



Tla'amin Nation Conflict of Interest Regulation

Enacted under the *Conflict of Interest Law*, section 20

TNR 12/2016

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Signature of Law Clerk

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PART 1 - INTRODUCTORY PROVISIONS

Authority

1. This Regulation is made pursuant to section 17 of the *Conflict of Interest Law*.

Purpose

2. The purpose of this Regulation is to govern conflicts of interest for the Tla'amin Nation.

Definitions

3. (1) In this Regulation,

"Elected Official's Gift Disclosure Form" means the form set out in Schedule B of this Regulation;

"Law" means the *Conflict of Interest Law*;

"meeting" means a duly convened or special meeting of the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation; and

"Tla'amin Nation Conflict of Interest Disclosure Form" means the form set out in Schedule A of this Regulation.

- (2) Unless otherwise expressly provided in this Regulation, all terms used in this Regulation have the same meanings as in the Law.

Application

4. This Regulation applies to elected officials, officers, employees, contractors and agents of the Tla'amin Nation.

PART 2 - RESPONSIBILITIES

Elected officials

5. Elected officials are responsible for

- (a) reading and understanding the Law and this Regulation; and
- (b) completing and signing the Tla'amin Nation Conflict of Interest Disclosure Form annually and upon commencement of their term of office with the Tla'amin Nation.

Chief administrative officer

6. The chief administrative officer is responsible for

- (a) keeping all records relating to conflicts of interest including Tla'amin Nation Conflict of Interest Disclosure Forms secure and accessible;
- (b) ensuring that all elected officials are advised of their obligations under the Law and this Regulation;
- (c) ensuring orientation on the Law and this Regulation is provided to elected officials at least once during each term of office; and
- (d) ensuring that every officer, employee, contractor and agent is informed of their obligations under the Law and this Regulation and taking steps to ensure that employees comply with these obligations.

Chair of the Finance Committee

- 7. The Chair of the Finance Committee is responsible for ensuring that the chief administrative officer is informed of their obligations under the Law and this Regulation.

PART 3 • PROCEDURES FOR ELECTED OFFICIALS

Disclosure of interests

- 8. (1) An elected official must file a Tla'amin Nation Conflict of Interest Disclosure Form with the chief administrative officer.
- (2) An elected official must file a Tla'amin Nation Conflict of Interest Disclosure Form under subsection (1) at the following times:
 - (a) within 10 business days of being elected;
 - (b) as soon as practical after a material change in the information previously disclosed; and
 - (c) prior to October 15 of each year that the elected official holds office, unless the elected official has completed a disclosure within the past six months.
- (3) The chief administrative officer must keep all disclosure forms safe and accessible, except for their own, which the Chair of the Finance Committee will keep safe and accessible.
- (4) The chief administrative officer will destroy an individual's disclosure forms seven years from the date the individual last held the office of elected official.
- (5) The Chair of the Finance Committee will destroy an individual's disclosure forms seven years from the date the individual last held the office of chief administrative officer.
- (6) Access to the disclosure forms are set out as follows:

- (a) the chief administrative officer has access to all of the disclosure forms, except their own;
- (b) the Chair of the Finance Committee has access to the disclosure form of the chief administrative; and
- (c) the Review and Appeal Panel has access to the disclosure form for an individual who has brought an appeal under section 10(2) or 10(4).

Procedure for addressing conflict of interest

- 9. (1) As soon as an elected official becomes aware of circumstances in which they have a conflict of interest or an apparent conflict of interest, they must disclose the circumstances of the conflict or apparent conflict immediately.
- (2) If an elected official is unsure of whether they have a conflict of interest or an apparent conflict of interest, they may request that the other members of the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation determine whether they have a conflict or apparent conflict, as the case may be.
- (3) Where an elected official does not believe they have a conflict of interest or an apparent conflict of interest but they are concerned that they may be perceived as unable to exercise a power or perform a duty or function in an unbiased manner, they may disclose the circumstances giving rise to their concern and choose to follow the procedures set out in subsections (4) to (7).
- (4) An elected official must leave any part of a meeting where the circumstances with respect to which the elected official has a conflict of interest or an apparent conflict of interest are being voted on.
- (5) The minutes of a meeting must record the elected official's disclosure under subsection (1) or (3), and note the elected official's absence from the meeting when the circumstances with respect to which the elected official has a conflict of interest or an apparent conflict of interest were being voted on.
- (6) An elected official must not take part in any discussions or vote on any decision respecting the circumstances with respect to which the elected official has a conflict of interest or an apparent conflict of interest.
- (7) An elected official must not influence or attempt to influence in any way before, during or after a meeting any discussion or vote on any decision respecting the circumstances with respect to which the elected official has a conflict of interest or an apparent conflict of interest.
- (8) An elected official who is absent from a meeting due to the requirements of subsections (4) to (7) will be considered to be present for the purposes of determining whether a quorum is present for that meeting.

- (9) In instances where the majority of elected officials present at a meeting have a conflict of interest or an apparent conflict of interest respecting a matter, all elected officials present will be able to discuss and vote on the matter.
- (10) A decision made in accordance with subsection (9) is valid, subject to a review of the decision by the Review and Appeal Panel to determine whether community interests at large are prejudiced by the elected officials' conflict of interest or apparent conflict of interest.

Procedure for undisclosed conflict of interest

- 10. (1)** If an elected official reasonably believes that another elected official has a conflict of interest or an apparent conflict of interest in respect of a matter before the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation, the elected official may request clarification of the circumstances at a Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation meeting, whatever the case may be.
- (2) If, following a clarification discussion under subsection (1), an elected official does not acknowledge the alleged conflict of interest or apparent conflict of interest and does not take the actions set out under sections 9(1) to 9(7), the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation must agree by consensus or vote regarding whether the elected official has a conflict of interest or an apparent conflict of interest before the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation considers the matter referred to in subsection (1).
- (3) Any decision made by the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation under subsection (2) must be recorded in the minutes of the meeting.
- (4) If the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation determines under subsection (2) that an elected official has a conflict of interest or an apparent conflict of interest, the elected official must
 - (a) comply with sections 9(1) to 9(7); or
 - (b) refer the matter to the Review and Appeal Panel to render a final determination regarding whether the elected official has a conflict of interest or an apparent conflict of interest before the Legislative Assembly, Executive Council, or a committee of the Tla'amin Nation considers the matter referred to in subsection (2).
- (5) Any decision made by the elected official under subsection (4) must be recorded in the minutes of the meeting.

Gifts and benefits

- 11. (1)** A gift or benefit must not be accepted by an elected official, or the elected official's spouse or dependent as a result of their relationship to the elected official, if it might

reasonably be seen to have been given to influence the elected official in the exercise of their powers or performance of their duties or functions.

- (2) Despite subsection (1), a gift or benefit may be accepted by an elected official or their spouse or dependent if the gift or benefit *[Amended June 23, 2016]*¹
 - (a) would be considered within
 - (i) normal protocol exchanges or social obligations associated with the elected official's office,
 - (ii) normal exchanges common to business relationships, or
 - (iii) normal exchanges common at public cultural events of the Tla'amin Nation; and
 - (b) does not, when combined with any other gifts received from the same individual or entity during the previous 12 months, amount to a value of more than \$250.
- (3) If a gift with a value greater than \$250 is given to an elected official or the elected official's spouse or dependent, as a result of their relationship to the elected official *[Amended June 23, 2016]*²
 - (a) where the gift could not reasonably become the property of the Tla'amin Nation, the elected official must submit an Elected Official's Gift Disclosure Form to the Executive Council; or
 - (b) where the gift could reasonably become the property of the Tla'amin Nation, the elected official must submit an Elected Official's Gift Disclosure Form to the Executive Council and the gift must be treated as the property of the Tla'amin Nation.
- (4) Subsection (3) does not apply to a gift received during a public cultural event of the Tla'amin Nation where it is clear that the gift was intended for the individual.
- (5) Where the Executive Council determines that a gift referred to in paragraph (3)(a) could become the property of the Tla'amin Nation, the elected official will transfer the gift to the Tla'amin Nation or make other appropriate provisions for recognizing the Tla'amin Nation's interest in the gift.

PART 4 - PROCEDURES FOR OFFICERS AND EMPLOYEES

¹ The subsection enacted on April 5, 2016, originally read:
 (2) Despite subsection (1), a gift or benefit may be accepted by an elected official if the gift or benefit
Amended June 23, 2016, to:

(2) Despite subsection (1), a gift or benefit may be accepted by an elected official **or their spouse or dependent** if the gift or benefit

² The subsection enacted on April 5, 2016, originally read:

(3) If a gift with a value greater than \$250 is given to an elected official or the elected official's spouse, dependent, **or immediate family member** as a result of their relationship to the elected official
Amended June 23, 2016, to:

(3) If a gift with a value greater than \$250 is given to an elected official or the elected official's spouse or dependent, as a result of their relationship to the elected official

Disclosure of interests

- 12.** (1) Every officer and any Tla'amin Nation employee designated under subsection (2) must file a Tla'amin Nation Conflict of Interest Disclosure Form with the chief administrative officer, or in the case of the chief administrative officer, the Chair of the Finance Committee.
- (2) The chief administrative officer may designate a Tla'amin Nation employee who is not an officer to complete and file a Tla'amin Nation Conflict of Interest Disclosure Form with the chief administrative officer.
- (3) Every officer and any Tla'amin Nation employee designated under subsection (2) must file a Tla'amin Nation Conflict of Interest Disclosure Form under subsection (1) at the following times:
- (a) within 20 business days of being hired;
 - (b) as soon as practical after a material change in the information previously disclosed; and
 - (c) on October 15 of each year that the officer or any employee designated under subsection (2) holds office, unless the officer has completed a disclosure within the past six months.
- (4) If an officer or Tla'amin Nation employee believes they have a conflict of interest or an apparent conflict of interest, the officer or employee must
- (a) disclose the circumstances in writing as soon as practical to the chief administrative officer or, in the case of the chief administrative officer, to the Chair of the Finance Committee; and
 - (b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest or an apparent conflict of interest until advised by the chief administrative officer or the Chair of the Finance Committee, as the case may be, on actions to be taken to avoid or mitigate the conflict or apparent conflict.

Outside employment

- 13.** The Executive Council must establish policies and procedures that would specify when
- (a) an officer or Tla'amin Nation employee is permitted under their terms of employment to have outside employment, contracts or business interests; and
 - (b) the officer or employee must disclose any outside employment or business interests in writing.

Gifts and benefits

- 14.** (1) An officer or Tla'amin Nation employee or an officer's or Tla'amin Nation employee's spouse or dependent must not accept a gift or benefit that might reasonably be seen to have been given to influence the officer or employee in the exercise of their powers or performance of their duties or functions.

- (2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit
- (a) would be considered within
 - (i) normal exchanges common to business relationships, or
 - (ii) normal exchanges common at public cultural events of the Tla'amin Nation; and
 - (b) does not, when combined with any other gifts received from the same individual or entity during the previous 12 months, amount to a value of more than \$250.

PART 5 - PROCEDURES FOR CONTRACTORS AND AGENTS

Disclosure of interests

15. If a contractor or agent believes they have a conflict of interest or an apparent conflict of interest, they must

- (a) disclose the circumstances in writing as soon as practical to the chief administrative officer of the Tla'amin Nation; and
- (b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest or an apparent conflict of interest until advised by the chief administrative officer on actions to be taken to avoid or mitigate the conflict or apparent conflict.

Gifts and benefits

16. A contractor or agent, or a member of their immediate family, must not accept a gift or benefit that might reasonably be seen to have been given to influence the contractor or agent in the exercise of their powers or the performance of their duties or functions with the Tla'amin Nation. *[Amended June 23, 2016]*³

³ Amended June 23, 2016. A comma was added after the word “family”.

SCHEDULE A – TLA'AMIN NATION CONFLICT OF INTEREST DISCLOSURE FORM

Name: (Name)

This statement discloses information as of: (Date)

1. I have read and understood the *Conflict of Interest Law* and the *Tla'amin Nation Conflict of Interest Regulation*.
2. I have listed on the attached page(s) details of:
 - a. Any corporation or other legal entity of which I beneficially own, directly or indirectly, more than 10% of the voting rights;
 - b. Any trust or estate in which I have a substantial beneficial interest or for which I serve as a trustee; and
 - c. Any real property I own within the traditional territory of the Tla'amin Nation or that may be impacted by any decision by the Tla'amin Nation or any of the Tla'amin Entities.
3. I hold the following offices, directorships, and employment position(s) in addition to my role as _____ ("elected official", "officer" or "employee", as appropriate) _____:

4. An actual, potential or apparent conflict of interest with my role as _____ (“elected official”, “officer” or “employee”, as appropriate) _____ may arise because:

5. Other than as disclosed above, I do not have any relationship or interest that could compromise, or be perceived to compromise, my ability to exercise judgment with a view to the best interest of the Tla'amin Nation.
6. I agree to provide an updated Disclosure Form annually or as may be required by changed circumstances.

Signature

Date _____

Print name

- i. Names of spouse, dependents and immediate family members:
(children, siblings, parents, grandparents, grandchildren)

- ii. Employer of spouse, and any other offices and directorships held by spouse:

- iii. Employer of dependents, and any other offices and directorships held by dependents (if any):

- iv. Corporations or other legal entity of which I and/or my spouse/dependents beneficially own, directly or indirectly, more than 10% of the voting rights: *[Amended June 23, 2016]*⁴

- v. Any trust or estate in which I and/or my spouse/dependents have a substantial beneficial interest or for which I serve as a trustee:

- vi. Any real property I and/or my spouse and dependents own within the traditional territory of the Tla'amin Nation or that may be impacted by any decision by the Tla'amin Nation or any of the Tla'amin Entities:

Signature

Date

Print name

Note: Please fill in "not applicable" rather than leaving a blank.

⁴ Amended June 23, 2016. The reference to "20%" was changed to "10%".

SCHEDULE B – ELECTED OFFICIAL’S GIFT DISCLOSURE FORM

Name: (Elected Official’s Name)

This statement discloses information as of: (Date)

1. I have read and understood the *Conflict of Interest Law* and the *Tla’amin Nation Conflict of Interest Regulation*.
2. I have listed below details (item, from whom it was received, etc.) of a gift(s) that I, my spouse or dependent received since my last disclosure as a result of my position as an elected official of the Tla’amin Nation:

3. What is the approximate value of the gift?

4. The gift(s) described above has become property of the Tla’amin Nation:

YES / NO (circle one)

5. If NO, please provide the reasons it has not become the property of the Tla’amin Nation:
