**HEBER VALLEY SPECIAL SERVICE DISTRICT**

1000 East Main Street

PO Box 427

Midway, UT 84049-0427

Phone: (435) 654-2248

Email: dgunn@hvssd.org

www.hvssd.org

**RESOLUTION 2022-01 Heber Valley Special Service District Conflict-of-Interest Policy**

\*\*\*DRAFT\*\*\*

**Overview**

Heber Valley Special Service District (HVSSD) officers individually commit themselves in their official capacity to ethical, businesslike, and lawful conduct, including appropriate use of their authority and decorum at all times. Officers must avoid even the appearance of impropriety to ensure and maintain public confidence in the HVSSD. Officers owe a fiduciary duty to the HVSSD and must not act in a manner that is contrary to that duty or to the interests of the HVSSD. Officers must place the interests of the HVSSD over their own personal interests with respect to the governance, policy, strategic direction and operations of the HVSSD.

**Policy**

It is the intent of the HVSSD Administrative Control Board to meet and exceed those protections against conflicts of interest contained in State law. Under this policy, a Conflict-of-Interest arises when an officer has a personal interest in a matter that is or may be in conflict with or contrary to the HVSSD’s interests and objectives to such an extent that the officer is or may not be able to exercise independent and objective judgment within the context of the best interest of the HVSSD. For the purposes of this policy, an officer’s “personal interest” includes those of his or her relatives, business associates or other persons or organizations with whom he or she is closely associated.

1. The following provisions shall serve as a guide to officers with respect to the affairs of the HVSSD:

a. HVSSD officers shall not receive, accept, take or solicit, directly or indirectly, anything of economic value as a gift, gratuity, or favor from a person or entity if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment, or be considered as part of a reward for action or inaction. Officers are required to submit a report to the HVSSD Administrative Control Board and the HVSSD’s Internal Auditor of the actual or estimated value of any gifts or casual entertainment received as an officer that exceeds $50.00.

b. The complete confidentiality of proprietary business information must be respected at all times. Officers are prohibited from knowingly disclosing such information, or in any way using such information for personal gain or advancement, or to the detriment of the HVSSD, or to individually conduct negotiations or make contacts or inquiries on behalf of the HVSSD unless officially designated by the HVSSD Administrative Control Board.

c. Officers are prohibited from acquiring or having a financial interest in any property that the HVSSD acquires, or a direct or indirect financial interest in a supplier, contractor, consultant, or other entity with which the HVSSD does business. This does not prohibit the ownership of securities in any publicly owned company except where such ownership places the officer in a position to materially influence or affect the business relationship between the HVSSD and such publicly owned company. Any other interest in or relationship with an outside organization or individual having business dealings with the HVSSD is prohibited if this interest or relationship might tend to impair the ability of the officer(s) to be independent and objective in his or her service to the HVSSD.

d. If members of the immediate family of an officer have a financial interest as specified above, such interest shall be fully disclosed to the HVSSD Administrative Control Board which shall decide if such interest should prevent the HVSSD from entering into a particular transaction, purchase, or engagement of services. The term “immediate family” means officer’s spouse, parent, dependent children, and other dependent relatives.

e. When a Conflict-of-Interest exists, the officer shall publicly declare the nature of the conflict and may recuse him or herself on any official action involving the conflict.

f. Officers may not realize, seek, or acquire a personal interest in a business that does business with the HVSSD.

g. Officers shall complete the Conflict-of-Interest Disclosure Form annually by the end of January or as soon as any conflict may arise. This Form shall be signed and notarized. Completed Forms shall be submitted to the District Secretary and made available to the public upon request.

h. The District Secretary shall provide copies of all completed Forms to the HVSSD Administrative Control Board Chair at the end of January each year.

i. The HVSSD Administrative Control Board Chair shall review all completed forms and consider the disclosures. The HVSSD Administrative Control Board Chair should make changes to assignments, duties, or contracts deemed appropriate to eliminate or mitigate conflicts of interest within the HVSSD.

**Conflict-of-Interest Disclosure Form**

The following disclosures are required to be made annually or as a conflict may arise by all officers of Heber Valley Special Service District pursuant to [Utah Code Annotated 17-16a-6, 7, and 8](https://le.utah.gov/xcode/Title17/Chapter16A/17-16a.html). If additional space is needed, please use a separate sheet of paper. Per statute, the information provided shall be kept on file with the HVSSD Administrative control Board and may be subject to disclosure to the public.

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_am the duly elected/appointed

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of Heber Valley Special Service District.

1) I am an officer, director, agent, employee or owner of a substantial interest in the following business entities which are subject to the regulation of Heber Valley Special Service District, and within such business entities, I hold the following positions:

Business Entity Name: Position within Business Entity:

|  |  |
| --- | --- |
|  |  |

Ownership of a substantial interest is defined in [U.C.A. 17-16a-3(8](https://le.utah.gov/xcode/Title17/Chapter16A/17-16a-S3.html?v=C17-16a-S3_1800010118000101)) as an interest of 10% or more of the shares of a corporation, or a 10% or more ownership interest in other entities, legally or equitably held or owned by the officer, the officer's spouse, or the officer's children.

\*Note: There is no case law or statutory guidance as to what constitutes a business entity "subject to regulation of the County." A business which is simply issued a business license by the County may or may not be deemed by a court, administrative agency, an auditor, or member of the public to be an entity regulated by the County. Businesses regulated by interlocal agencies of which the County is a member may or may not be deemed to be a business regulated by the County (i.e., a restaurant subject to regulations imposed by an interlocal agency).

A business entity which requires a conditional use permit to operate may more likely be deemed to be a business entity regulated by the [entity type] than a business that simply receives a business license from the County.

2) I am an officer, director, agent, employee or owner of a substantial interest in the following business entities which do business with or anticipate doing business with Heber Valley Special Service District:

Business Entity Name: Position within Business Entity:

|  |  |
| --- | --- |
|  |  |

Please note that pursuant to [U.C.A. §17-16a-7](https://le.utah.gov/xcode/Title17/Chapter16A/17-16a-S7.html?v=C17-16a-S7_1800010118000101), an officer must disclose his or her interest or involvement in such an entity immediately prior to any discussion in an open and public meeting pertaining to business that the [entity type] may do with any such entity, regardless of whether a disclosure of interest or involvement in the business was made in this document.

3) The following personal interests or investments and or associations of mine create a potential or actual conflict between my personal interest and my public duties:

|  |
| --- |
|  |

\* \* \* OPTIONAL DISCLOSURES \* \* \*

4) The following disclosures of other business interests, investments, and other matters are not required to be made by law, but are made with the intent to more fully disclose other interests that may be deemed relevant to the administration of public duties, or in furtherance of my intent to provide a more complete disclosure of my economic or personal activities, or for other reasons:

|  |
| --- |
|  |

DATED THIS \_\_\_\_\_\_\_ DAY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [year]

SWORN TO AND SUBSCRIBED BY ME

THIS \_\_\_\_\_\_\_ DAY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [year]

NOTARY PUBLIC

**Utah Code**

**10-3-1303 Definitions**.

 As used in this part:

(1) "Appointed officer" means any person appointed to any statutory office or position or any other person appointed to any position of employment with a city or with a community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act. Appointed officers include, but are not limited to, persons serving on special, regular, or full-time committees, agencies, or boards whether or not such persons are compensated for their services. The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the municipality.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

(3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business. (4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.

(5) "Elected officer" means a person:

(a) elected or appointed to the office of mayor, commissioner, or council member; or

(b) who is considered to be elected to the office of mayor, commissioner, or council member by a municipal legislative body in accordance with Section 20A-1-206.

(6) "Improper disclosure" means disclosure of private, controlled, or protected information to any person who does not have both the right and the need to receive the information.

(7) "Municipal employee" means a person who is not an elected or appointed officer who is employed on a full- or part-time basis by a municipality or by a community reinvestment agency Utah Code Page 2 under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

(8) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.

(9) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity. Amended by Chapter 350, 2016 General Session

 **10-3-1306 Interest in business entity regulated by municipality -- Disclosure statement required.**

(1) Every appointed or elected officer or municipal employee who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the municipality in which he is an elected or appointed officer or municipal employee shall disclose the position held and the nature and value of his interest upon first becoming appointed, elected, or employed by the municipality, and again at any time thereafter if the elected or appointed officer's or municipal employee's position in the business entity has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure.

(2) The disclosure shall be made in a sworn statement filed with the mayor. The mayor shall report the substance of all such disclosure statements to the members of the governing body, or may provide to the members of the governing body copies of the disclosure statement within 30 days after the statement is received by him.

(3) This section does not apply to instances where the value of the interest does not exceed $2,000. Life insurance policies and annuities may not be considered in determining the value of any such interest.

Amended by Chapter 378, 2010 General Session

**10-3-1307 Interest in business entity doing business with municipality -- Disclosure.**

(1) Every appointed or elected officer or municipal employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the municipality in which he is an appointed or elected officer or municipal employee, shall publicly disclose to the members of the body of which he is a member or by which he is employed immediately prior to any discussion by such body concerning matters relating to such business entity, the nature of his interest in that business entity.

(2) The disclosure statement shall be entered in the minutes of the meeting.

(3) Disclosure by a municipal employee under this section is satisfied if the employee makes the disclosure in the manner required by Sections 10-3-1305 and 10-3-1306.

Amended by Chapter 147, 1989 General Session

**10-3-1308 Investment creating conflict of interest with duties -- Disclosure.**

Any personal interest or investment by a municipal employee or by any elected or appointed official of a municipality which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section 10-3-1306.

 Amended by Chapter 147, 1989 General Session