

## **Conflict of Interest and Nepotism**

### **Conflict of Interest Policy for Directors, Officers, Senior Management, and other staff as determined by the Executive Director in coordination with the Board of Directors.**

#### **SECTION I – Policy**

The members of the Board of Directors (“Directors” or Board Members”), Officers, Senior Management, and certain other staff with authority over financial and procurement matters of Washington County Economic Opportunity Council, Inc. (EOC, Inc.) owe a fiduciary duty to EOC, Inc.

To act in good faith and in a manner that they reasonably believe to be in EOC, Inc.’s best interests. This duty of loyalty requires such individuals to exercise independent judgment on behalf of EOC, Inc., placing EOC, Inc.’s best interests ahead of personal interests.

To ensure that EOC, Inc.’s best interests are being served, related party transactions shall be the subject of full disclosure by Directors, Officers, Senior Management, Key Persons and other staff and review by independent Directors (for transactions of Board members and the Executive Director) or the Executive Director (for transactions of all other staff). The new Head Start regulations prohibit Board members from having financial conflicts of interests with Washington County Economic Opportunity Council, Inc. Therefore, if a related-party transaction involving a Board member is determined to be a financial conflict of interest, either the transaction will not be conducted or the Board member will be required to resign.

For these purposes, the attached Related Party Transaction Policy shall apply. For transactions of all other staff, the term “related-party transactions” means, in general, transactions between Washington County Economic Opportunity Council, Inc... or any of its subsidiaries or delegate agencies, and (1) staff member, or (2) a close relative a staff person; or (3) an organization in which such person, or one of his/her close relatives, is an employee or partner or holds a significant leadership or management position, or in which such persons, alone or collectively, hold over ten percent of the total ownership interest or Board of Directors seats. The term “Officer” means both volunteer Officers and senior paid management personnel. The term “close relative” means a spouse, parent, child, grandchild, sibling, or spouse of any such individual. “Related part transactions” also mean transactions between Washington County Economic Opportunity Council, Inc. and any other party where any of the individuals described in (1) through (3) above receive a financial benefit in connection with such transaction, except for the following: (1) where the transaction itself or the Related Party’s financial interest in the transaction is de Minimis, (2) that would not customarily be reviewed by the Board or Boards of similar organizations and are available to others on the same or similar terms, or (3) that constitute a benefit provided to a related party only as a member of a class of the beneficiaries that the Corporation intends to benefit as a part of its mission, as long as the benefit is available to similarly situated members of the same class on the same terms.

The new Head Start legislation also provides:

Washington County Economic Opportunity Council, Inc.’s Board members may not receive compensation for serving on the Board or for providing services to EOC, Inc.

Neither EOC, Inc. Board members nor their immediate family members may be employed by EOC, Inc. or any of its delegate agencies.

The EOC, Inc. Board must operate an entity independent of EOC, Inc. staff.

#### **Section 2 – Procedures**

##### **Sub-Section 2.1 – Disclosure of Related Party Transactions**

Prior to being elected or appointed and each April thereafter, each Board member (prospective Board member) shall disclose to the Executive Director or his/her designee: 1) any related party transactions with EOC, Inc. of which that individual has knowledge; 2) whether the individual is receiving compensation for providing services to EOC, Inc.; and 3) whether any immediate family member of the individual is employed by EOC, Inc. The Executive Director shall disclose to the Board of Directors any related party transactions. Upon first being hired, or if already employed by EOC, Inc., on a date determined by the Executive Director, each paid Officer, senior management staff, Key Persons and such other staff as the Executive Director shall determine, shall disclose any related party transactions to the Executive Director.

Thereafter, disclosures shall be updated annually, and at other times as changed circumstances in a particular case may warrant. For this purpose, EOC, Inc. shall be updated annually, and at other times as changed circumstances in a particular case may warrant. For this purpose, EOC, Inc. shall use a disclosure form consistent with the general

definitions above and responsive to the various tax, regulatory and auditing requirements to which EOC, Inc. is subject, as attached Exhibit A.

#### **Sub-Section 2.2 – Board Committee Review – Transactions of Directors and Executive Director**

The terms of all related party transactions of Directors the Executive Director, and Key Persons shall be reviewed by a committee of Directors composed entirely of individuals who have no involvement with any related party transactions involving EOC, Inc. (“Independent Directors”), to be appointed by the Chairperson of the EOC, Inc. Board of Directors, with the approval of the Board of Directors. The Board committee, with the advice of legal counsel as necessary, shall determine whether a related party transaction is a prohibited financial conflict of interest. If the Board committee determines that the related party transaction is not a prohibited financial conflict of interest, and then it shall determine whether, all factors considered, a give transaction is fair and reasonable to, and is in the best interest of EOC, Inc. For this purpose, a “transaction” may include an ongoing business relationship subject to stated terms. In making this determination, the committee shall review, where appropriate, information concerning comparable transactions entered into by other parties and organizations.

#### **Sub-Section 2.3 – Board Consideration/Approval – Transactions of Directors and Executive Director**

The review committee shall report its determinations and recommendations as to relate party transactions and financial conflicts of interests of Directors, the Executive Director, and Key Persons to the full Board of Directors. At a meeting of the Board of Directors, a Director may state his or her views, and shall respond to questions, as to any transaction in which he or she may be interested, but only Independent Directors shall be present for and participate in deliberations or voting as to any related party transactions. The Independent Directors shall determine, by majority vote, if there is a financial conflict of interest. If the Board determines that a transaction involving a Board member constitutes a financial conflict of interest, then the Board shall vote either not to enter into the transaction or to require the resignation of the interested Director. If the Independent Directors determine that the transaction is a related party transaction, but not a financial conflict of interest, or if the transaction concerns the Executive Director, rather than a Board member, then they shall further determine whether, all factors considered, a given transaction is fair and reasonable to, and is in the best interests of EOC, Inc. Approval of a related party transaction shall require a majority vote of the Independent Directors. The basis for any such vote shall be reflected in the minutes of the meeting at which action is taken, and those minutes shall be approved at the next meeting of the Board.

#### **Sub-Section 2.4 – Executive Director Review of Staff and Prospective Board Member Related Party Transactions**

For all related party transactions of senior management staff or other staff as the Executive Director determines is appropriate, the Executive Director shall designate a member or members of senior management (not including the interested staff member) to review the transaction and determine, with the advice or counsel as necessary, whether it is fair and reasonable to, and in the best interest of, EOC, Inc. to enter into or continue the transaction. For this purpose, a “transaction” may include an ongoing business relationship subject to stated terms. In making this determination, the designated staff member or members shall review, where appropriate, information concerning comparable transactions entered into by other parties and organizations. The determination shall be presented to the Executive Director for his/her final determination. In addition, the Executive Director shall designate a member or members of senior management to review related party transactions of prospective Board members and the completed Board questionnaire and determine whether:

such related party transactions would constitute prohibited financial conflicts of interest or otherwise not be in the best interest of EOC, Inc.; the individual receiving compensation for providing services to EOC, Inc.; and any immediate family member of the individual is employed by EOC, Inc.

If the Executive Director determines that the answer to any of #1 through #3 above is “yes”, then the individual may not serve on the EOC, Inc. Board. Such decision may be appealed to the Board of Directors or a Board committee as designated by the Board.

#### **Sub-Section 2.5 – Gifts to Directors and Officers**

EOC, Inc.’s Directors, Officers, employees, and their close relatives, are prohibited from soliciting or accepting gifts, money, or gratuities, other than those of nominal value, from:

Persons receiving benefits or services under any EOC, Inc. program;

Any person or organization performing services for or providing goods to EOC, Inc.; or

Persons who are otherwise in a position to benefit from the actions of an EOC, Inc. employee, Officer or Director.

Washington County Economic Opportunity Council, Inc. employees may not:

- Serve on a board or committee if that board or committee has authority to order personnel actions affecting that employee's job.
- Gain employment with Washington County Economic Opportunity Council, Inc. while a member of the individual's immediate family serves on a board or committee that has authority to order personnel action affecting agency employees.
- Hold a job within Washington County Economic Opportunity Council, Inc. over which the employee is supervised by a member of his/her immediate family. For the purposes of this part, a member of an immediate family shall include all those listed under Policy on Gifts and Gratuities.

It is the policy of this Agency that employees may be allowed to perform outside employment without prior agency approval, with the following exceptions:

- Outside employment may at no time create a real or apparent conflict of interest with the Agency, its Mission, or the employee's employment with the Agency.
- Outside employment may not interfere with the performance of employee's duties and responsibilities; and may not be conducted during regular work hours or on Agency premises unless a prior written request has been submitted and approved by the employee's Supervisor and the Director, or designee and the Executive Director when appropriate.

### **Related Party Transaction Policy**

Related Party Transactions, which are limited to those described in this Policy, shall be subject to the approval of ratification by the Board of Directors in accordance with this Policy.

1. A "Related Party Transaction" is any transaction directly or indirectly involving any Related Party. A Related Party Transaction is required to be disclosed if it involves the Agency, and in which any Related Person has or will have a direct or indirect material interest. "Related Party Transaction" also includes any material amendment or modification to an existing Related Party Transaction. However, the following are excluded from being a related party transaction: (1) where the transaction itself or the related party's financial interest in the transaction is de Minimis, (2) that would not customarily be reviewed by the Board or Boards of similar organizations and are available to others on the same or similar terms, or (3) that constitute a benefit provided to a related party only as a member of a class of the beneficiaries that the Corporation intends to benefit as a part of its mission, as long as the benefit is available to similarly situated members of the same class on the same terms.

"Related Party" means any of the following:

The Executive Director, Officers, a member of the Board of Directors, a Key Person as defined in the Not-For-Profit Corporations Law, or their immediate family member.

"Immediate family member" means a child, stepchild, parent, stepparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law of such Related Party, or any person (other than a tenant or employee) sharing the household of such Related Party.

2. Identification of Potential Related Party Transactions  
Related Party Transactions shall be brought to the attention of the Board of Directors. Each of the Executive Director, Officers, members of the Board of Directors, and key persons as defined in the Not-For-Profit Corporations Law will be instructed and periodically reminded to inform the Board of Directors of any potential Related Party Transactions. In addition, each such individual shall complete a questionnaire on an annual basis designed to elicit information about any potential Related Party Transactions.

Any potential Related Party Transactions shall be analyzed by the Board of Directors and Legal Counsel to determine whether the transaction or relationship does, in fact, constitute a Related Party Transaction requiring compliance with the Policy.

### 3. Review and Approval of Related Party Transactions

The Board of Directors will be provided with the details of each new, existing or proposed Related Party Transaction, including the terms of the transaction, the business purpose of the transaction, and the benefits to the Agency and to the relevant Related Party. In determining whether to approve a Related Party Transaction, the Board of Directors will consider, among other factors, the following factors to the extent relevant to the Related Party Transaction:

- whether the terms of the Related Party Transaction are fair to the Agency and on the same basis as would apply if the transaction did not involve a Related Party;
- whether there are business reasons for the Agency to enter into the Related Party Transaction; and
- whether the Related Party Transaction would present an improper conflict of interest for any member of the Agency, Executive Director, Officers or a member of the Board of Directors taking into account the size of the transaction, the direct or indirect nature of the Related Party's interest in the transaction and the ongoing nature of any proposed relationship, and any other factors the Board of Directors deems relevant.

Any member of the Board of Directors who has an interest in the transaction under discussion will abstain from voting on the approval of the Related Party Transaction, but may, if so requested by the President, participate in some or all of the Board of Director's discussions of the Related Party Transaction. Upon completion of its review of the transaction, the Board of Directors may determine to permit or to prohibit the Related Party Transaction.

A Related Party Transaction entered into without pre-approval of the Board of Directors shall not be deemed to violate this Policy, or be invalid or unenforceable, as long as the transaction is brought to the Board of Directors as promptly as reasonably practical after it is entered into or after it becomes reasonably apparent that the transaction is covered by this Policy, and is subsequently approved by the Board of Directors after considering available alternative transactions, documenting the nature of the related party transaction, the basis for approval, and the procedures implemented to ensure that such related party transactions will only be allowed in the future pursuant to the Policy.