[ORGANIZATION NAME] Conflict of Interest Policy

Adapted from the sample policy in Appendix A of the IRS Instructions for Form 1023 (Rev. December 2024), a public-domain document. Replace every [bracket]. Delete the notes in italics before the board adopts it. This template does not replace state law requirements; see the editing notes at the end for New York and California.

Article I. Purpose

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (the Organization) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II. Definitions

1. Interested Person

Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

Optional: add "and any employee with authority over purchasing or contracting" if staff make vendor decisions. Form 990 Part VI line 12b asks about officers, directors, trustees, and key employees.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

a. An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,

b. A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or

c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

d. Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

Article III. Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and 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 financial interest and all material facts, and after any discussion with them, the interested persons shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

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

b. The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

c. After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain, with reasonable efforts, a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

4. No Improper Influence

An interested person shall not attempt to influence improperly the deliberation or voting on the matter giving rise to the conflict of interest, whether before, during, or after leaving the meeting.

Added to the IRS sample. New York N-PCL section 715-a(b)(4) requires this provision; it is sound practice in every state.

5. Violations of the Conflict 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 shall 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 shall take appropriate disciplinary and corrective action.

Article IV. Records of Proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

a. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial 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.

Article V. Compensation

a. A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI. Annual Statements

Each director, principal officer, and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

a. Has received a copy of the conflict of interest policy,

b. Has read and understands the policy,

c. Has agreed to comply with the policy, and

d. Understands the Organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

The statement shall be made on the Annual Disclosure Statement form adopted with this policy, which also asks each person to list interests that could give rise to a conflict. Completed statements are delivered to the [Secretary / designated compliance officer], who reports them to the [Board Chair / Audit Committee Chair].

Article VII. Periodic Reviews

To ensure the Organization operates in a manner consistent with charitable purposes, and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.

b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

Article VIII. Use of Outside Experts

When conducting the periodic reviews, as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

Adoption

This Conflict of Interest Policy was adopted by the Board of Directors of [ORGANIZATION NAME] on [DATE] by a vote of [__] in favor and [__] opposed, with [__] abstaining. It applies to the Organization as a whole and replaces any earlier conflict of interest policy.

______________________________________ Date: ______________

[NAME], Secretary

Next scheduled review: [MONTH YEAR]

Editing notes (delete before adoption)

Form 990. Part VI line 12a asks whether the organization had a written policy at year-end; 12b asks whether officers, directors, trustees, and key employees were required to disclose interests annually; 12c asks whether the policy was regularly and consistently monitored and enforced, and a "Yes" on 12c must be described on Schedule O. Article VI and the Annual Disclosure Statement support 12b; Articles III and IV, applied at every meeting where a conflict is raised, support 12c.

New York. N-PCL section 715-a requires every New York not-for-profit corporation to adopt a conflict of interest policy containing six minimum provisions and requires each director to submit a written statement of interests before initial election and annually thereafter to the secretary or a designated compliance officer, who gives copies to the chair of the audit committee (or the board chair if there is none). The IRS sample addresses four of the six provisions (definition, disclosure procedures, recusal from deliberation and vote, and documentation in the minutes); Article III, Section 4 of this template adds the prohibition on improper influence. Add procedures for disclosing, addressing, and documenting related party transactions under N-PCL section 715, and have New York counsel confirm that the adopted policy meets the statute.

California. No statute requires a public benefit corporation to have a written policy, but Corporations Code section 5233 sets its own approval steps for a self-dealing transaction (board approval by a majority of directors then in office without counting the interested director, after finding that the transaction is for the corporation's own benefit, fair and reasonable, and that a more advantageous arrangement could not be obtained with reasonable effort). Adopting this policy does not substitute for those steps. Section 5227 also limits interested persons to 49 percent of the board.

Other states. Several states have their own conflict of interest or related party rules for nonprofit corporations. Ask counsel in your state of incorporation before adopting.

[ORGANIZATION NAME] Conflict of Interest Annual Disclosure Statement

For the year ending [DATE]. Complete before your initial election or appointment and annually thereafter. Return to the [Secretary / designated compliance officer]. Kept with the board records; not filed with the IRS.

1. Affirmation

By signing below, I affirm that I:

- ☐ have received a copy of the [ORGANIZATION NAME] Conflict of Interest Policy,
- ☐ have read and understand the policy,
- ☐ agree to comply with the policy, and
- ☐ understand that the Organization is charitable and, to maintain its federal tax exemption, must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

2. Interests that could give rise to a conflict

List every business, nonprofit, or other entity of which you or a family member is an officer, director, trustee, partner, owner, or employee, or in which you or a family member holds an ownership or investment interest, and with which the Organization has, or is negotiating, a transaction or arrangement. Include compensation arrangements, purchases, sales, leases, loans, grants, and gifts or favors that are not insubstantial.

Entity or person	Your relationship (or family member's)	The Organization's transaction or arrangement	Approximate annual amount

- ☐ I have no interests to report for this year.

Family member, for this statement, means your spouse, ancestors, brothers and sisters (whole or half blood) and their spouses, children, grandchildren, great-grandchildren, and the spouses of your children, grandchildren, and great-grandchildren, following the definition used for Internal Revenue Code section 4958.

3. Compensation

- ☐ I receive compensation from the Organization, directly or indirectly, as an employee, contractor, or otherwise (amount or arrangement: ___________________________).
- ☐ I do not receive compensation from the Organization.

4. Other matters

Describe any other relationship, position, or transaction that a reasonable person might view as a possible conflict of interest, or write "none":

____

5. Signature

I agree to update this statement promptly if any of the information above changes during the year.

Name: ____ Title: _____________________________

Signature: ____________________________________ Date: ______________________________

For the Organization

Received by: ____________________________ (Secretary / compliance officer) Date: ____________

Reviewed by: ____________________________ (Board Chair / Audit Committee Chair) Date: ____________

Retain with the board records for the year. Collecting this form from each covered person every year, as the policy requires, is the practice that supports a "Yes" on Form 990 Part VI line 12b.