



## Conflict of Interest

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### 1. **Purpose**

The purpose of this policy is to ensure that Buncombe County employees, appointed board members and commissions, and non-profits that receive money from the County to perform their duties as public employees operate in a fair and unbiased way, ensuring that decisions made are not impacted by, or appear to have personal self-interest, private affiliations, or the likelihood of gain or loss for them or others that they may wish to benefit or disadvantage.

### 2. **Applicability**

This policy applies to all Buncombe County departments and employees. Where there is conflict with any department-specific policy, this document will supersede.

### 3. **Policy**

3.1. A conflict of interest involves a conflict between the public duty and private interests of a public employee in which the employee has private-capacity interests which could improperly influence the performance of their official duties and responsibilities. The fundamental idea is that where there is, in fact, an unacceptable possibility of conflict between a public employee's interests as a private citizen (private-capacity interests) and their duty as a public servant (official duty), a conflict of interest can be said to exist.

A conflict of interest occurs when private interests interfere or appear to interfere with the performance of official duties. Private interests include personal, professional or business interests, as well as the interests of individuals that employees associate with, such as family members, dependents and friends.

Conflicts of interest fall into three categories.

- Actual – there is a direct conflict between an employee's current duties and their existing private interests
- Potential – an employee's duties and private interests could conflict in the future
- Perceived – the appearance that an employee's private interests could improperly influence the performance of their duties exists.

Conflicts of interest can arise inside or outside of the workplace. They may be:

- **Monetary** – where there is a reasonable likelihood of financial loss or gain. May result from an employee (or a relative or close associate) owning property, holding shares or a position in a company bidding for government work or accepting gifts or benefits
- **Non-monetary** – where there is no financial component, but may involve self-interest, personal or family relationships or other affiliations. Includes any tendency toward favor or prejudice resulting from friendship, animosity or other personal involvement that could bias an employee’s judgement or decisions.

While it is best to avoid conflicts of interest, this is not always possible. Identifying and resolving conflict of interest situations is crucial to good governance and maintaining public trust. Public employees are obligated to identify and disclose any actual, potential, or perceived conflicts of interest.

It is not possible to give an exhaustive list of situations that might involve violations of this policy. However, the primary aim for the following policy sections is to help employees identify and avoid situations that would constitute a conflict of interest.

### 3.2. Gifts/Favors

3.2.1. No public employee of the County shall:

- Accept any gift, whether in the form of a meal, service, loan, thing of value, or a promise from any person or vendor that, in the employee's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the County.
- Accept any gift, favor, or thing of value that may tend to influence that employee in the discharge of their duties.
- Grant any improper favor, service, or thing of value in the discharge of duties.

3.2.2. Certain items and situations are excluded from the definition of a gift/favor and this policy does not prohibit County employees from accepting the following:

- Items or souvenirs of nominal value (under \$35.00).
- Modest items of food and refreshments not offered as part of a meal.
- Prizes at conferences available to all participants or the general public.
- Meals furnished at conferences, trade shows or trainings available to all participants.
- Free attendance or expenses to include meals, travel and lodging provided by the sponsor of an event where the employee is a speaker or participant invited in their official capacity or has been assigned to present information on behalf of the agency.

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### **3.3. Outside Engagements and Secondary Employment**

- 3.3.1. The County recognizes the right of employees to engage in activities outside of their employment which are of a private nature and unrelated to County business. Secondary employment, board service, and other civic activities may be a conflict of interest if it impacts an employee's work performance, or health and wellbeing. Alternatively, these activities could provide the opportunity for personal loss or gain, such as using confidential information obtained from the public sector workplace or conducting personal business during work time.
- 3.3.2. An employee working full-time for Buncombe County has primary employment responsibility to the County. All other employment outside of the County, including self-employment, is considered secondary employment and must be disclosed. Additionally, outside engagements including service on boards or entities with which Buncombe County conducts business, must also be disclosed.
- 3.3.3. All requests for outside engagements and secondary employment must be submitted in advance of starting the engagement or employment. Requests must be disclosed as well as submitted to the immediate supervisor, Department Director or appointing authority for approval.
- 3.3.4. Annual disclosure is required of all employees to communicate outside engagements and/or secondary employment.
- 3.3.5. No County employee shall engage, accept private employment or render service for private interest, when such employment or service creates a conflict of interest or the appearance of a conflict with the employee's primary employment responsibility to the County.
- 3.3.6. Secondary employment approval may be withdrawn by an employee's supervisor for any of the following reasons:
  - The secondary employment has a present or possible conflict of interest with the employee's primary employment.
  - The supervisor believes that the secondary employment has caused the employee's overall work performance to drop below an acceptable level.
  - The supervisor becomes aware of secondary employment that the employee has not reported and there is evidence that the failure to report has been willful.
- 3.3.7. Please reference the Conflict of Interest Procedures regarding disclosure reporting.

### **3.4. Family Member Employment/Relationships**

As a large employer, Buncombe County does have members from the same family who work for the County. Our goal is to have in place safeguards that address concerns regarding conflict of interest, favoritism and/or the perception of these being present.

- 3.4.1. No County employee shall serve in a position that results in a family member supervising the other or in one family member occupying a position that has influence over the other's employment, promotion, salary administration or related management, or personnel considerations.

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- 3.4.1.1. If there is a situation that would result in the perception of or the possibility of a conflict of interest in carrying out the duties of a position then satisfactory safeguards shall be enacted that remove the possibility of conflict, and shall be approved by the County Manager. This includes situations where there are relationships that exist where a member of the Buncombe County workforce is in the chain of command but not otherwise supervised directly by a person with whom they are related.
- 3.4.2. For those situations where the circumstances of employment change due to marriage or a domestic partner relationship, those involved are required to document the relationship and notify the Human Resources (HR) Department immediately. In response, the HR Department will take such actions as necessary to remedy the situation.
- 3.4.3. Annual disclosure of any family member employment and relationships is required of all employees.
- 3.4.4. The Board of County Commissioners (BOCC) shall approve the hiring of a relative by blood or marriage of nearer kinship than first cousin for the County Manager, Sheriff or Register of Deeds.
- 3.4.5. The BOCC shall approve any existing employment relationship for which the County Manager has a family member within the Manager's chain of command.
- 3.4.6. Please reference the Conflict of Interest Procedures regarding disclosure reporting.

### **3.5. Limitations of Consensual Relationship**

- 3.5.1. Buncombe County prohibits romantic or sexual relationships between a supervisor and anyone within the supervisor's chain of command because such relationships create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the employee.
- 3.5.2. Moreover, given the uneven balance of power within such relationships, consent by the subordinate is suspect and may be viewed by others or, at a later date, by the individual as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department, or other actions may be taken to remedy the situation.
- 3.5.3. This requirement does not apply to parties who do not supervise or otherwise manage responsibilities over the other. Because of potential issues regarding quid pro quo harassment, Buncombe County has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties who do not supervise or otherwise manage responsibilities over the other.
- 3.5.4. Please reference the Conflict of Interest Procedures regarding disclosure reporting.

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### 3.6. Confidential Information

No County public employee shall disclose confidential information concerning the property, government or affairs of the County in such a manner as to advance the financial or other private interest of their own private interests. Examples include but are not limited to:

- Acquire a financial interest in any property transaction or enterprise
- Gain any financial benefit from the transaction
- Intentionally help another gain financial benefit from the transaction

### 3.7. Contracts/Insider Trading

Buncombe County public employees are prohibited from having a direct or indirect formal interest that conflicts substantially with their Government duties and responsibilities; or, from joining in, directly or indirectly, a formal transaction as a result of, or primarily relying upon, information obtained through their Government employment. Additionally, they should refrain from transmitting any knowledge learned as a result of their employment with the County to any person other than in connection with the discharge of their official responsibilities.

## 4. Policy Non-Compliance

Employees willfully violating the terms and conditions of this policy may be subject to appropriate disciplinary action, up to and including dismissal.

## 5. Audit

All policies for Buncombe County may be subject to audit or review as outlined in the [Internal Auditor's Statement](#).

## 6. Definitions

- 6.1. Public Employee – All County employees including public servants, civil servants, or any other kind of official who performs public functions or duties on behalf of the County.
- 6.2. Vendor – a supplier of goods and/or services that does business or intends to do business with Buncombe County.
- 6.3. Workforce – employees, volunteers, contract staff, and other persons whose conduct, in the performance of work for Buncombe County, is managed by Buncombe County. The County's management of these persons may include training and development, direction of work activities, provision of resources, and policy oversight.
- 6.4. Outside Engagements – employee involvement with any company, trust, organization, enterprise, government agency, or other entity other than the employee's primary position with Buncombe County, including for-profit and non-profit organizations.

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- 6.5. Family member – a relative by blood or marriage of nearer kinship than first cousin. (ex: Spouse, domestic partner, parent, guardian, child, sibling, grandchild, grandparent, cousin, aunt, uncle, niece, nephew, and the various combinations of half, step, in-law, and adopted relationships that can be derived from the family members named herein or other relationships that would suggest a familial bond such as loco parentis).
- 6.6. Consensual Relationship – Any relationship which is romantic, intimate, or sexual in nature and to which both parties’ consent.

**7. Approval and Revision History**

Policy Origination Date:	November 2, 2021
Requires Board Approval:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Board Approval Date:	November 7, 2023
Revision History:	11/2/21 – removed content from Personnel Ordinance and created stand-alone policy 10/13/23 – removed blank Background section, added reference to Conflict of Interest Standard Operating Procedures, removed references to Workday and changed approval for secondary employment from Human Resources (HR) to employee’s supervisor.

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