

**La Academia Dolores Huerta Charter Middle School**

**1. DEFINITIONS:**

- 1.1 For purposes of this policy, “contract” means an agreement or transaction having the value of more than one thousand dollars (\$1000) with LADH for:
- a. The rendition of services, including professional services
  - b. The furnishing of any material, supplies or equipment
  - c. The construction, alteration or repair of any public building or public work
  - d. The acquisition, sale or lease of any land or building
  - e. A licensing agreement
  - f. A loan or loan guarantee
  - g. The purchase of financial securities or instruments
- 1.2 For purposes of this policy, “immediate family member” means an individual’s spouse, parents, children, or siblings, by consanguinity or affinity, or any other relative who is financially supported.
- 1.3 For purposes of this policy, “Related Entity” means a business enterprise, nonprofit organization, or other entity with respect to which a Governing Council member, Head Administrator, employee or immediate family member of a Governing Council member, Head Administrator, or employee: (i) has a direct or indirect financial interest; (ii) is an officer, director, or employee; or (iii) is otherwise in a position to control the management or decision-making of such entity.
- 1.4 For purposes of this policy, “financial interest” means an ownership interest in a business or any employment or prospective employment for which negotiations have already begun.
- 1.5 For purposes of this policy, “substantial interest” means ownership interest of a business that is greater than twenty percent (20%).
- 1.6 For purposes of this policy, “anything of value” means any money, property, service, loan or promise, but does not include food and refreshments with a value of less than one hundred dollars (\$100) consumed in a day.
- 1.7 For purposes of this policy, “Closed Session” means any portion of a Governing Council meeting that is properly closed to the public in accordance with the provisions in the New Mexico Open Meetings Act.

**2. GENERAL PROVISIONS:**

La Academia Dolores Huerta (LADH) Governance Council (GC), the Head Administrator, and all LADH employees have a duty of loyalty and a duty of care towards LADH. It is the responsibility of all of these persons to conduct themselves in accordance with the highest standards of integrity, honesty, and fair dealing to preclude conflict between the interest of LADH and their own personal interests. Likewise, it is the responsibility of LADH to conduct

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all its business and operations impartially in accordance with all laws and in conformity with the highest ethical and professional standards. All hiring and other transactions imposing financial and/or legal obligations on LADH shall be made with the best interests of LADH as the foremost consideration. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to charter school governing bodies, charter schools, or its employees.

**3. PROHIBITED ACTIONS:**

- 3.1 Under no circumstance may GC members or their immediate family members be employees of LADH, or contract with LADH for professional services or facilities, either directly or as employees/owners/directors/agents of a business or organization.
- 3.2 A person shall not serve as a member of the GC if the person or an immediate family member is an owner, agent of, contractor with or otherwise has a financial interest in a for-profit or nonprofit entity with which LADH contracts directly, for professional services, good or facilities. A violation of this subsection renders the contract between the person or the person's immediate family member and LADH voidable at the option of the chartering authority, the New Mexico Public Education Department, or the GC. A person who knowingly violates this subsection may be individually liable to LADH for any financial damage caused by the violation.

**4. CONFLICT OF INTEREST:**

- 4.1 The GC shall employ independent judgement in performing their duties, deciding all matters on the merits, free of partiality or prejudice and unimpeded by conflicts of interest or other improper influences.
- 4.2 No GC member, Head Administrator or LADH employee shall participate in selecting, awarding, or administering a contract with LADH if a conflict of interest exists. A conflict of interest exists when the GC member, Head Administrator or employee or an immediate family member of the GC member, Head Administrator, or LADH employee has a financial interest in the entity with which LADH is contracting. A violation of this subsection renders the contract voidable.
- 4.3 A conflict of interest may also occur whenever a GC member, Head Administrator or LADH employee permits the prospect of direct or indirect personal gain (or gain to an immediate family member or Related Entity) to influence improperly his or her judgment or actions in the conduct of LADH. It is not practical to specify every action that might be considered to raise a conflict of interest. Consequently, GC members, Head Administrator, and LADH employees should immediately disclose to the GC any circumstance that may give rise to the appearance of a conflict of interest. The following situations have the potential for being an actual or apparent conflict of interest and must be avoided unless the GC member, Head Administrator or LADH employee has brought the issue before the GC for consideration and the GC voted to approve it an open meeting, pursuant to Paragraph 4.4 below:

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- a. Using confidential information acquired by virtue of their association with LADH for their individual or another's private gain.
- b. Influencing or having the appearance of influencing business with suppliers to LADH, which results in the financial benefit to a GC member, Head Administrator, LADH employee, or his or her immediate family member or a Related Entity.
- c. Participating in selecting, awarding, or administering a contract with LADH if the GC member, Head Administrator or LADH employee or immediate family member of the GC member, Head Administrator or LADH employee has a financial interest in the entity with which LADH is contracting.
- d. Participating in deliberations or actions involving that GC member's, Head Administrator's or LADH's employee's immediate family member or a Related Entity of the GC member, Head Administrator or LADH employee.

4.4 **Deliberations and Voting on Conflict Issues.**

- a. In order to avoid conflicts of interest and the appearance of impropriety, GC members shall not participate in open meeting or Closed Session deliberations or votes relating to the discipline of (i) himself or herself; (ii) an immediate family member of the GC member; or (iii) any action or transaction between LADH and an immediate family member or Related Entity of the GC member.
- b. A GC member shall disclose any real or potential conflict of interest concerning a pending transaction or matter before the GC to the GC President. If the GC President is the one with the conflict, then he/she will disclose to the GC Vice-President.
- c. The matter shall be brought to the attention of the entire GC during a noticed public meeting.
- d. The Head Administrator shall not authorize (by approval of a Purchase Order or otherwise) or enter into any proposed transaction or take any action described in Paragraph 4.3. unless and until the action or transaction has first been evaluated and approved by the GC.
- e. The GC may, but shall not be obligated to, approve a proposed action or transaction described in Paragraph 4.3 ONLY if the GC concludes, after review of all pertinent data, that:
  - i. The transaction is financially no less favorable to LADH than would be available in an arm's length transaction between unrelated parties;
  - ii. No GC member, Head Administrator or LADH employee will be in a position to influence decisions relating to any transaction between LADH and any Related Entity;
  - iii. The pending transaction/matter does not violate any of the provisions set forth in this policy;
  - iv. The pending transaction or matter to be considered was solicited by a competitive bid, comparable valuations or other process required by the New Mexico Procurement Code or other governing procurement rules; and

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- v. The benefits to LADH outweigh any appearance of a conflict of interest.

4.5 **Deliberation of Conflict for LADH Employees.**

- a. With respect to matters affecting LADH employees, the Head Administrator shall adhere to the following process when determining whether a conflict of interest exists:
  - i. The LADH employee must disclose in writing the real or potential conflict of interest concerning a pending transaction or matter to the Head Administrator. (If the Head Administrator has the real or potential conflict of interest, consideration of whether a conflict exists must be presented to the GC who will follow procedure pursuant to Paragraph 4.4.)
  - ii. The Head Administrator shall make a written determination explaining why they determined that there was/was not a conflict of interest.
  - iii. If the Head Administrator determines there is an actual or apparent conflict of interest, the Head Administrator may, but is not required to, approve the transaction if he or she first determines that:
    - 1) The transaction is financially no less favorable to LADH than would be available in an arm's length transaction between unrelated parties;
    - 2) No GC member, Head Administrator, or LADH employee will be in a position to influence decisions relating to any transaction between LADH and any Related Entity;
    - 3) The pending transaction/matter does not violate any of the provisions set forth in this policy;
    - 4) The pending transaction or matter to be considered was solicited by a competitive bid, comparable valuations or other process required by the New Mexico Procurement Code or other governing procurement rules; and
    - 5) The benefits to LADH outweigh any appearance of a conflict of interest.
  - iv. The employee will have the opportunity to discuss the Head Administrator's determination and its consequences. If the employee is not satisfied with the Head Administrator's determination, he/she may use the employee grievance process.
  - v. The Head Administrator shall advise the GC of any actual conflict of interest of a LADH employee in matters or transactions relating to LADH business.

- 4.6 **Violation of Conflict of Interest Policy.** Upon discovery of a violation of this conflict of interest policy, the discovering party shall immediately notify the GC President, the Head Administrator, and members of the GC. A Special Governance Council meeting shall be scheduled to consider the matter. In the event the GC decides that there has been a violation of the conflict of interest rules or other abuse of a person's position at LADH, the GC shall review and recommend appropriate action. A violation of the conflict of interest policy renders any contract entered into in violation of the policy voidable.

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4.7 **No Effect on New Mexico Per Diem and Mileage Act.** Nothing in this policy shall prevent LADH from paying compensation to a GC member in compliance with the New Mexico Per Diem and Mileage Act.

5. **NEPOTISM:**

The Head Administrator shall not initially employ or approve the initial employment in any capacity of a person who is an immediate family member of the GC or the Head Administrator, or a parent of an LADH student.

A GC member who wishes to seek employment with LADH must resign from the GC and must wait one year from his or her resignation effective date prior to being offered or accepting employment with LADH.

6. **GIFTS AND FAVORS:**

GC members, Head Administrator, and LADH employees shall neither request nor accept gratuities, favors, or anything of value from contractors, parties to sub-agreements, or others that may tend to influence them or appear to influence them in the discharge of their duties.

7. **PROHIBITED SALES FOR EMPLOYEES:**

LADH employees may not, directly or indirectly, sell or be a party to any transaction to sell any instructional material, furniture, equipment, insurance, school supplies or work under contract to LADH. However, it is not a conflict of interest for LADH employees to contract to perform special services with LADH during time periods wherein service is not required under a contract for instruction, administration, or other employment.

8. **CONFIDENTIAL INFORMATION:**

GC members, Head Administrator, and LADH employees shall not disclose confidential information acquired by virtue of their association with LADH for their individual or another's private gain.

9. **USE OF SCHOOL PROPERTY:**

GC members, Head Administrator, and LADH employees shall not use LADH time, personnel, equipment, supplies, or goodwill for personal gain.

10. **ANNUAL DISCLOSURE STATEMENTS:**

Every LADH employee, Head Administrator, and GC member shall annually sign a statement (see attached) that affirms such person:

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- 1. Has received a copy of the Conflict of Interest Policy;
- 2. Has read and understands the policy; and
- 3. Has agreed to comply with the policy.

Conflict of Interest Disclosure Form

NAME: \_\_\_\_\_ SCHOOL/GC POSITION: \_\_\_\_\_

ACADEMIC YEAR: \_\_\_\_\_

La Academia Dolores Huerta intends that all Governing Council (GC) members, Head Administrator, and school employees not only avoid prohibited conflicts of interest, but also avoid the appearance of a conflicts of interest. To this end, all GC members, Head Administrator, and employees shall disclose if they or any of their immediate family members have a personal interest in any organization that presently conducts business with LADH or might reasonably be expected to do so in the future. This form is designed to identify and disclose all known personal interests. For purposes of this form, please consider a “immediate family member” as: an individual’s spouse, parents, children, or siblings, by consanguinity or affinity, or any other relative who is financially supported by the GC member, Head Administrator, or LADH employee. This disclosure form must be completed annually and updated promptly if any of the information you provide on this form changes.

1. Yes No Are you or any of your family members employed by an organization that conducts business with LADH or that is reasonably expected to conduct business with the LADH in the future?

If yes, please list the name of organization(s) and the position(s) held by you or your family member(s) below:

Organization:	Family Member:	Position:
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. Yes No Have you or any of your family members received money, gifts, or free services or discounts from an organization that conducts business with LADH or that is reasonably expected to conduct business with LADH in the future?

If yes, please list the name of organization(s) and describe the nature of gift(s), service(s), or discount(s) below:

**POLICY AND PROCEDURE: CONFLICT OF INTEREST**

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Organization:

Gift/Service/Discount:

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3.  Yes  No Do you or any of your family members occupy a leadership role within another organization that conducts business with LADH or that is reasonably expected to conduct business with LADH in the future?

If yes, please list the name of organization(s) and the position(s) held by you or your family member(s) below:

Organization:

Family Member:

Position:

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4.  Yes  No Do you possess any ownership interest of any type in an organization that conducts business with LADH or that is reasonably expected to conduct business with LADH in the future? An ownership interest includes any investments in the organization, any stocks held in the organization, and any partnership interests in the organization. If yes, please list the name of organization(s) and the ownership interest(s) possessed by you or your family member(s) below:

Organization:

Interest:

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5.  Yes  No Are you aware of any other interest possessed by you or a member of your family that would cause you or your family member to experience a financial gain or loss or other personal benefit in LADH's contracts with an organization that conducts business with LADH or that is reasonably expected to conduct business with LADH in the future? If yes, please list the name(s) of organization(s) and describe the nature of the financial or personal benefit(s) possessed by you or your family member(s) below:

**POLICY AND PROCEDURE: CONFLICT OF INTEREST**

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Organization:

Financial/Personal Benefit:

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I certify that I have read and understand the LADH Conflict of Interest Policy and Procedure. I agree to comply with the policy and promptly update this disclosure form if the information I have provided on this form changes.

Name: \_\_\_\_\_ (please print)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

