

WAITAKERE COLLEGE

Section F (NAG 6) LEGISLATIVE COMPLIANCE

Policy: Conflicts of Interest

Date of Review: August 2020

Reviewers: Finance Sub-Committee, Principal

Goal

The Board and employees have the responsibility to exercise their best care, skill and judgement for the sole benefit of the School. Those persons shall exercise the utmost good faith in all transactions involved in their duties, and shall not use their positions or knowledge gained for their personal benefit. The interests of the School must be the first priority in all decisions and actions.

Definition

- 1 A conflict of interest arises where a Trustee or employee of the School has an interest which conflicts, or might conflict, or might be perceived to conflict with the interests of the School. The key question to ask when considering whether an interest may create conflict is:

“Does the interest create an opportunity to act in a way which may not be in the best interests of the School?”

If the answer is yes, a conflict of interest exists. The existence of the incentive is sufficient to create a conflict. Whether or not the appointee would actually act on the incentive is irrelevant.

- 2 The Board agrees that this Policy will be provided to all new trustees. The policy will be available to all employees to identify actual or potential conflicts of interest that may exist within the School.

Types of Conflicts of Interest

- 3 A conflict of interest may arise in the relations of Trustees and employees with any of the following third parties:

- Persons and firms with whom the School is dealing or planning to deal with in connection with supplying goods and services to the School;
- Persons and firms from whom the School leases property and equipment;
- Persons and firms with whom the School is dealing or planning to deal with in connection with the purchase or sale of real estate or other property;
- Agencies, organisations, and associations which affect the operations of the School;
- Close family members
- Any secondary employment should be declared as a conflict of interest.

A conflict of interest may take a number of forms. It may be financial or non-financial. It may be direct or indirect. It may be professional or family related. Such an interest may arise through:

- Owning shares or holding debt or other proprietary interests in any third party dealing with the School;
- Holding office, serving on the Board, being part of management or being otherwise employed (or formerly employed) with any third party dealing with the School;

- Receiving remuneration for services with respect to individual transactions involving the School;
- Using the School's time, personnel, equipment, supplies or goodwill for other than the School's approved activities, programmes and purposes.
- Receiving personal gifts from third parties dealing with the School, except gifts of a value less than \$50, which could not be refused without discourtesy. No personal gift of money should ever be accepted.

Disclosure of Conflict

- 4 The fact that an interest, as described in section 5, exists does not necessarily mean that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material, that upon full disclosure of all relevant facts and circumstances it is necessarily adverse to the School.

However, it is the policy of the Board that the existence of any of the interests described in section 5 shall be disclosed before any transaction is authorised. It shall be the continuing responsibility of the Board and employees to scrutinise their transactions and outside business interests and relationships for potential conflicts and to immediately make such disclosures.

Procedure for managing Conflicts of Interest

- 5 Key elements of systems for recording and managing conflicts of interest are:

Recording Conflicts of Interest

- A conflicts of interest register containing information in relation to each trustee and employee and their related parties. Information should include names and descriptions of the relationship between the related parties.

Related parties include the following;

- spouse, domestic partner, children
- any company or organisation of which the trustee/employee is a board member, officer, trustee, partner, participates in management or are employed by, or are directly or indirectly, a debt holder or the beneficial owner of any class of equity securities.

The Board shall update its register as often as it considers it needs to keep the register accurate – every 6-12 months.

Managing Conflicts of Interest

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- Regular agenda item to ascertain at Board meetings whether any trustee or employee has a potential conflict related to any specific agenda item.
- The trustee or employee is excluded from the discussion and approval of any issue where there is a declared interest. (Education Act, Schedule 6, clauses 8-11)
The withdrawal should be noted on each occasion in the Minutes.
- The trustee or employee is not permitted to participate in any vote on issues relating to the declared interest. The abstention should be noted in the Minutes.
- Where a trustee has a declared interest in a transaction exceeding \$25,000, the Board must seek approval from the Secretary of Education prior to entering into the contract. If such approval is not obtained the trustee is disqualified from being a trustee of the Board. (Education Act, s103A).
- A competitive tender process has been undertaken for any transaction where a trustee/employee has a declared interest.

- Where a related party of a trustee or employee applies for a position at the School, the trustee or management employee must declare their interest and take no part in the recruitment process.
- A trustee or employee who is in a position to influence the management or promotion of a staff member, who is a related party, must declare their interest and take steps to ensure that no conflict of interest arises.

Chairperson

Principal

Date