

## AGENCY POLICY

<b>POLICY TYPE:</b>	Employment
<b>POLICY TITLE:</b>	Conflict of Interest policy
<b>POLICY NO.:</b>	EMPL-115
<b>RESPONSIBILITY:</b>	Chief People Officer, Human Resources Manager
<b>APPROVED BY:</b>	Hamilton Families Executive Team
<b>EFFECTIVE DATE:</b>	Dec. 2020
<b>REVISED DATE(S):</b>	N/A
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### 1. Introduction

It is the policy of Hamilton Families that its directors, officers, and key employees promptly and fully disclose any actual, apparent, or potential Conflicts of Interest, that no Associate vote or otherwise participate in any decision by Hamilton Families in any matters in which they have a Conflict of Interest, that Hamilton Families follow a disciplined, documented process in making decisions about such matters, and that Hamilton Families comply with all applicable legal requirements relating to such matters.

### 2. Purpose

Hamilton Families and its leadership and staff are subject to legal requirements relating to conflicts of interest. For example:

- The California Nonprofit Public Benefit Corporation Law (“Nonprofit Corporation Law”) limits transactions between Hamilton Families and its directors and provides that a majority of the board of directors must meet a specified independence standard.
- California corporation law provides that directors owe Hamilton Families a duty of loyalty, which requires a director to act in the interest of the organization rather than in the personal interest of the director.
- Federal tax law and Hamilton Families’ Articles of Incorporation provide that no part of the net earnings or assets of Hamilton Families may inure to (benefit) its directors, officers, and other private persons.
- Federal tax law requires public disclosure regarding, among other things, relationships between Hamilton Families and its leaders, the independence of Hamilton Families’ board of directors (“Board”), and the compensation of Hamilton Families’ leadership.

Hamilton Families adopted this Conflict-of-Interest Policy (“Policy”) to facilitate compliance with these laws and provide procedures for addressing situations that involve, or may appear to involve, conflicts of interest.

Hamilton Families acknowledges that no policy can encompass every situation that presents risks to impartial decision-making. In the end, Hamilton Families' effective management of conflicts depends on the good judgment and integrity of its leadership and employees. Hamilton Families encourages individuals to talk to the CEO if they have questions or concerns about specific situations.

### 3. Definitions

Refer to the [Hamilton Families Agency Standard Definitions](#).

For the purposes of this Policy, the following terms are defined as:

- Associates are Hamilton Families' directors, officers, and all employees including key employees (as defined below).
- A Conflict of Interest exists if an associate (a) is in a position to make or influence Hamilton Families' decisions about a transaction or other action involving a vendor, supplier, lender, lessor, consultant, grantor, grantee or other person and (b) either has an affiliation (as defined below) with the other party to, or otherwise has a substantial direct or indirect financial interest in, the transaction or action.
- An associate is considered to have an Affiliation if (a) the associate is the other party, (b) the other party is a family member (as defined below), (c) the other party is an entity in which the associate or a family member is a director, officer or employee, (d) the other party is an entity in which the associate or a family member has a substantial financial interest as an owner or investor in the entity, or (e) the associate is a substantial donor, consultant, vendor, or service provider to, or a collaborator or competitor of, the other party.
- Family Member means any spouse, partner, child, ancestor, brother, sister, grandchild, great-grandchild, or spouse of any such child, ancestor, brother, sister, grandchild, or great-grandchild.
- A Key Employee is any Hamilton Families employee who receives more than \$150,000 in annual compensation and has management responsibility over a substantial segment (+10%) of Hamilton Families' assets, income, expenses, or budget, or is otherwise considered a key employee under Hamilton Families' compensation review policy.

### 4. Policy statements

#### 4.1. Disclosure

4.1.1. Upon election, hiring, or appointment, and annually thereafter, associates must complete an annual affirmation and disclosure questionnaire in the form provided by Hamilton Families. On this document, the associate must disclose all affiliations or other matters that could give rise to a conflict of interest and confirm their commitment to comply with this Policy. Associates have a continuing responsibility to review their business, personal, and philanthropic interests, and their

family and other close relationships, for actual, apparent, or potential conflicts of interest, and to make such disclosure to Hamilton Families as appropriate.

#### 4.2. Conflicts of interest (as they arise)

4.2.1. Associates should promptly disclose, in writing, to the Board Chair or CEO any affiliations or other matters that constitute or could result in a conflict of interest. Associates should disclose such matters to other participants in the decision-making process whenever there is any doubt about whether disclosure is required.

#### 4.3. Past transactions (failure to disclose)

4.3.1. If the Board has reasonable cause to believe that an associate has failed to disclose actual or possible conflicts of interest, the Board will inform the associate of the basis for this belief and afford the associate an opportunity to explain the alleged failure to disclose.

4.3.2. If, after hearing the associate's response and making further investigation as warranted by the circumstances, the Board determines that the associate has failed to disclose an actual or possible conflict of interest, the Board will take appropriate disciplinary and corrective action.

#### 4.4. Common directors

4.4.1. As provided by Section 5234 of the Nonprofit Corporation Law, no contract or other transaction between Hamilton Families and any other corporation of which one or more Hamilton Families directors are directors is void or voidable because such director(s) are present at the Board meeting which approves the contract or transaction, if (a) the material facts as to the transaction and as to such director's other directorship are fully disclosed to the Board, and the Board approves the contract or transaction in good faith by a vote sufficient without counting the vote of the common director(s), or (b) the contract or transaction is just and reasonable as to Hamilton Families at the time it is approved.

#### 4.5. Board composition

4.5.1. In line with Section 5227 of the Nonprofit Corporation Law, at all times not more than 49% of the directors of Hamilton Families may be "interested persons."

4.5.2. An interested person means either (a) any person currently being compensated by Hamilton Families for services rendered to it within the previous twelve months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director in their capacity as director, or (b) any family member (as defined above) of any such person.

#### 4.6. Loans to directors and officers

4.6.1. Except as permitted by Section 5236 of the Nonprofit Corporation Law, Hamilton Families will not make any loan or other advance of money or property to, or guarantee the obligation of, any director or officer.

#### 4.7. Personal use (gifts)

4.7.1. Associates may not use or authorize the use of the name, logo, or other property of Hamilton Families for the benefit of the associate or any other person or entity, except as approved by Hamilton Families.

4.7.2. Associates may not accept or give any payments, gifts, loans, or other favors from or to anyone who is doing, or wishes to do, business with Hamilton Families, except for items of nominal value or as otherwise approved by Hamilton Families.

#### 4.8. Corporate opportunities

4.8.1. Associates may not take personal advantage of opportunities that are discovered through the use of corporate property, information, or one's position, except as approved by Hamilton Families.

#### 4.9. Relationship to other laws

4.9.1. This Policy is intended to supplement and not supersede any applicable federal, state, or local laws or ordinances, or contracts to which Hamilton Families is party, including those prohibiting or otherwise relating to self-dealing, private inurement, private benefit, or transactions with interested persons.

4.9.2. Nothing in this Policy authorizes Hamilton Families to engage in any act of self-dealing, inurement, or any other act prohibited by law.

#### 4.10. Annual Board review

4.10.1. The Board each year will review this Policy and the questionnaires received under this Policy and consider appropriate actions to promote compliance with this Policy.

### 5. Procedures

#### 5.1. Abstention from decision-making

5.1.1. In all situations calling for disclosure, the interested associate should abstain from voting or otherwise participating in the decision other than by making the required disclosure and providing any other information requested by the decision-makers.

#### 5.2. Review

5.2.1. With regard to an employee, the CEO will determine the appropriate response by Hamilton Families in line with the principles set out in this Policy, including, without limitation, review by the Board.

5.2.2. With regard to a director or officer, or on employee matters referred to it by the CEO, the Board will determine the appropriate response by Hamilton Families in light of the nature of the conflict.

### 5.3. Action by the Board

5.3.1. The Board will take such actions as it believes are appropriate in the circumstances and as may be required under federal tax or state law principles and this Policy. These actions may include limiting review to specified directors, obtaining information from the interested associate, reviewing information about comparable transactions, tasking a committee to review, and obtaining advice from counsel or other advisors. As a general matter, the Board may approve a decision or transaction where an associate has a conflict of interest if the following steps are taken:

5.3.1.1. Non-participation by interested associate. The interested associate leaves the room during the Board's consideration of the decision or transaction.

5.3.1.2. Factual consideration. The disinterested Board members compile and review all material facts regarding the decision or transaction and the interest.

5.3.1.3. Findings by Board. The disinterested Board members determine after reasonable investigation that Hamilton Families cannot obtain with reasonable efforts a more advantageous arrangement with a person or entity that would not give rise to a conflict of interest, and that the decision or transaction is fair and reasonable to Hamilton Families and for its benefit and not for the benefit of the interested associate.

5.3.1.4. Vote by Board. The disinterested Board members vote to approve the decision or transaction by most of the directors then in office, not counting the votes of any interested Board members.

5.3.1.5. Documentation. The Secretary (or some other Board member or officer in the Secretary's absence) prepares complete minutes of the Board's consideration of the decision or transaction. The minutes should note: a description of the decision or transaction and the date the action was taken; Board members who were present during the meeting and those members who voted; and data obtained and relied upon and how the data were obtained.

5.3.2. Note regarding self-dealing transactions: Hamilton Families will not engage in any self-dealing transaction as defined in Section 5233 of the Nonprofit Corporation Law without taking the actions set out in this Section 5 and such other actions as may be appropriate under Section 5233. A self-dealing transaction is a transaction in which Hamilton Families is a party and in which one or more of its directors has a material financial interest.

## **6. Roles and responsibilities**

6.1. All reports of illegal and dishonest activities will be promptly submitted to Human Resources Manager, who is responsible for investigating and coordinating corrective action. Employees with any questions regarding this policy should contact the Human Resources Manager.

## **7. Accessibility and ADA considerations**

7.1. The Agency's commitment to accessibility and ADA standards has been considered in the development of this policy, which adheres to the principles outlined in the ADA standards and the Hamilton Families Equal Employment Opportunity and Reasonable Accommodations policies.

## **8. Non-compliance implications**

Non-compliance with this policy could negatively impact the current and prospective Agency community with both External stakeholders and the Media, which could lead to significant financial loss and damage to the Agency's reputation.

## **9. Communications plan**

The Chief People Officer will communicate any changes to this or related policies and procedures and/or renewals by posting an announcement to the employee Intranet, and through the Agency's internal communications vehicles, as appropriate.

## **10. Related policies, procedures, and directives**

- [State of California Nonprofit Corporation Law, Section 5233](#)