



AMERICAN CANYON ARTS FOUNDATION

Board of Director's Policy Manual

Conflict of Interest Policy

Adopted/Revised:
October 9, 2013

I. Purpose/Intent

Directors, officers, and employees are expected to use good judgment, to adhere to high ethical standards, and to conduct their affairs in such a manner as to avoid any actual or potential conflict between the personal interests of a director, officer or employee and those of the American Canyon Arts Foundation (ACAF). A conflict of interest exists when the loyalties or actions of a director, officer, or employee are divided between the interests of ACAF and the interest of the director, officer, or employee. Both the *fact* and the *appearance* of a conflict of interest should be avoided.

When a conflict of interest exists, the intent of this policy is to ensure the conflicted individual abstains from voting on the matter, or even participating in the discussion.

II. Authority

State law has provisions relating to conflicts of interest (known as "self-dealing transactions") when a Director has an interest in a decision before the Board (see CA Corporations Code, section 5233). Article 5, Section 8 of our By-Laws requires a Board member with a conflict of interest to abstain from voting on the issue in question. The Board of Directors has the authority to establish policies under Article 12, Section 2 of the By-Laws, and approved this policy by adopting Resolution 2013-02.

III. Policy

Section One: Definitions

1. *Interested Person*: Any director or officer who has a direct or indirect financial interest, as defined below, is an interested person.
2. *Compensation*: Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.
3. *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 ACAF has a transaction or arrangement,
 - b. A compensation arrangement with ACAF or with any entity or individual with which ACAF has a transaction or arrangement, or
 - c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which ACAF is negotiating a transaction or arrangement.
4. *Person* means any individual, trust, estate, partnership, association, company or corporation.

Section Two: 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 Board.

Section Three: Determining Whether a Conflict of Interest Exists.

1. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board members shall decide if a conflict of interest exists.
2. 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 decides that a conflict of interest exists. However, it is the intent of this policy for the Board, when in doubt, to err on the side of declaring a conflict of interest exists.
3. If the Board declares a conflict of interest exists, then the board member affected shall refrain from voting on the matter and will remove him or herself from the meeting and any further discussion.

Section Four: Procedures for handling a Conflict of Interest

1. After exercising due diligence, the Board shall determine whether ACAF can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to the conflict of interest.
2. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in ACAF'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.
3. The Board minutes shall contain the names of the persons who disclosed or otherwise were found to have an actual or possible conflict of interest, and the Board's decision as to whether a conflict of interest in fact existed. The minutes shall also contain whether there was discussion of any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Section Five: Board Member Compensation

1. Pursuant to Article 5, Section 7, Board members receive no compensation for serving on the Board. However, Board members may be compensated for services rendered in a capacity other than serving on the Board. In such cases, the Board member in question shall not participate in the discussions or the decision to approve compensation. This prohibition does not preclude the Board member from providing information regarding his or her compensation.
2. This provision does not apply to the reimbursement of reasonable business expenses of any Board member.

Section Six: Annual Statements

1. Each Board member shall annually sign a statement which affirms such person has received a copy of the Conflict of Interest policy; read and understands the policy; and agrees to comply with that policy.
2. Each Board member shall also disclose any potential financial interests he or she may have which may become a potential conflict of interest.
3. A copy of the statement is included as an attachment to this policy.

Section Seven: Periodic Review

1. To ensure ACAF operates in a manner consistent with its 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 ACAF'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.
2. These reviews should be conducted every 3-5 years.
3. This review can be conducted by an advisory committee appointed by the Board, or by an outside firm. The review may also be integrated into any periodic financial review approved by the Board.

Section Eight: Violation of the Conflict of Interest Policy

1. If the Board has reasonable cause to believe a board member has failed to disclose actual or possible conflicts of interest, the Board President shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
2. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action. The Board member in question shall not vote on the matter.
3. Such corrective actions may include, but are not limited to; rescinding any action taken that included the affected Board member's vote; requiring the Board member to reimburse ACAF for any additional costs associated with the action, compared to any alternative transaction; or removing the Board member from office.

**AMERICAN CANYON ARTS FOUNDATION
ANNUAL AFFIRMATION AND DISCLOSURE STATEMENT**

The American Canyon Arts Foundation (ACAF) is a public benefit nonprofit corporation 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. Allowing Board members or officers to participate in a decision in which they have a conflict of interest jeopardizes that status.

The ACAF Conflict of Interest Policy requires ***an annual affirmation that you have received, read, understand, and agree to comply with the Conflict of Interest Policy.*** In addition, the Policy requires that you annually disclose

- (1) Your affiliations with any organization with which ACAF may have a financial relationship, and
- (2) Persons with whom you have a close relationship (such as a family member or close companion) who are affiliated with any organization with which ACAF may have a financial relationship.

Please sign this Statement indicating your affirmation as described above. Also, please disclose any applicable affiliations *known to you at this time.*

Please return this Statement to the ACAF Executive Director or Board President by January 31.

Print Your Name: _____

Signature: _____ Date: _____

Business/Organization	Nature of Affiliation/Close Relation

Additional affiliations are attached.

Received/Reviewed by: _____ Date: _____