

Conflicts of Interest (By-law 16)

16.01 Duty to Avoid Conflicts of Interest

All Council and committee members have a duty to carry out their responsibilities in a manner that serves and protects the interest of the public. As such, they must not engage in any activities or in decision-making concerning any matters where they have a direct or indirect personal or financial interest.

Because the circumstances of each case are unique, it is impossible to define in advance all forms of conflicts of interest. A “real” conflict of interest exists when a reasonable person, knowing all of the circumstances, would believe that the individual’s judgment would be influenced by the competing consideration. A potential conflict of interest is where a conflict of interest is not real at the time of the decision, but given the right set of circumstances, could manifest in the future. An apparent conflict of interest is where real conflict of interest is suspected, even though it does not exist. This impacts the image of the Council or the committee member, and undermines the confidence of the public in the decision, and even more so, the confidence of the public in the College’s ability to act in the public interest.

In the specific examples discussed below, Council will exercise appropriate discretion to ensure that all circumstances that would meet these tests of conflict of interest are addressed appropriately.

An individual has a conflict of interest where:

- i. a reasonable person could conclude that the personal and/or financial interests of the individual or a related person could influence the individual’s judgment in performing his/her duties;
- ii. the individual is not directly involved with the matter and attempts to influence another individual or College staff who are involved with the matter;
- iii. there is an actual, potential or perceived use of College information for personal gain;
- iv. there is an actual, potential or perceived use of the member’s position on Council for personal gain, such as employment, appointment or money;
- v. there is an appearance of bias (an appearance of bias being any personal interest or view that could be reasonably seen as precluding a Council member of exercising fair evaluation of all information and objective judgement and decision making); or
- vi. the member’s position (either present or previous) with another organization affects his/her decision-making abilities;

16.02 Recognition of Conflict

Council and Committee members recognize that a conflict of interest or an appearance of a conflict of interest by a member of Council or its Committees:

- i. could bring discredit to the College;
- ii. could amount to a breach of the fiduciary obligation of the person to the College; and
- iii. could create liability for either the College and /or the person involved.

16.03 Conflicts Relating to Involvement with a Professional Association

A member of Council or a committee member shall be perceived to have conflict of interest in a matter and should not serve on Council or its committees at all if he or she holds a responsible position, such as director, owner, board member, officer in or is an employee of any professional association relating to Kinesiology.

16.04 Conflicts Relating to Position in Other Organizations

A member of Council or a committee member would be perceived to have conflict of interest in a matter and should refrain from participating in any discussion or voting if he or she holds a responsible position such as director, owner, board member, officer in or is an employee of another organization where his or her duties may be seen by a reasonable person as influencing his or her judgment in the matter under consideration by the Council or its committees. For example, an educator should not participate in any decisions relating to the status of the school where he/she teaches, its program(s) or the acceptability for registration of graduates from that school.

16.05 Declaration Forms

Upon appointment or election, and annually thereafter if requested, every Council and Committee member and every member of a working group shall fully complete and deliver to the Registrar a form, available from the Registrar, declaring his or her current and recent affiliations with professional associations and other organizations to facilitate compliance with the above provisions.

16.06 Interests of Related Persons

For the purposes of this by-law, the direct or indirect personal or financial interests of a parent, spouse, child or sibling of a Council or committee member are interpreted to be the interests of the Council or committee member. Here, the term "spouse" includes a common-law spouse and a same-sex partner of the person.

16.07 Where a Conflict May Exist

Where a Council or committee member believes that he or she may have a conflict of interest in any matter which is the subject of deliberation or action by the Council or its committees, he or she shall:

- i. consult, as needed, with the President, the Registrar and legal counsel and, if there is any doubt about whether he or she may have or be perceived to have a conflict prior to any consideration of the matter, declare the potential conflict to the Council or the committee and accept Council's or committee's direction as to whether there is an appearance of a conflict;
- ii. where there appears to be a conflict of interest, not take part in the discussion of, or vote on, any question in respect of the matter;

- iii. where there appears to be a conflict of interest, absent himself or herself from the portion of any meeting relating to the matter; and
- iv. where there appears to be a conflict of interest, not attempt in any way to influence the voting or do anything that might be perceived as attempting to influence the decision of other members on the matter.

16.08 Conflicts Recorded in Minutes

Every declaration of a conflict of interest shall be recorded in the minutes of the meeting together with a description of the nature of the conflict.

16.09 Use of College Information or Property

A member of Council or a committee member shall not use College property or information of any kind to advance his or her own interests, direct or indirect.

16.10 Staff Positions

A member of Council or a committee member may not hold any other position, contract or appointment with the College while serving as a member of Council or its committees. There is a one-year waiting period before the individual may apply for a staff or consultant position with the College. This includes, but is not limited to, positions as peer assessor, investigator, inspector, examiner or staff.