

IN THE COURT OF COMMON PLEAS OF DAUPHIN COUNTY, PENNSYLVANIA

IN RE: MILTON HERSHEY SCHOOL, : ORPHANS' COURT DIVISION
: :
AND : :
: : No. 712, Year of 1963
: :
HERSHEY TRUST COMPANY, : :
TRUSTEE OF MILTON HERSHEY : :
SCHOOL TRUST : :

PRAECIPE TO UPDATE THE RECORD

TO JEAN MARFIZO KING, REGISTER OF WILLS AND CLERK OF THE ORPHANS' COURT:

The Commonwealth of Pennsylvania, acting as *parens patriae*, respectively submits the attached Agreement by and among the Milton Hershey School, the Hershey Trust Company, and the Pennsylvania Office of Attorney General, to update the docket in the above-captioned matter. The attached Agreement supersedes and replaces the agreement filed on May 8, 2013 in its entirety.

Respectfully submitted,

FILED

JUL 29 2016

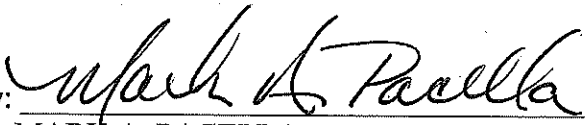
JEAN MARFIZO KING
REGISTER OF WILLS AND
CLERK OF THE ORPHANS' COURT

COMMONWEALTH OF PENNSYLVANIA
Office of Attorney General,
BRUCE L. CASTOR, JR.,
First Deputy Attorney General

JAMES A. DONAHUE III
Executive Deputy Attorney General
Public Protection Division

CHARITABLE TRUSTS AND
ORGANIZATIONS SECTION
14TH Fl., Strawberry Square
Harrisburg, PA 17120

717.783.2853

By: 
MARK A. PACELLA
Chief Deputy Attorney General

HEATHER VANCE-RITTMAN
Senior Deputy Attorney General

AGREEMENT

THE BACKGROUND of this instrument is as follows:

Milton Hershey School ("School"), Hershey Trust Company ("Trust Company"), as trustee of the Milton Hershey School Trust ("School Trust"), and the Office of Attorney General of the Commonwealth of Pennsylvania ("OAG") entered into an agreement filed June 27, 2003, in the Orphans' Court Division of the Dauphin County Court of Common Pleas at No. 712, Year of 1963.

Since entering into that agreement, circumstances changed, including the sale of the Trust Company's Private Wealth Management Group, after which the School, the Trust Company, and OAG entered an agreement filed May 8, 2013 ("2013 Agreement") which terminated the June 27, 2003 Agreement. The parties now enter a new agreement which terminates and replaces the 2013 Agreement.

The Managers of the School and Directors of the Trust Company are committed to fulfilling the mission of the Deed of Trust and the vision of Milton and Catherine Hershey. In furtherance of those objectives, the School and Trust Company have adopted policies and procedures, as well as governance structures, that will enable them to properly administer the School and School Trust pursuant to the Deed of Trust.

THE TERMS of this instrument are as follows:

A. The School, the Trust Company, and the OAG agree that the 2013 Agreement is terminated and replaced with this Agreement ("Agreement").

B. The School, the Trust Company, and the OAG, intending to be legally bound, agree as follows:

1. **Conflicts of Interest.** The School and the Trust Company have in place and will enforce a "Conflict of Interest Policy," a true and correct summary of which is attached to and incorporated into this Agreement as Exhibit A. The School and the Trust Company will not modify this Conflict of Interest Policy without the prior written approval of the OAG.

2. **Milton S. Hershey Medical Center.** The Managers of the School and the Directors of the Trust Company shall not elect to their Boards any person who is a director or executive officer of the Milton S. Hershey Medical Center or the Pennsylvania State University. The Managers of the School and the Directors of the Trust Company shall remove any Manager

or Director who is elected a director or appointed an executive officer of the Milton S. Hershey Medical Center.

3. **Managers/Directors.** To further not only the administration of the School Trust, but also the educational mission of the School, the Managers of the School and the Directors of the Trust Company shall use their best efforts to identify for election to their Boards individuals whose education, training and experience reflect the full range of the Boards' responsibilities, including, but not limited to: at-risk/dependent children; residential childhood education; financial and business investment; and real estate management. The President of the School and the Chief Executive Officer of the Trust Company may serve as a Manager of the School and as a Director of the Trust Company.

(a) Prior to the election of a new Manager/Director, the School and the Trust Company shall give the OAG thirty (30) days' written notice, including a resume of the candidate's education, experience, and relationship (if any) to an incumbent Manager/Director.

(b) Managers/Directors shall be elected annually for one (1) year terms, shall serve no more than ten (10) terms ("Tenure Limit"), and shall not stand for election in a year in which they become seventy-five (75) years of age or older. The Tenure Limit applicable to an individual Manager/Director may be extended, at the discretion of the Directors of the Trust Company, for up to one (1) year to assure continuity of leadership or to respond to other exceptional circumstances. Each Manager/Director shall be subject to an annual performance evaluation.

(c) The Managers/Directors shall use their best efforts to maintain Boards of thirteen (13) members. As the Boards reach their optimal size, they shall follow best

governance practices in allocating responsibility among Managers/Directors for leadership positions, committee assignments, and appointments to the Boards of related entities.

(d) Managers/Directors Robert F. Cavanaugh, James E. Nevels, and Joseph M. Senser shall retire from the School's Board of Managers and the Trust Company's Board of Directors effective not later than December 31, 2016, and James M. Mead and Velma A. Redmond shall retire from the School's Board of Managers and the Trust Company's Board of Directors effective not later than December 31, 2017.

4. **Overlapping Managers/Directors.** The School Trust may elect Managers/Directors to the Board of Directors of The Hershey Company; provided, however, that no more than three (3) Managers/Directors may at the same time be Directors of The Hershey Company and provided further that neither the President of the School nor the Chief Executive Officer of the Trust Company shall be eligible to serve as a Director of The Hershey Company. Beginning in January, 2017, the School Trust shall not elect a Manager/Director to be a compensated Director of the Hershey Entertainment and Resorts Company without providing thirty (30) days' written notice to the OAG. No Manager/Director who is a Director of The Hershey Company may at the same time be a Director of the Hershey Entertainment and Resorts Company. Nothing in this Agreement affects the School Trust's right to vote all of its stock in the manner set forth in the bylaws of The Hershey Company in all matters coming before its stockholders including, without limitation, the election of Directors of The Hershey Company.

5. **Compensation of Directors of the Trust Company.** With the exception of employees of the School or Trust Company, effective January 1, 2017, Directors of the Trust Company may be compensated as follows:

(a) Base Compensation: Each Director shall be paid not more than \$110,000.00; provided, however, that a Director also serving as a Director of The Hershey Company or as a Director of the Hershey Entertainment and Resorts Company shall be paid not more than \$80,000.00 and shall not be eligible to receive any of the additional compensation set forth below in sub-paragraphs (b) and (c).

(b) Board Chair: The Chair of the Board may receive additional annual compensation of not more than \$30,000.00, but shall not receive additional compensation as the Chair of any committee.

(c) Committee Chair: A Board member may receive additional annual compensation of not more than \$10,000.00 for serving as Chair of one or more committees of the Board.

(d) Cost of Living Adjustment: Effective January 1, 2018, and every year thereafter, Director base compensation as set forth in sub-paragraph (a) above may be increased by the cost of living adjustment set by the federal Social Security Administration.

(e) Employees of the School or the Trust Company: An employee of the School or the Trust Company who is a Manager/Director shall not receive any compensation for serving as a Manager/Director or as a Director of the Hershey Entertainment and Resorts Company.

6. Stock Transactions. To the extent that any Manager/Director acquires, sells, trades, gifts or otherwise transfers stock in The Hershey Company, a courtesy copy of any

required SEC Forms and/or internal disclosure or approval forms shall be provided contemporaneously to the OAG.

7. **Board Travel Reimbursement Policy/ Expense Policy.** The School and the Trust Company have in place and will enforce a “Board Travel and Expense Reimbursement Policy,” a true and correct copy of which is attached to and incorporated into this Agreement as Exhibit B. The School and the Trust Company will not modify this policy without the prior written approval of the OAG.

8. **Auditors.** The School and the Trust Company shall instruct their auditors to report any conflict of interest or impairment of their independence and objectivity, as set forth in the Code of Professional Conduct of the American Institute of Certified Public Accountants, and in accordance with any auditing and professional practice standards or ethics code promulgated by the Public Company Accounting Oversight Board. The School and the Trust Company shall not waive any conflict or impairment of independence and objectivity pursuant to this Section.

9. **Legal Counsel.** The School and the Trust Company shall not employ as their legal counsel a firm that is acting as outside legal counsel for The Hershey Company, unless the OAG agrees in writing to such employment. The School and the Trust Company shall instruct their legal counsel to report any conflict of interest, as defined by the Rules of Professional Conduct, in a transaction involving the Hershey Entertainment and Resorts Company, or any third party with which the School is doing business, and shall not waive any such conflict unless the OAG agrees in writing to such waiver.

10. **Legal Expenses.** Based upon the results of its investigation, the OAG has determined that reimbursement of the costs and expenses associated with the internal

investigations conducted by Weil Gotshal & Manges LLP and Zuckerman Spaeder LLP is unwarranted.

11. **Real Estate.** The School and Trust Company shall continue to provide written notice to the OAG at least thirty (30) days prior to all real estate transactions involving a lease of three (3) or more years or more than \$250,000.00 of consideration.

12. **School Admissions.** The School shall continue to admit only children who are deemed “poor” as set forth in the Deed of Trust and who, in the opinion of the Managers, are not receiving adequate care from one of their natural parents. Among the other criteria that the School shall consider in making this determination are: (a) the lack of provision of the basic economic necessities of life - food, clothing and shelter; and (b) the federal poverty guidelines of the United States Department of Health & Human Services, published annually and revised from time to time.

13. **Academic Standards.** The School shall continue to admit students with a wide variety of potential for scholastic achievement within the meaning of the Deed of Trust, including those who are likely to benefit from the vocational education program of the School. The School shall provide adequate support for those students who are having difficulty meeting its scholastic standards.

14. **School Year-Round Program.** The School shall continue to provide enrolled children with a year-round program.

15. **Student Safety.** The School shall continue its plan to assure student safety by, among other things, maintaining reduced age differences among children within each student home.

16. **Reports to the Attorney General.** The School shall continue to provide an annual written report to the OAG describing:

(a) the economic and academic characteristics of the children admitted to the School;

(b) the year-round programs then in place, as well as those in development, for the children enrolled in the School;

(c) the programs and policies then in place, as well as those in development, to increase student safety by, among other things, maintaining reduced age differences among children within each student home; and

(d) such other matters as the OAG may from time to time request; the School acknowledges the *parens patriae* authority of the OAG and, upon request to the President of the School, shall provide the OAG with direct access to additional materials, information and personnel, as it may request from time to time in discharge of its *parens patriae* responsibilities. The parties acknowledge that from time to time the OAG receives complaints concerning the management of the School and/or the School Trust, and that this Agreement does not limit the OAG's discretion to investigate such complaints or operate as a waiver of the OAG's right to pursue any additional relief that may be appropriate.

17. **No Changes.** The School and the Trust Company shall not change any provision of this Agreement without the prior written approval of the OAG.


18. **Effective Date.** Except where specifically provided otherwise, this Agreement shall become effective as of August 1, 2016. Not later than July 31, 2021, the parties shall meet and confer in good faith about the continuation of this Agreement.

19. **Execution.** The parties may execute this Agreement in counterpart, each of which shall be deemed an original, and corporate executions containing more than one signature may be similarly executed in counterpart with all such counterparts having the same force and effect as though original executions on a single document. For purposes of the execution of this instrument, facsimile signatures shall have the same force and effect as original signatures.

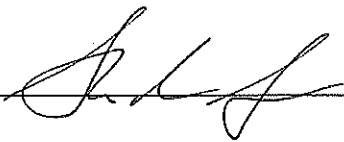
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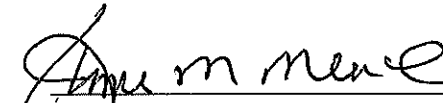
MILTON HERSHEY SCHOOL

Attest:  _____

By:  _____
Peter G. Gurt
President

HERSHEY TRUST COMPANY

Attest:  _____

By:  _____
James M. Mead
President

OFFICE OF ATTORNEY GENERAL
COMMONWEALTH OF PENNSYLVANIA

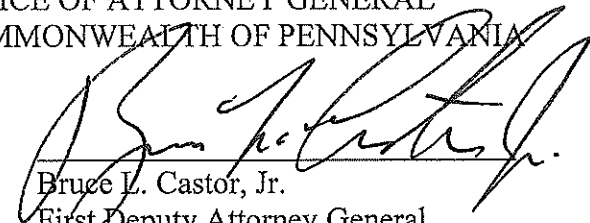
By:  _____
Bruce L. Castor, Jr.
First Deputy Attorney General

EXHIBIT A
CONFLICTS OF INTEREST POLICY

MILTON HERSHEY SCHOOL BOARD OF MANAGERS
HERSHEY TRUST COMPANY BOARD OF DIRECTORS
("Joint Board")

Conflicts of Interest

For convenience, all references to "Joint Board" mean either the MHS Board of Managers and/or the HTC Board of Directors.

The term "Hershey Entities" refers to the following entities established by Milton Hershey:

- Milton Hershey School ("MHS")
- Hershey Trust Company ("HTC")
- The Hershey Company ("THC")
- Hershey Entertainment & Resorts Company (HE&R)
- The M.S. Hershey Foundation ("MSHF")

The term "Family Member" includes an individual's spouse or domestic partner, ancestors, children (natural and adopted), grandchildren, great-grandchildren, siblings (whether whole or half-blood), and the spouses and domestic partners of children, grandchildren, great-grandchildren and siblings) and any member of the Board member's household.

Board members must provide the Secretary and/or Chief Compliance Officer of the Board with a Statement of Disclosure prior to serving on the Boards and annually thereafter. The Statement of Disclosure must report all actual or potential conflicts of interest with MHS, the School Trust, or HTC. The aggregate amount of all transactions between a Board member of the firm(s) with which he or she is employed and the Hershey Entities must be part of this disclosure and must be in compliance with the "OAG Agreement".

The Joint Board considers it part of its fiduciary duty to the School Trust to secure appropriate representation on the Boards of the Hershey Entities.

Board members and their Family Members may not: (i) seek to profit from information not disclosed to the public about the Hershey Entities; (ii) accept personal favors or gratuities with a value over \$100 from any person or organization supplying goods or services to the Hershey Entities; or (iii) engage in personal transactions with any person or organization supplying goods or services to the Hershey Entities other than on terms and conditions generally available to the public. For clarification purposes, see the Comment and Illustrations below.

Board members and their Family Members may not make any contribution, directly or indirectly, to political campaigns of persons seeking office as Pennsylvania Attorney General or Dauphin County Orphans' Court judge, or incumbents in either of those offices seeking re-election or retention, or election to other office.

Comment:

The illustrations offered below are not an exhaustive list of all situations Board members may encounter. They are only intended to assist Board members in understanding acceptable and unacceptable conduct under the Conflicts Policy.

Illustrations:

A Board member asks HTC staff to make an introduction or otherwise support a contact with an entity that has a known transactional relationship with the Trust Company for assistance in obtaining a permanent or temporary position for themselves, a relative, friend or associate. *Absent mitigating circumstances, the Board member has violated the Conflict of Interest policy by using their position as a Board member as well as HTC staff for personal gain or the benefit of their relative, friend, or associate.*

A Board member reaches out to HTC staff for assistance in obtaining a permanent or temporary position for a current or former unrelated student of MHS with any related or unrelated entity or person. *The Board member has not violated the Conflict of Interest Policy.*

A Board member directly or indirectly contacts a vendor supplying goods or services to any of the Hershey Entities seeking to obtain a position for themselves, a relative, friend or associate. *Absent mitigating circumstances, the Board member has violated the Conflict of Interest Policy by using their position as a Board member for personal gain or the benefit of their relative, friend, or associate.*

A Board member purchases THC chocolate products on sale at a grocery store using a coupon affixed to the package. *The Board member has not violated the Conflict of Interest Policy.*

A Board member is hosting a family reception and intends to give out THC products as party favors. The Board member contacts the staff of any of the Hershey Entities and requests a special discount or gratuity. *The Board member has violated the Conflict of Interest Policy by using their position and Hershey Entities staff for personal gain.*

A Board member purchases tickets to Hershey Park at the gate or online, pays the published, market rate and without seeking any preferential treatment through any of the Hershey Entities. *The Board member has not violated the Conflict of Interest Policy.*

A Board member acquires information not available or known to the general public regarding any of the Hershey Entities and makes use of that information directly or indirectly for the benefit of themselves, a relative, friend or associate. *The Board member has violated the Conflict of Interest Policy.*

EXHIBIT B

**BOARD TRAVEL AND EXPENSE REIMBURSEMENT
POLICY**

BOARD TRAVEL AND EXPENSE REIMBURSEMENT POLICY

Ordinarily, staff of the Trust Company will make travel and meeting arrangements for Managers/Directors in connection with Board activities, including air and rail transportation reservations, ground transportation arrangements, hotel reservations, and meal arrangements. Such arrangements will be made with due consideration to the Trust Company's relationships to the School Trust. This policy governs whether the Trust Company staff or the Manager/Director makes travel arrangements.

BOARD MEETINGS, RETREATS, GRADUATION AND OTHER TRAVEL

1. Transportation.

- a. Only coach airfare will be reimbursed. If a Manager/Director chooses to fly first or business class, he or she will be responsible for the difference in cost.
- b. Airport parking costs will be reimbursed.
- c. Automobile rental fees will be reimbursed.
- d. Car services must be arranged by staff of the Trust Company.
- e. Airport bus, shuttle, and other local transportation costs will be reimbursed.
- f. A Manager/Director's personal vehicle mileage will be reimbursed at the current IRS standard rate.

2. Hotels.

- a. Gift shop purchases, in-room videos, personal phone usage, spa services, local sightseeing, entertainment or recreational activities such as golf that are unrelated to the business purpose of the trip, and other incidental expenses will not be reimbursed, but must be charged to a Manager/Director's personal credit card. In the event that any such charges are billed to a hotel room, the Manager/Director must reimburse the Trust Company for the charges within sixty (60) days.
- b. Reasonable room porter tips may be billed to the hotel room and will be reimbursed.

3. Meals.

a. Reasonable meal charges while traveling to and from Board meetings or on other Board business will be reimbursed.

b. Meal reimbursement is limited to three (3) meals per day, less any meals provided directly by the Trust Company. Additional meals billed to a hotel room are to be treated as incidental expenses and the Manager/Director must reimburse the Trust Company for the charges within sixty (60) days.

SPOUSES AND CHILDREN

Spouses and children may be invited to Board retreats and graduation at the discretion of the School or Trust Company. If a spouse or child accompanies a Manager/Director to a Board retreat, all charges related to the spouse or child are the responsibility of the Manager/Director. Spouses and children may attend graduation weekend events and celebration, and transportation, lodging, and meals for spouses and children will be paid by the Trust Company and reported as taxable income to the Manager/Director. Local sightseeing, entertainment or recreational activities such as golf and spa services may be arranged during retreats and graduation for spouses and children. Spa services for Managers/Directors and spouses will be reported as taxable income, as will any other entertainment charges for spouses and children. If a Manager/Director stays beyond the arranged retreat and graduation dates, he or she is responsible for any additional charges.

MISCELLANEOUS

1. All requests for expense reimbursement must be reported on a Trust Company Expense Report Form. Original detailed receipts, such as for meals, airfare, and hotels, must be attached to the Form. Adequate descriptions, including the date, purpose and individuals entertained must be provided on the Form, which must be signed and sent to the Trust Company within sixty (60) days of the date on which the expenses were incurred.

2. The amounts of transportation, hotel, meal and other expenses billed to the Trust Company but not reimbursable to a Manager/Director pursuant to this policy shall be deducted from the Manager/Director's next compensation payment if not reimbursed to the Trust Company by the Manager/Director within sixty (60) days of billing.

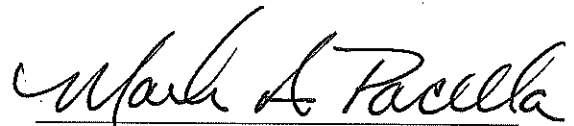
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TRUSTEE OF MILTON HERSHEY : :
SCHOOL TRUST : :

CERTIFICATE OF SERVICE

I, Mark A. Pacella, counsel for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that I served on the date indicated below a true and correct copy of the *Praecipe to Update the Record* filed in the above-captioned matter via electronic mail and hand delivery to counsel for the Milton Hershey School and the Hershey Trust Company as follows:

Thomas B. Schmidt, III, Esquire
PEPPER HAMILTON, LLP
100 Market Street, Suite 200
P.O. Box 1181
Harrisburg, PA 17108-1181
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Mark A. Pacella

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July 29, 2016