

POLICIES

Policy Statement

All employees of the University of Memphis 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 ahead of the professional obligations that they owe to the University. All employees serve a public interest role and thus have a clear obligation to conduct all affairs of the University in a manner consistent with this concept. Employees shall not use their positions to secure anything of value, or any financial gain or personal benefit, that would not ordinarily accrue to them in the performance of their official duties or through personal, non-University connected activities. University employees shall avoid external commitments that significantly interfere with the employee's duties to the University and diverge from the best interests of the University.

Purpose

The purpose of this policy is to provide guidelines to help employees of the University of Memphis avoid conflicts of interest. This policy is intended to 1) define the general principles which should guide the actions of University employees, 2) offer illustrations of activities which potentially constitute a conflict of interest, 3) make employees aware of disclosure requirements related to conflicts of interest, 4) describe the process by which those disclosures shall be evaluated and decisions rendered, and 5) describe the appeals process regarding such decisions.

Definitions

Conflict of Interest	Occurs when the personal interests, financial or otherwise, of a person who owes a duty to the University of Memphis actually or potentially diverge from the person's professional obligations to, and from the best interests of, the University.
Conflict of Commitment	Occurs when the personal or other non-University related activities of an employee of the University impair the ability of that employee to meet their commitments of time and energy to the University.
Family Member	Includes the parent, spouse, and children (both dependent and non-dependent) of a person covered by this policy.

Procedures

General Procedures	<p>It is the policy of the University of Memphis that employees should avoid situations where the self interests of the employee diverge from the best interests of the University (conflicts of interest). It is also the policy of the University of Memphis that employees should avoid external commitments which significantly interfere with the employee's duties to the University (conflicts of commitment).</p> <p>Allowing a conflict of interest to exist without being addressed in an appropriate manner is a serious violation of an employee's duty to the University and can be a violation of state or federal law. Some conflicts of interests are even punishable as criminal offenses under Tennessee law. While this policy is intended to be consistent with all pertinent Federal and State laws, regulations, this policy is preempted by those enactments, to the extent that there is a material difference between any provisions. However, this policy preempts any other University policy that is inconsistent with the provisions herein.</p> <p>The mere existence of either a potential or actual conflict of interest does not necessarily mean that such conflict must be eliminated. However, all actual and potential conflicts of interests must be disclosed and evaluated by the Conflicts Review Committee as described in this policy.</p>
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Examples of Conflicts of Interests

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 the University of Memphis, to affect that employee's judgment. This list is illustrative and not exhaustive.

a) **Self-dealing**- Situations in which an employee can appear to influence or actually influence a University-related decision from which that person or a member of that person's family stands to realize a personal financial benefit, or other personal benefit, are self-dealing, and conflicts of interest. Examples of self-dealing activities are numerous and include the following:

i) Purchase of State-owned property by an employee absent fair and open bidding, where required. This is a violation of State law under Tenn. Code. Ann. §§ 12-2-208 and 12-2-417.

ii) Institutional purchases from businesses in which an employee or family member has a financial interest. Tenn. Code Ann. §12-4-103 prohibits employees from bidding on, selling, or offering to sell or have an interest in the selling of merchandise, equipment, material, or similar commodity to the State of Tennessee during their tenure of employment, or for six (6) months thereafter. Violation of this provision is considered a class E felony. Employees are required to disclose if he/she or members of his/her family have any significant ownership interest (more than 4%) in such business or if the employee or a member of his/her family serves as an officer for the business.

Tenn. Code Ann. §12-3-106(b) declares that it is a conflict of interest for any person or any company with whom such person is an officer, director, or equity owner with more than 1% interest to bid on any public contract for products or services for the University if that person or their relative is responsible for approving such contract for the University. Under this provision, relative means spouse, parent, sibling or child.

iii) Use of educational materials from which a faculty member derives a financial benefit. Any faculty member who wishes to use in his or her teaching activities educational materials (e.g. textbook) that he or she has authored, or in which he or she otherwise stands to benefit financially from such use, has a conflict of interest that must be managed. The use of such materials shall be evaluated by the appropriate University department or division committee. University policy **UM 1669 Faculty Authored Educational Material** establishes guidelines for making these decisions.

iv) Acceptance of gifts, gratuities, or favors. No employee shall knowingly solicit or accept, directly or indirectly, on behalf of himself or herself, any person living in the employee's household or a family member, 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 business or financial relations with the University; and

b) Has interests that may be substantially affected by the performance or nonperformance of the employee.

Exceptions to the prohibition of gifts:

1) a gift with a non-business purpose motivated by a close personal relationship and not by the employee's position with the University;

2) informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communications

3) 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;

4) 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

that the value of the gift may not be reduced in value by dividing the cost of the gift among two or more persons or entities. Rather, the measure is the value of the gift received by each individual person;

5) circumstances where refusal or reimbursement of the gift may be awkward and contrary to the larger interests of the University. 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;

6) 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;

7) participation in institution or foundation fundraising and public relations activities (i.e. golf tournaments and banquets), where persons or entities provide sponsorship; and

8) 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 person from whom the employee would

normally be prohibited from accepting a gift.

v) Approval of transactions involving self or family members. No employee shall be the approver of a University transaction in which that employee or a family member of that employee benefits financially or in any other respect, such as by the reduction of an academic requirement. Any transactions in which the employee or a family member could benefit financially or otherwise must be approved by a person with higher authority than the employee at issue.

b) Inappropriate use of students or support staff- Employees shall ensure that the activities of students and support staff are not exploited for the benefit of any non-University related activity of the faculty or staff member. Disclosure and approval is required prior to assigning any non-institutionally related task (which is more than incidental or de minimus in nature) to a student or member of support staff.

c) Inappropriate use of State owned resources- Employees may not make significant use of University owned facilities, equipment, materials or other resources, not otherwise available to the public, in the course of activities which are not related to the University, without prior disclosure and approval.

d) Failure to disclose intellectual property- Under UM Policy 1607, persons affiliated with the University have a duty to disclose inventions or copyrightable works which may reasonably be expected to have commercial value and which have jointly or solely been developed or created during their affiliation with the University of Memphis. For more information about what must be disclosed to the

University pursuant to this policy, please see **UM Policy 1607**.

e) **Nepotism-** **Under UM Policy 1381**, no employees of the University who are relatives shall be placed within the same direct line of supervision whereby one relative is responsible for supervising the job performance of another relative. For more information about the Nepotism Policy, please see UM 1381.

Disclosure Requirements

A. Conflict of Interest Disclosure

Persons to whom this policy applies who believe that a conflict of interest may exist either for themselves or with respect to another person covered by this policy shall make a written disclosure of the facts and circumstances surrounding the situation. The Conflict of Interest Disclosure Form can be found at Appendix B. Disclosures shall be submitted to the Office of Legal Counsel and then referred to the University's Conflicts Review Committee for evaluation.

B. Annual Financial Interest Disclosure

In addition to the general disclosures, certain University officials and employees are required to file financial disclosure forms within one month of their initial appointment and annually in January. The Financial Interest Disclosure shall be filed with the Office of Legal Counsel after being reviewed by all of the employee's supervisors. The following persons are subject to this provision:

- 1) Coaches and Assistant Coaches;
- 2). Employees of the Athletic Department who are exempt from the provisions of the Fair Labor Standards Act

Conflicts Review Committee A Conflicts Review Committee is an advisory committee and resides under the President's Office. The primary members shall be representatives from the Office of Legal Counsel, Internal Audit and Business and Finance. Other areas of the University (such as Human Resources, Academic Affair,

Student Affairs, etc.) may be brought in to assist the committee to provide additional insight and expertise depending on the nature of the disclosure submitted. The committee's role will be to review actual and potential conflict of interest situations and submit recommendations to the President's Office regarding management or elimination of conflict of interest situations.

Review of Disclosures

All disclosures of actual or potential conflicts shall be referred to the University's Conflicts Review Committee. The Committee shall review the disclosure and shall render a decision regarding the issue(s) presented. Persons who are the subject of the disclosure under consideration by the Committee shall be given an opportunity to appear before the Committee before a final determination is made. The employee shall have seven (7) days after receiving notice of the disclosure to determine whether he/she will personally appear before the Committee.

Any disclosure which indicates an actual violation of law shall be forwarded to the President along with the Committee's findings. The President in consultation with the Office of Legal Counsel will determine the appropriate action(s) to be taken.

For any conflict which is not a violation of federal or state law, the Committee is permitted to make a determination that the conflict is de minimus and is permitted to continue; restrictions should be placed on the individual to manage the conflict; or that the person must eliminate the conflict. The Committee shall provide the employee its decision in writing.

Failure to observe the restrictions imposed as a result of the Committee's review of a conflict disclosure or a knowing failure to disclose a conflict of interest may result in disciplinary proceedings under University policies, up to and including termination.

Appeals

Decisions made by the Conflict Review Committee may be appealed within five days to the President of the University. Decisions of the President shall be final and binding.

Related Forms

Financial Interests Disclosure Form

<http://www.memphis.edu/legal/docs/financialinterestsdisclosureform.doc>

Conflict of Interest Disclosure Form

<http://www.memphis.edu/legal/docs/generalconflictofinterestdisclosureform.doc>

FAQs

What if I have a conflict that I have not disclosed? You should disclose the actual or potential conflict as soon as possible. If the Committee determines that there exists a significant conflict then the employee's good faith effort to comply with this policy will be an important consideration.

What if I am not sure if I have a conflict? If you are not sure whether a situation is a conflict, you should make a disclosure of the situation and allow the Committee to determine if a conflict exists. Remember, the mere appearance of a conflict of interest is enough to require disclosure.

Will the disclosures of conflicts be confidential? Yes. Any disclosure will be kept strictly confidential unless otherwise required by law. However, should the Committee determine that a serious conflict exists, the Committee will require the conflict to be revealed to the extent necessary to resolve the conflict.

Am I required to disclose another employee's conflicts? Yes. Non-disclosure of any known conflict would be a conflict of interest in itself in that University employees owe a duty to the University and must consider the University's best interest in all matters.

Whom do I contact with further questions? You may contact the Office of Legal Counsel for The University of Memphis at (901) 678-2155, Administration 201, <http://www.memphis.edu/legal/>.

Links

**Faculty Authored
Educational Material UM
1669**

<http://policies.memphis.edu/UM1669.htm>

**Intellectual Property UM
1607**

<http://policies.memphis.edu/UM1607.htm>

**Ethics in Research and
Sponsored Programs UM
1451**

<http://policies.memphis.edu/UM1451.htm>

**Extra Compensation and
Outside Employment UM
1490**

<http://policies.memphis.edu/UM1490.htm>

**Equal Employment
Opportunity, Affirmative
Action, Discrimination and
Nepotism**

<http://policies.memphis.edu/UM1381.htm>

Revision Dates

UM1692 -- revised Aug 3, 2016
UM1692 -- revised Dec 18, 2009
UM1692 -- issued Mar 5, 2008 supercedes policy number
1:2A:11:05

Subject Areas:

Academic	Finance	General	Human Resources	Information Technology	Research	Student Affairs
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