

Transparency of Financial Management and Organizational Conflict of Interest (Related Party Transactions)

Individuals that participate in activities or transactions affecting a charter school must not be related in to its agents or officers. A school must:

- Accurately and fully disclose any related party transactions in annual audits and must include all salaried staff on staff rosters.
- Accurately and fully disclose the financial management relationship between the school and its management organization or other affiliated party.
- Not grant a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves to a charter school officer or relative of a charter school officer (§53A-1a-518).

If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a charter school officer has a financial interest, the affected charter school officer is required (§53A-1a-518) to:

- Disclose the financial interest, in writing, to the other charter school officers.
- Submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board.
- Abstain from voting on the issue.
- Be absent from any meeting when the contract or transaction is being considered and determined.

For these purposes, "officer" means:

- Member of a charter school's governing board.
- Member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed.
- Chief administrative officer of a charter school.

All consideration of these matters must be conducted in an open and public meeting of members of the governing board of the charter school, with written documentation attached as a permanent reference to board minutes of the event. *These provisions do not apply to a reasonable contract of employment for the chief administrative officer of a charter school.*

A Charter School may not confer private benefit of an affiliated or unaffiliated organization or an individual in his or her own private capacity or individuals related to the Charter School or members of its management (§53A-1a-518), unless the private benefit is considered merely coincidental. A board member may not vote or enter into any discussion if one of the following groups will receive financial benefit:

- The Trustee, his/her immediate family, or his/her business partner.
- A business organization in which the Trustee is serving as an officer, director, trustee, partner or employee.
- Any person or organization with which the Trustee is negotiating or has any arrangement concerning prospective employment.

The private benefit preclusion will extend to:

- Sale or exchange, or leasing, of property between the school and an affiliated or unaffiliated organization or a private or related individual.
- Lending of money or other extension of credit between the school and an affiliated organization (excluding component units) or unaffiliated organization or a private or related individual; this is true for both interest-bearing and non-interest bearing loans.
- Furnishing of goods, services or facilities between the school and an affiliated organization (excluding component units) or unaffiliated organization or a private or related individual.
- Payment of compensation, unless authorized by the governing board of the charter school, by the school to an affiliated or unaffiliated organization or a private or related individual.
- Transfer to, use by, or for the benefit of, a private or related individual of the income or assets of the school.

A charter school *and* anyone attached as staff or as a governing board member must maintain *arms-length standards* with affiliated or unaffiliated organizations or a private or related individual(s). Statute specifies that a related party includes: the spouse, child, grandchild, sibling or parent of the director; spouses of children, grandchildren and siblings; an individual having the same home as the director; a trust or estate of which the director or another individual related to the director as specified herein is a substantial beneficiary; trust or estate which the director is a fiduciary; a disabled or incompetent person or a minor under care and control of the officer or a party substantially related to the officer, as specified herein.

Transactions between two related or affiliated parties to be conducted as if they were unrelated, so that there is no question of a conflict of interest. The Utah Revised Non-Profit Corporation Act (§16-6a-825) renders certain forms of related party transactions potentially *voidable in a court of law*. It identifies what constitutes a "conflicting interest transaction" and renders it unlawful for the corporation to loan money to a party or otherwise carry out transactions wherein the activity would constitute a conflicting interest transaction. A conflicting interest transaction may involve the director or officer of a corporation and "a natural person related to a director or officer" meaning:

"...any natural person whose familial, financial, professional, or employment relationship with the director or officer would, under the circumstances, reasonably be expected to exert an influence on the director's or officer's judgment when voting on a transaction."