

**DUKE UNIVERSITY BOARD OF TRUSTEES  
EXECUTIVE COMMITTEE  
COMPENSATION AND FINANCIAL BENEFITS**

**POLICIES AND PROCEDURES**

*Revised November 4, 2022*

1. Purpose. The purpose of these Policies and Procedures is compliance by the University with the requirements of Section 4958 of the Internal Revenue Code. These Policies and Procedures are intended to be integrated with other similar policies and procedures of the University dealing with conflicts of interest and other legal requirements. These Policies and Procedures are to be interpreted in accordance with the legislative history of Section 4958 and with the Treasury Regulations promulgated thereunder.
  
2. Basic Objective: Employees. Except as stated otherwise herein, all compensation and other financial benefits for University employees who are Disqualified Persons (as defined below) are to be approved in advance of payment or agreement for payment by the Executive Committee of the Board of Trustees. If action is required relating to compensation and other financial benefits for Disqualified Persons before the Executive Committee can next meet, a subcommittee on compensation as specified in the bylaws is authorized to take such required action; all actions of the subcommittee will be reported to the Executive Committee at its next meeting. All proposals for compensation changes that will be brought to the Executive Committee or the subcommittee will be reviewed in advance by the chief human resources officer (or the chief human resources officer's designee) and the appropriate member of the Office of University Counsel, to ensure inclusion and analysis of market data and alignment with requirements under IRS guidelines.
  
3. Basic Objective: Non-Employees. All fees, commissions, purchase price payments and other financial benefits for consultants, other independent contractors or sellers of goods or services to the University who are Disqualified Persons are to be approved in advance of payment or agreement for payment by the Executive Committee or by designated University officers acting in conformity with guidelines established by the Executive Committee.
  
4. Disqualified Persons. A disqualified person is one who is currently being paid by Duke and is in, or has been in during the past five years, a position to exercise substantial influence over the affairs of the organization. The term also includes family members and affiliates of such individuals. The following persons are to be treated as Disqualified Persons for purposes of these Policies and Procedures, and for the five year period following such treatment:
  - a. Members of the Board of Trustees of the University;
  - b. President, Chancellor for Health Affairs, Provost, Executive Vice President, and Vice President of Finance;
  - c. Any persons who have or share authority to control or determine approximately ten percent or more of the organization's capital expenditures, operating budget or

- d. Any persons who manage a discrete segment or activity of the organization that represents approximately ten percent or more of the activities, assets, income or expenses of the organization, as compared with the organization as a whole;
  - e. Any Family Member (as defined below) of any person described in a-d above; and
  - f. Any Affiliate (as defined below) of any person described in a-d above.
5. Identification of Disqualified Persons. It shall be the responsibility of the Secretary of the University to maintain a current listing of the persons described in items a-f of Paragraph 4. The listing shall be furnished no less often than annually by the Secretary to the persons described in items a-d of Paragraph 4. Such listing shall be accompanied by a copy of these Policies and Procedures and by a transmittal memorandum advising such persons that each is responsible for determining the identity of that person's Family Members and Affiliates and for advising the Chairman of the Executive Committee or the University Counsel of any proposed transaction between the University (or any University-controlled organization) and a Family Member or Affiliate.
6. Family Member. The following persons are to be treated as a Family Member of a person described in Paragraph 4 for purposes of these Policies and Procedures:
- a. Ancestors;
  - b. Child;
  - c. Grandchild;
  - d. Great-grandchild;
  - e. Sibling (whether whole or half-blood) of the individual and his or her spouse;
  - f. Spouse; and
  - g. Spouse of any child, grandchild or great-grandchild.
7. Affiliate. The following organizations are to be treated as an Affiliate of a person described in Paragraph 4 for purposes of these Policies and Procedures:
- a. A corporation in which persons described in Paragraph 4 individually or collectively own directly or indirectly more than 35 percent of the total combined voting power;
  - b. A partnership or limited liability company in which persons described in Paragraph 4 individually or collectively own actually or constructively more than 35 percent of the profits interest; and
  - c. A trust or estate in which persons described in Paragraph 4 individually or collectively own actually or constructively more than 35 percent of the beneficial interest.
8. Individuals Who Are Not Disqualified Persons. Annually the Executive Committee will be provided a listing of the total base compensation of:
- a. those individuals who are not Disqualified Persons but whose total base compensation is or exceeds \$750,000;
  - b. those individuals who are not Disqualified Persons but serve as Officers of the University; and
  - c. those individuals who are not Disqualified Persons but serve as Vice Presidents or Vice Chancellors of the University or Deans of the Colleges and Schools of the

University.

Compensation and other benefits that are approved by the DUHS, Duke CE or the DUMAC compensation committees will be reported to the Executive Committee at its next meeting.

The President, in consultation with the Chair of the Executive Committee of the Board of Trustees, may from time to time determine that it is appropriate to seek the prior approval of the Executive Committee in connection with the payment or agreement for payment of certain highly compensated individuals who are not Disqualified Persons.

9. Approval of Compensation: Employees. The Executive Committee shall approve in advance the compensation and other financial benefits which are paid or provided by the University to all University employees who are Disqualified Persons of the University and adequately document the basis for its determination. Except in the case of DUMAC, INC., DUHS and Duke CE employees (whose compensation and benefits are reviewed and approved by the DUMAC, INC. Executive Committee, DUHS Compensation Committee and the Duke CE board) the Executive Committee shall review and approve the compensation practices of any University-controlled organization that makes payments to a Disqualified Person of the University who is an employee of the University and a University-controlled organization. The DUMAC, INC. Executive Committee, the DUHS Compensation Committee and the Duke CE board shall report its determinations to the Executive Committee at the Executive Committee's June meeting. The aggregate compensation and benefits provided to any employee of the University and University-controlled organization must be reasonable in light of the facts and circumstances, including, without limitation, the person's training, responsibilities, tenure and history of service to the University and the prevailing compensation of persons employed in similar positions by business, governmental or non-profit organizations of the size or complexity of the University. Compensation shall be determined by reasonably current and appropriate data as to comparability (e.g. compensation levels paid by similarly situated organizations, both taxable and tax-exempt, for functionally comparable positions; the location of the organization, including the availability of similar specialties in the geographic area; independent compensation surveys by nationally recognized independent firms; or actual written offers from similar institutions competing for the services of the disqualified person) secured by the University for such purposes. It is the intention of the University that all payments to employees by the University or a University-controlled organization, whether salary, retirement benefits, fringe benefits or otherwise, shall be compensation for services rendered. In evaluating the reasonableness of compensation and benefits, all compensation and benefits paid or provided by the University and any University-controlled organization shall be taken into account.
10. Approval of Compensation: Non-Employees. Any transaction that has an aggregate value of \$500,000 between the University and a Disqualified Person who is not an employee of the University or a University-controlled organization, and any transaction involving a Trustee or a Family Member or Affiliate of a Trustee, regardless of amount, shall be approved in advance by the Executive Committee or, if the Disqualified Person in question is a member of the Executive Committee or a Family Member or Affiliate of a

member of the Executive Committee, by a subcommittee of the Executive Committee which consists of all members of the Executive Committee except that Disqualified Person. If the transaction in question is one that is applicable on the same terms to all members of the Executive Committee, such as the provision of complementary tickets for athletic events, such transaction must be approved by University Counsel as other than an “excess benefit transaction” within the meaning of Section 4958 of the Internal Revenue Code.

Any transaction that has an aggregate value of \$500,000 or less between the University and a Disqualified Person who is not an employee of the University or University-controlled organization (other than a Trustee or a Family Member or Affiliate of a Trustee) shall be approved in advance by the President, pursuant to guidelines adopted from time to time by the Executive Committee.

In approved transactions of the type described in this Paragraph 10, approval shall be granted only if the value of the economic benefit provided to the Disqualified Person equals or is less than the value of the goods or services provided by the Disqualified Person in the transaction, taking into account all facts and circumstances existing at the time the transaction is approved.

12. Basis for Approvals. The Executive Committee or the designated University officer that is to approve all transactions under these Policies and Procedures, as appropriate, shall be provided by the University Counsel or Secretary of the University with data assembled by University personnel or consultants that support the reasonableness of the compensation or other financial benefit proposed to be provided to a Disqualified Person. Such data shall be retained in a confidential manner by the University Counsel or the Secretary of the University for a period of seven (7) years after payment of the compensation or benefit in question.
13. Interpretation. The University Counsel shall be responsible for advising the Executive Committee and University officers as to the appropriate interpretation of these Policies and Procedures.