

Friends of the Arc Foundation, Inc. Conflict of Interest Policy

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Derivation of The Arc Oneida-Lewis Chapter, NYSARC Compliance Office Conflict of Interest Policy AIM #1144.

1 General Statement of Purpose:

The IRS defines a Conflict of interest as arising when a person in a position of authority and/or influence over an organization, such as a officer, director, or manager, may benefit financially from a decision he or she could make in such capacity, including indirect benefits such as to family member or businesses with which the person is closely associated. New York State also views a conflict as occurring when a not-for-profit organization transacts business directly with an officer/director/employee of the not-for-profit organization or when a not-for-profit organization transacts business with a business entity of which an officer/director/employee of the not-for-profit organization is also (a) either an officer/director/employee of and or (b) has a financial interest.

The purpose of this policy is to provide guidelines which will protect the interests of Friends of the Arc Foundation, Inc. when it is contemplating entering into an arrangement which may benefit the private interest of any Agency agents.

Citations/References:

IRS Form 990 Instructions (rev.2008)
2005 Deficit Reduction Act
June 15, 2006: Memorandum from Epstein Becker & Green, P.C.
IRS Form 1023 (Rev 2006)
New York State Sample "Conflict of Interest" policy (public domain)

Policy Statement:

It is expected that all Friends of the Arc Foundation, Inc. agents will exercise the highest level of good faith in all business dealings involving the Agency. Agency agents will not use their positions or knowledge of Agency business for personal gain or benefit. Agency agents will maintain standards of excellent positive and ethical behavior and will avoid situations in which a conflict of interest is or may be evident between his/her personal interests and the interests of the Agency.

While it is impossible to present an exhaustive list of all outside personal interests, activities, or affiliations that may be considered to pose a conflict of interest the following two basic principles apply to every director, officer, employee, and volunteer of Friends of the Arc Foundation, Inc.:

- ◆ The interest of the Agency and the fundraising mission takes precedence over private business interests
- ◆ A business opportunity which belongs to Friends of the Arc Foundation, Inc., or which is based on confidential information not available to the public, shall not be used for personal gain or for any purpose contrary to the Agency's interests.

General Terms:

- ◆ Agency: Friends of the Arc Foundation, Inc.
- ◆ Compensation: includes direct and indirect remuneration as well as gifts or favors that are substantial in nature
- ◆ Financial Interest: A person has a financial interest if the person has directly or indirectly, through business, investment, or family:
 - Ownership or investment interest in any entity with which the Agency has a transaction or arrangement
 - A compensation arrangement with the Agency or with any entity or individual with which the Agency has a transaction or arrangement
 - A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Agency is negotiating a transaction or arrangement

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A financial interest is not necessarily a conflict of interest. A person who has a financial interest may have a conflict of interest only if the Board or committee decides that a conflict of interest exists.

- ◆ Interested Person: Any director, officer or member of a committee with Board delegated power who has a direct or indirect financial interest in Friends of the Arc Foundation, Inc.
- ◆ Agents: A Director, Officer, or Volunteer with Friends of the Arc Foundation, Inc. or a staff member of the The Arc Oneida-Lewis Chapter, NYSARC who assists with the mission of the Friends of the Arc Foundation, Inc.

Procedure:

Employee questions and concerns about potential conflicts will be directed to his/her supervisor and/or to the Corporate Compliance Officer of The Arc Oneida-Lewis Chapter. Supervisors shall consult with the Corporate Compliance Officer in responding to an employee's questions or concerns

All Friends of the Arc agents will avoid situations involving a conflict between his/her personal interests and the interests of Friends of the Arc Foundation, Inc.. Agency agents will avoid outside business interests that could compromise his/her commitment to Friends of the Arc Foundation, Inc. either by dividing loyalties or by diverting the energies and attention owed to the Agency in the normal course of his/her employment. Agency agents will always act in the best interest of Friends of the Arc Foundation, Inc. in all dealings with consumers, other staff members, volunteers, independent contractors, vendors and other agents.

Agency agents will disclose to his/her supervisor any possible conflict of interest upon hire or when a conflict arises by filling out a Conflict of Interest Disclosure Statement.

Examples of potential conflicts that should be promptly and fully disclosed include:

- ◆ Ownership by an Arc Oneida-Lewis employee or a member of an employee's immediate family of a significant financial interest in a business enterprise that does business with, seeks to do business with, or is a competitor of Friends of the Arc Foundation, Inc..
- ◆ Serving as a director, officer, consultant, or in any other key role in any outside enterprise that does or seeks to do business with, or is a competitor of Friends of the Arc Foundation, Inc..
- ◆ Maintaining outside employment which a) interferes with the Arc Oneida-Lewis employee's scheduled work time for Friends of the Arc Foundation, Inc.; b) impairs the employees effectiveness; c) results in adverse publicity; or d) conflicts or appears to conflict in any way with the interests of Friends of the Arc Foundation, Inc..

Duty to Disclose:

In connection with any actual or perceived conflicts of interest, an interested person must annually disclose the existence of his/her financial interest and must be given the opportunity to disclose all material facts to the directors and members of committees with Board delegated powers considering the proposed transaction or arrangement.

Determining Whether a Conflict of Interest Exists:

After disclosure of the financial 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.

Procedures for Addressing the Conflict of Interest:

An interested person will make a presentation to 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. The Chairperson of the Governing Board or committee will, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. After exercising due diligence, the Governing Board or committee will determine whether the Agency 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.

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

Possible Recommendations for Conflict(s) of Interest:

Disclosure: The disclosure regarding a volunteer's other interest is worthy of the Board's attention; but the disclosure itself, and the Board's awareness of the disclosure, is considered sufficient to correct for any bias. The Board will take the information into account as the volunteer participates in decision-making activities.

Recusal: The interest disclosed affects an important policy or program for the Agency. To assure decision-making is without bias the volunteer will recuse himself/herself when the Governing Board takes reports, debates, or makes decisions, regarding that policy or program.

Resignation: The other interest relates to a continuing, pervasive, and important Board function which cannot be easily isolated on an agenda so as to permit recusal. The volunteer will be asked to resign his/her position to ensure the other interest does not intrude upon and skew Board decision-making.

Violations of the Conflict of Interest Policy:

If the Governing Board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it will inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

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 will take appropriate disciplinary and corrective action.

Recording of the Proceedings:

The minutes of the Governing Board and all committees with Board-delegated powers will contain:

- ◆ 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
- ◆ 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.

Compensation:

A voting member of the Governing Board or any committee who receives compensation, directly or indirectly from the Agency for services is precluded from voting on matters pertaining to that member's compensation.

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

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

Annual Statements:

Each director, principle officer and member of a committee with Governing Board delegated powers will annually sign a statement which affirms such person:

- ◆ Has received a copy of the Conflict of Interest policy
- ◆ Has read and understands the policy
- ◆ Has agreed to comply with the policy
- ◆ Understands the Agency is charitable and in order to maintain its tax-exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes

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Annual Reviews:

To ensure Friends of the Arc Foundation, Inc. operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its tax-exempt status, annual reviews shall be conducted. The annual review will, at a minimum, include the following:

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

- ◆ Whether partnerships, joint ventures, and arrangements with management organizations conform to the Agency'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.

Use of Outside Experts:

In conducting the annual reviews provided for in this Policy, Friends of the Arc Foundation, Inc. may, but need not, use outside advisors. If outside experts are used, their use will not relieve the Board of its responsibility for ensuring that annual reviews are conducted.

Loans:

No loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through the ordinary deposit of funds in a bank, will be made by the Agency to its directors or officers, or to any other corporation, firm, association or other entity in which one or more of its directors or officers hold a substantial interest.

Compliance with Laws:

It is the intention of Friends of the Arc Foundation, Inc. that in all matters related to the Agency, all members of the Governing Board, corporate officers and members of committees with Board delegated powers will adhere to applicable Federal and State laws and regulations. If there is doubt as to the legality of any action or transaction, reasonable legal assistance will be obtained.

Investigations:

The Corporate Compliance Officer of the Arc Oneida-Lewis will make a determination and, if necessary, conduct an investigation as to any violation of this Conflict of Interest policy. Any disciplinary action taken or any contingencies put in place to resolve the conflict shall be clearly documented.

Next Review: As Needed

Author: The Arc Oneida-Lewis Chapter Compliance Officer with amendments by Assistant Comptroller in derivation.

Approved by: _____

Date: _____

Attachments: Conflict of Interest Disclosure Statement

**Friends of the Arc Foundation, Inc.
DIRECTORS AND OFFICERS
ANNUAL CONFLICT OF INTEREST DISCLOSURE FORM**

The undersigned, being an officer and/or director of the Friends of the Arc Foundation, Inc., hereby certifies as follows:

___ I have heretofore disclosed to the Board of Directors of the Friends of the Arc Foundation, Inc., any interest that I have in any corporation, firm, association or entity that has entered into any contract or other transaction with the Friends of the Arc Foundation, Inc. as stated below.

___ I have no interest, in any corporation, firm, association or entity that has entered or is considering entering into any contract or other transaction with the Friends of the Arc Foundation, Inc.

Signature

Date

Printed Name