The following two sections are specifically for managers and employees who give professional advice or assistance, or who work on program policies or budgets, and also refer to employees in confidential positions working with any of those staff.

Representing others:

Staff described in the paragraph above may not appear before Council or a city committee on behalf of a private citizen other than himself/herself, his/her spouse, his/her parents, or his/her minor children, where the employee is either paid, or is involved in any way in the issue/policy.

Question: “I am a management employee and I supervise an outside work crew. Does that prevent me from speaking on behalf of a friend before the Committee of Adjustment?”

Answer: You could speak for your friend before the Committee of Adjustment, as long as you are not being paid to do it and as long as the issue before the Committee of Adjustment is not in any way related to your work at the City.

Appointments:

Staff who hold positions described above may not seek or accept appointment to a city committee or board (except in the capacity of a city employee) and require permission from their executive directors/general managers or designate before accepting appointments to other municipal, provincial or federal commissions boards and committees.

Question: “I work on my department’s budget so this section of the policy applies to me. Does that mean I cannot serve as a member of the library board?”

Answer: It means you must have the permission of your executive director/general manager or his/her designate before seeking that office.

Staff who hold positions as board members on community agencies that deal with issues related to their work at the city should inform their executive directors/general managers or designates of their appointments. When agency issues arise that create potential or actual conflicts of interest, these should be declared by the employee.

Question: I am a professional employee in social services and I am on the board of a community agency that delivers service to clients who are on welfare. If the board decides to submit a brief that argues for increased level of service to welfare recipients what role (if any) should I take in this process?

Answer: You should declare a conflict of interest when this issue arises and make it clear that you cannot contribute to the brief or any lobbying that follows.

Reporting Information that could result in an actual or potential conflict of interest:

If employees or their relatives have a personal or financial interest that might present a conflict or bias in connection with their duties as a city employee, they must report this conflict to their executive directors/general managers or designates in writing.

Question: “My husband works for the XYZ Printing Company. I work for the city and sometimes issue outside printing contracts to bidders that include XYZ. Does that mean I should inform my executive director/general manager or designate about the situation?”

Answer: Yes, you should inform your executive director/general manager or designate in writing about your potential conflict in cases where XYZ is bidding.

Appendix 2

Conduct Respecting Lobbyists

Lobbying is usually defined as direct or indirect efforts to solicit support and influence government decisions on behalf of another party or an organization, often away from public

scrutiny. Lobbying activity is to be distinguished from routine advice seeking by members of the public, or contacts by members or employees of government conducting official business. Lobbying is also distinguishable from matters that are the subject of Committee deputation, or other processes that are a matter of public record where individuals are named and their interest and organizational affiliation identified.

The term lobbyist includes the following:

- (a) “consultant lobbyist” means a person who, for payment, lobbies on behalf of a client and includes, but is not limited to, government relations consultants, lawyers, accountants, or other professional advisors who provide lobbying services for their clients;
- (b) “corporate in-house lobbyist” means an employee of a corporation that carries on commercial activities for financial gain and who lobbies as a significant part of their duties;
- (c) “organization in-house lobbyist” means an employee of a non-profit organization, when one or more employees lobby public office holders and where the accumulated lobbying activity of all such employees would constitute a significant part of the duties of one employee; and
- (d) “volunteer lobbyist” means a person who lobbies without payment on behalf of an individual, corporation, or organization.

Employees shall be vigilant in their duty to serve public interests when faced with lobbying activity. Employees can use the following as a guide to assist in identifying whether they are being lobbied:

- (a) During the past year, has the contact person attempted to influence you personally, for example, in any administrative action that would have benefited him or her or his or her employer financially?
 - (b) Does the contact person do business or seek to do business with the City?
 - (c) Is the contact person seeking to influence outcomes outside a public forum on a matter involving, for example, a license, permit or other entitlement for use currently pending before the City?
 - (d) Is the contact person a provincially or federally registered lobbyist employer or a client of a registered lobbyist? (Refer to the respective Web Sites)
 - (e) Is the contact person a provincially or federally registered lobbyist or lobbying firm?
 - (f) Does the contact person fall within the definitions provided above?
-

(Report dated April 20, 2000, addressed to the
Personnel Sub-Committee from the
Executive Director of Human Resources)

Purpose:

To establish a harmonized Conflict of Interest policy for all employees of the City of Toronto.

Financial Implications and Impact Statement :

None

Recommendations :

It is recommended that:

- (1) the proposed Conflict of Interest policy be approved; and
- (2) the proposed Conflict of Interest policy replaces all existing employee policies and by-laws relating to conflict of interest or code of conduct; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto

Background :

A preliminary Code of Conduct was drafted and submitted to the Corporate Services Committee at its meeting of February 15, 1999. Opportunity for comment was provided to COTAPSAI, Local 416 and Local 79. Comments were received from COTAPSAI and Local 416. Corporate Services Committee referred the report back for consultation with Local 79. Comments were subsequently received from Local 79 and a meeting was held between representatives from Local 79 and Human Resources staff.

Comments:

Most of the former municipalities had some form of conflict of interest policy or code of conduct. This proposed policy has been developed to harmonize the elements of those policies. The amended policy addresses the issues raised by Local 79 consistent with the concerns of other stakeholders.

The proposed policy (Appendix A) takes into consideration:

- (1) The need for clear statements of prohibited conduct rather than general language – this will better help the employee understand their obligations, assist the organization to protect itself, and make sure that the city's intentions are known to employees.
- (2) Recognition in the policy that some employees have more decision making authority than others.

- (3) Recognition that employees must be permitted the benefits of citizenship and this should not be unduly limited by the obligations of their duties to the employer.

Appended to the revised policy are the expectations on dealing with lobbyists, consistent with the Code of Conduct for Members of Council.

Three policies that deal with related matters are:

- (1) Employment of Relatives – this was approved in July 1999, and is appended for information (Appendix B).
- (2) A separate policy dealing with the employment of relatives as Councillors' staff is being developed.
- (3) A policy on employees' rights and prohibitions with reference to working for candidates in municipal elections – for Council approval in May 2000.

Conclusions:

The proposed policy harmonizes the elements of similar policies from the former municipalities and specifically itemises conduct that is prohibited or inappropriate. A communications plan is being developed to ensure that all employees have access to this information and understand how it affects their work.

Contact:

Alison Anderson, Director, Employment Services, Phone No. 392-5028, Fax No. 392-3920;
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Appendix A

Conflict of Interest Policy

Policy Statement:

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a friend who works for a development company that sometimes competes with the city to buy sites. Am I correct?"

Answer: Yes, you are right. That would be a conflict of interest. Note on confidential information. The rule against giving out confidential information does not apply to an employee who alleges wrong doing on the part of the city or its Council members, officers, employees, agents or contractors - as long as the disclosure of such information is not frivolous, vexatious or slanderous - and making the disclosure serves the public interest and is made in accordance with the provisions of this policy. This reporting of wrongdoing is known as whistle-blowing.

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Representing others:

Staff described in the paragraph above may not appear before Council or a city committee on behalf of a private citizen other than himself/herself, his/her spouse, his/her parents, or his/her minor children.

Question: "I am a management employee and I supervise an outside work crew. Does that prevent me from speaking on behalf of a friend before the Committee of Adjustment?"

Answer: As a managerial employee of the city, you could not act as an official representative of your friend before the Committee of Adjustment. You could, however, give your friend advice about how to present his/her case to the committee.

Appointments:

Staff who hold positions described above may not seek or accept appointment to a city committee or board (except in the capacity of a city employee) and require permission from their executive directors/general managers or designate before accepting appointments to other municipal, provincial or federal commissions boards and committees.

Question: “I work on my department’s budget so this section of the policy applies to me. Does that mean I cannot serve as a member of the library board?”

Answer: It means you must have the permission of your executive director/general manager or his/her designate before seeking that office.

Staff who hold positions as board members on community agencies that deal with issues related to their work at the city should inform their executive directors/general managers or designates of their appointments. When agency issues arise that create potential or actual conflicts of interest, these should be declared by the employee.

Question: I am a professional employee in social services and I am on the board of a community agency that delivers service to clients who are on welfare. If the board decides to submit a brief that argues for increased level of service to welfare recipients what role (if any) should I take in this process?

Answer: You should declare a conflict of interest when this issue arises and make it clear that you cannot contribute to the brief or any lobbying that follows.

Reporting Information that could result in an actual or potential conflict of interest:

If employees or their relatives have a personal or financial interest that might present a conflict or bias in connection with their duties as a city employee, they must report this conflict to their executive directors/general managers or designates in writing.

Question: “My husband works for the XYZ Printing Company. I work for the city and sometimes issue outside printing contracts to bidders that include XYZ. Does that mean I should inform my executive director/general manager or designate about the situation?”

Answer: Yes, you should inform your executive director/general manager or designate in writing about your potential conflict in cases where XYZ is bidding.

Appendix 2

Conduct Respecting Lobbyists:

Lobbying is usually defined as direct or indirect efforts to solicit support and influence government decisions on behalf of another party or an organization, often away from public scrutiny. Lobbying activity is to be distinguished from routine advice seeking by members of the public, or contacts by members or employees of government conducting official business. Lobbying is also distinguishable from matters that are the subject of Committee deputation, or other processes that are a matter of public record where individuals are named and their interest and organizational affiliation identified.

The term lobbyist includes the following:

- (a) “consultant lobbyist” means a person who, for payment, lobbies on behalf of a client and includes, but is not limited to, government relations consultants, lawyers, accountants, or other professional advisors who provide lobbying services for their clients;
- (b) “corporate in-house lobbyist” means an employee of a corporation that carries on commercial activities for financial gain and who lobbies as a significant part of their duties;
- (c) “organization in-house lobbyist” means an employee of a non-profit organization, when one or more employees lobby public office holders and where the accumulated lobbying activity of all such employees would constitute a significant part of the duties of one employee; and
- (d) “volunteer lobbyist” means a person who lobbies without payment on behalf of an individual, corporation, or organization.

Employees shall be vigilant in their duty to serve public interests when faced with lobbying activity. Employees can use the following as a guide to assist in identifying whether they are being lobbied:

- (1) During the past year, has the contact person attempted to influence you personally, for example, in any administrative action that would have benefited him or her or his or her employer financially?
- (2) Does the contact person do business or seek to do business with the City?
- (3) Is the contact person seeking to influence outcomes outside a public forum on a matter involving, for example, a license, permit or other entitlement for use currently pending before the City?
- (4) Is the contact person a provincially or federally registered lobbyist employer or a client of a registered lobbyist? (Refer to the respective Web Sites).
- (5) Is the contact person a provincially or federally registered lobbyist or lobbying firm?
- (6) Does the contact person fall within the definitions provided above?

Appendix B

Employment of Relatives:

Policy Statement:

The city recognises that conflict and bias can arise from situations where family members work together. This policy provides direction to departments so these situations can be avoided.

Application:

This policy applies to all employees, with the exception of councillors' office staff.

Definitions:

Family: For the purposes of this policy family is defined as:

- (a) spouse, including common-law and same-sex spouse;
- (b) parent, including step-parent and legal guardian;
- (c) child including step-child;
- (d) sibling; and
- (e) any person who lives with the employee on a permanent basis.

Direct Reporting Relationship: A relationship in which an employee has authority to:

- (a) approve or deny increments, overtime or negotiate salary level;
- (b) conduct performance appraisals;
- (c) discipline another employee; and
- (d) direct work assignments.

Conditions:

No members of the same family are permitted to work together if this places them in a direct reporting relationship, either in a subordinate or supervisory role to each other. Employees must declare a conflict when a family relationship develops that puts them in a direct reporting relationship. A family member must not participate in any part of the selection process where another family member is an applicant. The selection process includes screening applications, interviews and reference checking.

Implementation:

When a situation arises where an employee is in a direct reporting relationship to a family member, the executive director/general manager or designate must discuss reassignment options with the employees involved. The executive director/general manager or designate should consult with human resources to resolve this problem. Possible solutions include:

- (a) offering one employee a permanent alternate position in another section or division of the same department;

- (b) placing one employee on a temporary assignment; and
- (c) transferring one employee to a comparable position in another department i.e., lateral transfer.

The preferences of the employees should be taken into account when considering any of these options. If all of the above options are rejected then the executive director or general manager should make the final decision. Although these situations are sometimes difficult to resolve an executive director/general manager or designate should address this issue as soon as possible after it arises and seek to remedy the situation promptly. Close personal relationships or relationships beyond family can also cause problems in the selection process and in reporting relationships. Employees who find themselves in this situation should be sensitive to perceptions and guide themselves according to professional standards.

Approved by Senior Management Team
Date Approved July 29, 1999