



Exhibition Place

12

November 24, 2015

ACTION REQUIRED

To: The Board of Governors of Exhibition Place

From: Dianne Young
Chief Executive Officer

Subject: **Toronto Public Service By-law & Employee Policies**

Summary:

As an agency of the City of Toronto, the Board is required to follow directions of City Council. A major direction by Council in 2014 was the adoption of a Public Service By-law for Toronto (Toronto Municipal Code, Chapter 192, Public Service) which comes into force on December 31, 2015 and is attached as Appendix "A". Chapter 192, Public Service applies to most City agencies including Exhibition Place.

Recommendations:

It is recommended that the Board:

- 1) Acknowledge the application of Chapter 192, Public Service to Board employees, outlined in Appendix A; and**
- 2) Approve the attached Employment of Relatives Policy, outlined in Appendix B.**

Financial Implications:

There are no financial implications resulting from the adoption of this report.

Decision History:

The Exhibition Place 2014 – 2016 Strategic Plan had an Organizational and Staffing Goal to *Review and revise our corporate systems* and as a Strategy to support this Goal *we will complete an annual review of By-Laws, Policies and Procedures of the Board of Governors.*

At its meeting of September 10, 2014, the Board received for information a report entitled "Strengthening Public Service Governance – A Public Service By-law for Toronto", which report was approved by City Council at its meeting of June 11, 2014, and applies to the City's Agencies
[http://www.explace.on.ca/database/rte/files/Item%2010-Public\(2\).pdf](http://www.explace.on.ca/database/rte/files/Item%2010-Public(2).pdf)
[http://www.explace.on.ca/database/rte/files/Item%2010-Att\(2\).pdf](http://www.explace.on.ca/database/rte/files/Item%2010-Att(2).pdf)
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX42.3>

Issue Background:

The Toronto Public Service By-law (Chapter 192, Public Service, Toronto Municipal Code) comes into force on December 31, 2015, and a number of its provisions will supersede current Board policies and is consistent with legal and governance frameworks for the City and its Agencies.

Comments:

While most of the provisions that make up the Toronto Public Service By-law ("By-law") currently exist as Council-directed policies both at the City and at Exhibition Place, these policies will be automatically repealed on December 31st when the By-law comes into force. In particular:

- The Board's current Conflict of Interest policy will be superceded by Article IV, Conflict of Interest and Confidentiality of the By-law; and
- The Board's current Employee Participation in Municipal Campaigns policy will be superceded by Article V, Political Activity of the By-law.

On December 31st, Article IV and V of the City By-law will apply to the Board's employees and do not require Board approval. Chapter 192, Public Service that includes these Articles is outlined in Appendix A for your information.

The By-law also requires the Board to approve an Employment of Relatives Policy and a Disclosure of Wrongdoing & Reprisal Policy, if the Board does not already have these policies in place.

While the Board does have in place an Employment of Relatives, Former Employees and Elected Officials Policy dating from March 4, 2011, it has been reviewed and updated in light of the updated City policy and is attached as Appendix B.

<http://10.11.0.3/wp-content/uploads/2012/02/Employment-of-Relatives-Former-Employees-Elected-Officials.pdf>

With respect to a proposed Disclosure of Wrongdoing & Reprisal Policy, the Board's current Fraud & Other Similar Irregularities and Whistle Blower Protection policies, approved by the Board at its meeting of April 25, 2012, will remain in effect given that staff are currently working with the Auditor General's Office of the City of Toronto to update this policy and will be reporting to a future meeting of the Board.

[http://www.explace.on.ca/database/rte/files/Item%2017-HR%20Policies\(2\).pdf](http://www.explace.on.ca/database/rte/files/Item%2017-HR%20Policies(2).pdf)

Following the Board's approval of this report, a confirmation of the Board's decision will be submitted to the City Manager advising that the direction of City Council has been complied with.

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Chapter 192¹

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¹ Editor's Note: This Chapter comes into force on December 31, 2015.

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[HISTORY: Adopted by the Council of the City of Toronto 2014-08-28 by By-law No. 993-2014². Amendments noted where applicable.]

General References

Heritage - See Ch. 103.
Lobbying - See Ch. 140
Signs - See Ch. 693, Signs, General.
City of Toronto Act, 2006 - See S.O. 2006, c. 11.
Municipal Elections Act, 1996 - See S.O. 1996, c.32, Sched.
Municipal Freedom of Information and Protection of Privacy Act - See R.S.O. 1990, c. M.56.
Occupational Health and Safety Act - See R.S.O. 1990, c. O.1
Personal Health Information Protection Act, 2004 - See S.O. 2004, c. 3.

ARTICLE I
Definitions

§ 192-1. Definitions.

This Chapter shall be referred to as the "Public Service By-law", and the following terms have the meanings indicated:

AGENCY - An agency of the City of Toronto listed in Schedule 1.

CONFIDENTIAL INFORMATION - Includes, but is not limited to, privileged information, draft by-laws or staff reports, third party information, personal information, technical, financial or scientific information and any other information collected, obtained or derived for or from City records that must or may be kept confidential under the *Municipal Freedom of Information and Protection of Privacy Act*, the *Personal Health Information Protection Act, 2004* or the *City of Toronto Act, 2006*.

CONFLICT OF INTEREST - Includes

- (1) A situation in which a public servant has private interests that could compete with or that may be perceived to compete with their duties and responsibilities as an employee;
- (2) A situation where an employee can use their position for private gain or expectation of private gain, non-monetary or otherwise; or
- (3) A situation described in (2) where the private interest benefits an employee's family, friends or organizations in which the employee or his or her family or friends have a financial interest.

DESIGNATED DIRECTOR - A Director designated by the City Manager or Agency Head for the purposes of Article V.

DESIGNATED SIMILAR POSITION - A position designated by the City Manager or Agency Head as similar to the position of Designated Director for the purposes of Article V.

² Editor's Note: By-law No. 993-2014 comes into force December 31, 2015.

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LARGE AGENCIES - include The Board of Governors of Exhibition Place, Toronto Parking Authority, Board of Health for the City of Toronto Health Unit, Toronto Transit Commission and Board of Management of the Toronto Zoo.

PERSONAL INTEREST - A PRIVATE INTEREST

POLITICAL ACTIVITY - Includes:

- (1) Supporting or opposing a political party and/or candidate before or during an election;
- (2) Seeking nomination or being a candidate in an election;
- (3) Seeking appointment to a municipal council or school board; or
- (4) Canvassing or campaigning on a Toronto municipal referendum question.

and pertains to municipal, school board, provincial and federal elections and Toronto municipal referendum questions.

PRIVATE INTEREST - an interest arising from a relationship, obligation, duty, responsibility or benefit unique to the employee or a person related to the employee.

REPRISAL - Any measure taken or threatened as a direct result of disclosing or being suspected of disclosing an allegation of wrongdoing, initiating or co-operating in an investigation into an alleged wrongdoing and includes but is not limited to:

- (1) Disciplinary measures;
- (2) Demotion of the employee;
- (3) Suspension of the employee;
- (4) Termination of the employee;
- (5) Intimidation or harassment of the employee;
- (6) Any measure that adversely affects the employment or working conditions of the employee; and
- (7) Directing or counselling someone to commit a reprisal.

SMALL AGENCIES - include the Boards of Arenas listed in Schedule 1, the Boards of Community Centres listed in Schedule 1, Heritage Toronto as defined in Chapter 103, Heritage, The Board of Directors of the Hummingbird Centre for the Performing Arts, Board of Management of the St. Lawrence Centre for the Performing Arts, Toronto Atmospheric Fund,

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North York Performing Arts Centre Corporation and Yonge-Dundas Square Board of Management.

WRONGDOING - Serious actions that are contrary to the public interest including but not limited to:

- (1) Fraud;
- (2) Theft of City assets;
- (3) Waste: mismanagement of City resources or assets in a willful, intentional or negligent manner that contravenes a City policy or direction by Council;
- (4) Violations of the City's Conflict of Interest rules set out in Article IV; and
- (5) Breach of public trust.

ARTICLE II
Objectives and Values

§ 192-2. Objectives.

The following are the objectives of this chapter:

- A. To advance the public service as a professional body that is objective, impartial and ethical, with consistent public service requirements;
- B. To affirm Agencies as part of the broader public service with authority to manage their own affairs;
- C. To ensure the public service is effective in serving the public, the Toronto government and the City as a whole through excellence in service, stewardship and commitment;
- D. To establish the roles, responsibilities and authorities for the administration of the public service;
- E. To recruit and develop a well-qualified public service that is reflective of Toronto's diversity, through an impartial, merit-based system that fosters career development;
- F. To set out the rights and duties of the public service concerning ethical conduct, including political activity and conflict of interest;
- G. To establish procedures for the disclosure and investigation of wrongdoing in the public service and protect public servants who disclose wrongdoing from reprisals.

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§ 192-3. Values.

The following are the core values of the Toronto Public Service:

- A. To serve the public well;
- B. To serve Council and/or their Board well;
- C. To act with integrity;
- D. To maintain political neutrality;
- E. To uphold Toronto's motto - Diversity Our Strength;
- F. To use City property, services and resources responsibly;
- G. To apply judgement and discretion; and
- H. To serve the public service well.

ARTICLE III
Human Resources Management

§ 192-4. City Manager.

Chapter 169, Officials, City, Article I, sets out the role of the City Manager as the City's chief administrative officer and the head of the administrative and operational aspects of the City government including responsibility to manage human resources.

§ 192-5. City Clerk.

Chapter 169, Officials, City, Article II, provides that the City Clerk has full charge and control of and is fully responsible for the conduct of the City Clerk's Office for the City of Toronto.

§ 192-6. City Solicitor.

Chapter 169, Officials, City, Article V, provides that the City Solicitor has full charge and control of and is fully responsible for the conduct of the Legal Services Division for the City of Toronto.

§ 192-7. Agencies.

- A. Agencies are responsible to appoint, promote, demote, suspend and dismiss Agency employees subject to the provisions of any personnel policies adopted by the board or collective agreements applicable to Agency employees.

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- A. The following senior City and Agency employees are designated as Ethics Executives for the purposes of this by-law:
- (1) City Manager;
 - (2) City Clerk;
 - (3) City Solicitor;
 - (4) Deputy City Managers and Deputy City Manager/Chief Financial Officer;
 - (5) Division Heads; and
 - (6) Agency Heads and other senior position(s) designated by the Agency Head.
- B. Ethics Executives are responsible to:
- (1) Promote ethical conduct and decision-making;
 - (2) Ensure staff are familiar with the ethical rules in this Chapter and provide guidance on their application; and
 - (3) Provide advice and guidance to staff on situations involving conflict of interest, political activity and other ethical matters.

ARTICLE IV

Conflict of Interest and Confidentiality

§ 192-11. Conflict of interest; obligations; continuation; reporting³.

- A. City and Agency employees are expected to conduct themselves with personal integrity, ethics, honesty and diligence in performing their duties.
- B. City and Agency employees are required to support and advance the interests of the City or Agency and avoid placing themselves in situations where their private interests may be in conflict with, or be perceived to be in conflict with the interests of the City or Agency.
- C. In certain circumstances, the duties and obligations set out in this article will continue after the employee leaves the City or Agency including that a City or Agency employee will not directly or indirectly use or disclose confidential information unless required by law or authorized by the City or Agency after the employee leaves the public service.

³ Related policies and legislation include City and Agency Policies Governing the Employment of Relatives, and Chapter 140, Lobbying.

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- D. Employees of the City or Agency may seek advice in relation to the application of the rules in this Chapter from, and must report any conflict of interest or perceived conflict of interest to their immediate supervisor/manager or their Ethics Executive.
- E. The rules and examples set out in this article identify obvious situations and do not exhaust the possibilities for conflict of interest.
- F. The obligations and duties applicable to an employee under this article do not replace, remove or supersede the duties and obligations required by applicable professional designations or regulatory bodies.

§ 192-12. Preferential treatment.

City or Agency employees shall not use their positions to give anyone preferential treatment that would advance the employee's own private interest or that of any other party where such advance is contrary to the interests of the City or Agency, or would be otherwise contrary to the expectations set out in this article.

§ 192-13. Gifts.

- A. City or Agency employee will not accept, arrange to accept, give or request to be given a reward, gift, advantage or benefit of any kind from any person or entity that influences or could be perceived to influence the performance of the employee's duties.
- B. City or Agency employee, who receives a gift in the performance of his or her duties, will immediately notify his or her manager/supervisor or Ethics Executive.
- C. City or Agency employee may accept a gift of nominal value given as an expression of courtesy or hospitality if doing so does not influence, or would not be perceived to influence, the performance of the employee's duties.
- D. The head of a City or Agency department or division may pre-determine that no gift may be accepted under any circumstance.

§ 192-14. Employment of relatives.

- A. The City and Agencies will maintain policies that govern the employment of relatives.
- B. Each policy at a minimum must outline the rules restricting supervisory relationships between relatives, and the recruitment and appointment of a relative.

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§ 192-15. Use of City or Agency property.

- A. A City or Agency employee may not use, or permit the use of, City or Agency property, including facilities, equipment, supplies or other resources, for activities not associated with the proper performance of their duties.
- B. Any exceptions to Subsection A must be approved by the City or Agency department or division head.

§ 192-16. Use or disclosure of confidential information; obligation; continuation.

- A. A City or Agency employee may not, during the term of his or her employment or any time thereafter, directly or indirectly use or disclose any confidential information obtained by him or her during the course of his or her employment with the City or Agency to another person or entity unless the employee is required by law, or authorized by the City or Agency.
- B. The obligation to maintain confidentiality, except as required or permitted by law or by the City or an Agency, continues after the employee leaves the public service.

§ 192-17. Disclosure of financial interests.

A City or Agency employee involved in a decision-making process related to a contract, sale, or business transaction who knowingly has a financial interest in the City or Agency contract, sale or business transaction, or has family members, friends or business associates with such interests, must disclose the interest to their immediate supervisor/manager or their Ethics Executive and remove themselves from any decision-making process.

§ 192-18. Participating in decision-making.

A City or Agency employee will not participate in a decision-making process with respect to a matter that the employee is able to influence in the course of his or her duties if the employee could benefit from the decision, unless the employee is authorized by the City or Agency department or division head.

§ 192-19. Engaging in outside work or business activities.

A City or Agency employee may not engage in any outside work or business activity that conflicts with his or her duties to the City or Agency; or could benefit from confidential information obtained during the course of his or her employment.

§ 192-20. Appearing before City or Agency committees.

- A. A City or Agency employee may not appear before a City or Agency committee on behalf of a private citizen or third party other than for themselves or for a family member.

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- B. City and Agency employees must identify themselves as such if they are making a deputation to a City or Agency committee, unless they appear as a private citizen on matters that do not relate to their employment.

§ 192-21. Conduct respecting lobbyists.

City and Agency employees should be familiar with the requirements and expectations for dealing with lobbyists as outlined in Chapter 140, Lobbying.

§ 192-22. Failure to comply with the policy.

Individuals who fail to comply with the conflict of interest rules in this article may be subject to disciplinary action up to and including dismissal and, where warranted, legal proceedings.

ARTICLE V
Political Activity

§ 192-23. General principles⁴.

- A. This article recognizes the right of City and Agency employees to participate in political activity which is balanced against the City's legitimate interest in having a public service that both is and appears to be politically impartial.
- B. All public servants have the fundamental right to vote and attend all-candidates meetings.
- C. All City and Agency employees are entitled to engage in other political activity subject to the political activity rules set out in this article.

§ 192-24. Prohibited political activities.

- A. City or Agency employee shall not:
- (1) Use City or Agency resources, including facilities, equipment or supplies while engaging in political activity.
 - (2) Engage in political activity during working hours.
 - (3) Engage in political activity while wearing City or Agency uniform.
 - (4) Wear clothing or buttons that advertise any candidate, political party or referendum issue while at work or while wearing a City or Agency uniform.

⁴ A related policy is the City of Toronto Policy on the Use of Corporate Resources during an Election, adopted by Council July 11, 2012.

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- (5) Use his or her title or position within the City or Agency in a way that would lead a member of the public to infer that the City or Agency is endorsing a candidate, political party or a particular response to a referendum question.

§ 192-25. Designated positions.

- A. Individuals with the following City and Agency positions are "Designated Employees", and this article describes limitations on the political activity in which they may engage:
- (1) City Manager;
 - (2) City Solicitor;
 - (3) Deputy City Managers;
 - (4) City Clerk and staff that support the City Clerk to administer a Toronto election;
 - (5) Division Heads;
 - (6) Agency Heads of Large and Small Agencies;
 - (7) Designated Directors and Designated Similar Positions;
 - (8) Employees who routinely provide governance and procedural advice directly to City Council, Agency Boards and their Committees or in the operation of the Office of the Mayor and Members' Offices;
 - (9) Employees responsible to enforce Article II, Election Signs, of Chapter 693, Signs;
 - (10) Employees who prosecute City by-laws or Provincial statutes; and
 - (11) City and Agency employees that support the City Clerk in the administration of a Toronto election or referendum question.
- B. The City Manager, Deputy City Managers, City Solicitor, City Clerk and Elections staff may not engage in political activity in any election other than that described in § 192-23B.
- C. Division Heads and Heads of Large Agencies are permitted to run for elected office, seek appointment to a municipal council or school board, be a member of a political party, and financially contribute to a candidate's campaign (except in a Toronto municipal election) but may not campaign or canvass for a political party or candidate before or during municipal, provincial and federal elections or in any way related to a Toronto referendum question.

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- D. The following employees are restricted from campaigning or canvassing to support or oppose a candidate before or during a Toronto municipal election or campaigning or canvassing on a Toronto referendum question:
- (1) Heads of Small Agencies;
 - (2) Designated Directors and those in Designated Similar Positions;
 - (3) Employees who routinely provide governance and procedural advice directly to City Council, Agency Boards and their Committees or about the operation of the Office of the Mayor and Members' Offices;
 - (4) Employees responsible for enforcing Chapter 693, Signs, Article II, Election Signs; and
 - (5) Employees who prosecute City by-laws or Provincial statutes.
- E. City and Agency employees that support the City Clerk in the administration of a Toronto election or referendum question may not engage in political activity in the Toronto election that they are working.
- F. City and Agency employee not identified as a 'Designated Employee' in Subsection A who is uncertain of whether intended political activity may impair or be perceived to impair the employee's ability to perform the employee's duties in a politically impartial manner, is required to disclose such political activity and seek guidance from the employee's immediate supervisor, manager or Ethics Executive.

§ 192-26. Seeking election or appointment to political office.

City or Agency employees may seek election or appointment to political office, subject to the requirements set out below:

- A. A City or Agency employee is eligible to be a candidate for and to be elected as a member of Toronto City Council, subject to the following rules:
- (1) As required by the *Municipal Elections Act, 1996*, the employee must take an unpaid leave of absence to become a candidate for Toronto City Council.
 - (2) The leave will begin on the day the employee files his or her nomination papers and will end on voting day.
 - (3) The employee must provide written notice, in advance, of his or her intentions to take unpaid leave pursuant to City or Agency procedures.
 - (4) The employee is entitled to be paid out any vacation pay or overtime pay owing during the period of the unpaid leave of absence.

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- (5) If the City or Agency employee who takes a leave of absence is not elected, the leave will not be counted in determining the length of his or her service for any purpose and the service before and after the leave shall be deemed to be continuous for all purposes.
- B. A City or Agency employee is eligible to seek appointment to and be appointed as a member of Toronto City Council subject to the following rules:
- (1) The employee must take an unpaid leave of absence.
 - (2) The leave will begin on the day the employee files his or her declaration of qualification and consent papers with the City Clerk and will end when City Council determines who will be appointed.
 - (3) The employee must provide written notice, as soon as reasonably possible, of his or her intentions to take unpaid leave to seek appointment pursuant to City or Agency procedures.
 - (4) If the City or Agency employee is elected or appointed to Toronto City Council, he or she will be deemed to have resigned from employment with the City or Agency immediately before making the declaration of office referred to in section 186 of the *City of Toronto Act, 2006*.
- C. A City or Agency employee is eligible to be a candidate for and to be elected as a member of any municipal council or school board or seek appointment to and to be appointed as a member of any municipal council or school board subject to the following rules:
- (1) To become a candidate or seek appointment, a City or Agency employee may take an unpaid leave of absence.
 - (2) If the employee intends to take unpaid leave, he or she must provide written notice to request an unpaid leave pursuant to City or Agency procedures.
 - (3) If a City or Agency employee is elected or appointed to another municipal council or school board, the employee is not required to resign, but is subject to the Conflict of Interest policy, other applicable employment policies and performance expectations.
- D. A City or Agency employee is eligible to be a candidate for and to be elected as a member of Provincial legislature or Federal parliament subject to the following rules:
- (1) To become a candidate, a City or Agency employee must take an unpaid leave of absence and provide written notice to request an unpaid leave pursuant to City or Agency procedures.

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- (2) If a City or Agency employee is elected to provincial or federal office, they shall be deemed to have resigned from employment with the City or Agency.

§ 192-27. Use of corporate resources.

- A. A City or Agency employee who is on a leave of absence while seeking election or appointment to any elected office cannot:
- (1) Use any City or Agency resources during that time; or
 - (2) Act in a manner that could reasonably give rise to a presumption that they are using City or Agency resources during the leave period.
- B. All access to City or Agency resources, including security, parking, voice-mail and computer access, will be temporarily disabled during the employee's leave.

§ 192-28. Employee time to vote.

The City and its Agencies will ensure that every employee who is qualified to vote will have three consecutive hours available to vote while the polls are open on Election Day.

§ 192-29. Seeking guidance and advice.

If a City or Agency employee is unsure about the appropriateness of his or her participation in political activity, the employee should consult with the employee's immediate supervisor/manager or Ethics Executive.

§192-30. Failure to comply with the policy.

A City or Agency employee who fails to comply with the political activity rules in this article may be subject to disciplinary action up to and including dismissal.

ARTICLE VI
Disclosure of Wrongdoing and Reprisal Protection

§ 192-31. Purpose.

- A. The purpose of this article is to facilitate the disclosure of wrongdoing that is contrary to the public interest, to ensure that disclosures are investigated thoroughly, and to protect from reprisal to the fullest extent possible those employees who in good faith report wrongdoing.
- B. The City of Toronto will not tolerate wrongdoing or reprisals against employees who report wrongdoing and all employees have a duty to report suspected wrongdoing.

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- C. Disclosures of wrongdoing will be investigated in accordance with this article in order to maintain public confidence in the public service, the delivery of City services and the use of City resources.
- D. This article addresses only those matters that are in the public interest and for which there are no established mechanisms for consideration and investigation.

§ 192-32. Responsibilities of the Auditor General.

The Auditor General's Office is responsible to:

- (1) Operate the Fraud and Waste Hotline, undertake preliminary review of allegations of wrongdoing and apply the Disclosure of Wrongdoing and Reprisal Protection rules set out in Article VI and Article VII;
- (2) Investigate or refer responsibility for investigations of alleged wrongdoing to the City Manager or designate;
- (3) May provide oversight to investigations led by the City Manager or designate;
- (4) Inform the City Manager of allegations of wrongdoing in a timely manner;
- (5) Refer allegations that do not constitute wrongdoing to the appropriate City official or Accountability Officer for investigation and appropriate action; and
- (6) Investigate allegations of reprisals against employees under the Disclosure of Wrongdoing and Reprisal Protection rules in Article VII, in consultation with the City Manager or designate.

§ 192-33. Responsibilities of the City Manager.

The City Manager is responsible to:

- (1) Lead and advance a culture rooted in the highest ethical standards for City employees;
- (2) Ensure City employees understand their ethical rights and responsibilities, including their responsibilities under the Disclosure of Wrongdoing and Reprisal Protection rules in Article VI and Article VII;
- (3) Investigate or refer responsibility to City staff to investigate alleged wrongdoing, as referred by the Auditor General, and ensure these investigations are appropriately conducted;
- (4) Ensure that City employees who, in good faith, report wrongdoing are protected from reprisal in accordance with the Disclosure of Wrongdoing and Reprisal Protection rules set out in Article VI and Article VII;

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- (5) Report the results of investigations of alleged wrongdoing to the Auditor General;
- (6) Investigate and resolve allegations of employee misconduct that do not constitute wrongdoing as defined in the Disclosure of Wrongdoing and Reprisal Protection set out in Article VI and Article VII;
- (7) Ensure comprehensive tracking of employee misconduct to identify trends, and improvements; implement corrective actions to strengthen management oversight and make improvements to internal control systems and procedures based on findings; and ensure regular reporting of these matters; and
- (8) Ensure recommendations made by the Auditor General in his reports addressing wrongdoing are implemented on a timely basis including systemic issues identified by the Auditor General.

§ 192-34. Responsibilities of Managers.

- A. Managers are responsible to:
 - (1) Promote ethical conduct and support ethical decision-making in their areas of responsibility;
 - (2) Undertake investigations of alleged wrongdoing seriously and appropriately;
 - (3) Report the results of investigations of alleged wrongdoing to the Auditor General;
 - (4) Investigate and resolve allegations of employee misconduct that do not constitute wrongdoing as defined in the Disclosure of Wrongdoing and Reprisal Protection rules set out in Article VI and Article VII;
 - (5) Ensure that City employees under their supervision, who, in good faith, report wrongdoing are protected from reprisals in accordance with the Disclosure of Wrongdoing and Reprisal Protection rules set out in Article VI and Article VII;
 - (6) Establish and maintain a system of internal controls to detect and prevent wrongdoing; and
 - (7) Be familiar with the types of wrongdoing that could occur within their area of responsibility and be proactive in taking steps to guard against such activities.
- B. Managers will support and co-operate with the Auditor General's Office, other involved Divisions, and law enforcement agencies in the detection, disclosure and investigation of wrongdoing, including the prosecution of offenders.

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§ 192-35. Disclosure of wrongdoing.

- A. All City employees who are aware that wrongdoing has occurred will immediately notify their manager, their Division Head, or the Auditor General's Office.
- B. Employees who report wrongdoing in good faith will be protected from reprisal as described in Article VII.
- C. Any employee who knowingly makes a false complaint in bad faith or who knowingly makes a false or misleading statement that is intended to mislead an investigation of a complaint, may be subject to disciplinary action up to and including dismissal as determined by the City Manager in consultation with the City Solicitor and Human Resources.
- D. City employees who disclose wrongdoing will fully co-operate with the Auditor General's Office, other involved Divisions and law enforcement agencies during the course of an investigation and will make all reasonable efforts to be available to assist the above noted persons with the investigation.

§ 192-36. Allegations received by City management.

- A. Allegations of wrongdoing received by City management must be immediately reported to the manager's Division Head or the Deputy City Manager or City Manager if the Division Head is implicated in the allegation.
- B. Allegations of wrongdoing received by Division Heads, Deputy City Managers or the City Manager will be immediately reported to the Auditor General.

§ 192-37. Allegations received by the Auditor General.

- A. When the Auditor General's Office receives an allegation of wrongdoing that will be investigated, the Auditor General's Office will inform the City Manager in a timely manner.
- B. Allegations reported to the Auditor General that do not constitute wrongdoing will be referred to the appropriate City official or Accountability Officer for investigation and appropriate action.

§ 192-38. Confidentiality.

- A. The identity of individuals involved in an investigation, including the identity of an individual alleging wrongdoing and the identity of an individual alleged to have committed wrongdoing, will be protected to the fullest extent possible.

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- B. The Auditor General's Office and all City employees and officials, aware of or participating in an investigation of wrongdoing shall treat all information received as confidential information.
- C. All reasonable efforts will be made to maintain confidentiality.
- D. Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know and such disclosures shall be restricted to what must be disclosed to ensure a thorough, effective and complete investigation or as otherwise required by law.
- E. Individuals who improperly breach confidentiality may be subject to legal action or disciplinary action up to and including dismissal as determined by the City Manager in consultation with the City Solicitor and Human Resources.

§ 192-39. Anonymous reporting.

Employees may remain anonymous when reporting suspected wrongdoing.

§ 192-40. Investigations.

- A. All disclosures of alleged wrongdoing will be investigated by the Auditor General who may refer responsibility to the City Manager or designate for the investigation depending on the nature and scope of the wrongdoing.
- B. The Auditor General's Office may provide oversight of alleged wrongdoing investigations led by the City Manager or his or her designate. The responsibility to ensure such investigations are appropriately conducted remains with the City Manager as set out in § 192-33, Responsibilities of the City Manager.
- C. The City Manager or designate will periodically report on the status of any ongoing investigation of alleged wrongdoing to the Auditor General and will report the outcome of the investigation to the Auditor General.
- D. Decisions to prosecute or refer the investigation results to the Toronto Police Service or other regulatory agencies for independent investigation will be made through a consultative process between the Auditor General, City Manager, City Solicitor and the Executive Director of Human Resources.

§ 192-41. Expectations of employees.

- A. Employees are expected to fully co-operate with the Auditor General's Office, the City Manager or designate, other involved Divisions and law enforcement agencies during the course of an investigation and will make all reasonable efforts to be available to assist the above noted persons with the investigation.

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- B. City employees contacted by the media with respect to a wrongdoing investigation shall refer the media to the Director of Strategic Communications or designate.

§ 192-42. Access to information.

Within the scope of an investigation, the Auditor General and the City Manager or designate(s) will have:

- (1) Free and unrestricted access to all City records, employees and premises, whether owned or rented; and
- (2) The authority to examine, copy or remove all or any portion of the contents of electronic or hard copy files, desks, cabinets and other City property without prior knowledge or consent of any individual who might use or have custody of any such items in accordance with applicable City policies.

§ 192-43. Right to respond.

- A. The individual against whom allegations are being made will be given a reasonable the opportunity to respond to those allegations as part of the investigation.
- B. This requirement is subject to any collective agreement provisions respecting the rights of employees in the disciplinary process.

§ 192-44. Recommendations from an investigation of alleged wrongdoing.

Upon conclusion of an investigation, recommendations may be made by the Auditor General to the City Manager in order to minimize future risk.

§ 192-45. Disciplinary action for wrongdoing.

If alleged wrongdoing by an employee is substantiated through an investigation, the employee will be subject to disciplinary action up to and including dismissal as determined by the City Manager in consultation with the City Solicitor and the Executive Director of Human Resources.

§ 192-46. Tracking and reporting.

The Auditor General will track and report annually to City Council through the Audit Committee on the disclosure, investigations and resolution of allegations of wrongdoing.

ARTICLE VII
Reprisal Protection

§ 192-47. Reprisal prohibited.

- A. No person shall take a reprisal against a City employee because the employee:

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- (1) Has sought information or advice about making a disclosure about wrongdoing;
 - (2) Has made a disclosure about wrongdoing in good faith;
 - (3) Has acted in compliance with Article VI or Article VII;
 - (4) Has initiated or co-operated in an investigation or other process related to a disclosure of wrongdoing;
 - (5) Has appeared as a witness, given evidence or participated in any proceeding relating to the wrongdoing, or is required to do so;
 - (6) Has alleged or reported a reprisal; or
 - (7) Is suspected of any of the above actions.
- B. Reprisal protection may not be able to be extended to employees whose identity cannot be confirmed.

§ 192-48. Reporting and investigating reprisal.

- A. A City employee who believes that they are the subject of a reprisal following a disclosure of wrongdoing shall notify the Executive Director of Human Resources, City Manager or the Auditor General immediately.
- B. If the reprisal involves a Member of City Council or a Member of a Local Board, the employee shall notify the Integrity Commissioner immediately.
- C. A City employee informed of, or who becomes aware of a reprisal against an employee, has a duty to notify the Executive Director of Human Resources, City Manager, the Auditor General or the Integrity Commissioner.
- D. Where the Executive Director of Human Resources or City Manager receives such disclosures, they will notify the Auditor General or Integrity Commissioner immediately and will undertake to ensure that the employee is protected from any further reprisal.
- E. Allegations of reprisal will be the subject of investigation.
- F. The Auditor General will lead the investigations of alleged reprisals involving staff in consultation with the City Manager. The Integrity Commissioner will lead the investigations of alleged reprisals involving Members of City Council or Members of Local Boards.

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§ 192-49. Results of an investigation.

- A. Where the investigation substantiates the allegations of reprisals, the Auditor General will inform the City Manager and the employee(s) involved will be subject to disciplinary action up to and including dismissal as determined by the City Manager in consultation with the City Solicitor and Executive Director of Human Resources.
- B. The City Manager will consult with the Executive Director of Human Resources and the City Solicitor to determine and take appropriate actions to stop, reverse or remedy a reprisal against an employee.

ARTICLE VIII
Special Investigations

§ 192-50. Council members and staff⁵.

- A. Where it is alleged that a Member of City Council or their staff has committed wrongdoing, improperly breached confidentiality or committed a reprisal, the Integrity Commissioner is responsible for receiving, reviewing, investigating and reporting pursuant to the *City of Toronto Act, 2006* and Code of Conduct for Members of City Council.
- B. Members of City Council and their staff will cooperate with the Integrity Commissioner during investigations of wrongdoing and provide the Integrity Commissioner with access to information.

§ 192-51. Senior employees.

Where it is alleged that the City Manager, City Clerk or City Solicitor has committed wrongdoing, improperly breached confidentiality or committed a reprisal, the Auditor General will retain a third party investigator and transmit their findings to City Council.

§ 192-52. Accountability Officers and their staff.

Where it is alleged that an Accountability Officer or their staff has committed wrongdoing, improperly breached confidentiality or committed a reprisal, a third party investigator will be used and their findings will be reported to City Council.

⁵ A related policy is the Code of Conduct for Members of Council, City of Toronto.

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Schedule 1

City Agencies within the Jurisdiction of the Toronto Public Service By-law

Service Agencies

1. The Board of Governors of Exhibition Place
2. Heritage Toronto as defined in Chapter 103, Heritage
3. The Board of Directors of the Hummingbird Centre for the Performing Arts
4. Board of Management of the St. Lawrence Centre for the Arts
5. North York Performing Arts Centre Corporation
6. Toronto Parking Authority
7. Board of Health for the City of Toronto Health Unit
8. Toronto Transit Commission
9. Board of Management of the Toronto Zoo
10. Yonge-Dundas Square Board of Management

Association of Community Centres

11. 519 Church Street Community Centre
12. Applegrove Community Complex
13. Cecil Street Community Centre
14. Central Eglinton Community Centre
15. Community Centre 55
16. Eastview Neighbourhood Community Centre
17. Harbourfront Community Centre
18. Ralph Thornton Community Centre
19. Scadding Court Community Centre
20. Swansea Town Hall

Arenas

21. George Bell Arena
22. Larry Grossman Forest Hill Memorial Arena
23. Leaside Memorial Community Gardens Arena
24. McCormick Playground Arena
25. Moss Park Arena
26. North Toronto Memorial Arena
27. Ted Reeve Community Arena
28. William H. Bolton Arena



Exhibition Place

Appendix B

Policy Statement

Exhibition Place recognizes that conflict and bias can arise from situations where relatives work together and discourages the appointment of a relative of a current employee where such conflict and bias could result. This policy provides direction to divisions so these situations can be avoided.

Application

This policy applies to all employees.

Definitions

Relative: For the purposes of this policy, relative is defined as:

- spouse, including common-law or same-sex spouse
- parent, including step-parent and legal guardian
- child, including step-child
- sibling and children of siblings
- father/mother-in-law, brother/sister-in-law, son/daughter-in-law
- any family member who lives with the employee on a permanent basis

Conditions

Supervisory Relationship

No relatives are permitted to work together if this places them in a supervisory relationship, either in a subordinate or supervisory role to each other.

A supervisory relationship is an employment relationship where one relative has direct or indirect authority over a relative's employment through decisions, recommendations or judgments related or influence to:

- the approval/denial of increments/performance pay
- the assignment and approval of overtime
- the negotiation of salary level
- the conduct of performance appraisals discipline
- the assignment or direction of work assignments
- the approval of leaves of absence

A supervisory relationship exists even though there are levels of supervision in between two employees who are relatives.

Employees must declare a conflict to the department/division head when a family relationship develops that puts them in a supervisory relationship.

Recruitment and appointment

A situation may arise through external recruitment or internal promotion / transfer / acting assignments / superior duties where the successful candidate could be a relative of an employee:

- already within the same work unit
- or within a work area where any form of direct or indirect supervision would exist over a relative

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Candidates / employees must tell the hiring panel if placement in the position they have applied for would put them in a supervisory relationship with a relative.

If such a situation arises, the human resources representative and the hiring manager must inform the department / division head in order to determine if the appointment of an employee could be perceived as a potential conflict of interest.

If the department / division head decides the hiring / transfer would result in, or has the potential to result in, a conflict of interest, a candidate will not be hired or be permitted to transfer into work areas in which a relative is currently employed.

Selection process

An employee must not participate in any part of the selection process where a relative is an applicant. The selection process includes screening applications, interviews and reference checking.

Implementation

Supervisory relationship

When employees who are related are aware that they are working in positions that put them in a supervisory relationship with each other they must declare this situation to their department / division head in writing.

When a situation arises where an employee is in a supervisory relationship to a relative, the department / division head must discuss reassignment options with the employees involved. The department / division head should consult with Human Resources to resolve this problem. Possible solutions include:

- offering one employee a permanent alternate position, if available
- placing one employee on a temporary assignment, if available
- transferring one employee to a comparable position in another department / division i.e. lateral transfer, if available

The preferences of the employees should be taken into account when considering any of these options. If the employee rejects all of the above options, the department / division head should make the final decision. Although these situations are sometimes difficult to resolve the department / division head should address this issue as soon as possible after it arises and seek to remedy the situation promptly.

Recruitment and appointment

In situations where the conflict, or potential conflict, involves hiring / transfer of a relative and where, in the opinion of the department / division head the concern has sufficient validity, the relative will not be hired / transferred.

Other Considerations

Close personal relationships can also cause problems in the selection process and in reporting relationships. Employees who find themselves in this situation should be sensitive to perceptions and guide themselves according to rules set in the Conflict of Interest provisions.