

Policy for Board Approval of Compensation of Officers and Designated Employees

I. Policy and Purposes:

This is the policy of the University of La Verne (the “University”) with respect to the review and approval of compensation of its officers and employees. It is the policy of the University that all compensation paid by the University is reasonable based upon a review of comparability information.

This policy provides a procedure for the review and approval of the compensation of the President, Chief Financial Officer, top administrative officials, and key employees of the University (“Compensated Individuals”) consistent with applicable federal tax law and California law. (The IRS Form 990 definitions for some of the identified positions are included in the Appendix and used in this policy with the same meanings.)

II. Procedure for Approval of Compensation

- A. **General.** The board of trustees of University or authorized committee of consisting only of members of the board of trustees (BOT) shall review and approve the compensation of Compensated Individuals.
- B. **Specific Requirements.** The BOT reviewing and approving compensation for Compensated Individuals shall satisfy the following requirements or procedures:
 1. **Approval by Persons Without a Conflict of Interest.** Compensation shall be reviewed and approved by the BOT, provided that persons with a conflict of interest with respect to the compensation arrangement at issue are not involved. Members of the BOT do not have a conflict of interest if they (a) are not benefitting from or participating in the compensation arrangement; (b) are not in an employment relationship subject to the direction or control of any person benefitting from or participating in the compensation arrangement; (c) do not receive compensation or other payments subject to the approval of any person benefitting from or participating in the

compensation arrangement; (d) have no material financial interest affected by the compensation arrangement; and (e) do not approve a transaction providing economic benefits to any person participating in the compensation arrangement, who in turn has or will approve a transaction providing economic benefits to the member.¹

2. **Use of Comparability Data.** In its review and approval of compensation, BOT shall affirmatively determine that compensation is reasonable to the University based upon information sufficient to determine whether the value of services is the amount that would ordinarily be paid for like services by like enterprises, whether taxable or tax exempt, under like circumstances. Relevant information includes, but is not limited to, compensation levels paid by similarly situated organizations, both taxable and tax exempt, for functionally comparable positions; the availability of similar services in the geographic area of the organization; current compensation surveys compiled by independent firms; and actual written offers from similar institutions competing for the services of the compensated person.²

The University Office of Human Resources will obtain research and information regarding comparability of compensation and forward to the BOT for consideration in its deliberations.

3. **Recording Compensation Deliberations.** The BOT's review and approval of compensation shall be promptly recorded in the minutes of its meetings before the later of the next meeting or 60 days after the final action of the BOT is taken, and shall contain: (a) the terms of the compensation and the date approved; (b) the names of the members of the BOT who were present during the discussion and those who voted on the approved compensation; (c) the comparability data obtained and relied upon, and how it was obtained; (d) any action taken with respect to consideration of the compensation by a member of the BOT who had a conflict of interest with respect to the compensation; and (e) if the reasonable compensation is higher or lower than the range of comparability data obtained, the basis for the decision. Such minutes shall be reviewed and approved by the BOT as reasonable, accurate and complete within a reasonable time after the review and approval of the compensation.³
4. **Review and Approval for Certain Executive Officers.** In addition to the requirements of this policy applicable to all Compensated Individuals, any compensation, including benefits, set for the

president and CFO (or individuals with equivalent powers, duties or responsibilities comparable to these positions), must be determined to be just and reasonable. The BOT's review and approval shall occur initially upon hiring, whenever the term of employment, if any, is renewed or extended, and whenever the compensation is modified. Separate review and approval shall not be required if a modification of compensation extends to substantially all employees.⁴

Date approved: December 21, 2016

2015 IRS Form 990 Instructions Definitions⁵

Director or trustee. A “director or trustee” is a member of the organization's **governing body**, but only if the member has voting rights. A director or trustee that served at any time during the organization's **tax year** is deemed a current director or trustee. Members of advisory boards that do not exercise any governance authority over the organization are not considered directors or trustees. An “institutional trustee” is a trustee that is not an individual or natural person but an organization. For instance, a bank or trust company serving as the trustee of a trust is an institutional trustee.

Officer. An **officer** is a person elected or appointed to manage the organization's daily operations. An officer that served at any time during the organization's tax year is deemed a current officer. The officers of an organization are determined by reference to its organizing document, bylaws, or resolutions of its **governing body**, or as otherwise designated consistent with state law, but, at a minimum, include those officers required by applicable state law. Officers can include a president, vice-president, secretary, treasurer and, in some cases, a Board Chair. In addition, for purposes of Form 990, including Part VII, Section A, and Schedule J (Form 990), treat as an officer the following persons, regardless of their titles.

1. *Top management official.* The person who has ultimate responsibility for implementing the decisions of the governing body or for supervising the management, administration, or operation of the organization.
2. *Top financial official.* The person who has ultimate responsibility for managing the organization's finances.

If ultimate responsibility resides with two or more individuals (for example, co-presidents or co-treasurers), who can exercise such responsibility in concert or individually, then treat all such individuals as officers.

Key employee. For purposes of Form 990, a current **key employee** is an **employee** of the organization (other than an **officer, director or trustee**) who meets all three of the following tests, applied in the following order:

1. *\$150,000 Test:* Receives **reportable compensation** from the organization and all **related organizations** in excess of \$150,000 for the **calendar year** ending with or within the organization's **tax year**.
2. *Responsibility Test:* At any time during the calendar year ending with or within the organization's **tax year**:
 - a. Has responsibilities, powers, or influence over the organization as a whole that is similar to those of officers, directors, or trustees;

- b. Manages a discrete segment or activity of the organization that represents 10% or more of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole; or
 - c. Has or shares authority to control or determine 10% or more of the organization's capital expenditures, operating budget, or compensation for **employees**.
3. *Top 20 Test*: Is one of the 20 employees other than officers, directors, and trustees who satisfy the \$150,000 Test and Responsibility Test with the highest reportable compensation from the organization and **related organizations** for the calendar year ending with or within the organization's **tax year**.

If the organization has more than 20 individuals who meet the \$150,000 Test and Responsibility Test, report as **key employees** only the 20 individuals that have the highest reportable compensation from the organization and related organizations. Note that any others, up to five, might be reportable as current **highest compensated employees**, with over \$100,000 in reportable compensation. Use the calendar year ending with or within the organization's tax year for determining the organization's current key employees.

An individual that is not an employee of the organization (or of a disregarded entity of the organization) is nonetheless treated as a key employee if he or she serves as an officer or director of a disregarded entity of the organization and otherwise meets the standards of a key employee set forth above. See Disregarded Entities, later [on page 24 of the Instructions], for treatment of certain employees of a disregarded entity as a key employee of the organization.

If an employee is a key employee of the organization for only a portion of the year, that person's entire compensation for the calendar year ending with or within the organization's tax year, from both the filing organization and related organizations, should be reported in Part VII, Section A. **Management companies** and similar entities that are **independent contractors** should not be reported as key employees. The organization's **top management official** and **top financial official** are deemed officers rather than key employees.

Appendix

¹ Form 990, Part VI, Line 15, Instructions; Treas. Reg. § 53.4958-6(c)(1)(iii).

² Form 990, Part VI, Line 15, 2009 Instructions; Treas. Reg. §§ 53.4958-4(b), 53.4958-6(c)(2).

³ Form 990, Part VI, Line 15, 2009 Instructions; Treas. Reg. § 53.4958-6(c)(3).

⁴ California Government Code §12586(g); Cal. Code Regs., tit. 11, §312.1.

⁵ The definitions in this Appendix are taken from the IRS 2015 Instructions for Form 990, beginning at page 25.