

ROOTS AND WINGS COMMUNITY SCHOOL
(herein called the "Corporation")
BYLAWS

ARTICLE I- CORPORATE NAME

CHARTER SCHOOL CONFLICT OF INTEREST POLICY

ARTICLE I PURPOSE

The purpose of the conflict of interest policy is to protect Roots & Wings Community School (“R&W”), a New Mexico public charter school, when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a member of the school’s governing body or an employee of R&W, or that might result in a possible benefit to a related entity or person. This policy is intended to supplement, but not replace any applicable state and federal laws governing conflict of interest applicable to charter school governing bodies, public schools or their employees.¹

ARTICLE II DEFINITIONS

1. Conflict of Interest. A conflict arises when a governing body member, employee, any member of his or her immediate family, or his or her domestic partner, has a financial or familial relationship in or with a person, firm or company that has been selected by R&W to receive a contract or lease for goods, services, or real property.

2. Interested Person - Any governing body member or R&W employee, who has a direct or indirect financial interest, as defined below, is an interested person.

3. Financial Interest - A person has a financial interest if the person would have/does directly, or indirectly, through business, investment, or family:

(a) an ownership or investment interest in any entity or third party with which R&W has a transaction or arrangement.

(b) a compensation arrangement with R&W or with any entity or individual with which R&W has a related transaction or arrangement with R&W, or

(c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which R&W is negotiating a transaction or arrangement.

(d) hold office, serves on the board, participates in management, or is otherwise employed with any third party dealing with R&W.

(e) receives personal gifts, loans or other financial benefits from third parties dealing with R&W

4. Family Members - Spouses, fathers, fathers-in-law, mothers, mothers-in-law, brothers, brothers-in-law, sisters, sisters-in-law, sons, sons-in-law, daughters, daughters-in-law, or domestic partners are considered to be Family Members for purposes of this policy.²

5. Compensation - Compensation includes direct and indirect payment, financial benefit or remuneration as well as gifts or favors.

ARTICLE III

¹ Including without limitation the following: NMSA 1978, §22-8B-5.2 (“Governing bodies conflicts of interest”); NMSA 1978, §22-21-1, *et seq.* (“Prohibited Sales by Personnel”); NMSA 1978, §13-1-193 (Contemporaneous employment prohibited);

² NMSA 1978, §22-8B-5.2(D).

PROHIBITED TRANSACTIONS

1. Employment of Governing Body Members. Governing body members and/or their Family Member may not be employed by R&W and may not contract with it to provide goods or services for compensation except as provided for pursuant to Article IV. Members, may be reimbursed, however, in accordance with the New Mexico Per Diem and Mileage Act for reasonable expenses incurred (such as travel and training) and which have been given appropriate approval.³

2. Participation in Governing Body Action. The governing body member or Director shall not participate in the selection, award, or administration of any contract, if the R&W governing body determines that a real or apparent conflict of interest exists for that governing body member or the R&W Director.

3. Employment of Director's Family Members. The R&W Director shall not initially employ or approve the initial employment in any capacity of a person who is a Family Member of the governing body or the Director. However, after due consideration, the governing body may waive this nepotism rule for a Family Member of the Director. The waiver shall be in writing, voted on in a duly noticed public meeting, and provide specific justification for the waiver and why it is in the best interest of the R&W. The Director shall not have supervisory responsibility over a Family Member if the nepotism rule is waived.

4. Gifts and Favors. Governing body members and employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements.

5. Prohibit Sales. Members of the governing body of R&W, or its employees may not, directly or indirectly, sell or be a party to any transaction to sell any instructional material, furniture, equipment, insurance, school supplies or work under contract to R&W. It is not a conflict of interest, however, for employees to contract to perform special services with R&W during time periods wherein service is not required under a contract for instruction, administration or other employment.

6. Confidential Information. Governing body members and employees shall not use confidential information acquired by virtue of their association with R&W for their individual or another's personal gain.

7. Use of School Property. Governing body members or employees shall not use R&W time, personnel, equipment, supplies, or good will for other than for R&W approved activities, programs, and purposes.

ARTICLE IV PROCEDURES

1. Duty defined. In connection with any actual or potential conflict of interest, a governing body member or employee has a duty to and must disclose the nature of the particular interest. The member or employee will be given the opportunity to disclose all material facts to the governing body in an open session (if interested person is a governing body member) or to the Director (if interested person is an employee).

³ 2.42.2.11.B(1) NMAC [06/19/09]

2. Determination of Conflict – Governing Body Member. With respect to matters before the governing body the following process shall be used when determining whether a conflict of interest exists:

(a) The governing body member shall disclose in writing the real or potential conflict of interest concerning a pending transaction or matter before the governing body to the president of the governing body or if the president is the one with the conflict, then to the vice president.

(b) The matter shall be brought to the attention of the entire governing body during a duly noticed public meeting.

(c) The member with the conflict of interest shall be excluded from the discussion and the vote on whether there is a real or apparent conflict of interest with regard the pending transaction or matter.

(d) If the governing body determines that there is a real or apparent conflict of interest the governing body member with the conflict of interest shall leave the meeting during discussion and vote of the pending transaction or matter.

(e) The governing body when voting on a pending transaction or matter in which it has established that a real or apparent conflict of interest exists, prior to voting on the pending matter or transaction, it must consider⁴:

(i) whether the pending transaction or matter violates any of the prohibited acts set forth in Article III;

(ii) whether the pending transaction or matter to be considered was solicited by a competitive bid, comparable valuations or other process required by the New Mexico Procurement Code or other governing procurement rules; and

(iii) whether the pending transaction or matter if approved, would be in the best interest of R&W.

3. Determination of Conflict – Employee. With respect to matters affecting employees, the Director shall use the following process when determining whether a conflict of interest exists:

(a) The employee must disclose in writing the real or potential conflict of interest concerning a pending transaction or matter to the Director. If the Director has the real or potential conflict of interest, consideration of whether a conflict exists must be presented to the governing body and the procedure outlined in IV. B. shall be followed.

(b) The Director shall make a written determination explaining why he/she determined that there was/was not a conflict of interest related to the employee at issue.

(c) If the Director determines there is an actual or apparent conflict of interest, prior to approving the transaction or pending matter, the Director shall consider⁵:

(i) whether the pending transaction or matter violates any of the prohibited acts set forth in Article III;

(ii) whether the transaction to be considered was solicited by a competitive bid, comparable valuations or other process required by the New Mexico Procurement Code or other governing procurement rules; and

(iii) whether the pending transaction or matter if approved, would be in the just, fair and in the best interest of R&W.

⁴ NMSA 1978, §13-1-194.

⁵ NMSA 1978, §13-1-194

(d) The employee will have the opportunity to discuss the Director's determination of whether a conflict of interest exists and the consequences of the Director's determination. If the employee is not satisfied with the Director's determination, he/she may use the employee grievance process.

(e) The Director shall advise the governing body of any actual conflict of interest of an employee in matters or transactions relating to R&W business.

4. Violations of the Conflict of Interest Policy.

(a) **Governing Body Members.** If the governing body has reasonable cause to believe that a member failed to disclose actual or possible conflicts of interest, the president of the governing body shall inform the member of the basis for such belief and afford the individual the opportunity to explain the alleged failure to disclose. All such discussions shall take place in an open meeting.

(b) If after hearing the member's response and after making further investigation as warranted by the circumstances, the governing body determines that the member failed to disclose an actual or possible conflict of interest, the governing body shall take appropriate disciplinary and corrective action, which may include up to removal from the governing body and such other actions required by law.

(c) **Employees.** If the Director has reasonable cause to believe that an employee has failed to disclose actual or possible conflicts of interest, the Director shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

(d) If after hearing the employee's response and after making further investigation as warranted by the circumstances, the Director determines the person has failed to disclose an actual or possible conflict of interest, the Director shall take appropriate disciplinary and corrective action, which may include up to discharge, termination and such other actions required by law.

ARTICLE V RECORDS OF PROCEEDINGS

1. Governing Body. The minutes of the governing body shall contain:

(a) The names of the persons who disclosed or otherwise were found to have a personal or 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, and the governing body's decision as to whether a conflict of interest in fact existed.

(b) The names of the persons who were present for discussions and votes relating to the matter, transaction or arrangement, the content of the discussion, including any alternatives to the proposed matter, transaction or arrangement, and a record of any votes taken in connection with the proceedings.

2. Employees. The Director shall ensure that appropriate documentation of the employee's request and the ultimate determination are retained by R&W.

ARTICLE VI
ANNUAL DISCLOSURE STATEMENTS

Every employee and governing body member shall annually sign a statement which affirms such person:

- Has received a copy of the conflict of interest policy
- Has read and understands the policy, and
- Has agreed to comply with the policy.

ARTICLE VI
INTERPRETATION OF THIS STATEMENT OF POLICY.

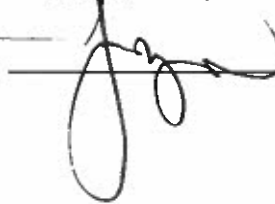
Conflicts might arise in other areas or through other relations not specifically described in this policy. It is assumed that the governing body members and employees will recognize such areas and relation by analogy. The fact that one of the interests described in this policy exists does not necessarily mean that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material, that upon full disclosure of all relevant facts and circumstances it is necessarily adverse to the interests of R&W. However, it is the policy of the R&W Governing Body that the existence of any of the interests described in this policy shall be disclosed before any transaction is consummated. It shall be the continuing responsibility of the governing body, its members and R&W employees to scrutinize their transactions and outside business interests and relationships for potential conflicts and to immediately make such disclosures.

ADOPTED 10-16-2018
(date)

ROOTS & WINGS COMMUNITY SCHOOL – GOVERNING BODY



, President



, Secretary