

Standards of Conduct and Disclosure of Competing Interests for The Obesity Society Leadership and Staff

The Obesity Society (TOS) and its volunteer leaders and staff are dedicated to serving the interests of The Society's constituency in the most honorable and ethical manner possible. Among The Society's duties is the responsibility to provide assurance to its constituencies that debates, decision making and all governance at TOS is conducted in an objective and bias-free context. Among the duties of the volunteer leaders of TOS are: 1) a commitment to abide by reasonable Standards of Conduct as described below and; 2) a commitment to abide by Federal laws governing nonprofit volunteer leaders and staff including duties of care, obedience and loyalty.

Summary of the Policy

TOS' policy is to require that volunteer leaders, candidates for leadership positions, and staff conduct themselves according to the Standards of Conduct and disclose "competing interests" as defined in this policy at least once each year or more frequently if competing interests arise. The governing Council, or delegated representatives of the governing Council, must review all disclosures and document appropriate management of competing interests according to TOS' policy. In most cases it will be decided that the proper corrective measure is disclosure of the competing interests to the governing Council or other governing body of The Society as well as public disclosure of competing interests on TOS' website. In some cases, the volunteer leader might be asked to recuse him/herself from participating in debate or resolution of matters where he/she has competing interests. In rare cases the volunteer leader might be asked to resign from his/her position on the Council or elsewhere in the governance structure of The Society.

Standards of Conduct

TOS leaders (defined as officers and council members) and TOS staff:

- a) Should not prominently cite their TOS office as a qualification when providing opinion or testimony as part of work done outside of professional duties to the organization. A TOS leader may permit the inclusion of the TOS title as one of the several biographical details used to identify in connection with teaching, speaking, or writing activities provided the leader's TOS title is given no more prominence than other significant biographical details.
- b) Should provide this language as part of any opinion or testimony work outside of duties to TOS: "This is my professional opinion (or personal opinion, as appropriate) and does not represent the views of TOS of which I am a member."
- c) Should not represent TOS in speaking or writing on any matter in which there is a potential, perceived, or actual competing interest.
- d) Should not use their association with TOS for commercial purposes such as advertisements or endorsements. Examples of acceptable use of their association are in a resume, biographical sketch, curriculum vitae, or a list of professional accomplishments for the purpose of introduction as a speaker or at a professional meeting.
- e) Should not promote personal opinions and views as the official position of The Society unless specifically commissioned by TOS leadership to do so.

Federal Duties of Care, Obedience and Loyalty

Duties of care, obedience and loyalty mean leaders are required to act reasonably, prudently and in the best interests of the organization, to avoid negligence and fraud, and to avoid conflicts of interest. The duty of care is very broad, requiring leaders, council members and staff to exercise ordinary and reasonable care in the performance of their duties, exhibiting honest and good faith. The duty of obedience requires officers, council members and staff to act in accordance with the organization's articles of incorporation, bylaws and other governing documents, as well as applicable laws and regulations.

The duty of loyalty, or "fiduciary" duty, encompasses the obligation to avoid or disclose any "competing interests" that could dilute, diminish, or divide a leaders' unqualified loyalty and complete commitment to The Society. Where such interests exist or even appear to exist, they are "conflicts of interest" that The Society is responsible to manage in order to ensure bias-free governance.

Competing interests

The governing Council has determined that the policy applies to officers, Council members, candidates for officer and council positions, and staff of The Society. Disclosure is expected of these competing interests, which should also be disclosed for a spouse, partner and/or children under age 18:

- a) All paid consulting, equity, honoraria, or other direct financial support position relationships in amounts greater than \$1000 within the last two years from companies and organizations in the obesity, nutrition, physical activity, pharmaceutical, device, and weight management marketplace.
- b) Ownership, employment, or volunteer or agency interest or involvement in a commercial entity or leadership in a nonprofit organization that may represent a duality of interests with The Society;
- c) Ownership, employment, or volunteer or agency interest or involvement in a commercial entity or leadership in a nonprofit organization that is, or seeks to be, a vendor of products or services to The Society; or
- d) Position as a spokesperson, consultant, employee, or agent for a commercial entity or nonprofit organization that advances opposing or adverse public policy positions from those of The Society.
- e) Research project support paid to you or to your institution for which you are investigator, including foundations and industry support but NOT including publically funded support (such as the National Institutes of Health, the National Science Foundation and the Medical Research Council).

Disclosure is to be made at least annually when requested by the governing Council, and after that at any time throughout the year when a "competing interest" arises or becomes known that was not disclosed at the time of, or has significantly changed since, the annual disclosure. Procedures for disclosure of competing interests are described below. Disclosures of competing interests for TOS leaders and staff above the designated *de minimis* amount of \$5,000 will be made available on a publically accessible area of the TOS website.

Management of Duality of Interest

It is The Society's prerogative, not the disclosing volunteer leader's or staff member's, to make determinations regarding corrective measures with respect to competing interests. The governing

Council or its delegated representatives will do so. Among the measures available to actively manage competing interests are these:

1. Disclosure to the governance body. In most cases, it is expected that the possibility of subjectivity or bias will be sufficiently offset by disclosing the competing interest to the entire governance body of which the disclosing volunteer leader is a member. That governance body will be expected to take the individual's competing interest into consideration when discussion, debates, or decisions occur in the governance body. The Society, its governing Council and the volunteer leader will all have fully discharged their duties.
2. Recusal. In some instances it may be determined that the avoidance of conflicts of interest, or even the mere appearance of conflicts of interest, will dictate that the disclosing individual should avoid discussions, debates, and decision making on subjects related to the disclosure. The volunteer leader will remain a member of the governance body affected but will withdraw from portions of meetings or activities appropriately.
3. Resignation. There could be situation, expected to be rare, in which the volunteer leader's competing interest is so extensive or pervasive that, in the view of The Society's governing Council or its representatives, the leader's involvement in discussion, debates, or decision making in the pertinent governing body on any subject will be adversely affected. In that case, the leader will be asked to resign. If resignation is not forthcoming, the governing board will decide on a resolution consistent with The Society Bylaws and governing state law.
4. The disposition of all competing interests reviewed and/or managed by the Governing Council or its representatives will be documented as described under "Procedures #5".

Procedures

The appropriate steps in implementing this policy are these:

1. Annual disclosure. Volunteer leaders and TOS staff will be asked to complete a disclosure form annually. Forms should be submitted at other times as well if "competing interests" arise or become know.
2. Review, evaluation and recommendation. Representatives of the governing Council, appointed by TOS, will review the annual disclosure forms. The volunteer leader or staff may be asked to provide additional information as a result of this review. If this reviewing body determines that no action is required, then none will be taken and this decision will be documented. If the body determines that disclosure to the full governing body on which the volunteer leader sits is an appropriate corrective measure, this will be undertaken with notice to the volunteer leader. If other corrective measures, including recusal, are recommended, the matter will come before the full governing Council.
3. Governing Council. The governing board makes the final determination of the appropriate corrective actions to be recommended to the volunteer leader and any subsequent action or procedures that may become expedient.
4. Disclosure of competing Interest information will be posted on the website for the Officers and Governing Council but not for the staff. Information to be posted includes any financial disclosures more than \$5,000 and any current officer positions for other relevant nonprofits.
5. All disclosure forms and decisions on managing competing interests will be collected by the Chief Executive Officer (CEO) or person identified by the CEO annually at the start of the Council year (October). After being reviewed, forms will be stored in a locked filing cabinet at TOS headquarters. Forms will be destroyed after seven years (in keeping with most financial document retention requirements).

Any questions about The Society's policy or procedures should be raised with the President of The Society.

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Jacobs, Jerald A., *Association Law Handbook: A Practical Guide for Associations, Societies, and Charities*, 4th Edition, CD-ROM template.