

# UNIVERSITY OF WEST GEORGIA FOUNDATION, INC.

## Conflict of Interest Policy and Annual Statement

### Article I -- Purpose

The purpose of this Board conflict of interest policy is to protect the University of West Georgia Foundation's (the Foundation) interests when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or trustee of the Foundation 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.

### Article II -- Definitions

- I. **Interested Person** -- Any trustee, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below.
- II. **Financial Interest** -- Any person has a financial interest if the person has, directly or indirectly, through business, investment, or family:
  - a. An ownership or investment interest in any entity with which the Foundation has a transaction or arrangement;
  - b. A compensation arrangement with the Foundation or with any entity or individual with which the Organization 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 Foundation is negotiating a transaction or arrangement.

As used above, the term "compensation" shall include direct or indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. A person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists, in accordance with this policy.

### Article III -- Procedures

- I. **Duty to Disclose** -- 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 Board of Trustees (the Board) or Audit Committee.

- II. **Recusal of Self** -- Any trustee may recuse himself or herself at any time from involvement in any decision or discussion in which the trustee believes he or she may have a conflict of interest, without going through the formal process for determining whether a conflict of interest exists.
- III. **Determining Whether a Conflict of Interest Exists** -- After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he or she shall leave the Board or committee meeting or while the determination of a conflict of interest is discussed and voted upon. The remaining Board and Audit Committee members shall decide if a conflict of interest exists.
- IV. **Procedures for Addressing the Conflict of Interest** --
  - a. An interested person may make a presentation at the Board meeting, but will be recused from the meeting before any discussion of, and the vote upon, 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 governing 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 governing 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.
- I. **Violations of the Conflict of Interest Policy**
  - a. If the Board or Audit Committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
  - b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the Board or Audit Committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

#### **Article IV -- Records of Proceedings**

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

- I. 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 boards or committee's decision as to whether a conflict of interest in fact existed.

- II. The names of persons who were present for discussion 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.

#### **Article V -- Compensation**

- I. A voting member of the Board who receives compensation, directly or indirectly, from the Foundation for services is precluded from voting on matters pertaining to that member's compensation.
- II. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Foundation for services is precluded from voting on matters pertaining to that member's compensation.
- III. No voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Foundation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

#### **Article VI -- Annual Statements**

- I. Each trustee, 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 Foundation 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.
- II. Each voting member of the Board shall annually sign a statement which declares whether there is a conflict of interest.
- III. If at any time during the year the information in the annual statement changes materially, the trustee shall disclose such changes and revise the annual disclosure form.
- IV. The Board or Audit Committee shall regularly and consistently monitor and enforce compliance with this policy by reviewing annual statements and taking other such actions as are necessary for effective oversight.

#### **Article VII -- Periodic Review**

To ensure the Foundation operates in a manner consistent with charitable purposes and does not engage in activities that jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- I. Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining.
- II. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Foundation'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 excess benefit transaction.

#### **Article VIII -- Use of Outside Experts**

When conducting the periodic reviews as provided for in Article VII, the Foundation 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.



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**FOUNDATION, INC.**

**ANNUAL CONFLICT OF INTEREST DISCLOSURE STATEMENT**

Name: \_\_\_\_\_

Position:

Are you a voting Trustee? Yes No

If you are an Officer, which Officer position do you hold:

\_\_\_\_\_.

I affirm the following:

\_\_\_\_\_ (initial) I have received a copy of the Conflict of Interest Policy.

\_\_\_\_\_ (initial) I have read and understand the policy.

\_\_\_\_\_ (initial) I agree to comply with the policy.

\_\_\_\_\_ (initial) I understand that the University of West Georgia Foundation is a charitable, non-profit organization and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of tax-exempt purposes.

Disclosures:

- a. Are you considered an interested person as defined in the University of West Georgia Foundation's Conflict of Interest policy? Yes No

i. If yes, please describe it:

\_\_\_\_\_  
\_\_\_\_\_

- ii. If yes, has the party been disclosed, as provided in the Conflict of Interest policy?  
Yes No

- b. Do you have a financial interest (current or potential) as defined in the University of West Georgia Foundation's Conflict of Interest policy? Yes No

i. If yes, please describe it:

\_\_\_\_\_  
\_\_\_\_\_

- ii. If yes, has the financial interest been disclosed, as provided in the Conflict of Interest policy? Yes No

\_\_\_\_\_  
Signature of Trustee

\_\_\_\_\_  
Date