

PROFESSIONAL CONDUCT

BAG leaders should act in accordance with the highest standards of professionalism established by the University of Texas at El Paso (UTEP) Standards of Conduct. In addition, UTEP leaders' modeling of professional conduct should extend beyond faculty and staff practices to the behavior, attitudes, and communication processes with which they lead. Members of the organization should be treated with courtesy, an interpersonal respect born of professionalism, and an awareness of the potential for injustice which exists in an imbalance of power. BAG meetings, correspondence, dialogue, and organizational deliberations should be marked by respect for the dignity and worth of persons, by honesty and openness in communication, and by a willingness to resolve problems in a manner which is satisfactory to all persons concerned. Only through such professional interpersonal conduct can leaders hope to establish the constructive relational dynamic among leaders that is essential to organizational survival and effectiveness.

CONFLICT OF INTEREST POLICY

The purpose of the conflict of interest policy is to protect the organization's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of BAG. This policy is intended to supplement but not replace any applicable state laws governing conflict of interest applicable to nonprofit and charitable corporations or organizations.

CONFLICT OF INTEREST

A. Possible Conflict: Governing (or Executive) Council members serve on the Council to conduct the business of the BAG. Governing Council members are gathered to be a representative group of the BAG membership. On those occasions when the best interests of BAG would be different than the best interest of the entities the Governing Council members represent, the member must make decisions that give primary consideration to the welfare of BAG.

B. Unable to Resolve Conflict: In cases where Governing Council members are unable to resolve the conflicts of interest between representing BAG and his/her personal interest, notification should be given to the BAG President or his or her representative. After such notification, the members shall refrain from voting.

DEFINITIONS OF PERSON/FINANCIAL INTERESTS

- A. **Interested Person:** Any director, principal officer, or member of a committee with council delegated powers, who has direct or indirect financial interest, as defined below, is an interested person.
- B. **Financial Interest:** A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:
 1. An ownership or investment interest in any entity with which the organization has a transaction or arrangement, or
 2. A compensation arrangement with the organization or with any entity or individual with which the organization has a transaction or arrangement, or
 3. A potential ownership or investment interest in, or compensation or arrangement.
- C. **Compensation:** Compensation includes direct and indirect remuneration, as well as gifts or favors that are substantial in nature.

VOTING RESTRICTIONS ON COMPENSATION

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the organization for services is precluded from voting on matters pertaining to that member's compensation.

OPERATING AS A TAX EXEMPT ORGANIZATION

- A. Periodic Reviews:** To ensure that the Association operates in a manner consistent with its charitable and educational purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews conducted by the Executive Committee shall, at a minimum, include the following subjects:
- Whether compensation arrangements and benefits are reasonable and are the results of arm's-length bargaining.
 - Whether partnership and joint venture arrangements with third-party service providers conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further the organization's charitable purposes and do not result in inurement or impermissible private benefit.
 - Whether lobbying efforts are within the constraints for a not-for-profit organization.
 - Whether the association is abiding by the "no campaign support" restriction.
- B. Use of Outside Experts:** In conducting the periodic reviews the organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the council of its responsibility for ensuring that periodic reviews are conducted.

IMPLEMENTING PROCEDURES

- A. Duty to Disclose:** In connection with any actual or possible conflicts of interest, an interested person must disclose the existence of his or her financial interest and all material facts to the directors or members of committees with council-delegated powers considering the proposed transaction or arrangement.
- B. Determining Whether a Conflict of Interest Exists:** After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he or she shall leave the council or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining council or committee members shall decide if a conflict of interest exists.
- C. Procedures for Addressing the Conflict of Interest:**
1. An interested person with a conflict of interest may make a presentation at the council or committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and the vote on, the proposed transaction or arrangement.
 2. The chairperson of the council or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
 3. After exercising due diligence, the council or committee shall determine whether the organization can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
 4. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the council or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the organization's best interest and for its own benefit and whether the transaction is fair and reasonable to the organization and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

D. Violations of the Conflicts of Interest Policy:

1. If the council or committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
2. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the council or committee determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

E. Records of Proceedings: The minutes of the council and all committees with council-delegated powers shall contain:

1. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the council's or committee's decision as to whether a conflict of interest in fact existed.
2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

F. Annual Statements: Each Director, principal officer and member of a committee with council-delegated powers shall annually sign a statement which affirms that such person:

1. Has received a copy of the conflicts of interest policy;
2. Has read and understands the policy;
3. Has agreed to comply with the policy, and
4. Understands that the organization is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

BLACK AFFINITY GROUP CONFLICT OF INTEREST STATEMENT

The Black Affinity Group (“BAG” or “organization”) and its volunteer leaders are dedicated to serving the interests of BAG’s constituency in the most honorable and ethical manner possible. Among BAG’s duties is the responsibility to provide assurance to its constituencies that debates, decision making, and all governance at BAG is conducted in an objective and bias-free context. Among the duties of the volunteer leaders of the BAG is a duty of loyalty—to place the best interests of the BAG uppermost when acting on BAG’s behalf. This duty of loyalty, or “fiduciary” duty, encompasses the obligation to avoid or disclose any “other interests” that could dilute, diminish, or divide a leader’s unqualified loyalty and complete commitment to BAG. Where such interests exist or even appear to exist, they are “conflicts of interest” that the BAG is responsible to manage in order to ensure bias-free governance.

Summary of the Policy

The BAG’s policy is to require that volunteer leaders disclose “other interests” as defined in this policy at least once each year or more frequently if “other interests” arise. Then the Governing Council, or delegated representatives of the Governing Council, must decide what if anything to do in reaction to disclosures of “other interest” according to the BAG’s procedures for doing so. In most cases it will be decided that the proper corrective measure is disclosure of the “other interests” to the Governing Council or other governance body of the BAG. But in some cases the volunteer leader might be asked to “recuse”—refrain from participating in debate or resolution of matters where the volunteer leader has “other interests.” In rare cases the volunteer leader might be asked to resign from the position on the council or elsewhere in the governance structure of the BAG.

“Other Interests”

1. To what volunteer leaders does this policy apply?

The Governing Council has determined that the policy applies to any director, principal officer, or member of a Committee with council delegated powers.

2. What “other interests” are to be disclosed?

Disclosure is expected of these “other interests”:

- a) Ownership, employment, or volunteer or agency interest or involvement in a commercial entity or nonprofit organization that competes with BAG;
- b) Ownership, employment, or volunteer or agency interest or involvement in a commercial entity or nonprofit organization that is, or seeks to be, a vendor of products or services to the BAG; or
- c) Position as spokesperson, consultant, employee, or agent for another commercial or nonprofit organization that advances opposing or adverse public policy positions from those of the BAG.

Note: The BAG includes the BAG committees.

The volunteer leader should disclose these “other interests” personally and for close business associates and family members.

3. When and how is disclosure to be made?

Disclosure is to be made at least annually when requested by the Governing Council, and after that at any time throughout the year when an “other interest” arises or becomes known that was not disclosed at the time of, or has significantly changed since, the annual disclosure. Disclosure should always be in writing. Disclosure forms are provided for that purpose. Volunteer leaders should feel free to provide additional information as appropriate.

4. What information is to be disclosed about “other interests”?

The volunteer leader should provide sufficient information about any “other interest” so as to permit an evaluation of what effect the “other interest” might have on the leader’s participation in the BAG’s governance.

5. What about confidential information on “other interests”?

Any confidential information should be clearly marked as such on the volunteer leader’s disclosure. The BAG will endeavor to keep the information confidential. But if a requirement for confidentiality precludes the Governing Council of the BAG from fairly evaluating the disclosure, the Governing Council may respond accordingly in its recommendation regarding corrective measures.

Corrective Measures

It is the BAG’s prerogative, not the disclosing volunteer leader’s, to make determinations regarding corrective measures with respect to “other interests.” The Governing Council or its delegated representatives will do so. Among the corrective measures available to be recommended are these:

- 1. Disclosure to the governance body:** In most cases, it is expected that the possibility of subjectivity or bias will be sufficiently offset by disclosing the “other interest” to the entire governance body of which the disclosing volunteer leader is a member. That governance body will be expected to take the individual’s “other interest” into consideration when discussions, debates, or decisions occur in the governance body. The BAG, its governing council and the volunteer leader will all have fully discharged their duties.
- 2. Recusal:** In some instances it may be determined that the avoidance of conflicts of interest, or even the mere appearance of conflicts of interest, will dictate that the disclosing individual should avoid discussions, debates, and decision making on subjects related to the disclosure. The volunteer leader will remain a member of the governance body affected but will withdraw from portions of meetings or activities appropriately.
- 3. Resignation:** There could be situations, expected to be rare, in which the volunteer leader’s “other interest” is so extensive or pervasive that, in the view of the BAG’s governing council or its representatives, the leader’s involvement in discussions, debates, or decision making in the pertinent governing body on any subject will be adversely affected. In that case the leader will be asked to resign. If resignation is not forthcoming, the Governing Council will decide on alternatives consistent with the BAG’s Bylaws and governing state law.

Implementing Procedures:

1. Annual disclosure. Volunteer leaders will be asked to complete the attached disclosure form annually. Forms should be submitted at other times as well if “other interests” arise or become known.
2. Review, evaluation, and recommendation. Representatives of the Governing Council, appointed by the President, will review the annual disclosure forms along with the President Elect and his or her designees. The volunteer leader may be asked to provide additional information as a result of this review. If this reviewing body determines that no action is required, then none will be taken. If the body determines that disclosure to the full governing body on which the volunteer leader sits is the appropriate corrective measure, this will be undertaken with notice to the volunteer leader. If other corrective measures are recommended, the matter will come before the Governing Council.
3. Governing Council. The Governing Council makes the final determination of the appropriate corrective action to be recommended to the volunteer leader and any subsequent action or procedures that may become expedient.

Any questions about the BAG’s policy or procedures should be raised with a non-voting appointee advisor of the organization (e.g. UTEP provost, faculty senate etc.).

Disclosure of Other Interests

As a volunteer leader of BAG, I recognize that the BAG must provide bias-free governance to the BAG’s constituency, and that I owe a duty of loyalty to the BAG. One aspect of fulfilling my duty is to avoid or disclose “other interests” according to the BAG’s policy and procedures on conflicts of interest. I am therefore disclosing the following “other interests” as defined by the BAG. I will provide further information if requested and will cooperate with any review and evaluation on behalf of the BAG.

1. Any ownership, employment, or volunteer or agency interest or involvement in a commercial entity or nonprofit organization that competes with the BAG:
2. An ownership, employment, or volunteer or agency interest or involvement in a commercial entity or nonprofit organization that is, or seeks to be, a vendor of products or services to the BAG:
3. Any position as spokesperson, consultant, employee, or agent for another commercial or nonprofit organization that advances opposing or adverse public policy positions from those of the BAG:

Note: The “BAG” includes the organizations committees and affiliates.

Note also: The volunteer leader should disclose these “other interests” personally and for close business associates and family members.

Please use additional sheets or attached explanatory documents if appropriate.

Please indicate whether any information provided here is requested to be kept confidential by the BAG.

This information is accurate and complete to the best of my knowledge and ability.

Division

Signature

Date

BAG Position