

American Health Information Management Association (AHIMA)

PARTICIPATION AGREEMENT FOR DIRECTORS

This Participation Agreement contains the requirements for Directors of the American Health Information Management Association (AHIMA) when acting in their capacity as members of the AHIMA Board of Directors (“Director”), as officers or as committee members, and should guide their participation in all AHIMA projects and activities. These requirements include:

- A. Fiduciary Obligations;
- B. Agreement to Abide by the AHIMA Conflict of Interest Policy and Procedures;
- C. Disclosure of Potentially Conflicting Interests;
- D. Agreement to Maintain Confidentiality;
- E. Work-for-Hire Agreement/Assignment; and
- F. Hold Harmless Agreement
- G. Violation Participation Agreement

Last Name _____ First Name _____ Middle Initial ____

Business Affiliation and Address:

Date _____

A. FIDUCIARY OBLIGATIONS OF DIRECTORS

Directors have legally-enforceable fiduciary obligations to exercise their powers and judgment solely in the best interests of AHIMA. Fiduciary obligations include a duty of care and a duty of loyalty, as well as strict adherence to the AHIMA *Conflicts of Interest Policy and Procedures* and the other obligations set forth in this AHIMA Participation Agreement.

1. Duty of Care

1.1 An Director must discharge his or her duties as a Director, including his or her duties as an officer and a committee member:

- In good faith;
- In a manner he or she reasonably believes to be in the best interests of AHIMA; and
- With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

1.2 In discharging his or her duties, an Director may reasonably rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- One or more officers or employees of AHIMA whom the Director reasonably believes to be reliable and competent in the matters presented;
- Legal counsel, public accountants, or other persons as to matters the Director reasonably believes are within the persons' professional or expert competence; or
- A committee of the Board of Directors of which he or she is not a member if the Director reasonably believes the committee merits confidence.

1.3 An Director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 1.2 unwarranted.

1.4 An Director is not liable for any action taken as a Director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section.

2. Duty of Loyalty

A Director owes a duty of loyalty to AHIMA. In accordance with that duty, an Director may not:

- disclose confidential information of AHIMA;
- compete with AHIMA;
- assist or act on behalf of a person or entity that competes with AHIMA;

- usurp a business opportunity of AHIMA;
- assist another person or entity to usurp a business opportunity of AHIMA;
- obtain secret or unfair profits through a transaction with AHIMA; or
- Profit financially through confidential information gained by virtue of his or her position with AHIMA.

By signing this Participation Agreement, the undersigned acknowledges his/her understanding of the AHIMA Conflicts of Interest Policy and Procedures and agrees to abide by the above requirements.

Initials _____

B. AHIMA CONFLICT OF INTEREST POLICY AND PROCEDURES

AHIMA is committed to establish and maintain a high standard of integrity in all activities (“AHIMA Activities”) it performs for AHIMA members and the public at large. The success of AHIMA Activities depends in large measure upon the confidence that AHIMA members and the public have in the integrity of AHIMA. In order to maintain this confidence, AHIMA has adopted this *Conflict of Interest Policy and Procedures*.

This *Conflict of Interest Policy and Procedures* is necessary because AHIMA depends upon voluntary service from Directors to accomplish its AHIMA Activities. Directors may have personal, business or professional interests which conflict with the best interests of AHIMA. AHIMA does not view the existence of such interests as implying bias or an impediment to participation in AHIMA Activities. It does, however, require that in certain circumstances those interests be disclosed and resolved.

NOTES:

- Definitions of key terms not defined in the body of this document are provided in Attachment A to this Participation Agreement.
- This *Conflict of Interest Policy and Procedures* is supplemented by and shall be interpreted in accordance with all applicable state and federal laws and regulations.

1. Conflict of Interest

1.1 Any circumstance that compromises, may compromise or may appear to compromise the ability of a Director to act in the best interests of AHIMA, or impair such person’s objectivity, independence, or loyalty to AHIMA; or that may be inconsistent or competitive with the interests or concerns of AHIMA, constitutes a potential conflict of interest warranting disclosure.

1.2 In connection with any actual or potential conflict of interest, a Director must disclose the existence and nature of the conflict and all material facts to the Board of

Directors or the members of any AHIMA committee with Board-delegated powers (an “AHIMA Committee”), before consideration of a matter related to the conflict.

2. Disclosure of Interests

2.1 It is the intent of AHIMA that all decisions of AHIMA are objective, independent and at all times based solely on the best interests of AHIMA, AHIMA members, and the public. Accordingly, AHIMA requires that:

- All Directors complete the Disclosure of Interests Form (“Disclosure Form”) below pertaining to ongoing and anticipated AHIMA Activities and return it to the AHIMA office, where it shall be filed, no later than November 1 prior to each year of service;
- A Director who is elected or appointed to a position during the course of a year must complete and submit a Disclosure Form immediately upon election or appointment;
- If a Director develops a potential conflict of interest during the year, a revised Disclosure Form must be submitted within 30 days;
- A Director must contact the AHIMA Board Governance Committee Chair or the President/Chair if he or she observes or becomes aware of any violation of the AHIMA *Conflict of Interest Policy and Procedures*.

2.2 The Disclosure Form for each Director shall be shared with the Governance Committee for review, following which the Chair of the Governance Committee shall advise each Director of the necessary disclosure(s) that the Director must make with respect to AHIMA matters that may arise at Board or AHIMA Committee meetings. The Chair of the Governance Committee also shall advise the President/Chair, the AHIMA CEO, and the chair(s) of relevant AHIMA Committees of the necessary disclosure(s). All Disclosure Forms shall be retained in the Office of the AHIMA Chief Executive Officer (the “AHIMA CEO”).

3. Announcement and Disclosures

3.1 *At the onset of each meeting of the AHIMA Board or an AHIMA Committee, the presiding officer shall announce the Conflict of Interest Policy and Procedures and ask whether any Director has a potential conflict of interest relating to one or more of the matters listed in the agenda for the meeting.*

3.2 A Director who recognizes a potential conflict of interest with respect to a matter under consideration by the Board or AHIMA Committee on which he or she serves ***must disclose*** the conflict and all material facts to the presiding officer prior to or upon commencement of discussion of the matter, ***whether or not such conflict has been described in a Disclosure Form***. The Director shall make this disclosure at the earliest possible time in order to avoid misunderstanding or misrepresentation of his or her motives or interests related to participation in the discussion or vote on the matter.

3.3 If, during his or her review of materials prior to an AHIMA Board meeting or an AHIMA Committee meeting, or at any time during such meeting, a Director becomes aware of an undisclosed potential conflict, such conflict must be reported to the

President/Chair or AHIMA Committee chair, as applicable, as soon as possible but in any event *before discussion of the relevant matter*.

3.4 If the Director does not timely disclose a potential conflict, the President/Chair or AHIMA Committee chair, as applicable, shall make the disclosure.

4. Conflict Resolution Procedures

4.1 Recusal of Self. Any Director may recuse himself or herself at any time from involvement in any decision or discussion in which the Director believes he or she has or may have a conflict of interest, without disclosing the reason for recusal or going through the process for determining whether a conflict of interest exists.

4.2 Determining Whether a Conflict of Interest Exists. After disclosure of a potential conflict of interest, and after any desired statement by the disclosing Director, he or she shall leave the Board or AHIMA Committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or AHIMA Committee members shall decide if an actual conflict of interest exists.

4.3 Procedures for Addressing a Conflict of Interest

- A Director with a disclosed potential conflict shall leave the Board or AHIMA Committee meeting during the discussion of, and the vote on, recusal of the Director from discussion of and voting on the matter at issue.
- After exercising due diligence, the Board or AHIMA Committee shall determine whether:
 - The disclosed conflict shall be waived as unlikely to affect the Director's ability to act in the best interests of AHIMA, or to negatively affect the integrity or image of AHIMA, or
 - In the best interest of AHIMA, the Director should be recused from discussion and/or voting on the matter at issue.
- A Director who has been recused from a discussion at a Board or AHIMA Committee meeting shall not return to the meeting room until he or she has been advised that the relevant discussion and action have concluded..

5. Special Procedures for Interested Director Transactions*¹

5.1 The following special procedures apply to circumstances in which an "interested" Director is directly or indirectly a party to a transaction involving AHIMA.

5.2 It is AHIMA's position that interested Director transactions should be avoided whenever possible.

¹ See 805 ILCS 105/108.60 (2013); Internal Revenue Service, *Instructions for Form 1023* (6/2006), Appendix A: Sample Conflict of Interest Policy.

5.3 When an interested Director transaction is under consideration, the following rules shall apply:

- The material facts of the transaction and the Director's interest or relationship must be disclosed to the Board or AHIMA Committee prior to the Board or AHIMA Committee discussing or taking action on the matter.
- The Director may make a factual presentation to the Board or AHIMA Committee, but must leave the room and recuse himself/herself from all deliberations and voting relating to the transaction.
- If the value of the transaction exceeds \$25,000.00, AHIMA must have solicited proposals from other qualified vendors or contract recipients, received (or attempted to receive) written bids from at least three such individuals/entities (including the interested Director), and determined that AHIMA cannot obtain, with reasonable efforts, an equally advantageous transaction with a person or entity that would not give rise to a conflict of interest.
- If an equally advantageous transaction is not reasonably possible under circumstances not producing a conflict of interest, the Board or AHIMA Committee shall determine by a majority vote of the disinterested Directors whether the transaction is fair and reasonable and in the best interests of AHIMA. At the discretion of the presiding officer, the interested Director may be recused from the discussion.
- The presence of the interested Director may be counted in determining whether a quorum is present, but may not be counted when the Board or AHIMA Committee takes action on the transaction.
- The transaction must be approved or ratified by the affirmative votes of a majority of disinterested Directors or AHIMA Committee members, even if the disinterested Directors or AHIMA Committee members number less than a quorum.

5.4 For purposes of this section:

- A Director is "interested" if the Director or the Director's company, organization or other entity for which the Director serves in a leadership, employment or ownership capacity, or a company in which the Director has a material financial interest, or a member of the Director's immediate family is directly or indirectly a party to a transaction involving AHIMA.
- A Director is "indirectly" a party to a transaction if the other party to the transaction is an entity in which the Director has a material financial interest or of which the Director is an officer, Director or general partner.
- Director is not "indirectly" a party to a transaction if the Director is an officer or Director of both parties to a transaction and the transaction involves a grant or contribution without consideration from one entity to the other, provided

the Director does not have a material financial interest in the entity that receives the grant or contribution.

6. Documentation

6.1 When a transaction or other matter arises that may involve an actual, potential or apparent conflict of interest, the relevant meeting minutes shall document all procedures followed with respect to the conflict, including:

- The names of the persons who disclosed or otherwise were found to have an actual or possible conflict of interest, the nature of the interest, any action taken to determine whether a conflict of interest was present, and the decision as to whether a conflict of interest in fact existed.
- The names of the persons who were present for discussions and votes relating to the transaction or other matter, the content of the discussion, including any alternatives to a proposed transaction, and a record of any vote(s) taken in connection with the proceedings.

6.2 If the relevant matter arises outside of a Board or AHIMA Committee meeting, the AHIMA CEO shall prepare a memorandum to file documenting the above information.

By signing this Participation Agreement, the undersigned acknowledges his/her understanding of the AHIMA Conflicts of Interest Policy and Procedures and agrees to abide by the above requirements.

Initials_____

C. DISCLOSURE OF INTERESTS FORM

1. Competition with AHIMA

- a) Do you, in your personal, professional or business capacity, provide any of the following products or services that compete with AHIMA’s products or services?

Articles, practice briefs, toolkits
Meetings, conventions
Professional books, journals
Training webinars
Online and in-person training
Online and in-person exams
Certification prep courses
Consulting Services (i.e. IMO Mapping)
Certification exams

Yes _____ No _____

If Yes, please describe _____

- b) Do you engage in any other personal, professional or business activities that compete with AHIMA?

Yes _____ No _____

If Yes, please describe _____

- c) Do you engage in any personal, professional or business activities that assist another person or entity that competes with AHIMA?

Yes _____ No _____

If Yes, please describe _____

2. Business Relationships with AHIMA

- a) Do you have any direct *business relationships* with AHIMA?

Yes _____ No _____

If Yes, please describe _____

- b) Do you have a *family member* who has a direct or indirect *business relationship* with AHIMA?

Yes _____ No _____

If Yes, please describe _____

- c) Do you serve as an officer, Director, trustee or key employee of an entity which has a *business relationship* with AHIMA?

Yes _____ No _____

If Yes, please describe _____

- d) Do you serve as a partner, member or shareholder of greater than 5% (including ownership by family members) in an entity, which has a *business relationship* with

AHIMA?

Yes _____ No _____

If Yes, please describe _____

- e) Do you have a **family member** who received reportable compensation greater than \$10,000 from AHIMA or a **related organization**?

Yes _____ No _____

If Yes, please describe _____

- f) Did you or a **family member** receive a loan or other advance from AHIMA which had an outstanding balance as of the end of AHIMA's tax year?

Yes _____ No _____

If Yes, please describe _____

- g) Did you or a **family member** receive a grant, scholarship or other assistance from AHIMA (other assistance may include provision of goods, services, or use of facilities)?

Yes _____ No _____

If Yes, please describe _____

- h) Did you or a **family member** receive total compensation or other payments exceeding \$10,000 during AHIMA's tax year from AHIMA or any **related organization** as an **independent contractor**, other than reimbursement of expenses under an accountable plan or reasonable compensation for services provided in the capacity as a member of the governing body?

Yes _____ No _____

If Yes, please describe _____

3. Family and Business Relationships with Other Directors

- a) Do you have a *family member* who is a Director, officer, commissioner, or key employee or agent?

Yes _____ No _____

If Yes, please describe _____

- b) Do you have a *business relationship* with any other officer, Director, trustee or key employee of AHIMA?

Yes _____ No _____

If Yes, please describe _____

4. Other Conflicts of Interest

- a) Do you have any other conflicts to disclose?

Yes _____ No _____

If Yes, please describe _____

By signing this Participation Agreement, the undersigned acknowledges his/her understanding of the AHIMA Disclosure of Interests Form and certifies that the above information is accurate and complete.

Initials _____

D. AGREEMENT TO MAINTAIN CONFIDENTIALITY

The undersigned understands and agrees that, in connection with the undersigned's service to AHIMA as a Director, the undersigned will be exposed to highly confidential information regarding AHIMA and its activities, including but not limited to strategic plans, financial reports, audit results, internal memoranda, and other materials, records, minutes, or data of a confidential nature (collectively, the "Confidential Information").

In order to protect the Confidential Information, the undersigned hereby promises not to make copies of, discuss, disclose, or otherwise disseminate, or assist or permit others to copy, discuss, disclose, or otherwise disseminate, any Confidential Information, and not to use the Confidential Information for any purpose whatsoever except directly in connection with the undersigned's service to AHIMA. **Further, the undersigned understands and agrees that the above promise of confidentiality will be in effect from the date the undersigned is elected, appointed, or engaged to serve in his or her AHIMA position, throughout the tenure of the**

undersigned's Service to AHIMA, and at all times thereafter. Such understanding and agreement requires a former Director to observe the same restrictions on disclosure of confidential information that apply to a current Director.

The undersigned acknowledges that a breach of this promise of confidentiality could result in irreparable damage to AHIMA and the public for which a remedy at law will be inadequate, and the undersigned agrees that this promise may be enforced by an injunction. The undersigned agrees to pay all of AHIMA's costs and expenses, including attorneys' fees, if AHIMA brings an action against the undersigned for breach of this confidentiality promise and prevails in such action.

By signing this Participation Agreement, the undersigned acknowledges his/her understanding of the AHIMA Agreement to Maintain Confidentiality and agrees to abide by the above requirements.

Initials _____

E. WORK-FOR-HIRE AGREEMENT/ASSIGNMENT

The undersigned, who currently provides or shall provide services to AHIMA as a Director, in which capacity the undersigned will prepare and contribute certain materials for use by AHIMA, hereby agrees that any and all original material contributed by the undersigned shall be deemed to be a work made for hire for AHIMA. To the extent that such contribution is not deemed to be a work made for hire under the United States copyright laws, or is not similarly treated under the copyright laws of any other country, the undersigned hereby assigns to AHIMA all right, title, and interest in such contribution, including the right to sue for infringement.

By signing this Participation Agreement, the undersigned acknowledges his/her understanding of the AHIMA Work for Hire Agreement/Assignment and agrees to abide by the above requirements.

Initials _____

F. HOLD HARMLESS AGREEMENT

The undersigned acknowledges and agrees that the decision to participate in AHIMA activities, including, but not limited to, attending meetings or traveling to any destination in support of those activities, is completely voluntary. The undersigned hereby agrees to hold AHIMA, and its officers, Directors, members, employees and agents, harmless from any complaint, claim or damage arising out of or in connection with any attendance at, travel to, or participation in, any and all AHIMA activities.

By signing this Participation Agreement, the undersigned acknowledges his/her understanding of the AHIMA Hold Harmless Agreement and agrees to abide by the above requirements.

Initials _____

G. VIOLATION OF THE PARTICIPATION AGREEMENT

1. Misconduct by a Director. If the Board of Directors has reasonable cause to believe that a Director has:

- Breached his or her fiduciary obligations to AHIMA;
- Not submitted a complete, accurate and comprehensive Disclosure Form, failed to disclose an actual or potential conflict of interest, or not complied in all other respects with the AHIMA *Conflict of Interest Policy and Procedures*;
- Breached his or her promise of confidentiality; or
- In any other manner acted inconsistently with the terms of this Participation Agreement

the President/Chair shall inform the Director of the basis for such belief and afford the Director a fair opportunity to respond to such charge(s) at a hearing before the Board of Directors.

2. Discipline by AHIMA. If, after hearing the Director's response and after making further investigation as warranted by the circumstances, the Board of Directors, in its discretion, determines that the Director has engaged in any of the misconduct described above, it shall take appropriate disciplinary action, which may include one or more of the following:

- Request for the Director's resignation;
- Removal of the Director from the Board;
- Prohibition of future participation by the Director in AHIMA leadership;
- Waiver of the Director's right to indemnification and insurance under the AHIMA Bylaws;
- Legal action against the Director; or
- Any other action that the Board of Directors deems just and appropriate.

3. Serious, Pervasive Conflicts. If a Director is determined by the Board of Directors to have serious, pervasive, multiple or continuing conflicts, such that the Director would seldom, if ever, likely be able to act in the best interests of AHIMA, resignation or removal should be considered.

The remainder of this page has been left blank intentionally.

IN ACCORDANCE WITH MY OBLIGATIONS AS A DIRECTOR, I HAVE READ AND UNDERSTOOD THE ABOVE STATEMENTS AND I HEREBY AGREE TO BE LEGALLY BOUND BY THEIR TERMS. I UNDERSTAND AND AGREE THAT IF I FAIL TO HONOR THE COMMITMENTS I HAVE MADE, I SHALL BE SUBJECT TO REMOVAL FROM THE BODY OF AHIMA ON WHICH I SERVE, AND I SHALL FORFEIT ANY ELIGIBILITY FOR INDEMNIFICATION OR INSURANCE FOR WHICH I OTHERWISE MAY HAVE BEEN ELIGIBLE UNDER THE BYLAWS OF AHIMA OR ANY APPLICABLE LAW.

Last Name _____ First Name _____ Middle Initial _____

Signature _____ Date _____

AGREED TO: American Health Information Management Association

By _____

Title _____

Signature _____ Date _____

Upon completion, please return to Marilyn Render at Marilyn.render@ahima.org
Thank you.

Participation Agreement Attachment A

DEFINITIONS

Business Relationship. Business relationships between two persons include any of the following:

- One person is employed by the other in a sole proprietorship or by an organization with which the other is associated as a trustee, Director, officer, key employee, or greater than-35% owner;
- One person is transacting business with the other (other than in the ordinary course of either party's business on the same terms as are generally offered to the public), directly or indirectly, in one or more contracts of sale, lease, license, loan, performance of services, or other transaction involving transfers of cash or property valued in excess of \$10,000 in the aggregate during 2014 (indirect transactions are transactions with an organization with which the one person is associated as a trustee, Director, officer, key employee, or greater-than-35% owner); and
- The two persons are each a Director, trustee, officer, or greater-than-10% owner in the same business or investment entity.

Business Transaction. A contract, agreement, grant, license, loan, lease, performance of services or similar undertaking, or a joint venture in which AHIMA and a Director each has a profits or capital interest.

Compensation. Includes all forms of cash and noncash payments or benefits provided in exchange for services, including salary and wages, bonuses, severance payments, deferred payments, retirement benefits, fringe benefits, gifts that are not insubstantial, and similar financial arrangements and transactions.

Family Member. A person's (i) spouse, (ii) parents and other living ancestors, (iii) descendants (whether natural or adopted) and their spouses, and (iv) siblings (whether whole or half-blood) and their spouses. A spouse includes a life partner.

Financial Interest. A person has a financial interest if the person has, directly or indirectly, through business, investment, or a family member:

- An interest as an officer, Director, trustee or partner of any entity with which AHIMA has a business transaction;
- An ownership or investment interest in any entity (other than as an owner of not more than 5% of the total shares or interest of an entity) with which AHIMA has a business transaction;
- A compensation arrangement with AHIMA or with any entity or individual with which AHIMA has a business transaction; or

- A potential ownership or investment interest (of greater than 5%) in, or compensation arrangement with, any entity or individual with which AHIMA is negotiating a business transaction.

Independent Contractor. A person who provides services to AHIMA but who is not treated as an employee.

Related organization. An organization that is related to AHIMA, including:

- The Commission on Accreditation for Health Informatics and Information Management Education (“CAHIIM”),
- The AHIMA Foundation,
- The Component State Associations (“CSAs”), and
- Any entities controlled by, or under common control with, AHIMA.