

# Stark County Board of Developmental Disabilities

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## ETHICS COUNCIL

### POLICY

The Board is concerned that there be no influence or favoritism in the awarding of contracts or in attaining services offered by the Board. The Board will investigate and review the outside employment of staff to ensure that a conflict of interest does not exist between the Board and the employing entity or the individuals they mutually serve. The Board believes that any member of the Board, and appropriate staff employed by the Board, should not be eligible for payment by the Board for services provided under a direct service contract or be considered for services offered by the Board. Therefore, prior to awarding a direct service contract or in changing services that any present or former staff or Board member may have a vested interest in, the Board shall conduct a review of the individuals by the Ethics Council. A former staff member shall be defined as an employee who has separated employment, been laid off, or retired from the Board within one year.

The role of the Ethics Council shall be the following in accordance with the requirements of ORC 5126:

- Review staff affidavits
- Review all direct service contracts
- Make recommendations to the Board on whether a direct service contract should be approved by the Board
- Develop for recommendation to the Board policies and procedures regarding ethical standards, contract audit procedures and grievance procedures with respect to the award and reconciliation of direct service contracts

The Superintendent shall develop procedures to implement this policy.

References:

### Ohio Revised Code

121.22, 5126.03, 5126.021, 5126.031, 5126.032, 5126.033, 5126.034

### Ohio Ethics Laws

Historical Resolution Information		Reviewer(s): Superintendent
Date	Resolution Number	
10/20/12	10-86-12	
10/18/14	10-67-14	
06/27/17	06-29-17	

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### PROCEDURE

- I. A “Direct Service” contract is defined as meaning any legally enforceable agreement with an individual, agency or other entity that, pursuant to its terms or operation, may result in a payment for direct services rendered to an eligible individual. Direct services contracts will include but not be limited to Supportive Living, reimbursement for transportation expenses, and Family Support Services.
- II. That payment may be made by the County Board of Developmental Disabilities to an eligible person or to a member of the immediate family of an eligible consumer. Immediate family is defined as parents, brothers, sisters, spouse, sons, daughters, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law and daughter-in-law, or extended family members who live in the home.
- III. The President of the Board shall appoint a minimum of three (3), members of the Board to an Ethics Council. The President may be one of those appointed to a three member Ethics Council and the Superintendent shall be a non-voting member of the Council. The President shall not appoint a Board Member to the Ethics Council if the member or any member of his/her immediate family will have any interest in any direct services contract under review by the Council while the member serves on the Council, or during the twelve month period after completion of the member’s service on the council. If the Board decides that no separate Ethics Council is to be appointed by the Board President, this will be reflected by a board resolution, which is to be in effect for one year. If the board passes such a resolution declining to appoint an Ethics Council, then the entire board assumes the responsibilities and duties, which would otherwise be performed by the Ethics Council.
- IV. The function of the Ethics Council shall be to review all direct service contracts or service changes and outside employment which would result in payments to any present or former staff or board member and to ensure that no preferential treatment or favoritism be given, or, unmitigated conflict exists.

In addition the Ethics Council shall develop for recommendation to the Board policies regarding ethical standards, contract audit procedures and grievance procedures with respect to the award and reconciliation of direct service contracts.

- V. The Ethics Council shall generally meet monthly or as needed prior to Board meetings to perform its functions. Ethics Council meetings shall comply with Ohio Revised Code 121.22 – the Sunshine Law and Ohio Ethics Commission Laws. The Ethics Council shall afford an affected party the opportunity to meet with the Ethics Council on matters under consideration by the Ethics Council. Official minutes will be taken at all Ethics Council meetings and shall be part of the public

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record of the Board.

- VI. All contracts and information provided to the Ethics Council shall be sent by the Superintendent or the Superintendent's designee with appropriate certification and or staff affidavit that the contracts are within available resources and appropriations made by the Board.

The Ethics Council, during its meeting, shall:

- A. Ensure that every direct service contract or service changes are reviewed to ensure that the contract is limited either to the actual amount of the expenses or to a reasonable and allowable amount projected by the Board.
- B. That no preferential treatment or any unfair advantage over other eligible persons was given If the contract or service changes is with a Board member, former Board member, employee, former employee, or member of the immediate family of the aforementioned.
- C. If the contract is with a professional or service employee, the committee must ensure that all of the following criteria have been met:
  1. The employee is not in a position to influence the award of the contract.
  2. The employee has not attempted in any manner to secure the contract on behalf of the individual, agency or other entity.
  3. The employee does not hold any administrative or supervisory position in the employ of the Board, did not hold such a position during the period of time when the contract was developed, and agrees not to take such a position while the contract is in effect, regardless of whether the position is related to the services provided under the contract.
  4. The employee has not taken any actions that create the need for the services to be provided under the contract.
  5. The individual, agency, or other entity seeks the service of the employee because of the employee's expertise and familiarity with the care and conditions of one or more eligible persons and other individuals when such expertise and familiarity are unavailable, or an eligible person has requested to have the services provided by that employee.
- D. Review part time employment of staff to ensure that such employment does not present a conflict of interest for the employee.
- E. Review staff whose family members are interested in contracting with the Board to ensure appropriate measures are put in place to ensure that the employee does not give preferential treatment or an unfair advantage to their relative over other service providers.
- F. Review service by staff, Board members or members of their immediate families on other non-profit boards that have contracts with the Board to ensure appropriate measures are put in place to ensure that the organization in question is not given preferential treatment or an unfair

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advantage over others.

- VII. If the amount to be paid is not acceptable or the contract would result in preferential treatment or unfair advantage, the Ethics Council shall recommend that the Board not enter into a contract or service change, or shall suggest specific acceptable revisions. The Board shall not enter into any contract that is not recommended by the Ethics Council or enter into any contract to which revisions are suggested if the contract does not include the specified revisions.
- VIII. If the standards are not met, the Ethics Council must recommend to the Board that the contract or service change not be entered into (or entered into only if the suggested revisions are made). The Board cannot agree to a contract if the Ethics Council recommends against it or if the Board does not follow the revisions suggested by the Ethics Council. The Board may request the prosecuting attorney to prepare a legal review of recommended direct services contracts to determine compliance with state and federal law.
- IX. The Ethics Council shall in no way allow a member or employees of the Board to authorize, or use the authority of his/her office or employment to secure authorization of a direct services contract that the member or employee may benefit from in any way. For this reason, no employee may provide outside services to a person who is in his or her group, classroom, or caseload unless it is pre-approved for an emergency that is time limited.
- X. The Superintendent shall notify the employee of the Ethic Council's and Board's determination regarding the contract or service changes. The Board's determination shall be binding on all parties.
- XI. This policy shall be in full compliance with the relevant provisions of the Ohio Revised Code including sections 5126.03 through 5126.034.
- XII. When the Ethics Council has a concern with a contract, a referral will be made to the Prosecutor's office for a ruling if a Conflict of Interest exists.
  - A. If the Prosecutor agrees that a Conflict of Interest does exist, the affected individual will be informed of the decision by the Superintendent, or designee.
  - B. Should the affected person disagree with the decision, they may within five (5) working days of notification, file in writing an appeal to the Superintendent.
  - C. The Ethics Council will hear those appeals at the next scheduled meeting and confer with the Prosecutor.
  - D. A final decision will be released within a reasonable time.
  - E. Decisions made at this point are final.