A meeting of the Audit Committee of the Board of Trustees of the University of Vermont and State Agricultural College was held on Thursday, February 7, 2013 at 2:00 p.m. in the Livak Ballroom, Room 417-419 Dudley H. Davis Center.

MEMBERS PRESENT: Chair Mark Young, Vice Chair Dale Rocheleau, Jeff Davis*, David Potter and Dennis Mahoney

MEMBERS ABSENT: Bill Botzow and Carolyn Branagan

OTHER TRUSTEES PRESENT: None

REPRESENTATIVES PRESENT: Faculty Representative Albert Joy, Staff Representative Marie Tiemann, Alumni Representative Bill Cimonetti, Student Representative Chris Juaire, and Tanya Moorehouse of the State Auditor’s Office

REPRESENTATIVE ABSENT: Graduate Student Representative Cornell Woodson

PERSONS ALSO PARTICIPATING: President Thomas Sullivan, Vice President for Finance and Administration Richard Cate, Vice President for Legal Affairs and General Counsel Fran Bazluke, Chief Internal Auditor William Harrison, Chief Compliance and Privacy Officer Anna Drummond, Information Security Officer Dean Williams, University Controller Claire Burlingham, Chief Information Officer David Todd, and Renee Bourget-Place of KPMG

* Participated via teleconference call

Chair Mark Young called the meeting to order at 2:05 p.m.

Approval of Minutes

A motion was made, seconded and voted to approve the November 7 and 12, 2012, meeting minutes.

Chief Internal Auditor Update

Chief Internal Auditor William Harrison began by providing a brief summary of the audits listed in his written status report provided in advance to the Committee. Since the November 7 meeting, the Office of Audit Services (OAS) has issued three reports including an Audit of Travel Expenses, and an Audit of Gift and Endowment Expenses.

Concerning the Gift and Endowment Expenses Audit, Mr. Harrison noted his Office was unable to form an opinion for nine of the 34 expense items reviewed due to incomplete or
contradictory source documentation. The report included 24 recommendations intended to strengthen the University’s planning, spending, monitoring, and system access control procedures. Additionally, the Travel Expenses report recommended several changes to University travel authorization, documentation, and approval procedures.

Mr. Harrison clarified for Chair Young that the findings in the Gift and Endowment Expenses Audit included delays in terminating terminated UVM Foundation employee access to the UVM system. Additionally, Mr. Todd confirmed for Chair Young that the UVM Foundation has its own database.

Moving on, Mr. Harrison offered the Committee a number of updates. First, in regard to the restructuring of the Office of Compliance and Privacy Services, the Office is currently researching Compliance program models at other institutions and will have a more complete report at the April 2013 Committee meeting. Second, as required by internal audit professional standards, Mr. Harrison has added an information technology (IT) governance review to the audit plan. He plans to co-source the review with an external firm and is in the process of reviewing their proposal. Finally, recruitment for the Deputy Internal Auditor position is underway.

Mr. Harrison concluded his presentation with a status report of internal audit recommendations as requested by the Committee at the November 7, 2012 meeting. Referencing the Audit Recommendations definitions and tables beginning on page 4 of his report, Mr. Harrison provided a brief summary of the classification and status reporting process and of those reports with a red status. These reports included the Management Internal Control Travel Memorandum, the Travel and Expense and Catering Audit, and the Payment Card Industry Standards Audit.

Vice President Cate addressed a number of recommendations in the Management Internal Control Travel Memorandum and the Travel and Expense and Catering Audit citing the limitations of travel preapproval and employee-liability travel credit cards. He noted that with the implementation of the new PurCard system the University would have better means to observe and control travel expenditures.

Controller Burlingham commented on the new policy in place requiring original itemized receipts for travel reimbursement. This control addresses duplicate payments of travel expenses. She also noted that the new PurCard software would allow certain merchant codes to be turned on and off to prevent misuse. Chair Young commented on how this feature will help to reduce risk.

In response to Chair Young’s questions about what happens to audit recommendations when management decides not to implement them, Mr. Harrison explained that if management accepts the risk of not implementing the recommendations, then the recommendations are removed for the audit follow up list.

Mr. Harrison offered Chair Young and Vice Chair Rocheleau further detail as to how the new system of reporting the status of audit recommendations to the Audit Committee will
work. Only recommendations classified as essential or significant will be reported to the Committee. Responding to Vice President Bazlake’s recommendation, Mr. Harrison described the process of reporting internal audit recommendations to senior management, the President, and the Audit Committee and his Office’s protocol to report essential and significant recommendations that management decides not to implement.

Chief Compliance and Privacy Officer Update

Ms. Drummond provided a report on the Office of Compliance Services’ (Compliance) progress towards completion of the FY 2013 Compliance Work Plan. She prefaced her report with a brief reminder of the purpose of her work plan reports to the board. Ms. Drummond noted that while it is management’s responsibility to operate in compliance with the law, it is the trustees’ responsibility to oversee that compliance. The role of the Chief Compliance Officer (CCO) is to proactively assist management in meeting their compliance responsibilities and to then report on that progress to the trustees, thereby assisting the trustees with their oversight duty. Ms. Drummond further noted that in its 2012 Higher Education Outlook Survey, KPMG found that approximately 70% of public higher education institutions viewed oversight of compliance as the fifth most important duty of the board. The annual compliance office work plan, based on the compliance office risk assessment, lays out areas of focused concentration for report to the board.

Ms. Drummond went on to report on the specifics of her work with UVM’s Office of International Education (OIE) on immigration compliance issues. This topic had been added to the work plan through the annual risk assessment process, as well as through proactive efforts by the Director of OIE, Kim Howard. Ms. Howard sought to obtain the services of Compliance because of recent changes in activities and staffing of that office. Ms. Drummond commended Kim Howard and the Vice President for Enrollment Management for their proactive efforts to enhance compliance within their operations. Immigration compliance has become very important as a consequence of increased governmental interest in foreign students/visitors after September 11, 2001. Governmental oversight and enforcement in this area has also increased. The University has approximately 500 foreign individuals on campus through various programs and the ramifications for noncompliance could be suspension or cessation of these programs with resulting logistical and reputational risk, as well as potential enforcement against University officials.

Ms. Drummond next described how Compliance and OIE mutually set the scope of work to focus on J-1 visitors. J-1 visitors include students, scholars, professors, and researchers. Focusing on the J-1 program allowed Compliance to review OIE processes that overlap with other types of visitors (e.g. F-1, H1-B), as well as for a review of OIE general practices, including its software, I-Office and its use of the government’s Student and Exchange Visitor Program (SEVIS) system.

The work focused primarily on satisfaction of the applicable regulatory requirements and OIE’s related internal controls to meet compliance. An assessment tool was created specifically for the project. A number of compliance enhancements that should provide
greater compliance assurance were identified by Compliance and these enhancements were reported to the Board. Ms. Drummond also reported that Compliance worked with OIE to prioritize these items based on risk, and to create a work plan and time line for modifications to be made. A completion date of December, 2013 was set for all items.

Ms. Drummond moved on to review the compliance awareness survey emailed to 3,684 permanent University employees on October 10, 2012. The survey achieved a response rate of 38%. The purpose of the compliance survey is to create and measure awareness of the Office of Compliance Services, the Code of Business Conduct, University policies, and the Ethics and Compliance Reporting and Help Line, as well as to create a snapshot of the University’s “culture of compliance”.

Ms. Drummond went on to discuss what is meant by a “culture of compliance” and why it is important. She quoted an expert as saying a culture of compliance is an environment in which people strive to “do the right thing whether somebody is looking or not.” A culture of compliance is important because: (i) an organization with a strong culture of compliance is a better, more effective and efficient work place, (ii) the federal sentencing guidelines take into account whether an organization has an effective compliance program, including its culture of compliance, and (iii) the University is audited for its compliance culture.

Ms. Drummond reported that this year’s combined survey results, as demonstrated in the charts provided, show improved awareness in all measures; although faculty, when measured separately, demonstrated less awareness than management and staff. The survey questions intended to reflect culture also showed improvement from past years. In addition, Ms. Drummond reported on the survey themes compiled from the extensive comments provided by survey participants. While generally favorable, other themes revealed some belief that: employees in different groups are held to different standards, there is no single compliance culture at the University, and there is a continued concern about retaliation. Participants also expressed concerns about limited resources to meet increasing regulatory compliance requirements.

Finally, with respect to the survey, Ms. Drummond noted that participants were provided with a link to President Sullivan’s message on the role of the Office of Compliance Services and compliance and ethics, generally. Web analytics showed that the President’s message was viewed 1350 times as a result of the survey. This is of importance in creating a “tone at the top” for compliance and ethics.

In conclusion, Ms. Drummond noted her continued work in providing consultations on compliance issues, and in conducting exit interviews. In addition, in the area of Privacy, Information Security, and Data Retention, her work continues with the Chief Information Officer (CIO) and Information Security Officer (ISO) in reviewing private and/or sensitive University information and its utilization.

Following Ms. Drummond presentation, Chair Young first thanked Staff Representative Marie Tiemann for her work on the Committee and involvement in other University
groups. Next, he opened the floor for her to present concerns from Staff Council regarding the Audit Quality Survey sent to auditees after Audit Services issues a final audit report. A process similar to the one used for faculty evaluations was suggested. Mr. Harrison noted that this was the first time he had been made aware of such concerns. He will look into an independent way of gathering the same information as the Office uses this tool to assess its performance and assess processes. Chair Young expressed his gratitude to Ms. Tiemann for bringing this issue forward. He, also, expressed his willingness to accept anonymous evaluations because of the value this type of feedback brings to the University.

**Information Security Officer Update**

Information Security Officer (ISO) Dean Williams provided a summary of his Office’s work since the November 7 Audit Committee meeting. He began with an overview of the Information Security Operations Team’s contributions to the planned security assessment and penetration test of the PeopleSoft system.

Next, Mr. Williams discussed his efforts to promote information security awareness at the University. He informed the Committee that in recognition of January being Data Privacy Month for Higher Education, the Information Security Office in collaboration with Compliance and Privacy Services sponsored a series of three EDUCAUSE webcasts. The ISO Team, also, continues to offer opportunities to help people work more securely with information. Notably, the ISO, Compliance and Privacy Services, and the Registrar’s Office provided the Athletics Office with a presentation covering the University’s responsibilities under the Family Educational Rights and Privacy Act (FERPA). Additionally, the ISO Team is offering educational sessions at UVM’s annual staff development event, edu@UVM.

Moving on, Mr. Williams offered a summary of his team’s work with the Controller’s Office and helping merchants comply with Payment Card Industry Data Security Standard (PCI DSS) requirements. In December, the CatCard Office servers and associated payment stations (Print and Mail Center and Sodexo) were moved onto the Actively Secured Private Network (ASPN) while server software was upgraded to compliant versions. The CatCard Office subsequently passed its quarterly independent external vulnerability scan. The Bookstore’s systems should be within ASPN in about a week.

Overall, out of the 33 merchants at the University 27 have passed their Self-Assessment Questionnaires (SAQ) and seven merchants have SAQ’s in process. 42% of FY 2012 sales went through merchants that have passed their SAQ’s. The Bookstore accounts for the majority of dollar sales and once within ASPN will increase this percentage significantly.

Ms. Drummond added to the discussion by directing the Committee to the Compliance Services website where a short video addressing protection of personally identifiable information can be found.
In conclusion, Mr. Williams informed the Committee of the retirement of, long time employee, Sharon Provost and current recruitment actions for her replacement.

**Presentation of the FY 2012 OMB Circular A-133 Audit Report**

Ms. Bourget-Place of KPMG reported the total federal expenditures for FY 2012 were $233,199,351. Major federal programs were:

- Smith Lever Cluster - $3,757,988
- Research and Development Cluster - $86,477,610

For the financial statement, the University received an unqualified opinion. For the report on internal control and compliance based on audit of the financial statements, their opinion was unqualified with no material weaknesses. On the compliance and internal control at the program level, there were no material weaknesses or significant deficiencies. There were no reportable findings. Additionally, the University qualifies as a low risk auditee.

Controller Claire Burlingham thanked Jennifer Gagnon, Director of Sponsored Project Administration and her team and Mike Meunier and his team in Cost Accounting for their great work. Chair Young also thanked everyone who contributed to the clean audit.

**Presentation of the National Collegiate Athletic Association Agreed-Upon Procedures (NCAA AUP) Report**

Ms. Bourget-Place presented the results of the report noting that NCAA regulations contain specific minimum agreed upon procedures for revenues, expenses, and internal controls. The final report is addressed to the UVM President and is not filed with the NCAA. In the report, KPMG noted no significant adjustments. They offered the following observation; supporting document was not provided for two of the items selected in the area of uniform expenses.

Ms. Bourget-Place explained to Vice Chair Rocheleau that KPMG could not get the supporting documentation from the University for the selected uniform expenses. She also explained that the NCAA Agreed-Upon Procedures report simply details findings and does not require follow up. Ms. Burlingham added that the University is looking into locating the missing documentation.

In response to Chair Young and Ms. Drummond’s questions about the NCAA’s access to the Procedures Report, Ms. Bourget-Place confirmed that the NCAA could request a copy of the report and decide to follow up on any findings.
KPMG Presentation of the FY 2013 External Audit Plan

Ms. Bourget-Place presented KPMG’s FY 2013 external audit plan by providing an overview of the engagement team, objectives of the audit and responsibilities, and KPMG’s audit methodology. She also noted KPMG’s initial assessment of significant accounts and disclosures and the audit timeline and deliverables. Additionally, she reviewed the audit plans accounting policies, audit and accounting matters that could have a material impact on the University’s financial statements as well as significant accounts and disclosures. Regarding the OMB Circular A-133 audit, KPMG has identified two major programs to be tested in FY 2013 noting that additional programs may need to be tested. The plan is very similar to the one used in FY 2012 and KPMG will keep the Committee apprised of any changes.

Ms. Bourget-Place noted that the only new accounting policy for FY 2013 is the implementation of the Governmental Accounting Standards Board (GASB) 63. She clarified for Vice President Cate that the change provides guidance for reporting deferred outflows of resources and deferred inflows of resources within the financial statements of governmental entities.

Ms. Bourget-Place clarified for Chair Young that the University will not report the UVM Foundations net assets. KPMG will be looking at fund transactions between the UVM Foundation and the University to insure that donor restrictions are met. Ms. Bourget-Place also confirmed that KPMG audits the UVM Foundation’s financial statements.

Ms. Bourget-Place also commented on OMB’s revised rules for auditees and auditors. The White Paper on their revised rules has just been released.

Ms. Bourget-Place will share Moody’s US Higher Education Outlook Negative in 2013 with Chair Young and Vice Chair Rocheleau. President Sullivan noted that the report has been distributed to all Deans and Vice Presidents at the University.

Ms. Bourget-Place confirmed for Chair Young that in FY 2013 KPMG would complete the fourth year of their five year contract with the University.

The Chair presented the following resolution for approval:

**Resolution Authorizing Retention of External Audit Firm for FY 2013**

RESOLVED, that the Committee authorizes and directs the Committee Chair to retain KPMG LLP, Certified Public Accountants, to conduct the mandatory annual audit of the financial statements and compliance audits for the fiscal year ending June 30, 2013, in accordance with the fee schedule set forth in KPMG’s proposal for services dated December 23, 2008. The annual audits shall be conducted in compliance with the requirements of the University Bylaws and state and federal law.
A motion was made, seconded and unanimously voted to approve the resolution for recommendation to the full Board.

**Information Security Request for Quotation (RFQ)**

Chief Information Officer David Todd provided the Committee with a summary of the RFQ to obtain an external IT vulnerability assessment and penetration testing. Although Enterprise Technology Services performs its own internal penetration testing, a general external scan of our critical enterprise systems such as PeopleSoft, Banner and FAMIS has not been done. It has been determined that external penetration testing is necessary to help secure the University’s information systems.

Mr. Todd explained that in the first phase of the penetration testing, the University should take a risk-based approach and start with a limited scope in order to minimize costs, develop an understanding to techniques and results, and develop comfort with the vendor before making a substantial financial commitment. The first focus will be on high-risk systems with limited scope and will expand with experience.

The testing process is expected to be completed in April 2013 and a report from the vendor should be delivered in May.

Chair Young thanked Mr. Todd for taking the first step in this process, as he is very concerned about a data breach.

**Chief Financial Officer Update**

Vice President for Finance and Administration and University Treasurer Richard Cate began with an update on laboratory safety. Referring to the Laboratory Safety grid provided in advance to the Committee, Mr. Cate highlighted areas of improvement including tracking training in PeopleSoft, awareness of required training, chemical storage, and fume hood maintenance. Issues are addressed as they come up; however, some issues will not be completely resolved without renovations. He commented on the inadequacy of the chemistry laboratories and the need to renovate the Cook Physical building. He commented on how renovations would align what the University needs academically and to be proactive in terms of safety.

Mr. Cate and President Sullivan confirmed for Chair Young that laboratory safety was part of deferred maintenance and will be addressed at the upcoming Board meetings. Ms. Drummond noted that the Cook Physical Science building has been moved from number seven to number one on the Capital Projects list.

Controller Claire Burlingham offered the Committee an update on the Grant Thornton PurCard Program Review. The goals of the review were to help the University better understand resource allocations, oversight and management of the current purchasing card program. The University wanted new policies and procedures validated as they
moved into a new purchasing card program agreement as well as assistance with the request for proposal (RFP) responses from venders.

Ms. Burlingham’s team will review and prioritize the recommendations in the PurCard Program Review and use it to implement best practices as the University moves into a new purchasing card program. Currently, Ms. Burlingham is moving forward and finalizing contract negotiations with a new banking card vender as authorized by the Board in December. She noted the new program would offer more robust reporting tools, easier access to data, and better integration between PeopleSoft and the PurCard system. New cards will be issued in April or May of this year. She is also looking into an “e-payables” solution, which will allow for the use of a “ghost” credit card that goes through the merchant account system to make payments to larger venders. This process will enable those dollars to be eligible for a rebate that goes into the general fund.

At Chair Young’s request, Ms. Burlingham stated the cost of the Grant Thornton PurCard Program Review was $40,000.

Ms. Burlingham and Mr. Cate clarified in response to Chair Young’s concerns about cost savings and the use of PurCards that purchasing cards are a means of payment for items on contract or bid. They also confirmed that individual card holder limits will be lowered when the new cards are issued.

Chair Young asked if the University had to pay finance charges on the PurCards and Ms. Burlingham answered no, payments are made within the scheduled payment date and funds are reallocated internally.

Finally, Mr. Cate provided an update on the Enterprise Risk Management (ERM) program. The President’s Advisory Committee on ERM is reviewing the recommended risk register and portfolio. The risk portfolio will be brought to the Audit Committee at the April 2013 meeting.

Mr. Cate posed a question about how the Audit Committee would like to review and discuss the risk portfolio. Chair Young and Vice Chair Rocheleau responded that they felt that it was the Committee’s responsibility to review and understand the major risks but not approve them. The Committee’s job will be to assure the Board that the right risks are being managed.

**Proposed Amendments to the Trustee Conflict of Interest Policy**

Vice President and General Counsel Fran Bazluke reviewed the proposed amendments to the Trustee Conflict of Interest Policy. After a brief discussion, Chair Young and Vice Chair Rocheleau requested two edits to the definition of “substantial interest” (as highlighted in yellow in Appendix A). A motion was made, seconded and unanimously voted to approve these additional amendments to the Board of Trustee Conflict of Interest policy.
At the conclusion of the previous discussion, the following resolution was presented for approval:

**Approval of Amended Trustee Conflict of Interest Policy**

WHEREAS, the *Trustee Conflict of Interest Policy* has been revised to include a new definition of “substantial interest” and additional policy elaboration on commercial transactions and Trustee employment with UVM; and

WHEREAS, the Committee on Board Governance endorsed the revisions to the *Trustee Conflict of Interest Policy* on December 17, 2012;

BE IT RESOLVED, the Audit Committee hereby approves the amended *Trustee Conflict of Interest Policy* appearing as Appendix A to this document and recommends it to the Board of Trustees for approval.

A motion was made, seconded and unanimously voted to approve the resolution for recommendation to the full Board.

**Other Business**

At 4:10 p.m., a motion was made, seconded and approved to go into executive session for the purpose of discussing civil actions, the evaluation of public officers or employees, discussion of personnel records, and to receive the advice of Counsel. All in attendance were excused from the meeting, with the exception of Trustees, President Tom Sullivan, Vice President and General Counsel Francine Bazluke, Chief Internal Auditor William Harrison, Chief Compliance and Privacy Officer Anna Drummond and Tanya Morehouse of the State Auditor’s Office. Chief Compliance and Privacy Officer Anna Drummond was excused from the meeting following the first executive agenda item. For the third item, Vice President and General Counsel Francine Bazluke was excused.

**Adjournment**

The meeting was re-opened to the public at 4:45 p.m. There being no further business, the meeting was adjourned.

Respectfully submitted,

Mark Young, Chair
UNIVERSITY OF VERMONT AND STATE AGRICULTURAL COLLEGE

BOARD OF TRUSTEES

CONFLICT OF INTEREST POLICY

Policy Statement

University Trustees work in service to the institution and the public trust and are obligated to fulfill their responsibilities in a manner consistent with this charge. All decisions of the Board and its members individually must be made in good faith, with diligence and care, in a manner reasonably believed to be in the best interests of the University, and with due regard for the University’s reputation. It is therefore the policy of the University and this Board that Trustees have an affirmative duty to identify, disclose and manage conflicts in conformance with this Policy and the law.

Definitions

Conflict of interest. A conflict arises when there is a direct or indirect potential, apparent or actual divergence between a Trustee’s private interests and his or her fiduciary duties as a University Trustee. Conflicts may affect non-financial as well as financial Trustee interests. The Trustee may be personally involved in a proposed transaction, have an employment, fiduciary or investment relationship with an entity with which the University is dealing, or have a family relationship with a person or entity with which the University is engaged.

For purposes of this Policy, a conflict of interest arises where the relevant material facts affect a Trustee, a member of his/her immediate family, or an affiliate, as herein defined. In the case of conflicts involving a member of the immediate family or an affiliate of a Trustee, the Trustee is obligated to make disclosure when he or she knows or reasonably should know of a conflict.

An apparent conflict exists when a reasonable person would conclude from the circumstances that a Trustee’s ability to discharge his or her duties as a Trustee, as summarized in the Policy Statement above, are compromised by personal interest.

A member of the immediate family of a Trustee includes a spouse or civil union partner, child, parent, sibling, or such relations by marriage or civil union partnership (wherever residing), person claimed as a dependent for federal income tax purposes partnership (wherever residing), and any relative residing in the same household as the Trustee.
There may be other family members as to whom disclosure should also be made to avoid the appearance of a conflict, and doubts should be resolved in favor of disclosure.

An affiliate includes a business, association, corporation, or other legal entity in which a Trustee or a member of his/her immediate family is a director, trustee, officer, partner, joint venturer, principal, employee, owner, and/or holder of five percent (5%) or more of voting stock or a controlling interest. In addition, an affiliate is an entity from which the Trustee or a member of his/her immediate family otherwise annually receives or has the right to receive $10,000 or more compensation, income, or other financial consideration or value.

A “substantial interest” means an interest in “business” “with which the Trustee is associated” in the manner and to the extent described in this paragraph. A “business” is any of the following organized for profit: a. Association; b. Business trust; c. Corporation; d. Enterprise; e. Joint venture; f. Organization; g. Partnership; h. Proprietorship; i. Vested trust; j. Every other business interest, including ownership or use of land for income. A business “with which the Trustee is associated” means a business in which the Trustee or any member of the Trustee’s immediate family: a. Is an employee; b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of interest owned; or c. Owns a legal, equitable, or beneficial interest of five percent (5%) or more of the business, other than as a trustee on a deed of trust.

Policy Elaboration

It is not possible to provide an all-inclusive list of situations giving rise to a conflict of interest. In general, Trustees may not use their positions or confidential information to which they become privy as Trustees for the gain of themselves or others. Below are examples of situations presenting potential, actual or apparent conflicts.

1. Commercial transactions. The University will consider engaging in commercial transactions, such as contracts for goods or services, with a Trustee or any business entity in which a Trustee has a substantial interest only if the proposed transaction has undergone the customary conflict of interest disclosure and University procurement processes and, after review, the Board Audit Committee determines that the transaction is in the best interests of the University, following which the Board must take action on the Audit Committee’s recommendations. Examples of when such a contract might be in the best interest of the University include, but are not limited to, when it has financially advantageous terms, when the goods or services to be provided are demonstrated to be unique, or when the contract is a continuation of a contract that was in effect before the person with the substantial interest became affiliated with the University. Commercial transactions between a Trustee and the University are not per se barred under this Policy. In such situations, however, due to the actuality or
appearance of a conflict, it is essential that, as to such proposed transactions, there is strict adherence to disclosure and recusal protocols. Such transactions will be permissible if (a) the transaction is at fair market value; (b) the University considers alternative competitive proposals; and (c) the University determines that the transaction is fair and reasonable to, and clearly in the best interests of, the institution, despite an actual or apparent conflict.

2. **Confidential, Proprietary or Privileged Information.** Except as required by law, no Trustee shall, without proper Board or institutional authorization, give or release University information or data (“Information”) of a confidential, proprietary or privileged nature, or use such Information to gain personal advantage or avoid personal detriment, insofar as such Information is not in the public domain. This rule applies to Trustees during and after their University service relative to Information acquired in the course of their Trusteeship.

3. **Business Opportunities.** No Trustee shall divert from the University for private gain of self or others a business opportunity in which the University would foreseeably engage in furtherance of its mission, unless the University has been offered, and through an authorized official declined, a right of first refusal.

4. **Trustee Employment at UVM.** Except under extenuating circumstances as determined by a two-thirds (2/3) majority of the Board, no Trustee may enter into compensated employment with the University while the individual is a Trustee and for a period of one year after leaving the Board. This prohibition does not apply to student trustees who wish to engage in part-time University employment during their trusteeship, subject to the conflict of interest disclosure rules otherwise stated in this Policy.

5. **Employment or Retention of Immediate Family Members or Affiliates.** No Trustee may be directly or indirectly involved in the hiring, supervision, performance evaluation, compensation or retention of personal or business services by the University of an immediate family member or an affiliate.

56. **Remuneration, Honoraria, Gifts, and other Consideration**

   a. **From External Parties.** No Trustee shall solicit or accept from any person, organization, corporation, or other legal entity (or representatives thereof) seeking to do, or doing, business with, or otherwise gain benefit from, the University, any remuneration, gift, gratuity, services, loans, travel, entertainment or other consideration of more than nominal value in exchange for a promise, or reasonable inference, that the Trustee’s influence with the University has been exchanged for such consideration. This prohibition applies without limitation to vendors, contractors, sponsors, donors, and job or admissions applicants.

   b. **From the University.** It shall not be considered a conflict of interest for a Trustee to accept from the University (1) gifts or other items of value in
consideration of his/her service or retirement from University service; (2) customary *honoraria*; (3) reasonable reimbursement for travel, food, or lodging for expenses incurred in connection with University Trusteeship pursuant to applicable University policy and procedures; or (4) complimentary tickets for a Trustee and his/her guest at University functions or events when the presence of the Trustee is deemed to serve the best interests of the University.

c. *From External Parties or the University.* No Trustee shall solicit or accept any fee or honorarium offered in return for a speech or appearance or article made or written in the individual’s official capacity as a Trustee. Reasonable and necessary expenses reimbursed to the Trustee for participation in such an event are permissible subject to the filing of a conflicts disclosure form. Any such appearance shall be subject to the provisions of the Statement of Trustee Responsibilities, and in particular the requirement that a Trustee recognize that the President is the spokesperson for the University and the Chair is the spokesperson for the Board and that, when a Trustee engages in communications with University personnel, students, the citizenry, and the media on an individual basis, the Trustee shall be guided by the duty of loyalty as set forth in the Statement of Trustee Responsibilities.

67. **Employment of University Personnel.** A Trustee wishing to employ or retain a University officer of administration for private consulting or other non-University purposes must first obtain from the General Counsel an opinion as to whether such engagement does, or may, give rise to a conflict of interest. If the General Counsel concludes that a conflict does, or may, arise, the Trustee shall disclose the proposed employment or consulting arrangement to the Board Chair. The Board Chair will either authorize or decline to authorize the proposal, conferring with the Executive Committee in his/her discretion. If the proposal is authorized, the Chair shall communicate the authorization in writing to the Trustee, with a copy to the General Counsel. The Trustee’s Conflict of Interest Disclosure Form shall then be amended to reflect the affiliation. In the case of proposed employment of other University personnel, the Trustee should consider whether such employment might reasonably result in a conflict of interest and, if so, he/she should thus amend the Conflict of Interest Disclosure Form.

78. **Testimony.** A Trustee who testifies in person or through recorded or written communication before any public body or public official, whether judicial, legislative or administrative, shall make it initially and clearly known on the record when s/he is speaking on the matter as a University representative. Trustees shall obtain authorization to speak on behalf of the University by means of customary governance protocols.

89. **Political or Appointive Office.** The constituency of each Trustee is the University,
regardless of the source of appointment. Trustees whose service on the Board is incidental to elective or appointive office shall engage in such service with due regard for the fiduciary duties of a Trustee, and in a manner consistent with this Policy.

Summary of Protocol

Upon commencement of Board service, Trustees file Conflicts Disclosure Forms, amending them no less than once annually and otherwise as circumstances dictate.

In advance of any meeting at which a conflict may foreseeably arise, the Trustee must disclose the conflict to the Committee Chair (and/or to the Board Chair if the conflict will arise during a Board meeting). The Trustee, Committee Chair, or Board Chair may request an opinion on the existence of a conflict from the General Counsel. In the event that a Board Chair or a Committee Chair conflict is in issue, the disclosure shall be made to the Vice Chair, who may also request a legal opinion from the General Counsel.

Once having disclosed the conflict, the Trustee may him/herself decide to decline to participate in discussion of, and any vote upon, the matter as to which a conflict exists. In such instances, the meeting record shall reflect his/her self-recusal and abstention.

If the Trustee does not her/himself decline to participate in discussion of the matter as to which a conflict exists, the Committee (or Board) Chair shall, prior to consideration of the matter, and in open session, identify the conflict. In the event that a Board Chair or Committee Chair conflict is in issue, the Vice Chair shall identify the conflict. The Trustee as to whom a conflict is identified may participate in open session discussion of the matter if a majority of the members of the Committee or the Board authorize such participation by majority vote; if such authorization is given, the Trustee shall nonetheless abstain from voting on the matter. The Trustee shall be excused from any portion of an Executive Session devoted to the matter as to which a conflict arises.

A Trustee who recuses from participation in discussion of, and/or voting upon, a matter before a Committee or the Board shall not be counted toward a quorum.

Protocol

Disclosure Forms

Each Trustee shall file a Trustee Disclosure Form at the time of initial appointment and by March 1 of each subsequent year of service. The Form will require the Trustee to acknowledge his/her review of the Policy and to agree to disclose on the Form and as otherwise required by the Policy any matter as to which a conflict does, or may, exist. The Trustee shall update the Form during the year as circumstances dictate. Forms will be filed with the Trustee Coordinator, and maintained by the Assistant Secretary of the Board, with a copy to the General Counsel.
Disclosure Obligation

In advance of any meeting at which a conflict may foreseeably arise, the Trustee must disclose the conflict and all relevant material facts to the Committee (or Board) Chair. If the Trustee with such conflict is the Committee or Board Chair, the conflict shall be disclosed to the Vice Chair, who shall instead preside for the agenda item as to which the matter arises.

Relevant material facts may include the benefits that could inure to the Trustee; the extent to which, if any, the Trustee is participating in a competitive process to enter into a transaction or business affiliation with the University; whether the Trustee is privy, in his or her capacity as a Trustee, to proprietary or other non-public University information that could be advantageous to the Trustee in relation to other parties interested in a proposed transaction; and/or if the University would be likely to enter into the proposed transaction or relationship in the absence of the Trustee’s University affiliation.

A Trustee may elect, following such disclosure, to self-recuse from participation in discussion of the matter as to which disclosure is made. Alternatively, if a Trustee submits a disclosed conflict for consideration by a Committee or the Board, when the item arises on the agenda the Chair shall, for the record, identify to the Committee or the Board the conflict and the material facts relating thereto. (If the Trustee with such conflict is the Committee or Board Chair, the conflict shall be identified by the Vice Chair, who shall preside for the agenda item as to which the matter arises.)

The Trustee shall request authorization from the Committee or the Board to participate in any discussion of the agenda item that takes place in open session, and shall be recused from any portion of an Executive Session devoted to the matter as to which a conflict arises. If the Committee or Board by majority vote authorizes the Trustee’s participation in such public discussion, the Trustee shall nonetheless abstain from voting on any such item.

In all instances, the determination as to whether to permit the Trustee to participate in discussion of the agenda item as to which a conflict arises shall be made following full disclosure by the Trustee of the nature of the conflict, and on the basis of whether, in the considered judgment of the Committee or the Board, the University’s interests will be best served by participation of the Trustee notwithstanding the conflict.

Role of the University General Counsel

Prior to each Committee and Board meeting, the General Counsel shall review the agenda in relation to Trustee Disclosure Forms to determine whether a conflict may, or will, arise. If a conflict is identified, the General Counsel shall contact the Trustee and the Committee (or Board) Chair regarding the relevant agenda item. The Trustee and the Chair shall otherwise proceed as described in the first section of this Protocol (“Disclosure Obligation”).
Upon request of the Trustee and/or the Committee or Board Chair, the General Counsel shall provide an opinion as to whether a conflict of interest arises as to such Trustee. All such opinions shall be subject to applicable privileges under law.

Approval of a Conflict of Interest Transaction

If a conflict is identified for the first time subsequent to any action by the Board in which a conflicted Trustee participated, such action shall be voidable by the Board in accordance with the Vermont Nonprofit Corporation Act and otherwise applicable procedures relating to Board meetings and action.

Notwithstanding the preceding paragraph, a conflict of interest transaction is not voidable or the basis for imposing liability on the Trustee if the transaction (a) was fair at the time it was entered into or (b) is approved in advance by vote of the Board or a Committee if (i) the material facts of the transaction and the Trustee’s interest are disclosed or known to the Board or Committee; and (ii) Trustees approving the transaction in good faith reasonably believe that the transaction is fair to the University. Any approval must receive an affirmative vote of a majority of the Trustees on the Board, and any Trustee who recuses from participation in discussion of, and/or voting upon, a matter before the Committee or Board shall not be counted toward a quorum.

In cases in which the Board or a Committee considers approval of a conflict of interest transaction, its review of the material facts and its resulting decision shall be documented in the meeting minutes.

Post-Transaction Challenge Procedure

Complaints of non-compliance with this Policy shall be filed promptly and in writing with the Chair of the Board, with copies to the Secretary and Assistant Secretary of the Board. Disposition of such complaints shall be handled in the same manner as proposed or approved transactions under this Policy and, as to a non-compliant Trustee, under relevant provisions of the University Charter, Bylaws and Vermont Nonprofit Corporation Act.

Governing Law

This Policy incorporates by reference any obligations imposed upon the University, the Board, and/or a Trustee by federal or State law.

Adopted by the Board of Trustees: February 12, 2005
Amended by the Board of Trustees: February 4, 2012
Amended by the Board of Trustees: November 8, 2012
Amended by the Board of Trustees: