

## Summary of Significant Independence and Conflict of Interest Standards and Requirements

AICPA	<ul style="list-style-type: none"><li>• Standards Document: <i>AICPA Code of Professional Conduct</i>, Section 100, "Independence, Integrity, and Objectivity."</li><li>• Sets independence standards that CPAs must adhere to with regards to the type of work performed.</li><li>• Applies to CPAs in all situations involving an attest client.</li><li>• Attest: Services requiring independence and assurances from the CPA such as audits, reviews, and agreed-upon procedures.</li></ul>
Government Accountability Office (GAO; formerly General Accounting Office)	<ul style="list-style-type: none"><li>• Standards Document: <i>Government Auditing Standards</i> (also known as GAGAS or Yellow Book)</li><li>• Sets independence standards for federal entities and those organizations receiving federal funds. Various laws require compliance with the Comptroller General's auditing standards in connection with audits of federal entities and funds. Furthermore, many states, local governments, and other entities, both domestically and internationally, have voluntarily adopted these standards.</li><li>• GAO rules are generally more restrictive than AICPA's.</li></ul>
Internal Revenue Service (IRS)	<ul style="list-style-type: none"><li>• Standards Document: Internal Revenue Code Section 501c—Defines inurement, disqualified persons, excess benefits. See also Form 990 Instruction booklet.</li><li>• Section 4958 Intermediate Sanctions: Violations can result in excise taxes on amount of excess benefits and, in some cases, revocation of exempt status.</li></ul>
State Legislation	<ul style="list-style-type: none"><li>• Most states include prohibitions against self-dealing or conflict of interest transactions by management and officers.</li></ul>

The IRS Form 990 asks the question whether the organization has a written conflict of interest policy and if the answer is 'yes' the IRS asks whether board members, officers and key employees are asked *annually* to disclose potential conflicts, as well as whether the organization "regularly and consistently monitors and enforces" compliance with the policy? See Part VI, Section B of the new 990.



## **Conflict of Interest Policy\***

### **Pratt Fine Arts Center**

Policy on Conflicts of Interest  
and Disclosure of Certain Interests

This conflict of interest policy is designed to help directors, officers, and employees of the *Pratt Fine Arts Center* identify situations that present potential conflicts of interest and to provide *Pratt Fine Arts Center* with a procedure that, if observed, will allow a transaction to be treated as valid and binding even though a director, officer, or employee has or may have a conflict of interest with respect to the transaction. In the event there is an inconsistency between the requirements and procedures prescribed herein and those in federal or state law, the law shall control. All capitalized terms are defined in Part 2 of this policy.

1. Conflict of Interest Defined. For purposes of this policy, the following circumstances shall be deemed to create Conflicts of Interest:

A. Outside Interests.

- (i) A Contract or Transaction between *Pratt Fine Arts Center* and a Responsible Person or Family Member.
- (ii) A Contract or Transaction between *Pratt Fine Arts Center* and an entity in which a Responsible Person or Family Member has a Material Financial Interest or of which such person is a director, officer, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative.

B. Outside Activities.

- (i) A Responsible Person competing with *Pratt Fine Arts Center* in the rendering of services or in any other Contract or Transaction with a third party.
- (ii) A Responsible Person's having a Material Financial Interest in; or serving as a director, officer, employee, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative of, or consultant to; an entity or individual that competes with *Pratt Fine Arts Center* in the provision of services or in any other Contract or Transaction with a third party.

- C. Gifts, Gratuities and Entertainment. A Responsible Person accepting gifts, entertainment, or other favors from any individual or entity that:

- (i) does or is seeking to do business with, or is a competitor of *Pratt Fine Arts Center* or
- (ii) has received, is receiving, or is seeking to receive a loan or grant, or to secure other financial commitments from [*Pratt Fine Arts Center*,
- (iii) is a charitable organization;

under circumstances where it might be inferred that such action was intended to influence or possibly would influence the Responsible Person in the performance of his or her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value that are not related to any particular transaction or activity of *Pratt Fine Arts Center*.

## 2. Definitions.

- A. A *Conflict of Interest* is any circumstance described in Part 1 of this Policy.
- B. A *Responsible Person* is any person serving as an officer, employee, or member of the board of directors of *Pratt Fine Arts Center*.
- C. A *Family Member* is a spouse, domestic partner, parent, child, or spouse of a child, brother, sister, or spouse of a brother or sister, of a Responsible Person.
- D. A *Material Financial Interest* in an entity is a financial interest of any kind that, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a Responsible Person's or Family Member's judgment with respect to transactions to which the entity is a party. This includes all forms of compensation.
- E. A *Contract or Transaction* is any agreement or relationship involving the sale or purchase of goods, services, or rights of any kind, the providing or receipt of a loan or grant, the establishment of any other type of pecuniary relationship, or review of a charitable organization by *Pratt Fine Arts Center*. The making of a gift to *Pratt Fine Arts Center* is not a Contract or Transaction.

## 3. Procedures.

- A. Before board or committee action on a Contract or Transaction involving a Conflict of Interest, a director or committee member having a Conflict of Interest and who is in attendance at the meeting shall disclose all facts material to the Conflict of Interest. Such disclosure shall be reflected in the minutes of the meeting.
- B. A director or committee member who plans not to attend a meeting at which he or she has reason to believe that the board or committee will act on a matter in which the person has a Conflict of Interest shall disclose to the chair of the meeting all facts material to the Conflict of Interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.
- C. A person who has a Conflict of Interest shall not participate in or be permitted to hear the board's or committee's discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.
- D. A person who has a Conflict of Interest with respect to a Contract or Transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote. The person having a conflict of interest may not vote on the Contract or Transaction and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot. Such person's ineligibility to vote shall be reflected in the minutes of the meeting.
- E. Responsible Persons who are not members of the board of directors of *Pratt Fine Arts Center*, or who have a Conflict of Interest with respect to a Contract or Transaction that is not the subject of board or committee action, shall disclose to the Chair or the Chair's designee any Conflict of Interest that such Responsible Person has with respect to a Contract or Transaction. Such disclosure shall be made as soon as the Conflict of Interest is known to the Responsible Person. The Responsible Person shall refrain from any action that may affect *Pratt Fine Arts Center's* participation in such Contract or Transaction.

## ***The AICPA Audit Committee Toolkit: Not-for-Profit Organizations***

In the event it is not entirely clear that a Conflict of Interest exists, the individual with the potential conflict shall disclose the circumstances to the Chair or the Chair's designee, who shall determine whether there exists a Conflict of Interest that is subject to this policy.

4. Confidentiality. Each Responsible Person shall exercise care not to disclose confidential information acquired in connection with such status or information the disclosure of which might be adverse to the interests of *Pratt Fine Arts Center*. Furthermore, a Responsible Person shall not disclose or use information relating to the business of *Pratt Fine Arts Center* for the personal profit or advantage of the Responsible Person or a Family Member.
5. Review of Policy.
  - A. Each new Responsible Person shall be required to review a copy of this Policy and to acknowledge in writing that he or she has done so.
  - B. Each Responsible Person shall annually complete a disclosure form identifying any relationships, positions, or circumstances in which the Responsible Person is involved that he or she believes could contribute to a Conflict of Interest arising. Such relationships, positions, or circumstances might include service as a director of or consultant to a not-for-profit organization, or ownership of a business that might provide goods or services to *Pratt Fine Arts Center*. Any such information regarding business interests of a Responsible Person or a Family Member shall be treated as confidential and shall generally be made available only to the Chair, the Executive Director, and any committee appointed to address Conflicts of Interest, except to the extent additional disclosure is necessary in connection with the implementation of this Policy.
  - C. This policy shall be reviewed annually by each member of the board of directors. Any changes to the policy shall be communicated immediately to all Responsible Persons.

### Acknowledgment of Receipt of Conflict of Interest Policy

As a Responsible Person, I have reviewed Pratt Fine Arts Center Conflict of Interest Policy and acknowledge in writing that I have done so.

Name

**Signature**

**Date**

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**Pratt Fine Arts Center**

**Conflict of Interest Information Form**

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

Please describe below any relationships, positions, or circumstances in which you are involved that you believe could contribute to a Conflict of Interest (as defined in [Organization Name]'s Policy on Conflicts of Interest) arising.

*I hereby certify that the information set forth above is true and complete to the best of my knowledge. I have reviewed, and agree to abide by, the Policy of Conflict of Interest of Pratt Fine Arts Center that is currently in effect.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Received by:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**\*Note:** This example of a Conflict of Interest policy, with key definitions included, was adapted with permission from the Minnesota Charities Review Council.