

Conflicts of Interest Statement & Certification

Introduction

This policy is designed to help members of the Board of Directors (“Directors”) and members of standing committees (Audit, Operations, Investment, Gift Acceptance and Management, and Nominating) of the Washington State University Foundation (“Committee Members”) identify situations that present potential conflicts of interest and to emphasize the importance of adhering to high standards of responsibility, accountability, and public scrutiny. This policy is applicable to all Directors and Committee Members of Washington State University Foundation (“WSU Foundation”).

It is important to note that a conflict of interest involving a Director or Committee Member does not necessarily result in a prohibited transaction or arrangement. The Board of Directors may determine that despite the existence of a conflict of interest, the transaction or arrangement is in the best interests of the WSU Foundation.

This policy is intended to supplement, not supersede, the WSU Foundation’s governing documents or any other federal or state laws governing conflicts of interest applicable to nonprofit corporations. Article 7 of the Restated Bylaws of the WSU Foundation pertaining to conflicts of interest, is included in Appendix 1.

On February 14, 2008 the Internal Revenue Service (IRS) promulgated a revised Form 990, the annual reporting form applicable to tax-exempt entities such as the WSU Foundation. Two of the guiding principles behind the form redesign were to enhance transparency and promote tax compliance. The new form significantly increased disclosure requirements related to the exempt organizations governance and management. This Conflict of Interest Statement & Certification serves as a mechanism for collecting the information necessary to properly complete the new Form 990. The IRS requires that each exempt organization undertake a “reasonable effort” to collect the following information.

Duty to the WSU Foundation

Directors and Committee Members have a clear fiduciary duty to the WSU Foundation in connection with their service as a Director or Committee Member. At all times Directors and Committee Members must act in a manner consistent with this fiduciary obligation and must exercise particular care that no detriment to the interests of the WSU Foundation (or appearance of such detriment) may result from a conflict between those interests and any personal interest of a Director or Committee Member.

Identifying a Conflict of Interest

A conflict of interest may arise whenever a Director or Committee Member or a member of his/her family: (1) has an existing or potential interest which impairs or might appear to impair his/her independent judgment in the discharge of responsibilities to the WSU Foundation; (2) may receive a material benefit from knowledge of information which is confidential to the WSU Foundation; (3) knowingly misrepresents, withholds, or falsifies relevant information used for decision-making purposes

or to derive personal benefits; or (4) solicits benefits in exchange for using influence as a Director or Committee Member.

Potential Conflicts of Interest

Each Director and each Committee Member who is not a Director must file an annual statement, at or immediately following the fall meeting of the Board of Directors, with the Secretary of the Board of Directors setting forth any conflicts of interest that might be expected to occur within the coming year. The statement shall disclose as fully as possible the nature of the potential conflicts and the nature of the Directors or Committee Member's interest in the potential transactions. All statements that anticipate conflicts of interest will be circulated to the Directors.

In the interim, if any Directors or Committee Member or member of his/her family has or is about to assume an interest or other relationship which might result in a conflict of interest, it is the Directors or Committee Member's responsibility immediately to disclose all material facts to the Chair of the Board of Directors or the Chair of the Audit Committee.

Each Directors and Committee Member must be willing and available to answer any questions about potential conflicts.

Confidentiality Policy

All information concerning actual or potential conflicts of interest on the part of Directors or Committee Members, as well as all other information provided on this Statement & Certification, will be held in confidence. Any disclosure beyond the members of the Board of Directors will take place only upon majority vote of the Board of Directors.

Conflicts of Interest Questionnaire

(Please see the end of this Statement & Certification for definitions – all Directors and members of the Standing Committees meet the definition of “Interested Person”)

1. Have you or a family member engaged in any business transactions with the WSU Foundation that exceeds \$580,662 (1% of the WSU Foundation's total revenue for the prior tax year)?

YES (if yes, please provide details below)

NO

2. Have you or a family member engaged in any business transactions with the WSU Foundation where the total payments during the tax year 2018 exceeded \$100,000 (in which case the WSU Foundation must report all transactions regardless of the amount of each individual transaction)?

YES (if yes, please provide details below)

NO

3. Has the WSU Foundation made payment of compensation to any of your family members (in which case payment of reportable compensation must be reported if in excess of \$10,000)?

YES (if yes, please provide details below)

NO

4. Have you or a family member provided any loans (including salary advances and receivables) that will be outstanding at the end of the tax year to the WSU Foundation? This includes loans originally made between the WSU Foundation and a third party or between another interested person and a third party that were transferred so as to become a debt outstanding between the WSU Foundation and you.

YES (if yes, please provide details below)

NO

5. Have you or a family member received any grants (e.g., scholarships, internships and prizes) or similar economic assistance (e.g., the provision of goods, services or use of facilities) from the WSU Foundation? For the purposes of these disclosures, a grant includes the gift portion of a part-sale, part-gift transaction (i.e. Charitable Gift Annuity or Bargain Sale).

YES (if yes, please provide details below)

NO

6. Do you or a member of your family have a "family or business relationship" with any other Director, Standing Committee member, or key employee of the WSU Foundation?

YES (if yes, please provide details below)

NO

7. Have you been convicted of a misdemeanor or felony?

- YES *(if yes, please provide details below)*
- NO

Annual Certification Statement

I, the undersigned, being a Director or a Committee Member, hereby state that to the best of my knowledge except as noted below:

1. I do not have a relationship as defined in this Policy with any corporation, non-profit corporation, partnership, or association that transacts business with the WSU Foundation.
2. I, as an individual, do not transact any business, directly or indirectly, with the WSU Foundation.
3. No member of my family, as defined in this Policy, is in the employ of the WSU Foundation or would come within the meaning of 1 or 2 above.

List below any exceptions to the above Certification Statement and/or provide details on any question in which you answered “yes” above.

I agree that if any situations arise, of which I am aware, that in any way contradict the above statement, I will immediately notify the Chair of the Board of Directors or the Chair of the Audit Committee of any conflict, real or potential, and make full disclosure thereof to the Board of Directors. I have carefully read this Policy, as adopted by the Board of Directors. I agree to answer any questions the Board of Directors may have with respect to any actual or potential conflict of interest, but I understand that such information will be held in confidence by the Directors, unless a majority of the Board of Directors votes in favor of further disclosure.

Name (Printed)

Signature

Date

Definitions

Interested Person: Any director, principal officer, or member of a committee with governing 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 family:

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

Compensation includes direct and 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 Board of Directors decides that a conflict of interest exists.

Business Transactions: A business transaction includes, but is not limited to, contracts of sale, leases, licenses, arrangements for the performance of services, and joint ventures in which the interests of the organization and the interested person each exceeds 10%. Membership dues, grants and loans are not considered to be business transactions.

Business Relationship: A business relationship between two persons includes (but presumably is not limited to) the following types of relationships:

- One person is employed by a sole proprietorship owned by the other person or by an organization of which the other person is a director, trustee, officer, key employee or greater-than-35% owner.

- One person is transacting business with the other, directly or indirectly, in one or more contracts of sale, leases, licenses, loans, service arrangements or other transactions involving transfers of cash or property valued in excess of \$10,000 in the aggregate during the year. An indirect transaction is a transaction by one person with an organization of which the other person is a director, trustee, officer, key employee or greater-than-35% owner.
- The two persons are each a director, trustee, officer or greater-than-10% owner in the same business or investment entity.

A "business relationship" does not, however, include the following:

- "ordinary course of business exception": a transaction between the two persons in the ordinary course of either party's business and on the same terms as are generally offered to the public; and
- "privileged relationship exception": a relationship between attorney and client, medical professional and patient, or priest/clergy and penitent/communicant.

Family Member: Family members include an interested person's spouse, ancestors, siblings (whether of the whole or half blood), children (natural or adopted), grandchildren, great grandchildren, and spouses of siblings, children, grandchildren and great grandchildren.

Appendix 1 – Article 7 of the WSU Foundation Bylaws – Conflicts of Interest

Definitions

A conflict of interest arises when any “Responsible Person” or any “Party Related to a Responsible Person” has an “Interest Adverse to the WSU Foundation.” A Responsible Person is any individual in a position to exercise substantial influence over the affairs of the WSU Foundation, and specifically includes, without limitation, Members, Directors and Officers of the WSU Foundation and the chairperson and members of any committee making decisions on behalf of the WSU Foundation. A Party Related to a Responsible Person includes his or her extended family (including spouse, ancestors, descendants and sibling, and their respective spouses and descendants), an estate or trust in which the Responsible Person or any member of his or her extended family has a beneficial interest or a fiduciary responsibility, or an entity in which the Responsible Person or any member of his or her extended family is a director, trustee or officer or has a financial interest. An “Interest Adverse to the WSU Foundation” includes any interest in any contract, transaction or other financial relationship with the WSU Foundation, and any interest in an entity whose best interests may be impaired by the best interests of the WSU Foundation including, without limitation, an entity providing any goods or services to or receiving any goods or services from the WSU Foundation, an entity in which the WSU Foundation has any business or financial interest, and an entity providing goods or services or performing activities similar to the goods or services or activities of the WSU Foundation.

Disclosure

If a Responsible Person is aware that the WSU Foundation is about to enter into any transaction or make any decision involving a conflict of interest (a “Conflicting Interest Transaction”) such person shall: (i) immediately inform those charged with approving the Conflicting Interest Transaction on behalf of the WSU Foundation of the interest or position of such person or any party related to such person; (ii) aid the persons charged with making the decision by disclosing any material facts within the Responsible Person’s knowledge that bear on the advisability of the WSU Foundation entering into the Conflicting Interest Transaction; and (iii) not be entitled to vote on the decision to enter into such transaction.

Approval of Conflicting Interest Transactions

The WSU Foundation may enter into a Conflicting Interest Transaction provided the material facts as to the Responsible Person’s relationship or interest and as to the Conflicting Interest Transaction are disclosed or are known to the Board of Directors or to a committee of the WSU Foundation that authorizes, approves or ratifies the Conflicting Interest Transaction, and the Board of Directors in good faith authorizes, approves or ratifies the Conflicting Interest Transaction by the affirmative vote of a majority of the disinterested Directors on the Board, even though the disinterested Directors are less than a quorum.