



KNOWLEDGE CENTER



GOVERNANCE

Sample Conflicts of Interest Policies

[ECFA Standard 6](#) calls for members to handle conflicts of interest and related-party transactions with excellence and integrity. Conflicts can be avoided most easily when the organization has a stated conflict of interest policy and annually canvasses the Board of Directors and key administrative personnel to document potential conflicts.

The following are sample conflict of interest policies and questionnaires. ECFA does not endorse any particular document but is providing these samples to help you (in conjunction with legal counsel and other professional advisors) develop the documents appropriate for your ministry.

ECFA Policy for Excellence in Related-Party Transactions

The board of every organization shall properly address related-party transactions pursuant to a sound conflicts of interest policy. An organization may not enter into a business transaction with a person or entity that meets the definition of a “disqualified person” under federal tax law applicable to public charities unless the organization takes affirmative steps in advance to ensure that the following is true with respect to the transaction:

1. All parties with a conflict of interest (direct or indirect) are excluded from the discussion and vote related to approval of the transaction;
2. The organization obtains reliable comparability information regarding the terms of the transaction from appropriate independent sources such as competitive bids, independent appraisals, or independent expert opinions;
3. The organization’s board has affirmatively determined that entering into the transaction is in the best interests of the organization; and
4. The organization contemporaneously documents the elements described above, as well as the board’s approval of the transaction.



Conflicts of Interest and Related-Party Transactions

Fairness in decision-making is more likely to occur in an impartial environment. This impartial environment is protected by avoiding or effectively managing conflicts of interest.

The potential for a conflict of interest arises in situations in which a person is responsible for promoting the interest of the ministry at the same time he or she is involved in a competing personal interest. While some laws regulating nonprofits may limit the concern to “material financial interests,” an organization’s reputation with donors and other constituencies may be injured by personal or relational interests, and even the appearance of a conflicted decision.

To protect the impartial decision-making and reputation of both the organization and those involved, transactions with related parties where a potential conflict of interest exists or may appear to exist must be carefully handled. Such transactions should be disclosed to the governing board and evaluated to ensure they are made on a sound economic basis and in the best interest of the organization.

Undertake transactions with related parties only in the following situations:

- The audited financial statements of the organization fully disclose material related-party transactions.
- Related parties are excluded from the discussion and approval of related-party transactions.
- There are competitive bids or comparable valuations.
- The organization’s board approves the transaction as one that is in the best interest of the organization (taking into account the appearance of the transaction and possible perception issues).

Example 1: An organization purchases insurance coverage through a firm owned by a board member. This would constitute a conflict of interest. Even though insurance purchases might normally be a CFO’s or business administrator’s function, a transaction with a board member must always be approved by the board. The board may approve it if (1) the purchase and relationship are disclosed, (2) the purchase is subject to proper approvals, (3) the price is below the competitions, and (4) the purchase is in the best interests of the organization. The conflicted board member should not be present at the meeting when the decision is made. If the purchase passes these tests, it may be an acceptable related-party transaction.

Example 2: The CEO and several employees are members of the board. When the resolution on salary and fringe benefits adjustments comes to the board, should those affected by the resolution discuss and vote on the matter? No. The CEO and employees not only should avoid discussing and voting on such matters, they should also absent themselves from the meeting to avoid even the appearance of a conflict of interest.

Example 3: A nonprofit board considers a significant loan to a company in which a board member has a material ownership interest. Should this loan even be considered? Yes, but only if it is in the best interest of the nonprofit organization, is allowed under its bylaws, and is permitted/proper under state laws.

Example 4: A church receives a significant endowment gift. The church board establishes investment policy guidelines and appoints a subcommittee of the board to carry out the routine investing of the funds.



An investment broker who sells mutual funds chairs the investment committee of the church. His firm pays him commissions on his mutual fund sales. The broker recommends that the committee purchase certain mutual funds from his firm.

This is a blatant conflict of interest, even if the broker fully discloses the fees that would be paid to his firm and the commissions he would receive—and even if the fees are comparable to what other brokers would charge. This biased environment makes it nearly impossible to achieve fairness in decision-making.



Example 1

Sample Conflict-of-Interest Policy Statement

All trustees, officers, agents, and employees of this organization shall disclose all real or perceived conflicts of interest that they discover or that have been brought to their attention in connection with this organization's activities.

A "conflict of interest" occurs where a person is responsible for promoting the interest of the ministry at the same time he or she is involved in a competing personal interest (financial, business, personal, or relational).

"Disclosure" shall mean providing properly, to the appropriate person, a written description of the facts comprising the real or apparent conflict of interest. An annual disclosure statement shall be circulated to trustees, officers, and certain identified agents and employees to assist them in considering such disclosures, but disclosure is appropriate and required at any time conflicts of interest may occur. The written notices of disclosures shall be filed with the Chief Executive Officer or such other person designated by the Chief Executive Officer to receive such notifications. At the meeting of the top governing body, all disclosures of real or perceived conflicts of interest shall be noted for the record in the minutes.

An individual trustee, officer, agent, or employee who believes that he or she or an immediate member of his or her immediate family might have a real or perceived conflict of interest, in addition to filing a notice of disclosure, must abstain from

- (1) participating in discussions or deliberations with respect to the subject of the conflict (other than to present factual information or to answer questions),
- (2) using his or her personal influence to affect deliberations,
- (3) making motions,
- (4) voting,
- (5) executing agreements, or
- (6) taking similar actions on behalf of the organizations where the conflict of interest might pertain by law, agreement, or otherwise.

At the discretion of the top governing body or a committee thereof, a person with a real or perceived conflict of interest may be excused from all or any portion of discussion or deliberations with respect to the subject of the conflict.

A member of the top governing body or a committee thereof, who, having disclosed a conflict of interest, nevertheless shall be counted in determining the existence of a quorum at any meeting in which the subject of the conflict is discussed. The minutes of the meeting shall reflect the individual's disclosure, the vote thereon, and the individual's abstention from participation and voting.

The President and Board Chair shall ensure that all trustees, officers, agents, employees, and independent contractors of the organization are made aware of the organization's policy with respect to conflicts of interest.



Example 1 (continued)

**Sample Conflict-of-Interest Disclosure
Annual Reporting Statement**

I have read and understand the Conflict-of-Interest Policy. I hereby declare and certify the following real or perceived conflict(s) of interest:

Disclosure Statement

(If necessary, attach additional documentation.)

I agree to promptly inform the board upon the occurrence of any event that could potentially create for me a conflict of interest.

Date _____

_____ Signature

_____ Title



Example 2

Conflicts of Interest Policy

1. Reason for Statement

As a ministry initiated and sustained by God, the organization has a mandate to conduct all of its affairs decently and above reproach both in the sight of God and man. That accountability includes a commitment to operate with the highest level of integrity and to avoid conflicts of interest. This duty is underscored by Standard 6 of ECFA (Evangelical Council for Financial Accountability).

As a nonprofit, tax-exempt entity, the organization depends on charitable contributions from the public. Maintenance of its tax-exempt status is important both for its continued financial stability and for the receipt of contributions and public support. Therefore, the IRS and state corporate and tax officials view the operations of the organization as a public trust, account-able to both governmental authorities and members of the public.

Among the organization and its Board, officers, and management employees, there exists a fiduciary duty, which carries with it a broad and unbending duty of loyalty. The Board, officers, and management employees are responsible for administering the affairs of the organization honestly and prudently, and for exercising their best care, skill, and judgment for the sole benefit of the organization. Those persons shall exercise the utmost good faith in all transactions involved in their duties, and they shall not use their positions with the organization or knowledge gained there from for their personal benefit. The interests of the organization must have the first priority, and all purchases of goods and services must be affected on a basis that secures for the organization full competitive advantages as to product, service, and price.

2. Persons Concerned

This statement is directed to Trustees and officers, as well as those employees annually designated by the Board who influence the actions of the organization or its Board, or make commitments on their behalf. For example, this would include all who make purchasing decisions, all other persons who might be described as “management personnel,” and all who have proprietary information concerning the organization.

3. Areas in Which Conflicts May Arise

Conflicts of interest may arise in the relations of Trustees, officers, and management employees with any of the following third parties:

- 3.1 Persons or entities supplying goods and services to the organization.
- 3.2 Persons or entities from which the organization leases property and equipment.
- 3.3 Persons or entities with whom the organization is dealing or planning to deal in connection with the gift, purchase, or sale of real estate, securities, or other property.
- 3.4 Persons or entities paying honoraria or royalties for products or for services delivered by the organization for its agents or employees.
- 3.5 Other ministries or nonprofit organizations.
- 3.6 Donors and others supporting the organization.
- 3.7 Stations or programmers that carry the organization’s programming.
- 3.8 Agencies, organizations, and associations that affect the operations of the organization.



Example 2 (continued)

4. Nature of Conflicting Interest

A material conflicting interest may be defined as an interest, direct or indirect, between any person or entity mentioned in Section 3, and a Trustee, officer, or management employee, which might affect, *or might reasonably be thought by others to affect*, the judgment or conduct of a Trustee, officer, or management employee of the organization. Such an interest might arise through

- 4.1 Owning stock or holding debt or other proprietary interests in any third party dealing with the organization.
- 4.2 Holding office, serving on the Board, participating in management, or being otherwise employed (or formerly employed) in any third party dealing with the organization.
- 4.3 Receiving remuneration for services with respect to individual transactions involving the organization.
- 4.4 Using the organization's personnel, equipment, supplies, or goodwill for other than organization-approved activities, programs, and purposes.
- 4.5 Receiving personal gifts or loans from third parties dealing with the organizations. (Receipt of any gift is disapproved except gifts of nominal value, which could not be refused without discourtesy. No personal gift of money should ever be accepted.)
- 4.6 Obtaining an interest in real estate, securities, or other property that the organization might consider buying or leasing.
- 4.7 Expending staff time during the organization's normal business hours for personal affairs or for other organizations, civic or otherwise, to the detriment of work performance for the organization.

5. Indirect Interests

As noted above, conflicting interests may be indirect. A Trustee, officer, or management employee will be considered to have an indirect interest in another entity or transaction if any of the following also have an interest:

- 5.1 A family member of a Trustee, officer, or management employee. (Family member is defined for these purposes as all persons related by blood or marriage.)
- 5.2 An estate or trust of which the Trustee, officer, or management employee or member of his family is a beneficiary, personal representative, or trustee.
- 5.3 A company of which a member of the family of the Trustee, officer, or management employee is an officer, director, or employee, or in which he has ownership or other proprietary interests.

6. Interpretation of This Statement of Policy

The areas of conflicting interest listed in Section 3 and the relations in those areas which may give rise to conflict, as listed in Section 4, are not exhaustive. Conceivably, conflicts might arise in other areas or through other relations. It is assumed that the Trustees, officers, and management employees will recognize such areas and relation by analogy.



The fact that one of the interests described in Section 4 exists does not necessarily mean that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material, that upon full disclosure of all relevant facts and circumstances that it is necessarily adverse to the interests of the organization. However, *it is the policy of the Board that the existence of any of the interests described in Section 4 shall be disclosed before any transaction is consummated.* It shall be the continuing responsibility of Trustees, officers, and management employees to scrutinize their transactions with outside business interests and relationships for potential conflicts and to immediately make such disclosures.

Disclosure should be made to the President (or if he is the one with the conflict, then to the Chairman of the Board), who shall bring these matters to the attention of the Board. The Board shall then determine whether a conflict exists and is material, and in the presence of an existing material conflict, whether the contemplated transaction may be authorized as just, fair, and reasonable as to the organization. The decisions on these matters are the sole discretion of the Board. The Board's first concern must be the welfare of the organization and the advancement of its purposes.

I have carefully read the foregoing Statement of Policy concerning Conflicts of Interest and the accompanying Resolution of the Board of Trustees. In signing this certificate, I have considered not only the literal expression of the policy, but also its intent. I do not, *except as hereinafter stated*, to the best of my knowledge: (1) have any of the relations described in Section 4 with any person or firm of the classes listed in Section 3; and (2) I have no interests conflicting with the interests of this organization, nor do I have any relationship that may appear conflicting.

THE EXCEPTIONS ARE:

If any situation should arise in the future which I believe may involve me in a conflict of interest, I will promptly and fully disclose the circumstances to the President or the Chairman of the Board, directly or through my immediate superior.

(Signature)

(Date)

**Example 3****Related-Party Board Resolution**

RESOLVED, that in order to assist [Name of Ministry] in avoiding harm from conflicts of interest between the organization and its board members, officers, or management staff, the following conflict of interest policy is hereby adopted. It is hereby established as the policy of [Name of Ministry] that Related-Party Transactions (as defined below) must meet the following requirements:

1. For the purposes of this Policy, the term “Related Party” shall mean any member of the Board of Directors of [Name of Ministry] and any officer, division director, or department manager of [Name of Ministry], or any relative of any such person within the second degree, whether related by blood or marriage, and any organization in which any such person(s) is an owner, partner, or shareholder.
2. In addition, for the purposes of this Policy, the term “Related-Party Transaction” shall mean any relationship between [Name of Ministry] and a Related Party pursuant to which the ministry is to pay compensation for services, materials, or products.
3. If the transaction is one that would lend itself to competitive bidding, management shall obtain not less than two (and preferably three or more) competing bids or proposals to provide the desired products and/or services. In soliciting and accepting such bids or proposals, management shall not provide any person who is solicited to bid or who actually bids on the contract with access to any information contained in any of the bids of others until after the contract has been awarded by the ministry. Any information given to or any questions asked of any bidder shall be given to or asked of each and every other bidder. It shall be noted, however, that the contract does not necessarily have to be awarded to the person making the lowest price bid, if management is otherwise persuaded that to contract with a person who has not made the lowest bid would be in the best interest of the ministry. A decision-maker—that is, a vice president, director, or manager—should never be in a position to deal directly with a relative in a related-party transaction.
4. A Related-Party Transaction in which a division director or department manager is a Related Party must be approved by the Executive Vice President prior to any commitment by [Name of Ministry] to any such transaction. All of the material terms and conditions of the Related-Party Transaction shall be described in writing and provided to the Executive Vice President, together with the written request for approval of any such Related-Party Transaction.
5. Related-Party Transactions of aggregate amounts greater than \$1,000 annually in which any member of the Board of Directors or any officer of [Name of Ministry] is a Related Party shall be approved by the Board of Directors. This shall be determined by a vote of not less than a majority of the directors then in office, without including the vote of any director who is a Related Party in the Related-Party Transaction. All of the material terms and conditions of the Related-Party Transaction shall be described in writing and provided to the Board of Directors prior to the ministry being committed to any such contract.
6. Related-Party Transactions which provide for ongoing or continuing services or product sales to [Name of Ministry] on an as-needed basis shall be reviewed and approved by the Executive Vice President or the Board of Directors, as the case may require. This shall occur not less often than once each year, and will not require a transaction-by-transaction approval.



CONFLICT OF INTEREST/RELATED PARTY QUESTIONNAIRE

A conflict of interest may relate to you, your spouse, family members, business interests, and/or associates. Conflicts of interest may arise when one party has the ability to significantly influence the management or operating policies of the other, to the extent that one of the transacting parties might be prevented from fully pursuing the interests of [Name of Ministry] rather than his/her own separate or related-party interests

Considering the period from _____ to date:

Table with 3 columns: Question, Yes*, No. Contains 6 numbered questions regarding financial interests, services, gifts, and indebtedness.

*If you answered "Yes" to any of these statements, please provide further explanation and information on any related-party transactions.

Three horizontal lines for providing further explanation and information.

(Signature)

(Date)



Example 5

Note: This is an example of a schedule that could be provided to the board to disclose related-party transactions.

Sample Related-Party Transactions Disclosure

Board Member	Employer	Jan. - Dec. 2014 Amount Paid	Jan. - April 2015 Amount Paid	For
John Smith	Johnson Medical Doctors	\$5,500.00	\$2,500.00	Contracted Medical Services
Christina Barr	American Life Insurance	\$4,000.00	\$5,400.00	Life Insurance
Mark Bell	Church Consultants	\$300.00	\$450.00	Consultant Fees
Mitch Lomo	Greene's Mechanic Shop	\$4,300.00	\$0.00	Van Repair Services
William Niche	Niche's Architecture Firm	\$2,500.00	\$0.00	Blueprint Design for New Building

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