



## **Conflict of Interest Policy**

### Policy on Conflicts of Interest and Disclosure of Certain Interests

#### **General Statement**

The University of California, San Diego is globally recognized as a premier public educational institution for research, education and public benefit. The ethical and legal obligations of the UC San Diego Foundation (the "Foundation") Trustees to act solely for the benefit of UC San Diego and the Foundation are critical. Trustees owe a duty of loyalty to UC San Diego and the Foundation, which requires that they act in the best interests of the Foundation and UC San Diego and not in their personal or professional interests. Trustees are recognized as reflective of the values of a public trust and, therefore, must avoid all actual, known or perceived conflicts of interest (collectively, "Conflicts"). This includes interactions with UC San Diego as well as between themselves and the community at large.

The Foundation has confidence in the loyalty and integrity of all its members. With a current emphasis being given the subject of conflicts of interest and public perception, as well as certain revisions to the IRS Form 990 requiring definitive answers, it is important to emphasize the Foundation's policy on this subject and to publish this statement as a guide to all of those individuals who might, by reason of their trustee duties, find themselves in a position where their personal and professional interests and relationships might conflict with that of UC San Diego or the Foundation. It is important that both the fact and the appearance of conflicting interests be avoided. This policy is intended to protect both UC San Diego and the Foundation's Trustees by identifying and resolving Conflicts.

#### **Policy Statement**

This conflict of interest policy applies to the volunteer Board of Trustees and paid UC San Diego staff members that serve as Trustees in support of the UC San Diego Foundation.

It is the policy of the UC San Diego Foundation:

- to ensure that Trustees are asked, at the time of election to the Board as well as annually, to review the conflict of interest policy, definitions, and to disclose any known conflicts; and
- to avoid conflicts of interest with Trustees and refrain from transacting business with Trustees or relatives of such Trustees unless approved by the Board.

The Foundation's standard procedures require that, without full and complete disclosure thereof, no Trustee shall have (i) any position with, or a substantial interest in, other business enterprises or (ii) relationships, including those which may exist with UC San Diego academic faculty, staff, students, UC San Diego donors or other Foundation Trustees, which would conflict, or might reasonably be construed to conflict with, the proper performance of a Trustee's duties or responsibilities, or those which might affect the independent judgment of a Trustee.

No policy statement can address specifically every conceivable situation that might entail a conflict of interest, but Trustees will exercise due diligence to the best of their abilities to identify and disclose conflicts.

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**

**Interested Person.** Any Trustee, principal officer, or member of a committee with Board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

**Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment, or relationships with other Trustees or family members:

1. An ownership or investment interest in any entity with which the Foundation has a transaction or arrangement,
2. A compensation arrangement with the Foundation or with any entity or individual with which the Foundation has a transaction or arrangement, or
3. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Foundation is negotiating a transaction or arrangement.

The furnishing of goods, services or facilities to the Foundation without charge shall not be deemed to create a financial interest on the part of the person or entity furnishing the goods, services or facilities.

**Compensation** includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

**Family Member** is a spouse, domestic partner, parent, child, or spouse of a child, brother, sister, or spouse of a brother or sister, of an interested person.

**A Contract or Transaction** is any agreement or relationship involving the sale or purchase of goods, services, or rights of any kind, the providing or receipt of a loan or grant, the establishment of any other type of pecuniary relationship, or review of a charitable organization by the Foundation. The making of a gift to the Foundation is not a contract or transaction.

## **Managing Conflicts of Interest**

A conflict of interest is a situation in which an interested person has a financial interest in a transaction or arrangement with the Foundation that is, or could be perceived as being, incompatible with the impartial, objective and effective performance of such person's duties to the Foundation. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Trustees and/or the members of appropriate committees with Board delegated powers, if any, considering the proposed transaction or arrangement.

- I. *Determining Whether a Conflict of Interest Exists.*
  - a. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or committee members shall decide if a conflict of interest exists. Such disclosures and discussions shall be reflected in the minutes of the meeting.
- II. *Procedures for Addressing the Conflict of Interest*
  - a. If the Board determines it is appropriate and so requests, an interested person may make a presentation at the Board or committee meeting related to the provision of services to the Board. After the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
  - b. The chairperson of the 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 Board or committee shall determine whether the Foundation 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. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board or committee shall determine by a majority vote of the disinterested Trustees whether the transaction or arrangement is in the Foundation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.
  - e. A person who has a conflict of interest with respect to a contract or transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote. The person having a conflict of interest may not vote on the contract or transaction and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot. Such person's ineligibility to vote shall be reflected in the minutes of the meeting. For purposes of this paragraph, a Trustee of the Foundation has a conflict of interest when he or she stands for election as an officer or for re-election as a Trustee.

## **Examples**

1. For the purposes of the policy, the following are examples of relationships with the companies on the attached list that should be disclosed if the Trustee:
  - a. is or has been an executive officer of said companies;
  - b. owns in excess of a 5% equity interest in any of said companies;
  - c. expects to receive payments from any of the companies in excess of 5% of the Trustee's net worth;
  - d. owns in excess of 5% equity interest in any firm or entity to which the Foundation is indebted to; or
  - e. is a member of any firm or entity that has been retained by said companies where the revenue received exceeds 5% of the firm's gross revenue.
2. As to Mutual Funds, the ownership test applies to the fund and not the securities owned by the fund.
3. Bank accounts need not be disclosed.
4. If there are relationships with the said companies that are of significant nature, that provide to the Trustee any benefits or opportunities different than those provided to the general public, they should be disclosed so that the Foundation can determine if there are possible conflicts to be discussed with the Board of Trustees.

## **Records of Proceedings**

The minutes of the Board and all committees with Board delegated powers shall contain:

1. 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 Board's or committee's decision as to whether a conflict of interest in fact existed.
2. 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.

## **Initial and Annual Statements**

Each Trustee shall sign a statement at the inception of Board service and annually thereafter, which affirms such person:

1. Has received a copy of the conflicts of interest policy,
2. Has read and understands the policy,

3. Has agreed to comply with the policy, and
4. Understands that the Foundation is a tax-exempt charitable organization and that, in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax exempt purposes.

### **Confidentiality**

Trustees may be privy to financial information and details pertaining to donors and gifts to the University. Trustees agree to hold such information in trust and confidence, not to disclose the information, and not to use the information except to make decisions with direct respect to activities of the Foundation. No Trustee may disclose information that is available solely as a result of his/her affiliation with the Foundation Board of Trustees.