



MICHIGAN STATE UNIVERSITY  
**BOARD OF TRUSTEES**  
Executive Action Summary

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**Committee Name:** Audit, Risk and Compliance

**Date:** October 25, 2024

**Agenda Item:** Revisions to BOT 103, *Board of Trustees - Conflict of Interest Policy*

**Information**

**Review**

**Action**

**Resolution:**

BE IT RESOLVED that the Board of Trustees hereby approves revisions to BOT 103, *Board of Trustees – Conflict of Interest Policy*, as indicated in Attachment A.

**Recommendation:**

The Trustee Committee on Audit, Risk, and Compliance recommends that the Board of Trustees approve revisions to BOT 103, *Board of Trustees Conflict of Interest Policy*, as indicated in Attachment A.

**Prior Action by BOT:**

Board of Trustees Policy 103, *Conflict of Interest Policy*, was last amended in May 2020.

**Responsible Officers:**

Stefan Fletcher, Secretary and Chief of Staff to the Board of Trustees

Brian Quinn, Vice President for Legal Affairs and General Counsel

Marilyn Tarrant, Associate Vice President and Chief Audit, Risk, and Compliance Officer

**Summary:**

Board of Trustees (BOT) Policy 103, *Conflict of Interest Policy*, was previously revised in May 2020. The revisions proposed for adoption as part of this policy action are as follows:

- Added definitions of a trustee’s fiduciary duty to the university, including the duties of care, loyalty, and obedience, which are individually defined for clarity. A definition of a ‘gift’ has been added to offer further guidance on scope as it pertains to actual or apparent conflicts of interest.
- Added a subsection to further define where indirect financial conflicts of interest may arise.
- Added ‘reasonable observer’ standard to inform the threshold at which the General Counsel determines where a conflict of interest for a trustee arises.

- Adoption of an annual conflict of interest disclosure requirement and a proactive duty for a trustee to disclose any potential conflict of interest if it shall arise at any time
- Clarification that a trustee must recuse from for a conflict of interest or even the appearance of conflict of interest.
- Clarification that a trustee must not be part of a University decision to decline an opportunity (e.g. related to acquiring property, assets, etc.) where the trustee may plan to act on that opportunity in their private or professional capacity if the University decided to decline the opportunity.
- Outline of the expectations that former trustees adhere to upon completion of their terms with respect to confidential information obtained as a board member and the engagement of the University in any new or expanded business relationships.
- Addition of General Counsel to the subsection on violations to inform any review and/or corrective measures that may need to be assessed under the policy.

The policy has also been put into the standard policy template approved by the board at its September 2023 meeting.

**Background Information:**

Board of Trustees Policy 103, *Conflict of interest Policy*, was established in December 2006. The policy outlines provisions that guide board members on what a conflict of interest is and how such conflicts should be managed and/or disclosed. The policy was amended in May 2020 to, among other things, offer further information on how potential violations of the policy would be addressed and its applicability to Trustees Emeriti. Peer benchmarking of other governing boards' conflict of interest policies was conducted for Big Ten universities (including those schools joining the conference in 2024-25) and at institutions in states where there are elected governing boards (Colorado, Nevada, and Nebraska) to inform the recommended policy revisions.

**Source of Funds:**

Not applicable.

**Resource Impact:**

Not applicable.



## Board of Trustees Policy

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**POLICY NUMBER: BOT 103**

**POLICY NAME: Conflict of Interest Policy**

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Effective Date:	<a href="#">October 25, 2024</a>
Last Review Date:	<a href="#">May 15, 2020</a>
Next Scheduled Review Date:	<a href="#">October 2029</a>

### I. POLICY STATEMENT

This policy clarifies the parameters surrounding actual and potential conflicts of interest for members of the Board of Trustees. The policy includes an affirmation of a trustee's fiduciary responsibilities to the University and outlines how actual or potential conflicts of interest are to be managed and disclosed.

### II. RESPONSIBLE OFFICE

The Secretary and Chief of Staff to the Board of Trustees ("Secretary") and the General Counsel are responsible for advising trustees on this policy.

### III. SCOPE

This policy applies to members of the Board of Trustees.

### IV. DEFINITIONS

**Duty of Care:** Requires governing board members to carry out responsibilities in good faith and with the level of diligence, care, and skill which ordinarily prudent persons would reasonably

exercise under similar circumstances in like positions. Accordingly, a board member must act in a manner that they reasonably believe to be in the best interests of the institution.

**Duty of Loyalty:** Requires governing board members to act in good-faith and in a manner that is reasonably believed to be in the interests of the University and its public purposes rather than their own interests or the interests of another person or organization. The governing board member must not act out of expedience, avarice, or self-interest.

**Duty of Obedience:** Requires governing board members to ensure that the University is operating in furtherance of its stated purposes, operating in compliance with the law, and acting in accordance with its own policies and governing documents.

**Fiduciary:** A fiduciary relationship is one of trust or confidence between parties. A fiduciary is someone who has special responsibilities in connection with the administration, investment, monitoring, and distribution of assets of the University, including land, infrastructure, funding, reputation of the institution and its role in the community. Governing board members, as fiduciaries, act in accordance with the duties of care, loyalty, and obedience.

**Gift:** Any gratuity, favor, accommodation, discount, entertainment, hospitality, loan, forbearance, services, training, transportation, lodging, meals, kickback, or other items if there is reason to believe it was given to or received by a trustee or a trustee's family member due to the trustee's official status.

#### **IV. POLICY**

The people of Michigan, through the State Constitution, established the Board of Trustees of Michigan State University and granted the bBoard general supervision of the University. "The Constitution confers upon the Board of Trustees the freedom, power, and responsibility to develop a free and distinguished university and to promote the welfare of mankind through teaching, research and public service." Preamble, Michigan State University Board of Trustees Bylaws. In carrying out its public trust, the Board of Trustees has adopted this policy to enhance public confidence in the bBoard.

1. Fiduciary Responsibilities. Trustees will act in a manner consistent with their fiduciary responsibilities to the University. As fiduciaries, trustees have a duty of care, a duty of loyalty, and a duty of obedience to the University. Trustees will place the University's interests ahead of their private interests. Trustees will exercise their powers and duties in the best interests of the ~~Board and the~~ University and for the public good.

#### 2. Conflict of Interest.

(a) A conflict of interest exists when a ~~t~~Trustee's financial interests or other opportunities for personal benefit may compromise, or reasonably appear to compromise, the ~~t~~Trustee's independence of judgment in fulfilling his/her/their Board-board duties.

(b) A conflict of interest can arise due to the indirect personal financial interests of a ~~t~~Trustee that may occur through relationships with third parties such as a trustee's immediate family, business relationships, fiduciary relationships, professional interests, or investments.

(c) Trustees will ~~endeavor to~~ remain free from the influence of, or the appearance of, any conflicting interest in fulfilling their bBoard duties. Trustees will exercise care that no detriment to the University results from conflicts between their interests and those of the University.

(de) Trustees will ~~attempt to~~ refrain from accepting duties, incurring obligations, or engaging in activities that would be incompatible with, or in conflict with, their ~~Board-board~~ duties.

~~III~~3. Contracts. No ~~t~~Trustee shall have a pecuniary interest, whether direct or indirect, in any contract with the University that would induce or have the potential to induce action on the part of the ~~t~~Trustee to promote the contract for ~~his/her-their~~ own personal benefit.

~~IV~~4. Use of Authority/Information. Trustees will not use their positions, or any privileges or information attendant to their offices, to obtain or provide others with a benefit that is inconsistent with the University's interests.

~~V~~5. Outside Influence. No ~~t~~Trustee will solicit or accept any gift, loan, or other thing of value, or the promise thereof in the future, from anyone outside the University, which would tend to influence improperly the manner in which the ~~t~~Trustee performs ~~his/her-their~~ duties.

~~VI~~6. Competition with University. No ~~t~~Trustee will knowingly compete with the University for any property, asset, or opportunity, which may be of interest to the University, unless the University has been informed of the opportunity on a timely basis and has declined to act on it. ~~If a trustee may plan to act on an~~the opportunity should the University decline to do so, the trustee will not be part of any University decision to decline the opportunity.

~~VII~~7. Diversion of Opportunity. No ~~t~~Trustee will divert to another individual or entity an opportunity which may be of interest to the University, unless the University has been informed of the opportunity on a timely basis and has declined to act on it.

~~VIII~~8. Disclosure of Conflicts. Trustees will sign an annual conflict of interest disclosure statement which certifies that, at the time of signing, the trustee is aware of their affirmative duty to disclose any conflicts of interest and is unaware of any material conflict of interest between their private interests and those of the University at the time of signing. If in the course of their duties a ~~potential~~ ~~Trustee believes that he/she they may have a~~ conflict of interest ~~arises or is notified of a complaint of non-compliance with this Policy,~~ the ~~t~~Trustee shall promptly and fully disclose the details of the potential conflict to the Secretary ~~to the Board of Trustees~~ and shall refrain from participating in any way in the matter to which the conflict relates until the conflict question has been resolved. This recusal is required for an identified conflict of interest or even the appearance of a conflict of interest. The Secretary ~~to the Board of Trustees~~ shall inform the Chair~~person~~ of the Audit, Risk and Compliance Committee, ~~the President,~~ and the General Counsel of all conflict of interest ~~questions-concerns~~ which have been disclosed to the Secretary.

~~9.~~ Trustees Emeriti. Trustees Emeriti must not disclose any privileged or confidential information that they acquired acting as a board member. This provision extends after their term as a board member expires. Trustees Emeriti may not enter into a new or expanded business relationship with the University. This Policy shall apply to Trustees Emeriti for a period of one year following the end of their term of office. This section applies to those trustees who leave the board without obtaining Trustee Emeritus status.

~~XIII~~10. Interpretation. This Policy is to be interpreted and applied in a manner that will best serve the interest of the University.

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## V. PROCEDURES

1. Determining Conflicts. The opinion of the General Counsel ~~will shall~~ be final with regard to determining compliance with this Policy. ~~The General Counsel uses a 'reasonable observer threshold in determining compliance as described below:~~

~~(a) If a reasonable observer, having knowledge of all the relevant facts and circumstances, would conclude that a trustee has an actual or potential conflict of interest in a matter related to the University, then a conflict of interest is determined to exist.~~

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2. Addressing Conflicts. If it is determined that a conflict of interest exists, the Chair ~~person of the Audit, Risk and Compliance Committee, the Secretary to the Board of Trustees,~~ and the General Counsel shall work with the affected ~~t~~Trustee to address the conflict and explore ~~alternative~~ arrangements that would ~~eliminate~~ resolve or manage the conflict. If after reasonable efforts, it is not possible to reach a mutually acceptable alternative arrangement, the transaction shall be prohibited.

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3. Violations. If a ~~t~~Trustee fails to disclose a conflict of interest or a conflict is otherwise discovered after the fact, the matter shall be forwarded to the Office of Audit, Risk and Compliance ~~and General Counsel~~ for review and corrective action.

## VI. RELATED POLICIES AND INFORMATION

This Policy is in addition to any obligations imposed on a ~~t~~Trustee by the State law on conflicts of interest, P.A. 1968, No. 317, MCL 15.321 et seq.

## VIII. HISTORY

Enacted: ~~12/06/2006~~ December 6, 2006

Amended: ~~05/15/2020~~ May 15, 2020  
~~October xx, 2024~~ 09/06/24

Retired Policy No. 01-01-10



Michigan State University

## Board of Trustees

Annual Conflict of Interest Acknowledgement and Disclosure

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The people of Michigan, through the State Constitution, established the Board of Trustees of Michigan State University and granted the board general supervision of the University. "The Constitution confers upon the Board of Trustees the freedom, power, and responsibility to develop a free and distinguished university and to promote the welfare of mankind through teaching, research and public service." Preamble, Michigan State University Board of Trustees Bylaws. In carrying out its public trust, the Board of Trustees has adopted BOT 103, *Board of Trustees Conflict of Interest Policy*, to enhance public confidence in the Board.

I have read the Conflict of Interest Policy (BOT 103) and comply fully with its items and conditions at all times during my service as a trustee. If at any time following the submission of this document, I become aware of any actual or potential conflicts of interest, or if the information provided below becomes inaccurate or incomplete, I will promptly notify the Secretary of the Board of Trustees and follow all requirements mandated in BOT 103 to resolve such a conflict.

### Disclosure of Actual or Potential Conflicts of Interest

1. Do you, or does any member of your immediate family, have a significant financial interest in any entity that does business or, to the best of your knowledge, intends to do business with the University? Yes No

If yes, please describe.

2. Are you a member of the board of directors (or of the governing board if it is not called the board of directors) or of an advisory board of any entity that reasonably could hold the potential for a conflict of interest involving your service as a trustee? Yes No

If yes, please list and describe the nature of the board and entity.

3. Do you (a) own or control, (b) serve as the general partner of, or (c) have a material interest\* in, any entity that reasonably could hold the potential for a conflict of interest involving your service as a trustee? Yes No  
If yes, please list.

\*A "material interest" is a direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity.

**Board of Trustees Member Printed Name:** \_\_\_\_\_

**Board of Trustees Member Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_