

Webinars for Wise Nonprofits: Understanding Board Committee Governance

March 16, 2018

Handout: Independent Director and related definitions

Affiliate. An affiliate of the Corporation means any entity, controlled by, or in control of the Corporation.

Financial Interest. A person has a Financial Interest if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are not insubstantial or other arrangement involving the Corporation.

Independent Director. A member of the Board of Directors (the “Board”) who:

- (a) Has not been an employee or Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;
- (b) Does not have a Relative who has been a Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;
- (c) Has not received and does not have a Relative who has received more than \$10,000 in compensation directly from the Corporation or an Affiliate of the Corporation in any of the last three (3) years (not including reasonable compensation or reimbursement for services as a Director, as set by the Corporation);
- (d) Has neither a substantial Financial Interest in nor is an employee of, and does not have a Relative who has a substantial Financial Interest in or is an officer of, any entity that has provided payments, property or services to, or received payments, property or services from, the Corporation or an Affiliate of the Corporation if the amount paid by the Corporation to the entity or received by the Corporation from the entity for such property or services, in any of the last three fiscal years, exceeded:
 - the lesser of \$10,000 or 2% of such entity’s consolidated gross revenues if the entity’s consolidated gross revenue was less than \$500,000;
 - \$25,000 if the entity’s consolidated gross revenue was \$500,000 or more but less than \$10,000,000; or
 - \$100,000 if the entity’s consolidated gross revenue was \$10 million or more;(for the purposes of this subparagraph (d), “payment” does not include charitable contributions, dues or fees paid to the Corporation for services which the Corporation performs as part of its nonprofit purposes, or payments made by the corporation at fixed or non-negotiable rates or amounts for services received; provided, however, that such services by and to the corporation

are available to individual members of the public on the same terms and such services received by the corporation are not available from another source);

(e) Is not in an employment relationship under control or direction of any Related Party and does not receive payments subject to approval of a Related Party;

(f) Is not and does not have a Relative who is a current owner, whether wholly or partially, director, officer or employee of the Corporation's outside auditor or who has worked on the Corporation's audit at any time during the past three (3) years; or

(g) Does not approve a transaction providing economic benefits to any Related Party who in turn has approved or will approve a transaction providing economic benefits to the Director.

Key Person. A Key Person is a person who (a) has responsibilities, or exercises powers or influence over the Corporation as a whole similar to the responsibilities, powers, or influence of directors and officers; (b) manages the Corporation, or a segment of the Corporation that represents a substantial portion of the activities, assets, income or expenses of the Corporation; or (c) alone or with others controls or determines a substantial portion of the Corporation's capital expenditures or operating budget.

Related Party. Persons who may be considered a Related Party of the Corporation or an Affiliate of the Corporation under this Policy include:

(a) Directors, Officers, or Key Persons of the Corporation or an Affiliate of the Corporation;

(b) Relatives of Directors, Officers, or Key Persons;

(c) any entity in which a person in (i) or (ii) has a 35% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of 5%;

(d) Founders of the Corporation;

(e) Substantial contributors to the Corporation (within the current fiscal year or the past five fiscal years);

(f) Persons owning a controlling interest (through votes or value) in the Corporation;

(g) Any non-stock entity controlled by one or more Key Persons.

Relative. A Relative of an individual means his or her spouse or domestic partner (as defined in section 2994-A of the New York Public Health Law), his or her ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great grandchildren, or spouse or domestic partner of his or her brothers, sisters, children, grandchildren, and great-grandchildren.

