

CONFLICT OF INTEREST POLICY NATIONAL MARROW DONOR PROGRAM/BE THE MATCH FOUNDATION OFFICERS, DIRECTORS, AND KEY EMPLOYEES

I. General Principles

The success and integrity of the National Marrow Donor Program (“**NMDP**”) and the Be The Match Foundation (“**BTMF**”) (NMDP and BTMF collectively referred to herein as the “**Organizations**”) depend upon the legal, moral and ethical standards of their officers, the members of their Boards of Directors, and key employees¹ (each, individually, a “**Member**”). Each Member is encouraged to engage in outside activities of their choosing, but they should be conscious of actual or perceived conflicts of interest and, when involved with situations that either are or appear to be a conflict of interest, must act in accordance with this Policy. The Member has a broad duty of loyalty to the Organizations, which carries with it a duty to protect the interests of the Organizations and to refrain from doing anything that would injure the Organizations’ effectiveness or reputation. Persons serving in the capacity as a Member have the responsibility of exercising their best care, skill, and judgment for the benefit of the Organizations.

The Organizations strive not only to avoid conflicts of interest, but the appearance thereof, as well. Thus, the Organizations require that *ex officio* Directors as well as all other non-voting Directors not covered by a government conflict of interest policy, also adhere to this Policy.

The existence of an actual or potential conflict of interest turns on the specific facts and circumstances in each case. If a Member has an interest which may conflict with those of NMDP and/or BTMF, he or she must immediately disclose the matters and discuss them fully and frankly with the applicable Organization’s full Board or the Executive Committee, as set forth in detail below. A Member must not participate in any matter in which that the Member may have an actual or potential conflict of interest without the express approval of the applicable Organization’s Board of Directors or its Executive Committee.

Great care should be taken to avoid individual conflicts of interest in specific situations. However, the Boards of Directors will, from time to time, engage in deliberations on general policy and business and professional matters that may indirectly affect individual Members. These types of deliberations are essential amongst Directors, officers, and key employees of organizations such as NMDP and BTMF. It is generally understood that broad, generalized discussions will not and do not give rise to conflicts of interest.

II. Conflicts of Interest

For purposes of this Policy, a conflict of interest exists for a Member whenever litigation, a contract or other transaction is being entered into, reviewed or modified which:

¹ For purposes of this policy, a “**key employee**” shall have the same definition as set forth in the most recent version of the Internal Revenue Service’s Form 990, as may be amended from time to time.

- (i) is between the NMDP and/or BTMF and the Member, or the employer, business partner or family member² of the Member;
- (ii) is between the NMDP and/or BTMF and an organization in which the Member, or the Member's employer, business partner or family member, is (a) a director, officer or legal representative, or (b) has a material financial interest; or
- (iii) is between the NMDP and/or BTMF and the Member or the employer, business partner, or family member of the Member, and which may result in the Member, or the Member's employer, business partner or family member, deriving or receiving a material financial benefit as a consequence of the litigation, contract or transaction.

For the purposes of this Policy, a **"material financial benefit" or "material financial interest"** includes anything of monetary value, including but not limited to salary or other payments (e.g., consulting fees and honoraria), ownership interests in business entities (e.g., stock, stock options, and partnership interests), intellectual property rights, and any other form of direct or indirect pecuniary gain. The terms material financial benefit or material financial interest do not include:

- (i) salary or other remuneration from the NMDP and/or BTMF for services performed as an officer, director, or employee;
- (ii) An equity interest that when aggregated for the Member and his/her spouse and dependent children, meets both of the following tests: (a) Does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and (b) does not represent more than a five percent ownership interest in any single entity; or
- (iii) Salary, royalties, or other payments that, when aggregated for the Member and his/her spouse and dependent children over the next twelve (12) months, are not expected to exceed \$10,000.

Directors may also receive remuneration from the Organizations in excess of \$10,000 over the course of a twelve (12) month period³ in exchange for providing goods, services, or other benefit to the NMDP and/or BTMF only if approved in advance by the applicable Organization's Board of Directors or Executive Committee. Any such approval shall be in writing and contain a finding that the remuneration is fair and reasonable under the circumstances. The Director receiving the remuneration may be present at an Executive Committee or Board of Directors meeting to explain the circumstances surrounding the proposed remuneration and answer questions, but may not participate in the discussion of the substantive issues involved in the proposed remuneration or vote on the necessary determinations.

III. **Reportable Relationships**

For purposes of the Form 990, the Organizations are required to disclose certain relationships between Members. Only the names of the individuals having the relationship are disclosed (except in the case of Section III(ii), where the compensation amount is required to be disclosed).

² For the purposes of this Policy, **"family member"** shall have the same definition as set forth in the most recent version of the Internal Revenue Service's Form 990, as may be amended from time to time.

³ Members should note that any amounts listed on an IRS Form 1099MISC must be reported by the Organization on its Form 990 (i.e., any amount of \$600) and any amount over \$10,000 would trigger a conclusion on the Form 990 that a Director lacks independence.

For purposes of this Policy, a reportable relationship exists for a Member whenever:

- (i) A Member has a family member who is also a Member;
- (ii) A Member has a family member who is employed by either Organization;
- (iii) A Member has a business relationship (as defined by the then-current Internal Revenue Service Form 990) with another Member; and/or
- (iv) An entity not having 501(c) status under the Internal Revenue Code, with which the Member is affiliated through the Member's position as an officer, director, trustee, or partner of a third party organization, has a reportable business relationship in an amount exceeding \$100,000.

IV. **Disclosure**

All Members must disclose to the applicable Organization's Board of Directors or Executive Committee all conflicts of interest and reportable relationships, and must annually complete and submit the Conflict of Interest Questionnaire which is required by this Policy. Whenever in the course of events a Member's circumstances change such that the Member knows or has reason to believe that the Member may have an actual or perceived conflict of interest, such Member shall promptly disclose the potential conflict to the applicable Organization's Board of Directors or Executive Committee. For the purposes of this Article, a Member may formally disclose a conflict or reportable relationship to the Chief Executive Officer (CEO) of NMDP or the President of BTMF, as applicable, who shall inform the applicable Organization's Board of Directors or Executive Committee for resolution.

As noted herein, if the potential conflict involves a Director, that Director shall not participate in or vote upon such matters until the question of the existence of the conflict of interest has been resolved in accordance with this Policy. Likewise, an officer or key employee may not become substantially involved in decision-making involving any covered litigation, contract or transaction until the resolution of the matter in accordance with this Policy.

V. **Procedural Matters**

The NMDP Executive Committee and BTMF Board of Directors have delegated the authority and responsibility to the NMDP CEO and BTMF President, respectively, to cause the Conflict of Interest Questionnaire required by this Policy to be submitted annually to all Members. Members must timely complete and return the questionnaire in accordance with the instructions provided. Failure to complete and return the questionnaire in a timely manner may be grounds for removal from the Board of Directors or officership or employment.

The NMDP Executive Committee and the BTMF Board of Directors has delegated to the NMDP CEO and BTMF President, respectively, the responsibility to review the questionnaire responses (or other matters submitted by Members) to determine the existence of any possible conflicts of interest. The NMDP CEO and BTMF President shall report their findings to the applicable Organization's Board of Directors or Executive Committee. The Board of Directors or Executive Committee shall confer with the involved Member in the event it appears there is any actual or perceived conflict of interest. In the event the Board of Directors or Executive Committee concludes that a conflict of interest is present, the Member shall be required to abstain from participation and voting in accordance with Articles IV and VI, hereof, and shall bring the matter to the attention of the Board of Directors and/or any appropriate Board committees or advisory groups, as appropriate, for discussion and appropriate action.

In addition, any Director may raise the issue of an actual or perceived conflict of interest and put the question for decision at any meeting of the applicable Organization's Board of Directors. All Directors, including those who have the potential conflict, may vote on the question of the existence of a conflict. Any Director may call for a written ballot on the question. In the event a Member fails to act in accordance with this Policy, any one or more of the other Members may record in the applicable meeting minutes their objection to such failure.

VI. **Abstention from Participation and Voting**

As described in Articles I and II above, a conflict of interest does not arise in broad generalized discussions or in matters that may indirectly affect a Member. However, when a conflict of interest does in fact exist under the definition in Article II, the Member with the conflict of interest shall not vote on the matter and may be excluded from participating in discussion. The Member with a conflict of interest may still be included for purposes of determining a quorum if the applicable Bylaws so permit. The minutes of the meeting should reflect that the Member having a conflict disclosed such interest and abstained from participation or voting on the matter and that a quorum was present for such action.

VII. **Effect of Conflict on Board of Directors Actions**

The failure of a Member to act in accordance with this Policy, may result in removal of such person from their position and/or avoidance of actions taken by the applicable Organization's Board of Directors, including the avoidance of transactions and contracts to which the applicable Organization is a party.

Notwithstanding the above, a contract or transaction described in this Policy shall not be void or voidable by any party other than NMDP and/or BTMF. In addition, the good faith, unintentional failure of a Member to act in accordance with this Policy with respect to such a contract or transaction shall not be deemed to be a violation of such Policy, if the contract or transaction was fair and reasonable as to the NMDP and/or BTMF when it was authorized, approved or ratified.

VIII. **Nepotism Policy**

A family member of a Member may be employed by the Organizations; however, the Organizations will recruit, hire, train, and compensate individuals in all job classifications based solely on the applicant's qualifications, abilities and potential. Members shall not participate in any personnel action involving a family member. "Personnel action" includes recruiting, hiring, sponsoring, appointing, terminating, demoting, and setting compensation or other benefits.

IX. **Maintenance of Disclosure Records**

All records relating to disclosures of conflicts of interest and any action taken regarding conflicts of interest will be maintained by the Organizations for at least seven years or as required by applicable law and government regulations, whichever is longer. All records will be maintained in a manner to protect confidentiality but will be made accessible as required by applicable law and regulations.

X. **Effective Date and Amendments**

This Policy is effective on the day adopted by the NMDP Board of Directors and may be amended from time to time by the NMDP Board of Directors.