**210.** **Preclusion of Conflict of Interest**

PURPOSE:

The purpose of this instruction is to ensure that the dissemination of Council funds occurs in a manner that protects the integrity of the Council, its members, its employees, and its advisors. Consistent with the Developmental Disabilities Assistance and Bill of Rights Act (DD Act), these instructions prohibit members, employees, and advisors of the Council, in the course of financial transactions, from: a) receiving personal financial gain and b) exerting undue influence. To accomplish these ends, the instructions provide a detailed framework for analyzing situations the Council may face in the course of budgeting and voting on funds for contracts.

Part I. Principles

A. It is assumed that all members of the Oklahoma Developmental Disabilities Council and Council employees enter into participation with the Council intending to serve the public and to further the mission of the Council.

B. It is assumed that members and employees are knowledgeable in areas important to the Council and that such knowledge may be derived from personal experience or professional practice in the field.

C. Council members and employees are expected to be objective and fair and not in pursuit of financial or personal gain.

D. Through this instruction, the Council intends to ensure with reasonable prudence, that no member or employee creates the appearance of realizing financial gain of any character, nature, or amount from Council actions.

E. Members and employees shall not engage in any conduct or activity that might reasonably be interpreted by the general public as tending to adversely affect the performance of their duties.

F. Each member and employee of the Council shall follow the procedures in these instructions.

G. Membership on the Council is prescribed by the Developmental Disabilities Assistance and Bill of Rights Act (DD Act). Congress intended agencies and organizations represented by individuals on the Council to be applicants and recipients of contacts when appropriate because it is a goal of the DD Act to demonstrate innovations which will ultimately be adopted by the larger service system funded by other private, state, and federal sources. It is the agencies mandated to be represented on the Council that are that service system. Any Council member's association with an agency eligible for Council funds should be guided by the Council's Conflict of Interest instructions.

Part II. Definitions

Advisor: Includes anyone appointed, in resource or *ex officio* capacity, to a committee, task force, or work group operated directly under the auspices of the Council or any paid consultant to the Council.

Potential Conflict: A Council member/employee/advisor has a potential conflict of interest if he or she is required to take official action which would affect a financial interest of (a) the Council member/employee/advisor as a member of a profession or agency, or (b) the Council member/employee/advisor's immediate family or business.

Substantial Conflict: A Council member/employee/advisor has a substantial conflict of interest if there is reason to believe that Council member will derive direct monetary gain by his or her official action.

Undue influence: The misuse of a position of confidence to change improperly the actions or decisions of an individual or group for the purpose of obtaining an unfair advantage.

Part III. Individuals and Organizations Covered

Conflicts of Interest should be avoided with the following:

1. Council members, employees, or advisors
2. Immediate family members of Council members, employees, or advisors
3. Partners or business associates of Council members, employees, or advisors
4. Organizations in which Council members, employees, or advisors are officers, directors, employees, or consultants
5. A person or organization with whom Council members, employees, or advisors have any arrangement concerning prospective employment

Part IV. Actions Prohibited

A. No Council member, employee or advisor shall:

 (1) participate in the discussion, selection, or award,

 or influence a decision or vote, regarding a grant

 or contract in which the Council member or employee

 of the Council is known to have a conflict of

 interest;

 (2) accept anything of value (e.g. money, service,

 gift, travel, entertainment, promise) from a grantee

 or prospective grantee;

 (3) use the Council to sell goods or services;

 (4) hire members of his or her immediate family;

 (5) represent his or her personal opinion as that of

 the Council;

 (6) use the Council for purposes related to their

 election to public office.

B. Any Council member or employee of the Council who has a conflict of interest must not, in relation to the matter in conflict:

 (1) participate on the Council or in committee while the

 details and specifications of Invitations to Bid or other grant-related

 documents are being developed;

 (2) participate in the discussion, screening, or selection

 process for grants and contracts;

 (3) vote on funding decisions;

 (4) participate in contract negotiations, administration

 or evaluation of grants and contracts.

Part V. Exceptions

A. Agencies with which Council members are associated are not prohibited from presenting to the Council, or being awarded contracts from the Council, so long as Council members do not share in the profits or receive compensation from those agencies.

B. If a Council member discloses a conflict of interest, but the Council believes the services rendered are of such benefit to, and in the general interest of, the public, an exception may be granted by a vote of the majority of the Council.

Part VI. Disclosure

A. Each Council member or employee of the Council shall disclose publicly all conflicts of interest, potential and substantial, and shall specify how the individual or organization might benefit from activities and decisions of the Council.

B. Whenever a Council member or employee of the Council believes that any other Council member or employee of the Council may be in violation of these instructions, the person alleged to be in violation shall be notified first, and then the Chair or Vice-Chair shall be notified.

Part VII. Disputed Determinations of Conflicts

A. In the event a Council member or employee of the Council disputes a determination of conflict of interest, the Executive Committee shall hold a

 hearing to hear an appeal by the Council member or employee of the Council.

B. The Executive Committee shall determine whether or not a conflict of interest exists after reviewing all documents submitted by the Council member or employee and other appropriate documents.

C. The findings and the determinations of the Executive Committee are final.

Part VIII. Intentional Violations and Penalties

In addition to any penalties defined by state or federal law, the following penalties shall apply to Council members and employees of the Council for intentional violations of these policies:

 (1) In the case of a Council member, the Chairperson

 shall initiate termination of Council membership

 with the Governor's Office.

 (2) In the case of an employee of the Council, the

 Chairperson shall suspend him or her, notify the

 State Ethics Commission, and initiate termination

 of employment in accordance with state law and

 regulations.

 (3) In the case of a contractor, it shall be sufficient cause

to re-evaluate the contract for termination and elimination

of the contractor from future contract considerations.