

The Pennsylvania Association of Nonprofit Organizations (PANO) has given permission to the Lancaster County Community Foundation to share this sample Conflict of Interest Policy with their grantees. As noted in the copyright information below, this is normally free to PANO members only. All other organizations must contact PANO to purchase this document. To implement this policy you may remove the headers and footers and edit the spacing.

## **PENNSYLVANIA ASSOCIATION OF NONPROFIT ORGANIZATIONS MODEL CONFLICT OF INTEREST POLICY<sup>1</sup>**

### **I. Application of Policy**

This policy applies to board members, staff and certain volunteers of ABC Nonprofit, Inc. A volunteer is covered under this policy if that person has been granted significant independent decision making authority with respect to financial or other resources of the organization. Persons covered under this policy are hereinafter referred to as “interested parties.”

### **II. Conflict of Interest**

A conflict of interest may exist when the interests or concerns of an interested party may be seen as competing with the interests or concerns of the organization. There are a variety of situations which raise conflict of interest concerns including, but not limited to, the following.

Financial Interests - A conflict may exist where an interested party, or a relative or business associate of an interested party, directly or indirectly benefits or profits as a result of a decision made or transaction entered into by the organization. Examples include situations where:

- the organization contracts to purchase or lease goods, services, or properties from an interested party, or a relative, or business associate of an interested party;
- the organization purchases an ownership interest in or invest in a business entity owned by an interested party, or by a relative or business associate of an interested party;
- the organization offers employment to an interested party, or a relative, or business associate of an interested party, other than a person who is already employed by the organization;
- an interested party, or a relative or business associate of an interested party, is provided with a gift, gratuity or favor, of a substantial nature, from a person or entity which does business, or seeks to do business, with the organization;
- an interested party, or a relative or business associate of an interested party, is gratuitously provided use of the facilities, property, or services of the organization;
- [add additional examples, if any]

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Other Interests - A conflict may also exist where an interested party, or a relative or business associate of an interested party, obtains a non-financial benefit or advantage that he would not have obtained absent his/her relationship with the organization, or where his/her duty or responsibility owed to the organization conflicts with a duty or responsibility owed to some other organization. Examples include where:

- an interested party seeks to obtain preferential treatment by the organization for himself, or relative, or business associate;
- an interested party seeks to make use of confidential information obtained from the organization for his own benefit, or for the benefit of a relative, business associate, or other organization;
- an interested party seeks to take advantage of an opportunity, or enable a relative, business associate or other organization to take advantage of an opportunity, which s/he has reason to believe would be of interest to the organization;
- [add additional examples if any]

### **III. Disclosure of Actual or Potential Conflicts of Interest**

An interested party is under a continuing obligation to disclose any actual or potential conflict of interest as soon as it is known, or reasonably should be known.

An interested party shall complete a questionnaire, in the form attached hereto, to fully and completely disclose the material facts about any actual or potential conflicts of interest. The disclosure statement shall be completed upon his/her association with the organization, and shall be updated annually thereafter. An additional disclosure statement shall be filed at such time as an actual or potential conflict arises.

For board members, the disclosure statements shall be provided to the President (Chairman) of the Board, or in the case of the President's (Chairman's) disclosure statement shall be provided to the Secretary of the Board. Copies shall also be provided to the Chief Executive Officer of the organization.

In the case of staff or volunteers with significant decision-making authority, the disclosure statements shall be provided to the Chief Executive Officer of the organization, or in the case of the Chief Executive Officer's disclosure statement shall be provided to the President (Chairman) of the Board.

The Secretary of the board of directors shall file copies of all disclosure statements with the official corporate records of the organization.

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#### **IV. Procedures for Review of Actual or Potential Conflicts - Generally**

Whenever there is reason to believe that an actual or potential conflict of interest exists between ABC Nonprofit, Inc. and an interested party, the Board of Directors shall determine the appropriate organizational response. This shall include, but not necessarily be limited to, invoking the procedures described in Section IV, below, with respect to a specific proposed action or transaction.

Where the actual or potential conflict involves an employee of the organization other than the Executive Director, the Executive Director shall, in the first instance, be responsible for reviewing the matter and may take appropriate action as necessary to protect the interests of the organization. The Executive Director shall report to the President (Chairman) the results of any review and the action taken. The President (Chairman), in consultation with the Executive Committee, shall determine if any further board review or action is required.

#### **V. Procedures for Addressing Conflicts of Interest - Specific Transactions**

Where an actual or potential conflict exists between the interests of ABC Nonprofit, Inc. and an interested party with respect to a specific proposed action or transaction, ABC Nonprofit shall refrain from the proposed action or transaction until such time as the proposed action or transaction has been approved by the disinterested members of the board of directors of the organization. The following procedures shall apply:

- An interested party who has an actual or potential conflict of interest with respect to a proposed action or transaction of the corporation shall not participate in anyway in, or be present during, the deliberations and decision making of the organization with respect to such action or transaction. The interested party may, upon request, be available to answer questions or provide material factual information about the proposed action or transaction.
- The disinterested members of the board of directors may approve the proposed action or transaction upon finding that it is in the best interests of the corporation. The board shall consider whether the terms of the proposed transaction are fair and reasonable to the organization and whether it would be possible, with reasonable effort, to find a more advantageous arrangement with a party or entity that is not an interested party.
- Approval by the disinterested members of the board of directors shall be by vote of a majority of directors in attendance at a meeting at which a quorum is present. An interested party shall not be counted for purposes of determining whether a quorum is present, nor for purposes of determining what constitutes a majority vote of directors in attendance.
- The minutes of the meeting shall reflect that the conflict disclosure was made, the vote taken and, where applicable, the abstention from voting and participation by the interested party.

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## **VI. Violations of Conflict of Interest Policy**

If the board of directors has reason to believe that an interested party has failed to disclose an actual or potential conflict of interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

If, after hearing the response of the interested party and making such further investigation as may be warranted in the circumstances, the board determines that the interested party has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

*This policy is not intended to apply to a certain nonprofit or offer legal advice specific to your organization. Such legal advice or opinions can only be rendered when related to distinct fact situations. Rather, this policy is designed to be used as a resource to provide you with ideas, suggestions, and guidelines, which may be valuable to your organization as a starting point for your own policy.*

*Carefully review every word in the policies you are interested in adopting and mold the language to your situation and organizational needs. Finally, before publishing a policy, it is always wise to consult an attorney in your state who is versed in nonprofit law to conduct a thorough review of the policy.*

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## **ATTACHMENT B**

### **PENNSYLVANIA ASSOCIATION OF NONPROFIT ORGANIZATIONS**

#### **MODEL CONFLICT OF INTEREST POLICY**

#### **ANNUAL AFFIRMATION OF COMPLIANCE AND DISCLOSURE STATEMENT<sup>2</sup>**

I have received and carefully read the Conflict of Interest Policy for board members, staff and volunteers of ABC Nonprofit, Inc. and have considered not only the literal expression of the policy, but also its intent. By signing this affirmation of compliance, I hereby affirm that I understand and agree to comply with the Conflict of Interest Policy. I further understand that ABC Nonprofit Inc. is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Except as otherwise indicated in the Disclosure Statement and attachments, if any, below, I hereby state that I do not, to the best of my knowledge, have any conflict of interest that may be seen as competing with the interests of ABC Nonprofit Inc., nor does any relative or business associate have such an actual or potential conflict of interest.

If any situation should arise in the future which I think may involve me in a conflict of interest, I will promptly and fully disclose the circumstances to the President (Chairman) of the Board of Directors of ABC Nonprofit, Inc or to the Chief Executive Officer, as applicable.

I further certify that the information set forth in the Disclosure Statement and attachments, if any, is true and correct to the best of my knowledge, information and belief.

Name (Please print)

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Signature

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Date

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### Disclosure Statement<sup>3</sup>

Please complete the questionnaire, below, indicating any actual or potential conflicts of interest. If you answer “yes” to any of the questions, please provide a written description of the details of the specific action or transaction in the space allowed. Attach additional sheets as needed.

Financial Interests - A conflict may exist where an interested party, or a relative or business associate of an interested party, directly or indirectly benefits or profits as a result of a decision made or transaction entered into by the organization.

Please indicate, during the past 12 months:

Has the organization contracted to purchase or lease goods, services, or property from or otherwise had a direct business relationship with you, or from any of your relatives or business associates?  Yes  No

*If yes, please describe:*

Has the organization purchased an ownership interest in or invested in a business entity owned by you, or owned by any of your relatives or business associates?  Yes  No

*If yes, please describe:*

Has the organization offered employment to you, or to any of your relatives or business associates, other than a person who was already employed by the organization?  Yes  No

*If yes, please describe:*

Have you, or have any of your relatives or business associates, been provided with a gift, gratuity or favor, of a substantial nature, from a person or entity which does business, or seeks to do business, with the organization?  Yes  No

*If yes, please describe:*

Have you, or any of your relatives or business associates, been \_\_\_\_\_  Yes  No

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gratuitously provided use of the facilities, property, or services of the organization or received a grant, loan or other financial assistance from the organization?

*If yes, please describe:*

Has a relative had a direct or indirect business relationship with the organization?

Yes

No

*If yes, please describe:*

Have you served as an officer, director, trustee, key employee, partner or member/shareholder of an entity doing business with the organization?

Yes

No

*If yes, please describe:*

-[add additional examples, if any]

Other Interests - A conflict may also exist where an interested party, or a relative or business associate of an interested party, obtains a non-financial benefit or advantage that he/she would not have obtained absent his/her relationship with the organization, or where his/her duty or responsibility owed to the organization conflicts with a duty or responsibility owed to some other organization.

Please respond to the following questions indicating if you had this activity anytime during the past twelve months:

Did you obtain preferential treatment by the organization for yourself, or for any of your relatives or business associates?

Yes

No

*If yes, please describe:*

Did you make use of confidential information obtained from the organization for your own benefit, or for the benefit of a relative, business associate, or other organization?

Yes

No

*If yes, please describe:*

Did you take advantage of an opportunity, or enable a relative, business associate or other organization to take advantage of an opportunity, which you had reason to believe would be of

Yes

No

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interest to the organization?

*If yes, please describe:*

-[add additional examples if any]