

# Fact Sheet

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## Conflict of Interest Rules Approval

### Where does the commissioner's authority to approve rules come from?

*Under section 59(2) of the Public Service of Ontario Act, 2006 (the Act), the commissioner is authorized to approve conflict of interest rules proposed by a public body if, in the commissioner's opinion, the rules establish a degree of ethical conduct that is at least equivalent to that in the conflict of interest rules of Ontario Regulation 381/07 ("Regulation").*

### Do public bodies have to develop rules?

No. All public bodies are subject to the conflict of interest rules in the Regulation. These rules are intended to be broad enough to cover most situations. Therefore, public bodies generally do not need to develop their own rules. Rather than developing rules, a public body may develop interpretive documents to guide its employees and appointees in understanding and applying the rules in the Regulation. These interpretive documents do not require the commissioner's approval, but can be reviewed by the commissioner upon request.

### When should a public body develop its own rules?

A public body may choose to develop its own rules if it wishes to establish a degree of ethical conduct for its employees and appointees that is beyond that which is established by the conflict of interest rules in the Regulation. For example:

- Restricting former public servants from appearing as representatives or witnesses before a public body for a period of twelve months.
- Restricting public servants from engaging in specific activities that a public body is responsible for regulating

Replicating the Regulation with only minor changes, such as inserting the actual name of the public body, is insufficient for commissioner approval. The Regulation applies to public bodies "with necessary modification", which allows such minor contextual adjustments to be read in.

## What should public body rules include?

To the extent possible, public body rules should follow the structure and language of the Regulation with a separate section that highlights additional conflict of interest that are unique to the public body. The Rules should include requirements for current (in service) and former (post-service) public employees and appointees. The rules should also clarify which employee and board positions are considered “designated senior position”, and subject to additional post-service restrictions. Public bodies can choose to include procedural elements as well as summaries of the political activity rules or the disclosure of wrongdoing process in the rules.

Rules should not include matters extraneous to the regulation of ethical conduct, for instance rules on recordkeeping, security, human resource management, grievance procedure, monitoring and enforcement, etc. These matters go beyond the commissioner’s jurisdiction.

## How does a public body start the approval process?

A public body wishing to develop conflict of interest rules should initially consult with the commissioner. If the public body chooses to proceed, it should submit its rules to the commissioner using the assessment form posted on the commissioner’s website. The rules and completed assessment form may be sent electronically to [coicommissioner@ontario.ca](mailto:coicommissioner@ontario.ca).

## What can a public body expect after rules are submitted?

The Commissioner will use the assessment form to compare any proposed rules and the standards of ethical conduct established by the Regulation. The public body may be asked to provide additional information or clarification regarding the proposed rules. There may also be some discussion about necessary modifications to ensure consistency with the Regulation or the *Act*. The public body will be notified of the outcome of the review.

## When do approved rules take effect?

Approved rules take effect when they are published on the commissioner’s website. Prior to publication, the commissioner’s office arranges for the rules to be translated into French and made accessible for the visually impaired. The effective date is noted on the website. The commissioner notifies the public body upon approval of proposed rules and again upon their publication.

For further information:  
Office of the Conflict of Interest Commissioner  
2 Bloor Street East, Suite 1802, Toronto, Ontario M4W 3J5  
Tel: 416-212-3606 Fax: 416-325-4330 Email: [coicommissioner@ontario.ca](mailto:coicommissioner@ontario.ca)  
<http://www.coicommissioner.gov.on.ca>