



Ellen Meadows Prosthetic Hand Foundation (EMPHF)

Conflict of Interest Policy

(For Board Members)

ARTICLE I

Purpose

The purpose of the conflict of interest policy is to protect EMPHF'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. **Conflict of Interest.** This policy applies to: Any director, principal officer, or member of a committee with governing board delegated powers, who has a financial, personal, or professional interest that could be perceived as affecting one's ability to act in the best interest of the organization. A potential conflict of interest arises when a Director or that person's relative or business: (a) stands to gain a financial benefit from an action the Corporation takes or a transaction into which the Corporation enters; or (b) has another interest that impairs, or could be seen to impair, the independence or objectivity of the director, officer or key person in discharging their duties to the Corporation.
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.

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.

3. United States Code. All references to the United States Code include references to the statute as amended or any corresponding section of any future law.

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 the interested person, the individual 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, the interested person 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.
- e. For other conflicts, the board member is required to disclose the conflict and is not to participate in discussion or voting on the topic of the conflict unless the majority of the board agrees to permit the participation.

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 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 which accomplish one or more of its tax-exempt purposes.

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.

ARTICLE IX

Restrictions on Grants and Grant Recipients

When making grants, neither the Organization nor the Grant Making Committee shall make grants to Improper Grantees.

1. **Improper Grantees.** Persons subject to the restrictions under Sections 2 and Sections 3 of this Article IX are considered “Improper Grantees.”
2. **General Restrictions.** When making grants to private individuals, the Organization shall not make grants to: “substantial contributors” to the Organization, as defined in 26 U.S.C. § 507(d)(2), or to members of their immediate families; to officers, directors, or members of the Grant Making Committee of the Organization, or to members of their immediate families.
3. **Disqualified Persons.** The Organization and the Grant Committee shall not make grants to “disqualified persons” or to “family members” of such “disqualified persons.” For this purpose “disqualified persons” or “family members” are defined in 26 U.S.C. § 4958 (the Excess Benefits tax rules). In general, a “disqualified person” includes a person who in the past 60 months exercised substantial influence over the Organization, or was a “family member” of that “disqualified person.” In general, a person’s “family members” include: his or her spouse, ancestors, children, grandchildren, great grandchildren, and spouses of the same, as well as his or her brothers and sisters and their spouses.
4. **Special Restrictions.** Only if the Organization were to be classified by the Internal Revenue Service as a “private foundation,” under 26 U.S.C. § 509(a), the Organization and the Grant Committee shall not make grants that would trigger private foundation excise taxes under Chapter 42 of the Internal Revenue Code, 26 U.S.C. § 4940, *et. seq.* Specifically, the Organization and the Grant Committee shall not make grants to influence legislation, influence elections, or carry on voter registration drives. In addition, the Organization and its Grant Committee, shall not make grants for individual travel, study, or similar purposes unless such

grants are made on an objective and non-discriminatory basis pursuant to a pre-approved grant program under 26 U.S.C. § 4945(g).

5. Grants to Other Organizations. If grants are made to other organizations, such organizations must be: classified as charities under 26 U.S.C. § 501(c)(3); must be publicly supported and cannot be a “private foundation” under 26 U.S.C. § 509(a); and must be eligible to receive charitable gifts under 26 U.S.C. § 170(c).

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