

IMAGINE SOUTH LAKE CHARTER SCHOOL

Board Policy

Conflict of Interest Policy



CONFLICT OF INTEREST POLICY OF THE GOVERNING BOARD OF EDUCATIONAL CHARTER FOUNDATION OF FLORIDA, INC. D/B/A IMAGINE SCHOOLS AT SOUTH LAKE

Updated and Adopted June 24, 2013

Article 1 Purpose

The purpose of this Conflict of Interest Policy is to protect this tax-exempt organization's (the "Organization") interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or Governing Board member of the Organization or might result in a possible excess benefit transaction. This Policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations. It is also intended to serve as a guide for the Organization's Governing Board with respect to conflicts of interest and voting pursuant to Florida laws pertaining to charter school governing boards.

Article 2 Definitions

- 2.1 Interested Person. An "Interested Person" is any person serving as a member of the Governing Board of this Organization who, as of the date of discussion or action by the Board, either: (i) has a direct or indirect Financial Interest, as defined in Section 2.2 below; (ii) intends, or understands it to be more probable than not, that he or she will acquire such a direct or indirect Financial Interest at any time during the pendency of the proposed transaction or arrangement; (iii) has an Other Interest that qualifies as a Conflict of Interest, as defined in Section 2.6 or Article 6, below.
- 2.2 Financial Interest. A "Financial Interest" is an interest, whether through business, investment, or Relative, which can be described as one or more of the following:
 - 2.2.1 An ownership or investment interest in any entity with which the Organization has a transaction or arrangement; or
 - 2.2.2 A Compensation Arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement; or
 - 2.2.3 A potential ownership or investment interest in, or Compensation Arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

A Financial Interest need not be held as of the date of discussion or action by the Board; rather, it is sufficient, for purposes of this Policy, if, as of the date of discussion or action by the Board, the

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Interested Person intends, or understands it to be more probable than not, that he or she will acquire a Financial Interest at any time during the pendency of the proposed transaction or arrangement that is the subject of discussion or action by the Board.

- 2.3 Other Interest. An “Other Interest,” for purposes of this Policy, is any circumstance in which an Interested Person may be influenced, or may appear to be influenced, either in whole or in part by any purpose or motive other than the success and well-being of the Organization as a whole and the achievement of its tax exempt purposes. An example of such an “Other Interest” would include, without limitation of the foregoing, if an Interested Person is a parent or grandparent of a student impacted by a decision by the Board, and the Interested Person does not believe that he/she could vote or participate in a discussion by the Board giving precedence of the well-being of the Organization as a whole over his/her personal interests or the interests of his/her child or grandchild. An “Other Interest” may also be an interest set forth in Article 6, below, that does not otherwise constitute a Financial Interest.
- 2.4 Relative. For purposes of this Policy, unless otherwise provided herein, and pursuant to Section 112.3143, Florida Statutes, “Relative” means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law.
- 2.5 Compensation Arrangement. A “Compensation Arrangement” is any agreement or understanding pursuant to which a person may or shall receive either directly or indirectly, money or property from another person or organization, irrespective of whether such money or property is paid in consideration for the performance of services or the provision of other value.
- 2.6 Conflict of Interest. With respect to a matter for discussion or action by the Board, any circumstance under which an Interested Person, by virtue of a Financial Interest or Other Interest, may be influenced, or may appear to be influenced, either in whole or in part by any purpose or motive other than the success and well-being of the Organization and the achievement of its tax exempt purposes.

Article III

Disclosure of Financial or Other Interest and Determination of Conflict

- 3.1 Disclosure of Financial or Other Interest. If, at any time, an Interested Person becomes aware that the Board may or shall discuss or act upon any transaction or arrangement which may have any bearing of any kind upon, or may relate in any manner to, a Financial or Other Interest of the Interested Person, such Interested Person shall disclose such Financial or Other Interest to the Board as follows:

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- 3.1.1 The Interested Person shall provide to the Board, in advance of such discussion or action by the Board, written (electronic or hard copy) disclosure of the existence, nature and extent of the Interested Person's Financial or Other Interest, or
- 3.1.2 The Interested Person shall verbally inform the Board of the existence, nature and extent of the Interested Person's Financial or Other Interest during the Board meeting in advance of such discussion or action by the Board.

Any and all written or verbal disclosures of Financial or Other Interests shall be made a formal part of the minutes of the Board. In the event that an Interested Person provides written disclosure of such Interested Person's Financial or Other Interest, no member of the Board may respond to such disclosure, either in writing or orally, except in a meeting that meets the requirements of Florida's Sunshine Law.

- 3.2 Recusal by Interested Person. In connection with an Interested Person's disclosure of a Financial or Other Interest pursuant to Section 3.1, above, an Interested Person may determine that such Financial or Other Interest creates a Conflict of Interest with respect to the proposed transaction or arrangement to be discussed or acted upon by the Board. In such circumstances, the Interested Person may voluntarily recuse himself or herself from discussion or action by the Board, at such time and in such form as is used by the Interested Person to disclose such Financial or Other Interest pursuant to Section 3.1, above.
- 3.3 Determination of Conflict of Interest. Where an Interested Person has provided advance written disclosure of a Financial or Other Interest but has not voluntarily recused himself or herself from discussion of or action upon the proposed transaction or arrangement, the Board shall, prior to commencing its discussion or taking action, determine whether the Financial or Other Interest creates a Conflict of Interest, as defined above. The Interested Person shall not participate in any discussions or vote related to this determination except to the extent necessary to fully explain the Financial or Other Interest and the manner in which the proposed transaction or arrangement to be discussed or acted upon by the Board may or will bear upon or relate to the Financial or Other Interest. Acting either at the request of any member of the Board or in his or her individual discretion, the President of the Board, or designee, may direct that the Interested Person leave the meeting room for all or any part of the discussion or vote related to the determination of whether the Financial or Other Interest creates a Conflict of Interest.
- 3.4 Exceptions. Pursuant to Section 112.313(12), Florida Statutes, the Board may consider the following exceptions based on constituting a *de minimus* conflict of interest:
 - 3.4.1 The transaction or arrangement is awarded under a system of sealed, competitive bidding to the lowest or best bidder and: (a) The Board member or the Board member's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder; (b) The Board member or the Board

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- member's spouse or child has in no way used or attempted to use the Board member's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and (c) The Board member, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, disclosing the Board member's interest, or the interest of the Board member's spouse or child, and the nature of the intended transaction or arrangement.
- 3.4.2 The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.
 - 3.4.3 The business entity involved is the only source of supply and there is full disclosure by the Board member of his or her interest in the business entity to the Governing Board prior to the purchase, rental, sale, leasing, or other business being transacted.
 - 3.4.4 The total amount of the transactions in the aggregate between the business entity and the Organization does not exceed \$500 per calendar year.
 - 3.4.5 The fact that a Board member is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds, provided it appears in the records of the Organization that the Governing Board has determined that such Board member has not favored such bank over other qualified banks.
 - 3.4.6 The Board member purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with the Organization.

Article 4

Procedures Upon Determination of Conflict of Interest

- 4.1 **Exclusion from Discussion and Vote.** In circumstances where the Board has determined that a Conflict of Interest exists, the Interested Person shall not participate in any discussion or vote regarding the transaction or arrangement at issue, and shall not be present in the meeting room for any part of the discussion or vote relating to the transaction or arrangement.
- 4.2 **Action by Board.** With respect to any transaction or arrangement with regard to which the Board has determined that a Conflict of Interest exists, the Board shall discuss such transaction or arrangement as appropriate, but shall not formally approve such transaction or arrangement unless and until the non-interested members of the Board have decided, by majority vote, that the transaction or arrangement is in the best interests of, and for the benefit of, the Organization, and is fair and reasonable thereto in all respects. In complying with this Section 4.2, the Board shall recognize that, under certain circumstances, a decision made pursuant to this Section may necessitate an investigation of alternatives to the proposed transaction or arrangement, and/or a determination as to whether a more advantageous transaction or arrangement might be obtained with reasonable efforts under the circumstances.

Article 5

Documentation of Disclosure and Procedures

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- 5.1 Meeting Minutes. Minutes of meetings of the Board shall include copies of all written disclosures of Financial and Other Interests, and shall describe all verbal disclosures thereof. Such minutes shall further reflect the determination of the Board as to whether a Conflict of Interest exists, and the objection of the Interested Person, if any, to such determination. Where a Conflict of Interest has been determined to exist, the minutes should reflect the Board's compliance with the procedures described in Sections 4.1 and 4.2, above. With respect to any transaction or arrangement with regard to which a Conflict of Interest has been determined to exist, meeting minutes shall describe the substance of the discussions relating to the transaction or arrangement, and who was present for such discussions. In addition, minutes should identify the members who were present for any and all votes upon such transaction or arrangement, along with a record of the final vote.

Article 6

Other Prohibited Conflicts of Interest

- 6.1 Prohibition on Solicitation or Acceptance of Gifts. Pursuant to Section 112.313(2), Florida Statutes, no member of the Board shall solicit or accept anything of value to the Board member, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the Board member would be influenced thereby.
- 6.2 Prohibition on Doing Business with the Organization. Pursuant to Section 112.313(3), Florida Statutes, no Board member acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for the Organization any business entity of which the Board member or the Board member's spouse or child is an officer, partner, director, or proprietor or in which such Board member or the Board member's spouse or child, or any combination of them, has a material interest. Nor shall a Board member, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the Organization. This subsection shall not affect or be construed to prohibit contracts entered into prior to the Board member's election to the Board.
- 6.3 Conflicting Employment or Contractual Relationship. Pursuant to Section 112.313(7), Florida Statutes, no Board member shall have or hold any employment or contractual relationship with any business entity or any agency is doing business with the Organization; nor shall a Board member have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her duties as a Board member or that would impede the full and faithful discharge of his or her duties as a Board member.
- 6.4 Voting Where there is a Conflict of Interest. Pursuant to Section 112.3143, Florida Statutes, no Board member shall vote in an official capacity upon any measure which would inure to his or

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her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained; or which he or she knows would inure to the special private gain or loss of a Relative or business associate of the Board member.

Article 7

Restriction on Employment of Relatives, Pursuant to Section 1002.33(24), Florida Statutes

- 7.1 For purposes of this Article 7, “Charter school personnel” means a charter school owner, president, chairperson of the Board of directors, superintendent, Board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority and in whom is vested the authority, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in a charter school, including the authority as a member of a governing body of a charter school to vote on the appointment, employment, promotion, or advancement of individuals.
- 7.2 For purposes of this Article 7, “Relative” means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.
- 7.3 Charter school personnel may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the charter school in which the personnel are serving or over which the personnel exercises jurisdiction or control any individual who is a relative. An individual may not be appointed, employed, promoted, or advanced in or to a position in a charter school if such appointment, employment, promotion, or advancement has been advocated by charter school personnel who serve in or exercise jurisdiction or control over the charter school and who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.
- 7.4 The approval of budgets does not constitute “jurisdiction or control” for the purposes of this subsection.

Article 8

Written Assent by Members

- 8.1 **Written Acceptance.** At the outset of each Board member’s tenure on the Board, and no later than July 1 each year, each member of the Board shall sign a written statement certifying to each of the following:

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- 8.1.1 He or she has received a copy of this Policy;
- 8.1.2 He or she has read and understands this Policy;
- 8.1.3 He or she agrees to comply with this Policy;
- 8.1.4 He or she understands that this Policy applies to all committees having board-delegated powers; and
- 8.1.5 He or she understands that the Organization is a tax exempt organization and, in order to maintain the tax-exempt status of the Organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, the Organization, must continuously engage primarily in activities which accomplish its tax-exempt purposes.

Any member of the Board who refuses or fails to sign such a statement shall be prohibited from participating in discussion or action by the Board.

- 8.2 Failure to Disclosure Financial Interests. If it is determined at any time that an Interested Person has negligently or intentionally failed to disclose a Financial Interest, the Board shall consider the imposition of such sanctions as the Board may deem appropriate.

Article 9 Periodic Reviews

- 9.1 To ensure the Organization 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:
 - 9.1.1. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and are the result of arm's length bargaining.
 - 9.1.2 Whether transactions or arrangements entered into by the Organization conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in personal inurement, impermissible private benefit or in an excess benefit transaction.

Article 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 Board of its responsibility for ensuring periodic reviews are conducted.