



GOVERNING COUNCIL CONFLICT OF INTEREST POLICY

Approved by the Governing Council on February 24, 2016.

Purpose (Article I)

The purpose of the conflict of interest policy is to foster the public trust in the integrity of Mountain Phoenix (the "Corporation"), to promote the goals of the accountability and transparency in the operation of the Corporation and to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit an interested person (defined below) at the expense of the Corporation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace the Bylaws of the Corporation and is adopted to comply with applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Public office is a trust created by the confidence the public places in the integrity of local government officials for the common good and for the benefit of the people. All decisions are to be made solely on the basis of a desire to promote the best interests of the organization. Effective boards and organizations will include individuals who have relationships and affiliations that may raise questions about perceived conflicts of interest. Although many such potential conflicts are and will be deemed inconsequential, every Interested Person has the responsibility to ensure that those make decisions regarding issues or transactions are made aware of situations could create a real or perceived conflict of interest.

It is the intent of this policy to protect the public trust placed in the representatives of this Corporation as a public school. For purposes of this policy, a conflict of interest is a personal interest (defined below) or financial interest (defined below) that is immediate, definite, demonstrable and that materially impedes the ability of the Interested Person to devote complete loyalty and singleness of purpose to the best interest of the Corporation.

Definitions (Article II)

Interested Person

Any Council Representative, Officer of the Corporation, Director of Education, Director of Operations, business manager and other management and critical employees designated by the Governing Council from time to time or member of a committee with powers delegated from the Governing Councils (the "Council"), who has a direct or indirect financial interest, or personal interest, as defined below, is an interested person.

Financial Interest

A person has a financial interest if the person or his or her family member has, directly or indirectly, through business, investment, or family:

- A. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, existing, proposed, or pending;
- B. A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement, or;
- C. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A family member is defined to be an individual's spouse and children (including legally adopted children), parents, siblings, and spouses of such persons. (Again this should be defined and narrowed or broad as you want).



A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate Council or committee decides that a conflict of interest exists.

Personal Interest

A person has a personal interest if they have an obligation, duty (fiduciary or otherwise), relationship, commitment, investment, financial or otherwise, direct or indirect, that may influence a person's judgment. If they have a personal interest, they have a duty to disclose the actual or possible interest per the procedure stated below. (For example, committee involvement on topics such as hiring or decisions regarding the teacher of the child of an interested person.)

"Conflict of Interest" is defined as a situation in which personal considerations have the potential to influence or compromise professional judgment in decisions.

A personal interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate Council or committee decides that a conflict of interest exists.

Procedures (Article III)

Section 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 or personal interest and be given the opportunity to disclose all material facts to the Council Members.

If a Council Member has a financial interest, he shall comply with the terms of (C.R.S. 24-18-109 (3), if the Council is to consider the transaction, or arrangement, or contract with the entity in which the Council Member has a financial interest.

Section 2 - Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest or personal interest and all material facts, and after any discussion with the interested person, he/she shall leave the Council or committee meeting while the remaining Council members objectively determine whether a financial interest or a personal interest exists based upon the definitions above; and if such conditions are met then the Council shall determine if such involvement or relationship of the disclosing person significantly reduces the likelihood that the person can act impartially in the best interests of Corporation.

Section 3 - Procedures for Addressing the Conflict of Interest

- A. An interested person may make a presentation at the Council or 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 Council or 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 Council or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from 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 Council or committee shall determine by a majority vote of the disinterested Council Representatives or committee members whether the transaction or arrangement is in the Corporation'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 or arrangement.

Section 4 - Records of Proceedings

The minutes of the Council and all committees with council delegated powers shall contain:



- A. 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, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Council's or committee's decision as to whether a conflict of interest in fact existed.

- E. 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 any votes taken in connection with the proceedings.

Violations of the Conflicts of Interest Policy (Article IV)

- A. If the Council or committee has reasonable cause to believe a Council Representative or School Director has failed to disclose actual or possible conflicts of interest, it shall inform the School Directors or Council Representative of the basis for such belief and afford the School Directors or Council Representative an opportunity to explain the alleged failure to disclose.

- B. If, after hearing the School Director's or Council Representative's response and after making further investigation as warranted by the circumstances, the Council or committee determines the School Director or Council Representative has failed to disclose actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Compensation (Article V)

A voting Council Representative who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that Council Representative's compensation.

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation.

A voting Council Representative or voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is not prohibited from providing information to any committee regarding compensation.

Annual Statements (Article VI)

Each Council Representative, School Director, and member of a committee with Council 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 the Corporation 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.

Periodic Reviews (Article VII)

To ensure the Corporation 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 a minimum, include the following subjects:

- A. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.

- B. Whether partnerships, joint ventures, and arrangements with management Corporations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purpose and do not result in inurement, impermissible private benefit or in an excess benefit transaction.



Use of Outside Experts (Article VIII)

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

POLICY HISTORY

22-32-110(1)(y), C.R.S. *Local board powers-Accepting gifts, donations, and grants*

Original: proposed to the MPCS Governing Council on January 27, 2016

Approved on February 24, 2016.