



ABN 86 800 958 958

## **CONFLICT OF INTEREST REGULATIONS OF THE MONASH GRADUATE ASSOCIATION INC.**

PROMULGATED IN September 2023

UPDATED IN January 2025

REVIEW IN January 2028

### TABLE OF PROVISIONS BY SECTION AND PAGE

1. Short Title	1
2. Authorising Provision	1
3. Commitment and Purpose	1
4. Scope	2
5. Definitions	2
6. Definition of Conflicts of Interest	2
7. General Responsibilities	3
8. Responsibilities of the MGAEC	4
9. Responsibilities of the Executive Officer	4
10. Responsibilities of the MGA HR and Finance Manager	5
11. Identification and disclosure of conflicts of interest of MGAEC Members	5
12. Identification and disclosure of conflicts of interest of MGA staff	6
13. Conflict of Interest Management Strategy	6
14. Failure to disclose Conflict of Interest	8
15. Confidentiality of disclosures	8
16. Compliance with these regulations	9

## **CONFLICT OF INTEREST REGULATIONS OF THE MONASH GRADUATE ASSOCIATION INC.**

### **1. Short Title**

These regulations may be cited as the Conflict of Interest Regulations of the Monash Graduate Association Inc. (“MGA”).

### **2. Authorising Provision**

These Regulations are made pursuant to the *Associations Incorporation Reform Act 2012 (Vic)* and subject to the MGA Constitution. The MGAEC may only amend these regulations in accordance with the provisions of the MGA Constitution.

### **3. Commitment and Purpose**

- 3.1. The MGA is an incorporated entity under the *Associations Incorporation Reform Act 2012 (Vic)* and is subject to the Constitution of the MGA. The MGA is also a not-for-profit association committed to supporting MGA Constituents.
- 3.2. The MGA is the Monash University recognised representative association for all Monash Australian campus enrolled graduate students.
- 3.3. The MGA is entrusted with a portion of the SSAF paid by Monash University graduate students and is authorised to utilise its funding in areas of greatest need and benefit to its Constituents.
- 3.4. The MGA is committed to the values of transparency, integrity, and accountability in all aspects of its operations, particularly in the management of its funding and decision-making processes.
- 3.5. The MGA has a responsibility to ensure conflicts of interest must be avoided where possible, and that any conflicts which arise are effectively managed.
- 3.6. The purpose of these Regulations is to help the MGA to effectively identify, disclose and manage any actual, potential or perceived conflicts of interest, and to ensure that the MGA’s actions and decisions are made in the best interest of our Constituents.
- 3.7. The MGA aims to ensure that all MGA staff and MGAEC members are aware of their obligation to disclose any conflicts of interest that they may have, and to comply with these Regulations.

#### 4. Scope

These Regulations apply to all MGA staff and MGAEC members.

#### 5. Definitions

**ACNC** means the Australian Charities and Not-For-Profits Commission

**Constituent** means the graduate students enrolled at the University.

**Graduate Student** means a student enrolled in a graduate course through an Australian campus of the University and who has not course-completed.

**MGA staff** means a staff member employed by the MGA.

**MGA Advocacy Manager** means a staff member employed by the MGA with the title or responsibilities of managing MGA's advocacy service.

**MGA Executive Officer** refers to the senior staff member of the MGA or the Executive Officer's nominee who must be an MGA staff member.

**MGA HR and Finance Manager** means a staff member employed by the MGA with the title or responsibilities of HR and Finance.

**MGA** means the Monash Graduate Association Incorporated.

**MGAEC** means the Monash Graduate Association Executive Committee.

**SSAF** means Student Services and Amenities Fee, imposed by Monash University pursuant to the Higher Education Legislation Amendment (Student Services and Amenities) Act 2011.

#### 6. Definition of Conflicts of Interest

6.1. A conflict of interest arises when an individual's actual, potential, or perceived interests or obligations may improperly influence their judgement, integrity, or decision making when acting in the interests of the MGA.

6.2. A conflict of interest can arise when an individual's personal interests come into conflict with their professional duties and obligations toward the MGA. Such personal interests can include but are not limited to:

6.2.1. Financial: such as investments, gifts, loans, or debts;

6.2.2. Relationship: such as favouring or serving the interests of friends, family members, or relatives;

6.2.3. Ideological: such as being a member of an committee or organisation whose goals overlap or conflict with that of the MGA;

6.2.4. Business/Professional: such as having a stake in a private business or advisory service that benefits from decisions made in an MGA role.

6.3. A potential conflict of interest exists where an individual finds themselves in a situation where a conflict can arise, but has not yet occurred.

For example:

A staff member or MGAEC member involved in the hiring process becomes aware that a person they have a personal relationship with has applied for a role with the MGA. While shortlisting of candidates has not yet occurred and no decisions have been made, there is potential for a conflict of interest.

An MGAEC member is also a volunteer for a different organisation that competes for the same grant funding. While the member has no formal financial ties with the other organisation, the dual affiliation creates a potential conflict of interest.

- 6.4. A perceived conflict of interest arises where an outside party might reasonably believe that a conflict exists, even where no conflict or wrongdoing has occurred.

For example:

A staff member responsible for choosing suppliers receives a gift or hospitality from a potential or existing supplier. While the staff member's judgement may be unbiased, others may perceive the gift as having affected their decision.

An MGAEC member becomes an employee or part of the governing committee of an organisation that directly competes with or conflicts with the interests of the MGA. This can create a perception that the MGAEC member will not act in the best interests of the MGA.

- 6.5. An actual conflict of interest arises where an individual is actively involved in a situation where their interests are in direct conflict with their professional duties, leading to compromised decisions.

For example:

A staff member or MGAEC member has a financial interest in a business that is receiving business referred or paid by the MGA to deliver services, such as event catering or migration advice.

A staff member or MGAEC member involved in a decision-making process does not disclose that they have personal or financial relationship with the person who is the subject of the decision-making.

## 7. General Responsibilities

- 7.1. MGAEC members and MGA staff must actively act to avoid conflicts of interest where possible.

- 7.2. MGAEC members and MGA staff have a responsibility to identify and disclose conflicts of interest when it comes to their attention that a potential, perceived, or actual conflict of interest has arisen.
- 7.3. MGAEC members and MGA staff must be proactive, transparent, honest, and cooperative in managing any potential, perceived, or actual conflicts of interest.
- 7.4. Reports must be made as soon as possible and before any decision making is completed, in order to ensure timely advice seeking and decision making.
- 7.5. Reports are not limited to incidences of self-reporting, and can include reports of others suspected to have a conflict of interest.
- 7.6. At all times when acting under these Regulations, MGAEC members and MGA staff members must behave in accordance with their responsibilities under the MGA Information Handling Procedures and the MGA Privacy Regulations, as well as any relevant Federal and State laws.

## **8. Responsibilities of the MGAEC**

- 8.1. The MGAEC is responsible for:
  - 8.1.1. establishing a system for identifying, disclosing and managing conflicts of interest across the MGA;
  - 8.1.2. monitoring compliance with these regulations among MGAEC members;
  - 8.1.3. reviewing these Regulations on a regular basis to ensure that the Regulations are operating effectively;
  - 8.1.4. ensuring that the MGAEC members are aware of the ACNC governance standards, particularly governance standard 5; and
  - 8.1.5. disclosing any actual or perceived material conflicts of interests as required by these Regulations, alongside governance standard 5 and clause 12 of the MGA Constitution.
- 8.2. Members of the MGAEC must complete training on conflict of interest and ensure they understand the contents of these Regulations.

## **9. Responsibilities of the Executive Officer**

The MGA Executive Officer is responsible for:

- 9.1. monitoring compliance with these Regulations among MGA staff;
- 9.2. ensuring that the MGA staff are provided with training on these Regulations and understand their obligations; and

- 9.3. disclosing any actual or perceived material conflicts of interests as required by these Regulations and ACNC governance standard 5.

## **10. Responsibilities of the MGA HR and Finance Manager**

The MGA HR and Finance Manager is responsible for:

- 10.1. Ensuring that all conflict of interest disclosures and management plans are properly documented and stored by the MGA.
- 10.2. Maintaining the relevant records in accordance with relevant Federal and State laws and regulations, for a period of at least seven years.

## **11. Identification and disclosure of conflicts of interest of MGAEC Members**

- 11.1. Once an actual, potential or perceived conflict of interest of an MGAEC member is identified, it must be entered into the meeting agenda for the subsequent MGAEC meeting.
- 11.2. Where every other MGAEC member shares a conflict, the board should refer to ACNC Governance Standard 5, and clause 12 of the MGA Constitution to ensure that proper disclosure occurs.
- 11.3. At the MGAEC meeting where the matter is tabled, the MGAEC will review the facts of the situation to determine whether a conflict exists, and if so, whether it is a potential, perceived or actual conflict.
- 11.4. If a conflict is found, the MGAEC will work to develop a management strategy to resolve or manage the conflict of interest in accordance with section 13 of these Regulations.
- 11.5. Where the MGAEC must determine if a member has a conflict of interest in a matter:
  - 11.5.1. The member concerned shall present their initial statement regarding the potential conflict, answer any immediate clarifying questions from other MGAEC members, and provide any relevant documentation or information;
  - 11.5.2. The member shall then leave the meeting room to permit the MGAEC to conduct discussions;
  - 11.5.3. The member may be recalled to the meeting room if additional information is required, asked specific questions by the Chair, and asked to leave again for continued MGAEC discussion; and
  - 11.5.4. The member shall not be present for MGAEC deliberations on the existence of a conflict, the final decision-making process, and the voting on the matter

- 11.6. The MGAEC has the power to determine whether the member with a suspected conflict of interest can or cannot:
- 11.6.1. be permitted to vote on the matter; and/or
  - 11.6.2. participate in any debate, and/or
  - 11.6.3. be present in the meeting during the debate and the voting.
- 11.7. The approval of any action or management strategy for an MGAEC member requires the agreement of a simple majority of the MGAEC. The calculation of simple majority excludes any members affected by the conflict of interest who are present at the meeting.
- 11.8. The MGAEC Minutes of the relevant MGAEC meeting must record information related to a conflict of interest, including:
- 11.8.1. whether it was found to exist;
  - 11.8.2. the nature and extent of the conflict of interest;
  - 11.8.3. any steps taken to address it; and
  - 11.8.4. any actions approved in relation to the matter.

## **12. Identification and disclosure of conflicts of interest of MGA staff**

- 12.1. Upon identification of an actual, potential or perceived conflict of interest, a staff member must disclose the matter to the MGA Executive Officer or their direct manager as soon as possible.
- 12.2. Upon receiving the disclosure, the direct manager of the staff member and/or the MGA Executive Officer will review the facts of the situation to determine whether a conflict exists, and if so, whether it is a potential, perceived or actual conflict. This may be done in consultation with other staff members, including the MGA HR & Finance Manager, and the MGA Advocacy Manager.
- 12.3. Where the manager of the relevant staff member is also found to have a conflict of interest, the review may be delegated to the Executive Officer, or the HR and Finance Manager as appropriate.
- 12.4. If a conflict is found, the relevant staff member, and their manager or delegated person, will work to develop a management strategy to resolve or manage the conflict of interest according to Section 13 of these Regulations.

## **13. Conflict of Interest Management Strategy**

- 13.1. A management strategy is a statement that should include:

- 13.1.1. the nature of the individual's material personal interest;
  - 13.1.2. the interests of the MGA with which the individual's material personal interest conflicts, has the potential to conflict, or may be perceived as conflicting;
  - 13.1.3. the likelihood of the interests conflicting;
  - 13.1.4. an outline of risk mitigation strategies to be implemented; and
  - 13.1.5. the recommended measures to be taken.
- 13.2. In deciding which measures to take, the following must be considered:
- 13.2.1. the nature and seriousness of the conflict;
  - 13.2.2. whether the conflict will realistically impair the disclosing person's capacity to impartially participate in decision-making;
  - 13.2.3. whether the conflict is likely to prevent a MGAEC member from performing their duties, such as regularly participating in discussions;
  - 13.2.4. alternative options to avoid or mitigate the conflict;
  - 13.2.5. the MGA's purpose, objectives, and resources; and
  - 13.2.6. the possibility of creating an appearance of improper conduct that might impair confidence in, or the reputation of, the MGA.
- 13.3. When developing the management plan, the below should be considered as strategies to manage the declared conflict of interest:
- 13.3.1. Manage - Manage the relevant conflict of interest in accordance with a management strategy.
  - 13.3.2. Replace - Replace the individual in the activity/decision by delegating the activity/decision to another person whilst the conflict exists.
  - 13.3.3. Restrict - Restrict the individual's involvement or actions in the situation that is leading to the conflict of interest.
  - 13.3.4. Oversee - A supervisor or impartial third party should oversee the activity impacted by the conflict of interest.
  - 13.3.5. Remove - The individual is removed from or does not participate in any activity associated with their conflict of interest.



- 13.3.6. Relinquish - The individual and/or their related parties may relinquish the material personal interest.
- 13.3.7. Resign - The individual's resignation is the last resort if no other management strategies are viable.
- 13.4. Additional measures may be taken, such as the involvement of an independent third party, to ensure fairness and impartiality in decision making.
- 13.5. The conflict will be monitored by the MGA President or relevant staff manager until it is fully resolved or no longer poses a risk.
- 13.6. All reports, decisions, and management actions will be formally documented to ensure transparency.
- 13.7. Any decisions or steps taken will be communicated to all relevant stakeholders.

#### **14. Failure to disclose Conflict of Interest**

##### MGAEC Members

- 14.1. If a person suspects that a MGAEC member has failed to disclose a conflict of interest, they must raise the matter with the MGA Executive Officer and the MGA President.
- 14.2. Where the person suspects that the MGA President has failed to disclose a conflict of interest, they must raise the matter with the MGA Executive Officer and MGA Vice-President.
- 14.3. A discussion must be had with the MGAEC member concerned to determine whether a conflict of interest exists, and the matter may be referred to the MGAEC for determination.
- 14.4. If it is found that the MGAEC member has failed to disclose a conflict of interest, the MGA may take appropriate action as provided in section 16 of these regulations.

##### MGA Staff

- 14.5. If a person suspects that a MGA staff member has failed to disclose a conflict of interest, they must raise the matter with the MGA Executive Officer and the staff member's direct manager.
- 14.6. Where a person suspects that the MGA Executive Officer has failed to disclose a conflict of interest, they must raise the matter with the MGA President, who will perform the duties of the MGA Executive Officer outlined in 14.7-14.8 of these Regulations.
- 14.7. A discussion must be had with the MGA staff member concerned to determine whether a conflict of interest exists, and the MGA Executive Officer and the staff member's direct

manager may thereafter make a determination in consultation with one another.

- 14.8. If it is found that the MGA staff member has failed to disclose a conflict of interest, the MGA may take action as provided in section 16 of these regulations.
- 14.9. If the conflict is deemed to be serious, the matter can be reported to the MGAEC and tabled as an agenda item in the subsequent MGAEC meeting.

## **15. Confidentiality of disclosures**

- 15.1. Disclosures of conflict of interest are generally treated as confidential to protect the privacy of the individuals involved.
- 15.2. Where required, details relating to a conflict of interest may be disclosed to MGAEC members or relevant stakeholders to ensure proper management takes place.
- 15.3. Conflicts of interest will be disclosed to relevant authorities or public reporting where they are mandatory disclosures required by law.
- 15.4. The MGAEC and the MGA Executive Officer, the MGA HR and Finance Manager, and the MGA Advocacy Manager shall have access to the information disclosed even if it is of a sensitive nature.

## **16. Compliance with these regulations**

- 16.1. Where the MGA suspects that there has been a breach of these Regulations, or failure to comply with a decision or directive related to these Regulations, an internal investigation will be initiated to assess the nature and severity of the breach or noncompliance.
- 16.2. The investigation may be conducted by the MGAEC President, the Executive Officer, the HR & Finance Manager, and/or, if available, the staff member's direct manager. An impartial third party may be engaged to investigate the suspected breach.
- 16.3. The individual involved in the breach may have their relevant decision-making responsibilities removed from their role while the investigation is ongoing.
- 16.4. If the individual involved is an MGAEC member, the relevant member may be required to refrain from participating in voting while the investigation is ongoing.

### Investigation Outcome

- 16.5. The MGA has the power to take appropriate action in response to any findings of breach or non compliance. For breaches less serious in nature, this may include issuing a formal warning to the relevant individual.

- 16.6. An MGAEC member found to be in serious breach may trigger the discipline process as outlined in the MGA Constitution, and/or be requested to resign.
  - 16.7. An MGA staff member found to be in serious breach of this procedure may trigger disciplinary processes outlined in Part H of the MGA Enterprise Agreement.
  - 16.8. All findings, actions, and decisions as a part of the investigation will be documented, and where appropriate, reported to the MGAEC at the subsequent MGAEC meeting to ensure transparency.
-