

**UCF STADIUM CORPORATION
BOARD OF DIRECTORS
CONFLICT OF INTEREST POLICY AND DUTY TO DISCLOSE**

Policy# SC - 03

Effective Date: 10-01-2019

Responsible Department: Board Treasurer

1. PURPOSE

The purpose of the conflicts of interest policy is to protect the UCF Stadium Corporation's (Corporation) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director, committee member, or anyone who is in a position to exercise substantial influence over the Corporation. This policy is intended to supplement, but not replace, any applicable state laws governing conflicts of interest applicable to nonprofit corporations.

This policy also serves as a process to protect individual officers, directors, and key employees from exposure to excess benefit penalties. These penalties are imposed on disqualified persons of tax-exempt organizations if such individual directly or indirectly receives an excess benefit from a transaction with the tax-exempt organization. Penalties may also be assessed against individuals who approve the transaction. (See IRS website information on Intermediate Sanctions): [IRS website](#)

2. APPLICABILITY

This policy applies to all **interested persons** as defined in this policy.

3. POLICY

The Corporation values both excellence and integrity in serving the purposes to which the University of Central Florida is dedicated. In order to promote these values, the Corporation aspires to ensure that both actual and perceived conflicts of interest are avoided. Therefore, the Corporation has established the following conflict of interest policy for its directors, officers, committee members, and employees.

4. DIRECTORS, OFFICERS, AND KEY EMPLOYEES

The directors, officers, committee members, and key employees of the Corporation are chosen to serve the purposes to which the Corporation is dedicated. These persons have a duty to conduct the affairs of the Corporation in a manner consistent with such purposes and not to advance their personal interests. This conflict of interest policy is intended to permit the Corporation and its directors, officers, committee members, and key employees to identify, evaluate, and address any real, potential, or apparent conflicts of interest that might, in fact or in appearance, call into question that person's duty of loyalty to the Corporation.

A. **Duty to Disclose.** In connection with any actual or possible conflict of interest, an interested person (as defined below) must disclose the existence and nature of his or her financial interest and must be given the opportunity to disclose all material facts, to the directors and members of the Board Governance Committee for consideration of the proposed transaction or arrangement. An interested person shall disclose a conflict of interest: (a) prior to voting on or otherwise discharging their duties with respect to any matter involving the conflict which comes before the board or any committee; (b) prior to entering into any contract or transaction involving the conflict; (c) as soon as possible after the interested person learns of the conflict; and (d) on the Annual Disclosure form.

B. **Approval of Contracts and Transactions Involving Potential Conflicts of Interest.** An interested person who has or learns about a potential conflict of interest should disclose promptly to the Chair of the Board Governance Committee and the Corporation's CFO the material facts surrounding any potential conflict of interest, including specific information concerning the terms of any contract or transaction with the Corporation. All effort should be made to disclose any such contract or transaction, and have it approved by the committee before the arrangement is entered into.

Following receipt of information concerning a contract or transaction involving a potential conflict of interest, the Board Governance Committee shall consider the material facts concerning the proposed contract or transaction, including the process by which the decision was made to recommend entering into the arrangement on the terms proposed. The committee shall approve only those contracts or transactions in which the terms are fair and reasonable to the Corporation and the arrangements are consistent with the best interests of the Corporation. Fairness includes, but is not limited to, the concepts that the Corporation should pay no more than fair market value for any goods or services which the Corporation receives and that the Corporation should receive fair market value consideration for any goods or services that it furnishes others. The committee shall set forth the basis for its decision with respect to approval of contracts or transactions involving conflicts of interest in the minutes of the meeting at which the decision is made, including the basis for determining that the consideration to be paid is fair to the Corporation including any comparability data used to make such determination.

C. **Board Governance Committee.** This policy will be administered and implemented by the Board Governance Committee with the assistance of the Office of Legal Counsel and CFO.

5. **CORPORATION EMPLOYEES POLICY STATEMENT**

Employees of the Advancement Division will avoid any conflict between their personal interests and the interests of the Corporation; furthermore, they will avoid any situation where it would be reasonable for an objective observer to believe that the person's judgment or loyalty might be adversely affected. For purposes of reference to the Corporation this policy is intended to include also reference to all entities controlled or owned in substantial part by the Corporation.

If an employee has any power or influence to approve or disapprove a transaction proposed to be entered into between the Corporation and the employee or between the Corporation and any entity or individual having a significant relationship to that employee, he or she has a potential conflict of interest. An employee with a potential conflict of interest in a particular matter shall promptly and fully disclose the potential conflict to his or her supervisor. The employee shall thereafter refrain from participating in deliberations and discussion, as well as any decisions, relating to the matter and follow the direction of the supervisor as to how the Corporation decisions which are the subject of the conflict will be determined. The CEO shall be responsible for determining the proper way for the Corporation to handle Corporation decisions which involve unresolved employee conflicts of interest. In making such determinations, the Corporation may consult with legal counsel.

An employee also has a potential conflict of interest if that employee, or any entity or individual having a significant relationship to that employee may benefit from information considered by the Corporation to be confidential and learned in his or her capacity as an employee of the Corporation. All Advancement employees are also subject to the Corporation's Conflicts of Interest and Authorizing Expenditures Policy.

6. **DEFINITIONS**

- A. **Board Governance Committee.** The Governance Committee of the Board of Directors is responsible for receiving disclosures of proposed conflict of interest transactions and reviewing proposed conflict of interest transactions as further described in this policy.
- B. **CEO.** The Chief Executive Officer of the UCF Stadium Corporation.
- C. **CFO.** The Chief Financial Officer of the UCF Stadium Corporation.
- D. **Conflicts of Interest.** A conflict of interest will be deemed to exist whenever an individual is in the position to approve or influence Corporation policies or actions which involve or could ultimately harm or benefit financially: (a) the individual; (b) any family member (spouse, domestic partner, grandparents, parents, children, grandchildren, great grandchildren, brothers or sisters (whether whole or half-blood), and spouses of these individuals); or (c) any organization **in** which the board member or a family member is a director, trustee, officer, member, partner or more than 10% of the total (combined) voting power. Service on the board of another not-for-profit corporation does not constitute a conflict of interest.
- E. **Disqualified Person or Insider.** In general, the law defines an insider or a disqualified person as any person who, during the last five years, was "in a position to exercise substantial influence over the affairs of the organization." The regulations define categories of persons who are deemed to be Insiders per se, those who are deemed not to be Insiders, and those who may or may not be Insiders depending on whether the "facts and circumstances" show that the person has substantial influence over the affairs of the organization. Per se Insiders include, among others:

- i. Voting Board Members;
 - ii. President, chief executive officer, or chief operating officer; and
 - iii. Treasurer or chief financial officer.
- F. **Entity (for purposes of this policy).** A corporation, partnership, unincorporated association, or any similar group.
- G. **Excess Benefit Transaction.** An excess benefit transaction is a transaction in which an economic benefit is provided by an applicable tax-exempt organization, directly or indirectly, to or for the use of any disqualified person, and the value of the economic benefit provided by the organization exceeds the value of the consideration (including the performance of services) received for providing the benefit.
- H. **Fair Market Value.** The price at which property, or the right to use property, would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy, sell or transfer property or the right to use property and both has reasonable knowledge of relevant facts.
- I. **Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment or family-
 - i. an ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
 - ii. a compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
 - iii. a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.
- J. **Former.** Defined as a period of five years from the end of their term.
- K. **Family Members.** Includes, as applicable, your spouse or domestic partner, ancestors (i.e., parents, grandparents, etc.), children (natural or adopted), grandchildren, great grandchildren, brothers, or sisters (whether whole or half-blood) and spouses of these individuals.
- L. **Interested Persons.** Current officers, directors, key employees, family members of such individuals, 35% owned entities (includes direct or indirect ownership, individual or collectively, by current or former officers, directors, trustees or key employees or their family members). *Note: While former officers, directors, trustees and key employees are not legally considered interested persons, they remain subject to possible excess benefit penalties for a five-year period after they end their service with the Corporation.*

M. **Key Employees.** Those individuals identified by the Corporation as meeting the definition of Key employee for purposes of Form 990 reporting.

N. **Significant relationship.** Exists as to an entity if a person is director, trustee, officer, or employee of, a partner or member in, or has a financial interest in, the entity in question. A significant relationship exists as to an individual if that individual is a family member of a person subject to this policy.

7. PROCEDURES

Annual Disclosure Form. In order to assist the Corporation in identifying proposed conflicts of interest interested persons as defined in the policy will complete the Corporation's Annual Disclosure form provided by the Corporation and will update such form promptly as necessary to reflect changes during the course of the year. *Note: Former directors, officers and key employees may also be asked to complete certain disclosure information required to complete the Corporation's annual Form 990 filing with the IRS*

The disclosure form affirms such person:

- i. has received a copy of the conflicts of interest policy;
- ii. has read and understands the policy;
- iii. has agreed to comply with the policy; and
- iv. understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes

Completed forms will be returned to the CEO and will be subject to review by the CEO, CFO, Board Governance Committee, and legal counsel, as well as by any outside legal counsel or consultants who may be appointed to advise the Board Governance Committee.

8. DISCLOSURE, REFRAIN FROM INFLUENCE, AND RECUSAL

When an interested person becomes aware of a proposed conflict of interest transaction, he or she will have a duty to take the following actions:

- i. immediately disclose the existence and circumstances of such conflict of interest transaction to the Chair of the Governance Committee and to the Corporation's CFO;
- ii. refrain from using his or her personal influence to encourage the Corporation to enter into the conflict of interest transaction; and
- iii. physically recuse themselves from participation in any discussions regarding the conflict of interest transaction with officials of the Corporation, at meetings of the board of directors, and with other members of the Corporation community, except to respond to requests for information about the conflict of interest transaction. An interested person may make a presentation at the committee meeting, but after the presentation, he or she shall leave the meeting during the

discussion of and the vote on the transaction or arrangement that results in the conflict of interest.

9. BOARD GOVERNANCE COMMITTEE PROCESS FOR ADDRESSING THE CONFLICT

- A. For transactions less than \$100K the committee may delegate the approval and due diligence to the CEO and CFO of the Corporation. For transactions \$100K and greater the committee will address the transaction.
- B. The chairperson of the committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- C. After exercising due diligence, the committee shall determine whether the Corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest. Comparability data shall be reviewed and discussed. It is the Corporation's general policy that for any contract or payment of \$100,000 or greater, the Corporation requires three written responsive bids, quotes, or requests for proposals from separate individuals or companies. For additional information please see the Corporation's Purchases Greater than 100K Policy.
- D. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the board or committee shall determine by a majority vote of the disinterested committee members whether the transaction or arrangement is in the Corporation's best interest and for its own benefit, and whether the transaction is fair and reasonable to the Corporation. The board or committee shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.
- E. Each agreement with an interested person should contain an appropriate provision permitting the agreement to be modified or terminated in the event that the Internal Revenue Service determines that any transaction that is the subject of the agreement is an excess benefit transaction within the meaning of §4958 of the Internal Revenue Code.
- F. For purposes of this policy, a disinterested person is one who is not an interested person with respect to the transaction, who is not in an employment or other financial relationship with any disqualified person with respect to the transaction, and who does not have any other material financial interest that may be affected by the transaction.

10. **Employee Conflicts.** An employee who has a potential conflict of interest covered by this policy will immediately disclose the potential conflict in writing to the employee's Corporation supervisor who in turn should inform the Corporation CEO and Corporation legal counsel.
11. **Violations of the Conflicts of Interest Policy.** If the board has reasonable cause to believe that an interested person failed to disclose actual or possible conflicts of interest, it shall investigate the alleged failure to disclose. If the board determines the interested person failed to disclose an actual or possible conflict of interest in accordance with this policy, **it** shall take appropriate disciplinary and corrective action.
12. **Correction of an Excess Benefit Transaction.** A disqualified person corrects an excess benefit transaction by repaying the amount of the excess benefit, with interest, to the Corporation and by taking any additional measures necessary to place the Corporation in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards. If an underlying agreement is in effect, then that agreement must be modified with respect to future payments. The Corporation shall also report such transaction to the IRS in the year **in** which such transaction is identified and corrected.
13. **Records of Proceedings.** The minutes of the board and all committees with board authority shall contain-
 - i. the names of the persons who disclosed or otherwise were found to have a financial interest in connection with a transaction or arrangement, and the nature of the financial interest; and
 - ii. the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith. Please see the Corporation's Minutes Policy.
14. **Periodic Review.** To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted to ensure compliance with this policy.

NOTE: The information contained in this document is intended to be used for UCF Stadium Corporation internal policy guidelines only and cannot be used for the purpose of tax reliance or tax advice related to IRS or any other federal or state regulations.

15. **CLARIFICATION**

Requests for clarification of this policy should be sent to the Legal Department

Adoption Date: Board of Directors on October 1, 2019