

CONFLICT OF INTEREST POLICY

Article I

Purpose

The purpose of this conflict of interest policy exists to ensure that AFCS complies with the Political Reform Act (section 87000 et seq. of the California Government Code) and Government Code Section 1090, et seq., regarding conflicts of interest. Section 87100 of the Code reads:

“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

Government Code Section 1090(a), as set forth in Education Code Section 47604.1, states that Charter School Governing Board members or employees “shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.” Nor shall Governing Board members employees “be purchasers at any sale or vendors at any purchase made by them in their official capacity.”

Further, section 87300 of the Code reads:

“Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.”

The Fair Political Practices Commission has adopted a standard set of regulations which contains the terms of the Conflict of Interest Code. (CCR, Title 2, Sec. 18730). These standard regulations are hereby incorporated by reference. AFCS and its board members and officers shall abide by the terms of the standard regulation.

This policy is intended to supplement, but not replace, any applicable state and federal laws governing conflict of interest applicable to public agencies and nonprofit and charitable AFCSs.

Article II

Definitions

1. Designated Positions

The following specific positions, which make or participate in the making of decisions which may foreseeably have a material effect on any financial interest shall make proper disclosures as described in Article III, Section 1 below:

- Board Members, AFCS
- Corporate Officers
- School Principals
- Consultants

2. Interested Person

Any Person with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an Interested Person.

3. Financial Interest

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

a) An ownership or investment interest in any entity with which AFCS has a transaction or arrangement;

b) A compensation arrangement with AFCS or with any entity or individual with which AFCS has a transaction or arrangement; or

c) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which AFCS is negotiating a transaction or arrangement.

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

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 governing board or committee decides that a conflict of interest exists.

Article III

Procedures

1. Duty to Disclose

In connection with any actual or potential conflict of interest, an interested person must disclose in writing to the Board of Directors of AFCS the existence of the financial interest and be given the opportunity to disclose all material facts related to the proposed transaction or arrangement. Further, AFCS will comply with section 87300, et seq of the Political Reform Act, which requires persons in all Designated Positions, as defined above, to file a Statement of Economic Interests (Form 700) with AFCS:

a) Within 30 days of assuming office;

b) Annually, by April 1st of each year for the previous calendar year while in office; and,

c) Within 30 days of leaving office.

Such disclosures include :

a) Interests in real property that are:

1. within the physical boundaries of San Diego county, the county where AFCS is located;

2. within two miles of the physical boundaries of San Diego county, the county where AFCS is located; or

3. within two miles of any land owned or used by AFCS, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property.

b) Investments in business entities or income from sources which engage in the acquisition of real property within the boundaries of San Diego county.

c) Investments in business entities or income from sources which:

1. are contractors or subcontractors engaged in the performance of work or services of the type utilized by AFCS; or

2. manufacture or sell supplies, books, machinery or equipment of the type utilized by the employee's department. For the purposes of this category, a principal's department is the entire school.

d) Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Chief Executive Officer may determine in writing that a particular consultant, although a

“designated position”, is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists. The use of legal counsel to provide guidance regarding the Political Reform Act and Government Code Section 1090 is strongly recommended.

3. Procedures for Addressing the Conflict of Interest

a) An interested person may make a presentation at the AFCS Board of Directors’ 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 President of the AFCS Board of Directors shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. This investigation will likely include receiving advice from legal counsel.

c) If a financial conflict of interest is determined to exist in a contract in front of the Board of Directors, the Board shall not enter into that contract in compliance with Government Code Section 1090.

d) If a financial conflict of interest is determined to exist in a governmental decision that does not involve a contract, the financially interested Board member shall recuse themselves from all aspects of the decision including not influencing the vote of any other Board member, and leave the room during discussion and vote on the decision.

4. Violations of the Conflicts of Interest Policy

a) If the AFCS Board of Directors has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose,

b) If, after hearing the member's response and after making further investigation as warranted by the circumstances, including receiving guidance from legal counsel, the AFCS Board of Directors determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV

Records of Proceedings

The minutes of the AFCS Board of Directors', or any meeting of a group or committee with board 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 governing boards or committee's decision as to whether a conflict of interest in fact existed.

b) 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.

c) The fact that the financially interested Board member left the room during the discussion and vote on the governmental decision in which the Board member had an interest.

Article V

Compensation

a) Notwithstanding Government Code Section 1090, an employee of AFCS shall not be disqualified from serving as a member of the Board because of that employee's employment status. A member of the Board who is also an employee of AFCS shall abstain from voting on, or influencing, or attempting to influence another member of the Board regarding all matters uniquely affecting that member's employment.

b) A voting member of the AFCS Board of Directors who receives compensation, directly or indirectly, from AFCS for services is precluded from voting on matters pertaining to that member's compensation. In addition, such a member will recuse him or herself from any discussion pertaining to, or leading to, such a vote.

c) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from AFCS for services is precluded from voting on matters pertaining to that member's compensation. In addition, such a member will recuse him or herself from any discussion pertaining to, or leading to, such a vote.

d) No voting member of the AFCS Board of Directors or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from AFCS, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI

Annual Statements

Each member of the Board of Directors, officer and member of a committee with governing board 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 AFCS 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.

Article VII

Periodic Reviews

To ensure AFCS 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, and,
- b) Whether partnerships, joint ventures, and arrangements with potential management organizations conform to AFCS’s written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in insurement, impermissible private benefit or in an excess benefit transaction.

Executive Director Date AFCS Board Secretary Date

