



INFORMATION BULLETIN

Office of the Ethics Commissioner of Alberta

2026

DESIGNATED OFFICE HOLDERS OBLIGATIONS UNDER THE PUBLIC SERVICE ACT

I. EXECUTIVE SUMMARY

Part 2 of the *Public Service Act* (the “Act”) places obligations on current and former Designated Office Holders (“DOHs”). These individuals are subject to certain obligations and restrictions during their employment and for a period of up to one year after their employment.

DOHs include a person appointed to a Deputy Minister position or any other public servant whose position has been designated as a DOH position. A more specific definition is provided in Section II below.

This bulletin provides information about the obligations placed on DOHs to assist them in ensuring they are conducting their affairs consistent with the Act. It does not address additional obligations that DOHs may have under the Code of Conduct and Ethics for the Public Service of Alberta as that code is not administered by the Ethics Commissioner. For matters addressed by the code of conduct, including the acceptance of gifts, DOHs should consult with their code administrator.

II. AM I A DESIGNATED OFFICE HOLDER?

Section 25.2 of the Act provides the following definition of a DOH:

Deputy ministers and other designated office holders

25.2 The following persons are designated office holders:

- (a) a person appointed to the position of deputy minister under section 4 of the *Government Organization Act*;
- (b) a member of the public service or a person employed by the Crown pursuant to a contract of employment holding a position designated by the Lieutenant Governor in Council for the purposes of this Part.

In other words, the DOH category is made up of all Deputy Ministers and certain other public servants whose positions have been designated as DOH positions. Currently, those additional positions are:

- (a) Associate Deputy Minister of Treasury Board and Finance;
- (b) Chief Advisor on Negotiations;
- (c) Controller;
- (d) Deputy Chief, Policy Coordination; and
- (e) Deputy Clerk of Executive Council and Deputy Secretary to Cabinet.

III. WHAT ARE MY FINANCIAL DISCLOSURE OBLIGATIONS?

Sections 25.3 and 25.31 of the Act require DOHs to file financial disclosure statements and direct associate returns with the Office of the Ethics Commissioner within 60 days of becoming a DOH and annually thereafter at a time specified by the Ethics Commissioner.

New DOHs will receive a letter from our office outlining the process for submitting their disclosure. The DOH will be provided with a form and will be required to list all the assets, liabilities, investments, sources of income, holdings and business interests of the DOH, their spouse or adult interdependent partner and their minor children as of a given date. The same process will then take place annually at a time specified by the Ethics Commissioner.

Once the financial information is submitted, the Office of the Ethics Commissioner reviews the information and generally meets with the DOH to discuss the Act and how it may impact them in performing their role.

All information submitted or discussed during a meeting with our office is kept strictly confidential and is not subject to the *Access to Information Act*.

DOHs are also required to inform the Ethics Commissioner of material changes to these statements within 30 days of the change. The onus is on DOHs to keep the Ethics Commissioner informed of any material changes to their personal affairs.

IV. WHAT RESTRICTIONS APPLY TO ME UNDER THE CONFLICTS OF INTEREST ACT?

1. Restriction on Participating in Decisions Furthering Private Interests

Section 25.21 of the Act reads:

25.21 A designated office holder breaches this Part if he or she takes part in a decision in the course of carrying out his or her office or powers knowing that the decision might further a private interest of the designated office holder, a person directly associated with the designated office holder or the designated office holder's minor or adult child.

A person directly associated with the DOH is:

- a) The DOH's spouse or adult interdependent partner;
- b) Corporations of which the DOH is a director or officer or in which they have an ownership interest;
- c) Partnerships in which the DOH or a directly associated corporation is a partner; and
- d) Persons or groups of persons acting with the express or implied consent of the DOH.

This section prohibits DOHs from participating in decisions that might further their private interests or the private interests of a person directly associated with the DOH or their minor or adult children. For example, if a DOH's spouse owns a business that is bidding on a contract from the department in which that DOH works, this section requires that the DOH not be involved in any part of that decision.

2. Restriction on Influencing Decisions Furthering Private Interests

Section 25.22 of the Act reads:

25.22 A designated office holder breaches this Part if the member uses his or her office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown or a provincial agency to further a private interest of the designated office holder, a person directly associated with the designated office holder or the designated office holder's minor child or to improperly further any other person's private interest.

This section prohibits DOHs from using their office or powers to influence or seek to influence a government decision to further their private interests or the private interests of a person directly associated (see definition above) with the DOH or their minor children. For example, this section would prohibit a DOH from contacting department staff to suggest that the DOH's spouse's business should be given special consideration in a bidding process.

This section also prohibits DOHs from using their office or powers to improperly influence or seek to influence any other person's private interest. For example, this section would likely prohibit a DOH from contacting department staff to insist that the DOH's close friend's business should be awarded a contract following an RFP process, despite the friend's business not satisfying the requirements to be awarded that contract.

3. Restriction on Use of Insider Information

Section 25.23 of the Act reads:

25.23 A designated office holder breaches this Act if he or she uses or communicates information not available to the general public that was gained by the designated office holder in the course of carrying out his or her office or powers to further or seek to further a private interest of the designated office holder or any other person's private interest.

This section prohibits DOHs from using or communicating confidential information gained in their employment to further their own or any other person's private interest. This section is not limited just to the private interests of the DOH, their family and direct associates as it also applies to the private interests of any other person.

For example, if a DOH is aware that the government is about to announce a large grant program and is aware that a publicly traded company may benefit from that grant program, the DOH could not buy stock in that company in advance of the public announcement. Nor could they tell anyone else about that new grant program to allow that person to buy stocks in the same company.

V. WHAT ARE MY RESTRICTIONS ON HOLDING PUBLICLY-TRADED SECURITIES AND HOW CAN I ENSURE I AM IN COMPLIANCE?

1. What are my restrictions on holding publicly-traded securities?

Section 25.24 of the Act prohibits DOHs from owning or having a beneficial interest in publicly-traded securities.

In brief, publicly-traded securities are securities that are listed on a recognized stock exchange or securities of a corporation that has more than 15 shareholders and any of whose securities were part of a distribution to the public.

Mutual funds are excluded from the definition of publicly-traded securities. As a result, DOHs are permitted by the Act to hold mutual funds. Exchange-traded funds and index funds are also generally treated as exempt from the prohibition on holding publicly-traded securities.

2. How long do I have to come into compliance with this restriction?

Section 25.24(9) gives DOHs 60 days from the date that they become a DOH to comply with the publicly-traded securities restriction.

The Ethics Commissioner will reach out to assist DOHs with coming into compliance. If necessary, during that process, the Ethics Commissioner will grant an extension to the 60-day deadline.

3. What options do I have to comply with the restriction on publicly-traded securities?

DOHs have three options if they own publicly-traded securities:

- a) **Divest:** DOHs may choose to divest themselves of any publicly-traded securities. If DOHs choose this option, the Ethics Commissioner will work with them on a reasonable timeline to divest the securities.
- b) **Establish a blind trust or investment arrangement:** Section 25.24(4)(a) permits DOHs to hold publicly-traded securities in a blind trust or investment arrangement. A blind trust or investment arrangement will give another person (who the Ethics Commissioner approves of in advance) control over investment decisions and precludes the DOH from having knowledge of the specific investments. DOHs may periodically receive limited information about their investments. This information is generally limited to the value of the investments and the returns that have been achieved. It can provide a high-level overview of the general breakdown of the investments (ie. stocks/bonds/other) but cannot identify specific stocks or other information that would give the DOH information that could create a conflict between their investments and their Ministerial role.

The Office of the Ethics Commissioner has some template blind trust and investment arrangement documents which can be used by DOHs.

DOHs are entitled to be reimbursed for the reasonable costs of establishing and administering a blind trust or investment arrangement.

- c) **Seek an exemption:** Section 25.24(5) gives the Ethics Commissioner discretion to allow DOHs to continue holding publicly-traded securities outside of a blind trust or investment arrangement. Approval can only be granted if the corporation that issued the securities is unlikely to have its interests affected by decisions of the Government or if the DOH would sustain a financial loss and the public interest does not require the securities' disposition.

4. How do I seek an exemption to allow me to continue holding publicly-traded securities outside of a blind trust or investment arrangement?

The Ethics Commissioner requires requests for an exemption to be in writing, detailing the securities the DOH wishes to retain and why those securities meet one or more of the criteria allowing for an exemption.

DOHs may send their request for an exemption by email to info@ethicscommissioner.ab.ca. Alternately, DOHs may send a letter to the Office of the Ethics Commissioner or physically drop off their request. The written request must include the following:

- a) The most current information, which is generally included or depicted in an investment statement, about the securities for which the DOH is seeking an exemption.
- b) An explanation of why the DOH believes that one or both exemptions above should apply.

- c) A description of any conditions the DOH believes should be imposed in order to ensure the exemption conditions are met.

The Ethics Commissioner will advise the DOH in writing whether the exemption is granted. The Ethics Commissioner may also seek further information or request a meeting to discuss the exemption request before a decision is made.

Once the Ethics Commissioner has provided a decision, the DOH will be given a reasonable deadline within which to arrange their affairs accordingly.

VI. WHAT ARE THE POST-EMPLOYMENT RESTRICTIONS THAT APPLY TO ME AND HOW CAN I ENSURE I AM IN COMPLIANCE?

The following information is intended to assist DOHs in understanding the length of their post-employment or “cooling-off” period, what activity it restricts and when a waiver or reduction to the period might be warranted.

1. How long is the “cooling-off” period?

Section 25.4 of the Act imposes restrictions on former DOHs for a period of 12 months from one of the following events:

- a) **Last day as DOH:** Subsections 25.4(1) (lobbying restriction) and 25.4(2) (acting on a commercial basis or making representations on certain matters) apply for 12 months from an individual’s last day as a DOH. For example, if a DOH leaves their role on May 1 in a particular year these restrictions will remain in place until May 1 of the following year.
- b) **Last day of any direct and significant official dealing:** Subsections 25.4(3)-(5) apply from the last day the former DOH had a direct and significant official dealing with the relevant individual, government department, organization, or other entity. For example, if a DOH had a direct and significant official dealing with an organization on May 1 but did not end their time as a DSO until October 1, the post-employment restrictions *with respect to that organization* would remain in place until May 1, not October 1, of the following year.

The phrase “direct and significant official dealing” is not defined in the Act. Whether an interaction qualifies as such will depend on the specific facts in each case.

Direct dealings may include not just personal contacts but also situations in which you direct staff to act on your behalf or in which you make a specific decision about an organization.

Whether a dealing is **significant** will depend on several factors, including the importance of the matter to the parties involved, the degree of involvement of the DOH in the dealing and the nature of the subject matter.

Generally, **official** dealings are meetings, negotiations, briefings or contracts regarding public agency or government business and activities.

2. What restrictions apply after I leave my DOH role?

Section 25.4 contains the following five restrictions:

- a) **Lobbying Restriction:** Subsection 25.4(1) prohibits a former DOH from lobbying, as defined in the *Lobbyists Act*, any public office holder as defined in the *Lobbyists Act* for a period of 12 months from their last day as a DOH.

The terms “lobbying” and “public office holder” are both defined in the *Lobbyists Act*, RSA 2007, c L-20.5, and that Act should be consulted for the full definition of those terms. The following paraphrased definitions are provided as a general guide.

“Lobbying” means to communicate, directly or through grassroots communication, with a public office holder in an attempt to influence policy, legislation, regulations, programs, grants, financial benefits or certain other matters for payment.

The term “public office holder” includes Members of the Legislative Assembly, Ministers, political staff, public servants and members of agencies, boards and commissions of the Alberta government. The lobbying restriction does not prevent former DOHs from lobbying orders of government other than the provincial government and related entities (other post-employment restrictions may).

- b) **“Ongoing Matters” Restriction:** Subsection 25.4(2) prohibits a former DOH from acting on a commercial basis or making representations with any ongoing matter in which the DOH acted for or advised a department or Provincial agency while a DOH for a period of 12 months from their last day as a DOH.

This provision is sometimes referred to as a “switching sides” provision. It prevents former DOHs from acting for another party on an ongoing matter in which the DOH previously acted for the government of a public agency.

- c) **Restrictions on Representations re Contracts/Benefits:** Subsection 25.4(3) prohibits a former DOH from making representations with respect to a contract with or benefit from a department or Provincial agency for 12 months from the last day the DOH had a direct and significant official dealing with that department or Provincial agency.
- d) **Restrictions on Soliciting/Accepting Contracts/Benefits on own behalf:** Subsection 25.4(4) prohibits a former DOH from soliciting or accepting a contract or benefit on their own behalf from a department or Provincial agency for 12 months from the last day they had a direct and significant official dealing with that department or Provincial agency.

- e) **Restrictions on Accepting Employment or Appointments:** Subsection 25.4(5) prohibits a former DOH from accepting employment from any individual, organization, board or equivalent body for 12 months from the last day they had a direct and significant official dealing with that individual or entity. It also prohibits a former DOH from accepting an appointment to the board of directors or equivalent body of the same entities during the same period.

3. Are there any exceptions to the post-employment restrictions?

Subsection 32.937(7) allows a former DOH to accept employment with a department of the public service or a Provincial agency in accordance with Part 1 of the *Public Service Act*. This exception generally allows a former DOH to accept a role in the public service that is offered following an open and competitive process.

4. Can my cooling-off period be waived or reduced?

A former DOH may apply to the Ethics Commissioner for a waiver or reduction of the above time periods. The discretion to waive or reduce the cooling-off period rests with the Ethics Commissioner and is considered on a case-by-case basis. The circumstances in which the Ethics Commissioner may waive or reduce the cooling-off period are as follows (see section 25.41 of the Act):

- a) The conditions in which the employment is awarded are the same for all persons similarly entitled.
- b) The award results from an impartial process open to a significant class of persons
- c) The activity will not create a conflict of interest between the former DOH and the public interest.

These waivers or reductions may be granted on any conditions that the Ethics Commissioner determines.

VII. WHAT DO I DO IF I HAVE QUESTIONS?

The Office of the Ethics Commissioner encourages all current and former DOHs to contact our office by email at info@ethicscommissioner.ab.ca if they are seeking advice regarding their obligations under the Act.

Please note, all advice requests must be in writing to ensure all the relevant facts on which advice is based are clearly outlined for the benefit of both parties. Advice will also be provided in writing for the benefit of both parties.

If you have any other questions, please feel free to email info@ethicscommissioner.ab.ca.