



# NORTHERN ILLINOIS UNIVERSITY FOUNDATION

## ***CODE of CONDUCT POLICY***

The NIU Foundation exists to energize and connect the private sector with the NIU community to secure and steward resources that support the future and growth of Northern Illinois University. As a matter of fundamental principle, the directors, volunteers, and staff of the NIU Foundation will adhere to the highest ethical standards at all times as they carry out this mission. All staff and volunteers of the NIU Foundation will act with honesty, integrity and openness in all their dealings. The NIU Foundation will promote an environment that values respect, fairness and integrity. It is the expectation that directors fulfill their responsibilities and carry out their duties in a manner that inspires and assures confidence of fellow directors, officers, donors, alumni, NIU staff, and all others with whom the Foundation interacts.

### **Duties of Care, Loyalty and Obedience**

#### **1. Duty of Care**

Directors owe the Foundation a duty of care. This duty requires directors to be informed about the affairs of the Foundation and to exercise such duty with the care that a person in a like position would reasonably believe appropriate under similar circumstances, and to do so in a manner that the director reasonably believes to be in the best interest of the Foundation. At a minimum, a director should regularly attend meetings, be prepared for meetings, and ask questions and request information adequate to allow informed and prudent decision-making. A director should stay reasonably knowledgeable and abreast of the Foundation's affairs, mission, operations, finances, and transactions.

Directors may rely on information, opinions, reports, or statements, including financial statements prepared or presented by:

- Officer or employees of the Foundation whom the director reasonably believes to be reliable and competent in the functions performed;
- Legal counsel, public accountants or other persons as to matters which the directors or officers believe to be within such person's professional or expert competence or merits confidence; or
- A committee of the board or advisory committee upon which they do not serve, as to matters within its designated authority, which committee the directors or officers believe merits confidence

Directors are asked to act in good faith and with the degree of diligence, care and skill which an ordinarily prudent person would exercise under similar circumstances in like positions.

Separate but related policies ***Business Travel Oversight, Compensation, Contract Approval, Endowment Management, Investment Management***, should be reviewed by all Directors.

## 2. **Duty of Loyalty**

Directors owe the Foundation a duty of loyalty. The duty of loyalty requires a director to exercise his or her duties in a manner that furthers the interest of the Foundation rather than his or her personal interest or another person or organization. Matters relating to this duty include: conflicts of interest, confidentiality, and business opportunity.

### ***Disclose Conflicts***

Because a director must act in the best interest of the Foundation and not for personal or third-party gain or financial enrichment, it is necessary that the director disclose any facts that may cause the director to be unable or appear to be unable to fully fulfill his or her duty of loyalty. The Foundation has a ***Conflict of Interest Policy*** that guides reporting and the determination of any actual or potential conflict. In addition to the completion of a required ***Annual Disclosure Statement***, this policy requires circumstances that may suggest a conflict or the appearance of a conflict be immediately disclosed in writing to the Chair of the Board. As circumstances arise, the director should disclose any actual or potential conflict when the Board (or a committee) considers a business transaction. When encountering potential conflicts of interest, director(s) will identify the conflict and, as required, remove him or herself (recuse) from voting on the matter. Remember, having a conflict of interest is not necessarily a violation, but failing to disclose the conflict is.

Once a conflict is identified the following steps should take place to manage the conflict:

- a) The interested director must disclose the conflict of interest to the entire board of directors of the Foundation.
- b) The board should obtain independent information to determine what the terms of a comparable arms-length transaction would be. Using this information, the board can confirm whether the interested director's proposal is fair to the Foundation. This step may require the board to request bids or quotes from other suppliers or appraisals from independent parties or any other independent information that provides a basis of comparison between the interested director's proposal and a proposal from a disinterested person.
- c) The Foundation Board should prohibit participation by the interested director in the discussions about and voting on the transaction, which is best ensured by not allowing the interested director to be present during the discussion and voting process or he or she should "recuse" him/herself. However, the board may want to ask questions of the interested director before the discussion.

### ***Confidentiality***

A director may receive information that is deemed confidential and proprietary to the Foundation. Directors must exercise good judgment and care at all times to avoid unauthorized or improper disclosures of confidential information. A director shall not knowingly disclose confidential information gained by reason of information shared at a board meeting, including details about property, operations, personnel, policies and affairs of the Foundation. Directors shall not use confidential information to advance any personal interest, financial or otherwise. Any question as to whether any information is confidential or proprietary should be addressed to the Chair of the Board. A ***Confidentiality Statement*** is signed by Board members and staff annually.

### ***Business Opportunity***

A director is obligated to refer to the Foundation, those business opportunities appropriate for the Foundation prior to using them for his or her personal benefit. For example, a director desiring to purchase a parcel of real property that by its nature or location might be of interest to the Foundation is required to permit the Foundation the opportunity to acquire the property prior to purchasing it personally. If a full disclosure of the opportunity is made and the Foundation declines to act, the director is then free to pursue the transaction for his or her own advantage.

## **3. Duty of Obedience**

A director owes the Foundation a duty of obedience. This duty requires directors to carry out the Foundation's mission, ensure gifts are managed and used in accordance with donor intent, comply with applicable laws and regulations governing directors' responsibilities, and adhere to the governing documents and policies of the Foundation. There are a variety of state and federal laws that apply to the Foundation and it is the responsibility of each director to reasonably participate in monitoring the Foundation's compliance.

### ***Record Retention Policy***

The Foundation is committed to effective record retention to preserve its history, meet legal standards, efficiently use its available storage space, moderate the cost of record retention, and ensure that outdated and records without any material purpose are destroyed. Depending upon the type of record, an appropriate length of time for retention has been established to ensure compliance with legal requirements. Records relevant to foreseeable or pending judicial or administrative investigations or proceedings are preserved until the actions are concluded. The Foundation's ***Record Retention Policy*** should be reviewed by all directors. Any questions about this policy or any known or suspected violation should be reported to the Chair of the Board or the Executive Committee.

### ***Non-Acceptance of Gifts and Other Payments to a Director***

It should always be the intention of a director to avoid situations involving the appearance of undue influence or impropriety. No director shall suggest to a Foundation donor, potential donor, or to any person who has or desires a business relationship with the Foundation that a gift be made to or for such director's benefit. Except for non-cash seasonal gifts, gifts from relatives, other non-cash gifts of nominal value (less than \$100), or meals and social invitations that are in keeping with good business ethics and do not obligate the recipient, a director and his or her immediate family members (defined for this purpose as a spouse or domestic partner, parents, children, siblings and in-laws) may not accept commissions, gifts, payments, entertainment, services, loans or promises of future benefits from any person or entity relating to such director's service to the Foundation. A director should always use best judgment and consider how accepting a gift would appear to others. Even gifts of nominal value may not be accepted if they become frequent or are conditional. Full disclosure of any item falling outside the exceptions above should be made to the Chair of the Board. A director should seek the guidance of the Chair of the Board if any question regarding the applicability of this provision arises. In the event the Chair of the Board needs to report a gift or to seek guidance on the applicability of this provision, he or she should seek guidance from the Chair of the Audit Committee.

### ***Investments***

Directors have a duty not to engage in any investment activity that conflicts with the Foundation's interests and a duty not to derive personal financial benefit through the use of special knowledge or privileged information acquired through service as a director. A director is responsible for making sure that his or her relationship with or investments in other companies do not cause a real or apparent conflict between his or her personal interests and those of the Foundation.

### ***Political and Lobbying Activity***

As a 501(c)(3) organization, the Foundation is strictly prohibited from supporting candidates for political office and participating or intervening in political campaigns. A director may in his or her personal capacity individually support a candidate or engage in political campaigns but in no way should such support or engagement be presented (or possibly construed) as conducted on behalf of the Foundation or in his or her capacity as a director. Violating this prohibition could result in the loss of the Foundation's tax exempt status and punitive excise taxes.

There are laws and regulations specifying the extent to which a 501(c)(3) organization may engage in legislative lobbying. "No substantial part" of the Foundation's activities may consist of carrying on propaganda or otherwise attempting to influence legislation ("lobbying"). Generally speaking, the IRS considers "legislation" to include action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items, or by the public in referendum ballot initiatives, constitutional amendments, or similar procedures. A director should never lobby on behalf of the Foundation or in his or her capacity as a director without first discussing with and seeking approval of the Executive Committee.

### ***Duty to Report Misconduct and Prohibit Retaliation (Whistleblower Policy)***

The Foundation requires each director, volunteer, and employee to observe high standards of business and personal ethics in the conduct of his or her duties and responsibilities. Each director, volunteer, and employee of the Foundation has an obligation to report questionable or improper accounting or auditing matters, or violations and suspected violations of this Code of Conduct. Federal laws prohibit all corporations, including nonprofits, from retaliating against employees who “blow the whistle” on such matters. The Foundation has a zero-tolerance policy towards interference with, or retaliation for, reporting suspected misconduct. The Foundation’s ***Whistleblower Policy*** is intended to encourage and enable any director, volunteer, or employee to raise concerns within the Foundation for investigation and appropriate response. With this goal in mind, no director, volunteer, or employee who, in good faith, reports a concern shall be subject to retaliation or, in the case of an employee, adverse employment consequences. Moreover, a director, volunteer or employee who retaliates against someone who has reported a concern in good faith is subject to discipline up to and including dismissal from the volunteer position or termination of employment.

### ***Suspected Financial, Auditing or Other Improprieties***

If a director becomes aware of or has a reasonable, good faith belief that the Foundation may be involved in illegal activity or if a director suspects any impropriety regarding the Foundation’s accounting methods, internal controls, audit processes or any other financial matter, the director should immediately notify the Chair of the Board, or the Chair of the Audit Committee, who will promptly investigate and treat as confidential, to the extent possible, any such report. Following investigation, the Board will take such action as it determines appropriate under the circumstances.

### ***Reporting of Violations of this Code***

If a director violates or thinks he or she has violated any provision of this Code of Conduct, or if a director observes, learns of, or in good faith believes it is possible that another director has violated any provision of this Code of Conduct, that director must immediately report the actual or suspected violation to the Chair of the Board or to the Executive Committee. The Board will promptly investigate and treat as confidential, to the extent possible, all reported violations. Following investigation, the Board will take such action as it determines appropriate under the circumstances.

The Foundation’s governing documents and the policies applicable to director responsibilities and duties are available on the Board portal. Any questions about this Code of Conduct or the policies or governing documents referenced herein, should be addressed to the Foundation Secretary.

***\*\*This Code of Conduct contains broad principles and is not intended as a stand-alone policy; it will be reviewed periodically to maintain the Foundation as an organization that gives ethical conduct the highest priority.***