

# THE AMERICAN COLLEGE OF TRUST AND ESTATE COUNSEL FOUNDATION

## CONFLICT OF INTERESTS POLICY

1. **Duty of Directors, Officers, and Employees.** The directors, officers, and employees of The American College of Trust and Estate Counsel Foundation, ("the Foundation") shall exercise the utmost good faith in all transactions touching upon their duties to the Foundation and its property. In their dealings with and on behalf of the Foundation, they are held to a strict rule of honest and sincere dealings among themselves and the Foundation. They shall not use their positions, or knowledge gained therefrom, so that a conflict may arise between the Foundation's interest and that of the director, officer, or employee.
2. **Definition of "Interest."** For purposes of this policy, a person shall be deemed to have an "interest" in a contract, transaction, or other arrangement, or in the same or related business as the Foundation, if the person is the party (or one of the parties) contracting or dealing with the Foundation, or is a director, trustee, manager, or officer of, or general partner of, or has an existing or potential material financial or influential interest in, the entity contracting or dealing with the Foundation. Relationships and dealings of the Foundation with The American College of Trust and Estate Counsel("ACTEC"), and/or with corporations, partnerships, joint ventures, or other entities owned by the Foundation and/or ACTEC shall not constitute an "interest" or conflict of interest under this policy.
3. **Full Disclosure.** Any director, officer, or employee having a material interest in a contract, transaction, or arrangement with the Foundation presented to the Board of Directors, Executive Committee, or other committee (referred to as the "Board/Committee") for consideration, authorization, approval, discussion, or ratification, shall immediately upon identification of such conflict make a prompt, full, and frank disclosure of his or her interest to such Board/Committee before its action on such contract, transaction, or arrangement. Such disclosure shall include any relevant and material facts known to such person that might reasonably be construed to be adverse to or potentially adverse to the interest of the Foundation.
4. **Standards and Procedures.** The Board/Committee shall examine potential conflicts of interest pursuant to the following standard and procedures:
  - (a) The Board/Committee may request the person to provide factual information regarding the potential or actual conflict of interests and such proposed contract, transaction, or arrangement.
  - (b) After exercising due diligence, the Board/Committee to which such disclosure is made shall thereupon determine, by majority vote, whether the disclosure shows that a conflict of interests exists or can reasonably be construed to exist.
  - (c) If deemed appropriate, the Board/Committee may appoint a non-interested person, committee, or subcommittee to investigate alternatives to such proposed contract, transaction, or arrangement that would not give rise to a conflict of interest.

- (d) If a conflict is deemed to exist, such person having the conflict shall not participate or attend, vote on, or use his or her personal influence in connection with the discussion, deliberations, and vote with respect to such contract, transaction, arrangement, or related matters affecting the Foundation.
- (e) At any meeting of the Board/Committee where such contract, transaction, or arrangement is under discussion or is being voted upon, a quorum is present if a majority of the members of the Board/Committee who have no direct or indirect personal interest in such contract, transaction, or arrangement participate in the vote held to authorize, approve, or ratify such contract, transaction, or arrangement.
- (f) In order to approve such contract, transaction, or arrangement, such Board/Committee (and the Board of Directors or Executive Committee, if originally considered by a Board/Committee other than the Board of Directors or Executive Committee) must first find, by majority vote without counting the vote of any interested director(s), that:
  - (i) such proposed contract, transaction, or arrangement is in the Foundation's best interest and for its own benefit; and,
  - (ii) such proposed contract, transaction, or arrangement is fair and reasonable to the Foundation.
- (g) The minutes of the meeting shall reflect the disclosure made, the persons present for the discussion and vote, the content of the discussion, the vote thereon, (including any roll call) and, where applicable, the abstention from voting and participation, and that a quorum was present. The Secretary of the Board/Committee shall keep minutes of the discussions and deliberations as part of the minutes of the Foundation.

5. Corrective and Disciplinary Action. The violation of this Conflict of Interests Policy is a serious matter and may constitute cause for removal or termination of a director, officer, or employee.

6. Distribution of Policy. At the beginning of each fiscal year, the Foundation shall provide a copy of the Foundation's Conflict of Interests Policy to each director, officer and employee for review, and all such persons shall complete a Conflict of Interests Disclosure Form to be on file with the Foundation. Additionally, a copy of this Conflict of Interests Policy shall be posted on the private side of the Foundation website.