

TO: UUA Board of Trustees
FROM: Dan Brody
DATE: March 17, 2009
RE: Proposed policies on Conflict of Interest and Whistleblower Protection

The charter of the UUA Audit Committee charges the committee with recommending to the board “a Conflict of Interest Policy for all staff and volunteers.” While there is no similar charge concerning the drafting of a Whistleblower Protection Policy, most nonprofit organizations are now adopting such a policy. (A question in the governance section of the new IRS Form 990, which secular nonprofits must file, asks whether the organization has such a policy.)

Attached are the proposed policies that the Audit Committee approved this week. UUA counsel Ned Leibensperger reviewed drafts of each policy, and suggested changes that were incorporated in the final versions, which he has approved.

The policies were modified in response to extensive comments we received from the Rev. Wayne Arnason, chair of the Ministerial Fellowship Committee. Changes were also made in response to comments made by Lyn Conley and by the UUA Leadership Council.

I'd like to highlight two issues for the board's consideration:

1. Some elements of the proposed policies overlap matters that are covered in the new UUA Governance Manual. For example, sections 3.3 and 3.7.12 of the manual discuss conflicts of interest involving trustees and committee members.
2. Each policy authorizes the board to sanction a trustee or member of an elected committee who violates the policy by removing the individual from the board or committee. Such action is not now possible under the UUA bylaws, which permit removal of an elected individual only if the individual “is incapacitated or otherwise unable to carry out the duties of the office.” A bylaws change allowing the board to remove an elected official “for good cause” would be required to give effect to these provisions. It would probably be wise to require a super-majority (2/3rds or even 3/4ths) vote for removal.

Please feel free to contact me, Dave Friedman, or committee chair Chris Reece if you have any questions.

UUA Conflict of Interest Policy
March 2009

All officers, employees, and trustees of the Unitarian Universalist Association and all members of UUA committees (including committees of the Association, committees of the Board of Trustees, and Presidential committees) shall scrupulously avoid any conflict between their personal, professional, or business interests and the interests of the Association.

The word "committee" in this policy is to be interpreted broadly to include any appointed or elected body of the Association, whether it is normally called a committee or a panel, board, commission, or other name.

If any officer, employee, trustee, or committee member has any direct or indirect interest in, or relationship with, any individual or organization that proposes to enter into any transaction with the Association, including but not limited to transactions involving:

- a. the sale, purchase, lease or rental of any property or other asset,
- b. employment, or rendition of services, personal or otherwise,
- c. the award of any grant, loan, contract, or subcontract, or
- d. the investment or deposit of any funds of the Association,

such person shall be considered an "interested person" and shall give notice of such interest or relationship as specified in this policy.

Disclosure

Association employees and members of Presidential committees shall disclose possible conflicts to the President. Officers and trustees of the Association, and members of all other committees, shall disclose possible conflicts to the Moderator.

Each officer, trustee, senior staff member, and committee member shall annually

- a. acknowledge receipt of this policy and
- b. disclose any involvements with individuals, organizations, or vendors that might cause, or might reasonably be seen as being likely to cause, a conflict.

Determination of Conflict of Interest

If an interested person discloses a possible conflict of interest to the Moderator, or if the Moderator becomes aware that a possible conflict of interest exists concerning an officer, a trustee, or a member of a committee of the Association or a committee of the

Board of Trustees, the matter shall be referred to the Board of Trustees or its Executive Committee for action within 30 days.

The Board or its Executive Committee shall determine if a material conflict of interest exists. Prior to the determination, the Moderator shall present information concerning the possible conflict of interest. The interested person shall be given the opportunity to make a statement, either in person or in writing. The deliberations of the Board or its Executive Committee may be held in executive session. The interested person may not be present during such deliberations.

If the Board or its Executive Committee determines that a material conflict of interest exists, it shall then determine whether the proposed transaction is just, fair, and reasonable in the light of the disclosures. In making its decision, the Board or its Executive Committee shall determine whether the Association can obtain with reasonable efforts an equally advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

The President shall implement procedures for disclosure and determination of possible conflicts of interest involving employees of the Association and members of Presidential committees. The procedures shall include the determination of whether a material conflict of interest exists and the determination of whether a transaction or arrangement may proceed despite the existence of a material conflict of interest.

Any determination concerning a conflict of interest shall promptly be communicated to the interested person and to the chair of the committee on which the person serves.

If the President or the Board determines that a material conflict of interest exists concerning a proposed transaction or arrangement, the interested person shall refrain from attempting to exert any influence on the Association to affect a decision on such matter.

The President shall assure that all contracts for consulting services protect the Association from conflicts of interest on the part of the consultant.

Conflicts of Commitment

No officer, employee, trustee, or committee member of the Association may use or influence the use of the Association's financial, personnel, or other resources for personal benefit, or for any purposes other than the achievement of the ends of the Association.

Service by Employees on Other Governing Bodies

A UUA employee may serve on the governing body of any of the following types of organizations only with the prior approval of the President:

- an interdenominational or interfaith organization
- an associate member organization of the Association
- an independent affiliate organization of the Association
- an organization that does business with the Association

Such approval shall be reviewed annually.

This policy does not preclude service on the board of a congregation or UUA district.

Employment of Trustees

A UUA employee may not approach a member of the Board of Trustees regarding possible employment on the UUA staff. Without prior approval of the Board of Trustees, a trustee may not apply for or accept employment with the Association within one year after the end of the member's service on the Board.

Comment [DSB1]: The language that allows exceptions by prior approval of the board is a compromise between a complete ban and no ban.

Gifts

Officers, employees, trustees, and committee members may not accept gifts, loans, or pledges of behavior, of any kind, from any source, that could be interpreted as attempting to inappropriately influence any action taken by them on behalf of the Association. Officers, employees, trustees, and committee members may not accept cash gifts in any amount, or other gifts, entertainment, or favors in excess of \$100 per person per year, from any individual or outside concern which does or is seeking to do business with the Association.

Violations of the Conflict of Interest Policy

If the President or the Moderator has reasonable cause to believe that an individual has failed to disclose actual or possible conflicts of interest, or has otherwise violated this policy, he or she shall inform the individual of the basis for such belief and afford the individual an opportunity to explain the alleged violation.

If, after hearing the individual's response and after making further investigation as warranted by the circumstances, the President or Moderator determines the individual has violated this policy, he or she shall initiate appropriate disciplinary and corrective action.

If the Board of Trustees concludes that a serious violation has been committed by a member of the Board or by a member of a committee appointed by the Board or elected by General Assembly, the Board of Trustees shall consider the issue and shall take appropriate disciplinary measures, up to and including removal from the Board or committee.

Comment [DSB2]: A bylaws change would be needed to permit removal of trustees or members of elected committees for cause.

March 14, 2009

UUA Whistleblower Policy

The Unitarian Universalist Association (UUA) is committed to lawful and ethical behavior in all of its activities, and requires trustees, employees, and volunteers (including committee members) to act in accordance with all applicable laws, regulations, and policies, and to observe high standards of business and personal ethics in the conduct of their duties.

The objectives of the UUA's Whistleblower Policy are to:

- prevent or detect and correct improper activities
- encourage each UUA trustee, employee, volunteer, vendor, or other person (a "Reporting Individual") to report what he or she in good faith believes to be a serious violation of law or policy or a material accounting irregularity (a "Concern")
- ensure the receipt, documentation, and resolution of reports received under this policy
- protect Reporting Individuals from retaliation.

The President may delegate any responsibility described in this policy. The President shall assure that all trustees, employees, and volunteers are informed of this policy.

Reporting Responsibility

Each Reporting Individual has an obligation to report a Concern committed by the UUA or by an officer, trustee, employee, volunteer, agent, or other representative of the UUA. The types of Concerns that should be reported include, for purposes of illustration and without being limited to, the following:

- providing false or misleading information on the UUA's financial documents, grant reports, tax returns, or other public documents;
- providing false information to or withholding material information from the UUA's staff, auditors, accountants, lawyers, trustees, or other representatives responsible for ensuring UUA compliance with fiscal and legal responsibilities;
- embezzlement, use for private benefit, or misappropriation of UUA funds;
- material violation of a UUA policy, including, among others, confidentiality, conflict of interest, sexual harassment or misconduct, whistleblower, ethics, and document retention;
- material failure of the UUA to take an action needed to bring the Association into compliance with law or policy;
- discrimination based on race, color, national origin, religion, age, gender identity, sexual orientation, or disability;
- facilitation or concealment of any of the above or similar actions

Reporting of Concerns

Whenever possible, a UUA employee should seek to resolve a Concern through normal grievance procedures, by reporting it to the appropriate managers until the Concern is satisfactorily resolved. However, if for any reason an employee is not comfortable speaking to a manager or does not believe the Concern is being addressed in an appropriate, timely, and ethical manner, the employee may contact the Director of Human Resources or may report the Concern to the President through the Whistleblower Reporting System.

Trustees, committee members, and other Reporting Individuals should report Concerns to the President through the Whistleblower Reporting System.

Whistleblower Reporting System

The President shall implement a system (the “Whistleblower Reporting System”) to facilitate the reporting, recording, and timely resolution of Concerns. The system shall include appropriate safeguards to ensure that concerns are properly recorded and impartially investigated. The system shall inform the Moderator about the filing of each Concern. However, if the Moderator is the subject of a Concern the chair of the UUA Audit Committee will be informed instead.

Form of Reports

Written reports of Concerns are preferred, but verbal reports will be accepted if a Reporting Individual is uncomfortable putting a Concern into writing.

Concerns about Actions of Ministers

A Concern that is reported about an action of a minister in fellowship with the UUA shall be treated as follows:

- If the Concern is about an action that was taken in the role of UUA trustee, employee, or volunteer, the President shall enter the Concern in the Whistleblower Reporting system, shall investigate the concern, and shall take appropriate disciplinary or corrective action.

If the President takes disciplinary or other corrective action against a minister, a note about the Concern and its resolution shall be placed in the minister’s file.

If the President concludes that the Concern raises a question of possible unprofessional or unbecoming conduct of a minister, or other violation of the Rules of Fellowship, the President shall refer the Concern to the Ministerial Fellowship Committee.

- If the Concern is about an action that was not taken in a role of UUA trustee, employee, or volunteer, the President shall not enter the Concern in the Whistleblower Reporting System, but shall inform the Reporting Individual of the procedure for bringing the Concern to the Ministerial Fellowship Committee.

Comment [DSB1]: Should a note also be placed in the minister’s file if the President concludes that a complaint was unwarranted, or that no action is needed?

Handling of Reports

All reports of Concerns shall be investigated with due care and promptness, to determine if the allegations are true, if the issue is material, and what actions, if any, are necessary to correct the problem. The chair of the UUA Audit Committee shall immediately be notified upon the receipt of a report of a Concern regarding fraud, accounting practices, internal controls, or auditing.

At the conclusion of the investigation, the President shall issue a confidential report to the Audit Committee and to the Moderator.

Authority of Audit Committee

At the request of the Moderator, the Audit Committee may conduct further investigation of a Concern. In such cases, the Audit Committee shall have full authority to investigate the Concern, and may retain outside legal counsel, accountants, private investigators, or any other resource that the Committee reasonably believes is necessary to conduct a complete investigation of the Concern.

Notification

The person about whom a Concern is raised shall be notified of the Concern and, in the discretion of the President, the identity of the Reporting Individual at the earliest time that does not compromise the

investigation of the Concern. The Reporting Individual shall be kept informed as reasonable, in the discretion of the President, throughout the investigation and resolution of the Concern.

No Retaliation

This Whistleblower Policy is intended to encourage and enable Reporting Individuals to raise Concerns for investigation and appropriate action. With this goal in mind, no one who, in good faith, reports a Concern shall be threatened, discriminated against, or otherwise made subject to retaliation (including, in the case of an employee, adverse employment consequences) as a result of such report. Moreover, a trustee, employee, or volunteer who retaliates against someone who has reported a Concern in good faith is subject to discipline up to and including removal from the Board of Trustees, dismissal from the volunteer position, or termination of employment.

Comment [DSB2]: A bylaws change would be required to permit removal of trustees or members of elected committees for cause.

Acting in Good Faith

A Reporting Individual must act in good faith and have reasonable grounds for believing the matter raised is a serious Concern. The act of making an allegation that proves to be unsubstantiated, and that proves to have been made maliciously, recklessly, with gross negligence, or with the foreknowledge that the allegation is false, will be viewed as a serious offense and may result in discipline, up to and including removal from the Board of Trustees, dismissal from the volunteer position, or termination of employment. Depending on the circumstances, such conduct may also give rise to civil or criminal liability.

Confidentiality

Reports and investigations of Concerns shall be kept confidential to the greatest extent possible. However, consistent with the need to conduct an adequate investigation and to implement a resolution, the UUA does not guarantee confidentiality. All discussions of Concerns at meetings of the Audit Committee or of the Board of Trustees shall be held in executive session.

Disclosure (by trustees, employees, volunteers, or others involved with the investigation) of information regarding individuals related to an investigation to persons not involved in the investigation or necessary to the resolution of the investigation will be viewed as a serious offense and may result in discipline, up to and including removal from the Board of Trustees, dismissal from the volunteer position, or termination of employment. Depending on the circumstances, such conduct may also give rise to civil or criminal liability.

Concerns about Elected Officials

If an investigation of a Concern concludes that a serious violation has been committed by a member of the Board of Trustees or by a member of a committee or other body elected by General Assembly, the President shall refer the matter to the Board of Trustees. The Board of Trustees shall consider the issue and shall take appropriate disciplinary measures, up to and including removal from the Board or elected body.

Comment [DSB3]: A bylaws change would be needed to permit removal of trustees or members of elected committees for cause.