

**BITTERROOT VALLEY COMMUNITY COLLEGE FOUNDATION, INC.**  
**CONFLICT OF INTEREST POLICY**  
**AND ANNUAL STATEMENT**

**Article I Purpose**

The purpose of the conflict of interest policy is to protect the interests of Bitterroot Valley Community College Foundation, Incorporated (the “Foundation”) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Foundation 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 non-profit and public benefit corporations.

**Article II Definitions**

- a. “Compensation” means direct and indirect remuneration as well as gifts or favors that are not insubstantial.
- b. “Disinterested person” means any director who has no financial interest.
- c. “Financial interest” is when a director has, directly or indirectly, through business, investment, or family:
  - i. An ownership or investment interest in any entity with which the Foundation has a transaction or arrangement.
  - ii. A compensation arrangement with the Foundation or with any entity or individual with which the Foundation has a transaction or arrangement.
  - iii. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Foundation is negotiating a transaction or arrangement.

*A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.*

- d. “Interested person” means any director who has a financial interest.

**Article III Procedures**

**Section 1 Duty to disclose**

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest to the board of directors and be given the opportunity to disclose all material facts to the board of directors considering the proposed transaction or arrangement.

Section 2 Determining whether a conflict of interest exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the interested person must leave the directors' meeting while the determination of a conflict of interest is discussed and voted upon. The remaining directors decide if a conflict of interest exists.

Section 3 Procedures for addressing the conflict of interest

- a. An interested person may make a presentation at the board of directors meeting, but after the presentation, the interested person must leave the board of directors meeting during the discussion of and the vote on the transaction or arrangement involving the possible conflict of interest.
- b. The chair of the board of directors must appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the board of directors must determine whether the Foundation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the board of directors must determine by a majority vote of the disinterested directors then in office whether the transaction or arrangement is in the Foundation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, the board of directors makes its decision as to whether to enter into the transaction or arrangement.
- e. If the board of directors is unable to make a decision regarding a transaction or arrangement due to possible conflict of interest circumstances, per state law the board of directors may refer the decision to the state attorney general or a state district court in an action in which the state attorney general is joined as a party.

Section 4 Violations of the conflicts of interest policy

- a. If the board of directors has reasonable cause to believe a director has failed to disclose actual or possible conflicts of interest, the board of directors must inform the director of the basis for such belief and afford the director an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the director's response and after making further investigation as warranted by the circumstances, the board of directors determines the director has failed to disclose an actual or possible conflict of interest, the board of directors takes appropriate disciplinary and corrective action.

**Article IV      Records of Proceedings**

The minutes of board of directors meetings must contain:

- a. The names of the directors who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the board of directors decision as to whether a conflict of interest in fact existed.
- b. The names of the directors who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

**Article V      Compensation**

- a. A voting director who receives compensation, directly or indirectly, from the Foundation for services rendered to the Foundation is precluded from voting on matters pertaining to that director's compensation.
- b. A voting director whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Foundation for services rendered to the Foundation is precluded from voting on matters pertaining to that director's compensation.
- c. No voting director whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Foundation, either individually or collectively, is prohibited from providing information to the board of directors regarding compensation.

**Article VI      Annual Statements**

Each director must annually sign a statement which affirms such person:

- a. Has received a copy of the conflicts of interest policy.
- b. Has read and understands the policy.
- c. Has agreed to comply with the policy.
- d. Understands the Foundation is a public benefit corporation for charitable purposes and in order to maintain its tax-exempt status it must engage primarily in activities which accomplish its tax-exempt purposes.

**Article VII      Periodic Reviews**

To ensure the Foundation operates in a manner consistent with public benefit corporation charitable purposes and does not engage in activities that could jeopardize its tax-exempt

status, periodic reviews of its activities must be conducted. The periodic reviews must, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with Foundation management conform to the Foundation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes, and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

**Article VIII Use of Outside Experts**

When conducting the periodic reviews as provided for in Article VII, the Foundation may, but need not, use outside advisors. If outside experts are used, their use does not relieve the board of directors of its responsibility for ensuring that periodic reviews are conducted.

**ADOPTION OF CONFLICT OF INTEREST POLICY**

I do hereby certify that the above stated Conflict of Interest Policy for the Bitterroot Valley Community College Foundation, Incorporated was approved and adopted by the board of directors on this

13th day of December, 2021 and constitutes a complete copy of the Foundation's Conflict of Interest Policy.

Theron Nelson

*Chair - Printed Name*



*Chair - Signature*

Kierstin Schmitt

*Secretary - Printed Name*



*Secretary - Signature*

**Policy History**

Initial Adoption: 12/13/2021

Latest Revision/Review: N/A

History: N/A

References: MCA 35-2-418. Director conflict of interest.

**BITTERROOT VALLEY COMMUNITY COLLEGE (BVCC) FOUNDATION, INC.**  
**ANNUAL STATEMENT – CONFLICT OF INTEREST - DIRECTOR**

1. Name: \_\_\_\_\_ Date: \_\_\_\_\_

2. Are you a director in good standing?    Yes    No

3. What organization(s) or other membership/directorship affiliation(s) do you represent?

\_\_\_\_\_

4. Position:

Are you a voting director?    Yes    No

Are you an officer?    Yes    No

If you are an officer, which officer position do you hold? \_\_\_\_\_

5. I affirm the following:

I have received a copy of the BVCC Foundation Conflict of Interest Policy. \_\_\_\_\_ (*initial*)

I have read and understand the policy. \_\_\_\_\_ (*initial*)

I agree to comply with the policy. \_\_\_\_\_ (*initial*)

I understand the BVCC Foundation is a charitable public benefit corporation and in order to maintain its tax-exempt status it must engage primarily in activities which accomplish its tax-exempt purposes. \_\_\_\_\_ (*initial*)

6. Disclosures:

a. Do you have a financial interest (current or potential), including a compensation arrangement, as defined in the BVCC Foundation Conflict of Interest Policy?    Yes    No

i. If yes, please describe your financial interest:

\_\_\_\_\_

ii. If yes, has the financial interest been disclosed, as provided in the conflict of interest policy?    Yes    No

b. In the past, have you had a financial interest, including a compensation arrangement, as defined in the BVCC Foundation Conflict of Interest Policy?    Yes    No

i. If yes, please describe your past financial interest, including when (approximately):

\_\_\_\_\_

ii. If yes, has the financial interest been disclosed, as provided in the conflict of interest policy?    Yes    No

\_\_\_\_\_ Date \_\_\_\_\_

*Signature of director*

Name and Date of Review by Executive Committee \_\_\_\_\_