

# Stillwater Area Community Services Center Inc.

## CONFLICT OF INTEREST POLICY

### **PURPOSE:**

This policy is based on the IRS model Conflict of Interest policy, which is an attachment to Form 1023. It adds information needed to allow SACC to assess director independence in order to answer questions on Form 990. The purpose of this Board Conflict of Interest policy is to protect SACC interests when it is contemplating entering into a transaction or arrangement that might benefit the private interests of an officer or director of SACC 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 conflicts of interest applicable to nonprofit and charitable organizations. This policy is also intended to identify “independent” directors.

### **POLICY:**

#### **Definitions**

1. “Interested person” wherein 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.
2. “Financial interest” wherein 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 SACC has a transaction or arrangement,
  - b. A compensation arrangement with SACC or with any entity or individual with which SACC has a transaction or arrangement, or
  - c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which SACC is negotiating a transaction or arrangement.
  - d. 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. A person who has a financial interest may have a conflict of interest only if the Board of Executive Committee decided that a conflict of interest exists, in accordance with this policy.
3. “Independent Director” wherein all directors shall be considered “independent” for the purposes of this policy if he or she is “independent” as defined in the instructions for the IRS 990 form or, until such definition is available, the director:
  - a. Is not, and has not been for a period of at least three years, an employee of SACC or any entity in which SACC has a financial interest;
  - b. Does not directly or indirectly have a significant business relationship with SACC, which might affect independence in decision-making;
  - c. Is not employed as an executive of another corporation where any of SACC executive officers or employees serve on that corporation’s compensation committee; and
  - d. Does not have an immediate family member who is an executive officer or employee of SACC or who holds a position that has a significant financial relationship with SACC.
4. “Related Party” means any (a) any director, officer, or any affiliate of the SACC, (b) any Relative (as such term is defined herein) of any director, officer, or any affiliate of the SACC or (c) any entity in which any individual described in (a) or (b) above has a twenty-five percent (25%) or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent (5%).

## Stillwater Area Community Services Center Inc.

5. "Related Party Transaction" means any transaction, agreement or any other arrangement in which a Related Party (as such term is defined herein) has a financial interest and in which the SACC or any Affiliate of the SACC is a participant, except that a Related Party Transaction shall not fall within this definition if (a) the transaction or the Related Party's financial interest in the transaction is de-minimis, (b) the transaction would not customarily be reviewed by the Board or by boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms, or (c) the transaction constitutes a benefit provided to a Related Party solely as a member of a class of the beneficiaries that the SACC intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms.
6. "Relative" of an individual means his or her spouse or domestic partner, ancestors, siblings (including siblings by birth or adoption, and half- or step-siblings), children (including children by birth or adoption and step-children), grandchildren, great-grandchildren and spouses or domestic partners of siblings, children, grandchildren and great-grandchildren.
7. "Affiliate" of the SACC means any entity controlled by, or in control of, the SACC.

### 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 Board of Executive Committee.
2. Recusal of Self: Any director may recuse himself or herself at any time from involvement in any decision or discussion which the director believes he or she has or may have a conflict of interest, without going through the process for determining whether a conflict of interest exists.
3. 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 Board of Executive Committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board of Executive Committee members shall decide if a conflict of interest exists.
4. Procedures for Addressing the Conflict of Interest:
  - a. An interest person may make a presentation at the Board of Executive 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.
  - b. The Chairperson of the Board of Executive 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 of Executive Committee shall determine whether SACC can obtain with reasonable efforts a more advantageous transaction or arrangement for 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 Executive Committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in SACC'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 arrangement.

# Stillwater Area Community Services Center Inc.

5. Violations of the Conflicts of Interest Policy:
  - a. If the Board of Executive 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 Board of Executive Committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

## Records of Proceedings

The minutes of the Board and all committees with board delegated powers shall contain:

1. 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 was present, and the Board's or Executive Committee's decision as to whether a conflict of interest in fact existed.
2. 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 an votes taken in connection with the proceedings.

## Compensation

A voting member of the Board who receives compensation, directly or indirectly, from SACC for services is precluded from voting on matters pertaining to that member's compensation. For the purposes of this article, reimbursement of reasonable expenses incurred in performance of duties as a director is not compensation.

1. A voting member of any committee whose jurisdiction includes compensation matter and who receives compensation, directly or indirectly, from SACC for services is precluded from voting on matters pertaining to that member's compensation.
2. No voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from SACC, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

## Annual Statements

1. Each director, principal officer and member of a committee with Board delegated powers shall annually sign a statement which affirms such person:
  - a. Has received a copy of the conflict of interest policy,
  - b. Has read and understands the policy,
  - c. Has agreed to comply with the policy, and
  - d. Understands SACC 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.
  - e. Has set forth existing potential conflicts of interest.
2. Each voting member of the Board shall annually sign a statement which declares whether such person is an independent director.

## Stillwater Area Community Services Center Inc.

3. If at any time during the year, the information in the annual statement changes materially, the director shall disclosed such changes and revise the annual disclosure form.
4. The Executive Committee shall regularly and consistently monitor and enforce compliance with this policy by reviewing annual statements and taking such other actions as are necessary for effective oversight.

### Periodic Reviews

1. To ensure SACC 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 minimum, include the following subjects:
  - a. Whether compensation arrangements and benefits are reasonable, based on competent survey information (if reasonably available), and the result of arm's length bargaining.
  - b. Whether partnerships, joint ventures, and arrangements with management organization, if any conform to SACC's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement or impermissible private benefit or in an excess benefit transaction.

### Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, SACC may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

### Related Party Transactions

1. In General, the SACC shall not enter into a Related Party Transaction (as such term is defined in this policy) unless such transaction is determined by the Board, or an authorized committee thereof, to be fair, reasonable and in the SACC's best interest at the time of such determination. Any trustee, officer or Key Person who has an interest in a Related Party Transaction shall disclose in good faith to the Board, or an authorized committee thereof, the material facts concerning such interest.
2. Procedure

Except as otherwise provided herein, the procedure for disclosing, addressing and documenting a Related Party Transaction shall be in accordance with the procedures set forth in this Policy.

3. Extraordinary Related Party Transactions

With respect to any Related Party Transaction in which a Related Party has a substantial financial interest, the Board, or an authorized committee thereof, shall:

- a. Prior to entering into the transaction, consider alternative transactions to the extent available;
- b. Approve the transaction by not less than a majority vote of the Board or committee members present at the meeting (so long as there is a quorum); and
- c. Contemporaneously document in writing the basis for the Board's or authorized committee's approval, including its consideration of any alternative transactions.

4. Failure to Comply; Ratification of Related Party Transactions

With respect to any Related Party Transaction not approved in accordance with the procedures set forth above in this section at the time such Related Party Transaction was entered into, the

# Stillwater Area Community Services Center Inc.

Board, or an authorized committee thereof, may subsequently ratify the transaction if the Board or authorized committee thereof:

- a. Finds in good faith that the Related Party Transaction is fair, reasonable and in the SACC's best interest at the time of such approval, and with respect to any Related Party Transaction in which a Related Party has a substantial financial interest, the Board or authorized committee thereof considers alternative transactions to the extent available and approves the transaction by not less than a majority vote of the Board or committee members present at the meeting (so long as there is a quorum);
- b. Documents in writing the nature of the violation of this section and the basis for the Board's or authorized committee's ratification of the transaction; and
- c. Implements procedures to ensure that the SACC complies with points 1 through 3 of this section with respect to Related Party Transactions in the future.

## **RESPONSIBILITY**

The Board of Directors has the ultimate responsibility for ensuring compliance with this policy by all directors, officers, and key employees. All directors, employees and volunteers will be trained on this policy and will be asked to acknowledge receipt in writing upon election or selection through the policy acknowledgement form included as the final page in the policy handbook. The center will keep a copy of this and all policies in a binder as a policy handbook that will be left in a conspicuous place accessible to all directors, employees, and volunteers.

Approved on: August 19, 2019

To be reviewed on: August 2020

*Each policy will be reviewed on an annual basis and is subject to change.*