



American Fibromyalgia Syndrome Association, Inc.

# Conflict of Interest Policy

## I. Purpose of Policy

It is important for The American Fibromyalgia Syndrome Association, aka “AFSA,” directors, officers, and scientific review board to be aware that both real and apparent conflicts of interest or dualities of interest sometimes occur while conducting the affairs of the corporation and that the appearance of conflict can be troublesome even if there is in fact no conflict whatsoever.

Conflicts occur because the people associated with the nonprofit generally have multiple interests and affiliations and various positions of responsibility within the community. In these situations, a person will sometimes owe identical duties of loyalty to two or more corporations. The purpose of the conflict-of-interest policy is to protect the corporation’s tax-exempt interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director or scientific review board member of the nonprofit.

Conflicts are undesirable because they potentially or eventually place the interests of others ahead of the nonprofit’s obligations to its charitable purposes and to the public interest. Conflicts are also undesirable because they often reflect adversely upon the person involved and upon the institutions with which they are affiliated, regardless of the facts or motivations of the parties. However, the long-range best interests of the nonprofit do not require the termination of all association with persons who may have real or apparent conflicts that are harmless to all individuals or entities involved.

Each officer, member of the board of directors and the scientific review board has a duty of loyalty to AFSA. The duty of loyalty generally requires an officer, director or board member to prefer the interests of AFSA over that of the officer, director or board member or the interest of others. In addition, officers, directors, and board members of AFSA shall avoid acts of self-dealing which may adversely affect the tax-exempt status of the nonprofit organization or cause there to arise any sanction or penalty by a governmental authority.

The policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.



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### II. Definitions

#### Interested Person

Any director, officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

#### Financial Interest

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

- An ownership or investment interest in any entity with which AFSA has a transaction or arrangement,
- A compensation arrangement with AFSA or with any entity or individual with which AFSA has a transaction or arrangement, or
- A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which AFSA 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 board of directors decides that a conflict of interest exists.

### III. Procedures

#### 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 directors.



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### 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 while the determination of a conflict of interest is discussed and voted upon. The remaining board shall decide if a conflict of interest exists.

### Procedures for Addressing the Conflict of Interest

- An interested person may make a presentation at the board meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving a possible conflict of interest.
- The chairperson of the governing board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- After exercising due diligence, the governing board shall determine whether AFSA 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.
- If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in AFSA'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.

### Violations of the Conflict of Interest Policy

- If the governing board has reasonable cause to believe a 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.
- If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board determines the member has failed to disclose an actual or potential conflict of interest, it shall take appropriate corrective action.



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### IV. Records of Proceedings

Board Minutes – The minutes of the governing board shall contain:

- 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 decision as to whether a conflict of interest in fact existed.
- 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.

### V. Annual Statements

Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- Has received a copy of the conflicts of interest policy,
- Has read and understands the policy,
- Has agreed to comply with the policy, and
- Understands that AFSA is a charitable organization 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.

### VI. Periodic Reviews

To ensure AFSA 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:

Whether partnerships, joint ventures, and arrangements with management corporations conform to AFSA'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.