

## BOARD OF MANAGERS AND OFFICERS CONFLICT OF INTEREST POLICY

*Adopted by Resolution of the Board of Managers on May 2, 2015*

### I. Purpose

Swarthmore College is a liberal arts institution of higher education that esteems excellence, truth and integrity. Considering the trust and confidence the College places in them, the individuals who serve as Managers of the Board of Managers, as members to the Committees of the Board of Managers, and as Officers of the College owe a strict duty of loyalty to the College. These individuals have a fiduciary responsibility to conduct themselves in accordance with the highest standards of good faith, diligence and due care, and in a manner reasonably believed to be in the best interest of the College, with due regard for the College's reputation. It is therefore the policy of the College and the Board of Managers that all Managers, Officers, and others as specified in *Section III. Covered Persons* below have a duty to disclose all possible conflicts of interest. The Audit and Risk Management Committee is responsible for assessing and managing potential conflicts in accordance with this policy. This Policy is intended to supplement, but not replace, any state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations.

### II. Conflict of interest

A conflict arises when there could be a perceived or actual divergence between a Covered Person's own interests and the fiduciary duty for the Covered Person to act in the best interest of the College. Conflicts may involve the Covered Person's financial as well as non-financial interests, including without limitation any purchase of goods or services by (or from) the college.

### III. Covered Persons

This policy applies to the following persons, whether their role is existing or newly appointed: (1) voting members of the Board of Managers (including Term Managers, Alumni Managers, Young Alumni Managers); (2) Managers Emeriti; (3) Officers as defined in the Bylaws; and (4) non-Managers serving on Committees of the Board of Managers.

### IV. Covered Relationships<sup>1</sup>

This policy applies to transactions or business relationships, whether financial or otherwise, between the College and a Covered Person, or between the College and a *Covered Person's Associate*. A Covered Person's Associate refers to:

- a. Any immediate family member of the Covered Person, including a spouse, parent, sibling, child, stepchild, grandparent, grandchild, in-law, or domestic or civil union partner, or such person claimed as a dependent for federal income tax purposes, and any relative residing in the same household as the Covered Person. There may be other family members as to whom disclosure should also be made to avoid the appearance of a conflict, and the Covered Person shall discuss any such person with the Chair of the Audit and Risk Management

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<sup>1</sup> Guidance for this section of the policy came from the IRS Form 990, Instructions for Schedule L.

Committee to determine whether disclosure is warranted. It is understood that a Covered Person may not know about a Covered Relationship between a person described in this subsection and the College. Once the Covered Person knows or should have known about the Covered Relationship, then the Covered Person's duty to disclose that relationship arises;

- b. Any entity (including, but not limited to, a corporation, association, firm, joint venture, LLC, partnership, limited partnership) in which the Covered Person has a *substantial financial interest*. A substantial financial interest includes any interest, direct or indirect, which a Covered Person and/or the Covered Person's family member (described in subsection a.) own, in the aggregate, more than 35% equity or voting interest in the entity (or a more than 5% ownership interest in the case of a professional partnership or corporation).
- c. Any trust, estate, or other beneficial entity in which the Covered Person has a more than 35% beneficial interest or serves as a trustee or fiduciary;
- d. Any entity in which the Covered Person serves as an officer, director, general partner, trustee, or employee;

#### V. Duty to Disclose, Refrain Influence, and Recusal

Swarthmore College depends on leadership for its continuing ability to attract and retain members of its Board of Managers who are willing to give of their time for its benefit and who have a very wide range of other interests and associations. This vital service should not be rendered impossible because of the possibility of a conflict of interest. Any possible conflict of interest can best be handled through full disclosure, together with an absence of involvement or influence by the Covered Person in any decision in which the interest is involved as follows:

- a. Covered Persons shall have the duty to promptly disclose any known possible conflict of interest (and all related material facts) to the Audit and Risk Management Committee at the time the interest first becomes a matter of consideration by the Board or by any Board committee.
- b. Covered Persons shall annually complete a Conflict of Interest Questionnaire provided by the College, and shall update the Questionnaire promptly as necessary to reflect changes during the course of the year.
- c. Former Board members who are not Managers Emeriti are encouraged but not required to complete the Questionnaire during the one-year period following completion of their terms.
- d. Completed Questionnaires and other disclosures of possible conflicts shall be subject to review by the Audit and Risk Management Committee, the Vice President for Finance and Administration, the Assistant Vice President for Legal Affairs, and any other designees of the Audit and Risk Management Committee, such as other appropriate college personnel or any outside legal counsel and/or

auditors who may be appointed to advise the Audit and Risk Management Committee.

- e. A summary of the completed questionnaire shall be shared annually with the Audit and Risk Management Committee and the Board of Managers. Between reporting periods, all new conflicts shall be reported as they arise to the Chair of the Audit & Risk Management Committee, who will determine if the conflict requires immediate action or can be deferred to the next scheduled meeting of the Committee.
- f. Any Covered Person having a possible conflict of interest in a Covered Relationship must not use personal influence in the matter, must recuse him or herself and leave from committee or Board discussions about the matter, and, if a vote is taken, must not vote thereon nor be counted even in determining the quorum for that portion of the meeting.
- g. This policy should not be construed as preventing a Covered Person from briefly stating his or her position in the matter, nor from answering the questions of Managers, but thereafter the Covered Person shall leave the room where the meeting is taking place.

#### VI. Process for Addressing a Possible Conflict of Interest

- a. Upon disclosure of a Covered Person's possible conflict of interest, the Audit and Risk Management Committee shall determine if a conflict of interest exists by reviewing the Covered Person's interest and all related material facts, and by obtaining any additional information about the transaction or business relationship with the College that the Committee believes may be informative. If the Audit and Risk Management Committee determines that a conflict of interest exists, then the Committee shall determine how to address the conflict.
- b. If the Audit and Risk Management Committee determines that a conflict of interest exists, if need be, the Chair of the Committee may designate a person or persons to investigate whether the transaction or business relationship is at least as beneficial to the College's interests as other viable and comparable alternatives without the potential for conflict. The designated committee shall report its findings to the Audit and Risk Management Committee.
- c. After exercising due diligence in reviewing the findings of the designated committee, the Audit and Risk Management Committee shall determine whether proceeding or continuing with the transaction or business relationship is reasonable in the Audit and Risk Management Committee's judgment and is in the best reputational and financial interest of the College. At the conclusion of its review, the Audit and Risk Management Committee shall make a recommendation to the Chair of the Board, who will then decide to:

- i. Disapprove and disallow the transaction or business relationship;
- ii. Approve the transaction or business relationship, provided that, for the duration of the transaction or business relationship with the College, the Covered Person recuses herself or himself from all relevant discussions and, as appropriate, immediately lapses his or her service to the College (1) as a member of a Board committee, (2) as an Officer of the College, or (3) as a member of the Board (including Emeriti Managers);
- iii. Approve the transaction or business relationship with other restrictions as the Chair of the Board deems appropriate;
- iv. Approve the transaction or business relationship with no restrictions.

In reaching a decision, the Chair of the Board may consult with any individuals deemed appropriate, including but not limited to the chair or members of the affected Board committee(s), appropriate college personnel, outside legal counsel and/or auditors. The Chair of the Board shall report the decision to the Board.

- d. The minutes both of the Board and of the Committee meeting at which the matter is considered shall include the disclosure of the Covered Person's interest, the nature of the interest, that the Covered Person involved took no part in the decision, any action taken to determine whether a conflict of interest in fact existed, and a determination of whether proceeding with the conflict, if found, is reasonable in the Board Chair's judgment and in the best reputational and financial interest of the College.

## VII. Investment Committee Considerations

- a. As a matter of policy, the Investment Committee will not make investments in separately managed accounts, partnerships, commingled funds, or other investment vehicles with investment firms in which a Covered Person, who is a member of the Investment Committee, or the Covered Person's Associate has an ownership interest or employment relationship and the potential to profit directly from such investment.
- b. With respect to a Covered Relationship in which a possible conflict of interest already exists, or arises upon a Covered Person becoming a member of the Investment Committee, the Covered Person involved shall (1) promptly disclose the possible conflict of interest (and all related material facts) to the Chair of the Audit and Risk Management Committee; (2) annually disclose the interest on the Conflict of Interest Questionnaire; and (3) during review of the interest, recuse him or herself from all discussions and decisions about the investment, fund, or account, and shall leave the room where the discussions are taking place. The Audit and Risk Management Committee shall determine if a conflict of interest exists and, if so indicated, shall determine how to address the conflict in accordance with *Section VI. Process for Determining Whether a Conflict of Interest Exists*.

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2014-15 DEFINITIONS

Associate: The term “associate” includes each of the following:

- a. Any immediate family member of the Covered Person, including a spouse, parent, sibling, child, stepchild, grandparent, grandchild, in-law, or domestic or civil union partner, or such person claimed as a dependent for federal income tax purposes, and any relative residing in the same household as the Covered Person<sup>1</sup>
- b. Any entity (including, but not limited to, a corporation, association, firm, joint venture, LLC, partnership, limited partnership) in which the Covered Person has a *substantial financial interest*
- c. Any trust, estate, or other beneficial entity in which the Covered Person has a more than 35% beneficial interest or serves as a trustee or fiduciary
- d. Any entity in which the Covered Person serves as an officer, director, general partner, trustee, or employee

Other Entity: The term “other entity” includes, but is not limited to, an association, firm, joint venture, LLC, partnership, limited partnership, or beneficial entity, such as a trust or estate.

Significant College Vendors: The following entities were Significant College Vendors in 2014-2015.

Advanced Furniture Services Group Corp
Aetna Inc.
Apple Computer Inc.
Aqua Pennsylvania Inc
Ballinger Company
Borough of Swarthmore
Bryn Mawr College
Cambridge Associates LLC
Cope Linder Architects
CTC Construction Inc
CTC Construction Management Inc
CVM Construction Managers Inc
Dan Lepore & Sons Company
Digsau Architecture PC
Direct Energy Business LLC
Feesers Food Distributors
Hamilton Lane Advisors LLC
Harrison Electrical Inc
Independence Blue Cross
Jacobs Wyper Architects LLP
John W. Bristol & Co. Inc.
Keystone Health Plan East
Life Fitness Corp

Marino Corporation
Otto Harrassowitz
PECO Energy Company Inc
Royall & Company Inc
State Street Corporation
Storbeck Pimentel & Associates LLC
T Rowe Price Associates Inc
Target Building Construction Inc
TL Groseclose Associates Inc
Treasurer of Swarthmore
US Bank National Association ND
Wallingford Swarthmore School District
Wells Fargo Insurance Services USA Inc
William D Conwell Inc
WS Cumby & Son Inc

Substantial Financial Interest: The term “substantial financial interest” includes any interest, direct or indirect, which a Covered Person and/or the Covered Person’s family member (described in subsection a.) own, in the aggregate, more than 35% equity or voting interest in the entity (or a more than 5% ownership interest in the case of a professional partnership or corporation)

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<sup>1</sup>There may be other family members as to whom disclosure should also be made to avoid the appearance of a conflict, and the Covered Person shall discuss any such person with the Chair of the Audit and Risk Management Committee to determine whether disclosure is warranted. It is understood that a Covered Person may not know about a Covered Relationship between a person described in this subsection and the College. Once the Covered Person knows or should have known about the Covered Relationship, then the Covered Person’s duty to disclose that relationship arises.