



MAINE COMMUNITY FOUNDATION
Fulfilling the promise of giving

Sarbanes-Oxley Voluntary Compliance Policies

Adopted by the Board of Directors - June 11, 2004

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Table of Contents

	<u>Page</u>
I. Introduction.....	1
II. Audit Committee Charter.....	1
III. Code of Conduct.....	4
IV. Code of Ethics for CEO and CFO.....	5
V. Conflict of Interest Policy.....	6
VI. Policy Regarding Loans and Other Transactions.....	7
VII. Document Destruction Policy.....	7
VIII. Whistleblower Protection Policy.....	8

I. Introduction

The Sarbanes-Oxley Act of 2002 changes the governance of public companies, including requirements with respect to the independence of auditors, the role of the audit committee, and other changes designed to protect investors and the public. While most of the law applies only to public companies (two key aspects of the legislation – whistleblower protection and document destruction – pertain to all organizations), Maine Community Foundation has voluntarily enhanced its own governance policies to assure continued public confidence in our financial integrity and operations.

In developing its policies, the Foundation’s board considered the following guiding principles:

- Having a board of directors that is committed to effective governance and holds management to the highest standards of accountability
- Transparency of financial conditions and operations
- Transparency of transactions with interested parties with no improper benefits at the expense of the organization
- Access to sound counsel unaffected by conflict of interest

II. Audit Committee Charter

Purpose

The primary responsibility for the Foundation’s financial reporting and internal controls rests with senior operating management, as overseen by the Foundation’s Board of Directors (the “Board”). The purpose of the Audit Committee (the “Committee”) is to assist the Board in fulfilling this responsibility.

Authority

In fulfilling its responsibilities, the Committee is empowered to investigate any matter brought to its attention with complete and unrestricted access to all books, records, documents, facilities, and personnel of the Foundation. The Committee shall also have the power to retain outside counsel, auditors, investigators or other experts in the fulfillment of its responsibilities. The Committee shall be provided with the resources necessary to discharge its responsibilities. The Board shall review the adequacy of this charter on an annual basis.

Membership

The Audit Committee shall be a standing committee of the Board of Directors, comprised of not less than five members of the Board. Members of the Committee shall:

- Have no relationship to the Foundation that may interfere with the exercise of their independence from management and the Foundation
- Be financially literate regarding the specialized matters of nonprofit foundations or shall acquire such financial literacy within a reasonable time period after appointment to the Committee

In addition, at least one member of the Committee shall have accounting or financial management expertise or relevant experience.

Responsibilities

The Committee's role is one of oversight, recognizing that the Foundation's management is responsible for preparing the Foundation's financial statements and that the external auditors are responsible for auditing those financial statements. The Committee recognizes that the Foundation's internal financial management team, as well as the external auditors, have more time and detailed information about the Foundation than do Committee members. Consequently, in discharging its oversight responsibilities, the Committee is not providing expert advice or any assurances as to the Foundation's financial statements or any professional certification as to the external auditor's services.

The Committee shall have responsibilities in the areas of financial reporting, internal control and organizational governance. **In the areas of financial reporting and internal control**, the Committee shall:

- Oversee the external audit process, including: the scope of the audit, nomination of the external audit firm, auditor engagement letters and fees, timing and coordination of audit fieldwork visits, monitoring of audit results, review of auditor's performance and review of non-audit services provided by the external audit firm for compliance with professional independence standards
- Review accounting policies
- Review the Foundation's financial statements, including year end and interim financial statements, statements and reports required under the Single Audit Act and OMB Circular A-133 (if applicable), other reports requiring approval by the Board before submission to government agencies, and auditor opinions and management letters
- Review annual returns filed with the Internal Revenue Service and State government agencies
- Determine that all required tax and return filings with federal, state and local government agencies are current
- Review any other communications from the external auditors that the external auditors are required to submit to the Board or Committee under currently applicable professional auditing standards
- Review and discuss with management the findings and recommendations of the external auditor included in the management letter (and Schedule of Findings and Questioned Costs, if any OMB Circular A-133 audit is performed)
- Inquire about the existence and nature of significant audit adjustments proposed by the external auditors and significant estimates made by management
- Meet privately with the external auditors to discuss the quality of management, financial, accounting, and information technology personnel

and to determine whether any restrictions have been placed by management on the scope of the external audit or if there are any other matters that should be discussed with the Committee

- Review the letter of management representations provided to the external auditors as part of the annual audit and inquire as to whether any difficulties were encountered in obtaining the representation letter
- Review the audited financial statements and the management letters related thereto with respect to any supporting organizations of the Foundation and, if deemed admissible, take appropriate action to investigate further any issues that may be deemed necessary
- Direct special investigations into significant matters brought to its attention within the scope of its duties
- Annually prepare a report, signed by the Chair of the Committee, for presentation to the full Board of Directors, describing the activities of the Committee in carrying out these responsibilities
- Annually review this charter and propose any recommended changes to the Board

In the area of organizational governance, the Committee shall:

- Review Foundation policies regarding compliance with applicable laws and regulations, ethics, employee conduct, conflicts of interest and the investigation of misconduct or fraud
- Review current and pending litigation or regulatory proceedings impacting organizational governance in which the Foundation is a party and meet with the Foundation's general counsel, as appropriate
- Review significant cases of employee or director conflict of interest, misconduct or fraud as they relate to financial statements
- Review and approve the internal audit charter, which explains the framework for providing internal audit services to management and the Committee
- Review plans and budgets associated with the internal audit function to determine that audit objectives, plans, financial budgets and schedules provide for adequate support of the Audit Committee's goals and objectives
- Discuss with the Chief Financial Officer of the Foundation and the external audit firm the reliability of the Foundation's information technology system and any specific security measures required to protect the Foundation against fraud and abuse
- Review legal matters related to financial statements that may have a significant impact on the Foundation
- Review findings related to any compliance audits that may have been conducted

In nominating the external auditors, the Committee shall require that:

- The lead partner of the external auditor rotate at least once every five years

- The external auditors provide no non-auditing services to the Foundation except for tax preparation services that are pre-approved by the Committee

The Committee shall meet at least twice annually, or more frequently as required to fulfill the responsibilities described in this charter.

III. Code of Conduct

This code of conduct requires that all officers, directors, employees and volunteers of the organization must, in the course of carrying out the Foundation's activities:

- Behave honestly and with integrity
- Act with care and diligence
- Treat everyone with respect and courtesy and without harassment
- Comply with all federal, state and local laws and regulations applicable to the Foundation
- Comply with the Foundation's policies
- Comply with all lawful and reasonable direction given by someone in the Foundation who has authority to give the direction
- Never provide false, misleading or incomplete information in response to a request for information that is made for official purposes
- Use organization resources in a proper manner
- Never make improper use of inside information of the employee's duties, status, power or authority
- Behave in a manner that upholds the Foundation's values and good reputation
- Report all known or suspected violations of this Code of Conduct or other acts described in the Foundation's policy on suspected misconduct

In the fulfillment of these requirements, every officer, director, employee and volunteer of the organization should be able to unequivocally answer "yes" in response to each of the following questions with respect to all of their activities carried out as a representative of the Foundation:

- Is my action legal and in compliance with all applicable laws and regulations
- Is my action ethical
- Does my action comply with all organization policies
- Am I sure that my action does not in any way appear to be inappropriate to anyone who may observe my behavior
- Am I certain that I would not be embarrassed or compromised if my action became known with the Foundation or publicly
- Am I sure that my action meets my personal code of ethics and behavior
- Would I feel comfortable defending my actions on the evening news

In addition to being able to respond affirmatively to each of the preceding questions with respect to all your actions, you should strive to respond “yes” to one additional question with respect to as many activities as possible:

Does my action meet a standard of behavior that surpasses all enforceable laws, policies, and rules to achieve an exemplary level of ethical behavior that the Foundation would be proud of?

IV. Code of Ethics for Chief Executive Officer and Senior Financial Officer

It is the policy of MCF that the Chief Executive Officer, Chief Financial Officer, and Controller adhere to and advocate the following principles governing their professional and ethical conduct in the fulfillment of their responsibilities:

1. Act with honesty and integrity, avoiding actual or apparent conflicts between his or her personal, private interests and the interests of the Foundation, including receiving improper personal benefits as a result of her or his position. A personal benefit having a value of more than \$50 is presumed to be improper, subject to particular circumstances.
2. Perform responsibilities with a view to causing periodic reports required to be filed with the authorities to contain information which is accurate, complete, fair and understandable
3. Comply with laws of federal, state and local governments applicable to the Foundation and the rules and regulations of private and public regulatory agencies having jurisdiction over the Foundation
4. Act in good faith, responsibly, with due care, and diligence, without misrepresenting or omitting material facts or allowing independent judgment to be compromised
5. Respect the confidentiality of information acquired in the course of the performance of his or her responsibilities except when authorized or otherwise legally obligated to disclose. Do not use confidential information acquired in the course of the performance of his or her responsibilities for personal advantage
6. Proactively promote ethical behavior among subordinates and peers
7. Use corporate assets and resources employed or entrusted in a responsible manner
8. Do not use corporate information, corporate assets, corporate opportunities, or one’s position with the Foundation for personal gain. Do not compete directly or indirectly with the Foundation
9. Comply in all respects with the Foundation’s Code of Conduct and Conflicts of Interest Policy
10. Advance the Foundation’s legitimate interests when the opportunity arises.

- A. It is also the Policy of the Foundation that the CEO, CFO and Controller acknowledge and certify to the foregoing annually and file a copy of such certification with the audit Committee of the Board.

V. Conflict of Interest Policy

A conflict of interest arises when a director or employee involved in making a decision is in the position to benefit, directly or indirectly, from his or her dealings with the organization or person conducting business with the organization.

The document titled Recommended Principles and Practices for Effective Grantmaking of the Council on Foundations contains the following general philosophy governing conflicts of interest:

Beyond the legal requirements that forbid staff, board members and their families from profiting financially from any philanthropic grant, it is important that grantmakers weigh carefully all circumstances in which there exists the possibility for accusations of self-interest. In particular, staff and board members should disclose to the governing body the nature of their personal or family affiliations or involvements with any organization that seeks a grant, even though such affiliation may not give rise to any pecuniary conflict of interest.

Accordingly, the Conflict of Interest Policy for the Foundation is as follows:

- A. All Directors, staff, advisory committee members, and other volunteers will:
 - 1. Avoid conflicts of interest, or the appearance of conflicts, between their personal interests and those of the Foundation in dealing with outside entities or individuals
 - 2. Disclose real or apparent conflicts of interest to the Chair of the Board of Directors or the Chief Executive Officer
 - 3. Refrain from participation in any decisions on matters that involve a real conflict of interest or the appearance of a conflict
- B. The Foundation adopts the Recommended Principles and Practices for Effective Grantmaking stated above. In addition, with respect to grantmaking:

*Volunteer advisory committees shall operate under the same conflict of interest policies as the Board

*Although it is desirable that Board members stimulate and encourage grant proposals from individuals and groups, the involvement of the members should be normally limited to the early stages of any proposal

development. As soon as practical, the member's interest should be replaced by the effort of the Foundation staff

*Before considering discretionary grant requests at each Board meeting, the Chair of the Board of the Foundation, or her/his designee as Chair of the meeting shall ask Board and staff members to disclose any affiliation that they currently have with an organization requesting funds from the Foundation. Any director or staff member so affiliated shall not vote on the request and the abstention shall be reflected in the minutes. Board or staff members may respond to questions about an organization with which they are affiliated during discussion of grant, but the response should be of an informational, not a persuasive nature

*No staff member or member of the Board of Directors or the scholarship committees of the foundation or their immediate families shall be eligible to apply for assistance from the Foundation's scholarship funds

This Conflict of Interest Policy shall be circulated annually to all Board members and employees who will be asked to sign a certificate indicating their compliance with the Policy. Requests for interpretations and/or reports of conflicts of board members shall be reviewed by the Audit Committee and referred to the Executive Committee as appropriate. Requests for interpretations and/or reports of conflicts of staff shall be reviewed by the President and Chief Executive Officer and referred to the Executive Committee as appropriate. When deemed advisable, matters will be reviewed by the whole Board at its next regular meeting.

VI. Policy Regarding Loans and Other Special Financial Transactions

The Foundation shall not provide loans to staff, directors, or other volunteers or their family members. Additionally, private inurement, excessive personal benefit, and/or self-dealing are prohibited. Any infraction will result in serious penalty.

VII. Document Destruction Policy

The Foundation shall retain records for the period of their immediate use unless longer retention is necessary for historical reference or to comply with legal requirements. Essential records such as fund files and other legal documents, are those required by law to be permanently retained. Essential records are ineligible for physical destruction until they are scanned and stored permanently in electronic format. Copies of essential records shall be retained in a secure location. A copy of all electronic files will be kept off site. Historical records that may be of interest or significance because of their age or research value shall be treated like essential records.

Where federal, state, or local law prescribes a definite period of time for retaining certain records, the Foundation will retain these for the period specified by law. Where no retention period is specified by law, it shall be a minimum of two years. All other documents and materials that have no legal significance may be destroyed when no longer needed for operational purposes.

VIII. Whistleblower Protection

All Foundation employees are covered under Maine Law (Title 26, MRSA, Section 839) of the Whistleblower's Protection Act that protects employees who report or refuse to commit illegal acts. Accordingly, the Foundation will not:

Fire, retaliate against or treat an employee differently because:

1. She/he reported a violation of the law;
2. She/he reported something that risks someone's health or safety;
3. She/he refused to do something that will endanger their own life or someone else's life and they have asked your employer to correct it; or
4. She/he has been involved in an investigation or hearing held by the government.

An employee is protected by this law ONLY if:

1. She/he tells their boss about the problem and allows a reasonable time for it to be corrected; or
2. She/he has good reason to believe that her/his boss will not correct the problem.

To report a violation, unsafe condition, or practice or an illegal act in the workplace, employees should contact:

Jim Geary, Vice President of Finance and Administration
(jgeary@mainecf.org)

MCF takes any employee complaint seriously, will investigate all reports, and fix any problems or justify why corrections are not necessary. In addition to its inclusion in the employee handbook, the rights under this provision will be periodically conveyed to all staff.