

## **Appendix 17: Diocesan Conflict of Interest Policy**

### **Introduction**

The Diocese of Pensacola-Tallahassee, hereafter referred to as the organization, incorporates the Pastoral Center offices and other Diocesan centers; every Catholic Parish, Mission, School, Foundation, Charitable Corporation and cemetery within its geographical boundaries; and all the affiliated sub-groups associated with each individual entity such as: women's and men's guilds, youth groups & clubs, etc. Reference to the "organization" means all of the entities either included above or implied by direct association.

The organization will comply with all applicable laws and regulations. All officials, council members, Pastors, Parochial Vicars, Deacons, administrators, lay employees and volunteers associated with the organization (known as *responsible individuals*) are required to conduct business in accordance with the letter and spirit of relevant laws and regulations and refrain from dishonest or unethical conduct. In particular, compliance with Internal Revenue Service regulations is especially important to preserve the non-profit (tax-exempt) status enjoyed by the Catholic Church in the United States and its entities authorized under United States Internal Revenue Code (26 U.S.C. § 501(c)).

Responsible individuals shall, during both working and nonworking hours, act in a manner which will inspire public trust in their integrity, with impartiality and with devotion to the best interests of the organization, its employees and the public.

Responsible individuals, as defined above, should not allow outside obligations, financial interests, or other activities to interfere with their obligation and commitment to the organization. Responsible individuals serve the public trust and have a clear obligation to fulfill their responsibilities in a manner consistent with that fact.

All responsible individuals have the responsibility to ensure their particular entity is made aware of situations involving personal, family, or business relationships that may conflict with, or be perceived to conflict with, the responsibilities of the entity and the organization as a whole.

### **Private Inurement**

- ❖ Private inurement which is a payment or a diversion of assets to responsible persons within the organization for less than full and adequate consideration is strictly prohibited under the Internal Revenue Code. Violation of this policy can seriously threaten the tax-exempt status of the entities. Examples of prohibited private inurement include:
  - Parish officials making personal purchases on the organization's credit card and failing to reimburse the Parish for those purchases.
  - A fully depreciated vehicle owned by a School is valued at \$1,000 yet is sold to the School bookkeeper for \$100.
  - A Pastor pays a consultant or independent contractor who is related to the Business Manager \$1,500 for no services or for services worth only \$500.
  - The CFO of a Diocese takes his wife on a 4 day "business" trip to Orlando where he is required to attend only 4 hours of business related meetings in a single day. The cost of the trip is charged to the corporate credit card yet the CFO does not reimburse the Diocese for the costs associated with his wife and the lodging/meal costs for the non-business related extra days.

## **Private or Excess Benefit**

- ❖ **Private Benefit:** The private benefit doctrine is the broadest of the private benefit rules that apply to 501(c)(3) organizations. It generally provides that a 501(c)(3) organization may not confer any benefit, monetary or otherwise, on any individual or entity that is not incidental, quantitatively and qualitatively, to furthering the organization's exempt purposes. The concern behind the doctrine is that, by providing more than an incidental private benefit to an individual or entity, the organization may not be organized exclusively and operated primarily for an exempt purpose, as Section 501(c)(3) requires. A 501(c)(3) organization's activities must be directed exclusively toward charitable, educational, religious, or other exempt purposes. Beneficiaries of an organization's activities must be recognized objects of charity (such as the poor or the distressed) or the community at large (for example, through the conduct of religious services or the promotion of religion). Private benefit is different from inurement to insiders. Private benefit may occur even if the persons benefited are not insiders. Also, private benefit must be substantial in order to jeopardize tax-exempt status.
  - It is best understood as any activity that benefits an individual (or company) who is not a part of the organization's charitable beneficiaries. This can be overt, such as giving vendor contracts to an insider's business. It can also be subtle, such as endorsing any for-profit company in exchange for financial support. It may include repetitive and substantial payments or support to a specific individual.
- ❖ **Excess Benefit:** An overpayment to a private individual (or for profit entity) having a substantial influence over an organization is known as "excess benefit" and is strictly prohibited within the organization. The overpayment can subject the individual or outside entity receiving the benefit to a tax of 25% to 200% of the overpayment amount in addition to making restitution for the overpayment. Those in an organizational position to prevent the "excess benefit transaction" may be subject to a tax penalty of 10% of the overpayment. An examples of prohibited "excess benefit" include:
  - The Chair of the Finance Council is in business as a contractor and the Pastor arranges with him/her to perform some office remodeling for \$7,500 yet the work is only worth \$3,000.

## **Conflict of Interest**

- ❖ **Financial Interest:** A potential conflict of interest is a situation that involves a personal, family, or business relationship between an employee and the organization. To ensure ethical and impartial business relationships, it is prohibited for responsible individuals to:
  - Offer, accept or solicit money, property, service or other items of value by way of gift, favor, inducement or loan with the intent that the offer would influence, or the recipient would be influenced by, such conduct in the discharge of duties.
  - Use their position to secure personal gain or other benefits derived from such relationship.
  - Use any organization-owned facility, building, equipment, materials or vehicle for their personal use or benefit, or for the personal use or benefit of any other individual without permission from your supervisor or higher level of appropriate authority. No employee shall have unauthorized possession of any organization property.
  - Invest or hold a financial interest, directly or indirectly, in any business entity,

transaction or business endeavor that would create a conflict between the organization employee's duty to uphold the public trust and the individual's private interest.

- ❖ **Duty to Disclose:** In connection with any actual or possible conflict of interest, a responsible individual must disclose the existence and nature of his or her financial interest and all material facts to the applicable board, committee, council or appropriate official.
- ❖ **Determining Whether a Conflict of Interest Exists:** After disclosure of the financial interest and all the material facts, and after any discussions with the interested person, that person shall leave the applicable meeting while the determination of a conflict of interest is discussed and voted upon.
- ❖ **Procedures for Addressing the Conflict of Interest**
  - An interested person may make a presentation at the applicable meeting; but after such presentation, he or she shall leave the meeting during the discussion of, and vote on, the transaction or arrangement that results in the conflict of interest.
  - The chairperson of the board or committee and/or official shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
  - After exercising due diligence, the board, committee, or official shall determine whether the organization can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that will not give rise to a conflict of interest.
  - If a more advantageous transaction or arrangement is not reasonably obtainable under circumstances that would not give rise to a conflict of interest, the board, committee, or corporate officer shall determine by a majority vote of the disinterested board or committee members whether the transaction or arrangement is in the organization's best interest and for its own benefit and whether the transaction is fair and reasonable to the organization, and it shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.
- ❖ **Violation of the Conflict of Interest Policy**
  - If the board, committee, or official has reasonable cause to believe that an interested person has failed to disclose actual or possible conflicts of interest, it shall inform the individual of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.
  - If, after hearing the response of the person and making such further investigation as may be warranted under the circumstances, the board, committee, or official determines that the individual has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.
- ❖ **Subsequent Conflicts and Disclosures**
  - Notwithstanding previous disclosure of actual or potential conflicts of interest, an individual shall make a new disclosure of conflicts when any matter involving the

conflict of interest arises for discussion or action. In the event that an individual is uncertain whether an actual or potential conflict of interest exists, the individual should make disclosure of the circumstances that may give rise to an actual or potential conflict.

### **Confidential or Privileged Information**

Information known to be confidential that is acquired by individuals in the course of employment or association with the organization shall be used only for the benefit and purposes of the organization. Individuals shall neither disclose confidential information outside the scope of their authorized duties nor utilize their position or association with the organization for personal identification or advantage, although there may be instances, based on the use of careful discretion and judgment, where incidental use of the association with the organization may be appropriate.

### **Enforcement**

The Diocese intends to enforce the policy set forth and expects responsible individuals to comply with the guidelines. Honest and open discussion of behavior relative to this policy and guidelines is encouraged and will be considered as a mitigating factor in instances of non-compliance. Failure to comply with any of the provisions of this Conflict of Interest Policy will be grounds for discipline, up to and including termination.

### **Summary of Revisions effective August 2014**

- Updated to include volunteers, not just employees, who must follow the policies;
- Update description of private benefit;
- Inserted the acknowledgement of receipt form at the end of the document instead of retaining it in Appendix 20.

Diocèse of Pensacola-Tallahassee  
Conflict of Interest Policy  
Acknowledgement of Receipt & Acceptance

Every clergy, employee and volunteer in the Diocese of Pensacola-Tallahassee is required to receive a copy of the Conflict of Interest Policy. By signing this form, you are acknowledging that you:

1. Have received a copy of the Conflict of Interest Policy;
2. Have read and understand the policy;
3. Agree to comply with all of its provisions and any subsequent changes;
4. Will report any potential or perceived conflicts of interest that might arise in the normal course of your duties; and
5. Will disassociate yourself from such situations.

Date: \_\_\_\_\_ Print Name: \_\_\_\_\_

Signed: \_\_\_\_\_