



Conflict of Interest Policy

I. INTRODUCTION

The Board of Directors of the California Association of Health Information Exchanges (“CAHIE” or “the Association”), recognizing that that we are entrusted with managing the Association’s assets devoted to charitable purposes, has adopted this Conflict of Interest Policy. The purpose of the Conflict of Interest policy is to protect CAHIE’s interest when it is contemplating entering into a transaction or arrangement that might benefit, directly or indirectly, the private interest of an officer or director (or parties related to him or her) of CAHIE (a “Conflict of Interest”). See Article II, Section C for a further definition of Conflict of Interest.

Conflicts of Interest place personal interests at odds with the fundamental duty of loyalty owed by directors and/or officers as servants of the public interest. In addition, the appearance of a Conflict of Interest can damage the Association’s credibility and the ability to fulfill the Association’s mission and programmatic goals. The Board of Directors expects that the directors and officers will respect their obligations to act for the good of the charitable beneficiaries and avoid even the appearance of impropriety. As a matter of practice, a director should promptly raise any issue which may trigger this policy either with the Executive Director of CAHIE or an Officer of the Board.

II. SELF DEALING AND CONFLICTS OF INTEREST

A. Internal Revenue Code: Prohibition of Excess Benefit Transactions with Disqualified Persons and Private Inurement

CAHIE is (or is in the process of becoming) a Charitable Organization under Section 501(c)(3) of the Internal Revenue Code and, under Section 4958 of the Code, may not engage in “Excess Benefit Transactions” (as defined in Exhibit A) with “Disqualified Persons” (as defined in Exhibit A). Accordingly, CAHIE will not engage in any transaction or arrangement which provides an economic benefit to or for the use of any disqualified person unless the consideration received by CAHIE at least equals the value of the benefit provided. The directors are disqualified persons, as are certain of their relatives (see Exhibit A). For an explanation of the meaning of Excess Benefit Transaction and the Internal Revenue Service safe harbor approval procedures, please see Exhibit A.

In addition to the prohibition on Excess Benefit Transactions, the Internal Revenue Code requires that CAHIE be operated exclusively for the promotion of charitable purposes and as such any arrangement involving private inurement or private benefit is forbidden.

B. California Nonprofit Corporation Law: Process for Approval of Self Dealing by Director and Transactions with Interlocking Directorates

The California Corporations Code specifies procedures that must be followed to approve transactions in which a director has a material financial interest (Section 5233) and in which the participating corporations have common directors (Section 5234). For an explanation of the meaning of Self Dealing and the approval procedures dictated by the Corporations Code, please see Exhibit B.

C. Special Conflict of Interest Policies Adopted by CAHIE

In addition to the rules imposed by the Internal Revenue Code and the California Corporations Code, the Board of Directors of CAHIE has adopted the following policy to address Conflicts of Interest. If a Director or a member of his or her family has a Conflict of Interest or potential Conflict of Interest, the director shall make disclosures as described below, and the Board of Directors shall follow the procedures described below in considering the subject grant or financial, investment or business transaction. For purposes of the Association's Conflict of Interest Policy, the term "Business Transaction" means any material business, financial, or investment transaction, including, without limitation, transactions involving the payment of consideration by CAHIE in exchange for services, or payments made by CAHIE in the form of grants or donations.

1. Conflict of Interest Defined

A "Conflict of Interest" exists if a CAHIE director or his or her Family Member (as defined below):

- a. Directly or indirectly enters into, or seeks to enter into, a Business Transaction with CAHIE;
- b. Has a material ownership, financial or investment interest in an organization which directly or indirectly enters into, or seeks to enter into, a Business Transaction with CAHIE;
- c. Receives, or potentially receives, material consideration from a person or organization which enters into, or which seeks to enter into, a Business Transaction with CAHIE;
- d. Serves as an employee, consultant or contractor, or as a paid or unpaid officer, director or advisor of an organization which enters into, or which seeks to enter into, a Business Transaction with CAHIE; or
- e. Receives, or potentially receives, directly or indirectly, material consideration from CAHIE.

2. Incidental Benefits Exempted

The receipt of the following types of benefits shall not be a Conflict of Interest or violate this Conflict of Interest Policy:

- a. incidental or tenuous benefits from CAHIE's grant making or financial, investment or business transactions; or
- b. benefits (received in good faith and without favoritism) solely by virtue of being among the class of persons intended to be benefited by charitable or public benefit programs conducted by CAHIE or supported by CAHIE's grants.

3. Family Members

Family members of a Director include their spouse, ancestors, descendants, siblings and the spouses of descendants and siblings.

D. Disclosure of Actual or Potential Conflicts of Interest

Directors will fully and regularly disclose all material facts relating to any actual or potential Conflicts of Interest. They will submit conflict of interest disclosure forms to the Chair of the Audit Committee:

- a. initially, upon joining the Board of Directors;
- b. annually, before the Annual Meeting;
- c. where appropriate at or prior to action on grant applications and business transactions; and
- d. upon becoming aware of an actual or potential Conflict of Interest.

The disclosure obligations are more fully described in Exhibit C.

E. Board Procedures for Resolution of Conflict of Interest Issues

A grant may be made, or a Business Transaction entered into, where there is an actual or potential Conflict of Interest if:

1. The disclosures set forth above have been made;
2. The business transaction would not constitute an Excess Benefit Transaction under Section 4958 of the Internal Revenue Code;
3. In the case of a grant, the grant meets CAHIE's stated eligibility and selection criteria and was found, after an objective review, to carry out CAHIE's programmatic goals and objectives;
4. In the case of a Business Transaction, the Board determines in good faith that CAHIE is entering into the business transaction for its own benefit, that the transaction is fair and reasonable to CAHIE, and that CAHIE could not have obtained a more advantageous arrangement with reasonable effort under the circumstances;
5. The interested director may be present at the time of initial presentation of a prospective grant or Business Transaction, but is absent from the room during both Board discussion, and action or vote; and
6. If not involving a director with a material financial interest, a grant may be approved by a majority of the directors present. All other grants and Business Transactions involving a Conflict of Interest must be approved by a majority of the directors in office.

III. ADDITIONAL GUIDELINES FOR DIRECTORS

Directors shall not use their position as a director of CAHIE to advance the interests of a particular organization, constituency, or special interest group by any means, including but not limited to providing information not available to the public, lobbying on behalf of or serving as spokesperson to CAHIE for an organization or interest group with which he or she is affiliated, or attempting to effect a positive decision through his or her position within CAHIE. Directors will not materially benefit from any information regarding grant making, investment or other business actions or decisions by CAHIE which has not been fully disclosed to the general public.

IV. RECEIPT OF BENEFITS FROM THIRD PARTIES

A. Gifts and Gratuities.

Directors will not directly or indirectly solicit or accept anything of monetary value in excess of **\$50** annually, from persons or organizations doing business or seeking to do business with CAHIE unless the solicitation or acceptance is based upon a relationship with such person or organizations in a capacity other than that of director of CAHIE.

V. REFERRAL TO COUNSEL

Questions regarding the interpretation or application of this Conflict of Interest Policy should be referred to the Association's counsel.

CERTIFICATE OF ADOPTION

The foregoing Conflict of Interest Policy was duly adopted by the Board of Directors of the California Association of Health Information Exchanges effective as of _____.

Chris Jaeger, MD, Secretary

Signature

Date

Exhibit A

Excess Benefit Transactions

Section 4958 of the Internal Revenue Code imposes a severe excise tax on Disqualified Persons who engage in Excess Benefit Transactions" with a Section 501(c)(3) organization and upon managers involved in the approval of the transactions.

Disqualified Persons:

A "Disqualified Person" is:

1. any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of CAHIE;
2. any member of the "family" of such person (where "family" includes the person's spouse, ancestors, descendants, siblings and the spouses of descendants and siblings); or
3. a corporation, partnership or trust controlled by such a person through the ownership, directly or indirectly of, in the case of a corporation, more than 35 percent of the total combined voting power, in the case of a partnership, more than 35 percent of the profits interest, and, in the case of a trust, more than 35 percent of the beneficial interest.

Approval Process

With respect to any transaction or arrangement whereby CAHIE provides an economic benefit to or for the use of a Disqualified Person:

1. Such transaction or arrangement shall be approved by the Board of Directors or a committee thereof that:
 - (i) is composed entirely of individuals unrelated to and not subject to the control of the Disqualified Person involved in the transaction or arrangement;
 - (ii) relies upon appropriate data as to comparability;
 - (iii) adequately documents the basis for its determination; and
 - (iv) determines that the value of the economic benefit provided by CAHIE does not exceed the consideration received by CAHIE (or, in the case of compensation, that the total compensation to be paid to an individual is reasonable in amount).

Exhibit B

Self-Dealing and Interlocking Directorates

Self-Dealing by Directors

1. Section 5233 of the California Corporations Code defines self-dealing as a transaction in which a director has a material financial interest (“Self-Dealing Transaction”).
2. The California Corporations Code does not prohibit Self-Dealing Transactions. It requires adherence to a specific process in order to approve any Self-Dealing Transaction with CAHIE. In general, that process requires that the directors determine in good faith that CAHIE is entering into the business transaction for its own benefit, that the transaction is fair and reasonable to CAHIE, and that CAHIE could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.¹
3. Pertinent exceptions to the mandatory process for approval of director Self-Dealing include:
 - a. action fixing Board or Officer compensation;
 - b. a charitable program approved in good faith and without unjustified favoritism if a director or members of their family are within the intended class of charitable beneficiaries; and
 - c. a transaction involving less than \$100,000 per year where the interested director has no actual knowledge of the transaction.

Interlocking Directorates

Section 5234 of the California Corporations Code permits transactions between corporations having common directors and provides an approval process for such transactions, namely:

- a. all material facts as to the transaction and the CAHIE director’s other directorship are known to the Board; and
- b. the matter is approved in good faith by a vote sufficient without counting the vote of the common director(s).

¹ Note that this California law covers only Directors and not staff members or those associated with directors or staff.

Exhibit C

Implementation Procedures and Responsibilities Responsibilities for Implementation

The following outlines the responsibilities of different bodies within CAHIE in the disclosure process, and steps for tracking and monitoring potential conflict of interest situations. This process affirms CAHIE's commitment to integrity and fairness in the conduct of all its activities.

Board of Directors. Responsible for reviewing and ratifying the annual report of director affiliations, as reviewed and presented by the Audit Committee and considering recommendations of the Governance Committee for amendments to the Conflict of Interest Policy.

Audit Committee. Responsible for monitoring CAHIE's conflict of interest program, including an annual review of the report of director affiliations, prepared by staff from the director disclosure statements, and presentation of the review to the full Board for ratification.

Governance Committee. Responsible for reviewing Conflict of Interest Policy and recommending amendments to the Board of Directors.

Individual Directors. Responsible for reporting (annually and as changes require) all relationships which may result in real or potential conflicts of interest with CAHIE activities.

Staff. Responsible for managing the conflict of interest program, including collecting the annual director disclosure statements and maintaining a documentation process for tracking directors' relationships.

Disclosure of Affiliations

At the beginning of each director's term and annually thereafter, CAHIE will conduct a review of the relationships and affiliations of each director. Disclosure forms are used to collect the information used for the review. Disclosure forms will document affiliations, business relationships, and other areas of potential conflicts of interest for CAHIE's directors. All material facts concerning the existence and nature of the actual or potential Conflict of Interest and the relationship of any interested director, officer or staff member to the actual or potential Conflict of Interest shall be disclosed to the Chair of the Audit Committee and to counsel for CAHIE. Such facts shall be recorded in the minutes of the Board meeting considering the authorization or approval of the affected grant or business transaction, and where applicable in any proposal summary or recommendations presented to committees and/or the Board for decision. The disclosure process is as follows:

Initial and New Director Process. Each director will complete CAHIE's conflict of interest disclosure form (Attachment 1) at the beginning of his or her term. The completed form will be forwarded to CAHIE's Director of Finance. The Director of Finance will prepare the information for presentation to the Audit Committee at its next meeting.

Annually. Each year, prior to the annual Board meeting, CAHIE's disclosure form (Attachment 1) will be forwarded to each director. The form is to be completed and returned to CAHIE's Director of Finance before annual meeting. The Director of Finance collects all forms and prepares a report by Director, of all affiliations reported. The report is presented to the Audit Committee at the annual meeting. The Audit Committee reviews the report and presents the findings to the full Board of Directors for approval.

Interim Review. In addition to the new director and annual disclosure process, CAHIE and directors are responsible for disclosure and review of potential conflicts of interest at each Board or Committee meeting as these issues arise. Directors are responsible for reporting potential conflicts of interest on any individual Board or Committee agenda or grant docket item, prior to deliberation on the item.

Attachment 1:

Annual Conflict-of-Interest Questionnaire

This questionnaire must be completed annually by all directors and officers of the California Association of Health Information Exchanges (CAHIE) as a nonprofit. Answers to this questionnaire should relate to relationships from the beginning of the current fiscal year to present. Please sign and date the completed questionnaire and return it to the Director of Finance.

1. Have you received and read the CAHIE Conflict-of-Interest Policy?
Yes _____ No _____

2. Are you a director or officer of an organization that conducts business or has a relationship with CAHIE other than as a participant in the California Trusted Exchange Network (CTEN)?
Yes _____ No _____
If yes, please define. _____

3. Have you ever served on the board of a business in which CAHIE invests?
Yes _____ No _____
If yes, please define. _____

4. Do you have a family relationship with anyone who has a relationship with CAHIE? Family connections include spouse, parent, child, grandparent, grandchild, sibling and spouses of any of these.
Yes _____ No _____
If yes, please define. _____

5. Have you participated, directly or indirectly, in any employment agreement, compensation relationship, or any other arrangement/investment opportunity with a third-party doing business with CAHIE that has or could result in personal benefit to you?
Yes _____ No _____
If yes, please define. _____

6. Have you received, directly or indirectly, any salary payments, loans, or gifts of any kind or any free service, discounts, or other fees from any person/organization engaged in any transaction with CAHIE?
Yes _____ No _____
If yes, please define. _____

7. Do you share ownership of a business that does business with CAHIE? Ownership means voting power in a corporation, profits interest in a partnership, of beneficial interest in a trust.
Yes _____ No _____
If yes, please define. _____

What is your role in CAHIE? _____

Signature _____ Date _____

Printed name _____