

## **CONFLICT OF INTEREST POLICY**

**Adopted: May 12, 2017**

Alfred University (the “University”) is an organization subject to the New York State Not-for-Profit Corporation Law with respect to its governance, including dealing with conflicts of interest. The Nonprofit Revitalization Act of 2013 imposes several requirements with respect to conflicts of interest and related party transactions, in addition to the judge-made common law, which deals with these concerns.

Additionally, the University is an organization described in Sections 501(c)(3) and 509(a)(1), (2) or (3) of the Internal Revenue Code of 1986, as amended (the “Code”), and so is subject to the requirements of Code Section 4958 with respect to various dealings with disqualified persons.

The University adheres to the highest standards of ethical conduct in governance and operations to ensure that board of directors, officers, staff, volunteers, and/or consultants do not have or give the appearance of having Conflicts of Interest and do not use their relationship with the organization for impermissible private benefit.

The University has adopted this Conflict of Interest Policy (this “Policy”) to identify and limit the effect of any possible conflict between the personal interests of directors and officers and the interest of the University. The purpose of this Policy is to ensure that decisions about corporate operations and the use and dispositions of corporate assets are made solely in terms of benefits to the University and are not influenced by any private profit or other personal benefit to the individuals affiliated with the University who take part in the decision.

### **Administration**

This Policy shall be adopted, overseen and administered by the Audit Committee. Questions about this Policy may be directed to the Vice President for Business & Finance at 607-871-2966 or lloydgm@alfred.edu.

### **Definitions**

A “Related Party” is defined as the following:

- (a) Any individual who currently serves as:
  - (i) a voting member of the Board of Trustees of the University or any Affiliate of the University;
  - (ii) an officer of the University or any Affiliate of the University;
  - (iii) a Key Person of the University or any Affiliate of the University; or
  - (iv) any other person who exercises the powers of directors, officers or Key Persons over the affairs of the University or any Affiliate of the University.

- (b) Any Relative of those persons listed in (a) above. A “Relative” includes: spouse; domestic partner as defined in New York Public Health law Section 2954-A; ancestors; brothers and sisters (whether whole or half-blood); children (whether natural or adopted); grandchildren; great-grandchildren; and spouses or domestic partners of brothers, sisters, children, grandchildren, and great-grandchildren.
- (c) Any entity in which an individual listed in (1) or (2) has a controlling interest. A controlling interest is defined as:
- for corporations, ownership (directly or indirectly) of more than 35% of the combined voting power;
  - for partnerships or personal service corporations, ownership (directly or indirectly) of more than 5% of the profits interest; and
  - for trusts or estates, ownership (directly or indirectly) of more than 35% of the beneficial interest.

“Key Person” includes any person, *other than a director or officer*, whether or not an employee of the University, who:

- (a) has responsibilities, or exercises powers or influence over the University as a whole similar to the responsibilities, powers, or influence of directors and officers;
- (b) manages the University or a segment of the University that represents a substantial portion of the activities, assets, income, or expenses of the University, which for these purposes shall be *ten percent (10%)*; or
- (c) alone or with others controls or determines a substantial portion of the University’s capital expenditures or operating budget, which for these purposes shall be *ten percent (10%)*.

“Affiliate” is any entity controlled by, or in control of, the University.

A “Related Party Transaction” is any transaction, agreement, or other arrangement in which a Related Party has a financial interest and in which the University or any Affiliate of the University is a participant.

The following shall not be considered a Related Party Transaction:

- *A transaction that is de minimis, including: a single transaction that does not exceed \$25,000; or multiple transactions with a single third-party within a 12-month period that do not exceed this threshold.*
- A transaction that is not subject to approval by the Audit Committee pursuant to the University’s Contract Approval Policy.

- A benefit provided to a Related Party solely as a member of a class of the beneficiaries that the University serves as part of its [*charitable*] activities, and which benefit is available to all similarly situated members of the same class on the same terms.

A “Conflict of Interest” is any transaction that is not a Related Party Transaction, but involves a transaction that could be perceived or interpreted to be in conflict with the University’s interest.

### **Annual Disclosure Statements**

- Duty to Complete Questionnaire. Each director shall complete a conflict of interest questionnaire prior to becoming a director and annually thereafter. Each officer or Key Person shall complete a conflict of interest questionnaire when assuming the relevant position and annually thereafter. The questionnaire shall be in the form approved by the Audit Committee.
- Duty to Update Information. Each director, officer, or Key Person shall promptly advise the Secretary of the Corporation or the Director of Human Resources of any changes to the information provided in that individual’s last completed conflict of interest questionnaire.

If during the course of a Board of Trustees or any committee meeting, discussion, or deliberation any actual or potential conflict of interest or Related Party Transaction becomes apparent to a Board of Trustees or any committee member, the individual must disclose such actual or potential conflict to the Board of Trustees or the committee. If another director or any committee member becomes aware of any actual or potential Conflict of Interest or Related Party Transaction, he or she shall disclose such conflict if the conflicted Board of Trustees or committee member is absent. In both cases, such disclosure shall be made a matter of record.

The Secretary of the Corporation will ensure that all individuals required to complete an annual disclosure statement do so in accordance with this Policy. If any individual fails to comply with the Policy’s disclosure requirements, the Secretary of the Corporation will report such failure to the Audit Committee, which shall recommend appropriate corrective action.

### **Disclosures and List of Related Parties**

All disclosures of interests in completed questionnaires or subsequent advice shall be compiled and reported by management to the Audit Committee.

A list of Related Parties identified through the annual disclosure process shall be assembled and provided to employees of the University or other individuals who have authority to sign contracts, enter into transactions, and sign checks on behalf of the University. Such individuals shall be responsible for reviewing the list of Related Parties before entering into a transaction to confirm whether it is a Related Party Transaction.

## **Review Process for Related Party Transactions**

Once a Related Party Transaction is identified, the individual who identified the Related Party Transaction shall complete a Related Party Transaction Review Request (attached to this Policy) and submit the form to the Vice President for Business and Finance.

Upon receipt of a Related Party Transaction Review Request, the Vice President for Business and Finance shall convene a meeting of the Audit Committee to review the Related Party Transaction before it is entered into by the University. The Audit Committee shall review the Related Party Transaction to confirm that it is fair, reasonable and in the University's best interests to enter into the transaction. The Audit Committee shall utilize the following process to approve transactions subject to this Policy:

- (a) The Audit Committee must approve in advance the Related Party Transaction. Any member of the Board of Trustees who has a financial interest in the transaction may not participate in the vote, nor may he or she be present during voting or deliberations.
- (b) The Audit Committee must make its decision in reliance on appropriate data as to comparable arrangements to the extent they are available.
- (c) The Audit Committee must adequately document its decision and deliberations in the corporate records.

## **Review Process for Conflicts of Interest**

A potential Conflict of Interest should be disclosed as it arises for consideration by the Audit Committee, a committee or individuals reviewing the matter to determine whether a Conflict of Interest exists and whether the individual should be recused from deliberations and voting.

If the Audit Committee determines that a Conflict of Interest exists, then the individual with the Conflict of Interest may not participate in the vote, nor may he or she be present during voting or deliberations on the matter.

The Audit Committee should also adequately document its decision and deliberations in the corporate records.

## **Quorum and Voting**

Trustees or committee members who must leave a meeting due to a Conflict of Interest or Related Party Transaction shall be deemed present for voting purposes regardless of whether the individual returns to the meeting.

## **Employee Conflicts of Interest**

All employees should deal with vendors without any appearance of favor or preference based

on personal considerations. Employees must, at all times, exercise their best skill, care and judgment for the benefit of the University and must refrain from being influenced by personal considerations of any kind in the performance of their duties. Whenever a Conflict of Interest—or even a *possible* Conflict of Interest—exists, it must be fully disclosed and the employee involved may then be required to refrain from participating in the consideration or determination of any transaction with the vendor.

Specifically, an employee of the University with a potential Conflict of Interest in a particular matter shall promptly and fully disclose the potential conflict to his or her supervisor who shall then disclose the matter to the President. The President shall be responsible for determining the proper way for the University to handle decisions which involve employee Conflicts of Interest. In making such determinations, the President may consult with legal counsel.

The President shall report to the Board of Trustees at least annually concerning employee Conflicts of Interest that have been disclosed and contracts and transactions involving employee conflicts that the President has approved.

### **Compensation Decisions**

A compensation decision for a Related Party is a Related Party Transaction. All recommendations for such matters shall be referred to the Audit Committee for review in accordance with this Policy once a recommendation is made by the Human Resources Committee.

The Related Party shall not participate in the deliberations or voting on any matter relating to his or her compensation, provided, that a director may participate in deliberation or voting on compensation as a director that is made available or provided to all directors on the same or substantially similar terms. Such individual may provide information to the Human Resources Committee or Audit Committee reviewing the compensation decision.

All compensation will be measured against an appropriate recognized survey or surveys for compensation (if applicable) of corresponding rank, position, and/or specialty in the same or a *comparable* geographic area as that of the University. There shall be sufficient and adequate documentation to support the reasonableness and appropriateness of all compensation decisions. All deliberations regarding compensation of a Related Party shall be documented in the minutes of the Human Resources Committee and the Board of Trustees.

### **Violations of Conflict of Interest Policy**

If the Audit Committee determines that an individual has failed to comply with the policies and directives set forth in this Policy, it shall recommend or take appropriate corrective action.

## RELATED PARTY TRANSACTION REVIEW REQUEST

Purpose: The purpose of this form is to provide sufficient information to the Board of Trustees of Alfred University (the “University”) so that the Audit Committee may review certain transactions (“Related Party Transactions”) as required by the New York Not-for-Profit Corporation Law (the “N-PCL”) and the University’s Conflict of Interest Policy.

Instructions: A staff member should complete this form when a Related Party Transaction is identified. Staff members should attach sufficient information to permit the Audit Committee to determine whether such transaction is fair and reasonable and in the University’s best interests. Once completed, the staff member should submit this form along with any attachments to the Vice President for Business & Finance for the Audit Committees consideration.

**Describe the transaction, agreement or other arrangement and how it will benefit the University.**

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**List all Related Parties involved in the transaction and why they are considered a Related Party.**

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**Describe the Related Party’s interest in the transaction and, if applicable, how that interest is deemed “substantial.”**

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**Describe how the University or an affiliate is involved.**

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**Describe generally the terms of the transaction and the amount(s) the University will pay or be paid.**

**Describe any alternate transactions (to the extent available) and why the alternative transactions are not more favorable to the University.\***

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\*Alternate transactions are required where the Related Party has a substantial financial interest in the transaction. If in doubt, please include alternate transaction information.