

What is a conflict of interest?

- Conflict of interest is a conflict between the private interests and the official or professional responsibilities of a person in a position of trust.
- Conflict of interest is a situation that arises when a decision is made that is may not be in the best interest of the organization, but is made in response to outside influences.
- Tax law penalizes conflicts of interest that result in “self-dealing” or “excess benefit transactions.”
 - “ Self-Dealing” **any** direct or indirect exchange between the organization and the disqualified person.
 - “ Excess Benefit Transaction” = any transaction in which an economic benefit is provided by an organization directly or indirectly to a disqualified person if the value of the economic benefit provided exceeds the value of the item or service exchanged.

Who can cause a conflict of interest?

- Any decision-maker in an organization. This can include a board member, an executive director, or an employee who is making a decision (such as awarding an outside contract).
- “Employee, officer or agent” 45 CFR §74.42.
- A “disqualified person.” 26 USC § 4946.
 - A person who is in a position to exercise “substantial influence” over the tax-exempt.
 - A family member of an entity that is controlled by a disqualified person can also be considered disqualified.
 - You are automatically considered a “disqualified person” if you are:
 - A voting member of the governing body.
 - Holding a position comparable to that of a president CEO, COO, CFO or treasurer (a board officer).
 - A person with a material financial interest in a provider-sponsored organization.
 - A “manager” = the organization’s directors, officers, trustees (or people with equivalent roles).
 - A manager can also be classified as a disqualified person and face double liability.
 - You may be considered a disqualified person by default if:
 - Your compensation is primarily based on activities of the organization that you control.
 - You have or share substantial budgetary authority.
 - You have substantial management authority.
 - You own a controlling interest in an entity that is classified as a disqualified person.
 - You are *not* considered a disqualified person if you are:
 - A professional advisor to the organization under contract for the purposes of giving professional advice.

- A person whose direct supervisor is not a disqualified person.
- A person who is not involved in management decisions affecting all or a substantial subset of the organization.

Therefore, no person shall be appointed or continue to serve as a Director who is: (1) a contractor of Disability Rights NC; (2) is an employee of Disability Rights NC; (3) as a result of their employment or other activities impedes Disability Rights NC's ability to be independent of any agency that provides treatment, services or habilitation to individuals with disabilities as required by federal law.

No current Director of the Board may be considered for employment with Disability Rights NC. Former Disability Rights NC Directors will be eligible for consideration for employment with Disability Rights NC one year after their departure from the Disability Rights NC Board of Directors.

Former Carolina Legal Assistance or GACPD employees are not eligible to serve on the Board of Directors for at least two years after ending their employment with the North Carolina P&A.

No members of the Board may have any loyalty or economic conflict of interest as defined below. Any individual with a potential loyalty or economic conflict of interest shall disclose such conflict and will no longer be eligible for Board membership. If a conflict of interest is later determined or occurs, that Board member must abstain from voting on or deliberating in any action involving provider or program services which causes the conflict. It may be necessary for the Board member to resign from the Board or otherwise be removed.

No director may vote on or deliberate in any Board action which would result in that director becoming a contractor of Disability Rights NC.

- (1) Economic conflict of interest shall mean any person who derives a substantial income or earnings from, or has an investment or ownership interest in, any provider of program services. Substantial income or earnings shall mean 25% of a person's gross annual income or earnings.
- (2) Loyalty conflict of interest shall mean any person who is an officer or director of any provider of program services.
- (3) Contractor of Disability Rights NC shall mean any person who is an employee, officer, director, or owner of any public or private entity which receives a grant from and/or contracts directly with Disability Rights NC, whether or not such person is a provider of program services.

Completion of the conflict of interest disclosure form shall be required of all applicants to the Board of Directors and PAIMI Advisory Council.

Disability Rights NC Board members and PAIMI Advisory Council members must submit a new conflict of interest disclosure form annually (on or about the annual meeting). If a potential

conflict of interest develops during the year, members of the Disability Rights NC Board and PAIMI Advisory Council are required to update their disclosure form immediately. Failure to do so may result in removal from the Board or PAIMI AC.

Additionally, all contractors will be asked to sign a statement related to potential conflicts of interest as part of their contract with Disability Rights NC.

Disability Rights NC employees will be expected to comply with the Conflict of Interest policy contained in the Personnel Policies (**Section III – Workplace Standards and Procedures - I. Conflicts of Interest** page 3.1)

**Disability Rights North Carolina
CONFLICT OF INTEREST DISCLOSURE STATEMENT**

Consistent with conflict of interest policies established by the Board of Directors of Disability Rights NC, I hereby certify that the following is a true and complete disclosure of my relationships, if any, to businesses, agencies, organizations, or other groups which have the potential of creating an actual or apparent conflict for me in carrying out my responsibilities as a member of the Disability Rights NC Board.

As used in this form, the term "immediate family member" of a Board member means a person related to the Board member in any of the following relationships: spouse or similar domestic partner, parent or step-parent, sibling (including brother-in-law or sister-in-law), or child or stepchild.

I am an employee of _____.

[Check the box(es) which apply)

1. ____ My employer is an organization or agency or for-profit business which offers good or services of which Disability Rights NC is a potential customer or primarily related to people with disabilities or provides services to clients of Disability Rights NC or for any other group, organization, business or agency which a reasonable person might consider or construe as having the potential to create conflict of interest situations for me in my capacity as a Board member of Disability Rights NC:

| <u>Agency/Org.</u> | <u>Type of Business/Services</u> | <u>Your Relationship</u> |
|--------------------|----------------------------------|--------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

2. ____ I am a Director, Officer or shareholder (of more than 10%) of a for-profit business, or an organization or agency which offers good or services of which Disability Rights NC is a potential customer or services of which Disability Rights NC is a potential customer or primarily related to people with disabilities or provides services to clients of Disability Rights NC or for any other group, organization, business or agency which a reasonable person might consider or construe as having the potential to create conflict of interest situations for me in my capacity as a Board member of Disability Rights NC:

| <u>Agency/Org.</u> | <u>Type of Business/Services</u> | <u>Your Relationship</u> |
|--------------------|----------------------------------|--------------------------|
| _____ | _____ | _____ |

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3. ____ A member of my immediate family is an employee, Director, Officer or shareholder of more than 10% a for-profit business or agency or organization which offers good or services of which Disability Rights NC is a potential customer or primarily related to people with disabilities or provides services to clients of Disability Rights NC or for any other group, organization, business or agency which a reasonable person might consider or construe as having the potential to create conflict of interest situations for me in my capacity as a Board member of Disability Rights NC:

| <u>Agency/Org.</u> | <u>Type of Business/Services</u> | <u>Your Relationship</u> |
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4. ____ I am a member of the following not for profit organizations which provide advocacy or some other type of service to people with disabilities.

| <u>Agency/Org.</u> | <u>Type of Business/Services</u> | <u>Your Relationship</u> |
|--------------------|----------------------------------|--------------------------|
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5. ____ Neither I nor any member of my immediate family is an employee, officer, director, or has a significant ownership interest in any of the types of businesses, organization, agencies, or groups covered by the above questions.

 Board/PAIMI Advisory Council Member,
 DRNC employee or Applicant (Print Name)

 Signature

 Date