

XIII. CONFLICT OF INTEREST POLICY

BACKGROUND

The purposes of this conflict of interest policy is to protect the interests of Regional Center of Orange County, Inc. (“Corporation”) in a transaction or arrangement that might benefit the private interest of one or more of its officers or directors or their relatives, avoid excess benefit transactions under section 4958 of the Internal Revenue Code and comply with the California Nonprofit Integrity Act. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to the Corporation. This policy is intended to include all aspects of the Conflict of Interest provisions in Title 17, Section 54520 of the California Code of Regulations, which sets forth Conflict of Interest Standards for Regional Center Governing Board Members.

POLICY

A. Definitions

1. Interested Person. Any director, officer or member of a committee with board delegated powers of the Corporation who has a direct or indirect financial interest, as defined below, is an interested person.
2. Financial Interest. A person has a financial interest if he or she or a relative directly or indirectly, has
 - a. an ownership or investment interest in an entity with which the Corporation engages in a transaction or arrangement,
 - b. a compensation arrangement with the Corporation or with an entity or individual with which the Corporation engages in a transaction or other arrangement, or
 - c. a potential ownership or investment interest in, or compensation arrangement with, an entity or individual with which the Corporation is negotiating a transaction or other arrangement.

For this purpose, a “relative” includes the spouse of a director or officer and any ancestor, descendant, brother, sister, spouse, mother-in-law, father-in-law, brother-in-law, sister-in-law and spouses of such individuals. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. A person who has a financial interest will have a conflict of interest only if the Board of Directors of the Corporation decides that a conflict of interest exists.

3. Identified Conflicts

Per California Code of Regulations, Title 17, Division 2, Chapter 3, SubChapter 3, Article 1, Section 54520, the following constitute conflicts of interest for regional center governing board members:

- a. A conflict of interest exists when a member of the governing board or a family member of such person is a director, officer, owner, partner, shareholder, trustee or employee of any business entity or provider, holds any position of management in any business entity or provider, or has decision or policy-making authority in such an entity or provider, except to the extent permitted by Welfare and Institutions Code, Section 4626(a)(3) and (b). These conflict of interest provisions are in addition to those stated in Welfare and Institutions Code, Sections 4622(a)(9) and 4626.
- b. A conflict of interest exists when the advisory committee board member, appointed pursuant to Welfare and Institutions Code, Section 4622(a)(7), is an employee or member of the governing board of a provider from which the regional center purchases client services and engages in the activities prescribed in Welfare and Institutions Code Section 4622(a)(9). Such member is therefore prohibited from serving as an officer of the regional center governing board and from voting on the matters or issues described in Section 4622(a)(9). Furthermore, the member is subject to disclosure under Section 54522 of these regulations in addition to providing a list of his or her financial interests, as defined in Government Code Section 87103. Fiscal matters, as used in Welfare and Institutions Code Section 4622(a)(9) include, but are not limited to, setting purchase of service priorities, transferring funds to the purchase of service budget, and establishing policies and procedures with respect to payment for services.
- c. A conflict of interest exists when a governing board member is any individual described in Welfare and Institutions Code Section 4626. A financial interest in regional center operations, as used in Welfare and Institutions Code Section 4626(a)(4), exists if it is reasonably foreseeable that the member's interest, or the member's decision regarding that interest, will have a material financial effect, on the board member's interest in, or relationship with, the business entity or provider pursuant to Government Code, Section 87103. The financial effect is material if the decision will result in a benefit, detriment, gain, loss or profit to the member, entity or provider.

B. Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of any financial interest and be given the opportunity to disclose all material facts to the directors and/or members of committees to which the board of directors has delegated powers concerning the proposed transaction or arrangement.

In addition, the board shall comply with California Code of Regulations, Title 17, Division 2, Chapter 3, SubChapter 3, Article 1, Section 54522, Conflict of Interest Disclosure – Content of Statements, Procedures and Actions Required for Resolution.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts and after any discussion with the board or committee the interested person shall leave the board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

- a. An interested person may make a presentation at the board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- b. The board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the board or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement.
- d. If a more advantageous transaction or arrangement is not reasonably possible under the circumstances, the board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with this determination it shall make its decision as to whether the Corporation should enter into the transaction or arrangement.
- e. The regional center governing board shall not enter or authorize the regional center to enter into any contract or any other type of agreement for pecuniary gain with any entity or provider in which a member has a conflict of interest as set forth in section A(3)(a) and (c) above, nor shall the board or board member allow the regional center to refer a client or prospective client to such an entity or provider.
- f. No regional center governing board member who has a conflict of interest shall continue to serve as a board member in violation of these provisions unless the board member has eliminated the conflict of interest or obtained a waiver pursuant to these regulations. This prohibition does not apply to the extent it is precluded by Welfare and Institutions Code, Sections 4626(a)(3) and (b).

4. Violations of the Conflicts of Interest Policy

- a. If the board or committee has reasonable cause to believe an interested person has failed to disclose an actual or possible conflict or interest, it shall inform the

interested person of the basis for such belief and afford him/her an opportunity to explain the alleged failure to disclose.

- b. If, after hearing the interested person's response and after making further investigation as warranted by the circumstances, the board or committee determines the interested person has failed to disclose an actual or possible conflict of interest, it shall take appropriate action after consulting with counsel for the Corporation.

C. Records of Proceedings

The minutes of the board and all committees with board delegated powers shall contain:

1. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the board's or committee's decision as to whether a conflict of interest in fact existed.
2. The names of persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

D. Compensation

1. A voting member of the board of directors who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to his or her compensation, if any.
2. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.
3. No voting member of the board of directors or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation is prohibited from providing information to any committee regarding compensation.

E. Annual Statements

Each director, principal officer and member of a committee with board delegated powers shall annually complete and execute the attached Declaration which affirms that such person:

1. has received a copy of this Conflict of Interest Policy,

2. has read and understands the Policy,
3. has agreed to comply with the Policy, and
4. understands that the Corporation is charitable and that, in order to maintain its Federal and California tax-exempt status, it must engage primarily in activities which accomplish one or more purposes which qualify it for tax exemption.

F. Periodic Reviews

To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, determine whether compensation arrangements and benefits are reasonable, based on competent survey or other information, and the result of arm's length bargaining. The Corporation shall review the total compensation of its Executive Director and its Chief Financial Officer to determine that it is just and reasonable at the time of hiring, whenever an employment contract is reviewed or extended, and when compensation is modified. If employment of such an officer is at will, such a review shall be made at least every twelve months.

G. Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Corporation may, but does not need to, engage consultants. If consultants are used, their use shall not relieve the board or committee of its responsibility for ensuring that periodic reviews are conducted.

GUIDING PRINCIPLES

- The public funds that support the service system are expended in a fashion that is cost-effective, consumer-directed, consistent with good business practices, and that reflect careful stewardship.
- The governing Board of the Regional Center of Orange County is representative of and accountable to the community served by RCOC.
- RCOC Board of Directors will be actively involved in the organization (i.e., attendance and participation). The Board provides appropriate support to maximize effective participation by all its members.

Last Policy Review Date: September 20, 2010

No Revisions Recommended to Board: November 4, 2010

Date of Next Review: on or before November 4, 2011