

**WORKERS' COMPENSATION BOARD**

Northwest Territories and Nunavut

**CORPORATE GOVERNANCE GUIDELINES****STATEMENT OF POLICY**

These guidelines apply to all current or future Board Members of the Workers' Compensation Board of the Northwest Territories and Nunavut (WCB). They represent minimum standards of conduct and place responsibility for recognizing and anticipating Conflict of Interest situations on the Board Member so affected.

**DEFINITIONS**

Accident Fund:	The fund established for the payment of compensation and other outlays and expenses authorized under the <i>Workers' Compensation Acts</i> .
Board:	The Board of Directors of the Workers' Compensation Board of the Northwest Territories and Nunavut.
Conflict of Interest:	Any situation in which a Board Member's ability to act in the best interests of the WCB is or could be directly or indirectly compromised by his or her Personal Interest.
Personal Interest:	Includes an existing or prospective business, employment, commercial or financial interest or affiliation of the Board Member or a Related Person, whether direct or indirect, where the interest or affiliation is greater than that of the general public, but does not include an interest that arises solely by virtue of a Board Member's affiliation with a particular stakeholder group.
Related Person:	Includes the spouse, children or dependents of a Board Member, or other persons, firms, partnerships, associations, syndicates, organizations, groups, companies or corporations related to or associated with the Board Member.

**AUTHORITIES**

*NWT and Nunavut Workers' Compensation Acts*  
*NWT and Nunavut Financial Administration Acts*  
*NWT and Nunavut Conflict of Interest Acts*

Section 90(1)

**WORKERS' COMPENSATION BOARD**

Northwest Territories and Nunavut

**CORPORATE GOVERNANCE GUIDELINES****PROVISIONS****A. BOARD MEMBERS' DUTIES**

The two distinct general duties, as prescribed by section 90(1) of the *Financial Administration Acts*, owed by a Board Member to the WCB during his or her term of service are:

*Every member of the Workers' Compensation Board in exercising his or her powers and performing his or her duties shall:*

- (a) act honestly and in good faith with a view to the best interests of the Workers' Compensation Board; and*
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.*

These guidelines are designed to provide a Board Member with an understanding of what is encompassed by these two general duties. It is important for a Board Member to understand that some of these duties do not end with his or her term.

**B. FIDUCIARY DUTY**

“Every Board Member shall act honestly and in good faith with a view to the best interests of the Workers' Compensation Board.”

Board Members are given significant powers of governance in order to carry out the mandate of administering the *Workers' Compensation Acts*, the *Explosives Use Acts*, the *Mine Health and Safety Acts* and the *Safety Acts*, as well as the regulations made pursuant to these Acts. With the powers granted to Board Members come equally significant duties and responsibilities.

Section 90(1)(a) of the *Financial Administration Acts*, outlined above, creates the fiduciary duty that a Board Member owes to the WCB. Fiduciary duties arise where a Board Member is in a position of special confidence with respect to WCB operations, has inside information and exercises control over the Accident Fund.

In discharging the duty to act honestly and in good faith with a view to the best interests of the WCB, a Board Member must place the WCB's interests above his or her Personal Interest. He or she must act in the interest of the WCB as a whole, rather than in the interest of any particular stakeholder or group of stakeholders.

**WORKERS' COMPENSATION BOARD**

Northwest Territories and Nunavut

**CORPORATE GOVERNANCE GUIDELINES**

The following are some general guidelines relating to a Board Member's fiduciary duty, but should not be taken as an exhaustive list:

1. Conflicts of Interest:
  - (a) A Board Member shall not allow a Conflict of Interest to arise between his or her duty to the WCB and his or her Personal Interest.
  - (b) A Board Member shall not participate in the discussion of, or vote on, any issue in which a Conflict of Interest exists between his or her Personal Interest and the interests of the WCB.
  - (c) A Board Member shall not undertake any activity that appears to interfere with his or her objective duties as a Board Member.
  - (d) A Board Member shall immediately disclose any Personal Interest, including a Personal Interest of a Related Person, that may place or seem to place the Board Member in a Conflict of Interest with respect to a decision of the Board. This includes any matter pending before the WCB that affects the Board Member in his or her capacity as an employer or a worker.
  - (e) A Board Member must declare the nature of any matter that may be perceived to be a Conflict of Interest when a specific subject comes before the Board, thus ensuring that it is recorded in the Board minutes.
  - (f) When a Board Member discloses a matter, that may be perceived to be a Conflict of Interest, the Board will determine whether a Conflict of Interest in fact exists, and any measures necessary to ensure the integrity of the WCB and its governance procedures. The Chairperson may permit the Board Member to participate in discussions or require the Board Member to refrain from participating in discussions related to determining if a Conflict of Interest exists.
  - (g) When determining if a Board Member has a Conflict of Interest, the Board will have regard to all relevant circumstances, including:
    - the Board Member's duty of undivided loyalty to the WCB;
    - the nature and magnitude of the Board Member's Personal Interest;
    - the consequences to the WCB of the Board Member not participating in the decision, especially any statutory imperatives;
    - the importance of having worker and employer perspectives on a particular decision;
    - the availability of alternate Board Members who do not have a Conflict of Interest;
    - the extent of possible harm or prejudice to a third party;
    - the impropriety of the Board Member profiting in any way from the Accident Fund; and
    - the reputation of the WCB being above reproach.

**WORKERS' COMPENSATION BOARD**

Northwest Territories and Nunavut

**CORPORATE GOVERNANCE GUIDELINES**

2. Use of Board Property:
  - (a) A Board Member must not use any WCB property, which he or she possesses or controls, for personal benefit. This is subject to reasonable personal use of some WCB office equipment and supplies, such as telephones and fax machines, which are provided for Board Members' convenience.
  
3. Confidential Information:
  - (a) A Board Member must not use information received in confidence for personal benefit.
  - (b) A Board Member is prohibited from disclosing any information on any matter that comes to his or her knowledge by reason of his or her membership on the Board without the explicit approval of the Board.
  - (c) A Board Member shall not disclose or publicize any details, opinions, discussions or votes that may arise in debate or decision-making by the members of the Board.
  - (d) Confidential information provided to a Board Member remains the property of the WCB, and shall not be disclosed by the Board Member during his or her term of service or at any time thereafter. To the extent possible, any confidential information provided to a Board Member shall be returned to the WCB upon the termination of the Board Member's appointment.
  
4. Improper Use of Board Member Powers:
  - (a) A Board Member shall not interfere, or attempt to interfere, with the administration or operation of the Board or the WCB.
  - (b) A Board Member shall not assist or advocate for employers or workers in their dealings with the WCB.

**WORKERS' COMPENSATION BOARD**

Northwest Territories and Nunavut

**CORPORATE GOVERNANCE GUIDELINES**

- (c) A Board Member is entitled to certain remuneration and benefits from the WCB, but shall not accept any other fee, benefit or gift, in his or her capacity as a Board Member, with the exception of a gift or personal benefit received as an incident of the protocol or social obligations that normally accompany the duties and responsibilities of a Board Member. Gifts or benefits over one hundred dollars (\$100.00) in value must be disclosed to the Board and, if appropriate, the Board may require the gift or benefit to be returned or provided to the WCB.
  - (d) A Board Member shall not use his or her position to seek to influence a decision of another person to further the Board Member's, or a Related Person's, Personal Interest.
5. Acting Honestly:
- (a) A Board Member must act honestly and not seek to be misleading in his or her dealings with other Board Members regarding matters concerning the WCB. A Board Member is expected to share his or her expertise in a forthright manner and disclose information of value to the Board.
6. Disclosure of Personal Interests:
- (a) A Board Member must, upon the commencement of his or her term as a member, provide a written statement to the Chairperson setting out all activities (business and otherwise) in which he or she is involved, and advise the Chairperson of any changes that may subsequently occur.

**C. STANDARD OF CARE**

“Every Board Member shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.”

Section 90(1)(b) of the *Financial Administration Acts* provides the second aspect of a Board Member's statutory duties, and can be broken down into the three components of care, diligence and skill. All are measured according to what a reasonable person would do under similar circumstances. In short, a Board Member is required to be attentive, active and informed:

**WORKERS' COMPENSATION BOARD**

Northwest Territories and Nunavut

**CORPORATE GOVERNANCE GUIDELINES**

## 1. Duty of Care:

A Board Member shall use the same degree of prudence when conducting Board business as would any reasonable person under similar circumstances.

This is an objective standard that may be raised for a Board Member possessing particular expertise, such as a lawyer or an accountant. This duty is likely discharged by a Board Member acting reasonably, in good faith and without Conflict of Interest.

## 2. Duty of Diligence:

A Board Member shall act with the same degree of thought and concern when conducting Board business as would any reasonable person under similar circumstances.

The duty of diligence requires a Board Member to become familiar with all aspects of the WCB, including the business conducted, the organizational policies and the delegation of responsibilities. A Board Member will ascertain his or her responsibilities and seek to acquire sufficient knowledge concerning the Board's business and affairs to enable him or her to discharge these responsibilities intelligently. A Board Member will actively question and monitor management, through the President, in order to obtain the information necessary to judge whether the WCB is performing effectively.

## 3. Duty of Skill:

A Board Member shall act with the same degree of skill as may be reasonably expected from a person of his or her experience and knowledge.

A Board Member must exercise the skills and expertise he or she possesses, and seek information and assistance from qualified persons where he or she has insufficient knowledge or skill.

**HISTORY**

New

---

Chairperson