

**PAY EQUITY HEARINGS TRIBUNAL**  
***ETHICS PLAN***

1. The Tribunal adopts the standards of ethics (Part IV of the PSOA) and rules regarding conflict of interest (O.Reg. 381/07) promulgated in the PSOA and its regulations, and attached to this Plan as Schedule A and B.
2. The Ethics Executive for Order-in-Council appointees is the Chair of the Tribunal.
3. Every incoming Order-in-Council appointee shall be apprised of the requirements of ethical conduct and the restrictions on political activity (Schedule C) set out in the *Public Service of Ontario Act, 2006*.
4. Every Order-in-Council appointee shall receive an annual notice containing information about the requirements of ethical conduct and the restrictions on political activity.
5. Order-in-Council appointees shall familiarize themselves with the Tribunal's Code of Conduct which forms part of the Tribunal's Member Accountability Framework.
6. Order-in-Council appointees shall receive an annual notice containing information about the Code of Conduct.

## SCHEDULE A

### *PUBLIC SERVICE OF ONTARIO ACT, 2006*

#### PART IV ETHICAL CONDUCT

##### APPLICATION OF CONFLICT OF INTEREST RULES TO PUBLIC SERVANTS AND FORMER PUBLIC SERVANTS

###### **Application**

**56. (1)** Sections 57 to 65 apply to public servants and former public servants other than public servants who work or, immediately before ceasing to be a public servant, worked in a minister's office. 2006, c. 35, Sched. A, s. 56 (1).

###### **Same, ministers' offices**

**(2)** Sections 66 to 69 apply to public servants and former public servants who work or who, immediately before ceasing to be a public servant, worked in a minister's office. 2006, c. 35, Sched. A, s. 56 (2).

##### MINISTRIES (OTHER THAN MINISTERS' OFFICES) AND PUBLIC BODIES

###### **Rules for ministries**

**57.** Every public servant and every former public servant who works or, immediately before ceasing to be a public servant, worked in a ministry shall comply with the conflict of interest rules prescribed under clause 71 (1) (a) that apply in respect of the ministry. 2006, c. 35, Sched. A, s. 57.

###### **Rules for public bodies**

**58.** Every public servant and every former public servant who works or, immediately before ceasing to be a public servant, worked in a public body shall comply with the conflict of interest rules that apply to him or her, determined as follows:

1. The conflict of interest rules that apply to the public servant or former public servant are the rules, if any, approved and published by the Conflict of Interest Commissioner under section 59 or 60 for the public body.
2. During the year beginning on the day on which this section comes into force, if no conflict of interest rules are approved and published by the Conflict of Interest Commissioner under section 59 or 60 for a Commission public body, the conflict of interest rules prescribed under clause 71 (1) (a) apply to the public servant or former public servant, with necessary modifications.
3. During the year beginning on the day on which this section comes into force, if no conflict of interest rules are approved and published by the

Conflict of Interest Commissioner under section 59 or 60 for a public body that is not a Commission public body, the conflict of interest rules that apply to the public servant or former public servant are the rules that applied to him or her immediately before this section comes into force.

4. After the year beginning on the day on which this section comes into force, if no conflict of interest rules are approved and published by the Conflict of Interest Commissioner under section 59 or 60 for a public body, the conflict of interest rules prescribed under clause 71 (1) (a) apply to the public servant or former public servant, with necessary modifications. 2006, c. 35, Sched. A, s. 58.

### **Rules prepared by public bodies**

**59. (1)** A public body may submit proposed conflict of interest rules with respect to the body to the Conflict of Interest Commissioner. 2006, c. 35, Sched. A, s. 59 (1).

### **Approval of proposed rules**

**(2)** The Conflict of Interest Commissioner shall approve, in writing, the rules proposed for a public body under subsection (1) if, in the Commissioner's opinion, the proposed rules establish a degree of ethical conduct that is at least equivalent to the degree of ethical conduct established by the conflict of interest rules prescribed under clause 71 (1) (a), having regard to the powers, duties and functions of the public body. 2006, c. 35, Sched. A, s. 59 (2).

### **Same**

**(3)** Conflict of interest rules approved by the Conflict of Interest Commissioner have no effect unless the rules are published in accordance with subsection (4). 2006, c. 35, Sched. A, s. 59 (3).

### **Same**

**(4)** The Conflict of Interest Commissioner shall publish approved conflict of interest rules on the Commissioner's website, and shall indicate on the rules the date on which they were so published. 2006, c. 35, Sched. A, s. 59 (4).

### **Same**

**(5)** Conflict of interest rules published in accordance with subsection (4) take effect on the date of publication indicated under subsection (4) or on such later date as may be specified on the website by the Conflict of Interest Commissioner in respect of the published rules. 2006, c. 35, Sched. A, s. 59 (5).

### **Non-application**

**(6)** Part III (Regulations) of the *Legislation Act, 2006* does not apply to rules made by a public body and approved by the Commissioner under subsection (2). 2006, c. 35, Sched. A, ss. 59 (6), 157.

### **Change in rules**

60. (1) If the rules prescribed under clause 71 (1) (a) change and, in the Conflict of Interest Commissioner's opinion, rules approved and published under section 59 for a public body no longer meet the test set out in subsection 59 (2), the Commissioner may request that the body amend its rules and submit the amended rules to the Commissioner within a time period specified by him or her. 2006, c. 35, Sched. A, s. 60 (1).

### **Same**

(2) The Conflict of Interest Commissioner may extend the time period within which the amended rules may be submitted, either before or after the expiry of the period. 2006, c. 35, Sched. A, s. 60 (2).

### **Same**

(3) Subsections 59 (2) to (6) apply, with necessary modifications, to rules submitted under subsection (1). 2006, c. 35, Sched. A, s. 60 (3).

### **Change in rules**

61. (1) Subsections (2) and (3) apply if,

- (a) a public body fails to submit amended rules within the time period specified under subsection 60 (1) or (2);
- (b) the Conflict of Interest Commissioner notifies a public body that amended rules submitted by it under subsection 60 (1) do not meet the test set out in subsection 59 (2); or
- (c) the public body rescinds the rules made by it under section 59 or 60 and notifies the Conflict of Interest Commissioner of the rescission in writing. 2006, c. 35, Sched. A, s. 61 (1).

### **Same**

(2) The conflict of interest rules that were in effect for the public body cease to apply to the body and the conflict of interest rules prescribed under clause 71 (1) (a) apply to the body with such modifications as are necessary having regard to the body's powers, duties and functions, on and after the date specified by the Conflict of Interest Commissioner under subsection (3). 2006, c. 35, Sched. A, s. 61 (2).

### **Same**

(3) The Conflict of Interest Commissioner shall publish a notice on the Commissioner's website specifying a date for the purposes of subsection (2). 2006, c. 35, Sched. A, s. 61 (3).

### **Ethics executive for public servants**

62. (1) The ethics executive for a public servant is determined as follows:

1. The ethics executive for a public servant employed under Part III who works in a ministry, other than in a minister's office, is the deputy minister.
2. The ethics executive for a deputy minister is the Secretary of the Cabinet.
3. The ethics executive for a public servant who works in a public body, whether as a government appointee, as an employee under Part III or as an employee of the public body is the individual who is prescribed under subsection 71 (1.1) for the public servant or, if no individual is prescribed under that clause for the public servant, the chair of the body.
4. The ethics executive for the Secretary of the Cabinet, the chairs of public bodies and any individuals prescribed under subsections 55 (1.1) and 71 (1.1) is the Conflict of Interest Commissioner.
5. The ethics executive for the Conflict of Interest Commissioner is the Integrity Commissioner. 2006, c. 35, Sched. A, s. 62 (1); 2009, c. 33, Sched. 17, s. 10 (11).

### **Delegation, O.P.P.**

[\(2\)](#) The deputy minister of the Ministry of Community Safety and Correctional Services may delegate any of his or her powers, duties and functions as ethics executive with respect to members of the Ontario Provincial Police to the Commissioner of the Ontario Provincial Police. 2006, c. 35, Sched. A, s. 62 (2).

### **Ethics executive for former public servant**

[63.](#) The ethics executive for a former public servant is determined as follows:

1. The ethics executive for a former public servant who, immediately before ceasing to be a public servant, was a public servant employed under Part III who worked in a ministry, other than in a minister's office, is the Public Service Commission.
2. The ethics executive for a former public servant who, immediately before ceasing to be a public servant, worked in a public body, whether as a government appointee, as an employee under Part III or as an employee of the public body, is the Conflict of Interest Commissioner.
3. The ethics executive for a former deputy minister or a former Secretary of the Cabinet is the Conflict of Interest Commissioner. 2006, c. 35, Sched. A, s. 63.

### **Promotion of ethical conduct**

**64.** The ethics executive for a public servant who works in a ministry, other than in a minister's office, or who works in a public body shall,

- (a) ensure that public servants who work in the ministry or the public body are familiar with the conflict of interest rules that apply in respect of the ministry or the public body; and
- (b) promote ethical conduct by public servants who work in the ministry or the public body. 2006, c. 35, Sched. A, s. 64.

### **Role of ethics executive**

#### **Questions for ethics executive**

**65. (1)** A public servant or former public servant may request that his or her ethics executive determine a question about the application of conflict of interest rules to the public servant or former public servant. 2006, c. 35, Sched. A, s. 65 (1).

#### **Same**

**(2)** A supervisor of a public servant may request that the public servant's ethics executive determine a question about the application of conflict interest rules to the public servant. 2006, c. 35, Sched. A, s. 65 (2).

#### **Duty to notify**

**(3)** If a public servant or a former public servant has personal or pecuniary interests that could raise an issue under the conflict of interest rules that apply to him or her, the public servant or former public servant shall notify his or her ethics executive. 2006, c. 35, Sched. A, s. 65 (3).

#### **Inquiries**

**(4)** The ethics executive may make such inquiries as he or she considers appropriate in response to a request, a notification or where the ethics executive has concerns that a conflict of interest rule has been or is about to be contravened by a public servant or former public servant. 2006, c. 35, Sched. A, s. 65 (4).

#### **Determinations and directions**

- (5)** An ethics executive shall,
- (a) make a determination with respect to any matter that is brought to the attention of the ethics executive under subsections (1) to (3) or that is the subject of inquiry under subsection (4); and
  - (b) in the case of a determination that there is a conflict of interest or potential conflict of interest, give the public servant or former public servant directions, if any, that the ethics executive considers appropriate to address the conflict of interest or potential conflict of interest. 2006, c. 35, Sched. A, s. 65 (5).

### **Same**

[\(6\)](#) If an ethics executive, other than the Conflict of Interest Commissioner or Integrity Commissioner, considers it appropriate to do so, the ethics executive may refer any matter that is brought to the ethics executive's attention under subsections (1) to (3) or that is the subject of inquiry under subsection (4) to the Conflict of Interest Commissioner, to be dealt with by the Commissioner under subsection (5). 2006, c. 35, Sched. A, s. 65 (6).

### **Same**

[\(7\)](#) Where an ethics executive has referred a matter to the Conflict of Interest Commissioner under subsection (6), the Commissioner shall inform the ethics executive of any determination made or direction given by the Commissioner under subsection (5) as a result of the referral. 2006, c. 35, Sched. A, s. 65 (7).

### **Compliance with direction**

[\(8\)](#) A public servant or former public servant shall comply with a direction of the ethics executive or the Conflict of Interest Commissioner. 2006, c. 35, Sched. A, s. 65 (8).

### **Contravention by government appointee**

[\(9\)](#) If an ethics executive or the Conflict of Interest Commissioner makes a determination under subsection (5) that a government appointee has contravened a conflict of interest rule, the ethics executive or the Conflict of Interest Commissioner, as the case may be, shall notify the minister responsible for the body to which the government appointee is appointed of the contravention. 2006, c. 35, Sched. A, s. 65 (9).

### **Same**

[\(10\)](#) If the Conflict of Interest Commissioner makes a determination under subsection (5) that a former public servant who, immediately before ceasing to be a public servant, worked in a public body as a government appointee has contravened a conflict of interest rule, the Commissioner shall notify the minister responsible for the body to which the government appointee was appointed of the contravention. 2006, c. 35, Sched. A, s. 65 (10).

## SCHEDULE B

### *PUBLIC SERVICE OF ONTARIO ACT, 2009*

#### ONTARIO REGULATION 381/07

### CONFLICT OF INTEREST RULES FOR PUBLIC SERVANTS

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##### **PART I**

#### **RULES FOR PUBLIC SERVANTS WHO WORK IN A MINISTRY**

##### INTERPRETATION

#### **Definitions**

**1.** In this Part,

“confidential information” means information that is not available to the public and that, if disclosed, could result in harm to the Crown or could give the person to whom it is disclosed an advantage;



“gift” includes a benefit of any kind;

“spouse” means,

- (a) a spouse as defined in section 1 of the *Family Law Act*, or
- (b) either of two persons who live together in a conjugal relationship outside marriage. O. Reg. 381/07, s. 1.

### **Application**

2. This Part applies to every public servant who works in a ministry. O. Reg. 381/07, s. 2.

## PROHIBITED CONDUCT

### **Benefiting self, spouse or children**

3. (1) A public servant shall not use or attempt to use his or her employment by the Crown to directly or indirectly benefit himself or herself or his or her spouse or children. O. Reg. 381/07, s. 3 (1).

(2) A public servant shall not allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the Crown. O. Reg. 381/07, s. 3 (2).

### **Accepting gifts**

4. (1) A public servant shall not accept a gift from any of the following persons or entities if a reasonable person might conclude that the gift could influence the public servant when performing his or her duties to the Crown:

1. A person, group or entity that has dealings with the Crown.
2. A person, group or entity to whom the public servant provides services in the course of his or her duties to the Crown.
3. A person, group or entity that seeks to do business with the Crown.  
O. Reg. 381/07, s. 4 (1).

(2) Subsection (1) shall not operate to prevent a public servant from accepting a gift of nominal value given as an expression of courtesy or hospitality if doing so is reasonable in the circumstances. O. Reg. 381/07, s. 4 (2).

(3) A public servant who receives a gift in the circumstances described in subsection (1) shall notify his or her ethics executive. O. Reg. 381/07, s. 4 (3).

### **Disclosing confidential information**

5. (1) A public servant shall not disclose confidential information obtained during the course of his or her employment by the Crown to a person or entity unless the public servant is authorized to do so by law or by the Crown. O. Reg. 381/07, s. 5 (1).

(2) A public servant shall not use confidential information in a business or undertaking outside his or her work for the Crown. O. Reg. 381/07, s. 5 (2).

(3) A public servant shall not accept a gift directly or indirectly in exchange for disclosing confidential information. O. Reg. 381/07, s. 5 (3).

### **Giving preferential treatment**

6. (1) When performing his or her duties to the Crown, a public servant shall not give preferential treatment to any person or entity, including a person or entity in which the public servant or a member of his or her family or a friend has an interest. O. Reg. 381/07, s. 6 (1).

(2) When performing his or her duties to the Crown, a public servant shall endeavour to avoid creating the appearance that preferential treatment is being given to a person or entity that could benefit from it. O. Reg. 381/07, s. 6 (2).

(3) A public servant shall not offer assistance to a person or entity in dealing with the Crown other than assistance given in the ordinary course of the public servant's employment. O. Reg. 381/07, s. 6 (3).

### **Hiring family members**

7. (1) A public servant shall not, on behalf of the Crown, hire his or her spouse, child, parent or sibling. O. Reg. 381/07, s. 7 (1).

(2) A public servant shall not, on behalf of the Crown, enter into a contract with his or her spouse, child, parent or sibling or with a person or entity in which any of them has a substantial interest. O. Reg. 381/07, s. 7 (2).

(3) A public servant who hires a person on behalf of the Crown shall ensure that the person does not report to, or supervise the work of, the person's spouse, child, parent or sibling. O. Reg. 381/07, s. 7 (3).

(4) A public servant who reports to, or supervises the work of, his or her spouse, child, parent or sibling shall notify his or her ethics executive. O. Reg. 381/07, s. 7 (4).

### **Engaging in business, etc.**

8. A public servant shall not become employed by or engage in a business or undertaking outside his or her employment by the Crown in any of the following circumstances:

1. If the public servant's private interests in connection with the employment or undertaking could conflict with his or her duties to the Crown.
2. If the employment or undertaking would interfere with the public servant's ability to perform his or her duties to the Crown.
3. If the employment is in a professional capacity and is likely to influence or detrimentally affect the public servant's ability to perform his or her duties to the Crown.

4. If the employment would constitute full-time employment for another person. However, this paragraph does not apply with respect to a public servant who is employed part-time by the Crown. This paragraph also does not apply with respect to a public servant who is on an authorized leave of absence from his or her position, but only if the employment is not contrary to or inconsistent with the terms of the leave of absence.
5. If, in connection with the employment or undertaking, any person would derive an advantage from the public servant's employment as a public servant.
6. If government premises, equipment or supplies are used in the employment or undertaking. O. Reg. 381/07, s. 8.

### **Participating in decision-making**

**9. (1)** A public servant shall not participate in decision-making by the Crown with respect to a matter that the public servant is able to influence in the course of his or her duties if the public servant could benefit from the decision. O. Reg. 381/07, s. 9 (1).

**(2)** Subsection (1) does not apply if the public servant obtains the prior approval of his or her ethics executive to participate in decision-making by the Crown with respect to the matter. O. Reg. 381/07, s. 9 (2).

**(3)** A public servant who, in the course of his or her employment in a ministry, is a member of a body or group shall not participate in, or attempt to influence, decision-making by the body or group with respect to a matter if the public servant could benefit from the decision or if, as a result of the decision, the interests of the body or group could conflict with the interests of the Crown. O. Reg. 381/07, s. 9 (3).

**(4)** A public servant described in subsection (3) shall inform the body or group if the circumstances described in that subsection exist. O. Reg. 381/07, s. 9 (4).

### **MATTERS THAT MIGHT INVOLVE THE PRIVATE SECTOR**

#### **Interpretation**

**10. (1)** Sections 11 and 12 apply to every public servant who works in a ministry, who routinely works on one or more matters that might involve the private sector and who has access to confidential information about the matter obtained during the course of his or her employment by the Crown. O. Reg. 381/07, s. 10 (1).

**(2)** In this section and in sections 11 and 12,

“matter that might involve the private sector” means a matter,

- (a) that relates to services currently provided under a program of the Crown or by a public body, an agency of the Crown or a corporation controlled by the Crown with respect to which it is possible that a private sector entity will provide all or part of the financing for the services or will provide some or all of the services, and
- (b) that has been referred to a ministry, a public body or an agency of the Crown by the Executive Council or a member of the Executive Council for review or implementation. O. Reg. 381/07, s. 10 (2).

**Duty to declare certain financial interests**

**11. (1)** When a public servant described in subsection 10 (1) begins work on a matter that might involve the private sector, he or she shall make a declaration to the Conflict of Interest Commissioner in which the public servant discloses the following matters respecting his or her financial interests:

- 1. A legal or beneficial interest of the public servant in securities or derivatives of corporations or governments, other than the Government of Ontario.
- 2. A legal or beneficial interest of the public servant in a business entity or a commercial operation or in the assets of such an entity or operation.
- 3. A legal or beneficial interest of the public servant in real property.
- 4. A legal or beneficial interest of the public servant in a mutual fund that is operated as an investment club where,
  - i. its shares or units are held by not more than 50 persons and its indebtedness has never been offered to the public,
  - ii. it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees, and
  - iii. all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operations. O. Reg. 381/07, s. 11 (1).

**(2)** Despite subsection (1), the public servant is not required to disclose his or her legal or beneficial interest in any of the following:

- 1. A mutual fund within the meaning of subsection 1 (1) of the *Securities Act* other than a mutual fund described in paragraph 4 of subsection (1) of this Regulation.
- 2. Fixed-value securities issued or guaranteed by a government or a government agency.
- 3. A guaranteed investment certificate or similar financial instrument issued by a financial institution entitled by law to issue such instruments.

4. A registered pension plan, an employee benefit plan, an annuity or life insurance policy or a deferred profit sharing plan.
5. Real property that the public servant, or a member of his or her family, uses primarily as a residence or for recreational purposes. O. Reg. 381/07, s. 11 (2).

(3) The public servant shall disclose the information required by subsection (1), with necessary modifications, in respect of his or her spouse and dependent children, but only to the extent that the legal or beneficial interests of the spouse or a child could create a conflict of interest. O. Reg. 381/07, s. 11 (3).

(4) For the purpose of subsection (3), the public servant shall make reasonable efforts to obtain information about the financial interests described in subsection (1) of his or her spouse and dependent children. O. Reg. 381/07, s. 11 (4).

(5) The public servant shall give the Conflict of Interest Commissioner a revised declaration whenever there is a change in any of the information required to be disclosed. O. Reg. 381/07, s. 11 (5).

### **Prohibition on certain purchases**

12. (1) A public servant described in subsection 10 (1) shall not purchase, or cause another person to purchase on his or her behalf, a legal or beneficial interest in an entity that is carrying on, or proposes to carry on, an activity relating to a matter that might involve the private sector. O. Reg. 381/07, s. 12 (1).

(2) Despite subsection (1), a public servant may purchase an interest in a mutual fund (within the meaning of subsection 1 (1) of the *Securities Act*) that includes securities of a person or entity described in subsection (1) but not an interest in a mutual fund described in paragraph 4 of subsection 11 (1) of this Regulation that includes such securities. O. Reg. 381/07, s. 12 (2).

(3) The prohibition described in subsection (1) ceases to have effect with respect to the matter,

- (a) six months after the date on which the action in respect of the matter is completed; or
- (b) six months after the date the Crown ceases to work on the matter.  
O. Reg. 381/07, s. 12 (3).

### **List of positions**

13. (1) The Public Service Commission shall maintain a current list of positions in which public servants work in a ministry and routinely work on one or more matters that might involve the private sector. O. Reg. 381/07, s. 13 (1).

(2) The Commission shall ensure that public servants employed by the Crown in the positions described in subsection (1) are advised of the duties and

restrictions imposed upon them under sections 11 and 12. O. Reg. 381/07, s. 13 (2).

(3) Every ethics executive shall notify the Commission of changes to be made to the list with respect to those persons for whom he or she is the ethics executive. O. Reg. 381/07, s. 13 (3).

## **PART II RULES FOR FORMER PUBLIC SERVANTS WHO WORKED IN A MINISTRY**

### INTERPRETATION

#### **Definition**

**14.** In this Part,

“designated senior position” means any of the following positions:

1. The Secretary of the Cabinet.
2. Deputy minister, associate deputy minister or assistant deputy minister.
3. A position that is classified under subsection 33 (1) of the Act as SMG 2, XOFA 1, XOFA 2, ITX 2, ITX 3 or ITX 4. O. Reg. 381/07, s. 14.

#### **Application**

**15. (1)** This Part applies with respect to every former public servant who, immediately before he or she ceased to be a public servant, worked in a ministry. O. Reg. 381/07, s. 15 (1).

(2) Despite subsection (1), this Part does not apply to a person who ceases to be a public servant before the day on which section 57 of the Act comes into force. O. Reg. 381/07, s. 15 (2).

### PROHIBITED CONDUCT

#### **Seeking preferential treatment, etc.**

**16.** A former public servant shall not seek preferential treatment by, or privileged access to, public servants who work in a minister’s office, a ministry or a public body. O. Reg. 381/07, s. 16.

#### **Disclosing confidential information**

**17. (1)** A former public servant shall not disclose confidential information obtained during the course of his or her employment by the Crown to a person or entity unless the former public servant is authorized to do so by law or by the Crown. O. Reg. 381/07, s. 17 (1).

(2) A former public servant shall not use confidential information in a business or undertaking. O. Reg. 381/07, s. 17 (2).

### **Restriction on lobbying**

**18. (1)** This section applies to a former public servant who, immediately before ceasing to be a public servant, was employed in a designated senior position. O. Reg. 381/07, s. 18 (1).

**(2)** For 12 months after ceasing to be a public servant, the former public servant shall not lobby any of the following persons on behalf of a public body or another person or entity:

1. A public servant who works in a ministry or public body in which the former public servant worked at any time during the 12 months before he or she ceased to be a public servant.
2. The minister of any ministry in which the former public servant worked at any time during the 12 months before he or she ceased to be a public servant.
3. A public servant who works in the office of a minister described in paragraph 2. O. Reg. 381/07, s. 18 (2).

### **Restriction on employment, etc.**

**19. (1)** This section applies to a former public servant who, immediately before ceasing to be a public servant, was employed in a designated senior position and who, at any time during the 12 months before he or she ceased to be employed as a public servant, in the course of his or her employment as a public servant,

- (a) had substantial involvement with a public body or another person or entity; and
- (b) had access to confidential information that, if it were to be disclosed to the public body, person or entity, could result in harm to the Crown or could give the public body, person or entity an unfair advantage in relation to one or more third parties. O. Reg. 381/07, s. 19 (1).

**(2)** For 12 months after ceasing to be a public servant, the former public servant shall not accept employment with the public body, person or entity or serve as a member of the board of directors or other governing body of the public body, person or entity. O. Reg. 381/07, s. 19 (2).

### **Restriction re certain transactions**

**20. (1)** This section applies to a former public servant who, when he or she was a public servant working in a ministry, advised the Crown about a particular proceeding, negotiation or other transaction. O. Reg. 381/07, s. 20 (1).

**(2)** The former public servant shall not advise or otherwise assist any public body or any other person or entity in connection with the particular proceeding, negotiation or other transaction until the Crown ceases to be involved in it. O. Reg. 381/07, s. 20 (2).

[\(3\)](#) Despite subsection (2), the former public servant may continue to advise or otherwise assist the Crown in connection with the particular proceeding, negotiation or other transaction. O. Reg. 381/07, s. 20 (3).



## SCHEDULE C

### *PUBLIC SERVICE OF ONTARIO ACT, 2006*

#### PART V POLITICAL ACTIVITY

##### INTERPRETATION

##### **Political activity**

**72.** For the purposes of this Part, a public servant engages in political activity when,

- (a) the public servant does anything in support of or in opposition to a federal or provincial political party;
  - (b) the public servant does anything in support of or in opposition to a candidate in a federal, provincial or municipal election;
  - (c) the public servant is or seeks to become a candidate in a federal, provincial or municipal election; or
  - (d) the public servant comments publicly and outside the scope of the duties of his or her position on matters that are directly related to those duties and that are dealt with in the positions or policies of a federal or provincial political party or in the positions or policies publicly expressed by a candidate in a federal, provincial or municipal election.
- 2006, c. 35, Sched. A, s. 72.

##### **Ethics executive**

**73. (1)** For the purposes of this Part, the ethics executive for a public servant is,

- (a) in the case of a public servant who works in a minister's office, the Integrity Commissioner;
- (b) in the case of any other public servant, his or her ethics executive determined under subsection 62 (1). 2006, c. 35, Sched. A, s. 73 (1).

##### **Same**

**(2)** Subsection 62 (2) applies to the deputy minister of the Ministry of Community Safety and Correctional Services as ethics executive with respect to members of the Ontario Provincial Police. 2006, c. 35, Sched. A, s. 73 (2).

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## RULES FOR POLITICAL ACTIVITY OF SPECIALLY RESTRICTED PUBLIC SERVANTS

### **Application**

**85. (1)** Sections 86 to 93 apply to specially restricted public servants within the meaning of subsection (2). 2006, c. 35, Sched. A, s. 85 (1).

### **Specially restricted public servants**

**(2)** The following are specially restricted public servants:

1. The Conflict of Interest Commissioner.
2. The Secretary of the Cabinet.
3. Every deputy minister or associate deputy minister in a ministry.
4. Every assistant deputy minister in a ministry.
5. Every director in a ministry.
6. Every deputy director of a legal services branch of a ministry.
7. Every Crown Attorney.
8. Every commissioned officer and detachment commander in the Ontario Provincial Police.
9. Every government appointee who is a member of a tribunal prescribed under clause 107 (1) (b).
10. A public servant in a class prescribed under clause 107 (1) (c). 2006, c. 35, Sched. A, s. 85 (2).

### **No political activity except as permitted**

**86.** A specially restricted public servant shall not engage in political activity except as permitted under this Part. 2006, c. 35, Sched. A, s. 86.

### **Right to decline**

**87.** A specially restricted public servant is entitled to decline to engage in political activity. 2006, c. 35, Sched. A, s. 87.

### **Prohibited political activities**

**88.** In engaging in political activity that is permitted under section 89, 90 or 92, a specially restricted public servant shall not,

- (a) engage in political activity in the workplace;
- (b) engage in political activity while wearing a uniform associated with a position in the public service of Ontario;
- (c) use government premises, equipment or supplies when engaging in political activity;

- (d) associate his or her position with political activity, except if the public servant is or is seeking to become a candidate in a federal, provincial or municipal election, and then only to the extent necessary to identify the public servant's position and work experience; or
- (e) engage in political activity if doing so could interfere with the performance of his or her duties as a public servant. 2006, c. 35, Sched. A, s. 88.

### **Permitted political activities**

**89. (1)** A specially restricted public servant may,

- (a) vote in a federal, provincial or municipal election;
- (b) contribute money to a federal or provincial party or to a federal, provincial or municipal candidate;
- (c) be a member of a federal or provincial party; and
- (d) attend an all-candidates meeting. 2006, c. 35, Sched. A, s. 89 (1).

### **Limitation**

**(2)** Clauses (1) (b) and (c) do not apply to the Secretary of the Cabinet, the Conflict of Interest Commissioner or a deputy minister. 2006, c. 35, Sched. A, s. 89 (2).

### **Permitted political activities if authorized**

**90. (1)** A specially restricted public servant, if authorized under subsection (4), may,

- (a) be or seek to become a candidate in a municipal election;
- (b) campaign on behalf of a candidate in a municipal election. 2006, c. 35, Sched. A, s. 90 (1).

### **Authorization**

**(2)** A specially restricted public servant who wishes to engage in political activity described in subsection (1) may apply under this section for authorization. 2006, c. 35, Sched. A, s. 90 (2).

### **Same**

**(3)** The application shall specify the political activity for which authorization is sought and shall be made to the ethics executive for the specially restricted public servant. 2006, c. 35, Sched. A, s. 90 (3).

### **Same**

**(4)** On receiving the application, the ethics executive shall make such inquiries as he or she considers appropriate and shall authorize the specially restricted public servant to engage in all or some of the political activity specified in the application if, in the opinion of the ethics executive, the activities would not interfere with the performance of the public servant's duties and,

- (a) in the case of a public servant who works in a ministry, would not conflict with the interests of the Crown;
- (b) in the case of a public servant who works in a public body, would not conflict with the interests of the body. 2006, c. 35, Sched. A, s. 90 (4).

**Same**

(5) In granting an authorization, an ethics executive may impose any conditions and restrictions that he or she considers appropriate in the circumstances, including requiring the specially restricted public servant to be on an unpaid leave of absence. 2006, c. 35, Sched. A, s. 90 (5).

**Same**

(6) If, in granting an authorization, an ethics executive requires that a specially restricted public servant be on an unpaid leave of absence, the leave of absence shall begin and end in accordance with the regulations under clause 107 (1) (a) or, if no regulation applies in respect of the leave, on dates determined by the ethics executive to be appropriate in the circumstances. 2006, c. 35, Sched. A, s. 90 (6).

**Continuous service**

91. The period of an unpaid leave granted under section 90 shall not be counted in determining the length of the public servant's service, but the service before and after the period of leave is deemed to be continuous for all purposes. 2006, c. 35, Sched. A, s. 91.

**Part-time government appointees**

92. (1) This section applies to specially restricted public servants who are part-time government appointees. 2006, c. 35, Sched. A, s. 92 (1).

**Authorization**

(2) A public servant described in subsection (1) may apply under this section for authorization to engage in any political activity that is not permitted to him or her under section 89, other than,

- (a) political activity that is prohibited under section 88; or
- (b) political activity for which he or she may seek authorization under section 90. 2006, c. 35, Sched. A, s. 92 (2).

**Same**

(3) The application shall specify the political activity and shall be made to the Conflict of Interest Commissioner. 2006, c. 35, Sched. A, s. 92 (3).

**Same**

(4) On receiving the application, the Conflict of Interest Commissioner shall make such inquiries as he or she considers appropriate and shall authorize the public servant to engage in all or some of the political activity specified in the application if in the opinion of the Commissioner the activities would not,

- (a) interfere with the performance of the public servant's duties; or
- (b) conflict with the interests of the public body to which the public servant is appointed. 2006, c. 35, Sched. A, s. 92 (4).

**Same**

(5) In forming an opinion under subsection (4), the Conflict of Interest Commissioner shall consider the following:

1. The nature of the political activity specified in the application.
2. The scope of the discretion exercised by the public servant in his or her work, if the exercise of the discretion could reasonably be perceived to be affected by political considerations.
3. The visibility of the public servant's position.
4. Such other factors as the Commissioner considers appropriate. 2006, c. 35, Sched. A, s. 92 (5).

**Same**

(6) In granting an authorization, the Conflict of Interest Commissioner may impose any conditions and restrictions that he or she considers appropriate in the circumstances, including requiring the public servant to be on an unpaid leave of absence. 2006, c. 35, Sched. A, s. 92 (6).

**Same**

(7) If in granting an authorization the Conflict of Interest Commissioner requires that a public servant be on an unpaid leave of absence, the leave shall begin and end,

- (a) in accordance with the regulations under clause 107 (1) (a); or
- (b) if no regulation applies in respect of the leave, on dates determined by the Conflict of Interest Commissioner to be appropriate in the circumstances. 2006, c. 35, Sched. A, s. 92 (7).

**Role of ethics executive**

**Questions for ethics executive**

93. (1) A specially restricted public servant or his or her supervisor may request that the public servant's ethics executive determine a question about the political activity rights that apply in respect of the public servant. 2006, c. 35, Sched. A, s. 93 (1).

**Duty to notify**

(2) A specially restricted public servant shall notify his or her ethics executive if the public servant's political activities could conflict with,

- (a) in the case of a public servant who works in a ministry, the interests of the Crown;

- (b) in the case of a public servant who works in a public body, the interests of the public body. 2006, c. 35, Sched. A, s. 93 (2).

### **Inquiries**

(3) The ethics executive may make such inquiries as he or she considers appropriate in response to a request, a notification or where the ethics executive has concerns that a specially restricted public servant has engaged or is about to engage in political activity in contravention of this Part or a direction or regulation under this Part. 2006, c. 35, Sched. A, s. 93 (3).

### **Determinations and directions**

(4) An ethics executive shall,

- (a) make a determination with respect to any matter that is brought to the attention of the ethics executive under subsection (1) or (2) or that is the subject of inquiry under subsection (3); and
- (b) in the case of a determination that a public servant has or is about to engage in political activity in contravention of this Part or a direction or regulation under this Part, give the public servant directions, if any, that the ethics executive considers appropriate to address the matter. 2006, c. 35, Sched. A, s. 93 (4).

### **Same**

(5) If an ethics executive, other than the Conflict of Interest Commissioner or Integrity Commissioner, considers it appropriate to do so, the ethics executive may refer any matter that is brought to the ethics executive's attention under subsection (1) or (2) or that is the subject of inquiry under subsection (3) to the Conflict of Interest Commissioner to be dealt with by the Commissioner under subsection (4). 2006, c. 35, Sched. A, s. 93 (5).

### **Same**

(6) Where an ethics executive has referred a matter to the Conflict of Interest Commissioner under subsection (5), the Commissioner shall inform the ethics executive of any determination made or direction given by the Commissioner under subsection (4) as a result of the referral. 2006, c. 35, Sched. A, s. 93 (6).

### **Compliance with direction**

(7) A specially restricted public servant shall comply with a direction of the ethics executive or the Conflict of Interest Commissioner. 2006, c. 35, Sched. A, s. 93 (7).

### **Contravention by government appointee**

(8) If an ethics executive or the Conflict of Interest Commissioner makes a determination under subsection (4) that a government appointee has engaged in a political activity in contravention of this Part or a direction or regulation under this Part, the ethics executive or the Conflict of Interest Commissioner, as the case

may be, shall notify the minister responsible for the body to which the government appointee is appointed regarding the matter. 2006, c. 35, Sched. A, s. 93 (8).