

INSTITUTE FOR HERITAGE EDUCATION
POLICY ON CONFLICTS OF INTEREST

*Adopted by the Board of Directors November 12, 2014
Amended September 28, 2023*

I. Purpose.

The effectiveness of the Institute for Heritage Education (IHE) depends on maintaining the highest level of credibility, confidence, accountability, and trust with the communities we serve and all parties with whom we work. The decisions and activities of the Board of Directors, committees, and staff, whether or not addressed in this policy, are governed by an overriding requirement of honesty, good faith, and fiduciary responsibility to the organization.

IHE seeks to avoid or to disclose and properly manage any conflict of interest that may arise in its operations or transactions, by following its bylaws, applicable federal and state law, and the policies and procedures below. Each Director, staff member, and volunteer will be provided a copy of this policy at the time they join the organization and shall acknowledge in writing their receipt and understanding of this policy. It is expected that all persons subject to this policy will conduct themselves honestly and fairly in dealings with IHE, and that they will not use their position or knowledge gained through their association with the organization, nor engage in any transaction with IHE, for private benefit, except as permitted under this policy.

II. Definitions.

Conflict of Interest. A conflict of interest arises when an “insider” is in a position, or is perceived to be in a position, to benefit financially from a project, transaction or other action of the organization – whether the benefit is to himself or herself, to a family member, or to another organization or business with which the insider is associated.

Insiders. This policy applies to all “insiders,” which include Board members, the Executive Director, other staff, substantial contributors, and family members of the above. Insiders include all those who have the ability to influence decisions of the organization, those with access to information not available to the general public, and anyone who was in a position to exercise substantial influence over the affairs of the organization anytime in the five years prior to the transaction.

A “substantial contributor” means any person who contributed or bequeathed an aggregate amount of more than \$5,000 to the organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization during the fiscal year in which the contribution or bequest is received by the organization.

Compensation of Board Members. Board members may not serve for personal financial interest and are not compensated except for reimbursement of reasonable expenses incurred while carrying out the organization’s business.

III. Obligations of the Conflicted Party.

If an insider knows or discovers that he or she has a potential or actual conflict of interest, he or she shall be obligated to:

- a. Disclose the existence of the potential or actual conflict of interest and all the material facts of the conflict to the Board of Directors, or in the case of staff, to the Executive Director.
- b. Abstain from discussing the potential conflict of interest with other insiders unless specifically requested by the Board of Directors.
- c. Recuse him or herself from participating in Board and/or other deliberation related to the conflicted transaction or project, unless information is requested by the Board from the conflicted party. The conflicted party shall not vote on the matter, and shall leave the room during discussions related to the transaction or project.
- d. If requested by the Board of Directors, to take a temporary leave of absence from Board or staff duties until the conflicted transaction or project has been concluded.

IV. Obligations of the Board of Directors.

When a conflict of interest is disclosed to the Board of Directors, they shall be obligated to:

- a. Review the conflicted transaction or project for its compliance with this policy. The Board may approve the transaction or project only if all of the following conditions are met:
 - i. The transaction or project is in the best interests of IHE and is consistent with its mission, purposes, and plans.
 - ii. The transaction or project has been considered on its merits after full and complete disclosure of the conflict of interest by the insider as required by this policy.
 - iii. Apart from the disclosures required by this policy, any insider affected by such conflict of interest has not participated in the Board's discussion or vote concerning the transaction or project and was, in fact, absent during both the discussion and vote.
 - iv. The Board of Directors, acting in good faith, reasonably concludes that the transaction or project is fair to IHE and does not create excess benefit for an insider.
 - v. The Board of Directors votes on the transaction or project, and it is approved by a majority of the total number of directors on the board (but by no fewer than two Directors) who have no direct or indirect interest in the transaction. In the case of such a vote, Montana law deems that any quorum required for the action is met. *See* 2022 Mont. Code Annot. Title 35-2-418 (5).
- b. Review the nature and magnitude of the conflict of interest to determine if it warrants action to avoid the appearance of impropriety. If found to warrant action, the Board shall request that the insider affected by the conflict of interest take a leave of absence from IHE activities until the transaction or project is concluded.
- c. Document the existence of the conflict, the disclosures provided, and the Board's compliance with this policy.

V. Avoiding Excess Benefit Transactions.

IHE may occasionally decide to conduct transactions with insiders, for example when the Board decides to offer reimbursement for expenses incurred in carrying out IHE business. In these cases, IHE shall:

- a. Follow all of its standard policies and procedures for such a transaction or project, including this policy. In no case shall IHE lend money to or guarantee the obligation of an insider.
- b. Ensure that the Board of Directors has followed and documented its compliance with the procedures outlined in this policy.
- c. Adhere to the Internal Revenue Service (IRS) rules to prevent “excess benefits” from accruing to insiders as a result of any such transaction (26 CFR 53-4958-6). The IRS code establishes a presumption that a payment to an insider is reasonable if the following conditions are met. These conditions shall be IHE policy for considering insider payments other than those for the Executive Director and other staff included in employee agreements.
 - i. The Board finds the payment is reasonable, based on either actual expenses or a fair value estimate.
 - ii. The Board documents the basis for its decision.
 - iii. The Board approves the payment in advance, without the participation of any individuals involved in the transaction, as above in IV.a.5.