



CONFLICT OF INTEREST AND DUALITY OF INTEREST POLICY

The Maine Health Access Foundation (MeHAF) seeks to ensure that its grant and program activities are guided by those who are well informed and deeply engaged in the issues and populations to be supported by its work. However, MeHAF must ensure that it does not create actual or perceived situations of conflict of interest for its Trustees, Community Advisory Committee members, staff, or other volunteers.

This policy provides guidance for all of these groups. The legal definitions of conflict of interest and duality of interest refer specifically to directors or officers of MeHAF. However, because MeHAF's Board has assigned responsibility for decision-making with fiscal implications to staff as well as several committees that include Community Advisory Committee members, and because external volunteers with subject matter expertise provide significant input into and vote on business decisions or funding recommendations, this policy is intended to apply across all groups.

No prohibited acts. No contract, transaction, or act shall be entered into or taken on behalf of the Foundation if such contract, transaction, or act would jeopardize the Foundation's tax-exempt status under section 501(c)(3) of the Internal Revenue Code (the "Code") or constitute an act of self-dealing under section 4941 of the Code.

Business Conflicts. If it is determined that a Business Conflict exists with respect to a proposed transaction, such transaction must be rejected, unless the transaction would not constitute self-dealing under section 4941 of the Code and accompanying regulations.

Trustees and Officers of the Corporation:

Trustees and Officers of the Corporation must be particularly aware of potential conflicts of interest. Maine law contains specific rules about conflicts of interest. Under 13-B MRS §718, a "conflict of interest transaction" is a transaction in which a director (or officer) of a non-profit corporation has a direct or indirect financial interest. For these purposes, a director (or officer) has an indirect financial interest in a transaction if (A) another entity in which the director (or officer) has a material interest or in which the director (or officer) is a general partner is a party to the transaction, or (B) another entity of which the director (or officer) is a director, officer or trustee is a party to the transaction.

Trustees and staff who are officers of the corporation must neither use nor appear to use their position for personal or professional gain or to promote the solicitations of their affiliated organizations. However, it is inevitable that situations of dual interest may occur. For this reason, every Trustee and officer must be mindful of actual and potential conflicts of interest or the appearance thereof. Timely disclosure and candid discussions are critical to minimize the likelihood that a Trustee's or officer's affiliation with other public, private or governmental organizations will be perceived as conflicting or promoting undue influence.

Definitions

Business Conflict. A *Business Conflict* exists when the Trustee/Officer/CAC Member/Volunteer/Staff Member or a Family Member [Foundation Party] has a financial interest as an owner (either as a sole proprietor or a partner), shareholder, partner, or trust beneficiary of any entity with which the Foundation

has, or might be expected to have, a business relationship, such as a supplier, lessor, lessee, borrower, lender, or contractor.

Grantmaking Conflict. A Foundation Party has a *Grantmaking Conflict* when he/she/they or a Family Member either serves as a volunteer or compensated board member, a compensated member of a standing committee, or is a paid employee or independent contractor of an organization (private or governmental) applying for support from the Foundation. Such a fiduciary relationship exists not only at the time of the application, but also with respect to a future relationship that could be anticipated if an organization receives funding from the Foundation.

Family Member. A Foundation Party's *Family Members* include first-degree relatives (such as spouse or domestic partner, children, stepchildren, and parents) and any other member of the household with whom the Foundation Party has a significant long-term relationship.

Procedures for Identifying Potential Conflicts of Interest

All Foundation Parties must complete a Conflict of Interest Statement that identifies and discloses any existing or potential relationships that may lead to an actual or perceived Business Conflict or Grantmaking Conflict. Trustees/Officers/CAC members/Staff/External Committee Members will complete Conflict of Interest Statements annually. All Foundation Parties are responsible for informing the President and Board Chair/Committee Chair of any subsequent changes in a timely manner. Information will be updated as needed, but no less frequently than annually. External reviewers will be asked by staff to provide information about any conflicts of interest they may have with applicants prior to each review process in which they participate.

The President or designee will review all Conflict of Interest Statements. These statements may be distributed to the Foundation's Board members, Community Advisory Committee members, and Foundation staff, and also may be disclosed publicly on request. Requests by Foundation Party that any portion of this statement be kept confidential will be evaluated on a case-by-case basis.

Disclosure and Recording of Conflicts of Interest

Disclosure. At any time that a matter comes before the Board of Trustees, Community Advisory Committee, other Committees, or grant review panels which involves, or may involve, a potential Business Conflict or Grantmaking Conflict, the individual involved shall make known the potential conflict of interest at the first possible opportunity.

Recusal. When a potential conflict has been identified, any Foundation Party involved shall answer any questions that may be asked of him or her concerning the nature of the potential conflict, and shall disclose all material facts. After responding to any questions, the remaining Trustees/Committee Chair/review panel members shall determine after disclosure whether a conflict of interest exists by a majority vote. If it is determined that there is a conflict of interest, the Foundation Party may be asked additional questions of an informational nature only, but shall not be present during voting on the grant or transaction, and shall not vote on the matter. The affected Foundation Party shall not exert personal influence to affect the Board's decision, and shall not be counted in determining whether a quorum exists for the vote.

Minutes of Meetings. In meetings for which minutes or summaries are produced, whenever a potential conflict of interest is disclosed, discussed, considered, or acted upon, the minutes/summary of the meeting shall thoroughly document all actions taken with respect to any declared conflict. The minutes/summary should document the name of the Foundation Party who disclosed the conflict, the nature of the conflict, that the affected individual absented him/her/themselves from the meeting for any vote or decision, and all relevant discussion and actions that occur in that individual's absence.

Attachment A

Self-Dealing

An act of self-dealing is one of the following transactions between a private foundation (such as Maine Health Access Foundation) and a disqualified person (as described below):

1. The sale or exchange, or leasing, of property.
2. The lending of money or other extension of credit. There is an exception for a loan by the disqualified person to the private foundation without interest if the loan funds are used exclusively for charitable purposes.
3. The furnishing of goods, services or facilities. There is an exception for the furnishing of such items without charge if such items are used exclusively for charitable purposes. There is also an exception where such items are furnished to the private foundation on the same basis that such items are furnished to the general public.
4. The payment of compensation (or the payment or reimbursement of expenditures) by a private foundation to a disqualified person. There is an exception for reasonable compensation paid (or payment or reimbursement of expenditures) to the disqualified person where the services are necessary to carry out the charitable purposes of the private foundation.
5. The transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation.
6. The agreement by the private foundation to make any payment of money or other property to a government official.

For the purposes of the self-dealing rules, a disqualified person means:

1. A substantial contributor to the private foundation. A substantial contributor is any person who has contributed (in the aggregate) more than \$5,000 to the private foundation, if such amount is greater than 2% of the total contributions received by the private foundation since its inception as of close of any tax year.
2. A foundation manager of the private foundation, including any officer, trustee or director, or, in some cases, an employee, of the private foundation.
3. An owner of 20% or more of the voting stock of a corporation, the profits interest of a partnership, or a beneficial interest of a trust that is a substantial contributor.
4. A member of the family of a substantial contributor, a foundation manager, or the 20% owner of a substantial contributor. A member of the family of an individual includes his or her spouse, ancestors, children, grandchildren, great-grandchildren, and the spouses of the children, grandchildren and great-grandchildren.
5. A corporation, a partnership or a trust or estate in which a person described in the first four paragraphs owns more than 35% of the voting stock of the corporation, 35% of the profits interest of the partnership, or 35% of the beneficial interests of the estate or trust.
6. A government official, including an elected official.