



REGISTRATION PRACTICES ASSESSMENT GUIDE — FOR REGULATED PROFESSIONS AND TRADES

Office of the Fairness Commissioner
595 Bay Street, Suite 1201
Toronto ON M7A 2B4
Canada

416 325-9380 or 1 877 727-5365
ofc@ontario.ca
www.fairnesscommissioner.ca

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The Office of the Fairness Commissioner is an arm's-length agency of the Ontario government, established under the Fair Access to Regulated Professions and Compulsory Trades Act, 2006. Its mandate is to ensure that certain regulated professions and trades have registration practices that are transparent, objective, impartial and fair.

REGISTRATION PRACTICES ASSESSMENT GUIDE — FOR REGULATED PROFESSIONS AND TRADES

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INTRODUCTION

Purpose

This guide presents registration practices for non-health regulatory bodies that are subject to the Fair Access to Regulated Professions and Compulsory Trades Act, 2006 (FARPACTA). The guide enables staff of the Office of the Fairness Commissioner (OFC) to take a consistent and transparent approach to assessing a regulatory body's current registration practices and making recommendations for improvement. The guide is also a reference that the regulatory body can use to self-assess its registration practices.

This guide is a key part of the OFC's continuous improvement strategy. For information about the role that this guide plays in the strategy and an explanation of the regulatory body's legal obligations under FARPACTA, see the [Strategy for Continuous Improvement of Registration Practices](#).

NOTE:

- Due to the differences in the legislation covering health regulatory colleges and the legislation for non-health regulatory bodies, two separate guides were developed. This guide is for assessing non-health regulatory bodies. For health regulatory colleges, see the [Registration Practices Assessment Guide — For Health Regulatory Colleges](#).
- In the FARPACTA legislation, *regulated profession* refers to both regulated professions and compulsory trades.

Organization of This Guide

The rest of this guide is organized into sections that each list practices relating to a major element of FARPACTA.

Practices listed in the specific-duty sections correspond to the regulatory body's specific duties identified in FARPACTA. The regulatory body **must** demonstrate these practices in order to meet the specific duties identified in FARPACTA.

The general duty is in a distinct section in FARPACTA and is much broader than the specific duties. FARPACTA's general-duty section states that the regulatory body **must** provide registration practices that are transparent, objective, impartial and fair. The section does not include definitions or interpretations for transparent, objective, impartial and fair registration practices.

In the absence of this information and for the purpose of assessing registration practices in a consistent and transparent way, the OFC interprets the principles of transparency, objectivity, impartiality and fairness as follows.

Transparency: A process is transparent if it is conducted in such a way that it is easy to see what actions are being taken to complete the process, why these actions are taken, and what results from these actions. In the regulatory context, transparency of the registration process encompasses the following:

- Openness: having measures and structures in place that make it easy to see how the registration process operates
- Access: making registration information easily available
- Clarity: ensuring that information used to communicate about registration is complete, accurate and easy to understand

Objectivity: A process or decision is objective if it is based on formal systems, such as criteria, tools, and procedures that have been repeatedly tested during their development, administration and review and have been found to be valid and reliable. In the regulatory context, objectivity of systems encompasses the following:

- Reliability: ensuring that the criteria, training, tools and procedures deliver consistent decision outcomes regardless of who makes the decision, when the decision is made, and in whatever context the decision is made
- Validity: ensuring that the criteria, training, tools and procedures measure what they intend to

Impartiality: A process or decision is impartial if the position from which it is undertaken is neutral. Neutrality occurs when actions or behaviours that may result in subjective assessments or decisions are mitigated. Impartiality may be achieved by ensuring that all sources of bias are identified and that steps are taken to address those biases. In the regulatory context, impartiality encompasses the following:

- Identification: having systems to identify potential sources of bias in the assessment or decision-making process (for example, sources of conflict of interest, preconceived notions, and lack of understanding of issues related to diversity)

- Strategies: having systems to address bias and enable neutrality during the assessment and decision-making process (for example, training policies that address conflict of interest, procedures to follow if bias is identified, and using group deliberation and consensus strategies to come to decisions)

Fairness: A process or decision is considered fair in the regulatory context when all of the following are demonstrated:

- Substantive fairness: ensuring the fairness of the decision itself. The decision itself must be fair, and to be fair it must meet pre-determined and defensible criteria. The decision must be reasonable and the reasoning behind the decision must be understandable to the people affected.
- Procedural fairness: ensuring the fairness of the decision-making process. There is a structure in place to ensure that fairness is embedded in the steps to be followed before, during and after decisions are made. This structure ensures that the process is timely and that individuals have equal opportunity to participate in the registration process and demonstrate their ability to practise.
- Relational fairness: ensuring that people are treated fairly during the decision-making process by considering and addressing their perception about the process and decision.

There is flexibility in how a regulatory body might demonstrate that its registration practices are transparent, objective, impartial and fair. Practices listed in the general-duty sections are to be used as a guideline and are examples or illustrations of the way that regulatory bodies can practically apply the principles of transparency, objectivity, impartiality and fairness. A regulatory body can choose to demonstrate the practices listed or it can choose to explain what it does to ensure that its practices are transparent, objective, impartial and fair.

Use of This Guide

To assess a regulatory body's practices using this guide, OFC staff record whether the regulatory body is demonstrating a practice and offer comments. They also identify opportunities for improvement and further discussion, and highlight commendable practices. Staff use this guide to generate a Registration Practices Assessment Report.

1. SPECIFIC DUTY — INFORMATION FOR APPLICANTS

Legislation: FARPACTA, s. 7

A regulated profession shall provide information to individuals applying or intending to apply for registration by the regulated profession and, without limiting the generality of the foregoing, it shall provide,

(a) information about its registration practices;

(b) information about the amount of time that the registration process usually takes;

(c) objective requirements for registration by the regulated profession together with a statement of which requirements may be satisfied through alternatives that are acceptable to the regulated profession; and

(d) a fee scale related to registrations.

Does the regulatory body demonstrate the following practices?

1. The regulatory body describes requirements for registration, including the ways in which requirements may be met (including alternatives) and/or the criteria that must be met for the requirements to be satisfied. [Transparency]
2. All the steps in the registration process are described clearly, including any qualifications assessment processes. This includes steps in the registration process that a regulatory body has identified as an acceptable alternative to meeting a registration requirement. [Transparency]
3. The regulatory body provides information about how long the registration process (including the time required for qualifications assessment) usually takes. [Transparency]
4. The regulatory body makes available a fee scale that shows all registration fees (including the fees required for qualifications assessment) that are under the regulatory body's control. [Transparency]

2. SPECIFIC DUTY — TIMELY DECISIONS, RESPONSES AND REASONS

Legislation: FARPACTA, s. 8 and s. 9 (1)

8. A regulated profession shall,

- (a) ensure that it makes registration decisions within a reasonable time;*
- (b) provide written responses to applicants within a reasonable time; and*
- (c) provide written reasons to applicants within a reasonable time in respect of all registration decisions and internal review or appeal decisions.*

9 (1) A regulated profession shall provide an internal review of or appeal from its registration decisions within a reasonable time.

Does the regulatory body demonstrate the following practices?

1. The regulatory body does the following within a reasonable time: makes registration decisions, gives the decisions (in writing) to applicants, and gives reasons, where applicable. [Fairness]
2. The regulatory body responds to applicants' inquiries or requests within a reasonable time. [Fairness]
3. The regulatory body provides internal reviews of or appeals from decisions within a reasonable time. [Fairness]
4. The regulatory body does the following within a reasonable time: makes decisions about internal reviews and appeals, gives the decisions (in writing) to applicants, and gives reasons, where applicable. [Fairness]

3. SPECIFIC DUTY — INTERNAL REVIEW OR APPEAL¹

Legislation: FARPACTA, s. 9(2-3, 5)

(2) A regulated profession shall provide an applicant for registration an opportunity to make submissions with respect to any internal review or appeal.

(3) A regulated profession may specify whether submissions in respect of an internal review or appeal are to be submitted orally, in writing or by electronic means.

(5) No one who acted as a decision-maker in respect of a registration decision shall act as a decision-maker in an internal review or appeal in respect of that registration decision.

Does the regulatory body demonstrate the following practices?

1. If an application is rejected, applicants are given written reasons. The written reasons include the identification of any criteria that the applicant did not meet. [Fairness, Transparency]
2. An internal review of or appeal from registration decisions is provided. [Fairness]
3. Applicants have an opportunity to make submissions for an internal review or appeal. (The regulatory body may specify the way that applicants must make their submissions; for example, orally, in writing, or by electronic means.) [Fairness]
4. No one who acted as a decision-maker in a registration decision acts as a decision-maker in an internal review or appeal of that same registration decision. [Impartiality]

¹ Note: An internal "appeal" involves reconsideration of the Registrar's first-level decision. In an internal "review," the Registrar has not made a decision but has made a proposal that results in the matter being reviewed and determined by the Registration Committee (or another committee that fulfils that role). (George M. Thomson, "Review of Appeal Processes from Registration Decisions in Ontario's Regulated Professions," November, 2005.)

4. SPECIFIC DUTY — INFORMATION ON APPEAL RIGHTS

Legislation: FARPACTA, s. 9 (4)

A regulated profession shall inform an applicant of any rights the applicant may have to request a further review of, or appeal from, the decision.

Does the regulatory body demonstrate the following practices?

1. If a regulatory body offers a further review of, or appeal from, a registration decision,² it informs applicants that they can ask for that further appeal. [Transparency]

² This "further" review or appeal is beyond the initial "internal" review or appeal referred to in FARPACTA, s.9 (1-3, 5) (see the previous section of this guide, "Specific Duty – Internal Review or Appeal").

5. SPECIFIC DUTY — DOCUMENTATION OF QUALIFICATIONS

Legislation: FARPACTA, s. 10 (1)

A regulated profession shall make information publicly available on what documentation of qualifications must accompany an application and what alternatives to the documentation may be acceptable to the regulated profession if an applicant cannot obtain the required documentation for reasons beyond his or her control.

Does the regulatory body demonstrate the following practices?

1. The regulatory body provides information about the documents that must accompany an application to demonstrate qualifications. This information includes the following, if applicable:
 - a. required content of the documents
 - b. required format of the documents, including the translation format, if applicable
 - c. required mode of transmission of the documents (for example, some regulatory bodies require that transcripts be sent in a sealed envelope directly by the institution)
 - d. how to contact the regulatory body to explore what alternative documentation may be acceptable, if applicants cannot get the required documentation for reasons beyond their control

[Transparency]

6. SPECIFIC DUTY — ASSESSMENT OF QUALIFICATIONS³

Legislation: FARPACTA, s. 10 (2)

If a regulated profession makes its own assessment of qualifications, it shall do so in a way that is transparent, objective, impartial and fair, and if it relies on a third party to assess qualifications, it shall take reasonable measures to ensure that the third party makes the assessment in a way that is transparent, objective, impartial and fair.

Does the regulatory body demonstrate the following practices?

1. Qualifications assessments are based on transparent criteria. [Transparency]
2. Qualifications assessment criteria are directly linked to the requirements/standards for entry to the profession or trade. [Transparency]
3. Qualifications assessment criteria are applied consistently to all applicants. [Objectivity]
4. Information about educational programs used in qualifications assessment is current and accurate. [Fairness, Objectivity, Transparency]
5. Assessment methods are reviewed for objectivity, validity and reliability. [Objectivity]
6. The results of qualifications assessment are communicated to the applicant in writing (electronically or in hardcopy). [Fairness, Transparency]
7. Applicants have an opportunity to appeal the results of a qualifications assessment or to have the results reviewed. [Fairness]
8. The regulatory body informs applicants about the following items related to assessment of qualifications:
 - a. the criteria that qualifications assessments are based on
 - b. how those criteria are linked to the requirements/standards for entering the profession or trade
 - c. opportunities to appeal the results of a qualifications assessment or have the results reviewed
 - d. any policies and procedures relating to special considerations⁴
 [Transparency, Fairness]
9. The regulatory body ensures that the following are done within a reasonable amount of time:
 - a. assessing the qualifications
 - b. communicating the results to applicants
 - c. providing reasons in writing for unsuccessful applications
 [Fairness, Transparency]
10. Regulatory bodies that rely on third-party assessments take measures to ensure that the third-party assessments are transparent, objective, impartial and fair. [Fairness, Transparency, Objectivity, Impartiality]

³ Practices 1–9 refer to qualifications assessments that are conducted by the regulatory body itself. Only practice 10 refers to assessments conducted by third parties. Qualifications assessment includes assessment of the following: academic credential/educational programs, work experience, language, exams, prior learning assessment, and (in some cases) currency of qualifications.

⁴ Where it is impossible to remove barriers without undue hardship to the regulatory body, special arrangements must be made so that all individuals can fully participate. This accommodation may include, but is not limited to: accommodation for special needs, providing and accepting communication in multiple formats, mechanisms to allow flexibility in demonstrating competencies or ways to meet requirements, and providing flexibility and/or offering multiple dates for applicants participating in assessments.

7. SPECIFIC DUTY — TRAINING

Legislation: FARPACTA, s. 11

A regulated profession shall ensure that individuals assessing qualifications and making registration decisions or internal review or appeal decisions have received training that includes, where appropriate,

(a) training on how to hold hearings; and

(b) training in any special considerations that may apply in the assessment of applications and the process for applying those considerations.

Does the regulatory body demonstrate the following practices?

1. The regulatory body ensures that training is provided for individuals who:

- a. assess qualifications
- b. make registration decisions
- c. make internal review and appeal decisions

[Objectivity]

2. Where appropriate, training includes the following:

- a. training in how to hold hearings
- b. training in any special considerations that may apply in the assessment of applicants and the process for applying those considerations. Examples of special considerations may include, but are not limited to, the following: accommodation of special needs, providing and accepting communication in multiple formats, providing mechanisms to allow flexibility in demonstrating competencies or ways to meet requirements, and providing flexibility and/or offering multiple dates for applicants participating in assessments.

[Objectivity, Fairness]

8. SPECIFIC DUTY — ACCESS TO RECORDS

Legislation: FARPACTA, s. 12

- (1) Upon the written request of an applicant for registration by a regulated profession, the regulated profession shall provide the applicant with access to records held by it that are related to the application.
- (2) Despite subsection (1), a regulated profession may refuse access to a record if,
- (a) the record or any information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be;
 - (b) another Act, an Act of Canada or a court order prohibits disclosure of the record or any information in the record in the circumstances;
 - (c) granting the access could reasonably be expected to lead to the identification of a person who provided information in the record to the regulated profession explicitly or implicitly in confidence, and the regulated profession considers it appropriate in the circumstances that the identity of the person be kept confidential; or
 - (d) granting the access could negatively affect public safety or could undermine the integrity of the registration process.
- (3) Despite subsection (2), an applicant has a right of access to that part of a record that can reasonably be severed from the part to which the applicant does not have a right of access by reason of that subsection.
- (4) A regulated profession shall establish a process under which requests for access to records will be considered.
- (5) A regulated profession may charge the applicant a fee for making records available if it first gives the applicant an estimate of the fee.
- (6) The amount of the fee shall not exceed the amount prescribed by the regulations or the amount of reasonable cost recovery, if no amount is prescribed.
- (7) A regulated profession may waive the payment of all or any part of the fee that an applicant is required to pay under subsection (5) if, in its opinion, it is fair and equitable to do so.

Does the regulatory body demonstrate the following practices?

1. Subject to limitations indicated in legislation, applicants have access to their records. The regulatory body has a process for considering requests for access to records. Records include all the documents that relate to the application. [Fairness, Transparency]

Documents may include, but are not limited to, the following: documents provided by the applicant; documents that describe the regulatory body's rationale for its decision; documents related to an applicant's assessment of qualifications, such as exam results or credential assessment results; and documents related to accommodation requests, review requests, and appeals.

2. If there is a fee for making records available, the regulatory body gives applicants an estimate of this fee. [Transparency]
3. If there is a fee for making records available, the amount of the fee does not exceed the amount of reasonable cost recovery. [Fairness]

GENERAL DUTY

Legislation: FARPACTA, Part II, s. 6

A regulated profession has a duty to provide registration practices that are transparent, objective, impartial and fair.

Does the regulatory body demonstrate the following practices?

TRANSPARENCY

1. Registration policies and criteria are well-documented. Registration policies and criteria are well-defined and unambiguous. There are no unwritten policies. For example:
 - a. Policies and criteria are readily available to registration staff and decision-makers.
 - b. Policies and criteria are regularly reviewed and updated.
 - c. All registration staff and decision-makers who are responsible for implementing policies and criteria are promptly informed of changes to policy.
2. The regulatory body provides information about all requirements that are subject to exemptions.
3. If a regulatory body has any requirements for personal attributes such as “good character,” it describes the criteria that are used to assess these requirements.
4. The regulatory body identifies costs associated with the registration process that are not under the regulatory body’s control, including third-party assessments. This enables the applicant to approximate the total cost of the registration process.
5. Applicants can see that the documented policies have been followed in their case.
6. Information is provided about opportunities for an internal review or appeal.
7. The regulatory body communicates the following to applicants:
 - a. the way that an applicant can ask for records (for example, in person, by email, or by completing and submitting a written form)
 - b. the way in which records are available (for example, by photocopy or by access in person)
 - c. who may access the records
 - d. how long the records are kept
 - e. what limitations (if any) exist on the right to access the records
8. Registration information, including information that applies specifically to internationally trained individuals, is complete, clear, and easy to find. For example:
 - a. The information avoids unnecessarily complicated language and minimizes technical language or jargon.
 - b. Registration information is current and accurate.
 - c. Applicants and individuals intending to apply can access information in multiple formats (such as downloading the information from the regulatory body’s website, having it mailed to them by the regulatory body upon request, or obtaining it orally).
 - d. All of the information referred to in this Transparency section is on the regulatory body’s website, for applicants and for people intending to apply.
9. Regulatory bodies communicate well with applicants about their application. Applicants know how their applications are progressing.

10. The regulatory body informs applicants about which documents are kept by the regulatory body and which documents are returned to applicants upon written request.
11. The regulatory body informs applicants about missing or incomplete documentation.
12. If a language requirement can be met in English or French, the regulatory body provides registration information in English and French.
13. The regulatory body identifies the steps in the registration process that an applicant can do or start outside of Canada, such as qualifications assessment, language assessment, and examinations.
14. The regulatory body informs applicants about any qualifications assessment methods it uses.
15. The regulatory body provides information or a referral to sources of information (for example, a website link) about any resources and supports that are available to applicants during the registration and assessment process. Examples of resources and supports include: examination blueprints, practice tests or examinations, sample assessment questions, programs for orientation to the profession or trade, bridging programs, occupation-specific language-training opportunities, mentorship opportunities, work experience opportunities, and online tools to self-assess language or professional/trade qualifications.
16. The regulatory body describes the role of any third-party organizations that applicants may come in contact with during the registration process, such as qualifications assessment agencies and organizations that conduct examinations or provide training programs.
17. The regulatory body gives a website link to, or explains where to find, the documentation required by any third parties who play a role in the body's registration process.
18. The regulatory body provides information about the estimated time for each stage of the application process that is under the body's control. When timelines vary, a range or maximum amount of time is provided. When timelines vary by application type, the different timelines are outlined. Information about variables that may slow down the normal process is included, if these exist.
19. Decisions and the reasons for them are communicated clearly.

OBJECTIVITY

1. Subjectivity in decision-making is minimized by the use of specific criteria for assessing qualifications.⁵ For example: well-crafted marking templates or multiple-choice questions may help make the grading of exams a more objective exercise.
2. Criteria can be measured by using verifiable data, and decision-makers can determine whether the criteria have been met or not in a straightforward way. For example, "good character" requirements may be measured against concrete criteria such as the lack of a criminal record, or through the completion of a standard template for references.
3. Different decision-makers reach consistent decisions without requiring a subjective assessment that applies personal views or judgments. For example: there are common tools in place that decision-makers use; decision-makers reference past decisions; and decision-makers have been trained to follow a consistent process and to interpret policies and criteria in the same way.
4. The regulatory body ensures that training is provided for individuals who assess qualifications, make registration decisions, or make internal review or appeal decisions. These individuals receive:
 - a. initial training (as soon as they have been assigned their duties)
 - b. ongoing training (whenever there is a change in regulations, policies or procedures)

IMPARTIALITY

1. The regulatory body takes measures to ensure that all staff members who deal with applications have training in the following:
 - a. anti-discrimination (for example: staff have been trained on the Ontario Human Rights Code; staff have been trained on internal policies related to anti-discrimination)
 - b. cultural diversity (for example: staff are trained in cultural differences and how to identify the potential for biases)
 - c. the objectives of FARPACTA
2. The regulatory body takes measures to ensure that qualifications assessments⁶ are made free from bias and preconceived notions about any individual or group of individuals. For example: the regulatory body has established a code of conduct for qualifications assessors; policies and controlled processes are in place to ensure that different assessors would come to the same decision; and the regulatory body can demonstrate identified risks of biases and has measures in place to mitigate the risk.
3. The regulatory body takes measures to ensure that registration decisions are made free from bias and preconceived notions about any individual or group of individuals. For example: the regulatory body has established a code of conduct for decision-makers; policies and controlled processes are in place to ensure that different decision-makers would come to the same decision; and the regulatory body can demonstrate identified risks of biases and has measures in place to mitigate the risk.
4. The regulatory body takes measures to ensure that decision-makers come to each case without a preconceived view about the merits of the application. They maintain an open mind as they review the evidence to determine whether the applicant meets the criteria. For example: decision-makers have different levels of access than non-decision-makers to applicant information, to ensure that they are not influenced by information that is not relevant to the decision; multiple decision-makers are involved in reviewing an application; decision-makers use controlled processes; and those same processes are used for all applicants.
5. The regulatory body takes measures to ensure that decision-makers do not undervalue applicants from certain jurisdictions or give undue preference to those from other jurisdictions, by ensuring that the decision-makers are well trained in applying assessment criteria. For example: training exists for decision-makers on how to apply criteria; there is a training plan for decision-makers; processes are in place to measure the effectiveness of training; and processes are in place to identify the performance and quality of decision-makers.
6. The regulatory body takes measures to ensure that assessors, decision-makers and any other staff members who deal with registration applications are free from real or perceived conflicts of interest.⁷ For example: the regulatory body has a conflict-of-interest policy and/or formalized processes for both decision-makers and staff. The regulatory body has an ongoing process in place to review conflict-of-interest risk and has measures in place to mitigate the risk.

FAIRNESS

Substantive fairness

1. The regulatory body is able to explain its registration requirements, including how new requirements emerged.
2. The regulatory body is able to explain why all requirements are necessary and relevant to the practice of the profession or trade.
3. Requirements do not unjustifiably exclude or limit certain groups, such as internationally trained applicants.
4. When language proficiency is a requirement, the level of proficiency required reflects the level required to practise the profession or trade.
5. The regulatory body can either:
 - a. clearly justify the Canadian or Ontario experience it claims is necessary for applicants to become familiar with the specifics of practice in Ontario
or
 - b. explain how international experience alone is insufficient to meet the objectives of the regulatory body's workplace or clinical experience requirement.
6. Registration fees are reasonable. The regulatory body can show how fees under its control are set and can provide the rationale for the amounts. Fees are not unjustifiably higher than the cost of providing the service.

Procedural fairness

7. Registration decisions adhere to published criteria, standards and policies.
8. The registration process is streamlined and unnecessary steps are eliminated.
9. Applicants can have their qualifications assessed while outside Canada.
10. When requested, access to records is granted as soon as possible, within a maximum of 30 days.

Relational fairness

11. Applicants are treated in a way that takes their circumstances into consideration (reasonable accommodation) to achieve an equitable result. This may include, for example: accommodation of special needs, providing and accepting communication in multiple formats, providing mechanisms to allow flexibility in demonstrating competencies or ways to meet the requirements, and providing flexibility and/or offering multiple dates for applicants participating in assessments.
12. If an applicant indicates that he or she cannot get the required documentation for reasons beyond his or her control, the regulatory body has a process:
 - a. to determine whether the documentation is in fact unobtainable
 - b. to consider and examine alternatives
 - c. if possible, to help the applicant get alternative documentation if the required documentation is unobtainable

⁵ This practice refers to qualifications assessments conducted by the regulatory body itself. Qualifications assessment includes assessment of the following: academic credential/educational programs, work experience, language, examinations, prior learning assessment, and (in some cases) currency of qualifications.

⁶ This practice refers to qualifications assessments conducted by the regulatory body itself. Qualifications assessment includes assessment of the following: academic credential/educational programs, work experience, language, examinations, prior learning assessment, and (in some cases) currency of qualifications.

⁷ A conflict of interest includes, for example, any situation or circumstance in which the person's other commitments, relationships or financial interests:

- could improperly influence the person's objective, unbiased and impartial exercise of his or her independent judgment, or could be perceived as doing so; or
- could compromise, impair or be incompatible with the person's effective performance of his or her contractual obligations, or could be perceived as doing so.