

Community Foundation of Mount Vernon & Knox County
Consolidated Policies

Conflict of Interest Policy

Section 1. Purpose

The purpose of this Conflict of Interests Policy is to assist the Board of Trustees of the Corporation in carrying out its obligation to preserve and apply the Corporation's assets exclusively in furtherance of those purposes of the Corporation as are consistent with its status as an organization exempt from federal income tax pursuant to sections 501(a) and 501(c)(3) of the Internal Revenue Code of 1986, as amended (the Code).

Section 2. Definitions

For purposes of this Policy:

(a) Compensation includes wages paid to an employee for services rendered, payments to an independent contractor, remuneration or other consideration of any type whatsoever for any services rendered and any direct or indirect payment, remuneration, transfer of assets, whether for services or otherwise, and gifts or favors which are substantial in nature.

(b) Conflict of Interests shall mean any circumstance or situation which involves in any way both the interests of the Corporation, whether financial or otherwise, and a Financial Interest of any Interested Person, including but limited to Transactions between the Corporation and Interested Persons and Transactions involving the Corporation and any entity in which an Interested Person has a Financial Interest.

(c) Family member shall mean any ancestor, a spouse, a brother or sister and the spouse of any brother or sister, children, grandchildren and great-grandchildren and the spouses of children, grandchildren and great-grandchildren.

(d) Financial Interest shall mean any

- (i) receipt of Compensation from, or
- (ii) ownership or investment interest in, or
- (iii) potential arrangement for the receipt of Compensation from or potential ownership or investment interest in, any corporation (including the Corporation), partnership, limited liability company, trust, business organization, sole proprietorship or other business entity (including, in the case of Compensation, the receipt of Compensation from any individual), whether received or held or to be received or to be held directly or indirectly, through business dealings, family relationships (whether

through or on account of a Family Member or otherwise), investments, or otherwise.

(e) Interested Person shall mean:

- (i) any trustee of the Corporation, the Chairperson of the Corporation, the Vice-Chairperson of the Corporation, the President of the Corporation, the Vice President(s) of the Corporation, the Treasurer of the Corporation and/or the Secretary of the Corporation or any other officer of the Corporation or any other person having powers or responsibilities similar to those of trustees or officers of the Corporation,
- (ii) any person who was, at any time during the 5-year period immediately preceding the effective date of a proposed Transaction in a position to exercise substantial influence over the affairs of the Corporation, no matter whether such person is otherwise classified as an Interested Person pursuant to any other clause of this Section 2(e),
- (iii) a member of a committee of the Corporation which enjoys board delegated powers,
- (iv) a Family Member of any individual described in clause (i), (ii) or (iii) of this Section 2(e), and
- (v) a 35-percent Controlled Entity.

(f) A 35-percent Controlled Entity means

- (i) a corporation in which persons described in clauses (i) through (iv) of Section 2(e) of this Code of Regulations, either alone or collectively, own more than 35% of the total combined voting power,
- (ii) a partnership in which persons described in clauses (i) through (iv) of Section 2(e) of this Code of Regulations, either alone or collectively, own more than 35% of the profits interest, and
- (iii) a trust or estate in which persons described in clauses (i) through (iv) of Section 2(e) of this Code of Regulations, either alone or collectively, shall mean this Conflict of Interests Policy of the Corporation as set forth Corporation's Code of Regulations, as the same may be amended or restated in this Code of Regulations, or any amendment and/or restatement of this Code or any other governing instrument of the Corporation;

(g) Policy shall mean this Conflict of Interests Policy of the Corporation as set forth in this Article VII of the Corporation's Code of Regulations, as the same may be amended or restated elsewhere, whether in this Code of Regulations, or any amendment and/or restatement of this Code of Regulations or any other governing instrument of the Corporation.

- (h) Transaction shall mean any
 - (i) business dealings,
 - (ii) arrangement, agreement or undertaking with respect to the payment of Compensation by the Corporation,
 - (iii) agreement,
 - (iv) undertaking
 - (v) financial dealings,
 - (vi) relationship, or
 - (vii) other arrangement, circumstances or situation of any description or nature whatsoever, involving or to which the Corporation is a party.

Section 3. Conflict of Interests Policy

The Conflict of Interests Policy of the Corporation is as follows:

(a) Whenever an Interested Person believes that because of a Financial Interest of such Interested Person a Conflict of Interests exists, such Interested Person shall disclose in writing to the Board of Trustees of the Corporation as soon as practical such Conflict of Interests and all material facts relating thereto. Such disclosure shall be made no later than such Interested Person's participation in any action or decision by the Corporation or meeting or vote of the Board of Trustees or any committee of the Board of Trustees pursuant to which the Corporation considers, approves or undertakes any Transaction involving such Conflict of Interests.

(b) With the Interested Person excused from such deliberations and any vote arising from such deliberations, the Board of Trustees shall determine whether the Conflict of Interests requires that further steps be taken by the Board of Trustees with respect to any deliberations or decisions concerning matters related to such Conflict of Interests or consideration or implementation of any Transaction relating to such Conflict of Interest. Alternatively, an Interested Person may elect to excuse themselves from such deliberations and votes arising from such deliberations, if he or she believes a Conflict of Interest exists because of a Financial Interest. *(Amendment confirmed Feb. 13, 2008)*

(c) If it is determined that the Conflict of Interests disclosed by the Interested Person requires implementations of particular procedures or the taking of special actions by the Corporation, any or more of the following steps and/or actions like them may be taken:

- (i) the Interested Person shall not participate in any meeting, discussion, deliberations or votes concerning the Conflict of Interests and the

Transaction and/or Financial Interest giving rise to the Conflict of Interests;

- (ii) if appropriate, a committee of non-interested trustees or a non-interested trustee may be appointed to investigate alternatives to any proposed Transaction involving a Conflict of Interest;
- (iii) if it is determined after exercise of due diligence that the Transaction giving rise to a Conflict of Interests is or are --
 - (A) in the best interests of the Corporation,
 - (B) for the benefit of the Corporation,
 - (C) fair and reasonable to the Corporation, and
 - (D) that the Corporation cannot obtain a more advantageous Transaction with reasonable efforts under all facts and circumstances as then known to the trustees,
- (iv) the Transaction may be approved by a majority vote of non-interested trustees eligible to vote on such matter.

(d) In order to protect the organization's best interests, appropriate disciplinary action shall be taken with respect to any Interested Person who violates this Conflict of Interest Policy; such disciplinary action need not necessarily be but may include expulsion from the Board of Trustees, dismissal or similar action.

(e) The Corporation shall keep detailed records relating to any disclosure of a Financial Interest and/or a Conflict of Interest. Accordingly, the records of the Corporation, whether the minutes of the meetings of the Board of Trustees, of committees with board delegated powers or otherwise should include:

- (i) the names of persons who disclose a Conflict of Interests or a Financial Interest and what further actions, if any, were taken in light of such disclosure;
- (ii) the names of the persons who were present for discussions and votes relating to any Transaction creating or giving rise to a Conflict of Interests, the content of such discussions, including particularly any alternatives to any proposed Transaction; and
- (iii) a record of any votes taken with respect to the foregoing matters.

(f) The Corporation shall institute procedures to insure that this Conflict of Interests Policy is distributed to all trustees and officers of the Corporation and to the members of any committee of the Corporation with board delegated powers. The Corporation shall require each such person to sign an annual statement that such person:

- (i) received a copy of the Conflict of Interests Policy;
 - (ii) has read and understands the Conflict of Interests Policy;
 - (iii) agrees to comply with the Conflict of Interests Policy;
- (g) understands that the Conflict of Interests Policy applies to all committees and subcommittees having board delegated powers; and
- (h) understands that the Corporation is exempt from Federal income taxes pursuant to section 501(a) of the Code by virtue of being organized and operated as described in section 501(c)(3) of the Code organization and that in order to maintain its tax-exempt status it must continuously engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Section 4. Compensation Committee

The Corporation shall create and make use of the services of a Compensation Committee. The Compensation Committee shall determine the Compensation to be paid by the Corporation to any person who is an Interested Person. The Compensation Committee, at a minimum, shall follow these procedures:

(a) No persons who receive, directly or indirectly, Compensation from the Corporation, for services as an employee, an independent contractor or otherwise, or any person subject to the control of such persons receiving Compensation may serve on the Compensation Committee.

(b) In determining Compensation levels for Interested Persons or any or other individual in a position to significantly influence affairs of the Corporation, the Compensation Committee shall obtain and rely upon appropriate data as to comparability of the Compensation paid or to be paid, which data may include but shall not be limited to information concerning:

- (i) compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions;
- (ii) independent compensation surveys by a nationally recognized independent firm; or
- (iii) actual written offers from similar institutions competing for the services of the individual to be compensated.

(c) The Compensation Committee shall maintain detailed records as to its deliberations and such records shall address, at a minimum, the basis for determinations made as to the amounts and manner of Compensation to be paid to Interested Persons or any other person in a position to significantly influence the affairs of the Corporation (e.g., an evaluation of each individual whose compensation is determined and the basis for determining that the amount of such Compensation is reasonable in light of such evaluation and other relevant data).

Section 5. Review of Corporate Activities

In furtherance of the Conflict of Interests Policy, the Board of Trustees shall undertake a periodic review of the activities of the Corporation to insure that all activities of the Corporation are in furtherance of the tax-exempt purposes of the Corporation, are consistent with the accomplishment of such purposes and that such activities do not result in private inurement or impermissible private benefit to private interests. In reviewing the activities of the Corporation, the Board of Trustees shall pay particular attention to:

(a) whether Compensation arrangements and benefits provided to employees and/or independent contractors are reasonable and the result of the arm's-length negotiations;

(b) whether any Transactions entered into by the Corporation result in private inurement or impermissible private benefits;

(c) whether any partnership, joint venture or similar arrangements reflect reasonable payments for goods or services, further the exempt purposes of the Corporation and do not result in private inurement or private benefit; and

(d) whether all other activities, agreements or undertakings of the Corporation are in furtherance of the Corporation's exempt purposes.

(Amended Feb. 13, 2008)