

# Utah Tech University Policy

## 102: Board of Trustees: Ethical Responsibilities



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### I. Purpose

- 1.1 To set out the ethical responsibilities of Utah Tech University (“the University”) Board of Trustees members, including those responsibilities related to conflict of interest.
- 1.2 This policy does not establish the general powers and duties of the University Board of Trustees, which are set out in Utah Code §53B-2 (Institutions of Higher Education) and USHE Policy R220.

### II. Scope

- 2.1 This policy applies to all University Board of Trustees members acting in their official capacity as members and in their private capacity in a manner that could affect their official member obligations and responsibilities.

### III. Definitions

- 3.1 **Family:** Includes a spouse, child, or household member.

### IV. Policy

#### 4.1 Ethical Responsibilities

- 4.1.1 Each individual member of the University Board of Trustees shall commit to maintaining the highest ethical conduct. In doing so, the Board of Trustees shall:

- 4.1.1.1 Recognize that its primary duty is to represent the entire

community and state;

- 4.1.1.2 Accept the concept that each member is only one member of an educational team and has no authority except as a member of the Board of Trustees in a legally constituted meeting;
- 4.1.1.3 Assure the opportunity for high quality education for every student, with the fiscal limitations of the University;
- 4.1.1.4 Vote on official actions only in public sessions;
- 4.1.1.5 Maintain the confidentiality of privileged information, including complying with GRAMA;
- 4.1.1.6 Delegate authority to the President to execute policies established by the Board of Trustees and serve as the Board of Trustees executive and professional advisor and confine the Board of Trustees action to policy determination, planning, overall approval and evaluation, and maintaining the fiscal stability of the University;
- 4.1.1.7 Ensure an atmosphere in which controversial issues can be presented fairly and in which the dignity of each individual is maintained;
- 4.1.1.8 Support the President in decisions that conform to professional standard and Board of Trustees policy;
- 4.1.1.9 To take action on matters only after having considered the recommendations of the President;
- 4.1.1.10 Recognize that members are public officers under the Utah Public Officers' and Employees' Ethics Act, and avoid circumstances in which financial or other ties to outside entities could present an actual, potential, or apparent conflict of interest or impair the University's reputation.

4.1.2 The Board of Trustees affirms its responsibilities to:

- 4.1.2.1 Encourage all employees, by group representation of employees, to avail themselves of all administrative remedies and procedures before requesting Board of Trustees

involvement;

- 4.1.2.2 Except in unusual circumstances, follow channels for communication, whereby requests for material from employees for any Board of Trustees action will be transmitted to the Board through the President and that members will request information and action through the President.

## 4.2 Conflict of Interest

- 4.2.1 No policy statement can address specifically every conceivable situation that might create a conflict of interest.
- 4.2.2 Members should avoid any actions or situations that might result in or create the appearance of using their association with the University for private gain, according unwarranted preferential treatment to any outside individual or organization, losing independence or impartiality, or adversely affecting the University's reputation or public confidence in its integrity.
- 4.2.3 For the purposes of this policy, a conflict of interest is presumed to arise when the University has or is considering a transaction or other business relationship with a member or a member's family or with an outside entity in which the member or member's family has a material interest. An interest is presumed to be material if it entails:
  - 4.2.3.1 Any ownership or investment interest (including stock, options, debt, a partnership interest, or any other ownership or investment interest) valued at more than \$2,000;
  - 4.2.3.2 Receipt of non-dividend compensation (including salary, consulting fees, royalty payments, or other remuneration) of more than \$2,000 in the past year, or the expectation of such compensation in the future;
  - 4.2.3.3 A position of real or apparent authority in an outside entity, such as director, officer, trustee, partner, agent, or employee.
- 4.2.4 A member is not deemed to have a material interest in a publicly traded entity only by reason of an investment in that entity by another publicly traded entity, such as through a mutual fund, of

which the member does not control investment decisions.

- 4.2.5 A conflict of interest may also arise when a member or member's family has or is considering an investment in an entity, such as a fund or partnership, that is not publicly traded and in which the University has or is considering an investment. Because such parallel investments may create at least an appearance that the member is benefiting from the University's participation in the entity, members should promptly disclose to the Board of Trustees any material interest in any such entity in which the member otherwise knows the University has or is considering an investment.

### 4.3 Disclosure of Interests

- 4.3.1 A member who has a known potential conflict of interest, including a material interest, in a pending or proposed transaction or business arrangement involving the University shall promptly disclose to the Board of Trustees the existence of the interest and other material information that the member may have regarding the transaction or arrangement.
- 4.3.2 Each member shall annually sign and submit to the University's Office of General Counsel a signed statement disclosing all relevant details of potential conflicts of interest, including material interests, known to the member, of the member or of the member's family, in any outside entity with which the member knows the University has or is considering a transaction or other business relationship, or affirming that the member knows of no such interest.
- 4.3.2.1 If actual or potential conflicts of interest arise after the annual disclosure, the member shall submit disclosure statements as-needed to the University's Office of General Counsel as soon as practicable upon learning of such conflicts.
- 4.3.2.2 This disclosure requirement applies only to those transactions and business dealings of which the member is actually aware. It is recognized that members will not be aware of every transaction and business dealing undertaken by the University as it is a large, complex, and diverse institution which has financial relationships and dealings with numerous individuals, businesses, and other entities.

#### 4.4 Determination of Whether a Conflict of Interest Exists

- 4.4.1 The University's General Counsel shall review annually and as-needed disclosure statements to determine whether a potential conflict of interest, including a material conflict of interest, has been disclosed.
- 4.4.2 In the event that the General Counsel determines that a potential conflict of interest exists either through member disclosure statement or other means, the General Counsel may request additional information from the member in order to determine if a prohibited conflict of interest exists.
- 4.4.3 If the General Counsel preliminarily determines that there is a conflict of interest, it shall be so advised to the member, who shall have the opportunity to remedy the conflict through recusal or other appropriate means, or address the issue with the Board of Trustees.
- 4.4.4 If a conflict of interest determination is referred to the Board of Trustees, either following review by the General Counsel or if disclosure is made in the first instance to the Board of Trustees (for example where a member becomes aware of a possible conflict of interest during or just before a meeting of the Board of Trustees), unless the member elects recusal, the member shall address the issue with the Board of Trustees and the Board of Trustees shall decide whether a conflict of interest exists by a majority of the vote.
  - 4.4.4.1 The Board of Trustees may question the interested member.
  - 4.4.4.2 The Board of Trustees may request the legal advice and/or conflict of interest findings of the General Counsel during this deliberation.
  - 4.4.4.3 The interested member shall leave the Board of Trustees meeting while the disinterested members determine whether the interest gives rise to a conflict of interest.
  - 4.4.4.4 If the Board of Trustees determines that no conflict of interest exists, the interested member may rejoin the meeting and participate fully in the discussion of and vote on the proposed transaction or arrangement.

## 4.5 Consideration of Matters Involving Conflicts of Interest

- 4.5.1 If the Board of Trustees determines that a member has a conflict of interest in a matter being considered, the Board of Trustees may permit the interested member to make a presentation regarding the matter, but the interested member shall be required to leave the meeting prior to the discussion of, and the vote on, the proposed transaction.
  - 4.5.1.1 The interested member shall not vote on the matter before the Board.
  - 4.5.1.2 The Board shall approve the transaction or arrangement only upon a finding, by a majority vote of the disinterested members, that the transaction or arrangement is in the University's best interest, is for the University's benefit, and is fair and reasonable to the University. The Board may engage such consultants as it deems necessary or useful to assist in the determination of these issues.
- 4.5.2 Whenever the Board holds a meeting at which a member's potential conflict of interest in a matter is disclosed, a determination regarding the existence of a conflict of interest is made, or a transaction or arrangement with respect to which a member has a conflict of interest is considered, the Board's consideration of these issues shall be considered pursuant to the provisions of the Utah Open and Public Meetings Act and shall be reflected in the minutes of the meeting.

## 4.6 Gifts

- 4.6.1 Members shall not encourage or accept gifts, favors, or gratuities for themselves or their family members, from any individual or entity that to the member's knowledge has, or seeks to have, a business relationship with the University. This does not include meals and activities which are part of official meetings or activities.

## 4.7 Appropriation of University Opportunities

- 4.7.1 If a member becomes aware of a business, investment, or other potentially valuable opportunity that rightfully belongs to the University, and not the member individually or another entity with which the member is affiliated, the member shall bring the

opportunity to the attention of the Board.

#### 4.8 Confidentiality

4.8.1 Members may not use confidential information acquired as a result of service to the University for any purpose unrelated to University business, or provide such information to any third party, without the consent of the Board. Wrongful use of University information includes, but is not limited to, use or disclosure of information to engage, invest, or otherwise participate in any business, project, venture, or transaction other than through the University.

#### 4.9 Actions Not Void or Voidable

4.9.1 No transaction or action undertaken by the University shall be void or voidable by reason of having been undertaken in violation of this policy or the principles set forth herein.

#### 4.10 Reporting to the Utah Attorney General

4.10.1 All conflicts of interest disclosures shall be reported to the Office of the Utah Attorney General, including all conflicts of interest approved by the Board.

### V. References

- 5.1 [USHE Policy R120](#) (Bylaws of the State Board of Regents)
- 5.2 [USHE Policy R122](#) (Board Conflict of Interest Policy)
- 5.3 [USHE Policy R220](#) (Delegation of Responsibilities to the President and Board of Trustees)
- 5.4 Utah Code §53B-2 (Institutions of Higher Education)
- 5.5 Utah Code §63G-2 (GRAMA)
- 5.6 Utah Code §63G-6a-2304 (Utah Procurement Code)
- 5.7 Utah Code §67-16-1 (Utah Public Officers' and Employees' Ethics Act)
- 5.8 Utah Code §76-8-105 (Utah Criminal Code—Receiving or Soliciting a Bribe by a Public Servant)

**VI. Procedures – N/A**

**VII. Addenda – N/A**

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Policy Owner: President  
Policy Steward: General Counsel

History:

Approved: Spring 1995

Revised 03/13/2020

Editorial 07/01/2022