

PART IX – CONFLICT OF INTEREST OR DUTY

1. Conflict of Interest Defined

- a. A conflict of interest arises when a Board member's private interests supersedes or competes with his/her dedication to the interests of the College. This could arise from Real, Potential or Apparent Conflict of Interest for a Board member or related persons and may be financial or otherwise. For this purpose:
 - i. A "Real Conflict of Interest" occurs when a Board member exercises an official power or performs an official duty or function and at the same time, knows that in the performance of this duty or function or in the exercise of power there is the opportunity to further a private interest.
- b. A "Potential Conflict of Interest" occurs when there exists some private interest that could influence the performance of a member's duty or function or in the exercise of power provided that he or she has not yet exercised that duty or function.
- c. An "Apparent Conflict of Interest" exists when reasonably well-informed persons could perceive that a Real Conflict of Interest exists on the part of the member.

2. Declaration of Conflict

- a. Board members must arrange their private affairs and conduct themselves in a manner to avoid a conflict of interest. In cases where conflict cannot be avoided, a Board member has an obligation to declare a conflict of interest prior to discussion or decision of an issue. After declaration of the conflict the Board member:
 - i. shall not take part in the discussion of the matter or vote on any questions in respect of the matter (although the member may be counted in the quorum present at the board meeting);
 - ii. if the meeting is open to the public, may remain in the room, but shall not take part in that portion of the meeting during which the matter giving rise to the conflict is under discussion, and shall leave the room prior to any vote on the matter giving rise to the conflict;
 - iii. shall, if the meeting is not open to the public, immediately leave the meeting and not return until all discussion and voting with respect to the matter giving rise to the conflict is completed; and
 - iv. shall not attempt, in any way or at any time, to influence the discussion or the voting of the Board on any question relating to the matter giving rise to the conflict.
- b. Where a Board member is unsure of whether he/she is in conflict, that member should raise the perceived potential conflict with the Board, and the Board should determine by majority vote whether or not a conflict of interest exists. The member perceived to be in conflict should refrain from voting on the issue.
- c. Where a conflict of interest is discovered after consideration of a matter, the conflict must be declared to the Board and appropriately recorded at the first opportunity. If the Board determines that involvement of said member influenced the decision of the matter, the Board shall re-examine the matter and may rescind, vary, or confirm its decision.
- d. Any Board member who perceives another member to be in conflict of interest in a matter

under consideration must identify the perceived conflict to the Board at the first opportunity. The Board should determine by majority vote whether or not a conflict of interest exists, and the member perceived to be in conflict shall be absent when the vote is taken.

- e. Where a Board member has been declared by vote to be in conflict of interest, and that member is in disagreement with the decision of the Board he/she may appeal the decision through the steps outlined in Part IX, 3. Until the appeal process is completed, the Board member perceived to be in conflict either stands aside on the given issue or continues at risk of acting in conflict and being subject to the associated penalty(s).

3. Appeal of Declaration of Conflict

- a. If a Board has exhausted all possible means of resolving a conflict of interest declaration and the Board member(s) in question and the Board are still at an impasse, then, the determination of conflict shall be referred to a Provincial adjudicator(s). The Minister will maintain a roster of potential individuals who can be called upon to review conflict of interest disputes and make determinations on the dispute. Any costs associated with this appeal process will be the responsibility of the initiating Board.
- b. The process for appealing a declaration of conflict will require the following:
 - i. The Board shall request in writing that the Minister identify an adjudicator(s) from the Provincial roster to review and make a determination on a perceived conflict of interest;
 - ii. The Board shall submit a report to the adjudicator and a copy to the member in question within seven days of the request for adjudication, documenting the nature of the perceived conflict, and the background leading to the impasse;
 - iii. The Board member(s) perceived to be in conflict shall submit a report to the adjudicator and a copy to the Board within seven days of the request for adjudication, documenting the nature of the perceived conflict, their rationale for not being in conflict, and the background leading to the impasse;

The adjudicator(s) shall review the documentation, gather any other additional information required to make an informed decision, and provide the Board with a determination on the declaration of conflict of interest within two weeks of receiving the request for adjudication or may, if further review is necessary, request an extension from the parties involved.

- c. The initiation of an appeal, or an appeal found in the favour of the appellant, shall not impede the action flowing from the Board's resolution that led to the appeal in the first instance. The Board, however, reserves the right to revisit the decision following the appeal.

4. Punitive Action Associated with Conflict of Interest

- a. A second role for the adjudicator(s) is(are) to recommend to the Board any punitive action to be directed to a Board member deemed to be in conflict. The Board shall have the power and ability to impose punitive action including one or more of the following:
 - i. letter of reprimand;
 - ii. suspension of a Board member(s) from the Board for a determined period of time;
 - iii. recommendation that a Board member(s) resign from the Board;
 - iv. for external members, recommendation that the appointment be rescinded.

5. **General Guidelines for Declaring Conflict of Interest (under Part IX, 2)**

The following examples of conflict of interest are intended to provide general guidelines for declaring conflict of interest. These examples should not necessarily be considered exhaustive. Instead, the definitions of conflict as described in Part IX, A should be used as the ultimate measure of conflict.

- a. A pecuniary interest exists when a contract or other matter of a monetary nature is before the Board which:
 - i. affects a private company in which a member or related persons are a proprietor or shareholder;
 - ii. affects a public company in which the member, or related persons hold more than 10% of the shares issued of that public company;
 - iii. affects a partnership or firm in which the member, or related persons are a member;
 - iv. affects a corporation in which the member is a director;
 - v. affects an organization in which the member is a senior officer; or
 - vi. affects a private society, crown corporation or other organization in which the member by virtue of office holds a position of influence.

- b. A conflict of interest due to representation of or relation to a specific constituency may occasionally arise. In general, voting on matters which have an effect on a broad group (i.e., students, staff, and faculty) by a member of that group is not considered a conflict of interest. Conflict could reasonably be considered to exist however for the following identified groups when considering these matters:
 - i. decisions directly affecting a specific instructional program in which
 - student Board members are enrolled in the program;
 - faculty or support staff Board members are employed in the program;
 - members with related persons are enrolled in or employed in the program.

 - ii. decisions related to labour negotiations and labour relations
 - for faculty and support staff Board members;
 - for Board members with related persons who hold faculty and/or support staff positions at the institutions; or
 - for Board members with related persons who hold positions at other institutions who could be seen to gain benefit from information divulged on these matters.

- c. For the purpose of clarification, these guidelines recommend that student members be permitted to vote on issues related to tuition and fees.