

**MONTANA WILDERNESS ASSOCIATION
CONFLICT OF INTEREST POLICY
GOVERNING CONDUCT OF
COUNCIL AND BOARD MEMBERS**

Preamble The Montana Wilderness Association's (MWA) effectiveness is dependent on its credibility. It is essential to maintain MWA's reputation for objectivity and fairness in all matters. It is predictable that State Council members and Chapter Board members, as landowners, business owners, employers, employees, and members of the Montana community, may be participants or provide professional business assistance in a transaction with MWA. Therefore, a conflict of interest policy is essential to provide a means for MWA to identify and deal with potential conflicts of interest before they arise in order to protect MWA's integrity and tax-exempt nonprofit status.

Article I—Purpose

The purpose of this conflict of interest policy is to protect MWA's interests when entering into a transaction or arrangement that might benefit the private interest of a member of MWA's State Council or Chapter Board, 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 conflicts of interest applicable to nonprofit and charitable organizations. It is essential for all State Council and Chapter Board members to be aware that MWA is a 501(c)(3) nonprofit organization as defined by the Internal Revenue Code. In order to protect MWA's 501(c)(3) charitable non-profit status, it is important to recognize that none of MWA's earnings may inure to any private shareholder or individual. In addition, it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.

Article II—Definitions

1. Disqualified Person

A disqualified person is any State Council or Chapter Board member who is in a position to exercise substantial influence over the affairs of MWA during the time of the events in question. It is not necessary that the State Council or Chapter Board member actually exercise substantial influence, only that the member be in a position to do so.

Family members (spouse, children, siblings, parents) of the disqualified person and entities controlled by the disqualified person are also disqualified persons. For this purpose, the term control is defined as owning more than 35% of the voting power of a corporation, more than 35% of the profits interest in a partnership, or more than 35% of the beneficial interest in a trust.

2. Excess Benefit Transaction

An excess benefit transaction is a transaction in which an economic benefit is provided by MWA, directly or indirectly, to or for the use of a disqualified person, and the value of the economic benefit provided by MWA exceeds the value of the consideration received by MWA.

To determine if an excess benefit transaction occurred, include all consideration and benefits exchanged between or among the disqualified person and the applicable tax-exempt organization and all entities it controls.

In addition, if MWA makes a grant, loan, payment of compensation, or similar payment to a substantial contributor of MWA, the arrangement is an excess benefit transaction. The entire amount of the payment is taxable as an excess benefit.

In an excess benefit transaction, the general rule for the valuation of property, including the right to use property, is fair market value. Fair market value is the price at which property, or the right to use property, would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy, sell, or transfer property or the right to use property, and both having reasonable knowledge of all relevant facts.

3. Financial Interest

A State Council or Chapter Board member has a financial interest if the member has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which MWA has a transaction or arrangement,
- b. A compensation arrangement with MWA or with any entity or individual with which MWA has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which MWA is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

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.

4. Interested Person

An “interested person” is any State Council or Chapter Board member (including such member’s spouse, children, parents or siblings) who has a direct or indirect financial

interest, or an interest with others that would be in conflict with the principles and goals of MWA, is an interested person.

Article III—Procedures

1. Duty to Disclose

Upon commencement of his or her term of service to MWA, each officer, Chapter Board member, State Council member, and Committee member shall file with the Executive Director a list of his or her principal business activities, as well as involvement with other charitable and business organizations, vendors, or business interests, or with any other associations or government agencies that might produce a Conflict of Interest. It is the responsibility of each officer, Chapter Board member State Council member and Committee member to update this reporting as necessary.

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

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 shall leave the Council meeting while a determination of a conflict of interest is discussed and voted upon. The remaining Council members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

a. An interested person may make a presentation at a Council meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

b. The Council shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

c. After exercising due diligence, the Council shall determine whether MWA 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 Council shall determine by a majority vote of the disinterested Council members whether the transaction or arrangement is in MWA's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination the disinterested Council members shall make a decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

a. If the Council has reasonable cause to believe a State Council or Chapter Board member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Council determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV—Records of Proceedings

The minutes of proceedings of the Council and all committees with Council delegated powers shall contain:

a. The names of the persons 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 Council's decision as to whether a conflict of interest in fact existed.

b. The names of the persons 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 member of the State Council or Chapter Board who receives compensation, directly or indirectly, from MWA for services is precluded from voting on matters pertaining to that member's compensation.

b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from MWA for services is precluded from voting on matters pertaining to that member's compensation.

c. No member of the State Council, a Chapter Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from MWA, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI—Annual Statements

Each State Council or Chapter Board member and each member of a committee with Council delegated powers shall annually sign a statement, which affirms such member:

- a. Received a copy of the conflict of interest policy,
- b. Read and understands the policy,
- c. Agrees to comply with the policy, and
- d. Understands that MWA is a charitable non-profit 501(c)(3) organization and in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

Article VII—Periodic Reviews

To ensure that MWA operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, 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 other organizations conform to MWA'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.

The State Council can delegate this responsibility to a Committee to carry out for the State Council, Chapter Board members and Committee members.

Article VIII—Use of Outside Experts

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

The undersigned MWA Council member or Chapter Board member has read and fully understands the above policy regarding conflicts of interest with activities of the Montana Wilderness Association.

_____ I have no current business or other interests to report that might be or might create a conflict of interest with my Council or Board work.

_____ I have reported to the Executive Director my current business or other interests that might create a conflict of interest with my Council or Board work (or have attached such a report to this document).

Signature: _____

Date: _____