



Cortland County Community Action Program, Inc. (CAPCO)

Conflict of Interest Policy for CAPCO Board of Directors

Please read the policy below. This policy is designed to both safeguard the best interests of Community Action Agency and comply with various state and federal laws governing conflicts of interest, including but not limited to the New York Non-Profit Revitalization Act, Internal Revenue Code and the Head Start Act. Due to differing requirements of these laws, some transactions are outright prohibited, and others may be permitted, but only under certain circumstances described below.

If you have any questions, you may contact **Greg Richards, Executive Director**, at gregr@capco.org or 607-753-6781. After you have completed reading it, please list any information that is required to be disclosed by the policy, sign it, and return it to Greg Richards or designee.

IMPORTANT NOTE: This policy does not require the disclosure of assistance or services provided by CAPCO to Board members or their Immediate Family members, such as Head Start, if such individuals are not given preference in obtaining such assistance or services and they are provided on similar terms as for any other applicant for CAPCO programs.

1.1. – Purpose

The purpose of the conflicts of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might: (a) result in a Conflict of Interest; (b) result in a Related Party Transaction; (c) result in a possible Excess Benefit Transaction; or (d) otherwise benefit the private interest of a Director, Officer Director or Key Person of the Corporation. This policy is intended to supplement but not replace any applicable state or other laws governing conflicts of interest applicable to nonprofit organizations.

1.2 – Definitions

The following capitalized terms shall have the meanings provided below for purposes of this Policy:

1. Affiliate

Any entity controlled by, or in control of, the Corporation.

2. Conflict of Interest

As determined by the Board: (A) possessing any Financial Interest or personal interest, direct or indirect; (B) participating in any business, transaction or professional activity which is in substantial conflict with any Director's, Officer's or Key Person's duties to the Corporation; or (C) incurring any obligation of any nature which is in substantial conflict with any Director's, Officer's or Key Person's duties to the Corporation. Circumstances which may suggest that a Conflict of Interest exists include, without limitation, the following:

- (i) a Director, Officer or Key Person participates in a decision in which such

person may be unable to remain impartial in choosing between the interests of the Corporation and such person's Financial Interests or personal interests or those of a Related Party;

(ii) a Director, Officer or Key Person has access to confidential information of the Corporation which could be used for personal benefit or gain or for the personal benefit or gain of a Related Party; or

(iii) a Director, Officer or Key Person receives a financial or other benefit from an Excess Benefit Transaction.

3. Excess Benefit Transaction

Any transaction in which an economic benefit is provided by the Corporation, directly or indirectly, to or for the use of an entity or individual, and the value of the economic benefit provided by the Corporation exceeds the value of the consideration (including the performance of services) received by the Corporation.

4. Independent Director

A Director who:

(a) is not, and has not been within the last three (3) years, an employee or a Key Person (as hereinafter defined) of the Corporation or an affiliate of the Corporation, and does not have a relative who is, or has been within the last three (3) years, a Key Person of the Corporation or an affiliate of the Corporation;

(b) has not received, and does not have a relative who has received, in any of the last three (3) fiscal years, more than Ten Thousand Dollars (\$10,000) in direct compensation from the Corporation or an affiliate of the Corporation;

(c) is not a current employee of or does not have a substantial financial interest in, and does not have a relative who is a current Officer of or has a substantial financial interest in, 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 (3) fiscal years, exceeded the lesser of (i) Ten Thousand Dollars (\$10,000) or two percent (2%) of such entity's consolidated gross revenues if the entity's consolidated gross revenue was less than Five Hundred Thousand Dollars (\$500,000), (ii) Twenty-Five Thousand Dollars (\$25,000) if the entity's consolidated gross revenue was Five Hundred Thousand Dollars (\$500,000) or more but less than Ten Million Dollars (\$10,000,000) or (iii) One Hundred Thousand Dollars (\$100,000) if the entity's consolidated gross revenue was Ten Million Dollars (\$10,000,000) or more; or

(d) 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.

For purposes of this definition, the term "compensation" does not include reimbursement for expenses reasonably incurred as a Director or reasonable compensation for service as a Director as permitted by law and the term "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 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.

5. Interested Person

Any Director, Officer, Key Person or member of a committee with Board-delegated powers who has a direct or indirect Financial Interest.

6. Financial Interest

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

- (a) ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, or
- (b) a compensation arrangement with the Corporation other than as an employee or with any entity or individual with which the Corporation has a transaction or arrangement, or
- (c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

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 appropriate committee or Board of Directors decides that a conflict of interest exists.

7. Key Person

Any person, other than a Director or Officer, whether or not an employee of the Corporation, who: (i) has responsibilities, or exercises powers or influence over the Corporation as a whole similar to the responsibilities, powers, or influence of Directors and Officers; (ii) 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 (iii) alone or with others controls or determines a substantial portion of the Corporation's capital expenditures or operating budget.

8. Related Party

Any (i) Director, Officer or Key Person of the Corporation or any Affiliate of the Corporation; (ii) Relative of any individual described in clause (i) of this subsection (7); or (iii) entity in which any individual described in clauses (i) and (ii) of this subsection (7) has a thirty-five percent (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 five percent (5%).

9. Related Party Transaction

Any transaction, agreement or any other arrangement in which a Related Party has a Financial Interest and in which the Corporation or any Affiliate of the Corporation is a participant, except that a transaction shall not be a Related Party Transaction if: (i) the transaction or the Related Party's Financial Interest in the transaction is de minimis; (ii) the transaction would not customarily be reviewed by the board or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms; or (iii) the transaction constitutes a benefit provided to a Related Party solely as a member of a class of the beneficiaries that the Corporation intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms.

10. Relative

With respect to any individual: (i) his or her spouse or domestic partner as defined in Section 2994-A of the New York Public Health Law; (ii) his or her ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren and great-grandchildren; or (iii) the spouse or domestic partner of his or her brothers, sisters, children, grandchildren and great-grandchildren.

1.3. – Procedures

1. Duty to Disclose

In connection with any actual or possible Conflicts of Interest, an Interested Person

must immediately disclose the existence of his or her Financial Interest and must be given the opportunity to disclose all material facts to the Board and members of committees with Board delegated powers considering the proposed transaction or arrangement. An annual statement of disclosure must be submitted prior to the initial election of a Director and by all interested persons each fiscal year and annually thereafter or whenever an actual or possible conflict arises. Board members and members of committees with Board delegated powers must also update such disclosures whenever a change of circumstances would require an update.

2. 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, and shall not participate in, the Board or committee meeting while the determination of a conflict of interest is discussed, deliberated, and voted upon. The remaining Directors or committee members shall decide if a conflict of interest exists. Any Director who is present at such meeting but not present at the time of a vote due to a Conflict of Interest shall be determined to be present at the time of the vote.

3. Procedures for Addressing the Conflict of Interest

- a. An Interested Person may make a presentation at the Board or committee meeting, but after such presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that may result in the Conflict of Interest. The Interested Person is prohibited from attempting to improperly influence the deliberation or voting on the matter giving rise to such conflict.
- b. The chair of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the Board or committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a Conflict of Interest.
- d. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a Conflict of Interest, the Board or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the Corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

- e. Upon making its final determination, the Board or committee shall document the existence and resolution of the Conflict of Interest in the Corporation's records and in accordance with Section 1.4 below.

1.4. – Records of Proceedings

The minutes of the Board and all committees with Board-delegated powers shall contain:

1. 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, the Board's or committee's decision as to whether a Conflict of Interest in fact existed, and any resolution of the Conflict of Interest by the Board or committee.
2. The names of the persons who were present for discussions, deliberations, 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 therewith.
3. If the Board or committee votes to approve a Conflict of Interest, the basis on which the Board or committee made that decision, to include a statement as to why considered alternatives were rejected.

1.5. – Compensation

1. A voting member of the Board of Directors who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting 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 Corporation for services is precluded from being present at, participating, and voting on matters pertaining to that member's compensation.
3. Notwithstanding the foregoing, the Board or authorized committee is permitted to request that a person who may benefit from such compensation present information as background or answer questions at a committee or Board meeting prior to the commencement of deliberations or voting relating thereto. Nothing herein shall be construed to prohibit a Director from deliberating or voting concerning compensation for service on the Board that is to be made available or

provided to all Directors of the Corporation on the same or substantially similar terms.

1.6 – Annual Statements

Each Officer, member of senior management, other Board designated member of management, Director and member of a committee with Board delegated powers, and, in the discretion of the Board, any Key Person, shall annually sign a statement which affirms that such person (i) has received a copy of the conflicts of interest policy; (ii) has read and understands the policy; (iii) has agreed to comply with the policy; and (iv) understands that the Corporation is a non-profit organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes; (iv) has agreed to comply with this policy; and (v) identifying, to the best of such person's knowledge, any entity of which such person is an Officer, Director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which the Corporation has a relationship, and any transaction in which the Corporation is a participant and in which such person might have a conflicting interest. A Conflict of Interest Disclosure Statement is provided with this Policy. The Corporation's secretary or other designated Compliance Officer shall provide a copy of all completed statements to the Board.

2.1 Whistleblower Protection Policy

This Corporation shall adopt, and at all times honor the terms of a written Whistleblower Protection Policy in an effort to assure that any "Director, Officer, employee, or volunteer" who provides substantial services to the Corporation shall be free of fear of intimidation, harassment, discrimination, or other forms of retaliation on the part of the Corporation, or any of its Directors, Officers, employees, or volunteers, as a consequence of the good-faith filing of a report relative to possible violations of any statute, regulation, applicable ethical standard, or policy or procedure of the Corporation. The Whistleblower Protection Policy is provided in Appendix B. A copy of the Whistleblower Protection Policy shall be distributed to all Directors, Officers, employees, and to volunteers who provide substantial services to the Corporation.

The Whistleblower Protection Policy shall include, at a minimum, the following provisions: (a) procedures for the reporting of violations or suspected violations of laws or corporate policies, including procedures for preserving the confidentiality of reported information; (b) a requirement that an employee, Officer or Director of the Corporation be designated to administer the Whistleblower Protection Policy and to report to the Audit Committee or other committee of Independent Directors or, if there are no such committees, to the Board of Directors, except that Directors who are employees may not participate in any Board or committee deliberations or voting relating to administration of the Whistleblower Protection Policy; (c) a requirement that the person who is the subject of a whistleblower complaint not be present at or

participate in Board or committee deliberations or vote on the matter relating to such complaint, provided that nothing in this subsection (c) shall prohibit the Board or committee from requesting that the person who is subject to the complaint present information as background or answer questions at a committee or board meeting prior to the commencement of deliberations or voting relating thereto; and (d) a requirement that a copy of the policy be distributed to all Directors, Officers, employees and to volunteers who provide substantial services to the Corporation. For purposes of subsection (d), posting the Whistleblower Protection Policy on the Corporation's website or at the Corporation's offices in a conspicuous location accessible to employees and volunteers are among the methods the Corporation may use to satisfy the distribution requirement.

3.1. Related Party Transaction Policy

The Corporation shall not enter into a Related Party Transaction unless the Board determines that the transaction is fair, reasonable, and in the Corporation's best interest at the time of determination.

Any Director, Officer, or Key Person who has an interest in a Related Party Transaction must disclose, in good faith, the material facts concerning any such interest to the Board or an authorized Board committee.

No Related Party with an interest in a Related Party Transaction shall participate in deliberations or vote on any such Related Party Transaction, except that the Board, or an authorized committee, may request that such Related Party present information concerning the transaction at a meeting of the Board or such committee prior to commencement of deliberations or voting thereon. Any Director who is present at a meeting of the Governing Body but not present at the time of a vote due to a Related Party Transaction shall be determined to be present at the time of the vote.

If a Related Party has a substantial Financial Interest in a Related Party Transaction, the Board or authorized Board committee must: (i) prior to entering into the transaction, consider alternative transactions to the extent available; (ii) approve the transaction by not less than a majority vote of Directors or committee members present at the meeting; and (iii) contemporaneously document, in writing, the basis for its approval of the transaction, including consideration of any alternative transactions.

4.1. Violations of these Policies

- a. If the Board or committee has reasonable cause to believe that a Director, Officer, Key Person, or member of a committee has failed to disclose actual or possible Conflicts of Interest or a Related Party Transaction, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

- b. If, after hearing the response of such person's response and making further investigation as may be warranted in the circumstances, the Board or committee determines that the such person has in fact failed to disclose an actual or possible Conflict of Interest or a Related Party Transaction, it shall take appropriate disciplinary and corrective action.

5.1. Periodic Reviews

To assist the Corporation to operate in a manner consistent with its charitable purposes and 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:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining; and
- b. Whether partnerships, joint ventures and arrangements concerning the management of the Corporation conform to the Corporation'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.



Cortland County Community Action Program, Inc. (CAPCO)
Conflict of Interest Disclosure Statement

As a Director or Officer or Key Employee of the Corporation, prior to being seated on the Board of Directors or commencing employment with the corporation, as appropriate, and annually thereafter, you are required to truthfully, completely and accurately disclose all information requested herein and to promptly update all such information as circumstances may change from time-to-time. Regarding this Conflicts Disclosure Statement, be advised, all material terms are defined by the Bylaws of the Corporation.

Please mark 'Yes' or 'No' where indicated & provide additional information when requested

Financial Information Return Disclosure:

1. Have you served as an officer, director, trustee, key employee, partner or member of, or hold a thirty-five percent (35%) or greater ownership of beneficial interest, or in the case of a partnership or professional corporation a direct or indirect ownership interest in excess of five percent (5%), in, an entity, which during the most recently completed, or current, fiscal year, had, or are reasonably anticipated to have, a direct, or indirect, business relationship, with the Corporation?

No Yes
_____ _____ If Yes, briefly describe below & attach a detailed explanation.

2. Have you, individually, or through an entity where you hold a thirty-five percent (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 five percent (5%) during the most recently completed, or current, fiscal year, had, or are reasonably anticipated to have, a direct, or indirect, business relationship, with any individual who is a current or former "Officer," "Director" or "Key Employee" of the Corporation?

No Yes
_____ _____ If Yes, briefly describe below & attach a detailed explanation.

3. Do you have a “relative” who, during the most recently completed, or current, fiscal year, had, or is reasonably anticipated to have, a direct, or indirect, business relationship with the Corporation?

No Yes
_____ _____ If Yes, briefly describe below & attach a detailed explanation.

4. Have you been provided with, properly reviewed and reasonably understand the terms of the Corporation’s current written Board of Directors Conflicts of Interest Policy?

No Yes
_____ _____ If No, briefly describe below & attach a detailed explanation.

5. Have you, or did you have a “Relative” who, during the most recently completed, or current, fiscal year, had or is reasonably anticipated to have, any transaction with the Corporation that might reasonably be considered a real or potential conflict of interest pursuant to the Corporation’s Conflicts of Interest Policy which has not been otherwise disclosed herein?

No Yes
_____ _____ If Yes, briefly describe below & attach a detailed explanation.

6. Have you, or has any “Relative” during the most recently completed, or current, fiscal year, had or is reasonably anticipated to have been provided with a gift, gratuity or favor in excess of nominal value (not to exceed \$50.00) from a person or entity which conducts business with, or seeks to conduct business with the Corporation?

No Yes
_____ _____ If Yes, briefly describe below & attach a detailed explanation.

Independent Director Assessment Disclosure

To qualify as an “Independent Director” as defined by the New York Not-for-Profit Corporation Law, an Officer or Director must respond in the negative to each of the following questions, except for number four (4), although failure to respond in the affirmative to all questions shall not necessarily preclude such an Officer or Director from serving on the Board of Directors or a Key Employee/Person from employment.

1. Are you currently, or have you been within the last three (3) fiscal years, an employee of the Corporation or an “Affiliate” of the Corporation?

No

Yes

_____ _____ If Yes, briefly describe below & attach a detailed explanation.

2. Do you have a “Relative” who is, or has been within the last three (3) years, a “Key Employee” of the Corporation or an Affiliate of the Corporation?

No

Yes

_____ _____ If Yes, briefly describe below & attach a detailed explanation.

3. Have you received, within the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in direct compensation from the Corporation, or an “Affiliate” of the Corporation, other than reimbursement for out-of-pocket expenses?

No

Yes

_____ _____ If Yes, briefly describe below & attach a detailed explanation.

4. Do you have a “Relative” who has received, within the last three (3) fiscal years, more than ten thousand dollars (\$10,000) in direct compensation from the Corporation, or an “Affiliate” of the Corporation, other than the reimbursement for out-of-pocket expenses?

No _____ Yes _____

If Yes, briefly describe below & attach a detailed explanation.

5. Are you a current officer or employee of, or do you have a substantial financial interest in, any entity that has made “payments” to, or received “payments” from, the Corporation or an “Affiliate” of the Corporation, for property or services in an amount which, within the last three (3) fiscal years, exceeds the lesser of twenty-five thousand dollars (\$25,000) or two percent (2%) of such entity’s consolidated gross revenue. For this question, the definition of the term “payments” does not include charitable contributions.

No _____ Yes _____

If Yes, briefly describe below & attach a detailed explanation.

6. Do you have a Relative who is a current officer or employee of, or has a substantial financial interest in, any entity that has made “payments” to, or received “payments” from, the Corporation or an “Affiliate” for property or services in an amount which, within the last three (3) fiscal years, exceeds the lesser of twenty-five thousand dollars (\$25,000) or two percent (2%) of the entity’s consolidated gross revenue. For this question, the definition of the term “payments” does not include charitable contributions.

No _____ Yes _____

If Yes, briefly describe below & attach a detailed explanation.

The N-PCL and the IRS Form 990 may require THE CORPORATION to publicly disclose much of the information in this Annual Disclosure.

Annual Commitment to a Board Members Fiduciary Duty

Duty of Care, Loyalty and Obedience

1. All members of the Board of Directors shall exercise that same care that a reasonable person, with similar abilities, acumen & sensibilities, would exercise under similar circumstances at all times. A Director, an Officer or Employee will undertake to understand all, or substantially all the consequences of their actions or the omissions of their actions.
2. No Officer, Director or Employee shall engage in, or condone, any conduct that is disloyal, disruptive, damaging or competes with the Corporation. No Officer, Director or Employee shall take any action or establish any interest that compromises his /her ability to represent the Corporation's best interest.
3. No Officer, Director or Employee shall disobey a majority decision of the Board of Directors.
4. All members of the Board of Directors, all Officers of the Corporation and all Employees of the corporation are hereby bound by their Fiduciary Duty for and on behalf of the corporation, such that the interests of the corporation shall remain paramount to any and all of their personal interests whatsoever. All members of the Board of Directors, all officers of the corporation and all Employees shall exercise their Fiduciary Duty at all times, especially when making a decision on behalf of the corporation.

Conflict of Interest

1. Consulting the Board of Directors Conflict of Interest Policy and abstaining from voting or attempting to influence the vote on any matter before the Board that places him or her in a conflict of interest, as well as disclosing the conflict or potential conflict as soon as he/she recognizes the conflict. If self-disclosure is not revealed, the Board President or any member of the Board of Directors can, prior to voting on a specific matter in which a potential conflict of interest exists, inquire whether any member of the Board desires to abstain from voting because of a conflict of interest. If no conflict of interest is disclosed by the President or any other member of the Board states the opinion that such a conflict exists and the challenged Board member refuses to abstain from the deliberations or voting as requested, the President shall immediately call for a vote of the Directors to determine whether the challenged Director is in a conflict of interest. If a majority of the Directors present vote to require the abstention of the challenged Director, that Director shall not be permitted to vote.
2. The Corporation is dedicated to the development of a strong non-profit sector and representatives of that sector may sit on its Board of Directors and still qualify for services offered by the Corporation. Participation as a member of the Board does not preclude an organization that the Board member is associated with from receiving services. Association includes, but is not limited to, an organization for which the Board

member is employed by, or is a member of its Board of Directors. The receipt of services or the potential of receiving services may, however, constitute a conflict of interest from time to time as defined herein. In the event that such a conflict of interest is determined to compromise the individual Board member's ability to represent the Corporation's best interest regarding a specific issue or action before the board, the procedures stated in the Policy are in force.

1. Did you have during the past fiscal year, have conflicts as defined by the Policy and/or the Bylaws that have not been previously disclosed herein?

No Yes
_____ _____ If Yes, briefly describe below & attach a detailed explanation

Other Disclosure of Conflicts of Interests...

Nature of Conflict(s)

~ Certification ~

I, the undersigned, certify that I have read and understand this Code of Ethical Conduct & Annual Conflicts Disclosure Statement. I agree that my actions will comply with the disclosures found in this document. I further affirm that neither I, as a Related Party nor any Relative have, or previously had, an interest or has taken any action, that violates, or is likely to violate, the Conflicts of Interest Policy of the Corporation or, otherwise impedes my ability to act as a fiduciary and in the best interests of the Corporation, except those that may have been disclosed herein.

Board Member Name: _____
(Please Print)

Signature: _____

Date: _____

