

OAC CONFLICT OF INTEREST GUIDELINES
(Attachment to Ontario Regulation 381/07 of the PSOA Act, 2006)
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INTRODUCTION:

The provision of conflict of interest guidelines to Board Members and staff is a normal organizational practice. Within the parameters of the "arm's-length" principle, OAC as a public sector agency must ensure that its activities are consistent with the public interest. However, because of the nature of the organization and its mandate, conflict of interest has broader reaching implications which surpass the typical requirements of most organizations. Of primary importance, is the need to conserve public confidence in the integrity of the peer assessment of grant applications and the impartiality of Council. Conflict of interest at the Ontario Arts Council, therefore, must be viewed within its particular organizational culture, the unique requirements of the peer assessment process, Council's overall accountability for the organization and all grants awarded, and the nature of the arts community.

One aspect of the organizational culture to consider is the organization's use of expert opinion in the grant recommendation process and in other matters affecting the arts. All parties involved in the granting system are utilized for the expertise they bring. Employee selection is based on knowledge and background in the arts; OAC welcomes Board Members with interest and knowledge of the arts; consultants and contract employees are engaged for their unique expertise; jurors and advisors contribute their first hand knowledge and personal experience as well as artistic judgment. OAC cannot solicit this involvement in the arts and then penalize the parties involved for the interest they have. For this reason, the Conflict of Interest policies should be interpreted in such a way as to recognize that OAC values this appreciation for the arts, yet provide some boundaries to help decipher situations which go beyond interest to situations which can be perceived as "conflicts" of interest per se. Such guidelines will serve to provide protection for the individuals involved from possible unwarranted allegations and preserve OAC's credibility and public image.

The question of conflict of interest cannot be resolved by a list of do's and don'ts. Conflict of interest goes beyond meeting minimum legal requirements and must include ethical considerations. The identification of a situation where a conflict of interest may exist will depend on the perceptions of the person involved and how his or her actions appear to others. Simply stated it is a matter of conscience, service to the public and common sense.

When viewed in this context and in an environment in which there is considerable competition for scarce funds, OAC board members must be seen to be making decisions which are free from personal bias. At the same time, it is considered desirable to have board members who are interested and involved in the arts. It is important to balance this appreciation and involvement in the arts with the need of board members to be conscious of their highly visible roles with the general public and the arts community.

Therefore OAC accepts, in its entirety, *Ontario Regulation 381/07 of the PSOA Act, 2006* and the conflict of interest rules therein. The following provides additional guidelines which are particular to the OAC and its specific structure and incorporate additional aspects of conflict of interest outlined in the By-Laws passed in 1978 of the *Ontario Arts Council Act 1963*, and the revisions of 1990, 1992 and 2003.

POLICY:

1. Members should not hold positions on client boards during their terms of office as board members; however, they may be allowed to complete existing terms on client boards. The Chair may in exceptional circumstances grant exemptions to this provision in specific instances.
2. Members are restricted from applying for any OAC grants during their terms as board members and for six months thereafter.
3. Members shall not act, after they leave public office, in such a manner as to take improper advantage of their previous office.

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PROCEDURES:

1. The Chair is responsible for ensuring that members are made aware of the need to declare their interests.
2. On appointment to the Council, members shall acknowledge that they have read the *Public Service of Ontario Act, 2006*, *Ontario Regulation 381/07*, *OAC Conflict of Interest Guidelines* and *The Political Activity Rights for Ontario Public Servants, PSOA, 2006*. They shall inform the Chair in writing, using the disclosure form, of their interests in the activities of arts organizations (for example memberships on boards, staff positions, advisory committees) and the activities of members of their immediate families which have the potential of creating actual or perceived conflicts in relation to their duties as board members.
3. Members shall disclose these activities annually thereafter at the beginning of each fiscal year. Original copies will be kept on file and copies of the statements shall be provided to all Board Members.
4. When an application for a grant is under consideration by the Council or Executive Committee, or any panel or committee of the Council, any member of the Council associated with the application shall:
 - disclose interest and not vote upon such application;
 - refrain from attempting directly or indirectly to influence the decision of Council;
 - withdraw from any Council or committee meeting during discussion of the application.
5. The minutes of Council shall in each case record any disclosures, the fact that a Member withdrew from the meeting and that the Member took no part in the discussion or decision.
6. Board members should be aware of the following government policy: where a Member refrains from declaring a conflict of interest, the Minister, with the approval of the Lieutenant- Governor in Council shall revoke the appointment, unless the failure to declare a conflict of interest is the result of a bona fide error in judgment.
7. The resolution of disputes arising from interpretation of this policy shall be the responsibility of a committee composed of the Chair of Council, the Vice Chair and the Executive Director and will be weighed in favor of the public interest. The committee may choose to appoint an additional person if in its view circumstances so warrant.

April 2008