

BOSTON BAR ASSOCIATION  
BOSTON BAR FOUNDATION  
**CONFLICTS OF INTEREST POLICY**

Adopted by BBF Trustees 9/26/06

Adopted by BBA Council 10/17/06

**Article I**  
**Purpose**

The purpose of this Conflicts of Interest Policy (the “Policy”) is to protect the interests of the Boston Bar Association (the “BBA”) and its affiliate, the Boston Bar Foundation (the “BBF”) (together, the “BBA/BBF”) and to ensure that the Council of the Boston Bar Association (the “Council”), the Board of Trustees of the Boston Bar Foundation (the “Board of Trustees”), and their respective officers, employees, agents and representatives maintain the highest personal and professional ethical standards and avoid situations that create a conflict of interest or a perceived conflict of interest, whether financial or otherwise, between their involvement with the BBA/BBF and their personal affairs. In addition, this Policy acts to protect the interests of the BBA/BBF when entering or contemplating entering into a transaction or arrangement, or undertaking any act, that might benefit (or be perceived to benefit) the private interest of an officer or employee of the BBA/BBF or a member of the Council or the Board of Trustees, 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 tax-exempt corporations.

**Article II**  
**Definitions**

**1. Interested Person.**

Any member of the Council or of the Board of Trustees, any officer, employee, and any member or Fellow of the BBA/BBF with delegated powers, or who otherwise is in a position to exercise substantial influence over the affairs of the BBA/BBF, or who has a direct or indirect Financial Interest or Other Interest, as defined below, is an “Interested Person.”

**2. Other Person.**

Any member, officer, staff member, or volunteer of the BBA/BBF who is not an Interested Person, but who has a direct or indirect Financial Interest or Other Interest, as defined below, is an “Other Person.”

### **3. Financial Interest.**

A person has a “Financial Interest” if the person has, directly or indirectly, through business, investment or family:

- a. an ownership or investment interest in any entity with which the BBA/BBF has a Transaction or Arrangement;
- b. a compensation arrangement, including any direct or indirect remuneration or the receipt of substantial gifts or favors, with the BBA/BBF or with any entity or individual with which the BBA/BBF has a Transaction or Arrangement; or
- c. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with any entity or individual with which the BBA/BBF is negotiating a Transaction or Arrangement.

### **4. Other Interest.**

A person has an “Other Interest” if the person has, directly or indirectly, through business, investment or family, a professional association or current relationship that is not a Financial Interest with any entity or individual with which the BBA/BBF has or is negotiating a Transaction or Arrangement.

### **5. Certain Definitions.**

For the purposes of this Policy, the “family” of an Interested Person or Other Person shall include his or her spouse, parents, children, stepchildren, grandchildren and members of his or her immediate household.

### **6. Conflict of Interest.**

A Financial Interest or Other Interest is not necessarily a Conflict of Interest. A person who has a Financial Interest or Other Interest may have a Conflict of Interest only if the Council or the Board of Trustees, as appropriate in the circumstances, decides that a Conflict of Interest exists.

### **7. Transaction or Arrangement.**

A “Transaction or Arrangement” includes, but is not limited to (i) the sale, exchange, or lease of property; (ii) a loan of money or other extension of credit; (iii) the furnishing of goods, services, or facilities; (iv) the payment of compensation, or payment or reimbursement of expenses; (v) the transfer or use of any of the BBA/BBF’s income or assets, including, in the case of the BBF, the making of grants; and (vi) an agreement to pay a government official. For the avoidance of doubt, a Transaction or Arrangement does not include the receipt or proposed receipt of a donation by the BBA/BBF from an entity or individual in and of itself, and does include the funding or proposed funding of an entity or individual by the BBA/BBF.

## **Article III Procedures**

### **1. Duty to Disclose.**

In connection with any actual or possible Transaction or Arrangement:

- a. an Interested Person shall disclose the existence of any Financial Interest or Other Interest and be given the opportunity to disclose all material facts to the Council, the Board of Trustees, or any committee or other person or groups of persons with delegated powers considering the proposed Transaction or Arrangement.
- b. all Other Persons who have knowledge of an actual or potential Conflict of Interest shall disclose the existence of the Financial Interest or Other Interest to the Executive Director of the BBA/BBF and be given the opportunity to disclose all material facts to the Council, the Board of Trustees, or any committee or other person or groups of persons with delegated powers considering the proposed transaction or arrangement.

### **2. Determining Whether a Conflict of Interest Exists.**

After disclosure of the Financial Interest or Other Interest and all material facts, and after any discussion with the Interested Person or Other Person, the remaining members of the Council, the Board of Trustees or committee or other person or groups of persons with delegated powers considering the proposed transaction or arrangement shall decide if a Conflict of Interest exists.

### **3. Procedures for Addressing a Conflict of Interest.**

- a. An Interested Person or Other Person may make a presentation at any meeting considering a Transaction or Arrangement, but after such presentation, he/she shall leave the meeting during the discussion of, and the vote on, any Transaction or Arrangement that result in a Conflict of Interest.
- b. The chairperson of the meeting considering a Transaction or Arrangement shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed Transaction or Arrangement, including consideration of whether the BBA/BBF 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.
- c. If a more advantageous transaction or arrangement is not reasonably practicable under circumstances not producing a conflict of interest, the Council, the Board of Trustees, or committee or other person or groups of persons with delegated powers considering the proposed Transaction or Arrangement shall determine by a majority vote of the disinterested persons present whether the Transaction or Arrangement is in the BBA/BBF's best interest, for its own benefit, and whether it is fair and reasonable, in which case it may determine to enter into the Transaction or Arrangement notwithstanding the existence of a Conflict of Interest.

**4. Violations of the Conflicts of Interest Policy.**

- a. If the Council or the Board of Trustees or other committee or other person or groups of persons with delegated powers considering a proposed Transaction or Arrangement has reasonable cause to believe an Interested Person or Other Person has failed to disclose actual or possible Conflicts of Interest, it shall inform such person of the basis for such belief and afford him or her an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the Interested Person or Other Person's response and after making further investigation as warranted by the circumstances, the Council or Board of Trustees determines that such person has failed to disclose an actual or possible conflict of interest, it shall take such disciplinary and corrective action as it deems appropriate in the circumstances.

**Article IV  
Records of Proceedings**

The minutes of the Council, the Board of Trustees, and any committee or other person or groups of persons with delegated powers considering a proposed Transaction or Arrangement shall contain:

1. the names of the persons who disclosed or otherwise were found to have a Financial Interest or Other Interest in connection with an actual or possible Conflict of Interest, the nature of the Financial Interest or Other Interest, any action taken to determine whether a Conflict of Interest was present, and decision as to whether a Conflict of Interest in fact existed.
2. 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.

**Article V  
Compensation**

1. A voting member of the Council or of the Board of Trustees who receives compensation, directly or indirectly, from the BBA/BBF for services shall not vote on matters pertaining to that member's compensation.
2. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the BBA/BBF for services shall not vote on matters pertaining to that member's compensation.

**Article VI  
Disclosure and Implementation**

1. **Annual Statements.**

Each member of the Council of the BBA, the Board of Trustees of the BBF, the Grants Committee of the BBF, and each officer and employee of the BBA/BBF shall annually sign a statement in substantially the form attached hereto as Appendix A, which affirms that such person:

- a. has received a copy of the Policy,
- b. has read and understands the Policy,
- c. has agreed to comply with the Policy, and
- d. understands that the BBA/BBF are tax-exempt entities and in order to maintain their tax exemptions must engage primarily in activities which accomplish one or more of their tax-exempt purposes.

## **2. Other Disclosure.**

The Executive Director of the BBA/BBF, the Presidents of the BBA and BBF, and the Joint Audit Committee of the BBA/BBF shall cause this Policy to be disclosed to such members, Fellows, Section Chairs, persons with delegated powers of the BBA/BBF and others as in their judgment they deem appropriate to ensure compliance with this Policy, including publication of the Policy with annual orientation materials, on the BBA/BBF website, and through such other media as shall reasonably be intended to ensure the widest possible understanding of this Policy by persons through whom the BBA/BBF acts.

## **Article VII Periodic Reviews**

To ensure the BBA/BBF operate in a manner consistent with their purposes and do not engage in activities that could jeopardize their 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 and arrangements with management organizations conform to written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further the BBA/BBF's purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

## **Article VIII Use of Outside Experts**

When conducting the periodic reviews as provided in Article VII, the BBA/BBF 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 that periodic reviews are conducted.

**Article IX**  
**Effective Date**

This Policy is intended to memorialize, incorporate and supplement existing policy and procedures. The written Policy is effective upon adoption by the Council and by Board of Trustees at meetings duly called and noticed for that purpose.

Duly Adopted:

Date: \_\_October 17, 2006\_\_\_\_\_

BOSTON BAR ASSOCIATION, INC

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_September 26, 2006\_\_\_\_\_

BOSTON BAR FOUNDATION, INC.

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

For a copy of this Policy, contact the BBA's Benefits Manager or you can access it online at <http://www.bostonbar.org/docs/default-document-library/conflictsofinterestpolicy-babfbf.pdf>

**APPENDIX A**

I confirm that I have: (a) received a copy of the Conflicts of Interest Policy of the Boston Bar Association and the Boston Bar Foundation (the “Policy”), (b) read and understand the Policy, (c) agree to comply with the Policy, and (d) understand that the Boston Bar Association and Boston Bar Foundation are tax-exempt entities and in order to maintain their tax exemptions must engage primarily in activities which accomplish one or more of their tax-exempt purposes.

No Conflicts to Report

Please List Any Potential Conflicts Below

If you believe this information is sensitive, please indicate and contact the Executive Director or Joint Audit Committee Chair

By: \_\_\_\_\_  
(signature)

\_\_\_\_\_  
(printed name)

Date: \_\_\_\_\_