

Section: Administration

Effective Date: October 16, 2013

Board Approval: October 16, 2013

## **Conflicts and Duality of Interest Policies**

The Community Foundation of Howard County Board of Trustees consistently follows a policy of avoiding any conflict of interest or the appearance of any conflict of interest on the part of its Board members and Foundation staff in the consideration of the making of grants and in conducting its business activities. Set forth below are two policies, the conflicts of interest policy regarding business transactions and arrangements and the duality of interest policy regarding grant making activities.

The purpose of the conflicts of interest policy is to protect the Foundation's interests when it is contemplating entering into a business transaction or arrangement that might benefit the private interest of a Board member, Board committee member, officer or member of the staff of the Foundation.

### **Definition**

For the purpose of this policy, a "conflict of interest" is present whenever an interested person has a financial interest in a proposed contract or transaction to which the Foundation may be a party. Interested persons include Board members, members of committees of the Board, officers, and staff of the Foundation. A person has a financial interest if he or she has, directly or indirectly, through business, investment or family an actual or potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Foundation is considering a transaction or arrangement. (Compensation includes direct and indirect remuneration as well as gifts or favors.)

The interested person may be directly involved in the transaction or have an employment, investment or ownership interest in or with an entity involved in the transaction. A conflict of interest can result from the providing of professional and other services to the Foundation.

### **Interested Persons Guidelines**

1. Interested persons (including Foundation Board members, committee members, officers and staff of the Foundation) shall take all reasonable steps to avoid actual or perceived conflicts of interest arising from their business activities. Unless there is prior Board approval, such interested persons (or their firms, as applicable) may not

engage in any business relationship with the Foundation. The Board will only approve such a business relationship with the Foundation in exceptional situations such as when there is no practical alternative supplier of the business to the Foundation, the price or conditions offered by the interested person (or his or her firm, as applicable) are distinctly more favorable than any practical alternative, or when the personal benefit inuring to the interested person from the business relationship with the Foundation is merely incidental.

2. Interested persons should not engage in business relationships that result reasonably directly from a grant or other decision of the Foundation. In determining whether a business relationship results reasonably directly from a decision of the Foundation, the following factors should be considered: (a) the time that has elapsed since the Foundation's decision; (b) whether the interested person or his or her business will be paid with Foundation funds; (c) the degree of overlap between the focus of the Foundation's decision (e.g., awarding a grant or selecting an investment) and the content of the interested person's business; (d) whether the Foundation plays any role in selecting the business that provides the service in question; and (e) whether the business providing the service will interact in any substantial way with the Foundation.

### **Disclosure Procedures**

1. Interested persons must disclose any possible conflicts of interest and the nature of his or her financial interest to the Board or a committee of the Board that is considering the proposed transaction or arrangement. Such disclosure shall include any relevant and material facts known to such interested person about the transaction or arrangement which might reasonably be construed to be adverse to the Foundation's interest.
2. After disclosure of the financial interest, the interested person shall remain in the meeting to provide such information as the Board or committee may request, and thereafter shall leave the meeting while the financial interest is discussed and the remainder of the Board or committee determines whether a conflict exists.
3. The Board Chair or committee Chair may appoint a disinterested member or committee to investigate alternatives to the proposed transaction or arrangement and determine, upon exercising reasonable due diligence, whether the Foundation can, with reasonable efforts, obtain a more advantageous transaction or arrangement from a different person or entity who does not create a conflict of interest.
4. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or committee shall determine by a two-thirds affirmative vote of the disinterested

members of the Board or committee present whether the transaction or arrangement is in the Foundation's best interest and for its own benefit, and whether such transaction or arrangement is fair and reasonable to the Foundation. The conflicted Board member shall not be present during that portion of any meeting, shall not vote, and may not be counted for purposes of determining whether a quorum is present.

5. The minutes of any meeting of the Board or committee dealing with such matters shall contain: (i) the names of the interested persons who disclosed or were otherwise 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 Board's or committee's decision as to whether a conflict of interest in fact existed, and (ii) the names of the persons who were present for discussions and votes related 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 those proceedings.

### **Duality of Interest**

The duality of interest policy is intended to preserve the integrity of the grant making function and processes of the Foundation. It is recognized that Board members, committee members, officers and staff of the Foundation will serve in many capacities in the charitable community with agencies, institutions and programs, which are grant applicants. Such roles give rise to a dual interest, which is permissible and often beneficial to both organizations. However, dual roles can be misconstrued and thus sensitivity is necessary to reduce or eliminate perceptions of favoritism.

A duality of interest exists when a Board member, officer, committee member or staff member of the Foundation is affiliated with an organization seeking, or who has sought to request a grant from the Foundation. Such affiliation exists if the interested person is a director, trustee, officer or employee of the grantee organization, or has an unofficial role such as significant donor, volunteer, advocate or advisor to that organization. For purposes of this policy statement such relationship shall be defined to be a "duality of interest or involvement".

The following additional guidelines shall apply with respect to Duality of Interest:

1. No Board member, officer committee member or member of the staff of the Foundation who is involved with a grantee organization, as described in the preceding paragraph, shall play any role with respect to either (i) the making of a grant to such grantee organization or (ii) the review and consideration by the Foundation of a grant application by such grantee organization. These restrictions shall further apply with respect to any request from a grantee organization with

which a family member or close personal friend of such a Board member, officer, committee member or member of the Foundation staff is substantively involved.

2. Any exceptions that are approved by the President & CEO will be documented in writing and noticed to the full Board.
3. Each Board member, officer, committee member or staff member shall notify the CEO, Board Chair or committee chair (as applicable) regarding any official or significant unofficial positions that he or she holds with any nonprofit organizations. All such relationships shall be disclosed promptly as they arise or at the time such person initially becomes a Board member, and shall be made known to the full Board and any committee responsible for grant making decisions, as applicable.
4. No member of the Foundation Board, a committee member, officer or member of the staff of the Foundation shall receive any individual monetary benefit, direct or indirect, from any grant to or other transaction with any grantee organization. It is the intention of this provision that any grants from the Foundation to such grantee organizations shall be used for general program or operational purposes of the grantee organization and not to pay salary or other compensation to any person with a duality of interest or involvement.
5. As to grant applications, no grantee organization with which any Board member, committee member, officer or member of the staff of the Foundation is involved, shall receive any special consideration whatsoever for its application. No variation in the procedures or standards for processing grants shall be permitted and particularly thorough scrutiny, justification, and consideration shall be applied to the application of any such grantee organization.

### **Disclosure of Duality Interest**

During the consideration of any proposed grant to any organization by the Foundation Board or by any committee thereof, any member of the Foundation Board, committee members, officers or staff of the Foundation who has a duality of interest or involvement with the prospective recipient shall notify the CEO, Board Chair, or committee Chair, if such is not otherwise noted in the grant review. If such person serves on the Board or is an official advisor to the applicant, such person shall refrain from voting on the proposed grant but shall, subject to the discretion and control of the Chair, be permitted to participate in discussions regarding the applicant organization.

Any person deemed by himself, herself or the Chair to have a conflict of interest (see the Conflict of Interest Policy set forth above) shall not participate in any consideration of a grantee request, and *unless asked specifically to stay*, shall leave the meeting.

## **General Provisions Applying to Both Conflict and Duality of Interest**

1. For purposes of both the Conflicts of Interest Policy and the Duality of Interest Policy, references to Board members, committee members, officers or members of the Foundation staff shall include their spouses, significant others, children, parents and siblings.
2. Board members, committee members, officers and staff of the Foundation shall not intentionally use their association with the Foundation to create any favorable treatment or advantage from any business, organization, or person.
3. No Board member, officer, committee member or member of the staff of the Foundation shall accept any gifts, meals, tickets, or other items of substantial value from any organization that has applied or could reasonably be expected to apply for a grant or seek business from the Foundation, and further, shall not accept any gifts, meals, tickets or other items, regardless of their value, where such acceptance could reasonably be expected to compromise or, otherwise be perceived to compromise the independence and objectivity of the Foundation in regard to such organization. Notwithstanding the foregoing, it is permissible for a Board member, officer, committee member or member of the staff to accept a ticket to attend an event, fundraiser, or performance for the purpose of evaluating a grantee. Such attendance shall be considered a site visit and shall be documented in writing accordingly.
4. If the Board, or any committee has reasonable cause to believe that a Board member, officer or committee member or officer has failed to disclose any actual or possible conflicts of interest or duality of interest or involvement, it shall inform such person of the basis for such belief and afford him or her an opportunity to explain the alleged failure to disclose. Following such explanation and after any further investigation deemed appropriate by the Board or committee, if the Board or committee determines that the interested person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action, which may, when warranted, result in the removal from the Board or committee.
5. If the Board, any committee of the Board or management of the Foundation has reasonable cause to believe that a member of the Foundation staff has failed to disclose any actual or possible conflicts of interest or duality of interest or involvement, or otherwise has violated the terms of either the Conflicts of Interest Policy or the Duality of Interest Policy as stated above, then such matter shall be treated as a violation of the employment policies and practices of the Foundation by such staff member, and the CEO shall cause the Foundation to take such disciplinary or other action as is deemed appropriate in the circumstances, all in accordance with the prescribed employment procedures and practices of the Foundation, which may, when warranted, result in the termination of such staff member.

## **Annual Disclosure Statements**

For purposes of carrying out the Conflicts of Interest Policy and the Duality of Interest Policy of the Foundation, the CEO, acting through the Board Secretary, is authorized and directed to cause to be prepared and distributed to all Board members, officers, committee members and Foundation staff, not less often than once each year hereafter, a disclosure statement concerning each such person's business interests and nonprofit organization affiliations.

Each Board member, officer, committee member and member of the Foundation staff shall annually update their disclosure statement. Such information may be used by the Foundation in its continuing efforts to avoid, or otherwise properly manage conflicts of interest, and to identify and properly manage circumstances of duality of interest or involvement.

## **Confidentiality**

Confidential financial and investment information may not be used for personal gain. The Foundation is a significant private investor and receives substantial confidential information in the performance of its investment, gift acceptance and stewardship obligations. No Board member, officer, committee member or member of the Foundation staff should use such confidential information for personal purposes or transmit such information to others except in the course of his or her duties on behalf of the Community Foundation of Howard County. Each Board member and the Foundation Staff shall execute a Confidentiality Statement in the form prescribed by the Foundation.

## **Questions and Concerns**

Any questions or concerns that any Board member, officer, committee member or member of the Foundation staff has regarding whether a conflict of interest exists, whether or not an affiliation with another nonprofit organization creates a duality of interest or involvement, or otherwise is uncertain about the appropriate behavior in a given situation should seek guidance from the President & CEO or Board Chair.

Name:

Signature:

Date: