

**Revision of NACAS's Code of Ethics and Professional Conduct Regarding Conflict of Interests:
Suggestions and Ideas for Consideration**

In response to the New York AG's probe and resulting publicity regarding the relationship between colleges and universities and student loan providers, NASFAA's Board of Directors adopted in May 2007 a "Code of Conduct for Institutional Financial Aid Professionals" presented as an extension of its twelve-point "Statement of Ethical Principles" dating from April, 1999. Additionally, NASFAA provided a supplemental composition entitled, "Explanation of the Code of Conduct" which sought to elaborate and clarify several key points in the new policy statement with reference to areas and practices associated with potential conflict of interests. Noteworthy, was NASFAA's attempt to address the importance of guarding against those practices that could lead to actual conflicts of interest, as well as, avoiding situations in which the perception of unethical behavior could unwittingly be inferred.

In lieu of the current trajectories within the legal/regulatory environment, it is advisable for NACAS to similarly take several steps to strengthen its own Code of Ethics & Conduct with regards to problem areas and practices susceptible to conflicts of interest, both actual and perceived. Within NACAS's existing "Code of Ethics and Professional Conduct" there are two statements which address conflict of interests:

"The professional shall refrain from entering into private or personal activities that may be interpreted as a conflict of interest and from accepting gifts or favors that imply an obligation of the institution."

and,

"The professional should refrain from any activity that compromises the fiscal integrity of the institution. The professional should not benefit financially, either directly or indirectly, from any decisions made as an officer of the institution."

The following is a brief list of preliminary suggestions and ideas offered for consideration to provoke thought and advance further discussion:

- Citing several specific "activities" and detailing the type of "gifts" which are regarded as inappropriate. Examples: All-expense paid trips for non-business reasons, special discounts beyond those provided for other broad groups of the institution such as faculty or staff, costly dinners, etc.
- For consideration – rather than blanket statements covering all instances of a said activity or gift an alternate approach would be to provide some measures of limitation in either monetary or temporal terms. Example: Complimentary trips should only be for definable business purposes (review of existing operations at say a bookstore run by the business partner at another locale, or meeting personally senior management regarding school-specific developments)
- In reference to benefiting either directly or indirectly financially, a conditional could be added to exclude those gifts that exceed some nominal threshold of value. Example: NASFAA set a limit on such gifts at \$10.
- Specifying the type of financial benefits that are inappropriate such as shares of stock, cash payments delivered as "consulting fees" to the individual or members of the individual's family, accepting corporate board positions with compensatory privileges.

- Encouraging the engagement of other institutional resources and departments when considering, negotiating, and accepting contractual offers.

NACAS Position Statement: Required Standards of Conduct for Business Partners

Suggestions and Ideas for Consideration

In connection with the aforementioned policy additions regarding conflict of interests and its individual members, NASFAA also sought at the organizational level to bring its own practices in alignment with the new realities it faced. Specifically, several new policies were adopted regarding NASFAA’s Annual Conference that defined limitations and standards of conduct for advertisers, exhibitors, supporters, as well as its scholarship program. Likewise, it is also advisable for NACAS to closely review and consider strengthening its policies at the organizational level with regards to Business Partners. The following outline discusses some of the elements presented in NASFAA’s policy statement dated May 29, 2007 as applicable to exhibitors and “supporters” with appropriate adjustments to better fit the structure and activities of NACAS’s Annual Conference for consideration:

BUSINESS PARTNERS/EXHIBITORS:

- Any gift or token give-aways should have a nominal value of \$10 [should we designate an amount?] or less.
- Prize drawings, contests, or give-aways to be received at a later time should likewise not exceed the \$10 [should we designate an amount?] nominal value threshold.
- Exhibitors selling their products and services are permitted, but products and services not normally marketed by the exhibitor are to be excluded.
- Institutions should consider specific “conflict issues” as they relate to employee business partner relationships and provide definable guidelines to employees and their business partners.

**Guidelines for Institutional Policy Review of Employee-Business
Partner Relationships: Key Issues, Control Points, Best Practices
Suggestions and Ideas for Consideration**

In addition to strengthening NACAS’s “Code of Ethics and Professional Conduct” and establishing new policies regarding Business Partner relationships at the organizational level, NACAS can and should provide its members with a brief report on the status of debate concerning the conflict of interest issue. The aftermath of the student loan debacle is calling attention and inviting closer scrutiny of ALL relationships involving Business Partners and colleges and universities. Framing this discussion are three key points regarding the organization and the nature of its membership:

1. Mandating specific, institutional-level policies is not only undesirable, but ineffectual. Institutional members vary greatly in size and scope, as well as, possessing organizational structures that have arisen over lengthy periods of time across a multitude of legal jurisdictions representing a diversity of applicable laws and regulations that are best navigated by those entrusted with oversight of related activities at affiliated institutions.
2. Further complicating any attempt to draft a “one size fits all” approach is the complexity and range of Business Partnerships encompassing auxiliary services. The objective should be to provide guidelines which can be tailored to the specific enterprise and adapted to accommodate the unique environment of the member institution.
3. A concise summarization of topical issues, timely commentary, and practical guidance is a valuable resource, assisting Institutions and their respective officers to “stay ahead of the curve.” NACAS will serve its membership well by leveraging its natural ability to foster exchanges of professional best practices and discourse on what has emerged as an immediate “hot-button” issue.

General Points for Consideration for Inclusion within a “Guidelines Document”:

- Soliciting, Negotiating, and Accepting contractual agreements with Business Partners should follow a standardized process with clearly stated and enforced control measures. A key component of any such process is ensuring an appropriate level of review by legal counsel and other advisory resources (internal audit, ethics panel, audit committee, etc.) throughout the process of formalizing business relationships. Lack of communication internally, and/or placing final decision-making power and oversight solely with one individual or a small, closed group is a control weakness that should be avoided.
- Monitoring of an active Business Partnership should likewise be inclusive of a range of individuals/units of the institution. In accordance with this practice, there should be a clear and committed effort to communicate at all levels of the institution the process for reporting a suspected or observed action(s) that violates policy with regards to conflict of interest.
- Avoiding actual conflicts of interests through standardization of policies, regular monitoring and involving multiple personnel/resources from the initial stages of forming business relationships is critical. However, the perception of conflict of interests can potentially be just as damaging to the

reputation of a college or university's integrity, thus underscoring the need to objectively review and formalize procedures and policies governing such relationships. Outdated conventions such as "we've always done this way" or "Mr./Ms. Doe has always handled that" must not impede efforts to revise policies in light of the new realities and accompanying attempts external to the institution seeking to scrutinize these types relationships.

- Institutions should consider specific "conflict issues" as it relates to Business Partners and provide definable guidance to employees. Examples for consideration include:
 - Customer service panels or advisory panels - compensation and travel issues.
 - Travel to other institutions to view their operations – travel issues.
 - Food and beverage and other entertainment.
 - Receiving anything of economic value – how is this determined.
 - Holding of stock, notes or any other direct equity position.
- Other items considered by the "Conflict of Interest" group and deferred to the NACAS membership for further discussion:
 - Should we prohibit sponsorship of an individual event that is not open to all members (i.e. an Education Foundation event, VIP reception, or others)
 - Should any dollar amount or restrictions be made to give-aways, open "drop your business card" events, dinners, etc. beyond institutional guidelines, and if so, what should they be?
 - How do our guidelines relate to state or institutional requirements regarding transparency, disclosure and accountability?

Institutions are advised to review their legal environment as well as any applicable state or institution level ethics/conflict of interest policies.

CODE OF ETHICS AND PROFESSIONAL CONDUCT (NACAS PRESENT POLICY)

- The Auxiliary Services professional shall represent the institution with personal integrity and shall conduct the business of the institution in a professional manner.
- The personal and professional conduct of the professional shall be such that it enhances the integrity and prestige of the institution.
- The professional shall refrain from entering into private or personal activities that may be interpreted as a conflict of interest and from accepting gifts or favors that imply an obligation of the institution.
- The professional should refrain from any activity that compromises the fiscal integrity of the institution. The professional should not benefit financially, either directly or indirectly, from any decisions made as an officer of the institution.
- The professional recognizes the cultural diversity of the institution and promotes non-discriminatory personnel practices, which ensure that recognition; selection and promotion are based on skill, proficiency, educational experiences, measurable potential and productivity.
- The professional shall strive to participate in the development of the institution's mission statement and shall serve in any beneficial capacity that enhances the achievement of the goals of the institution.
- The professional fosters and supports the development of professional standards at the institution, and in regional and national professional organizations.