

Sample: Conflict of Interest Policy

Colorado Nonprofit Association

Policy

This conflict of interest policy is designed to ensure that voting members of the governing board, officers, and employees of the Colorado Nonprofit Association identify situations that present possible conflicts of interest and to provide appropriate procedures if a possible conflict of interest arises. It is also intended to ensure that decisions are not influenced by any private profit or other personal benefit to the individuals affiliated with the Colorado Nonprofit Association that participate in such decisions.

Definitions

1. A “**conflict of interest**” arises when a person in a position of authority over an organization, such as a voting member of the governing board, officer, or employee may benefit financially from a decision he or she could make in such capacity, including indirect benefits such as to family members or businesses with which the person is closely associated. For this purpose, a conflict of interest does not include questions involving a person’s competing or respective duties that do not involve material interest or benefit to a related party. Membership with Colorado Nonprofit Association does not constitute a conflict of interest.
2. **Classes of individuals covered by this conflict of interest policy:**
 - a. An “**interested person**” is any current or former officer, director, member of a committee with governing board delegated powers, key employee, and five highest compensated employees or disqualified persons.
 - b. An “**independent voting member of governing body**” is an individual that meets all of the following circumstances:
 - i. The member was not compensated as an officer or other employee of the organization or of a related organization.
 - ii. The member did not receive total compensation or other payments exceeding \$10,000 during the tax year from the organization or from related organizations as an independent contractor, other than reimbursement of expenses under an accountable plan or reasonable compensation for services provided in the capacity as a member of the governing body.
 - iii. Neither the member, nor any family member of the member, was directly or indirectly involved in a transaction either with Colorado Nonprofit Association or a related organization.

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- c. An “**officer**” is a person elected or appointed to manage the organization’s daily operations, such as a president, vice president, secretary, or treasurer. The officers of an organization are determined by reference to its organizing document, bylaws, or resolutions of its governing body, or as otherwise designated consistent with state law, but at a minimum include those officers required by applicable state law. The **top management official and top financial official** should be treated as officers.
- d. A “**key employee**” is an employee of Colorado Nonprofit Association (other than an officer, director, or trustee) who meets all three of the following tests:
 - i. \$150,000 Test. Receives reportable compensation from the organization and all related organizations in excess of \$150,000 for the calendar year ending with or within Colorado Nonprofit Association’s tax year;
 - ii. Responsibility Test. The employee has responsibilities, powers or influence over the organization as a whole that is similar to those of officers, directors, or trustees; manages a discrete segment of activity of the organization that represents 10% or more of the activities assets, income, or expenses of the organization; or has or shares authority to control or determine 10% or more of the organization’s capital expenditures, operating budget, or compensation for employees.
 - iii. Top 20 Test. Is one of the 20 employees (that satisfy the above tests) with the highest reportable compensation from the organization and related organizations for the calendar year ending with or within the organization’s tax year.

3. **Related Parties:**

- a. A “**family member**” or “**family relationship**” includes only his or her brother and sisters (whether whole or half-blood), spouse or domestic partner, ancestors, and lineal descendants.
- b. A “**35% controlled entity**” is an entity that is constructively owned, directly or indirectly, by a given person, such as the organization’s current or former officers, directors, trustees, or key employees, or the family members thereof, in which a listed persons has a controlling interest, or owns more than 35% of the total combined voting power, profits interest, or beneficial interest,
- c. A “**Business Relationship**” is defined as:
 - i. One person is employed by the other in a sole proprietorship or by an organization with which the other is associated as a trustee, director, officer, key employee, or great-than-35% owner.
 - ii. One person is transacting business with the other (other than in the ordinary course of business on the same terms as are generally offered to the public), directly or indirectly, in one or more contracts of sale, lease, license loan, performance of services, or other transaction involving transfers of cash or property valued in excess of \$10,000 in the aggregate during Colorado

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Nonprofit Association's tax year. Indirect transactions are transactions with an organization with which the one person is associated as a trustee, director, officer, key employee, or greater-than-35% owner.

4. A “**proposed transaction or arrangement**” is intended to include, but not limited to initiating, making the principal recommendation for, or approving a purchase or contract; recommending or selecting a vendor or contractor; drafting or negotiating the terms of such a transaction; or authorizing or making payments from Colorado Nonprofit Association accounts. Transactions include procurement of goods and services, the disposition of Colorado Nonprofit Association property, and the provision of services or space by the Colorado Nonprofit Association.

Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person should disclose the existence of the interest and be given the opportunity to disclose all material facts to the CEO, directors, officers, key employees or members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the interest and all material facts, and after any discussion with the interested person, he or she shall leave the meeting while the determination of a conflict of interest is discussed and voted upon. The remaining directors, officers, key employees or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

An interested person may make a presentation at the governing board, committee meeting, or staff meeting. After the presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

Any Colorado Nonprofit Association business transaction, which involves a potential conflict of interest with a voting member of the governing board, officer, or employee, shall have terms that are at least as fair and reasonable to the Colorado Nonprofit Association as those that would otherwise be available to the Colorado Nonprofit Association if it were dealing with an unrelated party.

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4. **Violations of the Conflicts of Interest Policy**

- a. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it should inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it should take appropriate disciplinary and corrective action.

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Compliance

1. Each voting member of the governing board, officer, and employee will be required to complete a separate conflict of interest questionnaire on an annual basis.
2. A written record on any report of possible conflict and of any adjustments made to avoid possible conflicts of interest shall be kept by the President & CEO, or where applicable, board chair.
3. The minutes of the governing board and all committees with board delegated powers should contain:
 - a. The names of the persons who disclosed or otherwise were found to have an interest in connection with an actual or possible conflict of interest, the nature of the interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
 - b. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.
4. This conflict of interest policy statement shall be made available to each voting member of the governing board, officer, and employee. Such people will be asked to sign the following Statement of Understanding concerning reporting of potential conflicts of interest.

Statement of Understanding

I have read and understand the Colorado Nonprofit Association's policy on conflict of interest and agree to abide by its terms.

Potential Conflict of Interest Disclosure:

Signed: _____ Date: _____

(Ratified by the Colorado Nonprofit Association's Board of Directors on December 10, 2008)

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