



## **BOARD CODE OF CONDUCT LUMINA FOUNDATION FOR EDUCATION, INC.**

*(As approved by the Board of Directors (the "Board") on July 31, 2003 and amended by the Executive Committee on April 5, 2007 and November 5, 2014.)*

### **General**

The affairs of the Foundation shall at all times be conducted in accordance with high standards of ethics, integrity and accountability and in compliance with law.

### **Board Responsibility**

The Board has overall responsibility for the direction and oversight of the Foundation, and each Director shares in this responsibility. Among the areas to which this responsibility extends are the following:

*Promotion of Corporate Purposes and Objectives.* The Board shall promote the purposes and objectives set forth in the Foundation's Certificate of Incorporation in such ways as the Board from time to time deems appropriate. In this connection, the Board, or committees duly authorized by the Board, shall, among other things, appoint suitable key management for the Foundation, determine arrangements for the investment of the Foundation's capital, adopt procedures for the approval of grants and other transactions, establish procedures for the determination of appropriate compensation and other benefits, and adopt reasonable internal controls and oversight procedures.

*Preservation of Tax-Exempt Status.* The Board shall endeavor to preserve the Foundation's tax-exempt status. It shall endeavor to ensure compliance with the obligations arising from that status, as well as from the Foundation's status as a "private foundation" under the Internal Revenue Code of 1986, as amended.

*Compliance with Law.* The Board shall endeavor to ensure that all activities by, or on behalf of, the Foundation are in compliance with applicable federal, state and local law. The Board shall establish policies and systems reasonably designed to ensure such compliance. The Board shall not deal with, or delegate authority to any person or organization suspected or known to have a propensity for engaging in illegal or otherwise improper activities.

*Fair Dealing.* The Board shall require fair dealing by employees and officers with grant applicants and recipients and all others having relations with the Foundation.

*High Standards.* The Board shall require that the affairs of the Foundation be conducted in accordance with the high standards of ethics, integrity and accountability referred to above.

### **Individual Duties of a Director**

Two duties of a Director are commonly referred to as the duty of care and the duty of loyalty. The scope of these duties has been developed over many years, largely in litigation involving business corporations, but these duties are applicable to nonprofit corporations as well.

## **Duty of Care**

In general, the duty of care requires that, in carrying out his or her functions, a Director must exercise the diligence of an ordinary prudent person in similar circumstances. This contemplates that a Director will be reasonably informed concerning the matters dealt with, will endeavor to participate in decisions and will exercise independent judgment. Further guidelines for fulfillment of the duty of care are as follows:

*Promote Conformity with Governing Documents.* A Director is expected to be familiar with the Foundation's principal governing documents, including for example the Certificate of Incorporation, Bylaws, charters, mission statement, codes and policies, all as in effect from time to time, including this Code, and should endeavor to ensure that the Foundation is operated in conformity therewith.

*Be Familiar with Legal Obligations.* A Director is expected to be familiar with the obligations of the Foundation and responsibilities of Directors, and should endeavor to ensure that they are met. Such obligations and responsibilities include those arising out of the Foundation's status as a tax-exempt, "private foundation" under the Internal Revenue Code of 1986, as amended, as well as those arising under laws relating to equal employment opportunity, unlawful discrimination and the like.

*Be Informed about Foundation Affairs.* A Director is expected to be reasonably informed about the Foundation's affairs generally, as well as about particular matters raised for consideration at Board meetings or at meetings of a committee on which he or she serves, and a Director should raise matters for consideration as and when deemed appropriate.

*Monitor Delegatee Performance.* A Director is expected to monitor, directly or indirectly, the performance of committees, officers and other persons to whom Board or executive power or authority has been delegated. A Director may rely in good faith on reasonable monitoring procedures established by the Board or a committee.

*Business Judgment Rule.* The "business judgment rule," which has been developed by the courts primarily in the context of business corporations, is likely to become generally accepted as applicable also to nonprofit corporations. Under this rule, in general, a Director's action would not be questioned by a court if the action was taken in good faith, with independent and informed judgment, and in the reasonable belief that it was in the best interests of the Foundation.

## **Duty of Loyalty**

A Director's duty of loyalty requires, in general, that he or she subordinate all personal interests to the best interests of the Foundation. The mere existence of a conflict of interest does not constitute a breach of duty or fundamental bar to good corporate governance, but the manner in which the conflict is handled will determine the ultimate propriety of the situation. The following guidelines are provided to assist a Director in fulfilling his or her duty of loyalty:

*Adhere to the Conflict of Interest Policy.* A Director is expected to adhere to the Conflict of Interest Policy for Directors and Officers, as in effect from time to time.

*Not Preempt a Corporate Opportunity.* A Director, before engaging directly or indirectly in a transaction that he or she knows, or should know, the Foundation might itself wish to pursue, is expected to disclose such transaction to the Board and not to hinder the Foundation from pursuing it if the Board elects to do so.

*Not Improperly Disclose or Use Proprietary Information.* A Director must not improperly disclose, profit from, or otherwise misuse, confidential, privileged, non-public or other proprietary information relating to the Foundation or any of its investment or other activities or to any of its grantees, applicants or contractors. This obligation does not end when a Director ceases to be a Director of the Foundation for whatever reason.

## **Whistleblower Policy**

### A. Ethical Responsibility

The Foundation's policy is to maintain an organizational culture characterized by open and honest communication, uncompromising integrity, individual accountability and responsibility, and the highest level of ethical conduct. This commitment means that all Foundation employees (including officers) and Directors must meet the highest ethical standards in all undertakings and comply at all times with both the letter and spirit of all laws and regulations applicable to the Foundation and this Code, and any other code or policy of the Foundation, as amended from time to time.

### B. Prohibited Acts

In order to meet this commitment, a Director must immediately report if he or she observes, experiences or learns of a possible prohibited act (a “Prohibited Act”), which for purposes of this Policy is any improper act, omission, or conduct that constitutes:

1. any violation of the laws and regulations applicable to the Foundation or of this Code or any other code or policy of the Foundation; or
2. any matter involving impropriety in accounting, internal accounting controls, or auditing matters, including: (a) fraud, deliberate error, or misrepresentation (oral or written) in the preparation, maintenance, evaluation, review or audit of any Foundation financial statement or financial record; (b) deficiencies in or non-compliance with the Foundation’s internal accounting controls, policies or procedures; or (c) misrepresentations or false statements by a Foundation employee to a Foundation officer, Director or auditor regarding the Foundation’s finances or any aspect of Foundation business that the latter is examining.

A Director must immediately report a possible Prohibited Act even if it may appear that the possible Prohibited Act is helping to achieve a Foundation goal or objective. All Foundation goals and objectives are premised on their being achieved only in a manner consistent with the highest level of ethical conduct and in compliance with the laws and regulations applicable to the Foundation and with this Code.

A Director's failure to report a possible Prohibited Act violates this Policy and may result in remedial and/or disciplinary measures.

C. Reporting Prohibited Acts

A Director who at any time suspects, or becomes aware of, a Prohibited Act shall bring the matter promptly to the attention of whichever of the following the Director deems most appropriate under the circumstances: the Compliance Officer, a senior officer, the Chair of the Board or the Chair of a standing committee of the Board, unless it is already known. The Director shall also provide information and otherwise participate in any related investigation or other proceeding. All reports will be promptly investigated by the Compliance Officer and appropriate corrective action will be taken if warranted by the investigation. The Compliance Officer shall report to the Board of Directors or an appropriate committee thereof at least annually on compliance activity.

All reports will be treated confidentially, consistent with the Foundation's need to conduct an adequate investigation, implement any remedial measures and fulfill legal or regulatory obligations.

Anyone who raises a concern about a possible Prohibited Act must act in good faith and have reasonable grounds for believing that the information disclosed indicates a Prohibited Act. The raising of any allegation that is (i) not substantiated and (ii) made maliciously, with knowledge that it is not true or with reckless disregard for its truth, will be viewed as a serious offense.

D. Non-Retaliation

The Foundation strictly prohibits retaliation against any individual who in good faith (1) reports or raises issues or concerns related to a possible Prohibited Act or (2) files an internal or external complaint or charge related to a possible Prohibited Act. The Foundation likewise prohibits retaliation against any individual for participating or cooperating in good faith in an internal or external investigation, hearing, or proceeding involving any such complaint or charge.

This Whistleblower Policy is intended to encourage and enable Directors and others to raise serious concerns within the Foundation prior to seeking resolution outside the Foundation.

Any Foundation employee (including any officer) or Director who retaliates against another individual who in good faith reports or raises issues or concerns related to a possible Prohibited Act may be subject to appropriate remedial and/or disciplinary measures up to and including termination of employment and possibly civil and/or criminal liability. This non-retaliation policy is designed to assure all employees (including officers) and Directors that the Foundation encourages and relies on their open and frank communication of genuinely held concerns about possible Prohibited Acts, regardless of how these are reported or raised.