

CONFLICT OF INTEREST POLICY

1. PURPOSE

The purpose is to:

- 1.1. Encourage high standards of honesty, transparency and integrity in Eastside Lutheran College (College).
- 1.2. Provide guidance on how to identify, record, disclose and manage any actual, potential or perceived conflict of interest in a transparent manner.
- 1.3. Ensure people in decision-making positions always act in the best interests of the College.

2. RELEVANT TO:

The policy and related procedures apply to:

- 2.1.1. All College Board members and Board subcommittee members and consultants
- 2.1.2. employees of the College.

3. OBJECTIVES

The objectives of the policy and related procedures are to ensure that all who hold positions of trust:

- 3.1. Ensure board members and employees understand their obligation to disclose conflicts of interest they may have, and to comply with this policy to manage those conflicts.
- 3.2. Set a good example of Christian living by exhibiting high standards of honesty, transparency and integrity.
- 3.3. Do not damage the ministry, mission or reputation of the College, LEVNT, the District, or the Church.
- 3.4. Are aware of their responsibilities to carefully consider if there is a perceived or potential conflict of interest, when engaged in decision-making.
- 3.5. Do not make a decision for personal gain, or for the purpose of furthering another financial or non-financial interest.
- 3.6. Follow LEVNT protocols for effectively disclosing and managing a conflict of interest.
- 3.7. Ensure the College meets the requirements of:
 - 3.7.1. Their Constitution;
 - 3.7.2. The ACNC Governance Standards;
 - 3.7.3. Related party transaction provisions in the *Corporations Act 2001* (Cth).

4. POLICY STATEMENT

The College encourages strict standards of honesty and integrity. The College takes all reasonable measures to:

- 4.1. Avoid conflict of interest where practical and possible.
- 4.2. Provide guidance for effectively identifying, disclosing and managing any conflict of interest.
- 4.3. Create an environment where interests are declared in a transparent and ethical manner.

5. GENERAL DEFINITIONS

- 5.1. "Board" means the governing body for Eastside Lutheran College Inc.
- 5.2. "Board member" means all College Board Directors and College Board subcommittee members and consultants, but does not mean employees of the College.
- 5.3. "Church" means the Lutheran Church of Australia Incorporated.
- 5.4. "College" means Eastside Lutheran College Inc.
- 5.5. "Committee" includes committees, standing committees, task forces and any other bodies created by the Board.
- 5.6. "Conflict of interest" has the meaning given in part 6 of this policy.
- 5.7. "District" means the Lutheran Church of Australia Victorian District (including Tasmania).
- 5.8. "Employee" means employees of the College and includes contractor.
- 5.9. "LEVNT" means Lutheran Education VIC, NSW, TAS and ACT Ltd.
- 5.10. "Organisation" means Eastside Lutheran College Inc, the specific organisation which the individual represents.

6. DEFINITION OF CONFLICT OF INTEREST

A conflict of interest is a situation where a person has competing interests, loyalties or biases.

A conflict of interest occurs when:

- 6.1. a person's personal interests conflict with their responsibility to act in the best interests of the Organisation; and
- 6.2. there is a conflict between a person's duty to the Organisation and another duty that the person has (for example, to another organisation or individual).

Direct and Indirect interests

- 6.3. Personal interests that may conflict with the best interests of the Organisation include direct interests, and indirect interests: those of family, friends, or other parties (associate, organisation) a person you may be involved with or have an interest in (for example, as a shareholder).

Financial and non-financial interests

- 6.4. A conflict of interest may be financial or non-financial. Non-financial interests may include professional or pastoral duties.

Actual, potential or perceived conflicts

- 6.5. A conflict of interest may be actual, potential or perceived.

- 6.5.1. **Actual** - involves a direct conflict between current duties and other interests, whether business or personal interests.
- 6.5.2. **Perceived** - involves a situation where a conflict of interest could reasonably be perceived to improperly influence the performance of duties (whether or not this is the case).
- 6.5.3. **Potential** - involves a situation where another interest could conflict with official duties.

Situations of a conflict of interest present the risk that a person will make a decision based on, or affected by, these interests and influences, rather than in the best interests of the Organisation. These situations must therefore be managed accordingly.

Examples

- 6.6. A conflict of interest may involve, but is not limited to, any of the following situations which will need to be managed, consistent with procedures associated with this policy:
 - 6.6.1. A person in a paid position engages a family member, or another party with whom the person is involved, to provide a service or offers them employment.
 - 6.6.2. A person in a position of authority is involved in a decision that will award a contract for services or employment to a person, family member or any party with whom the person is involved.
 - 6.6.3. A person is involved in a decision about a property transaction that will return a material benefit to the person or a party associated with the person.
 - 6.6.4. A person, in his or her decision-making capacity, becomes aware of information that may be used for his or her personal gain or for the gain of a party connected with the Person.
 - 6.6.5. A person is involved in a decision about a matter that may impact positively or negatively on an existing relationship between the person and another party.
- 6.7. There will be some situations where the conflict of interest will normally not be acceptable, for example:
 - 6.7.1. A paid employee is a member of a decision-making body to which they or their spouse are directly accountable.
 - 6.7.2. A person is a member of a Board or committee where the work of the Board or committee for the Organisation and the person's outside interests, and those of parties close to the person, will involve an inherent and ongoing conflict of interest.

However, it is recognised there may be circumstances arising from the nature of the local situation which may require an exception to be made. If so, there must be independent approval from the Board for LEVNT, supported by a documented process to appropriately manage the conflict of interest.

7. PROCEDURAL PRINCIPLES

The application of this policy will provide for the following procedural principles:

- 7.1. The avoidance or management of any conflict between private interests and duties to others, and the duty to the Organisation, or between duties required from two or more roles.
- 7.2. The avoidance of people in decision-making positions within an Organisation taking advantage of their positions to improperly gain direct or indirect benefit (whether financial or non-financial) for themselves or for other parties.
- 7.3. Full and proper disclosure of any actual, perceived or potential conflict to the appropriate Board, Committee, Organisation or leader.
- 7.4. Sound decision-making and recordkeeping by Boards, Committees, Organisation and leaders regarding any actual, perceived or potential conflict.
- 7.5. The management of conflict of interests for Board members, Employees and volunteers.

8. MANAGEMENT OF CONFLICT OF INTEREST – BOARD LEVEL

This Part 8 applies to all Board Directors and Board subcommittee members and any consultants to these boards or subcommittees who are all referred to as “Board members”.

Step 1 – Identify the conflict

- 8.1. Each Board member must regularly consider whether any conflict of interest exists in relation to their role at the Organisation.
- 8.2. To identify a conflict, the Board member must consider the purpose of the Organisation and the Board member’s duty to act in the best interests of the Organisation. These are set out in the Organisation’s Constitution. The Board member must also consider how their own interests and those of people closely connected to them may influence them.
- 8.3. A key test for identifying a conflict of interest is whether an impartial observer would reasonably question if factors, which are associated with another interest, may inappropriately influence the way a Board member carries out his or her role on the Board to act in the best interests of the Organisation.

Step 2 – Disclose

- 8.4. Board members must tell the Board about a conflict of interest as soon as practicable. This includes fully explaining the nature of the conflict. If the next board meeting is soon, the conflict can be disclosed at the meeting.
- 8.5. The standing agenda for all Board meetings includes provision for declaring any conflicts of interests before dealing with other agenda items. Conflicts must be disclosed at the beginning of each meeting or, if identified during the course of the meeting, during the meeting.
- 8.6. Board members are not required to repeatedly disclose conflicts that have already been disclosed and recorded in the Register of Conflicts of Interest. Nevertheless, it is good practice to remind Board members of the existence of the declared conflict of interest if:
 - 8.6.1. the conflict arises in a new context;
 - 8.6.2. a reasonable amount of time has passed since it was first declared; or
 - 8.6.3. the Board composition has changed.

- 8.7. A Board member who believes another Board member has an undeclared conflict of interests should specify in writing to the Chair the basis of this potential conflict and raise the matter with the other Board members.
- 8.8. Disclosures are confidential. Other Board members, the Secretary and only others who need to be made aware of the conflict to effectively manage the conflict will be made aware of the disclosure.

Step 3 – Record

- 8.9. The Board minutes must record any conflict disclosed at a Board meeting and record how the conflict was managed.
- 8.10. The Secretary is responsible for keeping and updating the Conflicts of Interests Register (Register) to record any conflicts disclosed by a Board member as soon as practicable after any conflict is declared. The Register should identify:
 - 8.10.1. the Board member;
 - 8.10.2. the date of the disclosure; and
 - 8.10.3. the nature and extent of the conflict of interest.

Step 4 – Manage

- 8.11. When determining how to appropriately manage a conflict of interest, the Board will consider:
 - 8.11.1. whether the conflict needs to be avoided or simply documented (according to the amount of influence the conflict is likely to have)
 - 8.11.2. whether the conflict will realistically impair the disclosing person's capacity to impartially participate in decision-making;
 - 8.11.3. alternative options to avoid the conflict;
 - 8.11.4. the Organisation's purpose and resources; and
 - 8.11.5. the possibility of creating an appearance of improper conduct that might impair confidence in, or the reputation of, the Organisation.
- 8.12. Where a Board member has a material conflict of interest, that Board member must not:
 - 8.12.1. take part in any Board discussion on that topic (either in the meeting or with other Board members outside Board meetings), unless expressly invited to do so by unanimous agreement by all other Board members present; or
 - 8.12.2. vote on that matter.
- 8.13. The approval of any action requires the agreement of at least a majority of the Board (excluding any conflicted Board member/s) who are present and voting at the meeting. The action and result of the voting will be recorded in the minutes of the meeting and the Register.
- 8.14. In the case of a serious, ongoing or recurring conflict of interests, it may be appropriate for a Board member to consider resigning.
- 8.15. Other possible ways to manage a conflict are:
 - 8.15.1. Refrain from taking part in decision making on a topic

- 8.15.2. Refrain from participating in consideration or debate about a matter
- 8.15.3. Take leave of absence from their position or role for a period of time

8.16. Board members can have dealings with the Organisation, only if:

- 8.16.1. a Board member who has a direct conflict of interest is not present at the meeting of the Board when the matter is being discussed and does not vote in respect of any decision concerning the interest;
- 8.16.2. the dealings do not breach the not-for-profit requirements of the ACNC; and
- 8.16.3. the dealings do not breach the *ACNC requirements* in relation to related party transactions.

9. MANAGEMENT OF CONFLICT OF INTEREST – EMPLOYEES AND VOLUNTEERS

- 9.1. Employees (including contractors) and volunteers must tell their supervisor if they have any conflicts of interests. Supervisors must tell the Business Manager about the conflict of interests and make sure the conflict is properly managed.
- 9.2. The Business Manager is the person appointed by the Board as an office bearer of the Organisation. The Business Manager is responsible for updating the Register. This should be updated as soon as possible after any conflict has been declared. It may be that the person who is conflicted may not be, or may no longer be, appropriate for employment. (Refer to the Organisation's Constitution.)
- 9.3. Part of properly managing a conflict is ensuring a School does not breach Not for Profit requirements. Supervisors should refer to any Procurement Policy.

10. RELATED PARTY TRANSACTIONS

The Organisation must comply with the requirements of Chapter 2E of the Corporations Act in relation to the provision of financial benefits to related parties. The summary of provisions below does not replace the requirement for Board members to understand and comply with the unabbreviated terms of the Corporations Act.

- 10.1. A related party of LEVNT is:
 - 10.1.1. a Board member;
 - 10.1.2. the spouse, parents or children of a Board member;
 - 10.1.3. any entity controlled by an individual referred to at 10.1.1 or 10.1.2 (unless it is also controlled by LEVNT); and
 - 10.1.4. any individual or entity that met the above descriptions within the previous six months.

Giving financial benefits to a related party

- 10.2. The Organisation can only give a financial benefit to a related party if:
 - 10.2.1. the members of the Organisation approve the transaction in the manner prescribed by the Corporations Act; or

- 10.2.2. the financial benefit falls within an exception prescribed by the Corporations Act, including:
 - 10.2.2.1. a financial benefit given on terms that are arm's length or more favourable to the Organisation;
 - 10.2.2.2. remuneration as an employee of the Organisation; and
 - 10.2.2.3. reimbursement or payment of expenses incurred in performing the duties of an officer or employee; and
- 10.2.3. the transaction in all the circumstances does not constitute a prohibited arrangement, is on commercial terms and does not otherwise breach the not-for-profit requirements in regulation 7 of the *Education and Training Reform Regulations 2017* (Vic).

Engaging a related party to provide goods or services

- 10.2.4. The Organisation can only engage a related party to provide goods or services to the Organisation in accordance with the Procurement Policy.
- 10.2.5. Any agreement between the Organisation and a related party should be approved by the Board, documented in the Board minutes and disclosed in the Organisation's next annual report.
- 10.2.6. These requirements apply regardless of whether or not the related party is remunerated.

Employment

- 10.3 A selection panel member must be removed from the selection panel where:
 - 1. The member is a family member, or in a close relationship with the applicant.
 - 2. Or where the member interacts on a regular basis with the applicant.

The selection report must note where a panel member was removed due to one of the above conflicts.

11. EXEMPTIONS

- 11.1. Every endeavour will be made to ensure that the Board does not include close relatives of employees of the Organisation, including their spouses. However, there may be circumstances where this is not feasible.
- 11.2. The BLEVNT may, on request, provide independent approval for an appointment that gives rise to a conflict of interest along with a documented process to manage the conflict of interest. The BLEVNT may impose conditions within the documented conflict of interest management process provided. The BLEVNT will monitor any conditions imposed on a situation.

12. DISPUTES

- 12.1. Where a person disputes a decision under this policy the matter will be resolved in accordance with the conflict and dispute resolution procedures of LEVNT.

13. COMPLIANCE WITH THIS POLICY

- 13.1. If the Board has reason to believe a Board member has not complied with this policy, it must investigate the possible non-compliance.
- 13.2. If the Board's investigation finds the Board member has failed to disclose a conflict of interests, the Board may take action against them. This may include seeking to terminate their relationship with the Organisation.
- 13.3. If a person suspects a Board member has not disclosed a conflict of interests, they must discuss this with the person in question and notify the Board or LEVNT.
- 13.4. If a supervisor has reason to believe an employee or volunteer has not complied with this policy, the supervisor must investigate the possible non-compliance. A finding of non-compliance, such as failing to disclose a conflict of interest, may result in disciplinary action including up to termination of the relationship with the Organisation.

20/02/2024	Mr Stephen Kroker Eastside Lutheran College Board Chair	
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REGISTER OF CONFLICTS OF INTERESTS

Name of Board member / consultant	Name of Board or Subcommittee	Description of interest	Has the subcommittee or Board been notified?	Date of disclosure	Steps taken by the subcommittee or Board to manage the conflict	Actions taken by the Committee member to address the conflict
James Aliero	[Record the board/subcommittee which the person is a member of]	[Describe what the interest is]	[Yes/No]		[i.e. James will step out of the room whenever there is a discussion or decision around X]	[i.e. James declared the conflict of interest to the Committee Chair on DD MM YYYY]