



Howard County Arts Council

Policy: Conflict of Interest

The reputation and integrity of the Howard County Arts Council (HCAC) are valuable assets that are vital to HCAC's success. Each HCAC officer, director, and committee member is responsible for conducting HCAC's business in a manner that demonstrates a commitment to the highest standards of integrity. The purpose of the conflict of interest policy is twofold: 1) to protect the Howard County Arts Council's (HCAC) tax-exempt interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the HCAC or might result in a possible excess benefit transaction)2) to provide guidance to help HCAC officers, directors, and committee members recognize and deal with ethical issues. 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, officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial or other interest, as defined below, is an interested person. It is difficult to conceive of and set forth rules that cover all situations in which a conflict of interest may arise. However, the basic factor in all conflict of interest situations is the division of loyalty or perception of a division of loyalty, between a person's duty as a director, officer, or committee member and his/her personal, business and other interests.

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 HCAC has a transaction or arrangement,
- b. A compensation arrangement with HCAC or with any entity or individual with which HCAC has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which HCAC is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. Exceptions to the general prohibition regarding the acceptance of things of value include:

- a. Acceptance of gifts, gratuities, or amenities based upon family or personal relationships when the circumstances make it clear that those relationships, rather than the business of HCAC, are the motivating factors.
- b. The acceptance of meals, refreshments, etc. all of reasonable value in the regular course of a bona fide business meeting or similar occasion organized to foster better business relationships and provided that any such expenses would have been a legitimate business expense paid by HCAC if not paid by the other party.
- c. Acceptance of advertising or promotional material of nominal value.
- d. Acceptance of gifts of nominal value related to commonly recognized occasions such as promotions, retirements, weddings, etc.
- e. Acceptance of civic, charitable, or educational awards for recognition of service and accomplishment.
- f. Other circumstances approved on a case-by-case basis by HCAC's full board and made in writing with full disclosure of relevant facts.

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.

3. Non financial Interest

During their service, HCAC's directors, officers, and committee members should act in the best interest of the organization, rather than in furtherance of personal interests or the interests of third parties, such as other

non-profit organizations they are affiliated with. Therefore, HCAC directors, officers and committee members shall not:

- a. obtain, share or use any list of HCAC donors, members, or clients for any personal, private or non-HCAC solicitation purposes at any time.
- b. obtain, share or use any information deemed as proprietary or confidential for personal, private or non-HCAC purposes at any time.
- c. use their position to try, as an individual, to exert influence over the day-to-day decision-making processes of the staff without the support of the Board.

At all times, HCAC directors, officers, and committee members should observe the confidentiality of information that they acquire through their positions at HCAC, including personnel, donors, other directors, suppliers, competitors, etc.

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 or non 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 interest and all material facts, and after any discussion with the interested person, he/she 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, he/she 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 HCAC 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 HCAC'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. 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 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 or non 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 HCAC 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 HCAC 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 HCAC, either individually or collectively, is prohibited from providing information to any committee regarding compensation.
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Article VI

Annual Statements

Each director, 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 conflicts of interest policy,
 - b. Has read and understands the policy,
 - c. Has agreed to comply with the policy, and
 - d. Understands HCAC is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.
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Article VII

Periodic Reviews

To ensure HCAC 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 HCAC'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.
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Article VIII

Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, HCAC 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.

Primary Source: IRS Sample Conflict of Interest Policy