



APPENDIX A

OLLI@UGA CONFLICT-OF-INTEREST POLICY

Adopted by the Board of Directors December 14, 2015

PURPOSE OF POLICY

The purpose of this conflict-of-interest policy is to safeguard OLLI@UGA's organization and membership interests when it is contemplating entering into a transaction or arrangement that may benefit the private interest of any member of the Executive Committee or the Board of Directors, committee chairs, Executive Director, paid staff members, and contractors or result in a possible excess benefit transaction. This policy is also intended to provide guidance to those elected or appointed leaders at OLLI@UGA when making such decisions and to identify and follow procedures for handling real or potential conflicts. (See Glossary for definitions.)

WHAT IS A CONFLICT OF INTEREST?

A conflict of interest exists when a person with substantial influence (e.g., an elected or appointed leader) has a personal interest that is in conflict with the interests of OLLI@UGA such that he or she may be influenced by this personal interest when making a decision for OLLI@UGA. Conflicts of interest may include both financial and nonfinancial concerns.

Typically, conflicts occur in situations where a person of influence has a financial interest either personally or through an association with a business, relative, or close friend. These might occur through financial arrangements with vendors, contractors, sponsors, lawyers, restaurants, event venues, investment advisors, and other individuals or businesses that provide products and services for OLLI@UGA or its members.

Conflicts of interest need not be purely financial. For example, conflicts may arise when a person in leadership serves on the boards of other nonprofit organizations concurrently with service at OLLI@UGA. These may occur especially if the other nonprofit(s) has a similar or competing mission; offers similar programs or services; serves similar constituents; and/or competes for the same or similar funding sources.

Conflicts may arise due to close social relationships among board members and between board members and staff that potentially impair independent thinking and decision-making to the extent that loyalties toward a person with substantial influence are given priority over a leader's duties to OLLI@UGA. Known as *competing roles and relationships*, they require thoughtful attention by disinterested persons on the board.

Conflicts may also occur in nonprofit, membership-based organizations when leaders inappropriately use or share with a third party the identities of its members (e.g., through mailing lists, contact information, personal information or data, etc.).

Conflicts of interest may not necessarily be intentional but may be due to a lack of understanding of the leaders' obligations to the organization and their respective duties as board members, committee chairs, and staff. Engaged or collaborative reviews of relationships may be beneficial to avoid a potential – or the appearance of a potential – conflict of interest among OLLI@UGA leaders. If a leader believes he or she (or a relative as defined in this policy) may have a conflict of interest, it is suggested that the leader recuse himself or herself from participating in decision-making related to that particular arrangement. When in doubt, a possible conflict is to be adjudicated through procedures identified in this document.

DUTIES OF OFFICERS AND DIRECTORS

The Board of Directors, Executive Committee, committee chairs, and staff of OLLI@UGA (the leadership of OLLI@UGA) owe a duty of care, a duty of loyalty, a duty of obedience, and a duty of disclosure to OLLI@UGA which require that in serving OLLI@UGA they act not in their personal interests or the interests of a friend or relative, but rather solely in the interests of OLLI@UGA and its members. These elected or appointed leaders must have an undivided allegiance to OLLI@UGA's mission and its reputation and may not use their position to provide information they have about OLLI@UGA, OLLI@UGA property, or OLLI@UGA members in a manner that allows them to secure a pecuniary or other favorable benefit for themselves, their relatives, or businesses and other nonprofits.

Accordingly, all those covered by this policy must discharge their duties in good faith, with the degree of care that an ordinarily prudent person in a like position would exercise under similar circumstances. This requires using common sense and informed judgment, being diligent and attentive to OLLI@UGA's mission and needs, seeking advice and counsel when warranted, and making thoughtful decisions in the best interests of OLLI@UGA and its members.

POTENTIAL CONFLICTS OF INTEREST

Although not intended to be comprehensive, the following are examples of possible conflicts of interest. Elected or appointed leaders of OLLI@UGA should avoid the following:

1. Selling or promoting products or services in which the leader or his or her relatives/friends have a financial or significant vested interest.
2. Allowing classes or shared interest groups to be used to sell or promote products or services or to generate client lists.
3. Soliciting or accepting gratuities, favors, or anything of monetary or other tangible value from contractors, vendors, sponsors, businesses, or other nonprofits that support or collaborate with OLLI@UGA. [Note: This is not intended to preclude bona-fide

organizational fund-raising activities and sponsorship solicitations.]

4. Participating in the selection, award, or administration of a purchase, contract, sponsorship, or agreement with a vendor or other nonprofit organization where the leader or a relative has a financial or significant vested interest in that purchase, contract, or agreement.
5. Sharing the OLLI@UGA membership list, personal information (e.g., names, addresses, phone numbers, and emails) of members, or client lists without the express consent of the Board of Directors.
6. Allowing a competing role and relationship, such as a social or close personal relationship among those with positions in leadership, to influence decisions that affect the overall governance and administration of OLLI@UGA.
7. Supporting, endorsing, or opposing any political party, candidate, or issue on behalf of OLLI@UGA.

PROCEDURES

Contracts, transactions, or arrangements of OLLI@UGA in which an elected or appointed leader or his or her relative has a direct or indirect financial, competing, or personal conflict of interest or other material interest shall not be prohibited, but they must be disclosed and they shall be subject to scrutiny. Any such proposed contract, transaction, or arrangement (collectively, "arrangement") is to be reviewed to determine that it is in the best interest of OLLI@UGA and it must avoid the appearance of impropriety.

Any person covered by this conflict-of-interest policy shall promptly disclose any interest that he or she or a relative has or reasonably expects to have in any proposed or existing arrangement with OLLI@UGA prior to the start of any related negotiations. An interest shall be disclosed in writing to the Executive Director or to the President of OLLI@UGA. Such disclosure shall include all material facts and supply any reasons why the arrangement may be or may not be in the best interest of OLLI@UGA. The Executive Director or the President shall refer the issue to the Executive Committee, the Board of Directors, or other committee having decision-making authority over the substantive matter in question.

The leader who discloses an interest in a proposed or existing arrangement may make a presentation and respond to questions by the Board of Directors or the committee. As part of any such presentation, the Executive Director, the President, and/or any leader shall provide to the Board of Directors or the committee any reasons why the arrangement may be or may not be in the best interest of OLLI@UGA. The Board or the committee shall determine whether OLLI@UGA can obtain a more advantageous arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest. The Board or the committee shall, if appropriate, appoint a disinterested person(s) to investigate alternatives to the proposed arrangement.

After all material facts are reviewed and after discussions with the person with the potential conflict of interest, he/she shall leave the meeting. The remaining members

of the Board of Directors or the committee shall then decide by majority vote if a conflict of interest exists.

The minutes of the review meeting shall include the names of the persons who disclosed or otherwise were found to have an actual or possible conflict of interest, the nature of the conflict, any action taken to determine whether a conflict of interest was present, and the Board of Directors or the committee's decision as to whether a conflict of interest in fact existed. Further, the names of the persons who were present for discussions and votes relating to the transaction or arrangement are to be recorded.

FAILURE TO DISCLOSE

If any member of OLLI@UGA has reasonable cause to believe that a leader has failed to disclose a material or competing interest or conflict subject to this policy, he or she shall inform the Executive Director or the President of OLLI@UGA of the basis for such belief. The person so accused shall be afforded an opportunity to explain the alleged failure to disclose. If, after hearing the response of such individual and making such further investigation as may be warranted in the circumstances, the Board of Directors or the committee determines that the leader has in fact failed to disclose a material interest, co-investment interest, or a competing role and relationship subject to this policy, it shall take appropriate corrective action.

POLICY SUPPLEMENTS APPLICABLE LAWS

This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to tax exempt nonprofit and charitable organizations [i.e., 501(c)(3) organizations].

GLOSSARY

The following are operational definitions used for the purpose of this conflict-of-interest policy. Several of these definitions have been extracted from Paul, S.E., & Kurtz, D. L. (2013). *Managing Conflicts of Interest* (3rd ed.). Washington, DC: BoardSource.

Competing Roles and Relationships: Situations that may arise due to close relationships (positive or negative) between board members, board members and staff, and spouses/siblings/ children/partners serving simultaneously in positions of leadership – all of which may lead to questions of allegiance and/or loyalty that could be given priority over a leader's legal and moral obligations to the organization. Especially troublesome is the existence of such a close relationship between a board member and a key management employee whose performance is overseen and evaluated by the board. Situations involving competing roles and relationships require thoughtful attention and management by the board.

Conflict of interest: A situation where a person with substantial influence (e.g., an elected or appointed leader) over an organization has an existing or potential personal, financial, or other material interest that might impair his or her independence or objectivity in the discharge of responsibilities and duties to the organization or its members.

Conflict-of-interest policy: A policy intended to safeguard an organization's interests when it is contemplating entering into a contract, transaction, or arrangement that might benefit the private interests of a member of the organization's board of directors, an officer of the organization, a committee chair, paid staff, contractor, or any other individual with substantial influence over the organization. The policy is also meant to guide these individuals in performing the duties imposed upon them with respect to their management responsibilities and fiduciary obligations to the organization.

Corporate Opportunity Doctrine: It is seen as "appropriating a corporate opportunity" when a board member or officer takes personal advantage of a business opportunity that is offered to the organization unless the board first determines not to pursue the opportunity. Commonly referred to as *taking advantage of insider information*, courts have applied this doctrine to nonprofits and have acted to prohibit such actions and hold the board member(s) responsible.

Disclosure statement: A statement on which each individual covered by an organization's conflict-of-interest policy (1) acknowledges his or her familiarity with the organization's conflict-of-interest policy and (2) discloses in writing any existing financial, personal, or other material interests or co-investment interests.

Duty of care: Requires a director or officer of a nonprofit organization to act with common sense and informed judgment and to take an active interest in the organization's activities. With respect to managing conflicts of interest, it requires the director or officer to disclose his or her material outside interests and actively participate in managing such interests disclosed by others. Further, a duty of care requires decisions to be made in a disinterested manner and that individuals with a personal or financial interest in the matter before the assembly are to abstain from participating in the vote. This is a legal duty explicitly recognized by virtually every state.

Duty of disclosure: The obligation imposed on the individuals covered by a conflict-of-interest policy that requires them to report to the Board of Directors any actual or potential conflicts of interest.

Duty of loyalty: Requires a director or officer of a nonprofit organization to make decisions that he or she believes are in the best interests of that organization and are not designed to further his or her interests or the interests of a relative or third party. It also requires that an elected or appointed leader not use his or her organizational position or knowledge to advance a personal agenda or corporate opportunity at the organization's expense.

Duty of obedience: Requires a director or officer of a nonprofit organization to be faithful

to the mission of the organization. It includes the obligation to ensure that an organization's resources are used to further the organization's mission and are not diverted to benefit private parties.

Excess benefit transaction: In the context of the intermediate sanctions rules of Internal Revenue Code Section 4958, a transaction between an organization and a disqualified person in which the value of the benefit provided by the organization to the disqualified person exceeds the value of the goods or services provided by the disqualified person in exchange for the benefit.

Fiduciary: A person standing in a special relationship of trust, confidence, or responsibility to another. Board members and officers of a nonprofit organization are fiduciaries with respect to the organization they serve and, as such, their responsibilities to the organization are termed fiduciary duties or fiduciary responsibilities.

Leadership of OLLI@UGA: For purposes of this conflict-of-interest policy, leadership positions at OLLI@UGA include all members of the Executive Committee, Board of Directors, committee chairs, Executive Director, paid staff members, and contractors.

Form 990: The IRS form titled, "Return of Organization Exempt from Income Tax," must be filed each year by exempt organizations whose annual receipts exceed a certain threshold amount. It is the main IRS reporting form for nonprofits and the principal filing with many states. An organization's Forms 990 for the past three years must be made publicly available and most Forms 990 beginning with the year 1997 are posted on the Internet. (Private foundations' returns are called Form 990- PF, Return of Private Foundation.)

Relative: Spouse, significant other living in the same household ("partner"), siblings, partners of siblings, children, grandchildren, great-grandchildren and partners of children, grandchildren, and great-grandchildren.