**INNOVATION SCIENCE AND TECHNOLOGY ACADEMY**

**CONFLICT OF INTEREST POLICY**

101 CONFLICT OF INTEREST - BOARD MEMBERS

1. PURPOSE The purpose of this policy is to observe state statutes regarding conflicts of interest and to engage in school business activities in a fashion designed to avoid any conflict of interest or the appearance of impropriety.

II. GENERAL STATEMENT OF POLICY

It is the policy of the Board to contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflict of interest or the appearance thereof. Accordingly, the Board will contract under the statutory exception provisions only when it is clearly in the best interest of the school district because of limitations that may exist on goods or services otherwise available to the school district.

1. Conflict of Interest. ‘Conflict’ is defined through Minnesota Statutes, Chapter 124E.14 Conflict of Interest.

No member of the board of directors, employee, officer, or agent of a charter school shall participate in selecting, awarding, or administering a contract if a conflict of interest exists. A conflict exists when:

(1) The board member, employee, officer, or agent;

(2) The immediate family of the board member, employee, officer, or agent;

(3) The partner of the board member, employee, officer, or agent; or

(4) An organization that employs, or is about to employ any individual in clauses (1) to (3), has a financial or other interest in the entity with which the charter school is contracting. A violation of this prohibition renders the contract void.

(b) The conflict of interest provisions under this section do not apply to compensation paid to a teacher employed as a teacher by the charter school or a teacher who provides instructional services to the charter school through a cooperative formed under chapter 308A when the teacher also serves on the charter school board of directors.

(c) A charter school board member, employee, or officer is a local official for purposes of section 471.895 with regard to receipt of gifts as defined under section 10A.071, subdivision 1, paragraph (b). A board member, employee, or officer must not receive compensation from a group health insurance provider.

Minnesota Statutes, sect ion 124E.07, subdivision 3 provides membership criteria founded on the need to avoid real or perceived conflicts of interest:

(a) The ongoing charter school board of directors shall have at least five nonrelated members and include: (1) at least one licensed teacher who is employed as a teacher at the school or provides instruction under contract between the charter school and a cooperative; (2) at least one parent or legal guardian of a student enrolled in the charter school who is not an employee of the charter school; and (3) at least one interested community member who resides in Minnesota, is not employed by the charter school, and does not have a child enrolled in the school. The board structure may include a majority of teachers under this paragraph or parents or community members, or it may have no clear majority. The chief financial officer and the chief administrator may only serve as ex-officio nonvoting board members. No charter school employees shall serve on the board other than teachers under clause (1). Contractors providing facilities, goods, or services to a charter school shall not serve on the board of directors of the charter school.

(b) An individual is prohibited from serving as a member of the charter school board of directors if: (1) the individual, an immediate family member, or the individual's partner is a full or part owner or principal with a for-profit or nonprofit entity or independent contractor with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities; or (2) an immediate family member is an employee of the school. An individual may serve as a member of the board of directors if no conflict of interest exists under this paragraph, consistent with this section.

(c) A violation of paragraph (b) renders a contract voidable at the option of the commissioner or the charter school board of directors. A member of a charter school board of directors who violates paragraph (b) is individually liable to the charter school for any damage caused by the violation.

(d) Any employee, agent, or board member of the authorizer who participates in initially reviewing, approving, overseeing, evaluating, renewing, or not renewing the charter school is ineligible to serve on the board of directors of a school chartered by that authorizer.

If a school plans to use the school’s credit card to make CSP purchases, the school must provide a copy of its board-approved credit card use policy.

Charter schools must certify on the Charter School Lease Aid Certification Form compliance with state law and property lease arrangements free from conflicts of interest with related party affiliations. Minnesota Statutes, section 124E.13, subdivision 2 protects against leases with related parties, to avoid potential conflicts of interest.

(a) A charter school must not enter into a lease of real property with a related party unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124E.22, paragraph (a), clause (1).

(b) A related party permitted to enter into a lease under paragraph (a) must include the following statement in the lease: "This lease is subject to Minnesota Statutes, section 124E.13, subdivision 2."

(c) If a charter school leases space from a related party and the charter school subsequently closes, the commissioner has the right to recover from the related party any lease payments in excess of those that are reasonable under section 124E.22, paragraph (a), clause (1).

Several U.S. Code of Federal Regulations (CFR) provisions pertain to conflicts of interest charter schools may experience as part of the grant process for Charter School Program (CSP) grants.

2 CFR 200.112 states the following:

The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

2 CFR 200.318(c) states the following:

(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

2 CFR 200.319(a) states the following:

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

In order to meet the requirements of 2 CFR 200.319(a), all individuals who participated in writing the school’s CSP grant application are prohibited from competing for procurements paid for with CSP funds. An exception to this requirement is the school’s Start-Up Coordinator/Director, who can be paid with CSP funds if they assisted in writing the school’s CSP grant application.

Minnesota Statutes, section 124E.10, subdivision 2 limits authorizer activity in charter school agreements due to potential conflicts of interest:

(a) A school must disclose to the commissioner any potential contract, lease, or purchase of service from an authorizer. The contract, lease, or purchase must be accepted through an open bidding process and be separate from the charter contract. The school must document the open bidding process. An authorizer must not enter into a contract to provide management and financial services to a school it authorizes, unless the school documents receiving at least two competitive bids.

(b) An authorizer must not condition granting or renewing a charter on:

(1) The charter school being required to contract, lease, or purchase services from the authorizer; or

(2) The bargaining unit status of school employees.

**Duty to Disclose.**

In connection with any actual or possible conflicts of interest, an Interested Person must disclose the existence of his or her Financial Interest and be given the opportunity to disclose all material facts relating to his or her Financial Interest. Employees should report to the Executive Director. Should the Executive Director be involved, it should be reported to the Board. A board member should report to the Board Chair. Should the Board Chair be involved, then a meeting should be held with the full Board.

Inappropriate financial gain to persons in authority at Innovation Academy can lead to financial penalties and violations of IRS regulations. Loss of public confidence and a damaged reputation are also likely results of a poorly managed conflict of interest. Because public confidence is crucial to schools, INNOVATION Academy is expected to avoid even the appearance of impropriety. Disclosure of conflicts of interest can also help instill public trust by demonstrating that INNOVATION Academy is committed to conducting its business with the utmost integrity and good faith and in the best interest of its charitable mission.

**Determining Whether a Conflict of Interest Exists.**

After disclosure of the Financial Interest and all material facts to the Board, and after any discussion with the Interested Person, the Interested Person must wait for Board or Executive Director in consultation with school legal counsel to decide if a conflict of interest exists.

**Violations Procedure**.

If the Board or appropriate committee has reasonable cause to believe that a person subject to this policy has failed to disclose actual or possible conflicts of interest or failed to discharge his or her duties, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure.

**Action**

If after hearing the response of the person and making such further investigation as may be warranted in the circumstances, the Board appropriate committee determines that the person has, in fact, failed to discharge his or her duties in accordance with this policy or to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

**RECORD OF PROCEEDINGS**

The minutes of meetings of the Board (or committee) shall contain: 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 Board's or appropriate committee’s decision as to whether a conflict of interest in fact existed.

The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussions, including any alternatives to the proposed transaction or arrangement and a record of any votes taken in connection therewith.

**ANNUAL STATEMENT**

Each director, officer, and employee shall complete and sign a Conflicts of Interest Policy Annual Statement at the time of his or her initial employment or election and annually thereafter.

**PERIODIC REVIEWS**

To ensure Innovation Academy operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

1. Whether compensation arrangements and benefits are reasonable and are the results of arm's length bargaining.
2. Whether partnership and joint venture arrangements and arrangements with management service organizations conform to written policies, are properly recorded, reflect reasonable payment 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 ADVISORS**

In conducting periodic reviews, Innovation Academy may, but need not, use outside advisors. If outside advisors are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.

**Definitions**

**Duty of loyalty:** the principle that directors and officers of an organization put the organization’s interests ahead of their own. It is the responsibility to act at all times in the best interests of the organization and its mission.

**Impartial:** not biased or partial; fair; just.

**Influence:** the capacity to have an effect on the character, development or behavior of someone or something; impact.

**Mitigate:** make less severe or serious; to lessen the gravity of an offense or mistake.

**Objective:** not influenced by personal feelings or opinions in considering and representing facts; impartial; disinterested; neutral.

**Open bidding:** competitive selection process. Under Minnesota Statutes, section 124E.10, the school must document an open bidding process and the receipt of at least two competitive bids.

**Reasonable Person Standard:** a legal construct, a test which asks whether the decisions made were legitimate. Courts using this standard look at both the ultimate decision and the process by which a party went about making that decision. A “reasonable person” is a hypothetical person in society who exercises average care, skill and judgment in conduct.

**Transparent:** easy to perceive; an action, method or procedure that lacks hidden agendas and conditions, and complies with the disclosure requirements of clarity and openness in word and intention.

**Interested Person:** A person, who has a direct or indirect Financial Interest, as defined below, is an Interested Person.

**Financial Interest:** A person has a Financial Interest if the person has, directly or indirectly, through business, investment, or his or her immediate family: an ownership or investment interest in any entity with which Innovation Academy has a transaction or arrangement; a compensation arrangement with INNOVATION Academy or with any entity or individual with which INNOVATION Academy has a transaction or arrangement; or a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which Innovation Academy is negotiating a transaction or arrangement.

**Compensation: C**ompensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

POLICY ADOPTED: July 2019

POLICY REVIEWED: January 2020

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