



## AMERICAN CANOE ASSOCIATION (ACA)

**POLICY TYPE:** *Ethics and Conduct*

**POLICY NUMBER:** *ENC-002*

**POLICY TITLE:** *Conflict of Interest*

**REVISION:** *0*

**ORIGINAL:** *4/17/2013*

**DRAFT:**

**REVISED:**

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*The legal definition of conflict of interest, usually set out in state laws governing non-profit corporations, is very specific, and covers relatively few situations. Most conflicts fall into a gray area where ethics and public perception are more relevant than statutes or precedents. Conflict of interest arises whenever the personal or professional interests of a decision-maker are potentially at odds with the best interests of the Association. Loss of public confidence and a damaged reputation are the most likely results of a poorly managed conflict of interest.*

[www.BoardSource.org](http://www.BoardSource.org)

### **Purpose:**

The purpose of this policy is to protect the interest of the American Canoe Association (Association, ACA), its affiliates and clients whenever the ACA is contemplating entering into a transaction or arrangement that might benefit the private interest of a decision-maker (officer, board member, division officer, staff member, employee, etc.) of the ACA.

This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to nonprofit organizations that generally pertain to financial conflicts contributing to personal aggrandizement.

Conflicts of interest are inevitable and most are not inherently improper if properly disclosed, reviewed and the conflicted individual removed or recused from the decision-processes pertinent to the situation(s), transaction(s) and/or person(s) of conflict.

### **Policy:**

Decision-makers of the Association have a responsibility to avoid both actual and perceived conflict of interest in the course of their decision-making role. These persons:

- Have a duty to act in the best interest of the organization and to perform their duties honestly, responsibly and in good faith

- Should not use their position with the organization for personal gain and should exercise particular care so that no detriment to the organization results from conflicts between the individual's interests and those of the organization
- Are to annually review this policy with regard to their personal commitments and disclose any known relationships/transactions as defined in this policy
- Have a duty to remove or recuse themselves from the decision making process when topics arise where conflict or perceived conflict exists regardless of whether formal disclosure has taken place

Should any board member, division officer, committee member, or ACA employee become aware of any undisclosed conflict of interest, or any conflict of interest not fully disclosed, such person should make full disclosure of their knowledge of the conflict of interest involved to the Executive Committee.

The Executive Committee will review potential conflicts and prescribe necessary steps to be taken by the decision-maker and the organization to mitigate any risks associated with a conflict. If the conflicted person is a member of the Executive Committee then that member will recuse himself or herself from the review.

### **Review and Disclosure:**

On an annual basis all decision-makers and key employees within the Association shall review this policy and complete the Conflict of Interest Questionnaire. If so indicated by the Questionnaire, or as requested, all decision-makers shall complete the Conflict of Interest Disclosure Form.

All candidates for elected office shall review this policy and complete a Conflict of Interest Questionnaire and Disclosure form immediately upon acceptance of nomination and return it to the Chair of the Nominating Committee with copy to the Executive Committee (ExCom) for review and disposition.

All new appointees and new hires to decision making positions shall review this policy and complete a new or updated conflict of Interest Questionnaire and/or Disclosure form within 30 days of taking position.

Should their personal situation change, decision-makers are required within 30 days of such change to obtain, complete, and submit an updated Conflict of Interest Disclosure form to the ExCom.

### **Management of Conflict of Interest**

The ACA's National Board of Directors is responsible for determining the existence and extent of an decision-maker's conflict of interest and its potential impact on the Association, its governance and on deliberation over associated transactions and arrangements. The responsibility for maintaining this policy and reviewing and managing disclosed conflicts of interest is delegated to the Executive Committee (ExCom).

The ExCom will annually review all Disclosure responses to determine the possibility, existence, and impact of conflicts of interest. The ExCom will provide a summary report to the National Board of

Directors along with recommendations for addressing potential conflicts (such as removal from deliberation, recusal from voting or other actions).

Should the ExCom wish to further investigate any significant instances, the decision-maker shall provide full details to the ExCom describing all of the material facts involved with significant transactions, including a full disclosure of any and all benefits that the decision-maker may have in such transactions. The ExCom may use outside experts if it feels those are prudent in the conduct of its investigations.

For any instance where a significant issue conflict of interest is encountered, the ExCom shall make separate (and where appropriate, confidential) recommendation to the board to either maintain and advise, alter and advise or restructure the relationship, taking into consideration the best interests of the Association in doing so.

### **Board Actions:**

The ExCom shall review the Conflict of Interest Summary Report with the board, advising any board members of issues where they should avoid perceived conflict.

Where appropriate, the ExCom shall request that the board meet in closed session to review specific instances of significant conflict. The decision-maker involved may be present to offer information and rebuttal, but no board member involved in an instance of significant conflict shall contribute to deliberation or decisions in their own or others conflict of interest.

Issues of significant conflict shall be decided in terms of maintaining the relationship with advice, modifying the relationship, restructuring the relationship, or removing the conflict. The affected decision-maker shall have the opportunity to make rebuttal and have input into this decision.

### **Violations of Policy**

If the ExCom develops reasonable cause to believe that a decision-maker has failed to disclose actual or perceived conflicts of interests, it shall inform the person of the basis of such belief and afford the person an opportunity to explain the alleged failure to disclose.

If an instance of conflict arises during a board or division, council or committee meeting the following procedure should be followed:

- a. Any participant may bring a "point-of-order" motion if they believe that another participant is deliberating or voting on an issue that would constitute a conflict of interest.
- b. The person chairing the meeting (i.e. the President in the case of a board meeting) shall offer the questioned member the opportunity to rebut the potential conflict. The chairperson may offer the member the opportunity to voluntarily recuse him or herself. Failing this the chairperson shall rule if the member may advise or vote on the issue.
- c. If the chairperson rules that the member will not vote, that participant may bring an "appeal" motion. This motion does not require a second.

- d. The full meeting or a quorum thereof shall, by a majority vote, decide whether the perceived conflict is such that the participant in question must remove or recuse themselves from deliberation and voting.

Issues of significant conflict of interest that cannot be resolved through above procedures by the ExCom and board and any issues that involve apparent violations of prevailing Nonprofit law shall be referred to the Judicial Committee for disposition following their normal procedures, including, as appropriate, referral to public law enforcement officials.

### **Record Keeping**

The board, ExCom, divisions, councils and committees of the ACA shall keep records of its meetings, especially where decisions are taken affecting the Association. These records shall include records of removal or recusal in cases of conflict of interest, especially any instance where perceived conflict of interest is deliberated and decided, and shall include the names and positions of any members, officers or staff that are found to have perceived or real conflict of interest.

All such instances shall be reported to the ExCom.

### **ACA-Specific Definitions:**

#### Business Transactions:

Business transactions include but are not limited to contracts of sale, lease, license and performance of services, whether initiated during the ACA's tax year or ongoing from a prior year.

#### Conflict of Interest:

This is a situation in which a person has a duty to more than one person or organization, but cannot do justice to the actual or potentially adverse interests of both parties.

Generally, a conflict of interest exists when the decision-maker in question has:

- The potential for personal gain or involvement (including gain or involvement of a member of their family);
- Is involved in a decision between ACA and another organization in which the decision-maker substantially participates;
- Is involved in a relationship (commercial or otherwise) that impacts the decision-maker's ability to be objective in their work on behalf of the ACA.

#### Conflict of Interest Questionnaire:

This is a form that through detailed questions determines if a decision maker has potential conflict of interest. As-such, it helps train the decision-maker in what constitutes a conflict of interest. All new decision-makers and any that are unsure of their conflict of interest status should complete a questionnaire.

Conflict of Interest Disclosure:

This is a form that allows decision-makers to communicate that they have no conflict of interest or, to communicate areas where conflict of interest lies. Decision-makers should complete a disclosure form as indicated by the questionnaire, on request, or any time their conflict of interest status changes.

Duality of Interest:

A duality of interest exists when any decision-maker owes allegiance to both the ACA and another organization that interacts with the ACA. An example might be an organization seeking to request a grant from the ACA.

Such affiliation exists if the decision-maker is a director, trustee, officer, or employee of that organization, or even if the decision-maker has an unofficial role such as significant donor, volunteer, advocate, or advisor.

Decision-maker:

Potentially any board member, liaison member, division officer, or members of a council or committee with board- delegated powers, such as:

- Board President,
- Other elected officers,
- Board members,
- Division officers and board members,
- Members of committees with board or division-delegated authority,
- Other volunteers with board-delegated authority,

Or staff with decision making duties, such as:

- Executive Director,
- Chief Operating Officer,
- Senior staff,
- Other paid employees or contractors acting in decision-making roles

Excess Benefit Transaction

An excess benefit transaction is where the ACA directly or indirectly provided an economic benefit where the value of the benefit exceeds the values of the consideration received by the ACA.

Family Member:

A decision-maker's spouse, ancestors, brothers and sisters, children, grandchildren, great grandchildren and spouses of brothers, sisters, children, grandchildren and great grandchildren.

Financial Interest:

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

- An ownership of 5% or more or investment interest in any entity with which the ACA has a transaction or arrangement; or
- A compensation arrangement with the ACA or with any entity or individual with which the ACA has a transaction or arrangement; or
- A potential ownership of 5% or more or investment interest in, or compensation arrangement with, any entity or individual with which the ACA is negotiating a transaction or arrangement.
- An ownership of 5% or more or an investment interest in a paddle sports related business.

Investment Interest:

A decision-maker has an Investment Interest if the decision-maker owns stocks or marketable securities in excess of \$10,000.00 in a paddle sports related business.

Key Employee:

A key employee is defined as a paid individual or subcontractor with significant influence or authority within the entity or organization.

Paddle Sports-Related Business:

A paddle sports related business includes but is not limited to paddle sport outfitter operations; paddle sport equipment manufacturing, distribution, and sales; and paddle sport instruction for hire.

Substantial Contributor

In general, a person that contributed or bequeathed an aggregate amount in excess of \$5000.00 before the close of the ACA tax year would be a substantial contributor. The creator of a trust is also deemed a substantial contributor with respect to the trust.

**Revisions:**

Revisions to this policy shall be completed by Board Executive Committee with support of the Executive Director and approved by the National Board of Directors. All revisions must be consistent with the prevailing code and ACA Bylaws. The Board Secretary shall maintain a history of revisions for this document.

<b>History of Changes</b>		
<b>Rev</b>	<b>Description of Change(s)</b>	<b>Date</b>
00	Original Document	Unk.
0	Major Revision a. Adjusted content to new format (change tracking) b. Updated questionnaire form c. Added new disclosure form d. Updated definitions e. Added detail for dispositioning significant conflict f. Updated content from web sources & reconciled g. Confirm & expanded definition of "decision-maker" h. Created separate tracking for forms update i. Reconciled content with update to Bylaws	4/17/2013

**Attachments:**

1. Form ENC-002A: ACA Conflict of Interest Questionnaire
2. Form ENC-002B: ACA Conflict of Interest Disclosure Statement

**References:**

1. ACA Bylaws, Revision 2013 – proposed ARTICLE XI. CONFLICT OF INTEREST
2. Sample Conflict of Interest Policy, [www.BoardSource.org](http://www.BoardSource.org)

Form ENC-002A Rev-1



# American Canoe Association Conflict of Interest Questionnaire

Name (print): \_\_\_\_\_ Date: \_\_\_\_\_

Area/Level:    \_\_\_ Board \_\_\_ Activity Committee \_\_\_ Council \_\_\_ Division \_\_\_ Staff \_\_\_ Other

Position/Job Title: \_\_\_\_\_

Question (please complete all)	Yes	No
1. Do <b>you</b> have a financial or investment interest, direct or indirect, in a paddle sports related business or any other business that conducts business with the ACA?		
2. Do you have any <b>family members</b> with a financial or investment interest, direct or indirect, in a paddle sports related business or any other business that conducts business with the ACA?		
3. Are <b>you</b> a key employee of a paddle sports related business or any other business that conducts business with the ACA?		
4. Do you have any <b>family members</b> that are key employees of a paddle sports related business or any other business that conducts business with the ACA?		
5. Do <b>you</b> in combination with other decision-makers have a financial or investment Interest in a paddle sports related business or any other business that conducts business with the ACA?		
6. Do you have a <b>family member</b> that in combination with other decision-makers has a Financial or Investment Interest in a paddle sports related business or any other business that conducts business with the ACA?		
7. Do <b>you</b> serve as an officer, director, or trustee of an entity (or a shareholder of a professional corporation) that does business with the ACA?		
8. Do you have a <b>family member</b> that serves as an officer, director, or trustee of an entity (or a shareholder of a professional corporation) that does business with the ACA?		
9. Are <b>you or a family member</b> a substantial contributor to the ACA?		
10. Do <b>you or a family member</b> have a trust, escrow, or custodial arrangement with the ACA?		
11. Are <b>you</b> a Director, Officer or influential staff member, or influential committee member of any other outdoor organizations that have a primary or major interest in paddlesports?		

12. Is a <b>member of your family</b> a Director, Officer or influential staff member, or influential committee member of any other outdoor organizations that have a primary or major interest in paddlesports?		
13. Are <b>you or a family member</b> part of a selection committee for an entity that grants money to the ACA?		
14. Do <b>you or a family member</b> receive grants or other assistance from the ACA?		
15. Do <b>you or a family member</b> have a Financial Interest or Investment Interest in an entity that receives grants from the ACA?		
16. Are you aware of any excess benefit transactions to report?		
17. Do you have any personal commitments that might interfere or otherwise compromise your ability to fully and loyally discharge the duties of your position with the ACA?		

If you hold a position of responsibility with the American Canoe Association and have answered "yes" to any of the above questions then you must immediately request and complete the **ACA Conflict of Interest Disclosure Form** where you will be asked to provide details of areas of potential conflict of interest.

Conflict of Interest does not necessarily prohibit you from holding a position of responsibility. ACA Policy does require that you remove or recuse yourself from deliberating or making decisions or voting in areas where real or perceived conflicts may arise.

I certify that the information I have provided above is complete and accurate and that:

- I have received a copy of the conflict of interest policy;
- I have read and understand the policy;
- I have agreed to comply with the policy;
- I have completed the Conflict of Interest Questionnaire completely and truthfully
- I have no areas of perceived or real conflict of interest **OR**
- I have areas of perceived or real conflict of interest and need to complete the Disclosure Form

If there is any material change that develops in the information contained in the foregoing statement, I will promptly inform the President of the Board or the Executive Committee.

\_\_\_\_\_

Signature

\_\_\_\_\_

Date

Form ENC-002B Rev-1



# American Canoe Association Conflict of Interest Disclosure Form

Name (print): \_\_\_\_\_ Date: \_\_\_\_\_

Area/Level: \_\_\_ Board \_\_\_ Activity Committee \_\_\_ Council \_\_\_ Division \_\_\_ Staff \_\_\_ Other

Position/Job Title: \_\_\_\_\_

Please describe below any relationships, transactions, positions you hold (volunteer or otherwise), or circumstances that you believe could contribute to a conflict of interest between the American Canoe Association and your personal interests, financial or otherwise:

\_\_\_\_\_ I have no conflict of interest to report

\_\_\_\_\_ I have the following conflict of interest(s) to report (please specify other non-profit and for-profit boards you (and your spouse) sit on, any for-profit businesses for which you or an immediate family are an Officer, Director or a major shareholder, your present employer, and any business you or your family own which may conflict with your duties and commitments to ACA (use back as needed):

Item	Commitment	How Connected
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I hereby certify that the information set forth is true and complete to the best of my knowledge. I have reviewed and agree to abide by the Policy of Conflict of Interest of the American Canoe Association.

\_\_\_\_\_  
Signed Date