

Appendix A: Sample Conflict of Interest Policy

Note: Items marked *Hospital insert – for hospitals that complete Schedule C* are intended to be adopted by hospitals.

Article I Purpose

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (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. Interested Person

Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

[Hospital Insert – for hospitals that complete Schedule C

If a person is an interested person with respect to any entity in the health care system of which the organization is a part, he or she is an interested person with respect to all entities in the health care system.]

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
- 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.

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, 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

- 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.
- 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.
- 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.
- 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.

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.

[Hospital Insert – for hospitals that complete Schedule C

- d. Physicians who receive compensation from the Organization, whether directly or indirectly or as employees or independent contractors, are precluded from membership on any committee whose jurisdiction includes compensation matters. No physician, either individually or collectively, is prohibited from providing information to any committee regarding physician 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 conflicts 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.



READY REFERENCE PAGE

NO. 39
FOR YOUR FILE

Conflict of Interest Policies Help Avoid Problems

In addition to protecting against embarrassment and loss of contributions, policies can provide protection against possible excess benefits tax violations

For charities dependent upon public contributions for their success, a conflict of interest scandal can be devastating. It can erode public confidence in their organization and jeopardize the entire program.

It can also be expensive for the individuals involved under the excess benefits tax rules. The IRS can impose a tax on any “disqualified person,” including any officer, director or other person in a position to exercise substantial influence over the affairs of the organization in the last five years who receives more from the organization than is provided in return. (See Ready Reference Page: “Charities Must Avoid Excess Benefit Transactions”)

State law may be fairly relaxed on conflicts, in some cases providing that a transaction is not voidable if the conflict relationship is disclosed to the board (or members if the corporation has voting members) and the transaction is approved by an independent majority of the board or membership (even if not fair), or if the transaction is fair to the corporation when entered into. If the relationship is not disclosed, however, the fairness test will generally be looked at after the fact, when the deal has gone sour.

Charities and other nonprofits can clearly benefit from a stated Conflict of Interest Policy, tailored to their own situation and followed by all. Although most policies cover financial conflicts of interest, boards should realize that it is also possible for directors to have positional conflicts on matters of policy that may not be fully covered by a policy limited to financial interests.

Although some organizations include conflicts provisions in their bylaws, more deal with the issue in a Resolution. The Internal Revenue Service has published a suggested conflicts policy, primarily for health care organizations, which was slightly revised and published in its Continuing Professional Education Manual for 2000.

A somewhat different policy, with a few comments in italics, is set out below. Additional language for grantmaking organizations is included in [brackets].

* * * * *

CONFLICT OF INTEREST POLICY

WHEREAS, the Board of Directors of _____ (the “Organization”) has consistently followed a policy of avoiding a conflict of interest or the appearance of such conflict on the part of the members of the Board and staff; and

WHEREAS, the policy of the Board has been to include representatives of clients of the Organization as well as others on the Board; (This provision obviously may not be applicable in all situations.) and

WHEREAS, it is desirable that the policy to avoid conflicts of interest be clarified and spelled out in a Resolution of the Board; NOW, THEREFORE, BE IT RESOLVED, that this Board hereby adopts the following policy with respect to possible conflicts of interest among the members of the Board and the staff of the Organization:

Service on the Board of the Organization is purely voluntary and shall not be used as a means for private benefit or inurement. *(This provides the basis for removal of anyone who uses his or her position for private gain, including a diversion of corporate opportunity. It also provides a basis to object to a member exercising authority in a situation involving a positional conflict.)*

No member of the Board who is a vendor of goods or services to the Organization or is affiliated (as defined below) with any vendor of goods or services to the Organization shall vote on, or participate on behalf of the Organization in the administration of, any contract with such vendor. *(This assures that no one will act personally in a conflict situation.)*

No member of the Board who is a recipient of [grants,] goods or services from the Organization or is affiliated (as defined below) with a recipient of [grants,] goods or services from the Organization shall vote on, or participate on behalf of the Organization in the administration of, any contract or other arrangement with such recipient.

Such member shall, upon request of any member of the Board, leave any meeting for the period of time the Board (of any committee thereof) is discussing any arrangement with which he or she has an affiliation. *(State law may permit a board member to remain in the meeting while his or her transaction is being discussed, a "chilling" situation for discussion by the other board members. This requires them to leave if anyone so requests. It does not prevent the member from discussing the issue while in the room, which can often help to clarify the situation for those in doubt.)*

No individual or entity with which a member of the Board or staff is affiliated shall receive any special consideration by the Board or staff. There shall be no variation in the procedures for processing [grants to or] contracts with such affiliated entities or individuals, except that additional scrutiny may be applied to such consideration, and the Organization shall follow such procedures as are necessary or appropriate to assure that the transaction does not constitute an "excess benefit transaction" under the Internal Revenue Code. *(It is worth a specific reminder of the excess benefits rules and the necessity for independent review and approval after comparison with comparable situations.)*

No member of the staff of the Organization shall, without previous approval of the President, be, or be affiliated with, either a vendor to, or recipient of [grants,] goods or services from, the Organization.

A person shall be deemed to be affiliated with an entity if the person

- (a) serves as a member of a governing body of the entity,
- (b) serves as an officer or employee of the entity,
- (c) has a material economic relationship with the entity, *(Materiality is obviously a question of degree. Ownership of 100 shares of AT&T stock should not prevent the member from being involved in selecting the telephone provider, but having a spouse own the janitorial company*

seeking the organization's business would be material.) or

(d) if the person's spouse, parent, sibling, child, or member of the immediate household, holds such a position or has such a relationship. *(The inclusion of members of the immediate household is intended to cover a "significant other" living with the board member. Although such person has no legal relationship, the newspaper will point out the conflict.)*

A person shall be deemed to be affiliated with an individual if such individual is a spouse, parent, sibling, child, or member of the immediate household of such individual or has a material economic relationship with such individual.

Where a member of the Board or staff is unsure whether a conflict or an affiliation exists, he or she shall disclose the relevant facts to the President, or to the Board, and shall abide by the decision of the President or the Board as to the existence of a conflict or an affiliation.

A member of the Board shall advise the President of affiliation with any existing or proposed vendor or recipient of [grants,] goods or services in response to an annual questionnaire and at any other time when such member of the Board becomes aware of an affiliation which has not previously been disclosed. *(This requires both the annual certification and disclosure when a new conflict arises so that the Board will be able to act appropriately in every instance.)*

Nothing in this policy shall prevent a member of the Board who is or is affiliated with a recipient of [grants,] goods or services from the Organization from participating in discussions or decisions relating to the scope or quality of [grants,] goods or services provided generally to such recipient and other clients similarly situated. *(The policy is not intended to disenfranchise a board member, particularly a client representative, from debating general issues applicable to all persons similarly situated.)*

Attached to Conflict of Interest Policy:

Compliance with Pennsylvania Charitable Solicitation Registration Law

In addition, to satisfy the requirements of the Pennsylvania Solicitation of Charitable Funds Act, a member of the Board or staff shall advise the President in response to an annual questionnaire and at any other time when such person becomes aware of such relationship which has not previously been disclosed, if such person is related by blood, marriage or adoption to any other member of the Board of Directors, or to any officer, or employee of the Corporation or to any officer, agent or employee of any professional fund raising counsel or professional solicitor under contract with the Corporation, or to any supplier or vendor providing goods or services to the Corporation, and the names and business and residence addresses of any such related party.

Page Break

CONFLICT OF INTEREST DISCLOSURE STATEMENT

I have read and familiarized myself with the Corporation's Conflict of Interest Policy. I certify that I am not, and have no affiliation with, an existing or anticipated vendor to, or recipient of grants, goods or services from, the Corporation and have no information to report with respect to the Pennsylvania Solicitation of Charitable Funds Act, except:

(Please write "None" if you have no information to disclose)

Signature

Name

Position

Date

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**Policy on Conflicts of Interest
and Disclosure of Certain Interests**

Article I – Purpose

The purpose of this Policy on Conflicts of Interest and Disclosure of Certain Interests (“Policy”) is to assure that _____ (Name Grantee Organization) (“Grantee”), a grantee of _____ has procedures in place for the disclosure of certain interests and the protection against conflicts of interest in connection with transactions and arrangements that might benefit the private interest of a director, officer, employee or volunteer of the Grantee, or might result in a possible excess benefit transaction. This Policy is intended to supplement and not replace any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

Article II – Definitions

1. **Interested Person** means any director, officer, employee or volunteer, who has a direct or indirect financial interest, as defined below.

2. **Volunteer** means any person providing services to the Grantee without compensation, and includes any member serving on the board of directors of the Grantee or on any committee of the Grantee with board delegated powers.

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 the Grantee has a transaction or arrangement,

b. A compensation arrangement with the Grantee or with any person or entity with which the Grantee has a transaction or arrangement, or

c. A potential ownership or investment interest in, or compensation arrangement with, any person or entity with which the Grantee is negotiating a transaction or arrangement. Compensation includes direct and indirect remuneration, as well as gifts or favors.

The existence of a financial interest is not automatically a conflict of interest hereunder. Under Article III, Section 2, a person who has a financial interest has a conflict of interest only if the board of directors of the Grantee or the appropriate committee of the Grantee with board delegated powers determines that a conflict of interest exists.

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Article III – Procedures

1. **Duty to Disclose**

Every interested person must disclose the existence of a financial interest and be given the opportunity to disclose all material facts relating to such financial interest in connection with any proposed transaction or arrangement involving the Grantee and the interested person. Such disclosure must be made to the board of directors of the Grantee or to the members of the appropriate committee of the Grantee with 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, he/she shall leave the meeting of the board or the appropriate 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 meeting of the board or committee, 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 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 board or committee shall determine whether the Grantee 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 board or committee shall determine by a majority vote of the disinterested directors or committee members whether the transaction or arrangement is in the Grantee's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, the board or committee 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 board or committee has reasonable cause to believe an interested person has failed to disclose actual or possible conflicts of interest, it shall inform the interested person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

b. If, after hearing the interested person's response and after making further investigation as warranted by the circumstances, the board or committee determines the



interested person 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 board of directors of the Grantee 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 decision of the board or committee 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 board who receives compensation, directly or indirectly, from the Grantee 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 Grantee for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Grantee, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI – Annual Statements

Each director, officer, employee and volunteer shall annually sign a statement, which affirms that such person:

- a. Has received a copy of this Policy,
- b. Has read and understands this Policy,
- c. Has agreed to comply with this Policy, and
- d. Understands that the Grantee is charitable and, in order to maintain its federal tax exemption, must engage primarily in activities which accomplish one or more of the Grantee's tax-exempt purposes.

Article VII – Periodic Reviews

To ensure the Grantee 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 the Grantee'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 Grantee may, but need not, use outside advisors. If outside advisors are used, their use shall not relieve the board of its responsibility for ensuring periodic reviews are conducted.

Principle of Ethical Conduct and Whistleblower Policy

A. General

The _____ (“Corporation”) is committed to facilitating open and honest communications relevant to its governance, finances, and compliance with all applicable laws and regulations. The Corporation’s goal is for each director, officer, employee and volunteer (individually, “Representative” and collectively, “Representatives”), whether full-time or part-time, to conduct him or herself in an honest and principled fashion, and to act in good faith with others, both within and outside of the Corporation (the “Principle of Ethical Conduct”). The Corporation expects that Representatives will comply with the letter and spirit of the Principle of Ethical Conduct.

B. Responsibility

All Representatives must adhere to the Principle of Ethical Conduct and submit a good faith report of a suspected Impropriety, in accordance with Section C.

“Impropriety” means an act or failure to act with the intention of obtaining an unauthorized benefit for any private person or entity, or any action or inaction, whether or not intentional, which is or may be a violation of any statute, regulation or Corporation policy, including the Principal of Ethical Conduct.

“Good faith” means that the Representative making the report has reasonable grounds for believing the report is true and accurate and the conduct may be an Impropriety.

Any report not made in good faith will subject the Representative to serious disciplinary action, including possible termination of employment or termination of status as an officer or member of the board.

C. Reporting Procedures

Generally, if a Representative possesses a good faith belief that another Representative has taken an action or failed to take an action that has or will result in an Impropriety, he or she must promptly report the matter to the President, subject to the following qualifications:

1. If the suspected violation involves the President or if the Representative is uncomfortable reporting the matter to the President, the Representative shall report the matter to the Treasurer.
2. If the Representative is not comfortable reporting the matter to the Treasurer, the Representative shall report the matter to any other member of the Board of Directors.

The report may be made anonymously.

D. Handling of Reported Violations

A Representative who is the recipient of, or investigating, a suspected commission of an Impropriety shall preserve the confidentiality of the Representative making the report to the greatest extent possible without impeding a full and fair investigation.

E. No Retaliation

If a Representative reports a violation of an Impropriety in good faith, he or she shall not suffer harassment, retaliation or adverse employment action, as a result. Any Representative who harasses, retaliates or takes any adverse action against the individual who reported the Impropriety in good faith shall be subject to discipline, including possible termination of employment or termination of status as an officer or member of the board. This provision shall not prohibit non-retaliatory adverse actions which are independently justified or required by circumstances unrelated to the report of an Impropriety.

Adopted: _____

RECORD RETENTION POLICY

INTRODUCTION

_____ (the “Foundation”) adopts the attached Record Retention Policy which policy is consistent with the Foundation’s commitment to its mission. Implementing a Record Retention Policy assists the Foundation to: meet legal standards for retention, storage and retrieval; optimize the use of limited space; minimize the costs of record retention; provide for consistency in the retention and destruction of records.

All Foundation employees shall comply with the standards set forth in this policy. The failure to do so may result in disciplinary action, including termination.

This policy provides a general guide for employees in performing their record retention responsibilities. It cannot address every issue that may arise.

Retention periods may increase by government regulations, judicial or administrative consent order, change in best practice standards, private or government contract, audit requirements, or pending litigation, investigation or other actions. The Foundation’s policy regarding “legal holds” is discussed below. If there are inconsistencies in the required retention periods, follow the longer retention period.

I. Definitions.

A. Record. For the purpose of this policy, a “record” is defined as information, regardless of medium or format, which has operational, institutional or legal value to the Foundation. Collectively the term is used to describe both documents and electronically stored information.

B. Retention Period. “Retention Period” is the amount of time a record shall be maintained. A Retention Period is measured from the last date that an item occurred or was in effect. For instance, a contract will be kept for seven years after the date the contract terminated or expired, as opposed to the date the contract began. Records which relate to minors must be kept until the minor attains majority and then for the applicable Retention Period.

C. Essential and Non-essential E-mails. Essential e-mails are e-mails which contain, in whole or in part, content which is otherwise subject to the Record Retention Policy and/or which is essential to the Foundation. Such e-mails should be saved to a computer hard-drive or printed in hard copy, but remain subject to the retention guidelines set forth in the attached Policy. Non-essential emails are e-mails which have no content subject to the Record Retention Policy and/or which have no content essential to the Foundation. Questions or concerns about the appropriate treatment of any e-mail document may be directed to the _____ [Title].

II. Record Retention Practices. In general, employees should maintain records only as long as necessary to comply with regulatory and legal requirements and the Foundation's business needs. Once the Retention Period for the record set forth in this policy has passed, the employee should destroy the records in accordance with the procedures identified below.

Due to the volume of records that are created during the ordinary course of doing business, there are substantial costs and administrative burdens associated with excessive record retention. The costs of retaining unneeded records include waste of file and storage space, additional expense incurred from outside records storage services, and unnecessary burdens on the Foundation's electronic information systems.

The length of time that a record must be maintained will depend upon the type of information contained in the record, statutory or regulatory requirements for its maintenance and applicable statutes of limitations. Not all documents will have a "legally" required period of retention. Where there is no legally required period of retention, the Foundation has assigned a reasonable time period. The form in which the record exists (documentary or an electronic form) will not determine the Retention Period.

III. Retention Schedule. Exhibit A, attached to this policy, is a schedule that provides the standards that all employees must follow in managing the Foundation's records. Only the most common types of documents are listed in this schedule.

IV. Record Storage Service. The Foundation uses the services of _____ for external document storage. Records that are not currently being utilized or are not required by law to remain "on-site" should be appropriately labeled and boxed for storage off site. The labels should sufficiently identify the content of the records, the department, the dates of the records, and the date they should be destroyed in accordance with the schedule set forth in Exhibit A.

V. Electronic Communications. This policy extends to electronic communications, which shall include all communications and information transmitted, received or contained in the Foundation's business equipment or information systems, including email, facsimile transmissions and voice mail.

VI. Email Communications. Email communications are a form of record and covered by this policy. Junk emails should be deleted immediately and removed from the network server. Non-essential emails should be deleted within thirty (30) days of receipt. Emails containing information subject to the Retention Schedule should be saved to a computer hard-drive or printed in hard copy.

VII. Legal Holds. There are occasions in which records, including electronic communications, that are otherwise scheduled for destruction must be retained due to a "legal hold." A valid "legal hold" is issued only by the _____ [Title] and suspends the destruction of records due to pending, threatened or otherwise reasonably foreseeable litigation, audits, government investigations or similar proceedings. No records specified in any Legal Hold may be destroyed, even if the scheduled destruction date has passed, until the hold is

withdrawn in writing by the _____ [Title] or _____ [Title]. A sample Legal Hold is attached as Exhibit B to this policy.

Once any employee learns of the institution of a legal proceeding or threatened legal proceeding (including any audit, subpoena, or government investigation) against the Foundation or its personnel, prompt notification should be given to the _____ [Title].

Notice of a Legal Hold, which will identify the relevant documents covered by the notice, will be provided by the Foundation to all appropriate personnel. All employees must follow the instructions set forth in the Legal Hold notice.

The Foundation takes very seriously its obligations to preserve information relating to litigation, audits, and investigations. It is a federal offense to destroy, alter or mutilate any record under federal investigation. The consequences of failing to retain items subject to a Legal Hold can be serious, including possible criminal and civil sanctions against the Foundation and its employees, and possible disciplinary action against responsible individuals (up to and including termination of employment).

VIII. Violations of Policy. Any actual or suspected violations of the Foundation's Record Retention Policy should be reported to the _____ [Title].

If you have any questions about compliance with or implementation of this Record Retention Policy, please contact the _____ [Title].

Date approved by the Board of the Foundation: _____, 20____.

EXHIBIT A
Retention Schedule

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Category	Documents	Retention Period
Contracts	<ul style="list-style-type: none"> ▪ Construction Contracts ▪ Loan documents ▪ General Vendor contracts 	<ul style="list-style-type: none"> ▪ Permanent ▪ Permanent if there are terms which survive payment of the loan ▪ Seven (7) years after termination/expiration of the agreement and all terms contained in the Agreement
Corporate Records	<ul style="list-style-type: none"> ▪ Evaluation of other organizations, businesses and general business matters ▪ Due Diligence Files ▪ Articles of Incorporation ▪ Bylaws ▪ Board-related documents (corporate charters, by-laws, minutes, corporate documents, agenda) ▪ Intellectual property (Trademarks, patents, copyrights) ▪ Closed litigation files ▪ Executed contracts with other parties ▪ Drafts of contracts ▪ Compliance documents ▪ Documents related to subpoena requests or court orders ▪ Conflict of Interest Policy, Amendments ▪ Annual Conflict of Interest Disclosure Statement (signed by all Board members and employees) ▪ Nondisclosure Statements ▪ Board self-appraisals/evaluation ▪ Policies and Procedures 	<ul style="list-style-type: none"> ▪ Ten (10) years ▪ Life of contract plus seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Five (5) years after disposition ▪ Permanent ▪ Seven (7) years ▪ Permanent ▪ Seven (7) years after implementation of new policy and procedure
Electronic Media	<ul style="list-style-type: none"> ▪ E-mail 	<ul style="list-style-type: none"> ▪ Junk – Delete immediately (Department Head approval not required) ▪ Non-essential – Delete after thirty (30) days (Department Head approval not required) ▪ Essential e-mails – Save out of inbox using the file system (save to source other than the email server, such as network drive, hard media or other recoverable format) and then subject to retention schedule

Category	Documents	Retention Period
<p>Employment-related: -- <u>Legal Requirements:</u></p> <ul style="list-style-type: none"> ▪ Title VII, Civil Rights Act of 1964 and the Americans with Disabilities Act 	<ul style="list-style-type: none"> ▪ Any personnel or employment records, including: <ul style="list-style-type: none"> ▪ application forms and records concerning hiring, promotion, demotion, transfer, layoff and rates of pay; ▪ requests for reasonable accommodations. ▪ Records concerning charges of bias or discrimination ▪ EEO-1 Forms ▪ Records on the effect of hiring procedures on women and minorities 	<ul style="list-style-type: none"> ▪ Three (3) years from date of record creation or personnel action (whichever is later) ▪ Until final resolution of matter ▪ Copy of most recently filed report must be maintained ▪ Three (3) years
<ul style="list-style-type: none"> ▪ Age Discrimination in Employment Act ▪ Fair Labor Standards Act 	<ul style="list-style-type: none"> ▪ Employee payroll records (including weekly compensation) and rate of pay ▪ Employment or personnel records relating to applications, resumes, promotions/demotions, layoffs ▪ Employee benefit plans ▪ Basic records relating to employee compensation, including: <ul style="list-style-type: none"> ▪ payroll records; ▪ individual employment contracts; ▪ certificates and notices of Wage and Hour administrator; ▪ sales and purchase records ▪ Supplementary basic records including: <ul style="list-style-type: none"> ▪ work schedules; ▪ basic employment and earnings records; ▪ wage rate tables; ▪ records of additions or deductions from wages paid; ▪ order, shipping and billing records; ▪ records of changes in compensation rates; ▪ documentation for basis of any wage differences to employees of opposite sex. 	<ul style="list-style-type: none"> ▪ Three (3) years ▪ Three (3) years from date of personnel action to which record relates ▪ One (1) year after termination of plan ▪ Three (3) years ▪ Three (3) years

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Category	Documents	Retention Period
<p>Employment-related (cont.):</p> <ul style="list-style-type: none"> ▪ Executive Order No. 11246 (for federal contractors/subcontractors) ▪ Immigration Reform and Control Act ▪ Employment Policies ▪ Benefits ▪ Payroll 	<ul style="list-style-type: none"> ▪ Certificates of Age ▪ Affirmative action programs and supporting documentation, including job files ▪ INS Form I-9 ▪ Records concerning the adoption of policies and procedures ▪ Personnel files ▪ Records concerning employment claims ▪ Plan documents, summary plan descriptions and related documents ▪ Provider contracts, records concerning plan administrators and related and similar records ▪ Records concerning pension or 401(k) eligibility ▪ Records concerning health and welfare plan eligibility ▪ All payroll-related documents 	<ul style="list-style-type: none"> ▪ Termination of employment ▪ Two (2) years from the date record was made or personnel action occurred, whichever is later ▪ Current and prior year's AAP must be maintained on site ▪ Three (3) years after date of hiring or one year after employee's termination, whichever is later ▪ Seven (7) years ▪ Five (5) years following termination of employment ▪ Until resolution of claim ▪ Permanent ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years

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Category	Documents	Retention Period
<p>Financial</p> <ul style="list-style-type: none"> ▪ Sarbanes Oxley Compliance ▪ Tax 	<ul style="list-style-type: none"> ▪ Audit records of Public Accountants (including audit, audit management letter, annual report and audit workbook of supporting schedules) ▪ General ledgers ▪ Year-end financial statements ▪ Accounts payable ledgers and schedules ▪ Account receivable ledgers and schedules ▪ Expense reports ▪ Invoices ▪ Purchase Orders ▪ Bank statements, deposit forms, supporting documentation ▪ Correspondence ▪ Canceled checks ▪ Asset purchase records for depreciable property ▪ Charts of accounts ▪ Year-end Financial Statements ▪ Depreciation Schedules 	<ul style="list-style-type: none"> ▪ Permanent ▪ Permanent ▪ Permanent ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Four (4) years ▪ Retention period may vary depending on subject matter ▪ Seven (7) years/Permanent for major payments/purchases ▪ Depreciable "life" of the property plus seven (7) years ▪ Permanent ▪ Permanent ▪ Permanent ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Permanent ▪ Permanent
<p>General Communications</p>	<ul style="list-style-type: none"> ▪ Federal income tax returns ▪ Supporting data (work papers, sales and use tax reports) ▪ State and local income, sales and use ▪ Property tax exemption documents ▪ Original Form 1023 application ▪ Annual reports ▪ Photos ▪ Press clippings/releases ▪ Research reports/surveys ▪ Other publications 	<ul style="list-style-type: none"> ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years

Category	Documents	Retention Period
Grantmaking	<ul style="list-style-type: none"> ▪ Grantee files ▪ Due Diligence Files ▪ Approved grants – all documentation supporting grant payment, including applications, recommendation, due diligence, grant agreement letters, and grant transmittal letters ▪ Approved grants – post-grant reporting information, outcome analysis ▪ Records from committees, including minutes, if any and lists of grants recommended for approval ▪ Scholarship grant records, including application, if the Foundation participates in selection decisions ▪ Declined and/or withdrawn grant applications 	<ul style="list-style-type: none"> ▪ Seven (7) years ▪ Seven (7) years ▪ Seven (7) years after completion of funded program, or date of grant if general operating support ▪ Permanent ▪ Seven (7) years ▪ Seven (7) years
Investment-related	<ul style="list-style-type: none"> ▪ Performance reports ▪ Fund-specific documents ▪ Manager performance ▪ Manager contracts ▪ Consultant reports ▪ Consultant contracts 	<ul style="list-style-type: none"> ▪ Three (3) years ▪ Ten (10) years ▪ Seven (7) years after the termination of the fund ▪ Seven (7) years ▪ Seven (7) years after the completion of all obligations under contracts ▪ Seven (7) years ▪ Seven (7) years
Philanthropic Services	<ul style="list-style-type: none"> ▪ Fund agreement/related files, correspondence ▪ Gift acknowledgement ▪ Gift solicitations ▪ Trust Agreements & file ▪ Supporting organizations fund files ▪ Donor-advised fund files 	<ul style="list-style-type: none"> ▪ Permanent ▪ Seven (7) years ▪ Seven (7) years after final distribution of funds received in response to solicitations ▪ Seven (7) years after termination of trust ▪ Seven (7) years after termination of trust ▪ Seven (7) years after termination of the fund
President's Office	<ul style="list-style-type: none"> ▪ Various documents identified by President not otherwise subject to retention schedule 	<ul style="list-style-type: none"> ▪ Two (2) years

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Category	Documents	Retention Period
Real Estate	<ul style="list-style-type: none"> ▪ Leases ▪ Deeds, mortgages, notes, security agreements for real estate held for sale, satisfactions, releases of mortgage 	<ul style="list-style-type: none"> ▪ Ten (10) years ▪ Permanent (in donor file if applicable)
Regulatory	<ul style="list-style-type: none"> ▪ Charitable registrations (as applicable in each state) ▪ IRS exemption determination, 1023 application, related correspondence ▪ Tax returns ▪ OSHA 	<ul style="list-style-type: none"> ▪ Seven (7) years ▪ Permanent ▪ Permanent ▪ Depends on the type of record
Risk Management	<ul style="list-style-type: none"> ▪ All insurance - related information (including policies, underwriting information, outside broker information) ▪ Claim Files ▪ Accident Reports ▪ OSHA – employee medical records <ul style="list-style-type: none"> -- logs, summaries of occupational injuries/illnesses 	<ul style="list-style-type: none"> ▪ Permanent ▪ The later of seven (7) years or life of the claim ▪ Seven (7) years ▪ Thirty (30) years ▪ Five (5) years
Technology	<ul style="list-style-type: none"> ▪ Software including licenses, support contracts 	<ul style="list-style-type: none"> ▪ Seven (7) years after the completion of all obligations under contracts

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EXHIBIT B

NOTICE OF LEGAL HOLD

To: All Employees having access to relevant records or information

From: Foundation President

Date: _____

Effective immediately, all destruction of the records described in the attached Document Preservation Notice (including all originals, copies and electronic forms) in accordance with the Foundation Record Retention Policy **must be suspended** until further notice from the office of the President.

By signing this form, the undersigned acknowledges receiving this Notice and agrees to maintain all relevant records, and further acknowledges that the failure to abide by this Notice may result in disciplinary action, including termination.

All questions regarding this Notice should be directed to the office of the President.

Description of Records:

Signature: _____

Printed Name: _____

Date: _____

Department: _____

Is This a Good Confidentiality Policy?

ABC Nonprofit Organization Confidentiality Policy Statement for Board

Nonprofit Board members have a fiduciary duty of loyalty. One aspect of the duty of loyalty is the duty of confidentiality. As a member of the Board of the ABC Organization, I appreciate the sensitive nature of information received and generated by the ABC Organization. Accordingly, I acknowledge the following as a matter of policy adopted by the Board of ABC Organization:

- Discussions, related materials and information are presumed confidential and for ABC Organization internal use only.
- Board members' conduct will assure that the respect and confidence of all staff, volunteers, clients and members of the public is honored. This confidence may not be betrayed by divulging information obtained to anyone other than other members of the ABC Organization Board unless such disclosure is otherwise approved by the Board Chair or President of the Corporation.
- The public is encouraged to utilize ABC Organization information readily available through our web site, printed information disseminated to the public and publicly available regulatory filings. Board members shall not act as the spokesperson for ABC Organization unless asked to do so by the current designated spokesperson for ABC Organization.
- When decisions resulting from board discussions are reached, those decisions are confidential unless otherwise directed that the decisions can be made public. Confidentiality is critical in matters dealing with highly sensitive areas, e.g., personnel issues.
- As ambassadors for ABC Organization, all those associated with ABC Organization should be well informed and able to discuss ABC Organization's mission, activities and decisions with the general public.

I have read, understand and acknowledge that I shall comply with my responsibilities as set forth in this policy statement.

Board Signature

Date

Board Name (Printed)

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Code of Ethics and Confidential Information Policy

Members of the Board of Directors, Directors Emeritus, committee members, Management and _____, Inc. ([ORGANIZATION]) staff shall at all times abide by and conform to the following code of ethics:

1. All above will abide in all respects by the [ORGANIZATION] Code of Ethics and Confidentiality Agreement and all other rules and regulations of [ORGANIZATION] (including but not limited to [ORGANIZATION]'s Articles of Incorporation and Bylaws) and will ensure that their position in [ORGANIZATION] for which they serve as officer, director, management or employee, as the case may be, remains in good standing at all times. Furthermore, each member of the Board of Directors will at all times obey all applicable federal, state and local laws and regulations and will provide or cause to provide the full cooperation of [ORGANIZATION] when requested to do so by those institutions and their persons set in authority as are required to uphold the law.
2. Members of the Board of Directors, Management and employees will conduct the business affairs of the Corporation in good faith and with honesty, integrity, due diligence, and reasonable competence.
3. Members of the Board, any other person serving on a committee of the Board, and [ORGANIZATION] staff may use Confidential Information obtained through their service to [ORGANIZATION] solely for the purpose of performing services for [ORGANIZATION] and may not disclose, divulge, or make accessible Confidential Information to any person other than to persons to whom the [ORGANIZATION] Board has authorized disclosure. Members of the Board, directors emeritus, a committee of the board, or staff may disclose Confidential Information among themselves to the extent necessary to perform their services for [ORGANIZATION].

Confidential Information includes, but is not limited to:

- Personal information, including financial and health information or financial obligations to [ORGANIZATION], relating to any member or resident of [ORGANIZATION].
- Financial information about [ORGANIZATION] that is not otherwise part of public records or has not been disclosed by the Board at a meeting open to the members.
- Employee records, salary information, performance data, etc.
- Board committee and Board executive session discussions, except to the extent that the conclusion of those discussions need be disclosed at an open Board meeting or otherwise disclosed to the public.
- Information about any pending or potential litigation or investigation involving [ORGANIZATION] or any member of [ORGANIZATION].
- The identity of a whistleblower who has filed a complaint with the Board, except to the extent necessary to resolve the matter complained of.

Confidential Information does not include:

- Information that is required to be disclosed by law.
- Information that is already of public record or has become generally known to the public.

At the end of a person's term in office or on a committee or as staff (for any reason), such person shall, upon request of [ORGANIZATION], destroy or return all documents, papers, and other materials that may contain such Confidential Information.

4. Members of the Board of Directors will exercise proper authority and good judgment in their dealings with [ORGANIZATION] employees, Management, vendors, resident members and the general public, and will respond to the needs of [ORGANIZATION]'s members in a responsible, respectful, and professional manner.
5. No member of the Board of Directors will use any information provided by [ORGANIZATION] or acquired as a consequence of the Board member's service to [ORGANIZATION] in any manner other than in furtherance of his or her Board duties without the approval of the Executive Committee of [ORGANIZATION]. Further, no member of the Board of Directors will misuse [ORGANIZATION] property or resources and will at all times keep [ORGANIZATION] property secure and not allow any person not authorized by the Board of Directors to have or use such property.
6. No member of the Board of Directors shall persuade or attempt to persuade any [ORGANIZATION] employee to leave the employ of [ORGANIZATION] or to become employed by any person or entity other than [ORGANIZATION] except to the extent authorized by the Executive Committee of [ORGANIZATION]. Furthermore, no member of the Board shall persuade or attempt to persuade any advertiser, subscriber, supplier, contractor, or any other person or entity with an actual or potential relationship to or with [ORGANIZATION] to terminate, curtail, or not enter into its relationship to or with [ORGANIZATION], or to in any way reduce the monetary or other benefits to [ORGANIZATION] of such relationship.
7. The Board of Directors must act at all times in the best interests of [ORGANIZATION] and not for personal or third-party gain or financial enrichment. When encountering potential conflicts of interest, Board members will identify the conflict and, if requested by any member of the Board or committee considering such matter, remove themselves from all discussion on the matter. No member of the Board shall vote on any matter in which such Director has a conflict.

Statement of Understanding and Agreement

I am aware that, during the course of my service to [ORGANIZATION] as a Director, Director Emeritus, member of a Board committee, or staff, Confidential Information may be made available to me and agree not to disclose, divulge, or make accessible Confidential Information to any other person except as permitted by the [ORGANIZATION] Code of Ethics and Confidential Information Policy. I have read and understand the Code of Ethics and Confidential Information Policy of [ORGANIZATION] and agree to abide by the terms thereof.

Signature

Date

Print Name

Excerpt from
Draft Conflict of Interest and Confidentiality Policy
Of _____ University

Confidentiality. It shall be the policy of _____ that trustees of _____ may not disclose, divulge, or make accessible confidential information belonging to, or obtained through their affiliation with _____ to any person, including relatives, friends, and business and professional associates, other than to persons who have a legitimate need for such information and to whom the University has authorized disclosure. Trustees shall use confidential information solely for the purpose of performing services as a trustee for _____. This policy is not intended to prevent disclosure where disclosure is required by law.

Nonprofit Issues[®] / PANO Webinar, May 17, 2016.

[Logo and other graphics]

Gift Acceptance Policy

Mission

The charitable mission of the [Organization] is to extend benevolence to men, women and children of all ages, means and circumstances, across the Commonwealth of Pennsylvania, throughout the United States and beyond.

Purpose of this Policy

Experience has shown that the procedures outlined in this Gift Acceptance Policy help donors efficiently accomplish their desired tax and charitable goals by reducing the misunderstandings and mistakes which frequently arise in complex transactions. The Office of Planned Giving of the [Organization] at _____ (the "PG Office") serves as a common resource for donors to [Organization].

Only the PG Office can accept transfers of illiquid assets or gifts which potentially may be controversial. The PG Office cannot accept a gift which it believes may not advance the charitable mission of the [Organization].

This policy can be found on the website of the [Organization].

Types of Gift Assets

Liquid Assets

Common liquid assets are currency, cash, cash equivalents, marketable securities, and other assets which result in the delivery of cash to the [Organization], such as a distribution from an individual retirement account (IRA) or a pecuniary bequest under a will.

Donors intending to make gifts of currency in an amount exceeding Ten Thousand in any twelve month period must arrange an appointment with the PG Office.

To catch and correct delivery errors before these can cause difficulties, we strongly encourage donors or their representatives to give the PG Office advance notice of any transfer other than a check. Please provide the name of the donor, the scheduled date of the transfer and the amount and specific securities to be transferred.

Real Estate

Please contact the PG Office to discuss a contemplated gift of real estate. In order for the PG Office to investigate the desirability of such a gift, please provide information about title, estimated value and other relevant information.

Title and Environment

If the PG Office is interested in accepting a gift of real estate, it will secure a title search and any environmental survey it believes necessary at its own cost. Donors must reasonably cooperate with these tasks. For example, a donor must grant access to the real estate. In some cases, the PG Office will accept a gift of real estate only via a special purpose vehicle.

Encumbrances

The PG Office may refuse to accept real estate which is subject to encumbrances such as a mortgage, liens or unpaid property taxes.

Carrying Costs

If the donated real estate is to be sold to fund a distribution to the donor or a beneficiary, the PG Office will, and in other cases the PG Office may, require the donor to provide funds for the carrying and/or sales costs of the real estate.

Life Insurance

Life insurance is a special asset with unique features. While exceptions can be made, the following observations may be useful:

- The PG Office will not accept a policy with unpaid policy loans
- The PG Office must be the sole owner and beneficiary of the policy
- Donors will be expected to make ongoing premium payments directly to the insurance company
- If the donor does not continue making premium payments, the PG Office may convert the policy to a paid up policy or surrender it for cash

Tangible Personal Property

Except for items with [Organizational] significance, the PG Office will only accept gifts of tangible personal property which can be used directly in the [Organization's] programs or readily sold for a significant amount.

Illiquid Business Interests

Please contact the PG Office to discuss a contemplated gift of an illiquid business interest. In order for the PG Office to investigate the desirability of such a gift, please provide information about the nature of the business, copies of the business' governing instrument, financial statements, estimate of value, and other owners. The PG Office will screen proposed gifts to determine whether further investigation is warranted.

If the PG Office is interested in the proposed gift of an illiquid business interest, the PG Office will typically require that donor engage competent legal counsel to review the planning for such a gift with its legal counsel because of the number and sophisticated nature of potential issues.

Please note that for the donor's own protection, the PG Office will not accept gifts subject to pre-arranged sales except in extraordinary circumstances.

Payments from Family Foundations, Donor Advised Funds

Donors may not use payments from a family private foundation or from a donor advised fund to satisfy a pledge or other obligation of the donor to the [Organization] or to make a quid pro quo gift that provides goods or services in return. Any payment received from such an entity in such situation shall be held and discussed with the donor in order to avoid potential adverse consequences for the donor.

Appraisals

The PG Office generally does not provide donors with valuations of liquid assets.

When a gift of an illiquid asset is connected to a charitable gift structure, the PG Office will hire a qualified appraiser to determine the value. If the PG Office believes that the value of the illiquid asset is less than \$100,000, it may, prior to hiring an appraiser, require the donor to agree to pay the cost of the appraisal if the appraised value is less than \$100,000. The PG Office will pay for the cost of the appraisal if the appraised value of the asset exceeds \$100,000. If a donor disagrees with the appraisal, the donor may secure a second appraisal at donor's cost. If the two appraisals are within a ten percent range, the value assigned to the gift shall be the higher of the two appraised values. If the lower appraisal is less than ninety percent of the value of the higher appraisal, a third appraisal will be required, with the expense equally divided between the donor and the PG Office. The third appraisal will be accepted as the gift value.

The PG Office is willing to assist the donor in obtaining an appraiser for an outright illiquid gift and will pay for the cost of the appraiser (subject to a limit of 5% of the appraised value of the gift) when the appraised value of the gift exceeds \$100,000.

Charitable Gift Structures

Charitable Gift Annuities

Rates

The PG Office ordinarily uses the most recently approved rates published by the American Council on Gift Annuities. While annuities in excess of the recommended rates may be issued in unusual circumstances, the PG Office does not compete for charitable gift annuities on the basis of issue rates.

Age

For annuitants over the age of eighty-five, the PG Office may use a rate lower than the one recommended by the American Council on Gift Annuities. The PG Office will issue immediate annuities to annuitants under the age of fifty-five only if it determines that the immediate annuity is suitable given the donor's financial goals for the annuity.

Minimum Amount

The minimum purchase price for a gift annuity is \$5,000.

Deferred Gift Annuities

The PG Office issues deferred gift annuities. The PG Office will issue deferred gift annuities with a deferral period greater than twenty years only if it determines that the deferred annuity is suitable given the donor's financial goals.

State

The PG Office does not offer gift annuities in every state. It will offer gift annuities only for residents of _____.

Charitable Remainder Trusts

Trustee Services

Under certain conditions, the PG Office will appoint an individual to serve as trustee if desired. The section on Fiduciaries below provides additional details applicable to this offer.

- The net present actuarial value of the interest dedicated to the [Organization] must have a value of at least Sixty Thousand Dollars.
- The trust must be funded with at least Three Hundred Thousand Dollars. If the trust has beneficiaries other than, or in addition to, the donor and/or the donor's spouse, the minimum size may be increased.
- The terms of the trust must comply with both the approved forms of charitable remainder trusts published by the Internal Revenue Service and the requirements of the attorney representing the PG Office.

Charitable Lead Trusts

The PG Office is pleased to accept distributions from charitable lead trusts of cash and other liquid assets. Please call the PG Office to discuss trustee services and distributions of illiquid assets.

Endowment Gifts

Variance Power

A charitable gift can produce benefits for a very long time: some English charitable gifts have continued to produce benefits nearly 1,000 years after being established. Sometimes the purposes for a specific gift can become impractical or impossible to carry out. Courts have the “cy pres” power to modify the purpose of such a charitable gift to accomplish the donor’s most likely intention given the impracticality or impossibility of the original expression. Unfortunately, it can be expensive and time consuming to obtain court approval. A condition to every gift accepted by the PG Office which is intended for a specific purpose is that the PG Office may modify the charitable purpose in light of current conditions, subject to a duty to accomplish the donor’s most likely intention.

Initial Expression of Intent

Donors are encouraged to think broadly about their desired goals in light of the possibility of changes in technology, governmental assistance programs and general social conditions. The PG Office can assist you and your advisors in drafting flexible and farsighted statements of charitable purpose. Many donors including “sunset clauses” in their charitable gifts, which require the entire fund to be spent on the intended purpose within a period such as 50 years.

Distribution Rates

Generally, the PG Office will not accept endowment gifts which require the accumulation of income for a lengthy period or defines income in a manner which results in an abnormally low distribution for charitable purposes.

Tax Reporting

The PG Office provides receipts for all gifts which satisfy the income tax reporting requirements of donors.

The PG Office will file Form 8282 with the Internal Revenue Service when a contributed illiquid asset is disposed of (other than being used in the charitable program) within three years of the gift. The PG Office cannot agree with a donor to delay the sale of an asset to avoid filing Form 8282.

As a courtesy, the PG Office will send a copy of a Form 8283 to donors making a gift of illiquid assets as a reminder that the donor will need to obtain an appraisal to substantiate the gift for income tax purposes.

Legal Counsel

The PG Office strongly encourages donors to consult their own attorney and/or financial advisor in all matters related to planned gift instruments. The PG Office can supply sample forms for the convenience of the donor’s advisors. Only an attorney should draft a

planned gift instrument such as wills and trusts, and the PG Office will not assist a donor in drafting an instrument which the donor plans to execute without legal review.

Where a competent and fully informed donor decides not to engage an independent attorney despite the PG Office's written recommendation, the PG Office may direct its attorney to prepare documents for review by the donor. For purposes of applicable professional rules, the client of the attorney in such cases will be the PG Office. However, the PG Office will always instruct its attorney to place the donor's stated objectives first in any consideration.

In some cases where the donor is represented by legal counsel, the PG Office will engage separate legal counsel at its own cost to review the details of a specific gift.

Confidential Information

All donor information including names and addresses, beneficiaries, nature and worth of estates, amount of bequests and any other matter deemed personal by the donor shall be kept strictly confidential by the PG Office. In select cases, donors may be asked on a purely voluntary basis whether the PG Office may use selected information for purposes of referral, testimonial, or example. If the information is intended for broad dissemination, such as in published literature, specific authorization for the first such use must be granted in writing.

Fiduciaries

The PG Office strongly encourages donors to appoint independent persons to serve as executors and trustees ("fiduciaries") of planned gift instruments. Where a competent and fully informed donor strongly desires to have the PG Office supply a fiduciary for a planned gift instrument, and no suitable family member is available, the PG Office will do so in accordance with this section.

Fiduciary Compensation

Where appropriate, the PG Office will agree that its nominee will serve as a fiduciary at no cost to the donor. Such agreements must be memorialized in writing. To avoid misunderstanding, donors should consult with the PG Office in advance of signing a planned gift instrument which contemplates that the PG Office will supply a fiduciary.

Due to requirements of state law and for other reasons, the PG Office will in some cases arrange to have a trust company appointed to serve as a personal representative of a probate estate.

Legal Representation

A fiduciary supplied by the PG Office will engage an attorney to provide legal advice about the duties of the fiduciary. The cost of this representation will be borne by the estate or transfer.

Potentially Controversial Gifts

Some gifts, if accepted, may result in controversy which will not advance the charitable mission of the [Organization]. The PG Office will not decline a gift solely based on the source of the gift. The PG Office shall have exclusive authority to determine whether a gift should be declined, and will consider the following factors in evaluating a potentially controversial gift.

- Core Values: Will accepting the gift compromise any core values of the [Organization]?
- Compatibility of Cause: Is there convergence of cause and intent between the donor and recipient? Will accepting the gift further the mission, goals and/or objectives of both?
- Public Relations: Will the client's importance to the [Organization] create a significant public relations problem for the [Organization] if the gift is turned down?
- Motivation: Is there clear charitable intent and a commitment to benefit the work of the [Organization]? It is understood that it is usually appropriate for there to be tax incentives, community acceptance and publicity values for donors.
- Consistency: Will acceptance of the gift be consistent with past gift acceptance decisions?
- Credibility: What effect will the reputation of the donor have upon the reputation of the [Organization]?
- Form of Gift: Will the nature of the contribution create problems such as in advertising or sponsorship?
- Bottom Line: Will the gift encourage others to give? What will be the net effect on the bottom line? Will acceptance of the gift necessitate that the [Organization] undertake a course of action it otherwise would not choose.

Pennsylvania Association of Nonprofit Organizations
Policy on Public Policy

Included:

Purpose, Committee Structure, Decision-Making Criteria, Nonpartisan Stance, Identifying Relevant Issues

Last Board Approval:	February 13, 2014
Reviewed by the Board:	January 12, 2018
Approved by the Board:	January 18, 2018

I. PURPOSE

To define the process by which PANO determines positions on specific legislative or other public policy issues so that PANO can efficiently and effectively work toward making the systemic changes necessary for creating thriving communities throughout Pennsylvania.

II. COMMITTEE STRUCTURE

The Committee shall be chaired by and include directors of PANO and may include representatives of PANO members and others concerned with the community benefit sector. The Executive Director shall be an *ex officio* member of the Committee.

The committee may establish and have the power to disband time-limited, issue-focused task forces that come together to address specific bills, legislation or other public policy issues that arise. Each task force will include members involved and/or interested in the identified issue. Each task force will make recommendations to the Public Policy Committee for approval purposes. The Public Policy Committee will ensure that issues fall within PANO guidelines. Each task force will meet as long as needed and then disband upon completion of the agreed-upon work plan. Task forces shall be chaired by and include at least one director of PANO and may include representatives of PANO members and others concerned with the issue being explored by the task force.

III. DECISION-MAKING CRITERIA

PANO's primary focus will be on common issues broadly affecting the community benefit sector. PANO may also implement appropriate organizational positions on legislative or other public policy issues which have a national application and/or effect, a statewide application and/or effect, or have local or limited application but are determined to have statewide policy significance. These issues must have general relevance to the creation, management, operation, administration and well-being of Pennsylvania community benefit organizations. They also are of broad community-wide importance and are likely to have such a significant impact on the people and communities the community benefit organizations serve that it is appropriate for the voice of the nonprofit sector to be represented in the policy debate.

Except as referenced above, PANO will not take or implement positions on legislation or other public policy issues which are limited in application to a specific interest group of the nonprofit sector.

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IV. **DECISION-MAKING PROCESS**

The Committee will meet at the call of the Chair or Executive Director to consider suggested, proposed or pending legislation, regulatory action or other proposals at any level of government that could have a broad impact on the community benefit sector. These discussions may also include affirmative new proposals generated by the Committee itself. The Committee will advise the Executive Director or his/her designee on the position that PANO should take with respect to any such legislation or regulation.

If the position recommended by the Committee is consistent with previously stated positions of the Board of PANO, the Executive Director and other representatives of PANO may enunciate PANO's position without further approval. If the recommended position is inconsistent with previous PANO policy, or is outside the scope of PANO's prior positions, the Public Policy Committee will make a recommendation to the PANO Board for approval. If time is not sufficiently available, the Public Policy Committee shall communicate its recommendation to the full Board; unless one-third of the members of the Board object promptly, PANO representatives may enunciate the position publicly.

The Executive Director may enunciate PANO's position on any issue within the scope of PANO's prior positions without prior approval of the Board, Executive Committee, or Public Policy Committee. If the Executive Director is unsure whether a position is within the scope of prior positions, the Executive Director may consult with PANO's President, the Chair of the Public Policy Committee, or any other director on the Committee for guidance.

PANO will conduct research, educate elected officials, testify, inform constituents, form and participate in advocacy coalitions, build cooperative partnerships with other groups, utilize the media and other informational mediums. PANO may convene organizations that hold differing viewpoints on a particular issue to determine if common ground can be found. In these situations, PANO may decide not to take a stance on a particular issue, but provide facilitation and space for these conversations to occur. The Executive Director and the Committee will share PANO's positions with legislators and legislative staff and will volunteer to serve on various task forces.

PANO plans must address emerging issues that are known to be facing the community benefit sector. We must be in the forefront of new issues. PANO must continue to strengthen its role as the voice of the community benefit sector. We must reach out aggressively to inform and involve nonprofits and the broader community in our advocacy work. This constituency building is likely to encourage organizations to join PANO thereby increasing funds and effectiveness.

V. **NON-PARTISAN STANCE**

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. PANO's *Standards for Excellence* notes that well-managed nonprofits "shall be diligent in assuring that the activities of the organization are strictly nonpartisan." PANO does not support one candidate over another candidate and does not support any political party. PANO works with all political parties in legislative efforts.

VI. **IDENTIFYING RELEVANT ISSUES**

PANO will monitor all state legislation, legislative proposals, regulations, relevant judicial decisions, departmental guidelines and procedures relevant to the nonprofit sector. PANO will work closely with the Independent Sector, National Council of Nonprofits, ASAE and other state and national nonprofit groups to develop coordinated strategies at the state and federal level.

Committee Procedures: Questions for Decision-Making

We will ask ourselves the following questions as we seek to identify the appropriate issues to address:

- Is the issue related to the nonprofit sector's ability to enhance or protect the quality of life in communities around Pennsylvania?
- Does this issue have the potential of impacting the majority of nonprofits working in Pennsylvania?
- Will this issue affect the creation, management, operation, administration or general wellbeing of nonprofits in Pennsylvania?
- If this issue is too broad or too limited in scope for PANO to address, are there educational and capacity-building opportunities for the affected organizations?
- Would PANO be perceived as a legitimate and appropriate advocate for this position?
- Are the processes in place and is there PANO capacity and expertise to act on the issue in a timely and effective matter?
- Are there organizations/people we can partner with on this issue?
- Are there organizations/partners that may differ with us on this issue? What is the impact?
- What is the impact on PANO's revenue goals?