



# Conflict of Interest Policy

## Policy Information

Date Established: May 17, 2019

Date Last Updated: March 24, 2021

Category: Student Association

## Purpose

The purpose of the Conflict of Interest Policy is to protect the interest of University at Buffalo Student Association Inc. (the "Student Association") when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director or key person of the Student Association or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

## Definitions

The following terms shall have the following meanings:

1. An "affiliate" of a corporation means any entity controlled by, or in control of, such corporation.
2. "Key person" means 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.
3. "Relative" of an individual means (i) his or her spouse, or domestic partner as defined in Section Twenty-Nine Hundred Ninety-Four-A of the NY Public Health Law, (ii) his or her ancestors, brothers and sisters (whether whole or half blood), children (whether natural or adopted), grandchildren, great-grandchildren; or (iii) the spouse or domestic partner of his or her brothers, sisters, children, grandchildren, and great-grandchildren.
4. "Related party" means (i) any director, officer or key person of the corporation or any affiliate of the corporation, or any other person who exercises the powers of directors, officers or key persons over the affairs of the corporation or any affiliate of the corporation; (ii) any relative of any individual described in clause (i) of this subdivision; or (iii) any entity in which any individual described in clauses (i) and (ii) of this subdivision has a thirty-five percent 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. "Related party transaction" means 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.

6. "Conflict of interest" means any related party transaction.
7. The 'governing board or committee' means the Board of Directors, or the Audit Committee if so designated by the Board of Directors.

## Procedures

1. Duty to Disclose. Any director, officer or key person who has an interest in a related party transaction shall disclose in good faith to the governing board or committee, the material facts concerning such interest. Such disclosure shall be in writing and delivered to the chair of the governing board or committee via personal delivery, electronic mail (to such person's University at Buffalo email address ending in buffalo.edu), or certified US mail to such person at University at Buffalo Student Association Inc., 350 Student Union, Buffalo, NY 14260.
2. Procedures for Addressing the Conflict of Interest
  - a. A person with a conflict of interest shall not be present at or participate in any governing board or committee deliberation or vote on the matter giving rise to such conflict; provided that nothing in this section shall prohibit the board or a committee from requesting that the person with the conflict of interest present information as background or answer questions at a committee or board meeting prior to the commencement of deliberations or voting relating thereto. Any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict is prohibited.
  - b. The chairperson of the governing 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 governing board or committee shall determine whether the Student Association can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
  - d. The Student Association shall not enter into any related party transaction unless the transaction is determined by the Board of Directors to be fair, reasonable and in the Student Association's best interest at the time of such determination. With respect to any related party transaction, the governing board or committee shall: (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 the directors or committee members present at the meeting; and (iii) contemporaneously document in writing the basis for the board or authorized committee's approval, including its consideration of any alternative transactions.
3. Violations of the Conflict of Interest Policy
  - a. If the governing board or committee has reasonable cause to believe an officer, director, committee member or key person has failed to disclose any actual or possible conflict of interest, it shall inform that person of the basis for such belief and afford him/her an opportunity to explain the alleged failure to disclose.

- b. If, after hearing such person's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the officer, director, committee member or key person has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action in addition to any other remedies available to the Student Association under law.
- c. Any transaction in violation of this Conflict of Interest Policy shall be voidable by the Board of Directors.

## Records of Proceedings

1. The existence and resolution of the conflict must be documented in the Student Association's records, including in the minutes of any meeting at which the conflict was discussed or voted upon.
2. The minutes of the governing board and all committees with board delegated powers shall contain:
  - a. 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, and the governing board's or committee'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 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 with the proceedings.
  - c. The minutes shall be documented contemporaneously to the decision and discussion regarding the purported conflict of interest.

## Compensation

1. No person who receives compensation from the Student Association may be present at or otherwise participate in any board or committee deliberation or vote concerning such person's compensation; provided that nothing in this section shall prohibit the Board of Directors or authorized committee from requesting 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.

## Annual Statements

1. Prior to the initial election of any director, and annually thereafter, such director shall complete, sign and submit to the Secretary of the Student Association or a designated compliance officer a written statement identifying, to the best of the director's knowledge, any entity of which such director is an officer, director, trustee, member, owner (either a sole proprietor or a partner), or employee and with which the Student Association has a relationship, and any transaction in which the Student Association is a participant and in which the director might have a conflicting interest. Each director must annually resubmit such written statement. The Secretary of the Student Association or the designated compliance officer shall provide a copy of all completed statements to the Chair of the Audit Committee or, if there is no Audit Committee, to the Chairperson of the Board of Directors.

2. Each director, principal officer and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:
  - a. Has received a copy of the Conflict of Interest Policy,
  - b. Has read and understands the policy,
  - c. Has agreed to comply with the policy, and
  - d. Understands the Student Association is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

## Periodic Reviews

To ensure the Student Association operates in a manner consistent with charitable purposes and does 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.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Student Association'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.

## Use of Outside Experts

When conducting the periodic reviews, the Student Association may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.