



101st Airborne Division Association

Approved by Board of Governors Snowbird February 18, 2012

CONFLICT OF INTEREST POLICY

Article I Purpose:

The purpose of this policy is to protect the 101st Airborne Division Association's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an interested person 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 nonprofit and charitable organizations.

Article II Definitions:

1. Interested Person

Any governor, officer, employee or chairmen/members of committees and boards with governing board delegated powers who has a direct or indirect financial interest as defined below, is an interested person.

2. Financial Interest

An interested person has a financial interest if the person has, directly or indirectly, through business, investment, or immediate family:

- a. An ownership or investment interest in any entity with which the Association has a transaction or arrangement.
- b. A compensation arrangement with the Association or with any entity or individual with which the Association has a transaction or arrangement or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Association 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. A person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides a conflict of interest exists.

No governor or officer of the Association shall be disqualified from holding any office in the Association by reason of any interest in any concern. An interested person of the Association shall not be disqualified from dealing, either as vendor, purchaser or otherwise, or contracting or entering into any other transaction with the Association or with any entity of which the Association is an affiliate. No transaction of the Association shall be voidable by reason of the fact that an interested person has an interest in the concern with which such transaction is entered into, provided:

1. The interest of such person is fully disclosed to the Board of Governors.
2. Such transaction is duly approved by the Board of Governors not so interested or connected as being in the best interests of the Association.
3. Payments to the interested person are reasonable and do not exceed fair market value.
4. No interested person may vote or lobby on the matter or be counted in determining the existence of a quorum at the meeting at which such transaction may be authorized.

The minutes of meetings at which such votes are taken shall record such disclosure, abstention, and rationale for approval.

Article III Procedures:

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 and be given the opportunity to disclose all material facts to the Board of Governors or the committee to which he/she has been duly appointed. Reminders of this requirement will be posted annually by the Association for all interested persons, along with the availability of blank disclosure forms for persons with any change in status.

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, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

- a. If a determination that a conflict of interest exists, the interested person may make a presentation at the governing board or committee 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 chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the governing board or committee shall determine whether the Association 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 governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Association's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

- a. If the governing board or committee has reasonable cause to believe an interested person 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 governing board or committee 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 the governing board and all pertinent committees with duly delegated duties and responsibilities 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 governing board's or committee'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.

- c. These minutes shall be reported to the Board of Governors.

Article V Compensation:

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

Article VI Signed Statements:

Each governor, principal officer or member of a committee with governing board delegated powers shall at the time of his/her election or appointment 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, and
- d. Understands the Association is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Copies of the signed statements shall be maintained and updated in the headquarters of the Association and reported at an annual meeting of the Association.

Article VII Periodic Reviews:

To ensure the Association operates in a manner consistent with its purpose as a 501 c 19 tax-exempt veterans association with charitable donation status 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 management organizations conform to the Association's written policies are properly recorded,

reflect reasonable investment or payments for goods and services, further its purpose as a 501 c 19 veterans association with charitable donation status and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Draft only note: “Inurement” example: *Benefit. For example, a nonprofit organization with tax-exempt status cannot provide employees with private inurement. That is, employees cannot receive benefits greater than they provide in return.*

Article VIII Use of Outside Experts:

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

Adopted by the Board of Governors ____ Snowbird February 18, 2012 _____