

## CONFLICTS OF INTEREST

### 7.3.1 Purpose

The purpose of this conflict of interest policy (the “COI Policy”) is to protect the interests of John V. Lindsay Wildcat Academy Charter School (the “Corporation”), which operates a public charter school in the City of New York (the “School”), when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Trustee, Officer, or Key Person of the Corporation or one of their relatives. The Corporation will not enter into any such transaction or arrangement unless it is determined by the Board in the manner prescribed below to be fair, reasonable, and in the best interests of the Corporation at the time of such determination.

This COI Policy is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to not-for-profit and charitable organizations.

### 7.3.2 Definitions

“Affiliate”: An affiliate of the Corporation is a person or entity that is directly or indirectly, through one or more intermediaries, controlled by, in control of, or under common control with the Corporation.

“Board”: The Board of Trustees responsible for the management of the Corporation.

“Class Benefit Transaction”: A transaction that provides a non-de minimis benefit to a Related Party solely as a member of a class of the beneficiaries that the Corporation intends to benefit as part of the accomplishment of its mission. The benefit accrued to the Related Party is available to all similarly situated members of the same class on the same terms.

“De Minimis Financial Interest”: A person has a De Minimis Financial Interest if such a person has a Financial Interest (as defined below) that is deemed by the Board (via majority vote) to be inconsequential.

“De Minimis Transaction”: A transaction where the total value of the transaction is less than 1% of the sum of the Corporation’s total annual budget and the Corporation’s net assets at the time of transaction.

“Financial Interest”: A person has a Financial Interest if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement (including direct or indirect remuneration as well as gifts or favors that are not insubstantial), or other arrangement involving the Corporation.

“Independent Trustee”: A member of the Board who:

- a) Has not been an employee or Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;

- b) Does not have a Relative who has been a Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;
- c) Has not received and does not have a Relative who has received more than \$10,000 in compensation directly from the Corporation or an Affiliate of the Corporation in any of the last three (3) years (not including reasonable compensation or reimbursement for services as a Trustee, as set by the Corporation);
- d) Does not have a substantial Financial Interest in and is an employee of, and does not have a Relative who has a substantial Financial Interest in or is an Officer of, any entity that has provided payments, property or services to, or received payments, property or services from, the Corporation or an Affiliate of the Corporation if the amount paid by the Corporation to the entity or received by the Corporation from the entity for such property or services, in any of the last three fiscal years, exceeded:
- the lesser of \$10,000 or 2% of such entity's consolidated gross revenues if the entity's consolidated gross revenue was less than \$500,000;
  - \$25,000 if the entity's consolidated gross revenue was \$500,000 or more but less than \$10,000,000; or
  - \$100,000 if the entity's consolidated gross revenue was \$10 million or more;
- (for the purposes of this subparagraph (d), "payment" does not include charitable contributions, dues or fees paid to the Corporation for services which the Corporation performs as part of its nonprofit purposes, or payments made by the corporation at fixed or non-negotiable rates or amounts for services received; provided, however, that such services by and to the corporation are available to individual members of the public on the same terms and such services received by the corporation are not available from another source);
- e) Is not in an employment relationship under control or direction of any Related Party and does not receive payments subject to approval of a Related Party;
- f) Is not and does not have a Relative who is a current owner, whether wholly or partially, director, officer or employee of the Corporation's outside auditor or who has worked on the Corporation's audit at any time during the past three (3) years; or
- g) Does not approve a transaction providing economic benefits to any Related Party who in turn has approved or will approve a transaction providing economic benefits to the Trustee.

“Key Person”: A person who:

- Has responsibilities, or exercises powers or influence over the Corporation as a whole similar to the responsibilities, powers, or influence of trustees and officers;
- Manages the Corporation, or a segment of the Corporation that represents a substantial portion of the activities, assets, income, or expenses of the Corporation; or
- Alone or with others, controls or determines a substantial portion of the Corporation’s capital expenditures or operating budget.

“Officer”: A person who has the authority to bind the Corporation as designated in the bylaws of the Corporation.

“Ordinary Course Transaction”: A transaction that would not customarily be reviewed by the Board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms.

“Related Party”: Persons who may be considered a Related Party of the Corporation or an Affiliate of the Corporation under this COI Policy include:

- Trustees, Officers, or Key Persons of the Corporation or an Affiliate of the Corporation;
- Relatives of Trustees, Officers, or Key Persons;
- Any entity in which a Trustee, Officer, Key Person, Affiliate of the Corporation, or relative of a Trustee, Officer, or Key Person has a 35% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of 5%;
- Founders of the School;
- Substantial contributors to the Corporation (within the current fiscal year or the past five years);
- Persons owning a controlling interest (through votes or value) in the Corporation;
- Any non-stock entity controlled by one or more Key Persons;
- Any other person who is, or has within the last five years, been in a position to exercise substantial influence over the affairs of the Corporation.

**“Related Party Transaction”:** Any transaction, agreement, or any other arrangement with the Corporation or an Affiliate of the Corporation in which a Related Party has a Financial Interest. A transaction is not considered a Related Party Transaction where the transaction is a Class Benefit Transaction, a De Minimis Transaction, an Ordinary Course Transaction, or where the Related Party has a De Minimis Financial Interest.

**“Relative”:** A spouse or domestic partner as defined in section 2994-A of the New York Public Health Law, ancestor, child (whether natural or adopted), grandchild, great grandchild, sibling (whether whole or half-blood), or spouse or domestic partner of a child (whether natural or adopted), grandchild or sibling (whether whole or half-blood).

**“Trustee”:** Any voting or non-voting member of the Board, whether designated as a director, trustee, manager, governor, or by any other title.

### 7.3.3 Disclosure

- 7.3.3.1 Any Related Party shall disclose in good faith all material facts of his or her Financial Interest or potential conflict of interest to the Board, including but not limited to, when a grievance of conflict of interest is lodged against them.
- 7.3.3.2 Prior to a Trustee’s initial election to the Board, or an Officer or Key Person’s employment by the Corporation, and thereafter on an annual basis (see 7.3.3.3), all Trustees, Officers, and Key Persons shall disclose in writing to the Director of Compliance and Accountability:
- a) Any entity of which the Trustee, Officer, or Key Person is an officer, director, trustee, voting member, owner (in whole or in part) or employee, and with which the Corporation has a financial relationship; and
  - b) Any transaction in which the Corporation is a participant and in which the Trustee, Officer, or Key Person, or one of his or her relatives might have a conflicting interest.
- 7.3.3.3 [In no instance shall a Trustee or employee of a for-profit educational management organization having a business relationship with the School serve as a voting member of the Board for the duration of such business relationship.]<sup>14</sup>
- 7.3.3.4 Each Trustee, Officer, and Key Person shall sign and submit to the Director of Compliance and Accountability, on an annual basis, a statement (attached hereto as Appendix X) which affirms that such person has: a) received a copy of this COI Policy; b) read and understands this COI Policy; c) agreed to comply with this COI Policy; and d) disclosed in good faith all materials facts of his or her Financial Interest to the Board.

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<sup>14</sup> **NTD:** More appropriately placed in Corporate Governance Guidelines or Director Qualification document.

- 7.3.3.5 A copy of each disclosure statement shall be kept in the Corporation's files and made available to any Trustee, Officer, or Key Person upon request.
- 7.3.3.6 Failure to disclose to the Board a known Financial Interest or a known potential Related Party Transaction may be grounds for removal from the Board or termination of employment by the Corporation.

#### 7.3.4 Related Party Transactions

- 7.3.4.1 All Related Party Transactions, and any other transactions which may involve a potential conflict of interest, shall be reviewed by the Board.
- 7.3.4.2 A transaction, agreement, or other arrangement will not be considered a Related Party Transaction where the Transaction is a Class Benefit Transaction, a De Minimis Transaction, an Ordinary Course Transaction, or where the Related Party has a De Minimis Financial Interest.
- 7.3.4.3 No Related Party shall vote, act, or attempt to influence improperly the deliberations or voting on any matter in which he or she has been determined by the Board to have a Financial Interest. Any attempt by a Related Party to vote, act, or improperly influence deliberations or voting on any matter with which such person has a Financial Interest may be grounds for removal from the Board or termination from the Corporation.
- 7.3.4.4 All Related Parties with a Financial Interest shall leave the room while such deliberations and voting are conducted, including discussions relating to the indemnification of any such Related Party uniquely. In addition, a Trustee shall leave the room while deliberations and voting are conducted with respect to such Trustee on any other matter at the discretion of a majority of the Board. At the request of the Board, such interested parties may provide information regarding the transaction prior to deliberations.
- 7.3.4.5 A quorum will not be lost if one or more Trustees recuse themselves because of a conflict of interest.
- 7.3.4.6 In reviewing a Related Party Transaction, the Board shall:
- a) consider alternative transactions to the extent available before entering into the transaction, ensuring that the value of any economic benefit provided by the Corporation to a Related Party does not exceed the value of the consideration received in exchange; and
  - b) approve the transaction by no less than a majority vote of the Trustees present. The Trustees may only approve a Related Party Transaction where the transaction is fair, reasonable, and in the best interests of the Corporation at the time of the determination.

- 7.3.4.7 The Board may delegate to the Audit Committee or another committee comprised of Independent Trustees, the adoption, implementation of, and compliance with this COI Policy.
- 7.3.4.8 The minutes of all meetings of the Board (or committee) at which a Related Party Transaction is considered shall document contemporaneously the deliberations and determination regarding any the Financial Interest or conflict of interest. In particular, the minutes shall contain:
- the names of the persons who disclosed or otherwise were determined to have a potential or actual Financial Interest and/or conflict of interest, the nature of the potential or actual Financial Interest and/or conflict of interest, any action taken to determine whether a Financial Interest or conflict of interest exists, and the Board's determination as to whether a Financial Interest and/or conflict of interest exists; and
  - the names of the persons who were present for deliberations and votes relating to any determinations under this Article, including whether the Related Party and any Trustees left the room during any such deliberations, the content of such deliberations, including consideration of alternative transactions, and whether or not the transaction with the Related Party was approved by the Board.

#### 7.3.5 Executive Compensation

- 7.3.5.1 No Trustee or Officer who may benefit from compensation from the Corporation may be present at or participate in any Board deliberation or vote concerning that Trustee or Officer's compensation.
- 7.3.5.2 The Board may request that a person benefiting from such compensation provide information or answer questions at a meeting prior to the start of the deliberations or voting.

#### 7.3.6 Express Prohibitions under the General Municipal Law

The General Municipal Law (the "GML") further defines prohibited conflicts of interest for school trustees, officers, and employees.

7.3.6.1 Under the GML, a school trustee, officer, or employee may not:

- a) directly or indirectly, solicit any gift, or accept or receive any gift having a value of \$75 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended or could reasonably be expected to influence him/her in the performance of his/her duties, or was intended as a reward for any official action in her/her part;
- b) disclose confidential information acquired in the course of his/her official duties or use such information to further his/her personal interests;
- c) receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the Board; or
- d) receive, or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before the Board whereby the compensation is to be dependent or contingent upon any action by the agency. This does not prohibit the fixing of fees based upon the reasonable value of services rendered.

#### 7.3.7 No Loans

No loans shall be made by the Corporation to its Trustees or Officers, or to any other entity in which any of the Corporation's Trustees or Officers holds a Financial Interest, except to another charitable organization.