

LOYOLA UNIVERSITY NEW ORLEANS CONFLICT OF INTEREST POLICY

Approved by the President August 15, 2012

I. The Policy

A. Policy Statement

Employees of the University community have a clear obligation to make decisions and conduct the affairs of the University based upon the desire to promote the best interests of the University in a manner consistent with the mission and values of Loyola University New Orleans. The relationships between Loyola University New Orleans, the individual employees, members of the University community, private industry, federal and state governments, and the non-profit sector have grown progressively more complex. As a result, there exist opportunities for professional interactions and development that may benefit the University community and its individual members, but which may also present the potential for or the appearance of conflicting loyalties and responsibilities for employees within the University community. A Loyola University employee has a conflict of interest when there is a significant risk that the employee's responsibilities to the University may be materially impaired by the employee's personal, familial or financial interests.

The purpose of the Loyola University Conflict of Interest Policy is to set forth a policy statement and enforcement regarding conflicts of interest and to provide guidelines to protect the University, its mission, and employees. The policy seeks to protect the University's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of Loyola employees or might result in a possible excess benefit transaction. This policy is directed to the University employees who exercise or may exercise any functions or responsibilities with respect to procurement decisions or who are in position to participate in a decision making process or gain inside information, make hiring decisions, negotiate, create, or administer contracts or other commitments affecting the assets of the university, obtain personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement. This policy supersedes all other Conflict of Interest Policies; however, it is intended to supplement but not replace any applicable state and federal laws governing conflict of interest.

The University has a responsibility to manage, reduce or eliminate any actual, perceived, or potential conflicts of interest that may be presented. Thus, the University requires that all Loyola University employees disclose any significant financial interest or external interest that may present an actual, perceived or potential conflict of interest.

B. Scope

Application: All employees, (employees are defined in this document as faculty, staff, administrative staff, and administrators including officers at the highest level at the

University (e.g., Vice Presidents, Provosts, President) (hereinafter referred to as “employees”).

C. Definitions

A “**Conflict of Interest**” may arise when an employee or his or her family member¹, or an entity or person with which the employee or his or her family member is associated:

- (i) has an existing or potential financial² or other external interest that impairs or might reasonably appear to impair the employee’s independence of judgment in the discharge of his or her responsibilities to the University; or
- (ii) may receive a material financial or other benefit from the use of disclosure of non-public information relating to the University; or
- (iii) makes a decision or influences an employee to enter into a purchasing or contractual relationship with outside vendors or suppliers for goods, property, or services that conflict with, or appear to conflict with, their duty to act in the University’s best interest when purchasing or contracting on behalf of the University; or
- (iv) has a financial or other interest in a business or is involved with a business in the role of owner, operator, executive officer, or as a member of the board of directors.

¹ “**family member**” means an employee’s spouse, domestic partner, ancestors, children, grandchildren, great grandchildren, siblings (whether by whole or half blood), spouses of children, grandchildren, great grandchildren, and siblings. Because employees must affirmatively make inquiry and include the interests of family members in their Disclosure Statements, this definition is limited so that the disclosure obligation relates to people whose interests are easily ascertainable. If an employee discovers a potential conflict involving a relative who is not a family member (e.g., relative by marriage), the employee should disclose this situation like any other under this Policy.

² “**financial interest**” means if the person has, directly or indirectly, through business, investment, or family:

- a. An ownership or investment interest in any entity with which the University has a transaction or arrangement,
- b. A compensation arrangement, including consulting or other employment, with the University or with any entity or individual with which the University has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the University is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not nominal, as defined in this policy.

A financial interest is not necessarily a conflict of interest. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the Chair of the Conflict of Interest Committee and, if necessary, the Conflict of Interest Committee shall decide if a conflict of interest exists.

A **potential** conflict of interest occurs when there is a divergence between an individual's private interests and his or her professional obligations to the University such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations of personal gain, financial or otherwise.

An **actual** conflict of interest depends on the situation and not on the character or actions of the individual.

A **perceived** conflict of interest has the appearance of affecting an individual's professional judgment in exercising any University duty or responsibility.

The previous examples are not intended to be exhaustive; other relationships or interests that might conflict with the best interests of the University should also be disclosed. In determining whether a potential conflict of interest exists, the fact that the situation could subject the University to criticism, embarrassment, or legal action, or that the employees' activities could be seen as adverse to the University should be considered.

Employees shall not solicit and/or accept gratuities, favors or anything of monetary value from individuals or organizations that do business or seek to do business with the University, or that seek other forms of association with or benefits from the University.

When an employee accepts personal gifts³ from individuals or organizations that do business or seek to do business with the University, or that seek other forms of association with or benefits from the University, this situation could raise a question whether the employee's judgments are formed with the University's best interests foremost in mind. Therefore to prevent any question of bias or favoritism, employees must not solicit or accept gratuities, favors or anything of nominal value⁴ from contractors, potential contractors, or parties to sub-agreements. Employees must disclose anything of nominal value, when:

- (i) the giver is a person or entity that seeks to conduct business with Loyola;
or
- (ii) the giver asks the employee to intervene with Loyola on the giver's behalf; or
- (iii) the employee seeks to influence a decision by Loyola with respect to the giver.

Gifts and other potential conflicts of interest must be disclosed and approved before the interested employee participates in any way in the matter to which the potential conflict

³ A "gift" is any transfer of an item of value (including a trip, personal belongings, or special concessions in connection with personal business) for less than fair market value, including a personal discount.

⁴ Nominal Value is defined as anything that exceeds \$250.

relates. If an employee is uncertain whether to disclose a particular potential conflict of interest, the Chair of the Conflict of Interest Committee shall be consulted.

II. Sponsored Projects

A. Government-Funded Sponsored Projects

The term government-funded sponsored project refers to any sponsored project that is supported, in full or in part, by federal, state, or local government funds. It is incumbent on the Principal Investigator to provide the names of all other **Investigators**⁵ associated with his or her project to the Office of Grants and Sponsored Programs prior to the submission of the application. As stated elsewhere in this policy, University employees must update their conflict of interest status annually and as any changes occur, through the submission of a Conflict of Interest Disclosure Form. In addition to adhering to this policy, it is the responsibility of the Principal Investigator to ensure that he or she and each other Investigator associated with the project, regardless of institutional affiliation, discloses in writing to the Director of Grants and Sponsored Programs (1) any **significant financial interest**,⁶ as defined by the sponsor, or conflict of interest, as defined in this policy, at the time of application and annually over the lifetime of the resulting award, and (2) any changes to his or her significant financial interest or conflict of interest status within thirty (30) calendar days of occurrence, while the application is pending and over the lifetime of the resulting award. It is the further responsibility of the Principal Investigator to ensure that all such disclosures are received by the Office of Grants and Sponsored Programs within the specified time period. Each disclosure will be reviewed by the Director of Grants and Sponsored Programs. Prior to the expenditure of any government funds, the Office of Grants and Sponsored Programs will report to the awarding agency the existence of any conflict of interest that either the Director of Sponsored Programs or Conflict of Interest Committee has identified as a reportable.

In the event that a government-funded grant, cooperative agreement, contract, or subcontract is awarded without the application having been routed through the Office of Grants and Sponsored Programs, an internal clearance form must be completed, any potential conflicts of interest disclosed, and a management plan for any reportable conflicts of interest put into effect before any award funds are expended.

⁵ “**Investigator(s)**” means the PI, co-PI(s) and any other person at the University who is responsible for or in the position to make decisions regarding the design, conduct, procurement of goods or services and/or reporting of activities for the proposed or ongoing project. Investigator(s) includes the Investigator(s)’s family as defined in this policy.

⁶ “**significant financial interest**” will be defined for each sponsored project according to the specific language of the sponsor. Some sponsors will define this term to include reimbursed or sponsored travel. In the event that the sponsor does not provide a definition, this term will be taken to mean any financial interest, as defined in this policy, from which the aggregate remuneration exceeds five thousand dollars (\$5,000) within the twelve (12) months preceding the disclosure; this term will not include salary, royalties, or other remunerations paid by the University while the discloser is employed by the University or intellectual property rights assigned to the University.

B. All Sponsored Projects (Funded by the Government or Private Sector)

In addition to this policy, all University employees are required to comply with any applicable conflict of interest-related regulations imposed by the sponsor of each sponsored project in which they participate. For some sponsors, including the Public Health Service, these regulations will contain training requirements for Principal Investigators and all other associated Investigators, who may include employees of third-party institutions and, in some cases, students, and will require the disclosure of reimbursed or sponsored travel, whether it is related to a specific sponsored project or not. The sponsor-imposed requirements will be communicated to each Principal Investigator through award agreements and other documents provided by the sponsor. For government sponsors with extensive additional conflict of interest-related requirements, the Office of Grants and Sponsored Programs will convey these requirements to the Principal Investigator through either sponsor-specific policies published on the Grants and Sponsored Programs website or via direct communication. It is the responsibility of the Principal Investigator to be aware of all sponsor-imposed requirements associated with each of his or her sponsored projects. The Principal Investigator is also responsible for ensuring that each University employee and each named Investigator is aware of and compliant with all applicable conflict of interest-related requirements.

III. Practical Implementation of This Policy

A. Disclosure Responsibilities Relating to Conflicts

All employees are required to disclose on the Conflict of Interest Disclosure Form any business or financial relationships they or their family members have or propose to have with the University, either directly or through another entity.

Under this Policy, all employees are required:

- i. to complete an online disclosure form when initially hired and annually thereafter, to acknowledge that he or she has reviewed this Policy and is complying with it, in letter and in spirit. The online disclosure form will be administered by the Office of Human Resources;
- ii. to complete an amended disclosure form promptly in the event of a material change in circumstances; and
- iii. to disclose, due to situations or relationships, actual, potential, or perceived conflicts of interest at any time when he or she becomes aware of them.

The Loyola Human Resources department will be responsible for disseminating this Policy. They will request, on an annual basis, that all employees complete an on-line

disclosure statement. Completed Disclosure Statements shall be due to the University by July 31 of each year, or upon date of initial hire if after July 31, and will be initially reviewed by the Human Resources Department. In the event that a disclosure is documented, the forms will be forwarded to the Chair of the Conflict of Interest Committee. The Chair will review the disclosures to determine if they need to be submitted to the Conflict of Interest Committee for full review. The Chair will forward all disclosed relationships to the Director of Purchasing for proper processing and documentation.

All forms will be maintained in accordance with Loyola's Retention Policy. The disclosure statements will be filed electronically in the Human Resources Department through the use of the Employee Web Services module.

B. Non-Compliance

A faculty or staff member who fails to file a completed Conflict of Interest Form will be precluded from issuing purchase orders, check requests, participating in grants or executing contracts on behalf of the university. The Human Resources Department will monitor the submission of the forms and will notify department heads and supervisors of individuals who have not completed the form by the annual deadline. Additionally, a faculty or staff member who fails to fully and faithfully disclose conflict of interest situations, fails to comply with plans to manage a disclosed conflict, or who fails to comply with any other action specified by the Conflict of Interest Committee or their respective Vice President will be subject to potential sanctions in accordance with applicable University policy and procedures.

Failure to file a completed Conflict of Interest Disclosure Form for a sponsored project will result in sanctions imposed by the Director of Grants and Sponsored Programs after review by the entire Conflict of Interest Committee. Failure to comply with requirements to file a complete and accurate disclosure or failure to comply with actions specified by the Conflict of Interest Chair or Committee may result in the suspension or termination of current awards and/or the Principal Investigator(s) becoming ineligible to receive future awards, submit sponsored projects proposals, obtain Institutional Review Board (IRB) approvals, or supervise graduate students. It is the duty of the Principal Investigator(s) to ensure, by completing the Conflict of Interest Disclosure Form, that all actual, potential or perceived conflicts of interest are disclosed.

C. Report of Situations as They Arise

If an actual, potential, or perceived conflict of interest situation arises, the employee shall make this disclosure to the Human Resources Department who shall then consult with the Chair of the Conflict of Interest Committee. As indicated above, the obligation to report situations as they arise is in addition to the annual completion of an online Disclosure Statement. The Chair will forward all disclosed relationships to the Director of Purchasing for proper processing and documentation.

D. Conflict of Interest Committee Structure

The full committee shall consist of the following: Chairperson of the Committee, Associate Vice President of Finance and Administration, two (2) members from the staff nominated by the Administrative Senate, two (2) members from the faculty nominated by the University Senate, and one (1) Jesuit community representative. A conflict of interest screening committee consists of at least four (4) members from the full committee (with at least one faculty member and at least one staff member) that meets regularly as arranged by the Chair of the Committee. In the event of a tie, the Chair of the Committee will call a meeting of the full committee consisting of seven (7) members. The committee members should represent, if possible, expertise in financial matters, legal issues, ethics, federal regulations, or grant administration. All members of the committee must undergo training in the management and assessment of conflicts of interest. The faculty committee members will be nominated by the University Senate and appointed by the President. Staff members will be nominated by the Administrative Senate and also appointed by the President. The Director of Grants and Sponsored Programs shall chair the committee. The committee shall meet monthly unless the chair determines that there are no issues to be reviewed. Appointment to the committee is for a period of three (3) years and may be renewed at the discretion of the President.

E. Conflict Resolution

The resolution of any actual, potential, or perceived conflict that is identified by or reported to the Human Resources Department will be determined in consultation with the Chair of the Conflict of Interest Committee and, as appropriate, with the Conflict of Interest Committee.

This Policy is to be interpreted in a manner that will best serve the interests of the University. After exercising due diligence, the Conflict of Interest Committee shall determine whether the University 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.

Employees who have a Conflict of Interest shall not participate in or be permitted to hear the Committee's discussion of the matter except to disclose material facts and to respond to questions. Such person(s) shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.

In some cases, it may be determined that after full disclosure to those concerned, the University's interests are best served by participation of the interested employee in the activity where the conflict of interest was disclosed. In those cases, the Chair of Conflict of Interest Committee shall conduct periodic reviews, as appropriate, to ensure the beneficial nature of the arrangement or transaction in question. If the committee determines that the University's interests may be compromised by the employee's continued participation, then the employee will be prohibited from continuing involvement in the activity covered by the disclosure.

If the Conflict of Interest Committee has reasonable cause to believe an employee has failed to disclose actual, potential, or perceived conflicts of interest, it shall inform the employee of the basis for such belief and afford them an opportunity to explain the alleged failure to disclose. If, after hearing their response and after making further investigation as warranted by the circumstances, the Conflict of Interest Committee determines the employee has failed to disclose an actual, potential, or perceived conflict of interest, it shall take appropriate disciplinary and corrective action in consultation with the President.

Appeal of Conflict of Interest Committee Decision:

An employee may appeal, in writing, the Conflict of Interest Committee's findings or conflict resolution strategies to their respective Vice President. The appeal must also be submitted to the Conflict of Interest Committee. The Vice President will review the situation with the Conflict of Interest Committee and shall notify the employee, in writing, of his or her findings and decision, and this decision shall be the final step in the appellate process.

Employee appeals of the Vice President's decision will follow the appellate process as outlined in the *Faculty Handbook* and staff appeals will follow the Dispute Resolution policy in the *Human Resources Manual*.

F. Confidentiality Policy

All information concerning actual, potential, or perceived conflicts of interest on the part of employees shall be held in confidence, unless the best interests of the University dictate otherwise or the University is ordered by a court or other legal process to disclose such information.

IV. Record of Proceedings

The minutes of the Conflict of Interest Committee shall contain:

- a.** The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual, perceived, or potential conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Conflict of Interest Committee's decision as to whether a conflict of interest in fact existed. Such disclosure shall be reflected in the minutes of the meeting.
- 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. Records, minutes, and Disclosure Forms will remain confidential and maintained by the Office of Human Resources. They will not be publicly available.
- d. Records, minutes, and Disclosure Forms may be made available for audits, court cases, or other legal proceedings.

V. Use of Outside Experts

When conducting the periodic reviews as provided for in Article VI, the University may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Conflict of Interest Committee of its responsibility for ensuring periodic reviews are conducted.

VI. General

This Policy is available by contacting the Human Resources Department.

This Policy may be revised to reflect new developments and other changes in circumstances deemed relevant by the Conflict of Interest Committee. This Policy is intended to provide guidance to employees about conforming to Loyola's practices and standards. It is not intended to alter any applicable legal standards.

If an employee is uncertain about the applicability or interpretation of the foregoing standards or the propriety of any possible action, then he or she should raise the issue with the Human Resources Department, who in turn may consult with the Chair of the Conflict of Interest Committee.