

New Mexico Highlands University Foundation  
Conflict of Interest Policy

The New Mexico Highlands University Foundation (hereafter, the 'Foundation'), a private, not-for-profit, IRS 501(c)(3) organization dedicated to the support of New Mexico Highlands University (hereafter, the 'University'), seeks to be aware of and properly address all real and potential conflicts of interest, and appearances of a conflict of interest. This conflict of interest policy is designed to help directors, officers, employees and volunteers of the Foundation identify situations that present potential conflicts of interest and to provide the Foundation with a procedure to appropriately manage conflicts in accordance with legal requirements and the goals of accountability and transparency in Foundation operations.

1. **Conflict of Interest Defined.** In this policy, a person with a conflict of interest is referred to as an "interested person." For purposes of this policy, the following circumstances shall be deemed to create a Conflict of Interest:
  - a. A director, officer, employee or volunteer, including a board member (or family member of any of the foregoing) is a party to a contract, or involved in a transaction with the Foundation or University for goods or services.
  - b. A director, officer, employee or volunteer, (or a family member of any of the foregoing) has a material financial interest in a transaction between the Foundation or University and an entity in which the director, officer, employee or volunteer, or a family member of the foregoing, is a director, officer, agent, partner, associate, employee, trustee, personal representative, receiver, guardian, custodian, or other legal representative.
  - c. A director, officer, employee or volunteer, (or a family member of the foregoing) is engaged in some capacity or has a material financial interest in a business or enterprise that competes, potentially may compete, or may have an adversarial interest with the Foundation or University. This may include a material interest in a not-for-profit organization.

Other situations may create the *appearance of a conflict*, or present a *duality of interests* in connection with a person who has influence over the activities or finances of the Foundation. All such circumstances should be disclosed to the board or staff, as appropriate, and a decision made as to what course of action the organization or individuals should take so that the best interests of the Foundation are not compromised by the personal interests of stakeholders in the Foundation.

Gifts, Gratuities and Entertainment. Accepting gifts, entertainment or other favors from individuals or entities can also result in a conflict or duality of interest when the party providing the gift/entertainment/favor does so under circumstances where it might be inferred that such action was intended to influence or possibly would influence the interested person in the performance of his or her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value which are not related to any particular transaction or activity of the Foundation or the University. As of the date of acceptance of this policy, 'nominal or insignificant value' is typically considered to be less than \$50.

## **2. Definitions.**

- a. A "Conflict of Interest" is any circumstance described in Part 1 of this Policy.
- b. An "Interested Person" is any person serving as an officer, employee or member of the Board of Directors of the Foundation, whether voting or ex-officio, or a major donor to the Foundation or anyone else who is in a position of control over the Foundation who has a personal interest that is in conflict with the interests of the Foundation or the University.
- c. A "Family Member" is a spouse, parent, parent-in-law, child or child-in-law, brother, sister, or brother- or sister-in-law of an interested person.
- d. A "Material Financial Interest" in an entity is a financial interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect an Interested Person's or Family Member's judgment with respect to transactions to which the entity is a party.
- e. A "Contract or Transaction" is any verbal, written, or de facto agreement or relationship involving the sale or purchase of goods or services, the providing or receipt of a loan or grant, the establishment of any other type of financial relationship, or the exercise of control over another organization. The making of a gift to the Foundation is not a Contract or Transaction.

## **3. Procedures.**

- a. Prior to Board action on a Contract or Transaction involving a Conflict of Interest, a director or committee member having a Conflict of Interest and who is in attendance at the meeting shall disclose all facts material to the Conflict of Interest. Such disclosure shall be reflected in the minutes of the meeting. If board members are aware that staff or other volunteers have a conflict of interest, relevant facts should be disclosed by the board member or by the

interested person him/herself if invited to the board meeting as a guest for purposes of disclosure.

- b. A director or committee member who plans not to attend a meeting at which he or she has reason to believe that the board or committee will act on a matter in which the person has a Conflict of Interest shall disclose to the chair of the meeting all facts material to the Conflict of Interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.
- c. A person who has a Conflict of Interest shall not participate in or be permitted to hear the board's or committee's discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.
- d. A person who has a Conflict of Interest with respect to a Contract or Transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote.
- e. The person having a conflict of interest may not vote on the Contract or Transaction and shall not be present in the meeting room when the vote is taken, unless the vote is by secret ballot. Such person's ineligibility to vote shall be reflected in the minutes of the meeting. For purposes of this paragraph, a member of the Board of Directors of the Foundation has a Conflict of Interest when he or she stands for election as an officer or for re-election as a member of the Board of Directors.
- f. Interested Persons who are not members of the Board of Directors of the Foundation, or who have a Conflict of Interest with respect to a Contract or Transaction that is not the subject of Board or committee action, shall disclose to their supervisor, or the President, or the President's designee, any Conflict of Interest that such Interested Person has with respect to a Contract or Transaction. Such disclosure shall be made as soon as the Conflict of Interest is known to the Interested Person. The Interested Person shall refrain from any action that may affect the Foundation's participation in such Contract or Transaction.

In the event it is not entirely clear that a Conflict of Interest exists, the individual with the potential conflict shall disclose the circumstances to his or her supervisor or the President or the President's designee, who shall determine whether full board discussion is warranted or whether there exists a Conflict of Interest that is subject to this policy.

- 4. **Confidentiality.** Each director, officer, employee and volunteer shall not disclose confidential information acquired in connection with disclosures of conflicts of interest or potential conflicts, which might be adverse to the interests of the Foundation. Furthermore, directors, officers, employees and volunteers shall not disclose or use information relating

to the business of the Foundation or the University for their personal profit or advantage or the personal profit or advantage of their Family Member(s).

**5. Review of policy.**

- a. Each director, officer, employee and volunteer shall be provided with and asked to review a copy of this Policy and to acknowledge in writing that he or she has done so.
  
- b. Annually each director, officer, employee and volunteer shall complete a disclosure form identifying any relationships, positions or circumstances in which s/he is involved that he or she believes could contribute to a Conflict of Interest. Such relationships, positions or circumstances might include service as a director of or consultant to another nonprofit organization, or ownership of a business that might provide goods or services to the Foundation or the University. Any such information regarding the business interests of a director, officer, employee or volunteer, or a Family Member thereof, shall be treated as confidential and shall generally be made available only to the President, the Executive Director, and any committee appointed to address Conflicts of Interest, except to the extent additional disclosure is necessary in connection with the implementation of this Policy.
  
- c. This policy shall be reviewed annually by each member of the Board of Directors. Any changes to the policy shall be communicated to all staff and volunteers.

**Basic Conflict of Interest Disclosure Form [insert date]**

Date: \_\_\_\_\_

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

Position (employee/volunteer/member of Board of Directors): \_\_\_\_\_

Please describe below any relationships, transactions, positions you hold (volunteer or otherwise), or circumstances that you believe could contribute to a conflict of interest between the New Mexico Highlands University Foundation and New Mexico Highlands University and your personal interests, financial or otherwise, whether that conflict may be real, perceived, or potential:

\_\_\_\_\_ I have no conflict of interest to report

\_\_\_\_\_ I have the following actual or potential conflict of interest to report (please specify other nonprofit and for-profit boards you (and your spouse) sit on, any for-profit businesses for which you or an immediate family member are an officer or director, or a majority shareholder, and the name of your employer and any businesses you or a family member own):

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

Please describe any other information, relationships, or engagements that may appear to create conflict of interest:

I hereby certify that the information set forth above is true and complete to the best of my knowledge. I have reviewed, and agree to abide by, the Policy of Conflict of Interest of [Name of Nonprofit].

Signature: \_\_\_\_\_

Date: \_\_\_\_\_