POLICY NO. 5

JORDAN RIVER COMMISSION

POLICY

ON

NEPOTISM AND DISCLOSURE OF CONFLICTS OF INTEREST

Part 1. Nepotism

1.1. The Jordan River Commission believes all employees should be competitively selected on the basis of qualifications. The Commission rigidly adheres to the Nepotism Act (U.C. A. 52-3) regarding appointing and supervising relatives. The Commission also exercises their right to incorporate other good management practices by extending these prohibitions to include those persons with whom there is a close, personal relationship, and any companies where such individuals or relatives are employed or have any ownership. It also discourages hiring of relatives or others with whom there is a close personal relationship in the same division. This policy applies to permanent and temporary employees.

1.2. The state's Nepotism Act states: "No public Governing Board member may employ, appoint, or vote for or recommend the appointment of a relative in or to any position or employment, when the salary, wages, pay, or compensation of the appointee will be paid from public funds and the appointee will be directly supervised by a relative . . ."

1.3. Reference (a) defines a relative as "father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law." Reference (b) also includes grandchildren, grandparents, spouse=s grandparents, step-children, step-parents, step-grandparents, spouse’s step-grandparents, step-sisters and step-brothers under the definition of immediate family. For this policy, the definition of a relative is a combination of (a) and (b).

1.4. The Commission requires disclosure of the relationship before hire, transfer or promotion to a position within the Commission. Hiring relatives may be approved if there is no working relationship between them that would be contrary to state law or that might reasonably give rise to criticism or conflict of interest. The Executive Director will evaluate such hiring decisions on a case-by-case basis and consult with the Governing Board.

1.5. During the initial interview, hiring officials shall ask applicants to declare if they have relatives or others with whom there is a close personal relationship working within the Commission, if an ongoing working relationship may occur. If the applicant has a relative currently working in the Commission, approval from the Governing Board, is required before making an offer of employment.

1.6. Any applicant who withholds or gives false information regarding personal relationships may be terminated. A supervisor who knowingly violates this policy is subject to disciplinary action.

1.7. Employees working within the Commission who marry may be reassigned at the discretion of the executive director. If the Nepotism Act is violated by a marital relationship, employees will be reassigned by the Executive Director.

1.8. Supervisors shall not supervise individuals where there may be a conflict of interest, including conflicts that arise from personal relationships.

<u>Part 2. Conflicts of Interest</u>

2.1. Governing Board members and employees are governed by the Utah Public Officers and Employees Ethics Act (UCA § 67-16-1 et seq.) and the provisions of this policy regarding outside interests and conflicts which are prohibited or which require disclosure.

   a. Governing Board members and employees are prohibited from using non-public information improperly or for their own or another's gain or benefit.

   b. Governing Board members and employees shall not use or attempt to use their position to secure special privileges or exemptions for self or others.

   c. Governing Board members and employees are prohibited from engaging in any outside activity, employment, or financial investment which constitutes a restricted conflict of interest or impairs their judgment regarding the faithful performance of Commission responsibilities.

2.2. Conflicts of Interest

   a. Definitions

      i. For the purposes of this section, a "restricted conflict of interest" means any direct outside, private financial interest held by the Governing Board member, employee, or representative or by members of a Governing Board member's, employee's, or representative's household. Outside public sector employment does not constitute a restricted conflict of interest.

ii. The terms "nonrestricted conflict" or "nonrestricted conflict of interest" include any and all other interests including political, family, fraternal, social, other interests or associations which may create the appearance or the actuality of a conflict of interest between an Governing Board member or employee's outside interest and his or her Commission responsibilities, other conflicts as defined by state statute and any campaign contribution made to the Governing Board member, employee, or representative, or to any member of his or her household, of more than five hundred dollars during the prior calendar year.

iii. As used in this section, the term "representative" shall refer to any authorized agent of the Commission.

iv. The term "financial interest" shall refer, but not be limited to, any direct employment by or direct representation as an agent of any individual, corporation, business entity, organization, or committee. A financial interest also includes any beneficial ownership of one percent or more of a corporation or other business entity.

b. Governing Board members, employees and representatives

i. Governing Board members, employees, and representatives are required to recuse themselves from any and all discussions, deliberations, decision making or vote in which they have a restricted conflict of interest and shall fully disclose that restricted conflict prior to any discussion or decision.

ii. Any action, vote, contract, or other Commission activity which has been undertaken by an Governing Board member, employee or representative who has a restricted conflict of interest shall be voidable by the body that took the action. That body may also ratify any prior action that was taken in violation of this section.

iii. All unrestricted conflicts of interest and restricted conflicts of interest must be publicly disclosed at any meeting, hearing, or deliberation where the Governing Board member, employee, or representative is present and the particular matter involving the conflict or restricted conflict is to be discussed. Governing Board members or employees having a restricted conflict of interest are also required to recuse themselves in compliance with subsection B of this section. Governing Board members, employees, or representatives who have unrestricted conflicts are not required to recuse themselves but may do so. If a Governing Board member, employee, or representative is not aware of the actual or potential financial interest, he or she must disclose the financial interest as soon as he or she learns of that actual or potential financial conflict of interest.

iv. Governing Board members, employees, and representatives are required to comply with all legal requirements setting a responsibility to disclose restricted and unrestricted conflicts of interests between their public duties and private activities. In particular, Commission Governing Board members and employees are bound by the requirements of the Utah Public Officers and Employees Ethics Act (UCA § 67-16-1 et seq.).

v. Oral or verbal disclosures must be made in accordance with state statute, other sources of the law, and this section.

vi. Governing Board members and employees are required to file written disclosures in accordance with the provisions of state statute. All written disclosures must be kept current and are filed both with the employee's immediate chain of command and with the Commission Governing Board. Board member disclosures shall be filed with the Executive Director who shall distribute the disclosure to the Governing Board and place the disclosure in the minutes of the next Board meeting.

c. Contractual Services

i. Individuals and business entities who contract to represent the Commission's interests by lobbying the State Legislature or any other municipal, state or federal office or agency must declare to the Commission the names of other clients they represent and those clients' respective issues and interests. Unless they receive written permission from the Commission Governing Board, such individuals or business entities are prohibited from representing other clients about the same or substantially same issues and interests as covered by the Commission representation.

ii. Individuals and business entities who contract to represent the Commission's interests by lobbying the State Legislature or any other municipal, state or federal office or agency are prohibited from engaging in any lobbying of Commission Governing Board members, employees, agencies or offices, as defined in this policy.

2.3.Gifts

a. Definitions

i. "Gifts" means anything of value including a loan at a rate that is substantially less than a prevalent commercial rate, compensation for goods or services exceeding fair market value, goods or services provided for less than fair market value, gratuity, entertainment, hospitality or forbearance, unless consideration of equal or greater value is received.

ii. "Honoraria" means the offering or acceptance of perquisite, gift or anything of value for speaking, writing or participating in a meeting, convention, social event, meal or like gathering.

iii. “Public Servant or Volunteer Public Servant” means any employee, volunteer or Governing Board member of the Commission.

iv. "Purchasing official" means any Governing Board member or employee who recommends for final action, prepares specifications, or approves or rejects any part of a specific procurement or disposal of goods, services, or real property or any specific contract related to a procurement of goods or services or disposal of property.

b. Gifts and Procurement

i. No public servant or volunteer public servant shall knowingly receive, accept, take, seek, or solicit, directly or indirectly, for himself or herself or another, a gift that the public servant or volunteer public servant knows, or with the exercise of reasonable care should know: 1) would influence the recipient to depart from the faithful and impartial discharge of his or her public duties; or 2) is primarily for the purpose of rewarding the public servant or volunteer public servant for governmental action taken or not taken.

ii. Except for gifts described as exceptions in Section 2.3.d of this policy, no public servant shall seek or solicit, or receive directly or indirectly, any gift for the purpose of addressing or dealing with personal matters or other matters not involving official Commission business.

iii. Without exception, receipt or solicitation of any gift or a request for employment by a purchasing official from any person including a vendor of goods, seller or buyer of real property, or service provider is illegal and punishable as provided by statute.

iv. It is unlawful and punishable as provided by statute for any payment, gift or offer of employment to be offered or made by any person to a public servant, volunteer public servant or contractor of the Commission to obtain a specific procurement, disposal, contract or subcontract.

v. Contracts entered into resulting from a violation of this section are voidable and any payments made on these contracts shall be recoverable to the Commission.

c. Honoraria.

i. Governing Board members and employees of the Commission shall not accept honoraria in regard to activities related to their Commission duties or purpose except as provided in Section 2.3.d. of this policy

d. Exceptions

The following are exceptions to the gifts and honoraria requirements of this policy.

i. Campaign Contributions: A political campaign contribution covered or regulated by rules and ordinances within the individual Governing Board member’s home city or county.

ii. Gifts From Relatives: A bona fide gift from a relative, not given in violation of Section 2.3.b of this policy, provided it is not given in exchange for, as consideration for, or as a reward for the recipient taking or refraining from taking any official Commission action, past, present, or future.

iii. Grants Of Hospitality; Gestures Of Friendship: An occasional grant of hospitality or gesture of friendship, not given in violation of Section 2.3.b of this policy, if provided to an individual on the basis of personal friendship, and if it is from a friend who has not, does not and has no immediate plans to do business with the Commission or be regulated by it, either individually or through a business entity in which the giver or a relative of the giver has more than a ten percent (10%) interest.

iv. De Minimis Nonpecuniary Gifts: An occasional nonpecuniary gift having a value of less than fifty dollars ($50.00), or as specified by the Board member’s individual local government regulations if more restrictive.

v. De Minimis Remembrances; Items Of Nominal Value: Any occasional noncash remembrance, not given in violation of Section 2.3.b of this policy, with a value less than one hundred dollars ($100.00), given for use by, or shared by the recipient of the gift with, the entire office or working group of which the recipient is a member; a plaque, trophy, or other item that is substantially commemorative in nature; or an item of nominal value, such as a greeting card, baseball cap, or T-shirt.

vi. Travel, Lodging, and Food Expenses Incurred In Connection With Official Commission Business: Reasonable expenses for food, travel, lodging, or scheduled entertainment of a public servant or volunteer public servant incurred in connection with public events, appearances, ceremonies, or other activities related to official Commission business, not given in violation of Section 2.3.b of this policy, if furnished by the sponsor of such public event, appearance, ceremony, or other activity.

vii. Death Transfers: Death transfers including bequests and inheritances.

viii. Legal Defense Fund Contributions: Any contribution may be made to a legal defense fund which is not violative of Section 2.3.b of this policy.

1. Any Governing Board member may establish a legal defense fund. Any such legal defense fund shall be a trust, administered and accounted for by an independent trustee of the Governing Board member's choosing. The Governing Board member may not solicit or receive contributions for legal defense fund purposes until such a trust has been created. The Governing Board member shall be solely responsible for raising funds for and directing the trustee to make expenditures from such fund, consistent with the provisions of this chapter.
2. In no event shall any Governing Board member simultaneously maintain more than one legal defense fund. Annually, the Governing Board member shall file a disclosure with the Executive Director which provides an accounting and identities of contributors consistent with title 52, chapter 5, part 2 of the Utah code.
3. The trustee shall not accept more than seven thousand five hundred dollars ($7,500.00) for the Governing Board Chair or one thousand five hundred dollars ($1,500.00) for any Governing Board member in contributions to a legal defense fund from any one individual or organization. No person shall make a contribution to a legal defense fund in the name of another person or make a contribution with another person's funds in his or her own name, and no Governing Board member shall knowingly accept any such contribution.
4. During such time as any monies remain in a legal defense fund, the beneficiary of such fund shall comply with the reporting requirements of title 52, chapter 5 of the Utah code, or any successor sections.
5. Within ninety (90) days after determining that there are no related legal proceedings threatened or pending against him or her for which such funds would be eligible for use, the beneficiary thereof shall notify the trustee, in writing, of such determination. Such determination and notification may occur before or after the beneficiary leaves elective office with the Commission. Within ninety (90) days after receipt of such notification, the trustee shall, as directed by the beneficiary in such notification, or, if the beneficiary does not so direct, in the trustee's sole discretion, either: a) return such monies to the donors thereof on a pro rata basis; b) transfer such monies to the general fund of the Commission; or c) donate such monies to a tax exempt charity.
6. In no event shall monies in a legal defense fund be transferred to a campaign finance fund of any person.

7. On or before the next January 5 after the distribution of monies described in subsection H5 of this section, the Governing Board member shall file the report required by section 52-5-201 of the Utah code, or any successor section, and shall file a copy of such report with the Commission Executive Director.

e. Restrictions on post-Commission employment.

    i. When a Governing Board member or FLSA exempt employee, excluding uncompensated volunteers, voluntarily leaves Commission service he or she is prohibited for a period of one year from directly communicating, for compensation, with the Commission for the purpose of attempting to influence any action on any matter pending before that Commission agency. This prohibition does not apply to routine government services which do not require the exercise of discretion or to the normal scope of a person's licensed professional capacity.

    ii. Any private business entity or individual whose employee or contractor is found to be in violation of this section shall be prohibited from contracting or conducting any non-statutory transaction with the Commission for a period of one year from date of the violation.

    iii. A former Governing Board member or employee is not prohibited from holding any office, but must disclose and resolve any conflicts of interest arising from their previous Commission employment which conflicts of interest would tend to interfere with the Commission's best interest.