



# 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 business, financial or personal interest or other association, including certain political affiliation and activities prohibited by the Hatch Act, which compromises proper discharge of designated position and assigned duties or may impair independence of judgment or action in the performance of said responsibilities as a DBH employee. This includes any external employment or affiliation that may jeopardize objective judgement and impair performance of responsibilities on behalf of the County, Department and/or contracted services on behalf of DBH.

It is the individual responsibility of each employee to disclose and report all potential conflicts of interest, including external employment or affiliation, to their direct supervisor and to DBH Office of Compliance (Compliance) for review and consideration via the Conflict of Interest Disclosure Statement. 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 Conflict of Interest standards.
- Provide examples of the types of external employment and/or affiliations that may pose a potential conflict.
- Mitigate conflicts of interest by providing established guidance and outlining the required annual Conflict of Interest Disclosure Statement 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, affiliation or other activities.

## Definition(s)

**Conflict of interest:** A variance that occurs between DBH duties and outside employment, private interests, personal relationships and/or other affiliations, where external employment, private interests, personal relationships and/or other affiliations, could improperly influence the way in which a person carries out their duties and designated responsibilities as a DBH employee or contract agency employee.

## Conflict of Interest Policy, Continued

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**Definition(s),**  
continued

**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.

**Outside employment or business activity:** The performance of any compensated or uncompensated (i.e., volunteer, intern, Board Member, Committee Member, consultant, etc.) profession, trade, business, occupation or other function for oneself or for any other individual, private firm, corporation, community-based organization or other governmental entity.

**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.

**Personal relationships:** Relationships of a personal nature with any individual or client that extends outside of a primary working relationship. See DBH Code of Conduct for further information concerning standards of conduct and professional boundaries.

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**Conflict of  
Interest  
Disclosure**

Each DBH employee must complete the Conflict of Interest Disclosure Statement during the periods referenced below. Supervisors are responsible for ensuring subordinate staff complete and submit these statements according to Department requirements.

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

**Important Note:** DBH Conflict of Interest 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 employees. Failure to submit or refusal to submit a Conflict of Interest Disclosure Statement according to the described requirements may result in disciplinary action up to and including termination of employment.

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## Conflict of Interest Policy, Continued

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### Conflict of Interest Scenarios

Please see the below scenarios categorized by external employment or affiliation, which may include business activities and/or other personal activities.

<b>Type</b>	<b>Description</b>
External Employment	<ul style="list-style-type: none"><li>• Referring clients receiving mental health or substance abuse services 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.</li><li>• 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"><li>○ Employment, practicing, or consulting privately at a facility that DBH utilizes for its clients.</li><li>○ Employment, practicing, or consulting for a non-contract facility that begins accepting DBH referrals or enters into a contract with the County.</li><li>○ Rendering any professional services that may be subject to audit by a DBH department or employee.</li></ul></li></ul>

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## Conflict of Interest Policy, Continued

**Conflict of Interest Scenarios, continued**

Type	Description
External Employment	<ul style="list-style-type: none"> <li>• 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);</li> <li>• 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;</li> <li>• Outside employment involving time demands or schedule conflicts which negatively effects or may impact performance of his/her County duties.</li> </ul>
Other Affiliation	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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 endeavor.</li> </ul>
Hatch Act Violations	<ul style="list-style-type: none"> <li>• The Hatch Act prohibits:               <ul style="list-style-type: none"> <li>○ Using official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;</li> <li>○ Directly or indirectly coerce contributions from other state or local employees, and</li> <li>○ Running as a candidate for public office in a partisan election.</li> </ul> </li> </ul> <p><b>Note:</b> See U.S. Office of Special Counsel website for further reference on Hatch Act prohibited activities.</p>

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## Conflict of Interest Policy, Continued

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### Conflicts of Ethical Conduct and Boundaries

#### Actual or potential conflict of interest in personal relationships:

Conflicts of interest can arise with clients or former clients 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;
- Using social networking sites, personal e-mail, text messaging, or instant messaging to discuss protected health information (PHI).

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

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

Any staff member who believes they may be in a conflict of interest or perceived conflict of interest must notify their supervisor immediately to determine what actions should be taken.

**Note:** Staff must adhere to DBH Code of Conduct and abide by their applicable licensing board's ethical standards. Staff who violate the Conflict of Interest policy may be subject to disciplinary action up to and including termination of employment.

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## Conflict of Interest Policy, Continued

### Review of Potential Conflict

The DBH Compliance reviews all Conflict of Interest Disclosure Statements to determine if a conflict exists, and will contact the employee if additional information is needed to evaluate each circumstance.

Conflict Status	Action
<u>Does not</u> exist	<ul style="list-style-type: none"> <li>• Compliance sends a letter to the employee to confirm that a conflict of interest does not presently exist.                             <ul style="list-style-type: none"> <li>○ The memo serves as a waiver, which is placed in employee's HR personnel file and Compliance records.</li> </ul> </li> <li>• Each letter may outline conditions the employee must adhere to.</li> </ul>
<u>Does</u> exist	<ul style="list-style-type: none"> <li>• Compliance staff consults the Chief Compliance Officer and consultation with Department Human Resource Business Partner may also be required.</li> <li>• Compliance sends a letter to employee advising that a conflict exists and outlines action(s) which must be taken to rectify the conflict.</li> <li>• Employee has 30 days from the receipt of the letter to comply and respond with resolution of identified conflict.</li> <li>• A copy of the letter is placed in employee's HR personnel file and Compliance records.</li> </ul>

**Note:** Regardless of determination, supervisors are to place a copy of all signed forms in employee file and send originals or scanned version to DBH Compliance and Payroll at [DBH-required-acknowledgements-disclosures@dbh.sbcounty.gov](mailto:DBH-required-acknowledgements-disclosures@dbh.sbcounty.gov) and [DBH-AnnualForms@dbh.sbcounty.gov](mailto:DBH-AnnualForms@dbh.sbcounty.gov).

### Request by Staff to Review for Conflict of Interest

DBH staff are encouraged to consult Compliance if they are considering external employment or outside activities, so that Compliance may assess the circumstance and provide guidance. This may be done by emailing [Compliance\\_Questions@dbh.sbcounty.gov](mailto:Compliance_Questions@dbh.sbcounty.gov).

If staff decide not to consult with Compliance prior to accepting outside employment, a Conflict of Interest Disclosure Statement must be completed within ten (10) working days of accepting the outside employment or private practice so a determination can be made if a conflict, actual or perceived, exists.

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## Conflict of Interest Policy, Continued

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### Conflict Waiver Determination

DBH Compliance may issue a conflict waiver determination letter to employees who have outside employment, such as working for a County or DBH contract agency. A waiver will only be issued once Compliance has evaluated the disclosure submission and has determined no conflict exists, actual or perceived.

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### Related Policies & Procedures

#### [San Bernardino County Code of Conduct](#)

- 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: <http://ag.ca.gov/publications/coi.pdf>
  - Form 700 Statement of Economic Interests: [https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Form\\_700/2021-22/Form\\_700\\_2021.pdf](https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Form_700/2021-22/Form_700_2021.pdf)
  - Hatch Act 18 U.S.C. § 208- Conflict of Financial Interest: [https://www.ethics.usda.gov/rules/guides/deskref.htm#2\\_1d](https://www.ethics.usda.gov/rules/guides/deskref.htm#2_1d)
  - San Bernardino County, CA Code of Ordinances, Title 1, Div 3, Ch 7
  - San Bernardino County, Personnel Rules
  - 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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