

Keypath Education International, Inc. Board Conflicts of Interest Policy

May 11, 2021

Part A: Board Protocols - Conflicted Directors

1. Background

1.1 Purpose

The purpose of these protocols is to set out the structures and procedures which have been put in place by the Board of the Company to ensure that the consideration of matters by the Board and any Board committee(s) is undertaken free from any actual influence or appearance of influence from persons with conflicts of interest, and that the disclosure of the Company's confidential information is to be subject to appropriate corporate governance controls.

1.2 Directors duties

Annexed to these protocols is:

- (a) an outline of duties of directors in relation to the disclosure of interests and avoiding conflicts; and
- (b) a discussion of certain conflicts which may arise with nominee directors.

Nothing in these protocols is intended to limit in any way the duties owed to the Company by the directors of the Company (**Directors**) under applicable law.

2. Disclosure of information to Directors

2.1 Directors disclosure of interests

Directors must at all times comply with their duties and obligations as directors of the Company under statute, common law and the Company's Constituent Documents to disclose certain interests to the Board and avoid conflicts of interest. The duties of the Directors also include a duty of confidentiality owed to the Company. An outline of certain duties and obligations of Directors is set out in Part B to these protocols.

2.2 Review of information before disclosure to directors

Where a Director or senior executive planning to provide information to the Board has identified a conflict of interest, or has reason to believe a conflict of interest may arise, before any information is circulated to the Board or any Board committee, it must first be provided to the Company Secretary (**Probity Officer**) who will determine whether the disclosure of that information to any of the Directors may give rise to a conflict of interest or potential conflict of interest (a **conflict**) in relation to one or more of the Directors and in respect of which such Director or Directors is or are prohibited from voting under the Constituent Documents of the Company. Information which may require review by the Probity Officer includes any agendas or papers for Board meetings or Board committee meetings and any documents generated internally or by the Company's advisors. The Chair may, as appropriate, make certain senior executives and management of the Company aware of this requirement.

In making that determination in respect of a particular Director, the Probity Officer shall consult with the Chair of the Board or, in the event that disclosure of the information to the Chair may give rise to a conflict, the lead independent Director of the Board. If the Chair or the lead independent Director (as applicable) considers it appropriate, he or she may establish a committee comprising of those Directors who do not have a conflict for the purposes of making the determination (**Independent Directors**).

The Chair or the lead independent Director (as applicable), or any committee of Independent Directors established by the Chair or the lead independent Director may also for the purposes of making the determination:

- (a) request further information from the relevant Director; and/or
 - (b) seek advice from the Company's legal or other advisors.
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3. Procedures

3.1 Procedures to be followed before board meeting

Before notice of any matter to be considered by the Board or a Board committee (**Relevant Matter**) is circulated to Directors, the procedure set out in paragraph 2.2 of these protocols must be adopted for the purpose of determining whether the involvement of any of the Directors in the Board's or Board committee's consideration of that Relevant Matter would give rise to a conflict.

3.2 Exclusion of conflicted director

If the Board or a Board committee is required to consider a Relevant Matter and it has been determined in accordance with paragraph 2.2 of these protocols that the involvement of a Director (**Conflicted Director**) in the Board's consideration of the Relevant Matter, or a Board committee's consideration of the Relevant Matter, would give rise to a conflict, then the Conflicted Director:

- (a) must not receive any information about the Relevant Matter; and
- (b) is not entitled to participate in any discussions regarding, nor take part in any decision-making process in relation to, the Relevant Matter,

unless the Independent Directors make a determination under paragraph 3.3 of these protocols.

3.3 Inclusion of conflicted director on limited basis

After following the procedures set out in paragraph 2.2 of these protocols, depending on the nature of the conflict or potential conflict and the application of the particular facts, the Independent Directors may decide that the Conflicted Director can:

- (a) receive part of the information in respect of the Relevant Matter;
- (b) receive redacted versions of information distributed to the Board in respect of the Relevant Matter; and/or
- (c) participate in the discussions regarding the Relevant Matter but not to vote on resolutions covering the Relevant Matter.

3.4 Procedures where conflicted director excluded

If the Relevant Matter is to be considered at a Board meeting or Board committee meeting and a determination is made under paragraph 3.2 of these protocols (and not under paragraph 3.3 of these protocols):

- (a) the Conflicted Director may only receive modified versions of the agenda and other papers circulated to Directors in respect of that meeting which exclude all information relating to the Relevant Matter;
- (b) the Conflicted Director may attend the meeting provided that the Conflicted Director excuses himself or herself from the meeting during any discussion of the Relevant Matter and takes no part in any decision-making process in relation to the Relevant Matter;

- (c) the Independent Directors must not disclose to the Conflicted Director any information relating to the Relevant Matter including the content of any relevant discussions at Board meetings and any other relevant discussions, negotiations or agreements;
- (d) the Company Secretary will prepare minutes of all meetings of the Board and circulate those minutes to the members of the Board. However, if the Relevant Matter was considered at a meeting, the Conflicted Director will only be provided with a modified version of the minutes of that meeting which excludes those minutes relating to the Board's consideration of the Relevant Matter;
- (e) the Probity Officer will be responsible for establishing and implementing appropriate measures to ensure that the Conflicted Director does not have access to email or any other folders where any documents or other information relating to the Relevant Matter are stored or to any relevant hard copy documents (and if requested by an Independent Director, the Probity Officer will report to the Board on the methodology employed to achieve this result);
- (f) if the Conflicted Director acquires any information about the Relevant Matter in his or her capacity as a Director which is not publicly available, the Conflicted Director must keep that information confidential in accordance with the duties owed by the Conflicted Director to the Company.

3.5 Compliance with protocols

Each Director:

- (a) must use all reasonable efforts to ensure that each person to whom these protocols apply complies with the protocols;
- (b) must notify the Chair promptly if the Director becomes aware of any circumstances which, or which are likely to, result in a breach of these protocols, giving sufficient details of those circumstances to the Chair so that remedial action may be taken; and
- (c) acknowledges that if these protocols are breached, the Company reserves the right to at any time terminate the involvement of the relevant Director, or any associate or involved person, in the Relevant Matter.

These protocols do not limit any other rights that the Company may have against a Director in respect of any breach of any legal or contractual obligations of a Director.

Part B: Disclosures of interests and conflicts of interest

1. Statutory duty to disclose material personal interest

Subject to certain exceptions, a director of a company who has a material personal interest in a matter that relates to the affairs of the company must give the other directors notice of the interest (refer to section 191 of the *Corporations Act 2001* (Cth) (**Corporations Act**)).

2. Restrictions on attendance and voting

Unless the other directors approve, a director of a public company who has a material personal interest in a matter that is being considered at a directors' meeting must not be present while the matter is being considered at the meeting or vote on the matter (refer to section 195 of the *Corporations Act*).

3. Standing notice

A director who has an interest in a matter may give the other directors standing notice of the nature and extent of the interest in the matter (refer to section 192 of the *Corporations Act*). The standing notice may be given at any time and whether or not the matter relates to the affairs of the company at the time the notice is given. The standing notice may be given before the interest becomes a material personal interest. Each director is responsible for promptly updating the information contained in a standing notice it provides to the company.

4. General law – Conflicts of interest

- (a) At general law, directors have a fiduciary duty to avoid conflicts of interest. It is an established principle that directors of a company must not, in any matter falling within the scope of their office, have a personal interest or inconsistent engagement with a third party, except with the company's fully informed consent (often referred to as the **Conflict Rule**).
 - (b) Amongst many of the general principles that have been developed by the Courts in respect of the Conflict Rule, in certain circumstances, mere disclosure of a conflict between interest and duty and abstaining from voting on the matter is insufficient to satisfy a director's fiduciary obligations. Disclosure is generally the minimum requirement, however, in certain circumstances, a positive duty to protect the interests of the company by, for instance, taking steps to prevent a transaction from going ahead, may lie with the directors.
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5. Common form of conflict - use of information by nominee directors

- (a) A common situation in which a conflict may arise is where a nominee director acquires information as a result of the nominee's position as a director that the nominee knows will be of interest to the nominating company. The conflict in this situation includes:
 - (i) a duty of confidentiality owed to the company of which it is a director; and
 - (ii) a commercial desire to communicate knowledge acquired to the nominating company as a result of his or her position as a nominee.
- (b) As a basic principle, the duty of confidentiality owed to the company in paragraph 5(a)(i) of this annexure is greater than any duty owed to the nominating company.

- (c) Consequently, as a general rule, if a director acquires any information in his or her capacity as director of a company (which is not otherwise publicly available), the director cannot communicate that information to the nominating company. To do so would potentially breach a number of directors' duties, including the common law duties to act honestly and to avoid conflicts of interest, and the statutory duties to act in good faith, not to misuse position, and not to misuse information (refer to sections 181 to 184 of the Corporations Act).

6. Nominee Directors

- (a) From time to time there may be Directors on the Board who are nominated representatives of shareholders of the Company. If the Board is required to consider a matter which involves, or affects the interests of, a shareholder, any involvement in the Board's consideration of that matter by a Director who is the nominated representative of that shareholder may give rise to a conflict for that Director (for instance, as contemplated in paragraph 5 of this annexure).
- (b) In those circumstances, the procedure set out in paragraph 2.2 of the protocols must be adopted for the purposes of making a determination as to whether the Director's involvement in the Board's consideration of the matter would give rise to a conflict.
- (c) If it is determined that the Director's involvement in the Board's consideration of the matter would give rise to such a conflict, that Director must not:
 - (i) be provided with any information relating to that matter;
 - (ii) participate in any discussions regarding that matter; and
 - (iii) take part in any decision-making process in relation to that matter.
- (d) In addition, if that Director acquires any information about the matter, he or she must not, without the consent of the Board, disclose any of that information to the shareholder he or she represents nor attend any discussions or negotiations in relation to the matter between the Company on the one hand and that shareholder.

Part C: Corporate opportunities

1. Corporate opportunities

In anticipation of the benefits to be derived by the Company through its continued relationships with Sterling Capital Partners IV, L.P. and SCP IV Parallel, L.P. (the **Sterling Funds**) and in anticipation and recognition that (i) certain directors, principals, officers, employees and/or other representatives of the Sterling Funds may serve as directors or officers of the Company, (ii) the Sterling Funds may now engage and may continue to engage in the same or similar activities or related lines of business as those in which the Company, directly or indirectly, may engage and/or other business activities that overlap with or compete with those in which the Company, directly or indirectly, may engage, and (iii) members of the Board of Directors who are not employees of the Company (**Non-Employee Directors**) and their respective Affiliates may now engage and may continue to engage in the same or similar activities or related lines of business as those in which the Company, directly or indirectly, may engage and/or other business activities that overlap with or compete with those in which the Company, directly or indirectly, may engage, the provisions of this section are set forth to define the circumstances in which any duties of the Non-Employee Directors and the Sterling Funds to the Company or its stockholders would not be breached even if certain classes or categories of business opportunities are alleged to have been usurped by one or more of the Sterling Funds, the Non-Employee Directors or their respective Affiliates.

- (a) None of (i) any Sterling Fund or (ii) any Non-Employee Director or his or her Affiliates (any such Person identified in clause (i) or (ii), an **Identified Person**) shall be in breach of any duty to the Company or its stockholders for directly or indirectly (A) engaging in a corporate opportunity in the same or similar business activities or lines of business in which the Company or any of the Affiliated persons has a reasonable expectancy interest or property right or (B) otherwise competing with the Company. For the avoidance of doubt, to the extent that any purchase, sale or other transaction by any Identified Person involving any securities or indebtedness of the Company or any of its Affiliates (or involving any hedge, swap, derivative or other instrument relating to or in respect of any of the foregoing securities or indebtedness) may be deemed to be a corporate opportunity or to be in competition with the Company, the Identified Persons shall be fully protected by the foregoing provisions of this section in pursuing such purchase, sale or other transaction or in taking any other action in respect of or affecting such securities, indebtedness or other instrument. The Company hereby renounces any reasonable expectancy interest or property right in any business opportunity which may be a corporate opportunity for both an Identified Person and the Company or any of its Affiliates, except as provided in paragraph (b) of this section. In the event that any Identified Person acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity for itself, himself or herself and the Company or any of its Affiliates, such Identified Person would not be in breach of any applicable duty to the Company or its stockholders for failing to communicate or offer such transaction or other business opportunity to the Company or any of its Affiliates. To the fullest extent permitted by law, no Identified Person can be held personally liable to the Company or its stockholders or creditors for any damages as a result of engaging in any of activities permitted pursuant to this clause (a) or which are stated in this clause (a) to constitute a breach of its, his or her duties to the Company or its stockholders if engaged in by such Identified Person.
- (b) The Company does not renounce its expectancy interest or property right in any corporate opportunity offered to any Non-Employee Director (including any Non-Employee Director who serves as an officer of the Company) if such opportunity is expressly offered to such Person solely in his or her capacity as a director or officer of the Company, and the provisions of this section (other than this clause (b)) shall not apply to any such corporate opportunity.
- (c) In addition to and without limiting the foregoing provisions of this section, a corporate opportunity shall not be deemed to be a potential corporate opportunity

for the Company if the Company is not financially capable or contractually permitted or legally able to undertake it, or such opportunity is, from its nature, not in the line of the Company's business or is of no practical advantage to it or such opportunity is one in which the Company has no reasonable expectancy interest or property right.

- (d) For purposes of this section, (i) an **Affiliate** of any Person shall include any principal, member, director, partner, shareholder, subsidiary, officer, employee or other representative of any Person that, directly or indirectly, is controlled by such Person, controls such Person or is under common control with such Person (with respect to the Sterling Funds, other than the Company and any entity that is controlled by the Company) or any Person that, directly or indirectly, is controlled by such Person, controls such Person or is under common control with such Person and (ii) "Person" shall mean any individual, corporation, general or limited partnership, limited liability company, joint venture, trust, association or any other entity.