

disAbility Law Center of Virginia

Policy 4.23: Conflict of Interest
Origination Date: November 19, 2012
DLCV Governing Board Approval:

Policy

There exists between the dLVC's Board, officers, and management employees and the public a fiduciary duty, which carries with it a broad and unbending duty of loyalty and fidelity. The Board, officers, and management employees have the responsibility of administering the affairs of the dLVC honestly and prudently, and of exercising their best care, skill, and judgment for the sole benefit of the dLVC. Those persons shall exercise the utmost good faith in all transactions involved in their duties, and they shall not use their positions with the dLVC or knowledge gained therefrom for their personal benefit. The interests of the organization must be the first priority in all decisions and actions.

V. Colleen Miller
Executive Director

Date

SECTION 1. PERSONS CONCERNED

This policy applies not only to directors and officers, but to all employees who can influence the actions of the dLVC. For example, this would include all who make purchasing decisions, all persons who might be described as "management personnel," and anyone who has proprietary information concerning the dLVC.

SECTION 2. AREAS IN WHICH CONFLICT MAY ARISE

Conflicts of interest may arise in the relations of directors, officers, and management employees with any of the following third parties:

1. Persons and firms supplying goods and services to the dLVC.
2. Persons and firms from whom the dLVC leases property and equipment.
3. Persons and firms with whom the dLVC is dealing or planning to deal in connection with the gift, purchase or sale of real estate, securities, or other property.
4. Competing organizations.
5. Donors and others supporting the dLVC.
6. Agencies, organizations, and associations which affect the operations of the dLVC.
7. Family members, friends, and other employees.

SECTION 3. NATURE OF CONFLICTING INTEREST

A conflicting interest may be defined as an interest, direct or indirect, with any persons or firms mentioned in Section 2. Such an interest might arise through:

1. Owning stock or holding debt or other proprietary interests in any third party dealing with the dLCV.
2. Holding office, serving on the Board, participating in management, or being otherwise employed (or formerly employed) with any third party dealing with the dLCV.
3. Receiving remuneration for services with respect to individual transactions involving the dLCV.
4. Using the dLCV's time, personnel, equipment, supplies, or good will for other than the dLCV -approved activities, programs, and purposes.
5. Receiving personal gifts or loans from third parties dealing or competing with the dLCV. Receipt of any gift is disapproved except gifts of a value less than \$25.00, which could not be refused without discourtesy. No personal gift of money should ever be accepted.

SECTION 4. INTERPRETATION OF THIS STATEMENT OF POLICY

The areas of conflicting interest listed in Section 2, and the relations in those areas which may give rise to conflict, as listed in Section 3, are not exhaustive. Conflicts might arise in other areas or through other relations. It is assumed that the directors, officers, and management employees will recognize such areas and relation by analogy.

The fact that one of the interests described in Section 3 exists does not necessarily mean that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material, that upon full disclosure of all relevant facts and circumstances it is necessarily adverse to the interests of the dLCV.

However, the existence of any of the interests described in Section 3 shall be disclosed before any transaction is consummated. It shall be the continuing responsibility of the Board, officers, and management employees to scrutinize their transactions and outside business interests and relationships for potential conflicts and to immediately make such disclosures.

SECTION 5. DISCLOSURE POLICY AND PROCEDURE

Transactions with parties with whom a conflicting interest exists may be undertaken only if all of the following are observed:

1. The conflicting interest is fully disclosed;
2. The person with the conflict of interest is excluded from the discussion and approval of such transaction;
3. A competitive bid or comparable valuation exists; and
4. The Board has determined that the transaction is in the best interest of the organization.

Disclosure by staff should be made to the Executive Director. Disclosure involving Board members or the Executive Director should be made to the Board Chair, (or if she or he is the one with the conflict, then to the Board Vice-Chair) who shall bring these matters to the Board.

The Executive Director or Board Chair, as applicable, shall determine whether a conflict exists and in the case of an existing conflict, whether the contemplated transaction may be authorized as just, fair, and reasonable to the dLCV. The decision of the Executive Director, Board Chair, or Board Vice Chair will rest in their sole discretion, and their concern must be the welfare of the dLCV and the advancement of its purpose.

SECTION 6. VIOLATIONS OF THE CONFLICT OF INTEREST POLICY

1. If the Board or an Executive Director has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, they shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
2. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

SECTION 7. RECORDS OF PROCEEDINGS

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

1. 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 governing Board's or committee's decision as to whether a conflict of interest in fact existed.
2. 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.

SECTION 8. ANNUAL STATEMENTS

Each director, principal officer and member of a committee with governing Board delegated powers shall annually sign a statement which affirms such person:

1. Has received a copy of the conflicts of interest policy,
2. Has read and understands the policy,
3. Has agreed to comply with the policy, and
4. Understands the Organization 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.

SECTION 9. PERIODIC REVIEWS

To ensure that the dLCV or any successor entity 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:

1. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
2. Whether partnerships, joint ventures, and arrangements with management organizations conform to the dLCV 's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

SECTION 10. USE OF OUTSIDE EXPERTS

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

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CONFLICT OF INTEREST DISCLOSURE STATEMENT

Preliminary note: In order to be more comprehensive, this disclosure statement also requires you to provide information with respect to certain parties that are related to you.

These persons are termed “affiliated persons” and include the following:

- a. your spouse, domestic partner, child, mother, father, brother or sister;
 - b. any corporation or organization of which you are a Board member, an officer, a partner, participate in management or are employed by, or are, directly or indirectly, a debt holder or the beneficial owner of any class of equity securities;
- and
- c. any trust or other estate in which you have a substantial beneficial interest or as to which you serve as a trustee or in a similar capacity.

1. NAME OF EMPLOYEE OR BOARD MEMBER: (Please print)

2. CAPACITY:

- _____ Governing Board
- _____ Executive Committee
- _____ Officer
- _____ Committee Member
- _____ Staff (position): _____

3. Have you or any of your affiliated persons provided services or property to the dLCV in the past year?

_____ YES _____ NO

If yes, please describe the nature of the services or property and if an affiliated person is involved, the identity of the affiliated person and your relationship with that person:

4. Have you or any of your affiliated persons purchased or received services or property from the dLCV in the past year?

_____ YES _____ NO

If yes, please describe the purchased services or property and if an affiliated person is involved, the identity of the affiliated person and your relationship with that person:

5. Please indicate whether you or any of your affiliated persons had any direct or indirect interest in any business transaction(s) in the past year to which the dLCV was or is a party?

YES NO

If yes, describe the transaction(s) and if an affiliated person is involved, the identity of the affiliated person and your relationship with that person:

6. Were you or any of your affiliated persons indebted to pay money to the dLCV at any time in the past year (other than travel advances or the like)?

YES NO

If yes, please describe the indebtedness and if an affiliated person is involved, the identity of the affiliated person and your relationship with that person:

7. In the past year, did you or any of your affiliated persons receive, or become entitled to receive, directly or indirectly, any personal benefits from the dLCV or as a result of your relationship with the dLCV, that in the aggregate could be valued in excess of \$1,000, that were not or will not be compensation directly related to your duties to the dLCV?

YES NO

If yes, please describe the benefit(s) and if an affiliated person is involved, the identity of the affiliated person and your relationship with that person:

8. Are you or any of your affiliated persons a party to or have an interest in any pending legal proceedings involving the dLCV?

YES NO

If yes, please describe the proceeding(s) and if an affiliated person is involved, the identity of the affiliated person and your relationship with that person:

9. Are you aware of any other events, transactions, arrangements or other situations that have occurred or may occur in the future that you believe should be examined by the dLCV's [Board or a duly constituted committee thereof] in accordance with the terms and intent of the dLCV's conflict of interest policy?

_____ YES _____ NO

If yes, please describe the situation(s) and if an affiliated person is involved, the identity of the affiliated person and your relationship with that person:

I HERBY CONFIRM that I have read and understand the dLCV's conflict of interest policy and that my responses to the above questions are complete and correct to the best of my information and belief. I agree that if I become aware of any information that might indicate that this disclosure is inaccurate or that I have not complied with this policy, I will notify [designated officer or director] immediately.

Signature

Date

**disAbility Law Center of Virginia
GIFT POLICY AND DISCLOSURE FORM**

As part of its conflict of interest policy, the dLCV requires that directors, officers and employees decline to accept certain gifts, consideration or remuneration from individuals or companies that seek to do business with the dLCV or are a competitor of it. This policy and disclosure form is intended to implement that prohibition on gifts.

Section 1. "Responsible Person" is any person serving as an officer, employee or a member of the Board of Directors of the dLCV.

Section 2. "Family Member" is a spouse, domestic partner, parent, child or spouse of a child, or a brother, sister, or spouse of a brother or sister, of a Responsible Person.

Section 3. "Contract or Transaction" is any agreement or relationship involving the sale or purchase of goods, services or rights of any kind, receipt of a loan or grant, or the establishment of any other pecuniary relationship. The making of a gift to the dLCV is not a "contract" or "transaction."

Section 4. Prohibited gifts, gratuities and entertainment. Except as approved by the Chairman of the Board or his designee or for gifts of a value less than \$25 which could not be refused without discourtesy, no Responsible Person or Family Member shall accept gifts, entertainment or other favors from any person or entity which:

1. Does or seeks to do business with the dLCV or,
2. Does or seeks to compete with the dLCV or,
3. Has received, is receiving, or is seeking to receive a Contract or Transaction with the dLCV.

GIFT STATEMENT

I certify that I have read the above policy concerning gifts, and I agree that I will not accept gifts, entertainment or other favors from any individual or entity, which would be prohibited by the above policy. Following my initial statement, I agree to provide a signed statement at the end of each calendar year certifying that I have not received any such gifts, entertainment or other favors during the preceding year.

Signature

Date