

THE UNIVERSITY OF TEXAS AT AUSTIN
HANDBOOK OF OPERATING PROCEDURES

Part 4. Standards of Conduct
Section A. Ethics
Policy Number 4.A.4
Date Issued: December 19, 2007
Approved By: VP for Legal Affairs

INDIVIDUAL CONFLICTS OF INTEREST

Section I. General Policy Guidelines

A. Policy Statement

Mission and Values: The mission of The University of Texas at Austin is to achieve excellence in the interrelated areas of undergraduate education, graduate education, research and public service. The University provides superior and comprehensive educational opportunities at the baccalaureate through doctoral and special professional educational levels. The University contributes to the advancement of society through research, creative activity, scholarly inquiry and the development of new knowledge. The University preserves and promotes the arts, benefits the state's economy, serves the citizens through public programs, and provides other public service. In support of this mission, the University values and is committed to maintaining high standards of excellence, integrity, and accountability in conduct. This conflicts of interest policy is intended to enhance the ability of the employees of the University to act ethically in accordance with those values and with the law, and to fulfill the obligation of the University and its employees to be good stewards of the resources that have been entrusted to them.

B. Scope

Application: This Conflicts of Interest Policy applies to all employees of The University of Texas at Austin.

C. Definitions

What is a Conflict of Interest? A conflict of interest exists when an employee owes a professional obligation to The University of Texas at Austin that is compromised or might be compromised by the pursuit of outside interests. Outside interests, such as professional activities, personal financial interests, or the acceptance of gifts from third parties, can create conflicts between the interests of the University and private interests of an employee and may prevent the employee from making decisions that are in the best interest of the

University. Even if those outside interests do not actually impair or intrude upon an employee's ability to act in the best interest of the University, it may appear to the public that the employee's independence of judgment or loyalty has been affected. The purpose of this policy is to provide an executive summary of conflict of interest laws, rules, and policies, all of which are intended to preserve the public trust in the integrity of our University employees by preventing bias or the appearance of bias in decision-making.

Section II. Relevant Policies

A. Other Information on Ethical Behavior

This policy addresses only conflicts of interest. Other ethical issues may arise, such as issues related to the use of government resources, sexual harassment, political activities, legislative lobbying, and the use of confidential information. Those issues are discussed fully in other Policies of The University of Texas at Austin as well as the University's *Employee Compliance Guide* at <http://www.utexas.edu/administration/oic/guide.html>

B. Gifts

1. There are two standards under Texas law governing gifts: (1) a general standard of conduct that applies to all employees (set out in paragraph 2, below); and (2) a criminal standard that applies only to those persons who make recommendations or decisions about contracts and other financial transactions (set out in paragraph 3, below). When considering whether a gift may be accepted, an employee must consider both the general standard of conduct law and the criminal law, as well as public perception.
2. Under the general standard, an employee may not accept or solicit any gift, favor, or service that: (1) might reasonably tend to influence him or her in the discharge of official duties; or (2) that he or she knows or should know is being offered with the intent to influence official conduct. This standard applies even though the donor is not asking the employee to do something in exchange for the gift. A gift is *anything of value*, including tickets to entertainment or sporting events, expenses for a trip, and food. Acceptance or solicitation of a gift in violation of this standard is not a criminal offense, but may be grounds for discipline, including termination.
3. Under the criminal law provisions, criminal penalties may apply to persons who make recommendations or decisions about financial transactions of The University of Texas at Austin. If those are among an employee's job duties, he or she may not accept a gift from an individual or entity that is interested in or likely to become interested in that transaction, with limited exceptions. Under those exceptions, it is not a criminal offense to accept the following

type of gift if the gift is not given in exchange for the employee's official action (it is *never* lawful to accept a gift in exchange for official action):

- a. Non-cash items worth less than \$50.
- b. A gift from a person such as a relative, friend, or business associate with whom an employee has a relationship independent of his or her official status, if the gift is given on account of that relationship rather than the employee's official status.
- c. Food, lodging, transportation, or entertainment in any amount if the employee accepts them as a "guest", which means the donor must be present.¹

Note that even though an employee may accept a gift described in Section II(B)(3) without committing a crime, acceptance of the gift still may violate the general standard of conduct law set out in Section II(B)(2) and subject the employee to disciplinary action. In addition, even though the acceptance of a gift may not constitute a crime or violation of the general standard of conduct law, it may appear to the public that a gift has influenced an employee in performing his or her job. Employees should not accept a gift that could reasonably appear to influence official conduct, even if the gift is technically legal.

Additional restrictions apply if the gift is from a student loan lender. The definition of "student loan lender" is very broad and covers entities that may not traditionally be thought of as student loan lenders. It includes many banks, credit unions, similar financial institutions, and entities established solely to make student loans. In general, no employee may accept for himself or herself any gift with a value greater than \$20 from a student loan lender. Also, an employee must promptly report in writing to the President any instance of a student loan lender attempting to offer or provide to the employee a gift with a value greater than \$20. Employees may consult the Office of the Vice President for Legal Affairs to determine if a proposed gift from a student loan lender is permissible under the Texas Higher Education Fair Lending Practices Agreement entered into in May 2007 between The University of Texas at Austin and the Texas Attorney General.

Summary: Employees should not accept any gift that could reasonably appear to influence their official conduct.

C. Outside Employment or Compensation

¹ The law provides additional prohibitions if the donor is a lobbyist registered with the Texas Ethics Commission. It is advisable to consult the Office of the Vice President for Legal Affairs before accepting a gift from a lobbyist.

An employee should not accept other employment or compensation that could reasonably be expected to impair his or her independence of judgment in performing official duties. An employee's primary responsibility is the accomplishment of the duties and responsibilities assigned to his or her position at The University of Texas at Austin. External consulting or outside employment that interferes with those duties and responsibilities should not be accepted. Any outside employment, including self-employment or employment by another state agency, must first be approved by the employee's supervisor and as otherwise provided in outside employment policies of the University. Please see: *Handbook of Operating Procedures*, Section 3.19, Faculty Consulting and Other Professional Activities, Including Outside Employment, at <http://www.utexas.edu/policies/hoppm/h0319.html> and *Handbook of Operating Procedures*, Section 9.91, Outside Employment Activities of Classified Staff, at <http://www.utexas.edu/policies/hoppm/h0991.html>. [Note: At the time that this Conflicts of Interest Policy is being issued, a review of the outside employment policies is being conducted for updating and appropriate modification.]

Additionally, an employee should not accept other employment or engage in a business or professional activity that he or she might reasonably expect would require or induce the disclosure of confidential information acquired through the employee's official position.

Summary: Employees may not accept outside employment that interferes with their responsibilities to The University of Texas at Austin. Outside employment must be approved by the supervisor and as otherwise provided in relevant policies.

D. Service on Outside Boards

Outside board service is generally deemed to be in the best interest of The University of Texas at Austin because it broadens the experience of the individuals involved and exposes the University to a larger audience of business, civic, professional, and social leaders. However, recognizing that an employee's primary duty is the performance of his or her job at the University, the position may not create a conflict of interest and may not impose an unreasonable time requirement. An employee must receive approval from his or her supervisor, and in some cases from additional University officers as provided in outside employment policies, for outside board service before accepting a position. The President of the University is subject to certain additional provisions, including the requirement to file a report on outside board service with the UT System Vice Chancellor for Administration in September of each year.

Additional restrictions apply if the proposed Board service is for a student loan lender. Under provisions of the Texas Higher Education Fair Lending Practices Agreement entered into in May 2007 between the University and the Texas Attorney General, employees may not accept compensation or reimbursement of

expenses for service on a board, advisory board, or similar governance body of a student loan lender.

Summary: Employees may not accept a position on an outside board that creates a conflict of interest or the appearance of a conflict or that imposes an unreasonable time commitment. Outside board service must be approved.

E. Honoraria

An employee may not accept an honorarium for services that he or she would not have been asked to provide but for his or her official status with The University of Texas at Austin. For example, an employee may not accept a gift or payment for giving a speech if he or she would not have been asked to provide the speech but for his or her official position. However, an employee may accept meals, transportation, and lodging in connection with services as long as the services are more than merely perfunctory or superficial. Also, an employee may accept a gift of very minimal value, such as a plaque.

Summary: Employees may not accept an honorarium for services they would not have been asked to provide but for their official positions.

F. Personal Investments

An employee should not make personal investments that could reasonably be expected to create a substantial conflict between his or her private interest and the public interest. This means that the employee should not have a direct or indirect financial interest in a business that conflicts with interests of The University of Texas at Austin or that might influence how the employee does his or her job. Some financial interests may be so indirect or so minimal that they do not create conflicts of interest, such as ownership of a minimal amount of stock in a company or an investment in a publicly traded mutual fund in which the employee does not exercise discretion regarding the investment of the assets of the fund.

If an employee has an interest in a business that he or she thinks might constitute a conflict of interest, the interest should be disclosed to the supervisor. In some cases, the employee may be able to cure the conflict by not participating in any decision concerning that business. However, if the conflict is significant, the employee may be required to divest the interest that causes the conflict.

Additional restrictions apply to a person employed in the financial aid office of the University. The Texas Higher Education Fair Lending Practices Agreement provides that these employees may not own stock or hold another ownership interest in a student loan lender, other than through ownership of shares in a

publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

Summary: Employees may not make personal investments that create a substantial conflict between their private interests and the public interest.

G. Self-dealing/Transactions with Employees

An employee may not transact any business in an official capacity with any business entity of which he or she is an officer, agent, or member, or in which he or she owns a substantial interest.

Additionally, before The University of Texas at Austin may purchase any supplies, materials, services, equipment, or property from the employee or the employee's business entity, the President of the University must approve the purchase and the purchase may be made only if the cost is the best value for the University.

Summary: Employees may not transact public business with their private businesses. The President must approve any purchases from the employee or the employee's business and the purchase may be made only if the cost is the best value for the University.

H. Benefits for Performing Official Duties

An employee should not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or for having performed his or her official duties in favor of another. If the benefit was given in exchange for an official act, it could constitute the criminal offense of bribery.

Summary: Employees may not accept a benefit for having done their jobs in favor of another.

Section III. Procedure for Disclosures

A. Required Disclosures

An employee must file timely written disclosure statements as required by law, rule, or policy. An employee's position with The University of Texas at Austin, relationship with other employees, contemplated activity, etc. will determine which disclosure statements, if any, are required. Some pertinent examples include: (1) if an employee's spouse is employed by the University it must be disclosed under the Nepotism Policy. (2) If an employee is in a position to make

decisions or exercise significant discretion over whether the University enters into a contract or agreement, he or she must annually complete the University's Financial Disclosure and Conflicts of Interest Statement. (3) Prior to seeking University approval for submission of sponsored research proposals, each faculty member, principal investigator, or other researcher responsible for the design, conduct, or reporting of the research or other educational activities proposed for funding, must submit a financial disclosure statement as provided by *Handbook of Operating Procedures*, Section 5.11, at <http://www.utexas.edu/policies/hoppm/h0511.html>.

The Director of the Office of Student Financial Services administers the completion of a financial disclosure form for selected employees in that office under provisions of the Texas Higher Education Fair Lending Practices Agreement.

Summary: Employees should be aware of any disclosure statements they are required to file and be sure to file them in a timely manner.

B. Consequences for Violations

There are consequences for failing to comply with conflict of interest laws, rules, or policies. The law provides that appropriated money may not be used to compensate an employee who violates the standards of conduct. Failure to comply may be grounds for disciplinary action by The University of Texas at Austin, including termination of employment. Additionally, civil and criminal penalties may apply under certain circumstances.

Summary: Employees may be subject to disciplinary action or civil or criminal penalties for violating a conflicts of interest law, rule, or policy.

Section IV. Application of Other Conflicts of Interest Policies, Contract Provisions, Agreements, Laws, or Rules

This policy does not rescind any policy provided by UT System or The University of Texas at Austin, any contract provision, any agreement with the Texas Attorney General, or any law or rule that is more specific or more restrictive concerning conflicts of interest. Employees are required to comply with the more specific or restrictive policy, contract provision, agreement, law, or rule.

Questions or Reports of Violations

If you have questions about an actual or potential conflict of interest, you may ask your supervisor. Additionally, you may contact the Ethics Advisor in the Office of the Vice President for Legal Affairs at 471-1241.

You should report any suspected wrongdoing to your department head or to the Office of Institutional Compliance. See details regarding reporting options at <http://www.utexas.edu/administration/oic/reporting.html>, including a toll-free, anonymous help line at 1-877-888-0002. You may not be retaliated against for a good-faith report of suspected wrongdoing.

Source: New UT Austin Policy, developed in accordance with *Texas Government Code*, Section 572.051, with amendments effective September 1, 2007.