

NYU LANGONE MEDICAL CENTER

POLICY ON TRUSTEE CONFLICTS OF INTEREST

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I. Applicability

This Policy applies to trustees of the Medical Center (“Trustees”). All capitalized terms shall have the meaning set forth in Section VI below.

II. General Policy

A. Trustees have a primary obligation to serve the purposes to which the Medical Center is dedicated. As part of this obligation, each Trustee has a duty to conduct his or her Medical Center duties and the affairs of the Medical Center in a manner that promotes the best interests of the organization and that complies with legal and regulatory requirements. Trustees have a duty to disclose on an ongoing basis any current, proposed or pending situations that may be a Conflict of Interest.

B. A “**Conflict of Interest**” means any circumstance in which the personal, professional, financial, or other interests of a Trustee (including his or her Immediate Family) may potentially or actually diverge from, or may be reasonably be perceived as potentially or actually diverging from, his or her obligations to the Medical Center and the interests of the Medical Center. A Conflict of Interest may exist whenever an independent observer might reasonably question whether the Trustee’s actions or decisions are determined by considerations of personal benefit, whether financial or otherwise. Any business transaction which involves the Medical Center and the Trustee, a member of his or her Immediate Family, or an entity in which he or she has a Material Interest gives rise to a Conflict of Interest. Examples of Conflicts of Interest are set forth in Section VII below. This Policy applies to any circumstance that may constitute a Conflict of Interest, regardless of whether it is specifically described in this policy.

C. The Medical Center does not enter into any Related Party Transactions or other business transactions with Trustees, members of their Immediate Family, or entities in which any Trustee has a Material Interest, and does not engage in any other matter which gives rise to a potential Conflict of Interest. An exception to this Policy may be made only when the Audit and Compliance Committee of

the Board of Trustees determines that extraordinary circumstances merit an exception as provided in Section IV (B) below.

D. The Audit and Compliance Committee of the Board of Trustees (the “Audit and Compliance Committee”) will oversee the implementation of this Policy.

III. **Procedures for Disclosure**

A. **Disclosure – General on Appointment and Annually thereafter** - Trustees must submit a general disclosure questionnaire upon appointment, annually thereafter, and upon request by the Conflicts of Interest Management Unit (the “CIMU”) with the Office of Internal Audit, Compliance & Enterprise Risk Management. In the applicable general disclosure questionnaire, a Trustee must certify compliance with this Policy and disclose all entities in which he or she holds a Material Interest which he or she reasonably believes does or may do business with the Medical Center or competes or may compete with the Medical Center. All disclosures require detailed answers. The Trustee must disclose any entity in which the Trustee and/or any member of his or her Immediate Family:

- (i) has a director, officer, or trustee position;
- (ii) has a family or business relationship with a trustee, corporate officer, Key Employee or other employee of the Medical Center;
- (iii) has a direct business relationship with the Medical Center or any of the Medical Center’s competitors;
- (iv) is a grantor or recipient of funding to or from the Medical Center; or
- (v) is a Related Party in a Related Party Transaction with the Medical Center.

The general disclosure questionnaire will be provided to each Trustee by the CIMU and must be completed and returned within thirty (30) days of receipt and prior to the first meeting of the Board of Trustees (or a Committee thereof) following his or her appointment or reappointment. Trustees may also be required to disclose additional personal interests, activities and relationships as mandated by regulatory requirements (e.g., IRS Form 990).

B. **Disclosures – Periodic Updates between Submissions**. Trustees have an ongoing obligation throughout the year to disclose anticipated Conflicts of Interest, as well as to disclose Conflicts of Interest of which they may not have been initially aware.

C. **Specific Disclosures** - Trustees must disclose to the CIMU any specific situation that gives rise to a potential Conflict of Interest involving the Trustee.

D. **Confidentiality** - All disclosures will be kept confidential and divulged by the Medical Center solely for review under this Policy on a need-to-know basis or as required by applicable laws and regulations.

IV. **Procedures for Review and Evaluation**

A. **CIMU Initial Review**. The CIMU is responsible for reviewing each disclosure received from any Trustee and for determining whether a potential Conflict of Interest exists under the circumstances. In cases where the CIMU believes that a Conflict of Interest exists, the CIMU will submit the matter to the Audit and Compliance Committee for review in accordance with this Policy.

B. **Audit and Compliance Committee Review**. The Committee is responsible for reviewing and evaluating each potential Conflict of Interest involving a Trustee submitted to it by the CIMU. As a

matter of policy, if the Committee finds that a Conflict of Interest exists, and for any Related Party Transactions, the Medical Center will not approve the matter unless the Committee has made a determination that the transaction is fair, reasonable, and in the Medical Center's best interest and the Committee determines, after reviewing all material facts, that extraordinary circumstances merit an exception. The Committee shall also adopt a plan for managing, reducing, or eliminating the Conflict of Interest which is fully consistent with the best interests of the Medical Center. In addition, for Related Party Transactions, the Committee must, prior to the Medical Center entering into the transaction, (1) consider alternatives to the transaction to the extent available; (2) approve the transaction by not less than a majority vote of the Committee members present at the meeting; and (3) contemporaneously document in writing the basis for the Committee's approval, including its consideration of alternative transactions. Any management plan will depend upon the facts and circumstances of the specific matter. The Committee must report to the Board of Trustees all findings it makes arising from its review and evaluation responsibilities under this Policy.

V. **Recusal**

No Trustee shall be present or participate in the deliberation or vote on the matter giving rise to their own potential Conflict of Interest, or attempt to influence improperly the deliberation or voting on the matter. In such event, the Trustee must recuse himself or herself from participation in the deliberation and vote of the matter and notify the CIMU as provided under Section III(B) above.

VI. **Definitions**

A. **"Conflict of Interest"** shall have the meaning ascribed to it in Section II(B) above.

B. **"Immediate Family"** means the Trustee's spouse, ancestors, domestic partner, children (whether natural or adopted), parents, grandchildren and great-grandchildren, siblings (whether whole or half-blood), or equivalents by marriage, or other individuals residing in the person's household.

C. **"Key Employee"** means any person who is in a position to exercise substantial influence over the affairs of the Medical Center, as defined in 26 U.S.C. § 4958(F)(1)(A) and 26 CFR § 53.4958-3(c), (d), and (e), including but not limited to the executive leadership of the Medical Center as defined from time to time by the Dean and CEO of the Medical Center.

D. A **"Material Interest"** in an entity is held when a Trustee and/or a member of his or her Immediate Family (a) is, or was in the preceding twelve (12) months, a director, trustee, partner, officer or senior executive in the entity or (b) has, or had in the preceding twelve (12) months, a financial interest of any kind in the entity which, in view of all the circumstances, is substantial enough that it might affect, or reasonably be perceived to affect, the Trustee's judgment with respect to transactions between the Medical Center and the entity, or (c) is, or has been in the preceding twelve (12) months, a Related Party. A "financial interest" includes all forms of direct and indirect compensation, remuneration, ownership or control of the entity.

E. **"Related Party"** means a Trustee, a member of his or her Immediate Family, or any entity in which a Trustee or a member of his or her Immediate Family has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

F. “**Related Party Transaction**” means any transaction, agreement or any other arrangement in which a Trustee or a member of his or her Immediate Family is a Related Party and in which the Medical Center or any affiliate thereof is a participant, as such definition may be interpreted by the New York State Attorney General’s Office.

VII. Examples of Conflicts of Interest

The following are situations that give rise to a Conflict of Interest and require disclosure to the CIMU in accordance with this Policy. This list is by no means all-inclusive. In case of uncertainty as to whether or not a Conflict of Interest exists, a Trustee should disclose the matter to the CIMU. Some potential Conflicts of Interest occur when:

A. A Trustee or a member of his or her Immediate Family has a Material Interest in an entity or vendor that the Medical Center is contemplating doing business with (e.g., the Medical Center is contemplating purchasing or selling of goods, services, or real estate, or making or receiving a loan to or from such individual or entity, or is contemplating accepting a grant from such individual or entity for sponsored research).

B. A Trustee or a member of his or her Immediate Family proposes that the Medical Center use or purchase goods in which the Trustee has a proprietary interest (e.g., a Trustee advocates the use of a device designed by a member of the Trustee’s Immediate Family).

C. A Trustee, a member of his or her Immediate Family, or any entity in which he or she has a Material Interest engages in competition with a service the Medical Center offers (e.g., by working for an organization which competes directly with the Medical Center or appropriating or diverting a business or financial opportunity that the Trustee knows the Medical Center is pursuing).

D. A Trustee, a member of his or her Immediate Family, or any entity in which he or she has a Material Interest recruits any Medical Center faculty member or employee or solicits business which knowingly disturbs, or could be expected to disturb, the existing professional or business relationships of the Medical Center with any faculty member, employee, health care provider or referral source.

E. A Trustee proposes that the Medical Center hire or contract with a member of his or her Immediate Family for a position or activity that is within the Board of Trustees’ direct supervision or control. The employment of a Trustee’s Immediate Family with the Medical Center must be in accordance with NYU’s *Policy on the Employment of Members of the Same Family*.

F. A Trustee solicits or accepts a gift, favor, loan or anything of monetary value from a contractor, vendor, patient, co-worker, volunteer or other person seeking a benefit from the Medical Center if the offer or acceptance of the gift, favor or loan could be viewed by an independent observer as intending to influence the Medical Center to act favorably toward the person or entity and except as specifically provided in the Medical Center’s *Policy on Acceptance and/or Solicitation of Gifts or Benefits From Vendors, Patients and Others*.

G. A Trustee uses any assets, property or labor of the Medical Center to his or her personal advantage.

H. A Trustee discloses or uses any non-public information obtained in the course of discharging his or her duties and responsibilities at the Medical Center to his or her personal advantage.

I. A Trustee or a member of his or her Immediate Family is the controlling owner of a company with which the Medical Center is considering engaging in a Related Party Transaction.

J. A Trustee or a member of his or her Immediate Family has any ownership interest in a start-up company that is seeking to license intellectual property rights from the Medical Center.

VIII. **Enforcement**

Violations of this Policy are subject to corrective action up to and including termination of association with the Medical Center in accordance with the policies and procedures applicable to Trustees.

IX. **Questions**

Any questions relating to this Policy should be directed to the Office of Legal Counsel or the CIMU.

X. **Restatement**

This Policy and the Medical Center's *Policy on Conflicts of Interest in Business Affairs* replace the Medical Center's *Conflict of Interest Policy* dated March 18, 2004, as updated April 23, 2009.