



CONFLICT OF INTEREST POLICY

Adopted 1/25/2019

Purpose

The purpose of this conflict of interest policy is to ensure that the directors, officers and key persons of NACE act in the association's best interest and comply with applicable legal requirements.

This Policy is also intended to protect NACE's interests when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Covered Person.

Covered Persons

This policy applies to any director, officer or key person of NACE, referred to as "**Covered Persons**" in this policy statement.

A "**Key Person**" is any person other than a director or officer, whether or not an employee of NACE, who:

- Has responsibilities, or exercises powers or influence over NACE as a whole similar to the responsibilities, powers, or influence of directors or officers
- Manages the association, or a segment of the association that represents a substantial portion of the activities, assets, income or expenses of
- Alone or with others controls or determines a substantial portion of the NACE's expenditures or operating budget.

Conflict of Interest

In general terms, a **Conflict of Interest** is a transaction or relationship which presents or may present a conflict between a Covered Person's obligations to NACE and the Covered Person's personal, business or other interests. A conflict of interest relationship may arise without a financial interest, such as when a board member serves as an officer or director of a different nonprofit organization in the food, beverage, hospitality or similar industry.

Potential Conflicts of Interest

Specifically, a "**Potential Conflict of Interest**" may arise when a Covered Person:

- A Covered Person has a financial interest in a transaction or arrangement of NACE which would trigger review as a Related Party Transaction
- A Covered Person has a non-financial interest in a transaction or arrangement of NACE
- A Covered Person Receives compensation for services, directly or indirectly, from NACE
- A Covered Person's obligation to further NACE's purposes and to act for the benefit of NACE is otherwise at odds with such Covered Person's own interests, such as through personal relationships with family members, friends and employees with whom NACE has a relationship or who represent entities with which NACE has a relationship
- A Covered Person is an officer, director, or trustee of an organization that competes with NACE or serves the same interests as NACE. If there is any uncertainty, a Covered Person is encouraged to treat the relationship as a Potential Conflict of Interest.
- A Covered Person or a relative of a Covered Person is an officer, director, trustee, member, owner or employee of any entity with which NACE has a relationship

Related Party Transactions

A “**Related Party Transaction**” is a type of conflict of interest. A “**Related Party Transaction**” is any transaction, agreement or any other arrangement in which a Related Party has a financial interest and in which NACE, or any entity controlled by NACE or in control of NACE, is a participant, except that a transaction is not be a Related Party Transaction in any of the following cases:

- The transaction or the Related Party’s Financial Interest in the transaction is *de minimis*
- The transaction would not customarily be reviewed by the Board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms
- The transaction constitutes a benefit provided to a Related Party solely as a member of a class of the beneficiaries that NACE intends to benefit as part of the accomplishment of its mission, which benefit is available to all similarly situated members of the same class on the same terms.

Financial Interest

Any financial interest, including, directly or indirectly, through business, investment, or family:

- An ownership or investment interest in any entity with which the Corporation has, or is considering entering into, a transaction or arrangement
- A compensation arrangement with NACE or with any entity or individual with which NACE has, or is considering entering into, a transaction or arrangement
- A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which NACE is negotiating a transaction or arrangement. For these purposes, compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial in nature.

Duty to Disclose

Promptly upon becoming aware of any Potential Conflict of Interest, a Covered Person must disclose the existence of such Potential Conflict of Interest to the NACE board by submitting all material facts in written or electronic form to the Secretary or the Executive Director.

The Secretary will provide such information to the President and to the other directors considering the proposed transaction or arrangement.

Disclosures shall be made, as appropriate:

- Prior to the Covered Person first becoming associated with NACE, or prior to a Director’s election or appointment
- At the time the Covered Person acquires the financial or other interest giving rise to the Potential Conflict of Interest
- At the time of the Covered Person’s annual disclosure statement
- At the time the Covered Person learns that NACE is considering a transaction or arrangement in which such Covered Person has a Potential Conflict of Interest.

If the Covered Person is the Secretary, disclosure will be made to the President.

Related Parties

A “**Related Party**” is any:

- (a) Director, officer or key person of NACE, or of any entity controlled by NACE or in control of NACE or any Affiliate of the Corporation
- (b) Relative of any individual described in (a)

- (c) Entity in which any individual described in (a) or (b) has a 35% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of 5%

A **Relative** is an individual's spouse or domestic partner, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, or spouse or domestic partner of brothers, sisters, children, grandchildren and great-grandchildren.

Determining Whether A Related Party Transaction or Other Conflict of Interest Exists

A Covered Person may disclose a Potential Conflict of Interest as a Related Party Transaction, or as an actual Conflict of Interest. Otherwise, such determination shall be made by the board of directors.

After disclosure of the Potential Conflict of Interest and all material facts, the board may request that the Covered Person present information or answer questions.

After any discussion with the Covered Person, he/she shall leave the board meeting while the Potential Conflict of Interest is discussed and voted upon, and the remaining board members shall decide if the Potential Conflict of Interest requires review as a Related Party Transaction, requires review as another Conflict of Interest, falls under one of the exceptions to Related Party Transactions listed above, or otherwise does not represent a Conflict of Interest.

Procedures for Related Party Transactions

In accordance with the N-PCL, any Related Party who has an interest in a Related Party Transaction must disclose in good faith to the board the material facts concerning such interest.

No Related Party may participate in deliberations or voting relating to a Related Party Transaction in which such party has an interest; provided, however, that nothing in this Policy shall prohibit the board from requesting that a Related Party present information as background or answer questions concerning a Related Party Transaction at a meeting of the Board prior to the commencement of deliberations or voting relating to such transaction.

NACE shall not enter into any Related Party Transaction unless the transaction is determined by the board to be fair, reasonable and in the Corporation's best interest at the time of such determination.

Any transaction in violation of this section shall be voidable by NACE.

Procedures for Addressing a Conflict of Interest Not Involving a Related Party Transaction

If it has been determined that a Conflict of Interest not involving a Related Party Transaction exists:

- The Covered Person may present information as background or answer question at the board meeting, but after such presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the Conflict of Interest
- The board will determine by a majority vote of the disinterested Directors present at the meeting whether to approve the transaction. In no event shall the person with the conflict attempt to influence improperly the deliberations or voting on the matter giving rise to the Conflict of Interest.

Compensation and Reimbursement

Transactions related to compensation of directors, officers, key persons or other employees must be reasonable and commensurate with services performed, and the person who may benefit may not be present at or participate in any board or committee deliberation or vote concerning such person's compensation or reimbursement (although he or she may be present before deliberations at the request of the Board in order to provide information or answer questions).

Notwithstanding the foregoing, a director may deliberate and vote concerning compensation for service on the board that is to be made available or provided to all directors of NACE on the same or substantially similar terms. The fixing of compensation of officers shall require the affirmative vote of a majority of the entire Board.

Quorum

Directors who are present at a meeting but not present at the time of a vote due to a Related Party Transaction or other Conflict of Interest shall be considered present at the time of the vote.

Violations of the Conflict of Interest Policy

If the board has reasonable cause to believe that a Covered Person has failed to disclose a Conflict of Interest or Potential Conflict of Interest, it shall inform such person of the basis for such belief and afford the Covered Person an opportunity to explain the alleged failure to disclose.

If, after hearing the Covered Person's response and after making further investigation as warranted by the circumstances, the board determines the Covered Person has failed to disclose a Conflict of Interest or Potential Conflict of Interest, it shall take appropriate corrective action.

Records of Proceedings

The minutes of the board reviewing a Related Party Transaction, other Conflict of Interest or Potential Conflict of Interest shall be prepared on a contemporaneous basis and shall contain, as appropriate:

- The names of the persons who disclosed or otherwise were found to have a Conflict of Interest or a Potential Conflict of Interest, the nature and material facts of the interest, any action taken to determine whether a Conflict of Interest was present, and the board's decision as to whether a Related Party Transaction or other 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
- A statement that the transaction was found to be "fair, reasonable and in NACE's best interest at the time of such determination" (required for Related Party Transactions).

Conflict of Interest Statements

Promptly following adoption of this Policy, and thereafter prior to the initial election or appointment of any director or officer, or the initial hiring of any key person, each Covered Person shall complete, sign and submit to the Secretary or Executive Director a Conflict of Interest Statement using an official form.

At least annually thereafter, or upon any relevant change of circumstances, each Covered Person shall submit either

- (a) a revised Conflict of Interest Statement; or
- (b) an Update of Conflict of Interest Statement which certifies that the prior statement remains unchanged except as disclosed therein

The Secretary shall provide a copy of all completed statements and certifications to the President who will review the disclosed information to assess whether any disclosed relationships raise Conflicts of Interest or Potential Conflicts of Interest and to determine appropriate steps to manage or resolve such conflicts.

A copy of each disclosure statement shall be available to any director on request.

Compliance

This Policy is intended to supplement, but not replace, any applicable state and federal laws governing conflict of interest applicable to non-profit and charitable organizations. This Policy is designed to be consistent with the requirements of the New York Not-for-Profit Corporation Law as revised by the Non-Profit Revitalization Act of 2013 and subsequent amendments thereto ("**N-PCL**").