



**CONFLICTS OF INTEREST POLICY FOR:
THE BOARD OF TRUSTEES,
OFFICERS, AND KEY EMPLOYEES OF COLBY COLLEGE**

I. SCOPE AND POLICY STATEMENT.

Colby College, its Board of Trustees, and its officers and key employees recognize the importance of determining important and complex issues based on a guiding value of the highest priority - the College's best interests. To that end, the Board has established this policy to ensure the College conducts its business with fairness, and without interference from outside interests that give rise to real or perceived conflicts. The policy also helps Colby comply with its obligations as a tax-exempt organization under the Internal Revenue Code, including its obligation to make certain disclosures on IRS Form 990.

II. DEFINITIONS.

The following definitions are used in this policy (and those terms are italicized, where used):

- A. **"Colby"** or **"College"** means the College corporation (formally known as "The President and Trustees of Colby College").
- B. **Conflict of interest** or **conflict** is a situation in which a *Trustee, officer, or key employee* (or such person's *family member* or *friend*) has an existing or potential, direct or indirect, *financial interest* or relationship, or a personal, *family*, or business relationship that impairs or could impair his/her independence and objectivity in that person's responsibilities for *Colby*.
- C. **Compensation** includes direct and indirect remuneration as well as gifts, loans, grants, scholarships, prizes, fellowships, or favors in excess of \$250. "Compensation" does not include payment or reimbursement by *Colby* of reasonable expenses incurred by a *Trustee, officer, or key employee* in that person's capacity as a *Trustee, officer, or key employee*, such as travel, lodging and meal expenses.
- D. **Family** or **family member** is a spouse, ancestors (i.e., parents, grandparents, great grandparents, etc.), children (natural or adopted), grandchildren, great grandchildren, siblings (whole or half- blood), and spouses of children, grandchildren, great grandchildren, or siblings.
- E. **Financial interest** means an interest that may yield, directly or indirectly, a monetary or other material benefit. This includes *compensation* or benefits from a person's association with a *friend* or *interested person*, but excludes *compensation* for services to an entity not affected materially by transactions with *Colby*.
- F. **Friend** is a person that has an actual or potential opportunity to reap a *financial interest* or gain from a transaction involving *Colby*, such that a reasonable person would perceive that the friendship could influence the decision of a *Trustee, officer, or key employee*.

- G. **Interested person** means: (a) a *family member*, or (b) an entity more than 35% owned, individually or collectively by a *Trustee, officer, or key employee*, or their *family members*, or (c) an entity (other than an IRS Section 501(c) organization) in which a *Trustee, officer, or key employee* serves as an officer, director, trustee, key employee of the entity. *Officers or key employees* can also be *interested persons* if they or a *family member* are an actual or beneficial owner of more than five percent (5%) of the voting stock or controlling interests of an entity involved in a transaction with *Colby*.
- H. **Key employee** is an employee of *Colby* who, regardless of title, has responsibilities or authority similar to those of *officers or Trustees*, and who:
- (i) receives reportable compensation from *Colby* and all related organizations in excess of \$150,000 for the applicable year; or
 - (ii) manages a discrete segment or activity of *Colby* that represents 10% or more of the activities, assets, income, or expenses of *Colby* or has OR shares authority to control or determine 10% or more of *Colby's* capital expenditures, operating budget, or compensation for employees for the applicable year; or
 - (iii) is one of twenty (20) employees with the highest reportable compensation from *Colby* for the applicable year, or
 - (iv) is a former employee who meets any of the criteria above, in any of the five prior years.
- I. **Colby Staff** are *officers* if they manage *Colby's* daily operations, such as a president or vice president, OR regardless of title, if they have ultimate responsibility for (a) implementing the decision of a *Colby* governing body, or (b) supervising the management, administration, or operation of *Colby*, or (c) managing *Colby's* finances. If ultimate responsibility for managing *Colby's* daily operations or finances resides in two or more persons, then all such persons are deemed "*officers*". *Colby's* senior staff are *officers* under this policy. A former *officer* can also be an "*officer*" under this policy if they served as an *officer* during any one of the five preceding *tax years* and received more than \$100,000 in annual reportable compensation in any of those years from *Colby*.

Colby Trustees are "*officers*" if they have ultimate responsibility for (a) implementing the decisions of a governing body of an entity, or (b) supervising the management, administration, or operation of an entity, or (c) for managing an entity's finances.

- J. **Tax Year or Year** is defined as each twelve (12) month period from July 1 through June 30.
- K. **Trustee** includes all trustees who are members of the Board, but only if they have voting rights and served in *Colby's* most recently completed *tax year*. This can include former trustees if they held the position of *Trustee* in any one or more of the five prior *tax years* and received more than \$10,000 of annual reportable compensation in any of those years from *Colby* in their capacity as a former trustee.

III. RESPONSIBILITIES OF TRUSTEES, OFFICERS AND KEY EMPLOYEES.

Each *Trustee, officer, and key employee* shall refrain from any action or decision in conducting *Colby* business that would constitute a *conflict of interest*.

In addition, each *Trustee, officer, and key employee* has a duty to disclose the existence and nature of any actual or potential *conflict* prior to discussing or deliberating on a proposed transaction or arrangement involving *Colby*. Such

transactions or arrangements may not be *per se* prohibited, but a person with a *conflict* is typically excluded from discussion and deliberation, and a determination is then made by disinterested persons about whether the transaction or arrangement is fair and reasonable.

Colby recognizes that *Trustees* are involved in other institutions and organizations that may have relationships and affiliations with *Colby* that could raise questions about potential *conflicts*. The mere existence of such relationships does not create a violation of this policy. However, if a *Trustee* has a *financial interest* in a matter related to *Colby*, that *Trustee* must disclose any actual or potential *conflict*. While such potential *conflicts* may seem inconsequential, each *Trustee* has the responsibility to ensure that the Board is aware of *financial interests* or relationships, or personal, *family*, or other relationships that might constitute a *conflict*.

Trustees, *officers*, and *key employees* may not accept or receive *compensation* or remuneration for their appointment or services, unless they are also employees of *Colby* and authorized to receive salary, *compensation*, or reimbursement for services based on their employment status.

As part of this policy, *trustees*, *officers*, and *key employees* must treat all information received in their respective roles that is designated as, or reasonably known to be, confidential as confidential both during and after the completion of that person's term as a *Trustee*, *officer*, or *key employee*.

IV. ANNUAL DISCLOSURE FORM: QUESTIONS.

Each *Trustee*, *officer*, and *key employee* must complete an annual disclosure form acknowledging they have reviewed and understand the terms of this policy, and identifying actual or potential *conflicts*, together with any possible *financial interests* or relationships, or personal, *family*, or other relationships that might give rise to a *conflict*.

Additionally, each *Trustee*, *officer*, and *key employee* has a continuing obligation to disclose in writing to the Board Chair and the President (or their designees) any actual or potential *conflicts*, or any possible *financial interests* or personal, *family*, or other relationships that might give rise to a *conflict* and that become known after signing the annual disclosure form. If a person is uncertain whether to disclose a particular relationship, the College's General Counsel or Vice President and Chief Financial Officer should be consulted. Disputes or uncertainty about the existence of an actual or potential *conflict* are determined by an ad hoc committee comprised of the Board Chair and Vice Chairs or their designees, the Enterprise Risk-Audit Subcommittee Chair or its designee, the President, the Vice President, General Counsel and Secretary of the College, and the Vice President and Chief Financial Officer, or their designees.

V. DISCLOSURE - ACCEPTANCE OF GIFTS.

Each *Trustee*, *officer*, and *key employee* shall not accept any gift, favor, service or *compensation* (collectively "benefits") in their capacity as a *Trustee*, *officer*, or *key employee* from any person or entity IF such could materially influence the exercise of the judgment of the recipient. *Compensation* does not include the provision, payment or reimbursement by *Colby* of reasonable expenses incurred by a *Trustee*, *officer* or *key employee* in that person's capacity as a *Trustee*, *officer* or *key employee*, such as the provision, payment or reimbursement of such expenses as travel, lodging and meals. Items of minimal value (i.e., less than \$250) need not be reported unless they occur repeatedly. Benefits in excess of \$250 are not prohibited *per se*, but must be disclosed on the annual disclosure form and prior to discussing or deliberating upon a proposed transaction or arrangement involving *Colby* and the person or entity providing the benefit.

VI. DISQUALIFICATION.

No *Trustee* shall vote on or participate in the discussion of a transaction or arrangement under consideration by the Board or Board committee if that *Trustee* has an actual or potential *conflict of interest*. The minutes of any meeting in which an actual or potential *conflict* is disclosed or identified shall generally describe the nature of the *conflict* and

identify whether, prior to deliberations about the transaction or arrangement, the *Trustee* in question was excused from the meeting. The minutes shall also include the final decision or recommendation regarding the transaction or arrangement, and the considerations examined by the Board or committee in determining the transaction or arrangement was fair and reasonable to *Colby*.

VII. POSSIBLE CONSEQUENCES FOR VIOLATIONS OF THE POLICY.

Because a violation of this policy can, among other things, result in a determination that the transaction or arrangement is null and void, and jeopardize *Colby's* tax-exempt status, violations by a *Trustee* may result in removal from the Board or committee. Violations by an *officer* or *key employee* may result in disciplinary action, including termination of employment.

VIII. REPORTING VIOLATIONS OF THE POLICY.

Each *Trustee*, *officer*, and *key employee* is expected to report violations of this policy to the Board Chair and the President of *Colby* (or their designees).

IX. CONFLICTING PROVISIONS.

If there is a conflict between the provisions of this policy and the by-laws of the *College*, the by-laws shall govern. If there is a conflict between the provisions of this policy and any provisions, including any *conflict of interest* provisions in any handbook, guide, form or other material of the *College*, this policy shall govern.

COLBY COLLEGE

**CONFLICTS OF INTEREST POLICY FOR THE BOARD OF TRUSTEES,
OFFICERS AND KEY EMPLOYEES**

DISCLOSURE FORM

Colby uses this Disclosure Form to identify existing or potential *financial interests* or relationships, or personal, *family* or other relationships that might constitute a *conflict of interest*. This form also assists the Board in discharging its fiduciary duties and assists *Colby* in complying with its obligations as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, including its obligation to make certain disclosures on IRS Form 990. (Some questions below are directed at potential *conflicts of interest* under the Internal Revenue Code and extend to transactions beyond those that would give rise to a *conflict* under *Colby's* organizational documents or Maine law.) The italicized terms are defined in the conflict of interest policy that accompanies this form. If the completed form is not submitted electronically, then when completed, please return this form via email or regular mail to:

Richard Y. Uchida, Vice President, General Counsel, and Secretary of the College
Colby College
4617 Mayflower Hill
Waterville, Maine 04901
(207) 859-4609 (Office)
Richard.uchida@colby.edu

This Form will be shared with other College officers and members of the Board of Trustees responsible for ensuring compliance. If you have questions about this form, please contact Richard Uchida, whose contact information appears above:

IF YOU ANSWER “YES” TO ANY OF THE FOLLOWING QUESTIONS, please provide the details below or on a separate sheet of paper and attach it to this form.

1. Are you or is any member of your *family* a director, officer, trustee, employee, manager, advisor, or consultant of any partnership, corporation, limited liability company, sole proprietorship or other business entity that currently has or is in the process of entering into a business relationship or transaction with:
 - a. *Colby*, OR
 - b. Any *Trustee, officer* or *key employee* who is a director, officer, trustee, employee, manager, advisor, or consultant of a partnership, corporation, limited liability company, sole proprietorship or other business entity that currently has or is in the process of entering into a business relationship or transaction with *Colby*?

If yes to either question, please list all such persons and relationships. (Privileged relationships such as those between attorney and client, a medical professional, or priest/clergy-penitent/communicant relationship should not be disclosed.)

No _____ Yes _____

Details:

2. Are you or is any *family member*, OR are you aware of any *friend* or *interested person* involved in (or in the process of entering into) a business relationship or transaction to provide services or goods **to students or faculty** of *Colby* (such as financial aid, financial aid consulting, housing, study abroad services, the provision of food or beverages, equipment, professional education services, or publishing, etc.)? If yes, please list all such persons and relationships.

No _____ Yes _____

Details:

3. Are you aware of any relationships (other than as described above) between *Colby* (including all who are included in the definition of “Colby”) and you, or a *family member*, *friend*, or *interested person*, that may represent an actual or potential *conflict of interest*?

No _____ Yes _____

If yes, please list the information in detail.

4. During the past 12 months, did you or a *family member* or *friend* receive *compensation* in excess of \$250, such as gifts, loans or other financial benefits from any person or entity that has a business relationship with *Colby*? *Compensation* does not include the provision, payment or reimbursement by *Colby* of reasonable expenses incurred by a *Trustee*, *officer*, or *key employee* in that person’s capacity as a *Trustee*, *officer*, or *key employee*, including the provision, payment, or reimbursement of such expenses as travel, lodging, and meals.

No _____ Yes _____

If yes, please list the information in detail.

5. Are you aware of any actual or potential *conflict of interest* involving a *Trustee, officer, or key employee* of *Colby*?

No _____ Yes _____

If yes, please list the information in detail.

6. Attached to this form is **Schedule A**, identifying the names of individuals and entities who currently serve as *Trustees, officers, and key employees* of *Colby*. Please review **Schedule A** before answering the following questions. This information is an important part of *Colby*'s effort to file a complete and accurate IRS Form 990.

a. Is any person listed on **Schedule A** a member of your *family*? If yes, please explain.

No _____ Yes _____

Details:

b. Are you, or are any of your *family members* or *friends* an employee of any person or entity listed on **Schedule A**? If yes, please explain.

No _____ Yes _____

Details:

c. Have you or a company with which you have a business relationship entered into a business contract or agreement (including an investing arrangement) with any person or entity listed on **Schedule A**? (These do not include contracts or agreements in the ordinary course of business and on the same terms as those offered to the public.)

No _____ Yes _____

Details:

If the answer to this question is "no", please skip to question 7. If the answer to this question is "yes", please proceed through questions (i) through (iv):

(i) Are you and the person you have identified greater than a 10% owner in a business or investment entity, when your interests are combined?

EXAMPLE:

Trustee 1 owns a 30% interest in, and is a director and officer of, Investment Firm X. That firm manages Fund XZ, a private equity fund in which Trustee 1 has a greater than 10% indirect interest. Trustee 2 has personally invested \$10,000,000 in Fund XZ, in the ordinary course and on the same terms that are generally offered to other investors. Trustee 2's investment constitutes 15% of Fund XZ. Trustee 1 and Trustee 2 must disclose because they each have an ownership interest greater than 10% in Fund XZ.

In this example, there is no disclosure if either Trustee's ownership interest in Fund XZ combines to less than 10%. Note also that if Trustee 2's investment was not in the ordinary course and on the same terms generally offered to other investors, then the relationship must be disclosed in Question 6.c. (above) and this question, because Trustee 1 is a director and officer in Investment Firm X.

No _____ Yes _____

Details:

(ii) OR during the tax year, did you transact business with a person in **Schedule A** (sales, leases, loans, service arrangements, etc.) involving cash or property valued in excess of \$10,000 in the aggregate, and **not** in the ordinary course on the same terms that are generally offered to others?

No _____ Yes _____

Details:

(iii) OR are you or the other person in **Schedule A** a greater-than-35% owner in a business or investment entity?

EXAMPLE:

Trustee 3 owns a 40% interest in Investment Firm AB, a privately held firm. A portion of Colby's endowment is invested in a private equity fund managed by Investment Firm AB. Investment Firm AB receives substantial management fees from the investment. The relationship with Investment Firm AB must be disclosed because of Trustee 3's greater than 35% interest. Note that the relationship must be disclosed even if the investment was entered into in the ordinary course of business and on arm's length terms. If the investment was not entered into in the ordinary course and on arm's length terms, then it also qualifies as a disclosable relationship under Question 6.c. (above)

No _____ Yes _____

Details:

- (iv) To your knowledge, do you or your *family members*, have, when combined with every other person or entity listed on **Schedule A**, more than a 35% ownership interest in any corporation, general or limited partnership, trust, limited liability company, or other business entity?

EXAMPLE

Trustee 4 indirectly owns a 20% interest in Company CD, a privately held business entity that leases property to Colby. Trustee 4's spouse separately owns a 20% interest in Company CD. The lease must be disclosed because Trustee 4's interest in Company CD, together with the spouse's interest exceeds 35%.

Note that the lease must be disclosed even if it was entered into in the ordinary course of Company CD's business and on arm's length terms. If Company CD were a publicly traded company, and Trustee 4 knew the arrangement was entered into in the ordinary course on business terms generally available to the public, the lease would not need to be disclosed as a business transaction under 6c.ii, above; but the combined interests of 40% by Trustee 4 and the spouse remains reportable under this question.

No _____ Yes _____

Details:

7. **For officers or key employees only:** Are you or a *family member* an actual or beneficial owner of more than five percent (5%) of the voting stock or controlling interest of any corporation, general or limited partnership, trust, limited liability company, or other business association that currently has or is in the process of entering into a business relationship or transaction with *Colby*?

No _____ Yes _____

If yes, please describe in detail:

8. Are there any legal proceedings adverse to *Colby*, pending or threatened, in which you, a *family member*, or any entity more than 35% owned, individually or collectively by you or your *family members*, are a party?

No _____ Yes _____

If yes, please list them below.

9. During the past five years, have you been convicted in a criminal proceeding or are you now the named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses)?

No _____ Yes _____

If yes, please provide the details below.

CERTIFICATION

I certify that I have reviewed Colby's Conflicts of Interest Policy for the Board of Trustees, Officers and Key Employees and will act in accord with its provisions. I further certify that the foregoing information is true and complete to the best of my knowledge.

I agree that if, at any time after the date of this form, either I or a member of my family enters into a business relationship described on this form that has been not previously disclosed (or there is a need to correct or update the information provided in this form), I agree to submit a revised Disclosure Form.

Name (*please print*)

Signature

Dated

SCHEDULE A

**Current and Former Trustees, Officers, and Key Employees
of Colby College for 2023-24 Academic Year**