

POLICY: CONFLICT OF INTEREST

J PAUL TAYLOR ACADEMY

www.jaultayloracademy.org

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I. PURPOSE

The purpose of the conflict of interest policy is to protect J. Paul Taylor Academy (JPTA), a New Mexico public charter school, when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a member of the school's Governance Council or an employee of JPTA, or that might result in a possible benefit to a related entity or person. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to charter school governing bodies, public schools, or their employees.

II. DEFINITIONS

1. Conflict of Interest: a conflict arises when a Governance Council member, employee, any member of their immediate family, or their domestic partner, has a financial or familial relationship in or with a person, firm, or company that has been selected by JPTA to receive a contract or lease for goods, services, or real property.
2. Interested Person: any Governance Council member or JPTA employee, who has a direct or indirect financial interest, as defined below, is an interested person.
3. Financial Interest: a person has a financial interest if the person would have/does directly, or indirectly, through business, investment, or family:
 - a. an ownership or investment interest in any entity or third party with which JPTA has a transaction or arrangement;
 - b. a compensation arrangement with JPTA or with any entity or individual with which JPTA has a related transaction or arrangement;
 - c. a potential ownership or investment interest in, or compensation arrangement with,
 - d. any entity or individual with which JPTA is negotiating a transaction or arrangement;
 - e. hold office, serves on the board, participates in management, or is otherwise employed with any third party dealing with JPTA; or
 - f. receives personal gifts, loans or other financial benefits from third parties dealing with JPTA.
4. Family Members: spouses, fathers, fathers-in-law, mothers, mothers-in-law, brothers, brothers-in-law, sisters, sisters-in-law, sons, sons-in-law, daughters, daughters-in-law, or domestic partners are considered to be family members for purposes of this policy.
5. Compensation: compensation includes direct and indirect payment, financial benefit, or remuneration as well as gifts or favors.

III. PROHIBITED TRANSACTIONS

1. Employment of Governance Council Members

Governance Council members and/or their family members may not be employed by JPTA and may not contract with it to provide goods or services for compensation except as provided for pursuant to Section IV of this policy. Members may be reimbursed, however, in accordance with the New Mexico Per Diem and Mileage Act for reasonable expenses incurred (such as travel and training) and which have been given appropriate approval.

2. Participation in Governance Council Action

Governance Council members shall not participate in the selection, award, or administration of any contract, if the JPTA Governance Council determines that a real or apparent conflict of interest exists.

3. Employment of Executive Director's Family Members

The JPTA Executive Director shall not initially employ or approve the initial employment in any capacity of a person who is a family member of the Governance Council or the Executive Director. However, after due consideration, the Governance Council may waive the nepotism rule for family members of the Executive Director.

4. Gifts and Favors

Governance Council members and employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements.

5. Prohibited Sales for Employees

Employees may not, directly or indirectly, sell or be a party to any transaction to sell any instructional material, furniture, equipment, insurance, school supplies or work under contract to JPTA. It is not a conflict of interest, however, for employees to contract to perform special services with JPTA during time periods wherein service is not required under a contract for instruction, administration or other employment.

6. Confidential Information

Governance Council members and employees shall not use confidential information acquired by virtue of their association with JPTA for their individual or another's personal gain.

7. Use of School Property

Governance Council members or employees shall not use JPTA time, personnel, equipment, supplies, or good will for personal gain.

IV. PROCEDURES

1. Duty defined

In connection with any actual or potential conflict of interest, a Governance Council member or employee has a duty to and must disclose the nature of the particular interest. The member or employee will be given the opportunity to disclose all material facts to the Governance Council in an open session (if interested person is a Governance Council member) or to the Executive Director (if interested person is an employee).

2. Determination of Conflict – Governance Council Member

With respect to matters before the Governance Council the following process shall be used when determining whether a conflict of interest exists:

- a. The Governance Council member shall disclose the real or potential conflict of interest concerning a pending transaction or matter before the Governance Council to the Chair of the Governance Council, or if the Chair is the one with the conflict, then to the Vice Chair;
- b. The matter shall be brought to the attention of the entire Governance Council during a noticed public meeting;
- c. If the Governance Council determines that there is a real or apparent conflict of interest, the member with the conflict of interest shall not provide input on the transaction or matter or participate in the vote regarding the pending transaction or matter;
- d. The Governance Council when voting on a pending transaction or matter in which it has established that a real or apparent conflict of interest exists, prior to voting on the pending matter or transaction, it must consider:

- i. whether the pending transaction or matter violates any of the prohibited acts set forth in Section III of this policy;
- ii. whether the pending transaction or matter to be considered was solicited by a competitive bid, comparable valuations or other process required by the New Mexico Procurement Code or other governing procurement rules; and
- iii. whether the pending transaction or matter if approved, would be in the best interest of JPTA.

3. Determination of Conflict – Employee

With respect to matters affecting employees, the Executive Director shall use the following process when determining whether a conflict of interest exists:

- a. The employee must disclose in writing the real or potential conflict of interest concerning a pending transaction or matter to the Executive Director. If the Executive Director has the real or potential conflict of interest, consideration of whether a conflict exists must be presented to the Governance Council and the procedure outlined in Section IV. 2. of this policy shall be followed.
- b. The Executive Director shall make a written determination explaining why they determined that there was/was not a conflict of interest.
- c. If the Executive Director determines there is an actual or apparent conflict of interest, prior to approving the transaction or pending matter, the Executive Director shall consider:
 - i. whether the pending transaction or matter violates any of the prohibited acts set forth in Section III of this policy;
 - ii. whether the transaction to be considered was solicited by a competitive bid, comparable valuations or other process required by the New Mexico Procurement Code or other governing procurement rules; and
 - iii. whether the pending transaction or matter if approved, would be in the just, fair and in the best interest of JPTA.

The employee will have the opportunity to discuss the Executive Director's determination of whether a conflict of interest exists and the consequences of the Executive Director's determination. If the employee is not satisfied with the Executive Director's determination, s/he may use the employee grievance process.

- d. The Executive Director shall advise the Governance Council of any actual conflict of interest of an employee in matters or transactions relating to JPTA business.

V. Violations of the Conflict of Interest Policy

1. Governance Council Members

- a. If the Governance Council has reasonable cause to believe that a member has knowingly failed to disclose actual or possible conflicts of interest, the Chair or Vice-Chair of the Governance Council shall inform the member of the basis for such belief and afford the individual the opportunity to explain the alleged failure to disclose. All such discussions shall take place in an open meeting.
- b. If after hearing the member's response and after making further investigation as warranted by the circumstances, the Governance Council determines that the member has knowingly failed to disclose an actual or possible conflict of interest, the Governance Council shall take appropriate disciplinary and corrective action, which may include up to removal from the Governance Council and such other actions required by law.

2. Employees

- a. If the Executive Director has reasonable cause to believe that an employee has knowingly failed to disclose actual or possible conflicts of interest, the Executive

Director shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.

- b. If after hearing the employee's response and after making further investigation as warranted by the circumstances, the Executive Director determines the person has failed to disclose an actual or possible conflict of interest, the Executive Director shall take appropriate disciplinary and corrective action, which may include up to discharge, termination, and such other actions required by law.
 - i. Disciplinary action for licensed employees will be carried out in accordance with the JPTA Collective Bargaining Agreement. However, circumstances with legal ramifications may require immediate action without following the steps of progressive discipline.

VI. RECORDS OF PROCEEDINGS

1. Governance Council

a. The minutes of the Governance Council shall contain:

- i. The names of the persons who disclosed or otherwise were found to have a personal or financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Governance Council's decision as to whether a conflict of interest in fact existed.
- ii. The names of the persons who were present for discussions and votes relating to the matter, transaction, or arrangement, the content of the discussion, including any alternatives to the proposed matter, transaction or arrangement, and a record of any votes taken in connection with the proceedings.

2. Employees

a. The Executive Director shall ensure that appropriate documentation of the employee's response and the ultimate determination are retained by JPTA.

VII. ANNUAL DISCLOSURE STATEMENTS

Every employee and Governance Council member shall annually sign a statement that affirms such person:

1. has received a copy of the Conflict of Interest Policy
2. has read and understands the policy, and
3. has agreed to comply with the policy.

VIII. INTERPRETATION OF THIS STATEMENT OF POLICY

Conflicts might arise in other areas or through other relations not specifically described in this policy. It is assumed that the Governance Council members and employees will recognize such areas. The fact that one of the interests described in this policy 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 interests of JPTA. However, it is the policy of the JPTA Governance Council that the existence of any of the interests described in this policy shall be disclosed before any transaction is completed. It shall be the continuing responsibility of the Governance Council, its members and JPTA employees to scrutinize their transactions and outside business interests and relationships for potential conflicts and to immediately make such disclosures.