



## **Conflict of Interest**

### **Policy No. 01.07**

#### **I. PURPOSE**

All employees of Tennessee State University (TSU) serve the interests of the State of Tennessee and its citizens, and have a duty to avoid activities and situations that, either actually or potentially, put personal interests before the professional obligations that they owe to the State and its citizens. This policy is intended to establish standards of integrity and objectivity that should guide the actions of all employees of Tennessee State University.

#### **II. DEFINITIONS**

- A. Conflict of interest - occurs when the personal interests, financial or otherwise, of a person who owes a duty to Tennessee State University actually or potentially diverge with the person's professional obligations to and the best interests of TSU.
- B. Conflict of commitment - occurs when the personal or other non-work related activities of an employee of TSU impair the ability of that employee to meet their commitments of time and energy to TSU.
- C. Conflicting Party – A person or entity that has or is seeking to obtain contractual or other business or financial relations with the institution in which the individual is employed or has interests that may be substantially affected by the performance or nonperformance of the employee.
- D. Immediate family – for purposes of this policy means spouse or minor child living with the employee

#### **III. POLICY/GUIDELINE**

- A. Applicability
  - 1. This policy shall apply to all persons employed, either as full-time, part-time or temporary employees, by Tennessee State University.
- B. General Principles
  - 1. Conflict of Commitment. Employees of Tennessee State University should avoid external commitments that significantly interfere with the employee's duties to TSU, Disclosures of outside employment shall be made as required under the TSU Office of Human Resources Policy 6.26, Outside Employment, and evaluated as indicated in that policy.
  - 2. Conflict of Interest. Employees should avoid situations where the self-interests of the employee diverge from the best interests of TSU.

3. Management of Conflict of Interest. The mere existence of either a potential or actual conflict of interest does not mean that such conflict must necessarily be eliminated.
  - a) Where the potential detriment to TSU is at most minor and inconsequential, and the conflict does not indicate violation of Federal or State law, regulation, or policy, those persons charged with evaluating disclosures could allow the activity to proceed without interference after documenting the evaluation process.
  - b) For those situations which do not implicate Federal or State law, regulation or policy, the standard for determination of whether a conflict of interest should be managed, reduced, or eliminated is whether that conflict would appear to a reasonable person to call into question the integrity or judgment of the affected employee.

C. Situations and Activities Creating a Conflict of Interest

1. In the following situations and activities, there is at least the appearance, and possibly the actuality, of an employee allowing his or her personal interests, and not the best interests of TSU, to affect that employee's judgments. This list is illustrative, and not exhaustive.

a) Self-dealing

1. Situations in which an employee can appear to influence or actually influence an Institutionally-related decision from which that person or a member of that person's immediate family stands to realize a personal financial benefit is self-dealing, and a conflict of interest.
2. Examples of self-dealing activities include the following.
  - i. Purchase of State-owned property by an employee absent fair and open bidding.
  - ii. Institutional purchases from businesses in which an employee or family member has a financial interest.
  - iii. Use of Educational Materials from Which a Faculty Member Derives Financial Benefit in That Faculty Member's Teaching Activities.
    1. Any faculty member who wishes to use in his or her teaching activities educational materials (e.g. a textbook) which he or she has authored, or in which he or she otherwise stands to benefit financially from such use, a conflict of interest disclosure shall be made per Section VII of this policy.
    2. Whether the use of such materials shall be permitted shall be evaluated by the Review Committee established under this policy.
    3. Such evaluation shall include consideration of suitable substitute materials and ensure that the needs of students are best served by use

of the materials in which the faculty member has an interest.

- iv. Acceptance of Gifts, Gratuities, or Favors
  - 1. Gifts. No employee shall knowingly solicit or accept, directly, or indirectly, on behalf of himself or herself or any member of the employee's household, for personal use or consumption any gift including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee or any other thing of monetary value, from any person or entity that:
    - A. Has, or is seeking to obtain, contractual or other business or financial relations with the institution in which the individual is employed; or
    - B. Has interests that may be substantially affected by the performance or nonperformance of the employee.
- v. Exceptions
  - 1. The prohibition on accepting gifts listed above, does not apply to:
    - A. A gift given by a member of the employee's immediate family, or by an individual, if the gift is given for a non-business purpose and is motivated by a close personal friendship and not by the position of the employee;
    - B. Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.
    - C. Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business, including items distributed at tradeshow and professional meetings where vendors display and promote their services and products;
    - D. Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, including tradeshow and professional meetings, if the value of such items does not

exceed fifty dollars (\$50.00) per occasion; provided further, that the value of a gift made pursuant to this subsection may not be reduced below the monetary limit by dividing the cost of the gift among two or more persons or entities identified.

- E. There may be circumstances where refusal or reimbursement of a gift (such as a lunch or dinner) may be awkward and contrary to the larger interests of the institution. In such circumstances, the employee is to use his or her best judgment, and disclose the gift including a description, estimated value, the person or entity providing the gift, and any explanation necessary within fourteen (14) days to their immediate supervisor;
  - F. Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where the employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings;
  - G. Participation in institution or foundation fundraising and public relations activities, i.e. golf tournaments and banquets, for which conflicting parties provide sponsorships; and
  - H. Loans from established financial institutions made in the ordinary course of business on usual and customary terms, so long as there are no guarantees or collateral provided by any conflicting party.
2. Inappropriate use of students or support staff
- A. Employees shall ensure that the activities of students or support staff are not exploited for the benefit of any external activity of the employee.
  - B. Prior to assigning any such non-institutionally related task that is more

than incidental or de minimus in nature to a student or member of the support staff, an employee shall disclose such proposed activities and obtain approval from the institution's director of human resources or chief academic officer, as applicable.

3. Inappropriate use of State owned resources
  - A. Employees may not make significant use of State owned facilities, equipment, materials or other resources, not otherwise available to the public, in the course of activities which are not related to the Institution and which are intended for personal benefit, without prior disclosure and approval of the institution's chief financial officer.
4. Failure to disclose intellectual property
  - A. The TSU Intellectual Property Policy governs the rights and responsibilities which persons affiliated with TSU have regarding intellectual property developed during the term of their affiliation with TSU.
  - B. Among the responsibilities enumerated in the policy is that of disclosure of inventions and those copyrightable works which may be reasonably expected to have commercial value which they have jointly or solely developed or created during their affiliation with TSU.

#### D. General Disclosure Requirements

1. Persons to whom this policy applies who believe that a conflict of interest may exist either personally or with respect to another person covered by this policy shall make a written disclosure of the facts and circumstances surrounding the situation.
2. No particular format is required, but the disclosure should adequately describe the pertinent facts and circumstances.
3. For members of the Board, disclosure shall be made to the General Counsel.
4. Employees of the System Office shall make disclosure to either their immediate supervisor or to the General Counsel.
5. Employee disclosures shall be submitted to the Review Committee, the TSU Office of Internal Audit.

6. Disclosures made by the President shall be submitted online to the Tennessee Ethics Commission.
- E. Special Disclosure Requirements for Researchers Applying For or Receiving NSF or PHS Funding
1. Under the policies and regulations indicated herein, investigators seeking funding from either the National Science Foundation or the Public Health Service are required to disclose to the investigator's employer all significant financial interests of the investigator;
    - a) That would reasonably appear to be affected by the research or educational activities funded or proposed for funding by the NSF or PHS; or
    - b) In entities whose financial interests would reasonably appear to be affected by such activities.
      1. Such disclosures must be submitted prior to the time the proposal is submitted to the Federal agency.
      2. Further, such disclosures must be updated during the period of the award; either annually or as new reportable financial interests arise.
      3. The Institution is responsible for eliminating or managing such conflicts prior to receipt of the award.
    - c) The university will determine if a grant, services, or other contract with Federal agencies other than the Public Health Service or the National Science Foundation requires disclosure and / or management of conflicts of interest, and ensure that any such requirements are met.
    - d) Disclosure of financial interests made pursuant to this Section VIII notwithstanding, such disclosure does not eliminate the responsibility for making disclosures under Section VII, when specific conflict of interest situations arise.
- F. Special Disclosure Requirements for Certain University Employees
1. The General Counsel, the Presidents of the university, coaches, assistant coaches and employees of athletic departments who are exempt from the provisions of the Fair Labor Standards Act are required to file a financial disclosure form within one month of their initial appointment and annually thereafter in January.
  2. Disclosure of financial interests made pursuant to this Section notwithstanding, such disclosure does not eliminate the responsibility for making disclosures under other provisions of this policy, when specific conflict of interest situations arises.
    - a) The President of the university is required by Tenn. Code Ann. § 8-50-501(a)(15) to file an online Statement of Disclosure of Interests Form with the Tennessee Ethics Commission at <https://apps.tn.gov/conflict/>, Form ss-8005 (State Officials). For the President, this Statement of Disclosure will meet the requirements of this Policy.
- G. Review of Disclosures

1. Disclosures made under this policy by an employee of TSU or by the university's President shall be evaluated by the Office of Internal Audit. Such disclosures by a person employed by TSU shall be evaluated by a committee composed of employees in the Office of Internal Audit. If the disclosure is made by one of these employees, the university's President will make the final decision regarding disposition of the disclosure.
  2. TSU has established employees in the Office of Internal Audit as the university's Review Committee, charged with receiving and evaluating disclosures generated under Sections VII and VIII herein by employees of the university.
    - a) Following evaluation of the disclosure, the Committee shall render a decision regarding the issue(s) presented by the disclosure.
    - b) Any disclosure which indicates an actual violation of law shall be forwarded to the President of the university along with the Committee's findings.
  3. Persons potentially committing a conflict of interest violation under consideration by a conflict of interest review Committee shall receive notice of the Committee's evaluation, and be given an opportunity to appear before that Committee.
- H. Federal and State Laws on Conflict of Interest
1. In addition to this policy, there are state and federal laws regarding conflict of interest that apply to employees of Tennessee State University. All employees are required to comply with all applicable laws. If there is a conflict between this policy and a state or federal law, the most restrictive requirements will control.
- I. Sanctions
1. Failure to observe restrictions imposed as a result of review of a conflict of interest disclosure or a knowing failure to disclose a conflict of interest may result in disciplinary proceedings under Institutional policy.
- J. Appeals
1. Decisions made by the Review Committee may be appealed to the President of the university. Decisions of the President shall be final and binding.

**Reference: TBR Conflict of Interest Policy 1.02.03.30**

**Adopted: Revised June 2020**