



Conflict of Interest and Political Activity Determination

Where does the commissioner's authority to make a determination come from?

The *Public Service of Ontario Act, 2006* (the *Act*), section 65, authorizes the commissioner to make a determination about the application of the conflict of interest rules to a public servant or former public servant.

Sections 84 and 93 of the *Act* authorizes the commissioner to make determinations about the application of the political activity rules.

Who may seek a determination from the commissioner?

The following persons may request that the commissioner make a determination:

- A public servant or former public servant (only for conflict of interest) for whom the commissioner is ethics executive
- The supervisor of a public servant for whom the commissioner is ethics executive, and
- The ethics executive of a public servant (an ethics executive may request that a matter be referred to the commissioner).

How is the process initiated?

The above-mentioned persons may contact the commissioner's office via email at coicommissioner@ontario.ca to request a determination. The request should include enough background information for the commissioner to understand the nature of the issue or activity in which the public servant wishes to engage. A referral request from an ethics executive should include information about why the ethics executive is requesting to refer the matter rather than making the determination. The commissioner may request additional information.

Will the commissioner always make a determination if asked?

In some cases, the commissioner may decide not to make a determination, such as where another process under the *Act* is more appropriate (e.g., providing advice under section 64 of the *Act*) or where it is more appropriate for the ethics executive to retain the determination-making authority.

Will the commissioner contact any other individuals?

Before making a determination, the commissioner will contact the individual to seek his or her comments on the issues. The commissioner may contact other individuals to confirm or supplement the information received. Also, the commissioner may notify other individuals (such as the ethics executive) of the outcome of the matter, but only to the extent required to discharge the commissioner's duties under the *Act*.

What might a determination from the commissioner include?

The commissioner's goal in making a determination is to enhance the quality and consistency of decision-making across the public service and increase general understanding of the *Act*. In making a determination, the commissioner may include the following:

- Relevant provisions of the Act and regulations
- Relevant factual and legal issues to be considered
- Findings on the factual and legal issues
- Relevant previous decisions of the commissioner, agencies, or the courts
- Directions appropriate to addressing the matter, and
- Advice on how to reduce the risk of a breach of the *Act*.

Do determinations and directions have to be followed?

Yes. Determinations and directions under the *Act* are final and public servants or former public servants must comply with them. Within three weeks after a determination has been made, a public servant must confirm compliance with the determination.

Sanctions may be imposed for contravening determinations, directions, or the conflict of interest rules. The commissioner may recommend that a public servant's supervisor take the following actions:

- Impose disciplinary measures on the public servant, including suspension or dismissal
- Transfer the public servant to another position, and
- Temporarily relieve the public servant from duty.

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