

## ETHICS INCLUDING CONFLICTS OF INTEREST

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As appointed officials, members of the Utah Board of Higher Education (“Board”) are “public officers” under Utah Code section 67-16-3(13)(a)(i)(A) and, as such, are subject to standards of conduct in areas where there are actual or potential conflicts of interest between their public duties and their private interests. These ethics standards are outlined in Utah law and Board Policy R122.

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## RELEVANT LAW AND POLICY

- [Utah Code Title 67, Chapter 16, Utah Public Officers’ and Employees’ Ethics Act](#)
  - [Board Policy R122, Board Conflicts of Interest Policy](#)
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## STATUTORY DEFINITIONS

- [Utah Code § 67-16-3](#)

**Controlled, private, or protected information** means information classified as controlled, private, or protected by the [Utah Government Records Access and Management Act](#) or other applicable law.

**Substantial interest** means the ownership, either legally or equitably, by an individual, the individual’s spouse, or the individual’s minor children, of at least 10% of the outstanding capital stock of a corporation or a 10% interest in any other business entity.

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## GENERAL DUTIES

- [Utah Code § 67-16-4](#)
- [Board Policy R122-4](#)

A Board member has a duty to comply with Utah laws, particularly regarding ethics and conflicts of interest, and shall not:

- Accept employment or engage in any business or professional activity that they might reasonably expect would require or induce them to improperly disclose controlled information that they have gained by reason of their official position;
- Disclose or improperly use controlled, private, or protected information acquired by reason of their official position or in the course of official duties to further substantially their personal economic interest or to secure special privileges for themselves or others;
- Use or attempt to use their official position to further substantially their personal economic interest or to secure special privileges or exemptions for themselves or others;
- or
- Accept other employment that they might expect would impair their independence of judgment in the performance of their public duties or interfere with the ethical performance of their public duties.

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### CONFLICTS OF INTEREST

- [Utah Code § 67-16-9](#)

A Board member shall not have personal investments in any business entity, which will create a substantial conflict between the Board member's private interests and their public duties.

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### GIFTS, COMPENSATION, AND LOANS

- [Utah Code §§ 67-16-5 and 6](#)
- [Board Policy R122-4](#)

A Board member shall not knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:

- That would tend to improperly influence a Board member's position to depart from the faithful and impartial discharge of their public duties;
- That the Board member knows or should know under the circumstances is primarily for the purpose of rewarding the Board member for official action taken; and/or
- If the Board member recently has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender, unless the Board member submits a disclosure of the gift, compensation, or loan with other relevant information as outlined below.

This prohibition does not apply to:

- An occasional non-financial gift with a value of \$50 or under;

- An award publicly presented in recognition of public services;
- Any bona fide loan made in the ordinary course of business; or
- A political campaign contribution.

A Board member may not receive or agree to receive compensation for assisting any person or business entity in any transaction involving a Utah state agency, including the Utah Board of Higher Education, the Utah Education Savings Board of Trustees, my529, or any USHE institution, before filing a disclosure as outlined below.

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## RECUSAL

- [Board Policy R122-4](#)

A Board member shall recuse themselves from any discussion and vote on a matter that involves any business entity to which they are officers, directors, or employees or in which they own a substantial interest.

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## DISCLOSURE STATEMENTS

- [Board Policy R122-4 and 5](#)

A Board member shall submit a disclosure statement in the following circumstances:

1. If the Board member is an officer, director, employee, or owner of a substantial interest that exceeds \$2000 in any business entity that is or may be involved in any transaction with the Utah Board of Higher Education, the Utah Education Savings Board of Trustees, My529, or any USHE institution.

**What:** The Board member's position in the entity and the precise nature and value of the Board member's interest in the entity.

**When:** Upon first becoming a Board member; whenever the Board member's position in the business entity changes significantly; and if the value of the Board member's interest in the entity increases significantly.

2. If the Board member recently has been, is now, or in the near future may be involved in a governmental action directly affecting a donor or lender.

**What:** All relevant facts underlying the government action, the Board member's involvement with it, and how it affects the donor or lender.

**When:** Within 10 days of the date of the transaction.

3. If the Board member has been offered or is seeking compensation for assisting any person or business entity in any transaction involving a Utah state agency, including the Utah Board of Higher Education, the Utah Education Savings Board of Trustees, My529, or any USHE institution.

**What:** All relevant facts underlying the transaction, including the amount of compensation.

**When:** Within 10 days after the date of any agreement between the Board member and the person or entity being assisted or within 10 days of the receipt of compensation, whichever is early.

Disclosure Statements shall be:

- Made on the Disclosure Statement Form;
- In writing and signed under oath; and
- Submitted to the Board Secretary according to the above-listed timeframes.

The Board Secretary shall file a Disclosure Statement with:

- The Commissioner's office;
- The Attorney General's Office; and
- The head of the agency with which the transaction is being conducted if the disclosure if the Board member has been offered or is seeking compensation for assisting a person or entity in a transaction involving a Utah state agency.

Disclosure statements are classified as public.

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## PENALTIES

- [Utah Code § 67-16-12](#)

A Board member who knowingly and intentionally violates the law and/or policy may be removed from office and may be subject to criminal penalties.

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## QUESTIONS

Board members may refer questions about ethics, conflicts of interest, or disclosure statements to General Counsel Alison Adams.

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