



Conflict of Interest Policy

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Policy

It is the policy of the Department of Behavioral Health (DBH) that no employee shall engage in any external employment, affiliations or other activities that may conflict, jeopardize objective judgement, and impair performance of duties and/or responsibility in their position as a DBH employee. This includes business, financial or personal interests, or other associations, including certain political affiliations and activities (i.e., as prohibited by the Hatch Act), which compromise/impair independence of judgement or action in the performance of said responsibilities as a DBH employee.

It is the individual responsibility of each employee to disclose and report all potential conflicts of interest, including external employment, affiliations, or other activities, regardless of compensation status, to their direct supervisor and to DBH Office of Compliance (Compliance) for review and consideration via the Conflict of Interest (COI) Disclosure Statement (COM020). It is the responsibility of supervisory and management staff to ensure all direct reports submit annually required COI Disclosure, for which they must sign and attest to the accuracy of work schedule. All external employment must be disclosed regardless if it is/is not with a health care entity or contractor or within the County. It is not appropriate for the individual employee or supervisor to determine if a conflict exists, but rather to allow Compliance to conduct necessary review.

Contract agency employees must submit Conflict of Interest Disclosure Statements within their respective agency in accordance with said contract agency's established process.

Purpose

The purpose of this Policy is to:

- Establish and communicate Department guidance regarding COI standards.
- Provide examples of the types of external employment, affiliations, and activities that may pose a potential conflict.
- Mitigate conflicts of interest by providing established guidance and outlining the required annual COI Disclosure review process; as well as providing a method in which employees may request a review of a potential conflict circumstance.
- Prevent and address *actual or potential* conflicts of interest between County employment and external employment, affiliations, relationships or other activities.

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Definition(s)

Affiliations: A connection or association with a person, group, organization, or similar entity. May be a formal membership or a sharing of common goals, values, or interests (i.e., Board/Commission/Committee Membership, political advocacy or activity, volunteerism and/or philanthropy).

Conflict of Interest: A variance that occurs between DBH duties and external employment, affiliations, relationships or other activities where external employment, affiliations, relationships or other activities may improperly influence the way in which a person carries out their duties and/or designated responsibilities as a DBH employee or contract agency employee. In some instances, perception of a COI or the likelihood of a COI arising from an arrangement may be considered during COI Disclosure review.

Hatch Act: A federal law passed in 1939, limiting certain political activities of federal employees, as well as some state, D.C., and local government employees who work in connection with federally funded programs. The law's purposes are to ensure federal programs are administered in a nonpartisan fashion, to protect employees from political coercion in the workplace, and to ensure employees are advanced based on merit and not based on political affiliation.

External employment: The performance of any compensated or uncompensated profession, trade, business, occupation or other function for oneself or for any other individual, private firm, corporation, community-based organization or other governmental entity (i.e., self-employment, private practice, teaching, instructional education, professional consulting, etc.).

Perceived conflict of interest: Where a reasonable person might perceive that some form of non-objective influence and/or bias may exist. Common law/court-made law, based on avoiding actual impropriety or the appearance of impropriety in the conduct of government affairs, may require government officials to disqualify themselves from participating in decisions in which there is an appearance of a financial conflict of interest.

Relationships: Relationships of a personal nature with any individual or client/member that extends outside of a primary working relationship. This may also include employee relatives working within the Department.

Note: It is prohibited for relatives of DBH employees to work directly under supervisory oversight of a DBH employee or for both relatives -- whom are DBH employees -- to be under supervisory oversight of the same supervisor or manager. See DBH Code of Conduct for further information concerning standards of conduct, professional boundaries, and intimate/interpersonal relationships; and County Code of Ethics – 1.8 - Conflict of Interest and Employment of Relatives Policy – No. 07-05.

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Conflict of Interest Disclosure

Each DBH employee must complete the COI Disclosure Statement as follows:

- Upon start of employment,
- Annually, *and*
- Within ten (10) working days of a change in external employment, affiliations, or other activities (external employment or affiliation does not have to include monetary compensation).

Supervisors must sign their direct subordinate staff's COI Disclosure Statement; and are responsible for ensuring subordinate staff complete and submit these statements according to Department requirements. COI Disclosure Statements must be sent to DBH Compliance and Payroll at DBH-Required-Acknowledgements-Disclosures@dbh.sbcounty.gov and DBH-AnnualForms@dbh.sbcounty.gov.

Important Note: DBH COI Disclosure Statement submission does not substitute the requirement to submit the Form 700 Statement of Economic Interests, which is required of public officials and *designated* County DBH employees. Failure to submit or refusal to submit a COI Disclosure Statement according to the described requirements may result in disciplinary action up to and including termination of employment. Note, Fee-for-Service (FFS) Providers must complete a separate/different FFS COI Disclosure as part of the credentialing/re-credentialing process.

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Conflict of Interest Examples

The following provides examples of ***possible*** conflict of interest scenarios. This list is ***not*** exhaustive and the unique set of circumstances of each review will determine whether a particular scenario is a conflict.

Type	Description
External Employment	<ul style="list-style-type: none"> • Referring mental health or substance abuse services clients or clubhouse members, from DBH to any private psychological service, legal service, housing or the like that may result in potential or actual monetary benefit to the employee or a member of his/her family. Employees shall not incur a financial interest in any enterprise which may be affected by decisions or recommendations made by them, or by decisions or recommendations made by employees under their supervision, or which will otherwise create a conflict between their private interests and the public interest. • Any activity in which a DBH employee's efforts may be subject to the control, inspection, review, audit, or enforcement by any other DBH employee, including, but not limited to, the following: <ul style="list-style-type: none"> ○ Employment, practicing, or consulting privately at a facility that DBH utilizes for its clients. ○ Employment, practicing, or consulting for a non-contract facility that begins accepting DBH referrals or enters into a contract with the County. ○ Rendering any professional services that may be subject to audit by a DBH program, division or employee.

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Conflict of Interest Examples, continued

Type	Description
External Employment	<ul style="list-style-type: none"> • DBH employee in private/contracted practice who continues to provide treatment to a client after the client becomes a DBH client during the course of the relationship (unless otherwise approved by Director). • Administrative, management, treatment, or case management staff assigned to San Bernardino County jail facilities accepting referrals to conduct PC 1368, PC 1368.1 or PC 1026 evaluations (unless prior authorization is received by the Director). • External employment involving time demands or schedule conflicts, which negatively impacts or may impact performance of his/her county duties.
Affiliation	<ul style="list-style-type: none"> • A personal arrangement or business transaction that would generate potential conflicts of interest or compromise the employee's ability to provide treatment and/or other services fairly and objectively. • Employee directly or indirectly using or attempting to use his/her authority or influence of his/her position for the purpose of intimidating, threatening, coercing, commanding or influencing any person with the intent to interfere with that person's duty to disclose such improper activity. • Activity where the DBH employee uses his/her uniform, prestige, or influence of County employment for private gain or advantage, such as using County employment to contact and/or solicit clients for any private practice or outside endeavour.
Hatch Act Violations	<ul style="list-style-type: none"> • The Hatch Act prohibits, but is not limited to: <ul style="list-style-type: none"> ○ Using official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; ○ Directly or indirectly coerce contributions from other state or local employees, and ○ Running as a candidate for public office in a partisan election. <p>Note: See U.S. Office of Special Counsel website for further reference on Hatch Act prohibited activities.</p>

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Conflicts of Ethical Conduct and Boundaries

Conflicts of interest can arise with clients/members or former clients/members of DBH in the following ways and are strictly prohibited:

- Personal friendships outside of DBH;
- Sexual relationships;
- Giving and accepting gifts;
- Financial transactions such as lending or borrowing money;
- Cohabitation;
- Engaging in personal social-networking friendships with clients/members, and
- Using social networking sites, personal e-mail, text messaging, or instant messaging to work related matters or confidential information, including but not limited to protected health information (PHI).

Staff are required to avoid conflicts of interest or perceived conflicts of interest with former or current clients/members of DBH such as the following:

- Engaging in any behavior in which there is a risk of exploitation or potential harm to the client/member.
- Sexual or romantic relationships between staff and client/members or former client/members, including texting, calling, dating, flirting, and/or sexual activity, whether on or off duty.

Any staff member who believes they may have or have had an interaction or relationship with a client/member that presents a conflict or perceived conflict of interest, must notify their supervisor immediately to determine what actions should be taken, including Human Resource or Compliance reporting and/or consultation.

Note: Staff must adhere to DBH Code of Conduct and abide by their applicable licensing board's ethical standards. Staff who violate this COI Policy, Code of Conduct or their licensing board's Code of Ethics, may be subject to disciplinary action up to and including termination of employment.

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Compliance Review

DBH Compliance reviews all submitted COI Disclosure Statements to determine if a conflict exists and will contact the employee or supervisor if additional information is needed to evaluate each circumstance.

The following indicates Compliance review determinations:

Conflict Determination	Action
<u>Does not exist</u>	<ul style="list-style-type: none"> • Compliance sends a determination letter to the employee to confirm that a conflict of interest <i>does not</i> presently exist. <ul style="list-style-type: none"> ○ The letter serves as a waiver, which is placed in employee's HR personnel file and Compliance records. • The letter may outline conditions the employee must adhere to in order for the waiver to remain valid.
<u>Does exist</u>	<ul style="list-style-type: none"> • Compliance staff consults Compliance leadership, including the Chief Compliance Officer, and Human Resource Business Partner (HR BP) if necessary. • Compliance sends a letter to employee advising that a conflict exists and outlines action(s) which must be taken to rectify the conflict. • Employee has thirty (30) days from receipt of the letter to apply the required action(s) and respond with resolution of the identified conflict.

Note: Regardless of determination, supervisors are to place a copy of all COI records and signed forms in employee file.

Compliance Consultation

DBH staff are encouraged to consult with Compliance if they are considering external employment, affiliations, or other activities, so that Compliance may assess the circumstance and provide guidance. This may be done by emailing DBH-Required-Acknowledgements-Disclosures@dbh.sbcounty.gov.

Whether or not staff decide to consult with Compliance regarding external employment or any other activity/circumstance, an updated COI Disclosure Statement must be completed and submitted within ten (10) working days of a change in circumstance, for Compliance review and determination.

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Conflict Determination

DBH Compliance will issue a conflict determination letter to employees who have external employment and/or affiliation. Each letter *may* outline conditions to which the employee must adhere. A determination letter will only be issued once Compliance has evaluated the COI Disclosure Statement submission and has determined if a conflict does or does not exist. The determination letter will be sent to the employee, their supervisor, and HR BP.

Related Policies & Procedures

[San Bernardino County Personnel Rules](#)

- Section 1.8 – Conflict of Interest

[DBH Standard Practice Manual and Departmental Forms:](#)

- Conflict of Interest Disclosure Statement (COM020)
 - Code of Conduct Policy (COM0914)
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References

- California Government Code, Sections 1090, 1126 and 87100
 - Office of the Attorney General website, Conflicts of Interest: <https://oag.ca.gov/conflict-interest>
 - Hatch Act 18 U.S.C. § 208
 - San Bernardino County, CA Code of Ordinances, Title 1, Div 3, Ch 7
 - San Bernardino County, Employment of Relatives Policy - No. 07-05
 - San Bernardino County, Personnel Rules – 1.8 - Conflict of Interest
 - U.S. Office of Special Counsel website: <https://osc.gov/Services/Pages/HatchAct.aspx>
 - 42 USC 1396a (Federal Medicaid Statute)
 - 42 CFR 455 Subpart B, 438.58 and 1902(a)(4)(C)
 - 45 CFR Part 74 (Federal Procurement Regulations)
 - 45 CFR Part 92 (Federal Procurement Regulations)
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