

**RESOLUTION**

**ADDITION OF CHAPTER 12 OF THE JAMES CITY COUNTY**

**PERSONNEL POLICIES AND PROCEDURES MANUAL**

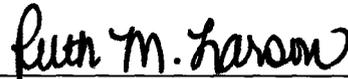
WHEREAS, the James City County Personnel Policies and Procedures Manual is an important document that guides decisions; and

WHEREAS, it is the practice of the County to create policy to ensure staff understanding of legal requirements; and

WHEREAS, the current policy manual does not address the rights and responsibilities regarding laws for Conflict of Interest and Whistleblower protections; and

WHEREAS, staff recommends adoption of a Chapter 12, Conflict of Interest & Whistleblower Policy of the Personnel Policies and Procedures Manual to ensure James City County is complaint with the law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the revisions to the Personnel Policies and Procedures Manual listed above and set forth in the staff memorandum are adopted effective March 13, 2018.



Ruth M. Larson  
Chairman, Board of Supervisors

ATTEST:

  
Teresa J. Fellows  
Deputy Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ICENHOUR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SADLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of March, 2018.

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## CHAPTER 12

### CONFLICT OF INTEREST & WHISTLEBLOWER POLICY

#### Section 12.1      Purpose

This policy is based upon the State and Local Government Conflict of Interest Act, Code of Virginia, Title 2.2, Chapter 31 and the Fraud and Abuse Whistle Blower Protection Act, Code of Virginia, Title 2.2, Chapter 30.1.

The policy is designed to help directors, members of Boards, Committees and Commissions, officers, volunteers and employees of James City County ("the County") identify situations that present potential conflicts of interest and to provide James City County with a procedure that, if observed, will allow a transaction or agreement to be treated as valid and binding even though a director, member of a Board, Committee or Commission, officer, volunteer or employee has or may have a conflict of interest with respect to the transaction or agreement. In the event there is an inconsistency between the requirements and procedures prescribed herein and those in federal or state law, the law shall control.

#### Section 12.2      Definitions

1. A "Conflict of Interest" is a personal interest in a contract or transaction considered by the County.
2. A "Contract" means any agreement to which the County is a party, or any agreement on behalf of the County that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the County.
3. A "Responsible Person" is any person serving as an officer, employee or member of the Board of Supervisors or any other Board, Committee, or Commission of the County.
4. An "Immediate Family Member" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee as defined by; State and Local Government Conflict of Interest Act, Code of Virginia, Title 2.2, Chapter 31.
5. A "Personal Interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be

anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

6. A "Transaction" is any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

### Section 12.3 Prohibited Contracts and Conduct

For purposes of this policy, the following contracts and conduct are prohibited. Violations of the following shall be deemed an impermissible Conflict of Interest:

#### A. Contracts

- No person elected or appointed as a member of the County Board of Supervisors shall have a Personal Interest in any contract with the governing body.
- No other officer or employee of the County shall have a personal interest in a contract.

#### B. Conduct

No officer or employee of the County shall:

- Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid by the County;
- Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment or promotion of any person with any governmental or advisory agency;
- Offer or accept any money or other thing of value for or in consideration of the use of a public position to obtain a contract for any person or business with any governmental or advisory agency;

- Use for own economic benefit or that of another party confidential information that has been acquired by reason of their public position and which is not available to the public;
- Accept any money, loan, gift, favor, service or business or professional opportunity that reasonably tends to influence the performance of official duties;
- Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties; or use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.

These prohibitions do not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value that are not related to any particular transaction or activity of James City County.

#### Section 12.4. Conflict of Interest Procedures

Before County action on a Contract or Transaction involving a Conflict of Interest, a Responsible Person having a Conflict of Interest and who is in attendance at the meeting shall disclose all facts material to the Conflict of Interest. Such disclosure shall be reflected in the minutes of the meeting.

A Responsible Person who plans not to attend a meeting at which he or she has reason to believe that the Board or Committee will act on a matter in which the person has a Conflict of Interest shall disclose to the chair of the meeting all facts material to the Conflict of Interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.

A Responsible Person who has a Conflict of Interest shall not participate in discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either during or outside the meeting.

A Responsible Person who has a Conflict of Interest with respect to a Contract or Transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote. The person having a conflict of interest may not vote on the Contract or Transaction.

Employees who have a Conflict of Interest with respect to a Contract or Transaction that is not the subject of Board or Committee action shall disclose to his or her supervisor any Conflict of Interest that such Responsible Person has with respect to an Agreement or Transaction. Such disclosure shall be made as soon as the Conflict of Interest is known to the Responsible Person.

The Responsible Person shall refrain from any action that may affect the County's participation in such Contract or Transaction.

A current or prospective employee who has accepted an employment offer with the County cannot maintain or accept paid employment outside of the County without an approved Outside Employment request. This request is reviewed to ensure there is no actual or perceived Conflict of Interest.

In the event it is not entirely clear that a Conflict of Interest exists, the Responsible Person with the potential conflict shall disclose the circumstances to the Board, Committee, or Commission Chair or the Chair's designee or to his or her supervisor, who shall determine whether there exists a Conflict of Interest that is subject to this policy.

Section 12.5      Confidentiality

Each Responsible Person shall exercise care not to disclose confidential information acquired in connection with his or her association with the County the disclosure of which might be adverse to the interests of the County. Furthermore, a Responsible Person shall not disclose or use information relating to the business of the County for the personal profit or advantage of the Responsible Person or an Immediate Family Member.

Section 12.6      Review of Policy

Each new Responsible Person shall be required to review this Policy and to acknowledge in writing that he or she has done so.

Each Responsible Person shall comply with the disclosure requirements of the State and Local Government Conflicts of Interest Act identifying any relationships, positions or circumstances in which the Responsible Person is involved that he or she believes could contribute to a Conflict of Interest arising. Such relationships, positions or circumstances might include service as a director of or consultant to a not-for-profit organization, or ownership of a business that might provide goods or services to the County. Each Responsible Person should also disclose any potential Conflict of Interest that may arise during the course of the year between the submissions of annual disclosure forms.

This policy shall be reviewed regularly. Any changes to the policy shall be communicated immediately to all Responsible Persons.

Section 12.7     Reporting a Violation of Law or Policy – Whistle Blower Protection

This policy provides a mechanism whereby, if an employee or volunteer becomes aware of a violation of policy or law, he or she can report a perceived violation made in good faith and upon reasonable belief without fear of retaliation.

Section 12.8     Objective

Elected officials, officers, employees, independent contractors or other public stakeholders shall have an open opportunity to bring to the attention of administration, allegations of wrongdoing or malfeasance on the part of elected officials, officers, employees, independent contractors or other public stakeholders associated with the County. This includes but is not limited to violations of law, gross waste of funds or property, or abuse or neglect of a fiduciary duty. These allegations will usually fall into the following categories:

- Commission of criminal offences.
- Instances of regulatory non-compliance.
- Issues of probity and propriety, e.g. fraud, theft, bribery, corruption and embezzlement.

Retaliation towards those who report such allegations will not be tolerated. Those who retaliate, interfere with investigations, or destroy or conceal evidence will be subject to immediate disciplinary actions. Employees who willfully file complaints based upon information known by the employee making the allegations to be false or misrepresented, will also be subject to disciplinary action.

The County shall appropriately notify employees of the protections and obligations afforded to them under the Fraud and Abuse Whistle Blower Protection Act.

Section 12.9     Procedures

The Director of Human Resources of the County, shall receive allegations pursuant to the provisions of this policy. Reports of alleged wrongdoing should be submitted in writing, and include a verifiable name, address and telephone number of the reporter. Reports or allegations submitted anonymously may or may not be investigated. The Director of Human Resources or his/her designee will conduct an investigation of the complaint. Referrals shall be made to the appropriate law enforcement agencies when there is reason to believe that a crime may have been committed.

Investigations will be conducted promptly and a written report with investigative findings and conclusions shall be sent to the County Administrator and the County Attorney for the County within 60 days of the

date on which the allegations were received. The County Administrator will take appropriate action on the report's recommendations.

An employee or applicant who believes that retaliation prohibited by this policy has occurred is encouraged to file a complaint with the Director of Human Resources within a reasonable time period from the date of the alleged retaliation. Each report of retaliation, if submitted within 60 days, will follow the same investigative policy as outlined above.

This policy is not to be substituted or used in place of the Code of Virginia or other County personnel policies and procedures for personnel matters other than those described above.

The Director of Human Resources, County Board of Supervisors and the County Administrator are encouraged to consult with the County Attorney's Office to resolve questions regarding the State and Local Government Conflict of Interest Act, Code of Virginia, Title 2.2, Chapter 31 and the Fraud and Abuse Whistle Blower Protection Act, Code of Virginia, Title 2.2, Chapter 30.1.