# FREQUENTLY ASKED QUESTIONS ("FAQ'S") REGARDING BALL STATE UNIVERSITY'S (the "UNIVERSITY") OFFICE OF CHARTER SCHOOLS' ("OCS") POLICY REGARDING CONFLICT OF INTEREST<sup>1</sup>

#### October 16, 2007

1. When is the University's conflicts of interest policy applicable to existing charter schools sponsored by Ball State University?

ANSWER: Existing charter school must be in compliance with this policy by July 1,

2008 unless an extension is granted by the Director of the Office of

Charter Schools.

2. Are the charter schools required to comply with the state laws pertaining to Conflict of Interest even though the policy doesn't go into effect until July 1, 2008?

ANSWER: Yes. The charter school must currently be in compliance with the

applicable Indiana law.

3. In general terms, what does the University's conflict of interest policy require of the charter school?

ANSWER: It requires the charter school to develop its own written policy regarding

the management and limiting of conflicts of interest. The Conflict of Interest policy promulgated by the OCS outlines the minimum requirements that all schools must include in the policy that their

governing body creates and implements.

4. Can any of the Organizer's directors or officers, or employees of the charter school seek or accept for themselves or for any of their relatives any gift, entertainment, or other favor from any person or entity that transacts or seeks to transact business with the Organizer or the charter school?

ANSWER: No. The charter school policy should provide that seeking or accepting

gifts, entertainment or other favors in this manner is not acceptable.

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<sup>&</sup>lt;sup>1</sup> The OCS has prepared this document as an aid to Organizers of University sponsored charter schools. It should not be construed or relied upon as legal advice. In this regard, Organizers and their charter schools are specifically urged to seek independent legal advice from an attorney licensed to practice law in the State of Indiana in construing Indiana Law and in implementing the Ball State University Office of Charter Schools' policy regarding conflict of interest.

### 5. What is a "relative" for purposes of the University's policy?

ANSWER: A relative is defined to include spouses, siblings, ancestors, or decedents, whether by whole- or half-blood.

#### 6. Does the Organizer's policy have to prohibit the acceptance of nominal gifts?

ANSWER: No. The acceptance of nominal gifts such as pens, hats, coffee mugs, notepads, or other nominal gifts which have value similar to those items need not be prohibited by your policy.

### 7. What does it mean to have a pecuniary interest?

ANSWER: A pecuniary interest means to have a financial interest or ownership in property or other legal entity such as a partnership, limited liability company, or corporation.

8. Can the Organizer's directors and officers, or the employees of the charter school knowingly or intentionally hold a financial interest in, or derive a profit from, any contract or purchase by the Organizer and/or charter school?

ANSWER: In general terms, the charter school policy should prohibit any of the Organizer's, directors or officers, or employees of the charter school from knowingly or intentionally holding a financial interest in or deriving a profit from any contract or purchase by the organizer. See questions 9, 10, and 11 for exceptions.

# 9. Are there exceptions to the prohibition described in the answer to the preceding question?

ANSWER: Yes. The charter school policy should make clear that this prohibition does not apply to salary or wages of charter school employees for services rendered within the scope of their employment. The policy should also provide that it does not apply to the reimbursement of expenses incurred by a director or officer of the Organizer or a charter school employee where the expense is for the charter school's benefit and has been approved by the governing body.

# 10. Are there additional exceptions to the prohibition set forth in the answer to Question No. 8?

ANSWER: Yes. The charter school policy shall provide that an <u>employee</u> of the Organizer or the charter school may have financial interest in, or derive a profit from, a contract or purchase connected with Organizer of charter school if the following conditions are met:

- a. The <u>employee</u> is not a director, officer, or member of the Organizer's governing body and has not been delegated the function of contracting or purchasing by the Organizer's governing body;
- b. The <u>employee's</u> duties performed for the charter school are unrelated to the contract or purchase; and
- c. The <u>employee</u> makes the required disclosure to the Organizer's governing body prior to the execution of the contract.
- 11. Are there any additional exceptions to the prohibition set forth in the answer to Question # 8?

ANSWER: Yes. The charter school policy shall also provide that the prohibition does not apply to situations involving the employment of the charter school employee's relative or the payment of a fee for goods or services to the charter school employee's relative as long as the charter school employee makes an appropriate disclosure to the Organizer's governing body. This exception is for employees of the charter school only, and does not apply to the members of the Organizer's governing body or their relatives.

12. Does the disclosure required by the policy have to be in writing?

ANSWER: Yes.

13. Does the disclosure have to describe the contract or purchase to be made by the Organizer's governing body where a conflict of interest may exist?

ANSWER: Yes.

14. Does the disclosure have to describe the financial interest that the employee has in the contract or purchase?

ANSWER: Yes.

15. Does the disclosure have to be affirmed under the penalties of perjury?

ANSWER: Yes.

16. To whom should the disclosure be submitted and when?

ANSWER: The charter school policy should provide that the disclosure should be submitted at the same time to the Organizer's governing body and the University's Director of OCS, and be accepted by the Organizer's

governing body in a public meeting. This must all occur before the governing body takes any final action on the contract or purchase.

#### 17. What is a "pecuniary or financial interest in a contract or purchase"?

ANSWER: A pecuniary or financial interest is when a contract or purchase will result in or is intended to result in, an increase in the income or net worth of one or all of the following individuals:

- a. a director or officer of the Organizer;
- b. an employee of the charter school;
- c. a relative of a director or officer of the Organizer, or
- d. a relative of a charter school employee.

# 18. Can the policy contain additional requirements for deciding whether or not a relative of a director or officer of the organizer or a charter school employee has a financial interest in the school?

ANSWER: Yes. The charter school policy may provide that, in the case of a relative, a pecuniary or financial interest exists only in the following circumstances:

- a. If the relative is under the direct or administrative control of the director or officer of the Organizer, or of the charter school employee to whom they are related, or
- b. If the relative receives, or is awarded, a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the director or officer of the Organizer, or of the charter school employee to whom the relative is related.

## 19. Can our proposed policy provide for an exception for small contracts or purchases?

ANSWER: Yes. The charter school policy may provide that there is not a financial interest of the Organizer's director or officer, or the charter school employee if the contract is less than or equal to \$250.00. If it is less than \$250.00 the Charter school can continue to contract with that individual or company until the sum of all the contracts over a 12 month period equals \$250.00.

For example, if the Organizer's governing body is considering the purchase of pencils from a charter school employee's business supply company with a total cost of \$75.00 and had purchased pencils once before within the prior year at the cost of \$75.00, the total value of the contracts over the preceding twelve (12) month period would be \$150.00.

Consequently, this purchase would be permissible at the discretion of the Organizer's governing body. However, if the prior purchase had been \$200, the total value of the two purchases would be \$275 and should be prohibited by your policy.

20. If a member of the Organizer's governing body violates its conflict of interest policy what should happen?

ANSWER:

It should be in the charter school policy that the violation will be reported in writing to the Director of OCS. The policy should allow that the violator can possibly be suspended or removed from their position in a manner consistent with its bylaws.

21. What if a charter school employee violates the policy on conflicts of interest?

ANSWER:

It should be in the charter school policy that the violation will be reported in writing to the Director of OCS. The policy should allow that the violator can be disciplined and possibly even terminated in a manner that is consistent with the charter school's personnel handbook.

22. Can employees of the charter school and/or the educational management organization be voting members of the Organizer's governing body?

ANSWER: No.

23. Can employees of the charter school or an educational management organization be voting members of any of the Organizer's advisory boards which may have decision making authority delegated by the Organizer?

ANSWER: No.