

**THE WALLACE FOUNDATION
BOARD OF DIRECTORS
CODE OF ETHICS**

The Board of Directors of The Wallace Foundation is committed to the highest standards of integrity in conducting the affairs of the Foundation. This includes acting at all times in an honest and ethical manner, in compliance with all laws and regulations, and avoiding actual or potential conflicts of interest or the appearance of such conflicts.

Compliance with Laws and Regulations

A variety of laws apply to the Foundation, the violation of which may carry penalties for the Foundation and/or the individual. Many of these laws are summarized in the *Duties of Directors of New York Not-for-Profit Corporations* and the *Overview of Tax Laws Governing Private Foundations and Their Directors*, which are included in the Board of Directors Handbook and reviewed at the Board's annual meeting. It is the responsibility of each Director to comply with all such laws and regulations.

Conflicts of Interest

Directors have a duty not to use their position at the Foundation for personal financial gain or other personal benefit and, when performing the functions of a Director, to put the interests of the Foundation first. The Foundation has a *Conflict of Interest Policy*, which is included in the Board of Directors Handbook and reviewed at the Board's annual meeting. This policy requires that circumstances that may suggest a conflict or the appearance of a conflict be immediately disclosed to the Foundation's President or the Chairman of its Board of Directors. In addition, Directors are required to disclose to the Board the material facts of any proposed matter in which the Director has an actual or potential conflict of interest prior to its consideration by the Board, and such interested Director may not vote on such matter.

Grants

The process of grantmaking is expected to be free from actual or potential conflicts of interest. If a Director is associated as an officer, trustee or employee of an organization to which the Board is considering a grant, the procedures outlined in the Conflicts of Interest Policy must be followed. In addition, each Director should inform the Secretary of the Foundation at least once annually of all organizations with which he or she is associated as an officer, trustee or employee. Any changes in such associations that may occur during the course of the year should also be reported to the Secretary as they occur.

Investments

Directors have a duty not to engage in any investment activity that conflicts with the Foundation's interests and a duty not to derive personal financial benefit through the use of special knowledge or privileged information acquired through their service as Directors.

Gifts and Other Payments

Except for gifts of nominal value or meals and social invitations that are in keeping with good business ethics and do not obligate the recipient, Directors and their immediate family members (defined for this purpose as a spouse or domestic partner, parents, children, siblings and in-laws) may not accept commissions, gifts, payments, entertainment, services, loans or promises of future benefits from any person or entity relating to his or her Foundation service.

Suspected Financial, Auditing or Other Improprieties

If a Director becomes aware of or has a reasonable good faith belief that the Foundation may be involved in illegal activity or if the Director suspects any impropriety regarding the Foundation's accounting methods, internal controls, audit processes or any other financial matter, the Director should immediately notify the Chairman of the Board of Directors, or the Chairman of the Board's Audit Committee, who will promptly investigate and treat as confidential, to the extent possible, such reports. Following investigation, the Board will take such appropriate action as it deems justified by the circumstances.

Prompt Internal Reporting of Violations of this Code

If a Director violates or thinks he or she has violated any provision of this Code, or if a Director observes, learns of, or in good faith believes it is possible that another Director has violated any provision of this Code, that Director must immediately report the actual or suspected violation to the Chairman of the Board or to the Board as a whole. The Board will promptly investigate and treat as confidential, to the extent possible, all reported violations of this Code of Ethics. Following investigation, the Board will take such appropriate action as it deems justified by the circumstances.

DUTIES OF DIRECTORS OF NEW YORK NOT-FOR-PROFIT CORPORATIONS

In general, directors of nonprofit organizations are said to have three commonly recognized duties:

1. Duty of Care, which requires the director to exercise the care of an ordinarily prudent person in performing his duties;
2. Duty of Loyalty, which requires the director to place the interests of the nonprofit he serves above other personal or financial interests; and the
3. Duty of Obedience, which requires the director to act within the bounds of the law and in accordance with the mission of the nonprofit.¹

These concepts are also found in New York's Not-for-Profit Corporation Law, to which The Wallace Foundation is subject. Section 717 of that law requires that directors and officers discharge their duties in good faith, and with that degree of diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions.

The law goes on to provide that in managing investments, the Board shall consider, among other relevant considerations:

- the long- and short-term needs of the corporation in carrying out its purposes,
- its present and anticipated financial requirements,
- expected total return on its investments,
- price level trends, and
- general economic conditions.

The Board may delegate the responsibility for investment of Foundation funds to professional investment counsel, and provided that the Board exercises the standard of care described in Section 717 of the Not-for-Profit Corporation Law in the selection and continuation or termination of the investment counsel, the Board shall be relieved of liability for the investment of funds by investment counsel.

The statute also provides that when acting in good faith, directors and officers may rely on information, opinions, reports, or statements, including financial statements prepared or presented by:

- Officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;
- Counsel, public accountants or other persons as to matters which the directors or officers believe to be within such person's professional or expert competence; or
- A committee of the board upon which they do not serve, duly designated in accordance with a provision of the certificate of incorporation or the bylaws, as to matters within its designated authority, which committee the directors or officers believe to merit confidence

so long as in so relying they shall be acting in good faith and with that degree of diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions.

Persons who perform their duties in accordance with the above, "shall have no liability by reason of being or having been directors or officers of the corporation."

¹ Kurtz, Daniel L. Board Liability: Guide for Nonprofit Directors. (p 21). 1988, Moyer Bell Limited, New York.

OVERVIEW OF TAX LAWS GOVERNING PRIVATE FOUNDATIONS AND THEIR DIRECTORS

The Internal Revenue Code imposes certain excise taxes on private foundations and their directors and officers for engaging in the prohibited activities described below. The amount of the excise tax varies, depending on the activity, the circumstances, and whether it was timely corrected. Depending on the activity, in general the excise taxes involved range from 5% to 100% of the amount involved.

Self-Dealing

An excise tax is imposed for any direct or indirect act of self-dealing between a private foundation and a “disqualified person,” e.g., a member, director or officer of the foundation or members of their family. Self-dealing transactions generally include:

- The sale, exchange or leasing of property between a private foundation and a disqualified person, even if at arms-length price.
- The lending of money between a private foundation and a disqualified person.
- The furnishing of goods, services or facilities between a private foundation and a disqualified person.
- Payment of compensation or expenses (other than reasonable compensation or expenses necessary to the carrying out of the foundation’s charitable purposes) by a private foundation to a disqualified person.
- The transfer or use of the foundation’s income or assets by or for the benefit of a disqualified person. As a general rule, the public recognition “benefit” a disqualified person receives as a consequence of being associated with the foundation’s charitable activities is not self-dealing because the benefit is considered incidental or tenuous. However, recommending the foundation make a grant that fulfilled a personal pledge would be self-dealing.

Jeopardizing Investments

An excise tax is also imposed on foundation managers for investments that jeopardize the carrying out of the foundation’s exempt purposes. An investment is considered to jeopardize the carrying out of the exempt purposes of the foundation if it is determined that the foundation managers, in making such investment, have failed to exercise ordinary business care and prudence, under the facts and circumstances prevailing at the time of making the investment, in providing for the long- and short-term financial needs of the foundation to carry out its exempt purposes. In the exercise of the requisite standard of care and prudence, the foundation managers may take into account:

- The expected return, including both income and appreciation of capital.
- The risks of rising and falling price levels.
- The need for diversification within the investment portfolio; for example, with respect to type of security, type of industry, maturity of company, degree of risk and potential for return.

The determination whether the investment of a particular amount jeopardizes the carrying out of the exempt purposes of the foundation is made on an investment by investment basis, in each case taking into account the foundation's portfolio as a whole. Whether the investment ultimately succeeded or failed is not relevant to this determination. No category of investment is treated as a per se violation of this provision.

Failure to Distribute Income

An excise tax is imposed on a private foundation that fails to distribute at least five percent of the fair market value of its assets each year. There is a grace period of twelve months following the end of the foundation's fiscal year to cure any underdistribution. Any overdistribution can be carried forward for five years and used to meet distribution requirements in those subsequent years.

Taxable Expenditures

An excise tax is imposed on a private foundation that makes taxable expenditures, which includes amounts paid or incurred by a private foundation:

- To carry on propaganda or attempt to influence legislation.
- To influence the outcome of any specific public election or to carry on any voter registration drive.
- To individuals or to organizations other than public charities or for charitable purposes.

Investment Income

While not a penalty, private foundations are obligated to pay a 2% tax on their annual net investment income. This tax is reduced to 1% if distributions over the previous five years meet certain thresholds.

CONFLICT OF INTEREST POLICY FOR DIRECTORS

The proper governance of the Foundation depends upon the active participation of its directors. Each director shall maintain the highest level of ethical conduct and shall exercise the highest standard of care, diligence and prudence when conducting any activity on behalf of the Foundation.

Because the directors are often involved in other organizations that may have business dealings with, or seek grants from, the Foundation, this policy has been established to ascertain and address actual or potential conflicts. Full and complete disclosure is the best protection against the harmful effects of a conflict of interest or the appearance of such a conflict.

A conflict of interest may exist when the interests or concerns of any director, or such director's immediate family, or any party, group or organization to which that director or family member has allegiance, may be seen as competing with the interests or concerns of The Wallace Foundation. Circumstances which may suggest a conflict or the appearance of a conflict must be immediately disclosed to the Foundation's President or the Chairman of its Board of Directors.

In the event any director or a member of his immediate family has a direct or indirect personal or business interest in an organization or individual with whom the Board is considering a transaction or a grant request, the nature and extent of such interest or involvement shall be disclosed to the Board and such director shall answer any questions and provide any information reasonably requested by any other director or member of the Foundation pertaining to such interest or the terms of the proposed transaction or grant. In such event, the interested director shall not vote on such transaction or grant request.

The minutes of the meeting shall indicate whether (i) an interested director disclosed the nature and extent of his interest or involvement in the matter being considered by the Board and (ii) such interested director abstained from voting on the matter.

In addition, each director shall complete an annual policy questionnaire which, among other things, is intended to seek information on relationships which may present a conflict or the appearance of a conflict.

BUSINESS TRAVEL REIMBURSEMENT POLICY FOR DIRECTORS

The Foundation is a private foundation subject to various tax laws that govern the reimbursement of expenses to directors. To ensure that all such reimbursements are reasonable and necessary for the Foundation to carry out its exempt purposes, the following guidelines are established.

General Policy

For directors who live outside the metropolitan New York region, the Foundation will reimburse the cost of air and ground transportation, hotel accommodations, and meals reasonably and necessarily incurred in order to attend meetings of the Foundation's Board of Directors and committees of the Board, or to conduct such other business as the Foundation may reasonably request.

Air Travel

The Foundation will reimburse the cost of Business Class airfare for all air travel of two hours or less in duration from the point of origin to final destination. If the total air travel time is longer than two hours, the Foundation will reimburse the cost of First Class airfare.

Hotel Accommodations

The Foundation will reimburse the reasonable cost of hotel accommodations for those directors whose travel arrangements require an overnight stay to attend meetings of the Foundation's Board of Directors or committees of the Board or to conduct such other business as the Foundation may reasonably request.

Meals

The Foundation will reimburse the reasonable cost of meals while traveling to and from Board or committee meetings.

Ground Transportation

The Foundation will reimburse the reasonable cost of ground transportation required to get to and from the airport, both at point of origin and destination, and from the director's hotel to the Foundation's offices, when traveling to Board or committee meetings. Because yellow taxi cabs are so plentiful in New York City, directors are encouraged to use them whenever possible. If a private car service is desired, the Foundation will arrange such transportation upon request.

Reimbursement Procedures

All reimbursable expenses must be sufficiently documented with original receipts. Please send all receipts with a covering memo to the President.