

CONFLICT OF INTEREST IN SPORTS RELATED DECISION-MAKING

INTRODUCTION

The decision-making process in sports can be difficult and can lead to disputes. Conflicts of interest are frequent in the world of sports because the decision-makers are often the parents or coaches of athletes. One must recognize that conflicts of interest are often not usually the result of bad faith on the part of the person involved, but are created by the specific circumstances of each case. Volunteers with the best intentions often wear several hats, and this reality enhances the risk of them to be in a situation of conflict of interest.

TYPES OF CONFLICT OF INTEREST

A conflict of interest can be real, perceived or potential

Real Conflict of Interest	Potential Conflict of Interest	Perceived Conflict of Interest
<p>A situation where a person has a significant interest that will influence their judgement and decision making.</p> <p><u>Example:</u> A father sitting on an appeal committee that is reviewing a decision concerning his daughter.</p>	<p>A situation where a conflict of interest is predictable but not yet real. It will depend on a future event that may occur.</p> <p><u>Example:</u> A coach is a member of a selection committee for a team for which his/her athlete may try out. At the onset, there is no conflict but one will arise if the athlete tries out for the team.</p>	<p>A situation where a reasonable third person, once aware of the facts, could be concerned about the existence of a conflict of interest.</p> <p><u>Example:</u> The contract to supply the club's uniform was awarded to the daughter of the chairperson of the board. There is a perception from a member that favoritism occurred. This perception will be mitigated quickly when the member will learn that the board considered bids from several potential suppliers, in the absence of the chairperson who had voluntarily removed herself from the decision-making process after declaring the conflict, and awarded the contract to the lowest bidder.</p>

Identifying Potential Conflicts

Many disputes can arise simply because the person affected by the decision perceives an injustice resulting from the appearance of a conflict of interest. The best way to avoid that is to know how to recognize and disclose conflicts of interest when they occur.

Some situations are more serious than others and therefore not all conflicts of interest require the same vigilance. The table herein provides some examples of situations or circumstances which correspond to conflicts of interest of varying severity ("inflexible red", "flexible red", "orange" and "green"). To consult the decision flow chart overleaf first may help the reader better understand the table.

Applying the Standard of Reasonableness to these Guidelines:

All sports organizations should strive to comply with these guidelines in managing and avoiding conflicts of interest. Organizations may use discretion in applying these guidelines, so as to not paralyze their operations with impractical rules. In all cases, however, sports organizations should look to adopt a governance structure that makes it possible for individuals in decision-making positions not to be involved in the issues or situations requiring decisions. A policy on conflict of interest should also put in place a mechanism allowing people to declare any conflicts and withdraw from the decision-making process when appropriate.

Inflexible RED LIST

These situations raise the most serious concerns about impartiality

A basic premise is that one cannot be both judge and person affected by the decision.

The following are examples of circumstances that would disqualify someone from acting as a decision-maker:

- Having a significant interest, financial or otherwise, in the decision or being potentially affected by it
- Having a family member who has a vested interest in the decision or is potentially affected by it
- Having publicly given an opinion concerning the issue to be decided
- Being the coach (paid or volunteer) of one of the athletes potentially affected by the decision
- In an appeal process, having taken part in the decision-making process that gave rise to the appeal
- Being in other situations/circumstances similar to the above

Disclose these facts immediately and refuse to act as a decision-maker by withdrawing completely from the process, including from any discussions about it. No exceptions are possible in these circumstances. Follow the Inflexible Red List path on the decision flow chart.

Flexible RED LIST

Serious conflict situations, but less serious than the Inflexible Red List.

This category would be best described with the expression “too close for comfort”. Although the link to the decision or to the persons potentially affected by it is not as direct as in the Inflexible Red list, the following examples of circumstances are cause for concern:

- Having taken a position on the issue at hand at an earlier stage of the decision-making process
- Having given advice concerning the decision to one of the people potentially affected by the decision
- Having close ties with a family member of a person potentially affected by the decision
- Having a member of your family who coaches an athlete potentially affected by the decision
- Being the coach of a person potentially affected by the decision, but in another discipline
- Having a business relationship with a person potentially affected by the decision or with a family member of this person
- In an appeal process, being the family member of a person who acted as decision-maker in the contested decision
- Being in other situations/circumstances similar to the above

Disclose these facts immediately and before the decision is made. When the persons potentially affected by the decision are informed, and they expressly accept that you remain the decision maker, it is up to you to choose whether or not you are comfortable doing so. Follow the Flexible Red List path on the decision flow chart.

ORANGE LIST

Situations that could create a perception of conflict of interest among the people affected by the decision.

Indirect links to the decision or to the people potentially affected by that decision are found under this category. Examples include:

- Having previously voiced your opinion on a question being posed in this particular decision process
- Having a family member who acts as a decision-maker in another decision-making process involving the same people potentially affected by the decision
- Being in other situations similar to the above

Situations that might otherwise be found in the Flexible Red List may also be mitigated by time elapsed. For example, when professional relationships to people potentially affected by the decision took place in the past, such as:

- Within the last three years, having coached one of the athletes potentially affected by the decision
- Having already taken part in another decision process involving one or several of the persons potentially affected by the decision
- Being in other situations/circumstances similar to the above

Disclose these facts immediately and before the decision is made. When the people potentially affected by the decision are informed, and they do not object to you remaining the decision maker within a reasonable timeline, it is up to you to choose whether or not you are comfortable doing so. Follow the Orange List path on the decision flow chart

GREEN LIST

Facts that are not considered, objectively, as a conflict of interest, but warrant caution.

Ideally, the decision maker is:

- Free from any interest in the outcome of the decision-making process;

AND

- Free from any ties with the people who may be affected by the decision.

Because it is hardly feasible in some smaller sports clubs or associations to have completely independent decision-makers, it is possible for example that those entrusted with an important decision:

- Have a family member who was involved in a previous decision-making process that concerned one of the people potentially affected by the decision that is about to be made
- Have personal ties, through membership in the same organization, to persons potentially affected by the decision
- Have acted together as decision-makers in the past with persons potentially affected by the decision that is about to be made (e.g. on the same board or committee)
- Be in other situations/circumstances similar to the above.

Although these circumstances may not disqualify you as decision maker, for the sake of transparency it is preferable that you reveal such facts to the people potentially affected by the decision. Follow the Green List path on the decision flow chart.

PRECAUTIONS TO MAKE DURING THE DECISION-MAKING PROCESS

If a potential for a real or perceived conflict of interest has been identified, it is important to take action to appropriately deal with the situation to avoid potential negative impacts. The diagram below suggests some precautions to take in each type of situation.

