

Integrity in Decision-making

Introduction

As a regulatory body, NSCDN's decisions must be made in the public interest and in an impartial and fair manner. Paramount is that the public is protected, and that the public maintains confidence in the ability of the profession to regulate itself. This document addresses two concepts of which decision-makers must be mindful: **bias** and **conflict of interest**.

A decision-making framework ([Appendix A](#)) was established to support decision-makers during the decision-making process and it is used to demonstrate sound process when engaged in decision-making. It encompasses the principles of administrative law and enables interested parties' perspectives to be considered. Decisions may impact an applicant's livelihood, a dietitian's reputation and livelihood, and there may be financial implications for all parties. While it is important to consider interested parties' interests, decisions must be in the public interest.

A regulatory body's decisions are subject to [judicial review](#). This means that NSCDN's decisions may be scrutinized. The best decision may not be upheld in a court of law if the decision was not made using a sound process. In meeting minutes and decision reports, it is important to not only document the decision and its rationale, but *how* the decision was made. The fact that committees have been trained should also be documented. Figure A is an example of how sound process may be documented.

Figure A: With reference to a specific decision, meeting minutes record (a) the names of committee members who declared a potential bias or conflict of interest and whether they attended the meeting; (b) whether the decision-making framework was used to guide the decision-making process; (c) the formal motion and its outcome; (c) the names of volunteers who abstained from voting on the issue.

It is important for meeting agendas to be relevant to NSCDN's mission. When participating on an NSCDN committee, it is essential for committee members to participate with a public protection focus, contribute their professional perspective, but recognize that their personal, professional and employer's interests are not necessarily public interests. The College of Dietitians of Ontario's Public Interest Decision Tree ([Appendix B](#)) is a tool that can be used to support committees in decision-making. Figures

Figure B: Charlie volunteers on the Continuing Competency Committee. This committee advises on the establishment of the Continuing Competency Program (CCP) and relevant policies. Charlie believes that dietitians, as professionals, should not have to submit evidence of their professional development activities to NSCDN.

Figure C: Charlie also joined the Continuing Competency Committee with the intent to introduce changes to the CCP that would require dietitians to engage in advocacy for the profession.

B and C are examples of how a dietitian's interests may be contrary to NSCDN's mandate. In both scenarios, Charlie is volunteering with a personal agenda rather than one that reflects NSCDN's mission.

Self-regulation is under scrutiny. There is media attention and public doubt whether a profession can regulate itself in the public interest and not their own. It is why regulatory bodies do not engage in advocacy efforts for the profession. They must be, and be perceived as, objective. In Nova Scotia, government has delegated the regulation of the profession to the profession. In many areas of the world, government bodies regulate professions. Self-regulation is a privilege, and the model of self-regulation is changing in Canada to encompass more government oversight.

In fact, a current trend is for public members to out-number professionals on committees and councils. Public representation on the Board and committees is important to provide the public perspective to discussions. With self-regulation, the profession's unique expertise in the profession is incorporated into core regulatory functions, including setting entry-to-practice requirements, approving education programs, setting practice standards and policies, and making decisions related to the competency of its members.

Processes must be in place to ensure sound procedure and to ensure decisions are in the public interest. This training resource is designed to help volunteers and staff identify situations that may impact the integrity of NSCDN's decisions.

Self-assessment

Self-assessment can be performed when deciding whether to volunteer on a specific committee or to determine whether there is a conflict of interest or bias related to specific meeting agenda items. If there is a conflict, it may be possible to manage the conflict with disclosure and transparency. If there is potential bias, it is important to declare and discuss so that the degree of closeness can be assessed. Ultimately, it is the chairperson's role to determine when it is most appropriate for a volunteer to be [recused](#) from a meeting for deliberation and voting on an issue.

Self-assessment will assist committee members to:

- reflect on the meaning of bias and conflict of interest;
- identify their interests and biases; and,
- identify whether their interests are (or may be perceived to be) in conflict with NSCDN's mission and core functions.

The Principles of Bias and Conflict of Interest

Bias is a predisposition to rule in favour of one side to the detriment of the other. The bias can be real or perceived. There is a lack of neutrality on the part of a decision maker with regard to the issue being decided. Bias is a tendency to favour something in a way that can be seen as irrational or unfair, whereas an **opinion** is a judgement one makes as a result of reasoning through facts or knowledge. Biases are influenced by an individual's background, cultural environment and personal experiences.

Implicit or **unconscious bias** happens when we make incredibly quick judgments and assessments of people or situations without realizing. A perception of bias is when an individual (e.g., an applicant) perceives bias, despite whether it actually exists. Perception of bias can impact the credibility of a decision. It is important to consider what a reasonable person could perceive as bias.

An **apprehension of bias** is the standard used when appointing decision-makers to participate on committees or when a decision maker is asked to be removed from the decision-making process.

- [The test is whether a reasonable person properly informed would apprehend that there was conscious or unconscious bias on the part of the decision-maker.](#)

NSCDN's mission: In the public interest, NSCDN regulates dietitians and nutritionists to practice in a safe, ethical and competent manner.

Core functions:

Registration – a regulatory body ensures applicants are qualified and possess the competencies and character to practice in a safe, ethical and competent manner.

Continuing Competency – a regulatory body assures the public that its registrants are current and competent in their area of practice.

Complaints – a regulatory body addresses complaints about a health professional's practice in a fair, objective manner.

Professional Practice – a regulatory body sets and enforces standards to ensure safe, ethical and competent practice. Standards serve a number of purposes, including outlining minimal practice expectations, used in a complaints process as a legal reference for performance, guides the public's expectations about dietitians' services, informs other health professionals about dietitians' roles and responsibilities, and informs curriculum planning for education programs to ensure graduates are prepared to practice competently.

- [“A situation where a reasonable person, knowing the facts concerning the member of the tribunal, would suspect that the member may be influenced, albeit unintentionally, by improper considerations to favour one side in the matter he or she is to decide.”](#)

There is a **conflict of interest** when a personal interest conflicts, may conflict, or is perceived to conflict with a volunteer’s [fiduciary](#) responsibility to act in NSCDN’s interest. A conflict influences the volunteer’s ability to act with integrity, objectivity and independence towards the fulfilment of NSCDN’s mandate. It is as important to avoid/manage a perceived conflict as it is important to avoid/manage an actual conflict. Both may undermine the credibility or legality of decisions. A conflict of interest exists whether it is real or perceived.

A personal interest includes direct interests or those of family, friends, colleagues or other organizations of which a volunteer may be involved. A conflict of interest exists with respect to any of the following that could influence or be perceived to influence the exercise of a person's judgment in discharging their responsibilities to NSCDN:

- a) membership in an advocacy, special interest, lobby or group that relates to or conflicts with NSCDN’s mandate;
- b) involvement in a project, initiative or specific agenda external to NSCDN that relates to or conflicts with NSCDN’s mandate;
- c) direct or indirect personal, professional, financial, employment or business interests that relate to or conflict with NSCDN’s mandate;
- d) holding a position as a councillor, committee member, officer, director, employee, consultant or contractor with another organization or group:
 - i. whose goals, mandate or philosophy relates to or conflicts with NSCDN’s mandate; or,
 - ii. where the person's responsibilities or duties relate to or conflict with NSCDN’s mandate;
- e) knowingly taking advantage of or benefiting from information obtained through their responsibilities and duties with NSCDN;
- f) having an association, relationship, non-financial interest or activity that is incompatible with their responsibilities as an independent decision-maker;
- g) making a decision that is not based on impartiality, or is not based solely on relevant information or evidence properly received in the decision-making process; or,
- h) making a decision that is based on personal extraneous factors rather than in NSCDN’s best interest.

Conflict of interest is addressed in the Board of Directors’ governance policy ([Appendix C](#)).

The following worksheet can assist volunteers and staff to self-identify conflict of interest or bias.

What are my interests?



External organizations

Professional associations or relationships with other organizations.
[Comments]

Directorships (e.g. sitting on another board of directors or council)
[Comments]

If yes, that organization's mission is....
[Comments]

That organization's primary interested party is....
[Comments]

Employer
[Comments]

Employer's mission
[Comments]

As an employee, your primary interested party is....
[Comments]

Interests in business enterprises or professional practices
[Comments]

Relationships

Personal associations with other groups or organizations
[Comments]

Family relationships
[Comments]

Colleagues
[Comments]

Personal

Financial
[Comments]

Reputation
[Comments]

Career advancement
[Comments]

Identify the issue under consideration. Consider how the issue relates to my other interests. How do my responsibilities with other organizations (e.g. employer, association) conflict with my public duty to serve the public interest (NSCDN's mandate and core functions)? How do my other personal or professional interests conflict with my public duty to serve the public interest (NSCDN's mandate and core functions)?

[Comments]

Would I (or family/friends) be impacted by the decision? Would there be a benefit for me in the future or would I be detrimentally affected? Consider career advancement, financial and reputation.

[Comments]

Would the external organization with which I am affiliated be impacted by the decision? Would there be a benefit in the future, or would the organization be detrimentally affected? Consider financial and whether the decision would impact (negatively or positively) that organization's mandate or operations.

[Comments]

When reflecting on a specific issue, do I feel strongly about the outcome? If so, do I have a personal or professional interest that influences my objectivity?

[Comments]

If the same issue was presented as a representative of another organization, would my stance on the issue differ?

[Comments]

Could my involvement in this matter cast doubt on my integrity or on my employer's integrity?

[Comments]

What perceptions could others have? Would my presence at a meeting prevent others from voicing their opinions because of my position or in fear of offending me or to avoid conflict?

Do I hold personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?

[Comments]

What assessment would a fair-minded member of the public make of my involvement with the decision? Could my involvement in this matter cast doubt on my integrity or NSCDN's integrity?

If I saw someone else doing this, would I suspect that they might have a conflict of interest?

Would I be pleased to know that my colleagues and the public became aware of my involvement and any connection with the decision?

How would I feel if my actions were highlighted in the media?

[Comments]

Is the matter one of great public interest or controversy where my involvement could attract greater scrutiny by others?

[Comments]

Have I contributed in a private capacity in any way to the matter? Have I contributed in a professional capacity in any way to the matter? Have I made any promises or commitments in relation to the matter?

[Comments]

Have I received a benefit or hospitality from someone who stands to gain or lose from the decision? Do I have any affiliations or ties with external organizations or individuals who stand to gain or lose by the decision? Could there be any other benefits or factors that could cast doubts on my objectivity?

[Comments]

When a decision potentially impacts someone I know, would others perceive a bias if I were involved in the decision-making process related to the issue? How well do I know the individual? Have I taught, worked with, or supervised the individual? How close is/was the relationship?

[Comments]



Adapted from (2004). Tool 8.1: Checklist for identifying a conflict of interest in *Managing Conflicts of Interest in the Public Sector*. Sydney, N.S.W.: ICAC/Crime and Misconduct Commission (Queensland), pp. 36-9, and Office of the University Counsel. Identifying Conflicts of Interest.

Resources:

1. NSW Government: Local Land Services
RM8 REF: 16/47701
<https://www.oecd.org/gov/ethics/49107986.pdf>
2. Russell, A. & Jackman, L. (date). Unconscious bias workshop. Medallia.
<https://vimeo.com/126173011>

Appendix A

Nova Scotia College of Dietitians and Nutritionists Board of Directors Decision-making Framework

Preamble:

The Nova Scotia College of Dietitians and Nutritionists's board of directors and operational committees work in the interest of the public to regulate dietitians and nutritionists to practice in a safe, ethical and competent manner. This is to help us achieve our vision of trust and excellence in regulation and practice.

As such, there are occasions when decisions are challenging, complex, and raise ethical questions. There was a need identified to support decision-makers in:

- Documenting what the board/committee should do – determining what decisions are morally right or acceptable;
- Documenting why the board/committee should act – justifying decisions using language of values and principles;
- Documenting how the board/committee should act – outlining an appropriate process for enacting the decision.

In an effort to ensure an objective and ethical decision-making process, the following process is proposed to guide decisions of the board and operational committees.

Rationale:

Applying this tool will allow for a consistent, documented process for making tough decisions and will serve as an accountability mechanism to ensure the board's fiduciary responsibilities are maintained. Use of this tool will ensure and document that a decision was not made arbitrarily and with due process.

When to Use:

This tool should be applied in the following instances:

- When there is conflict between Board members around a challenging situation.
- When there is moral ambiguity – a situation characterized by uncertainty regarding the “right” thing to do, either because it is novel or it has unique features that make standards of practice difficult to apply.
- When there is a situation where two equally important values appear to conflict.
- When one feels “*the yuck factor*” – an intuition that something is not right, or a feeling of moral angst or distress.

How to Complete:

Supporting Documents:

- [Professional Dietitians Act](#)
- [NSCDN Bylaws](#)
- [Governance Policies](#)
- NSCDN Operational Policies
- [NSCDN Mission, Vision, Strategic Goals](#)
- [NSCDN Board Charter](#)
- [NSCDN Code of Ethics for Professional Dietitians](#)
- [NSCDN Position Statements](#)

Decision Making Framework Tool

- Bias and conflict of interest were considered according to the document “Integrity in Decision-making”

Date: _____

Board/committee members: _____

I. Identify the Issue

What is the question/issue?

II. Gather the Facts

KNOWN: What is the relevant evidence, information, and context? What are the essential biological, ethical, economic, social or political considerations?

UNKNOWN: What additional evidence, information, and context would be useful?

III. JURISDICTION

- Does NSCDN have the jurisdiction to address the issue? Refer to governance documents: Act, bylaws, policies, position statements and standards.

IV. Who is impacted?

Who are the stakeholders? Which individuals or groups have an important stake in the outcome? Identify the concerns and values associated with each stakeholder.

| Stakeholder | Stakeholder | Stakeholder |
|-----------------------|-----------------------|-----------------------|
| Concerns/values 1. | Concerns/values 1. | Concerns/values 1. |
| 2. | 2. | 2. |
| 3. | 3. | 3. |

| Stakeholder | Stakeholder | Stakeholder |
|-----------------------|-----------------------|-----------------------|
| Concerns/values 1. | Concerns/values 1. | Concerns/values 1. |
| 2. | 2. | 2. |
| 3. | 3. | 3. |

V. Consider Precedence and Consistency

| |
|--|
| <p>How has this organization and how have other jurisdictions addressed a similar issue? What were previous decisions and were outcomes of those decisions?</p> |
|--|

VI. Identify and Assess Alternatives

| | Pros | Cons |
|-----------------|-------------|-------------|
| Option 1 | | |
| Option 2 | | |
| Option 3 | | |

VII. Consider whether potential alternatives are subject to superior legislation (e.g. human rights, Charter of Rights and Freedoms)

| |
|--|
| |
|--|

VIII. Fairness

Is the potential decision fair? How will others be positively or negatively impacted? What is the potential outcome of the decision?

IX. Decide

What is the decision?

Does this decision align with NSCDN's vision, mission, and values?

Vision: "Trust and excellence in regulation and practice."

Mission: "In the public interest, NSCDN regulates licensed dietitians and nutritionists to practice in a safe, ethical, competent manner."

Values: Innovative, trustworthy, effective, ethical, and accountable.

REASONS: Justify decision, applying the language of ethical concepts and principles described above. Consider the principle of reasonableness.

1.

2.

3.

Adapted from Decision-Making Frameworks: An Ethics Primer

<https://www.nwabr.org/sites/default/files/DMF.pdf>, modified from the Hastings Center, 1990

Appendix B

College of
Dietitians
of Ontario



Part 1

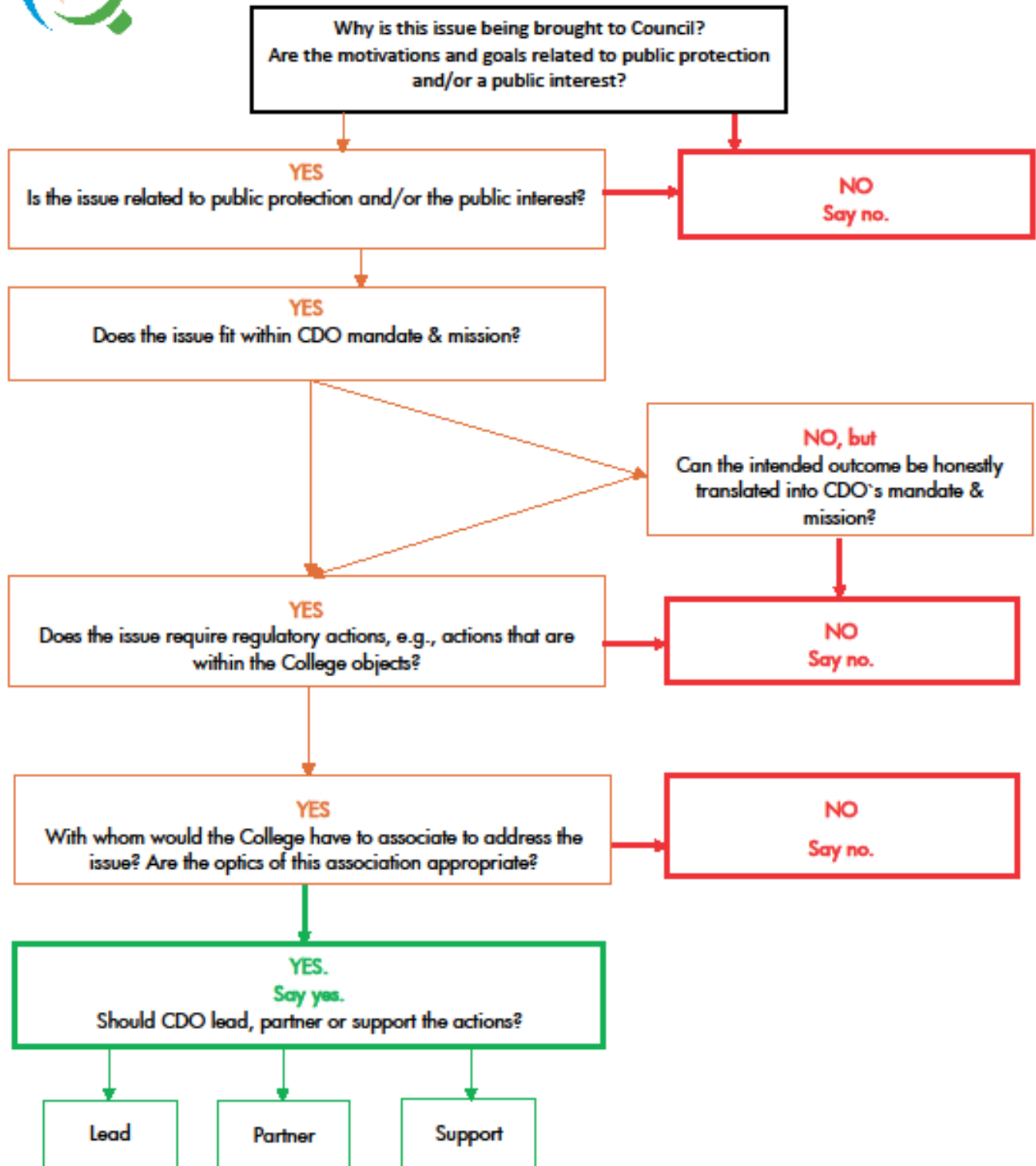
Framework for decision-making about what issues CDO works on

| CRITERIA | INFORMATION NEEDS |
|------------------------------|--|
| Public Protection | Describe how the issue directly leads to harm to the public or individual clients |
| Public Interest | Describe how the issue or resolution of the issue is a matter of public interest |
| Mission, Mandate and Objects | Indicate how the issue relates to the College's Regulatory Mandate, Mission and Objects |
| Ability, Resources, Priority | Describe the type of activities that the College would be required or want to engage in and comment on whether there is a fit with the College's current resources, usual activities and competencies. Comment on how addressing the issue would be within a stated College priority or serve to advance a strategic or other College goal. |
| Association | Comment on what interests within other groups the College would have to associate with in order to participate in addressing the issue. |
| Ownership | Comment on whether other people or organizations have a more central role or ownership of the issue or of the response to the issue |
| Perception/Optics | Describe how the College might be judged by the public, other Colleges and government for the role and activities it might take related to the issue? |
| Best Response | Describe what activities the College is prepared to take to address the issue State why the College should partner, lead or support specific activities related to the issue. Indicate whether there is an alternative approach to achieving the goal. This might involve redefining the goal or interest behind the goal in a way that enables an appropriate College response. |



PUBLIC INTEREST DECISION TREE

Should the CDO work on this?





Part 2

What are Potential Criteria for Deciding Policies and standards in the Public Interest?

Suggested Principle Statements

1. Public Protection Primacy

CDO will make the policy and other decisions to protect the public, and public protection will always have primacy over all other considerations.

2. Public Interest Favoured

CDO decisions will always favour the public interest over all other interests.

3. Objective

CDO decisions will objectively consider reasonable options and consider all available evidence to arrive at an objective decision.

4. Fair

CDO decisions will consider the impact of options on all people and organizations affected by them.

5. Purposeful and Effective

CDO decisions will effectively achieve public protection by regulating dietetics and supporting Registered Dietitians to provide competent, ethical and safe services. CDO decisions will not result in unnecessary regulation.

6. Transparent

CDO decisions will be clearly presented to stakeholders along with the regulatory goal and public interest rational.

How do these points translate into a framework for decision-making about policies and standards?

| CRITERIA | INFORMATION NEEDS |
|---|--|
| Public Protection | Describe the issue that prompted the policy/standard development project in terms of risk of harm and public protection |
| Public Interest | Describe how the policy/standard is a matter of public interest and how it fits with the College's mission and objects, and strategic goals and objectives Describe how the College might be perceived by the public, other Colleges and government for the policy/standards decision? |
| Objective Fair Purposeful and Efficient | Describe the options in relation to the following: <ul style="list-style-type: none"> • how stakeholders will be affected (e.g. time, cost, limits on choice) • how the public interest is served • analysis of efficiency in meeting the public protection/public interest goal and the strategies needed to achieve efficiency and purpose • sources of information and evidence |
| Transparent | Describe the rationale for the favoured option(s) or recommended option |

Appendix C

Governance Policy G-6: BOARD of DIRECTORS' CODE OF CONDUCT

The Board commits itself to ethical, businesslike and lawful conduct, including proper use of authority and appropriate decorum when acting as directors of the Board.

Accordingly:

1. Directors must be loyal to the interests of the community served by the organization. This accountability supersedes any conflicting loyalty such as that to advocacy or interest groups and membership on other boards or staffs. It also supersedes the personal interest of any board member acting as a consumer of the organization's services.
2. This **Code of Conduct** is a set of principles for the highest standards of ethical conduct.

Therefore, directors will:

- Participate in board and subcommittee meetings giving due notice of non-attendance;
- Be prepared for such meetings by reading all relevant material;
- Continually upgrade their knowledge by attending education sessions when possible;
- Act honestly, responsibly and in good faith in the best interests of the organization and the public at large;
- refrain from side discussions during and outside of meetings,
- listen with intent so as to be influenced, seek first to understand and then to be understood, acknowledge all suggestions and opinions even if they do not agree, contribute to discussions and decision-making in a positive and constructive manner, discourage criticism, unchecked assumptions and debate;
- Be cognizant of time and deadlines;
- Once a decision has been made, directors avoid expressing personal viewpoints;
- Support and abide by majority motions passed by the Board;
- Adhere to the board policies on confidentiality and conflict of interest;
- Reconsider their ability to serve the stakeholders of the organization should they be unable to attend board meetings on a regular basis.
- Recognize the president as the board spokesperson.

GOVERNANCE PROCESS

G-6: BOARD DIRECTORS' CODE OF CONDUCT (continued...)

3. Standard of Conduct

- A. Directors are required to act in the best interests of the Board. In matters pertaining to the activities of the Board, a Director's duty to the Board is paramount over any personal, local, or financial interests they may have.

- B. Directors recognize and address a real or perceived conflict of interest. A conflict or potential conflict of interest exists with respect to any of the following that could influence or be perceived to influence the exercise of a person's judgment in discharging their responsibilities to the college:
 - i) membership in an advocacy, special interest, lobby or group that relates to or conflicts with the mandate of the college
 - j) involvement in a project, initiative or specific agenda external to the college that relates to or conflicts with the mandate of the college
 - k) direct or indirect personal, professional, financial, employment or business interests that relate to or conflict with the mandate of the college
 - l) holding a position as a councillor, committee member, officer, director, employee, consultant or contractor with another organization or group:
 - iii. whose goals, mandate or philosophy relates to or conflicts with the mandate of the college,
 - iv. where the person's responsibilities or duties relate to or conflict with the mandate of the college
 - m) knowingly taking advantage of or benefiting from information obtained through their responsibilities and duties with the college,
 - n) has an association, relationship, non-financial interest or activity that is incompatible with their responsibilities as an independent decision-maker,
 - o) makes a decision that is not based on impartiality, or is not based solely on relevant information or evidence properly received in the decision-making process,
 - p) makes a decision that is based on personal extraneous factors rather than in the best interest of the college or public.

- C. A board member must declare that they participate on an international, national or provincial association or organization whose members are predominately dietitians or nutrition professionals

GOVERNANCE PROCESS

G-6: BOARD DIRECTORS' CODE OF CONDUCT (continued...)

- D. A Director shall not enter into any business arrangement with the Board when such a business could reasonably be perceived as affecting the Director's judgment with regard to the business of the Board, except:
- a) after having declared to the Board the nature and extent of the Director's interest in the matter
 - i. at the meeting at which the matter creating the conflict of interest is first considered, or
 - ii. if the Director is not in a conflict of interest at the time described in sub clause (1), at the first meeting that is held after the Director develops such a conflict of interest; and
 - b) having declared the nature and extent of such interest, the Director refrains from voting thereon and absents him/herself from the meeting during discussion and voting on the matter.
- E. Where the Director has entered into a business arrangement contemplated by clause (B) prior to becoming a Director, the Director shall:
- a) declare to the Board the nature and extent such interest in the matter; and
 - b) having declared the nature and extent of such interest, refrain from voting thereon and shall absent him/herself from the meeting during discussion and voting on the matter.
- F. Any contract entered into in violation of this section shall be null and void at the option of the Board, and the Director concerned may be removed from the Board upon a resolution passed by the Board.
- G. A person who becomes aware they have, or another person has, a conflict or a potential conflict of interest must disclose the matter as soon as it becomes evident.

If the disclosure is made during a meeting the other participants will discuss the matter and determine if a conflict or potential conflict of interest exists. A person who has declared or is in a conflict or potential conflict of interest may not participate in any discussion or a vote on the matter in question and must leave any portion of the meeting relating to the matter. Minutes will reflect the disclosure, whether it was determined that there was a conflict or potential conflict of interest and the absence of the person from the portion of the meeting relating to the matter.

- H. Directors in violation of this section may be removed from the Board upon a resolution passed by the Board.

GOVERNANCE PROCESS
G-6: BOARD DIRECTORS' CODE OF CONDUCT

4. Confidentiality

- A. All Directors shall maintain confidentiality respecting all confidential matters brought before the Board including those matters dealing with any member of the public or registrant, except in accordance with the law.
- B. The Board shall authorize one or more persons to make statements to the media or the public as required.
- C. Directors in violation of this section may be removed from the Board upon a resolution passed by the Board.

Date Issued: May 24, 2012
Reviewed: September 2017
Last amendment: -