

Conflict of Interest

Overview and application



Introduction

- Councils value the active participation and membership of stakeholders, state agencies, DD Act agencies, allied professionals, and leaders in disability rights.
- This active participation may at times create actual or perceived conflict of interests.
- Therefore, clear and open discussion is the path to ensure the Council maintains its public perception of integrity, while actively engaging key stakeholders.

Conflict of Interest

□ **What does the Act say?**

Section 124 (c) (5) (D)

The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of conflict of interest



What is an assurance?

A pledge, a guarantee; free from doubt

To maintain federal compliance, Councils must submit this assurance to the Administration on Intellectual and Developmental Disabilities with their 5-year State plan



What is conflict of interest?

- A conflict of interest is real or perceived and exists when the Council member or a member of their family appears to gain or benefit personally from their position on the Council.



Appearance of conflict of interest

- Members of governance have a responsibility to avoid the appearance of a conflict of interest.
- They should never use the organization as a platform for personal benefit or gain.
- A perceived conflict is often more damaging than a real one since it is must harder to resolve.



What is a Dual Role?

- A dual role exists if a Council member also serves in a leadership/decision making role of another entity who is seeking Council funding
 - Example: Council member also serves on the Board of Directors of the local disability organization

Helpful hints if you find yourself in dual roles....

- If you are a member of the Council and also a member of a Board of Directors of an agency or organization applying for Council funds, first and foremost you should keep the primary purposes and guidelines of the Council as the priority.
- Dual role Council members should take great care they not influence any other Council member to gain their support or “sway” them to vote for or against proposals or decisions that may benefit their organization



Example #1

Situation: A member serves on the Council as well as on the Board of Directors or Advisory Committee of a disability organization that applies for a grant through the Council

Result: Even though the Council member may not receive direct financial benefit from the grant, there may be an appearance of a conflict of interest.

Recommendation: The Council member can publicly disclose the conflict (reflect in the meeting minutes), and recuse themselves from discussions and vote on the topic.

Example #2

Situation: A Council member has a spouse, significant other, immediate family member (or other relationship outlined within State or Territory guidelines) receiving funds from a Council funded project.

Result: This would constitute a conflict of interest.

Recommendation: Council member publicly discloses the conflict. This should be noted in the meeting minutes. Recuse themselves from discussions and voting on the topic. In addition, follow State or Territory Conflict-of-Interest or Ethics laws and Council Conflict-of-Interest policies.

Example #3

Situation: A Council member participates in the development of a request for proposal outlining the activities of a project that will be funded by the Council; the Council member's place of employment competes for the funding

Result: The involvement of the Council member may constitute a perception of conflict of interest and unfair advantage to other entities competing for the Council funds.

Recommendation: The DD Council member can publicly disclose the conflict (reflect in the meeting minutes) and recuse themselves from discussions and vote on the topic.

See the DD Act (Section 125 (b)(3)(B)).



Example #4

Situation: A DD Council member wants to be actively involved in a Council funded project as a participant (examples of projects: leadership training program, peer mentor training project).

Result: The involvement of the Council member could be perceived conflict because the duties and responsibilities as a Council member involve approving the activity, the funding for the activity, and monitoring the progress of the activity within the state plan.

Recommendation: The DD Council member should not assume a role as a participant in Council funded projects. The Council member can be a participant after their term ends.



How do Councils provide the assurance?

- Councils use a variety of methods to provide the assurance. The most common are:
 - Conflict of Interest policies
 - Information forms that provide disclosure from Council members about other boards and organizations they represent
 - Code of Conduct policies
 - Recusing oneself from the room when discussions or voting occurs



Questions?



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