

Conflict of Interest Policy

Max and Marion Caldwell Foundation

Summary and Purpose

This policy is intended to help ensure that when actual or potential conflicts of interest arise, the board has a process in place under which the affected individual(s) will advise the board about all the relevant facts concerning the situation. This policy is also intended to establish procedures under which individuals who have a conflict of interest will be excused from voting on such matters. Specifically, this policy includes the following:

- a description of the acts or situations that constitute a conflict of interest
- when and how the directors must disclose conflicts
- how to proceed and record the board's proceedings and findings after a director discloses a conflict or the board discovers one
- the action the board will take after it discovers a director violated the policy, and
- procedures for reviewing and updating the policy.

Description of acts or situations that constitute a conflict of interest

Some acts by the board can create conflicts, even when the decisions are innocently motivated.

Examples include:

- giving money or property to a director for any purpose (including compensation for goods or services)
- providing discounts to directors for the nonprofit's goods or services
- allowing a director to use the nonprofit's space, equipment, or personnel for anything other than approved nonprofit activities and programs
- entering into a contract with a business that a director owns or profits from
- hiring a director as an employee
- allowing third parties that deal with the nonprofit to give gifts to directors
- providing the above benefits to a spouse or relative of a director, and
- other financial or personal interests that could impair, or might reasonably appear to impair, the director's exercise of unbiased judgment.

Board members themselves can create conflicts when they take certain actions on their own. For instance:

- choosing to work with vendors with whom the director has a familial relationship
- voting for policies that have an indirect and positive impact on the director's finances, and
- influencing people or organizations with whom the nonprofit does business, resulting in a monetary advantage to the member.

When and how the directors must disclose conflicts

At a minimum, the director with the conflict must disclose the conflict at the time the matter arises. **The disclosure must be made to the Board president and may be done by mail, e-mail, text, or other written method. It may not be done orally.** The director should explain how the decision could benefit him or her personally, or how it might appear as such. Additionally, board members should proactively disclose any changes in their personal or professional lives that could compromise their objectivity with respect to board decisions. Finally, new candidates for board membership must disclose any potential conflicts of interest before being considered and approved for membership.

How to proceed and record the board's proceedings and findings after a director discloses a conflict or the board discovers one

After a board member discloses a potential conflict, the other board members should decide if a conflict exists. If the board determines there is a conflict, the interested director should leave the meeting. After the director leaves, the remaining board members should discuss the matter and vote based on the best interest of the organization, and not whether their decision will benefit the director with the conflict.

The board should maintain records of the proceedings where a director disclosed a conflict or the board discovered one after the fact. Specifically, the minutes of the meeting should provide the name of the director with the conflict, the nature of the conflict, and the board's decision as to whether a conflict existed. If the board identifies a conflict, the minutes should show which directors stayed for the meeting and discussed the matter, votes cast for or against it, and the content of the discussion (including the alternatives the board considered).

When the board realizes that they have a situation that has the appearance of a conflict, the board should proceed as if there is a conflict, even if no conflict exists.

The action the board will take after it discovers a director violated the policy

In the event that a director fails to disclose a conflict of interest, the director with the conflict should have the opportunity to explain the surrounding circumstances and reason for failing to disclose. After reviewing the information, the board might decide to withdraw from the transaction when possible (by canceling a contract or asking for a refund, for example). In serious situations (such as fraud), the board might remove the director.

Procedures for reviewing and updating the policy

The board will review and update this policy as needed on at least an annual basis. New directors will receive training on this policy as part of the onboarding process. The board secretary will store this policy with the nonprofit's corporate records.