



Handbook of Operating Procedures

Section: 2.4.2
Originally Approved: 12/14/2007
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THE UNIVERSITY OF TEXAS-PAN AMERICAN CONFLICTS OF INTEREST POLICY ADOPTED UNDER SECTION 572.051, GOVERNMENT CODE

A. Purpose

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 our integrity by preventing bias or the appearance of bias in our decision-making.

The mission of The University of Texas – Pan American (UTPA) is:

The University of Texas-Pan American (UTPA) serves the higher education needs of a rapidly growing, international, multicultural population in the South Texas Region. The University preserves, transmits and creates knowledge to serve the cultural, civic, and economic advancement of the region and the state. The University provides students advanced instruction in academic programs offered through innovative delivery systems that lead to professional certification, and baccalaureate, master's and doctoral degrees. Through teaching, research, creative activity and public service, UTPA prepares students for lifelong learning and leadership roles in the state, nation and world community.

In support of that mission, we value and are committed to maintaining high standards of excellence, integrity, and accountability in our conduct. This conflicts of interest policy is intended to enhance the ability of the employees of UTPA to act ethically in accordance with those values and with the law, and to fulfill our obligation to be good stewards of the resources that have been entrusted to us.

B. Persons Affected

This conflicts of interest policy applies to all employees of UTPA.

C. Policy

This policy addresses only conflicts of interest and highlights below some of the most common circumstances in which conflicts of interests can arise. Other ethical issues that may arise may also have a conflict of interest element. These include nepotism, accepting money from students, the use of government resources, sexual harassment, political activities, legislative lobbying, and the use of confidential information. Those issues are fully discussed in the UTPA Standards of Conduct Guide. Additional information may be found on the website of the UT System Office of General Counsel at www.utsystem.edu/ogc/ethics.



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1. **Gifts, Favors, or Services:** There are two standards under Texas law governing gifts, favors, or services – (1) a general standard of conduct that applies to all employees and (2) a criminal standard that applies only to those persons who make recommendations or decisions about contracts and other financial transactions.

Under the general standard, you should not accept or solicit any gift, favor, or service that might reasonably tend to influence you in the discharge of official duties or that you know or should know is being offered with the intent to influence official conduct. This standard applies even though the donor is not asking you to do something in exchange for the gift. Acceptance or solicitation of a gift in violation of this standard is not a criminal offense, but is grounds for discipline, including termination.

Criminal penalties may apply to persons who make recommendations or decisions about UTPA financial transactions. If those are your job duties, you 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 your official action (it is *never* lawful to accept a gift in exchange for official action):

- Non-cash items worth less than \$50.
- A gift from a person such as a relative, friend, or business associate with whom you have a relationship independent of your official status, if the gift is given on account of that relationship rather than your official status.
- Food, lodging, transportation, or entertainment in any amount if you accept them as a “guest,” which means the donor must be present.¹

Note that even though you may accept a gift described above without committing a crime, acceptance of the gift may still violate the general standard of conduct and constitute grounds for discipline.

Additional restrictions apply if the gift is from a student loan lender.

It is important to remember that even though the acceptance of a gift may not constitute a crime, it may appear to the public that a gift has influenced you in performing your

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 General Counsel before accepting a gift from a lobbyist.



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job. You should not accept any gift that could appear to influence your official conduct, even if the gift is technically legal.

Summary: Do not accept any gift, favor, or service that could appear to influence your official conduct.

- 2. Outside Employment or Compensation:** You should not accept other employment or compensation that could reasonably be expected to impair your independence of judgment in performing your official duties. Your primary responsibility is the accomplishment of the duties and responsibilities assigned to your position at UTPA. External consulting or outside employment that interferes with those duties and responsibilities should not be accepted. Outside employment of full-time employees, including self-employment or employment by another state agency, must first be approved by your vice president. You must request approval by filing a form with your vice president that describes the nature and extent of the outside employment. Your vice president will then determine whether the contemplated employment would create a conflict of interest or the appearance of a conflict of interest between your outside commitments and your responsibilities to UTPA.

Additionally, you should not accept other employment or engage in a business or professional activity that you might reasonably expect would require or induce you to disclose confidential information acquired through your official position.

Summary: Do not accept outside employment that interferes with your responsibilities to UTPA. Outside employment of full-time employees must first be approved by your vice president.

- 3. Outside Board Service:** Outside board service is generally deemed to be in the best interest of UT System because it broadens the experience of the individuals involved and exposes UT System to a larger audience of business, civic, professional, and social leaders. However, recognizing that your primary duty is the performance of your job at UTPA, the position may not create a conflict of interest and may not impose an unreasonable time requirement. You must disclose the situation through the appropriate vice president to the Institutional Compliance and Ethics Officer before accepting a position on an outside board. The President is subject to certain additional provisions, including the requirement to file a report on outside board service with the Vice Chancellor for Administration in September of each year.

Summary: Do not accept a position on an outside board that creates a conflict of interest or that imposes an unreasonable time commitment. Any outside board



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service must be disclosed through the appropriate vice president to the Institutional Compliance and Ethics Officer before accepting a position on an outside board.

4. **Honoraria:** You may not accept an honorarium for services you would not have been asked to provide but for your official status. For example, you may not accept a gift or payment for giving a speech if you would not have been asked to provide the speech but for your official position. However, you may accept meals, transportation, and lodging in connection with your services as long as the services are more than merely perfunctory or superficial. Also, you may accept a gift of very minimal value, such as a plaque or coffee cup.

Summary: Do not accept an honorarium for services you would not have been asked to provide but for your official position.

5. **Personal Investments:** You should not make personal investments that could reasonably be expected to create a substantial conflict between your private interest and the public interest. This means that you should not have a direct or indirect financial interest in a business that conflicts with UTPA interests or that might influence how you do your 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 you do not exercise discretion regarding the investment of the assets of the fund. If you are not sure whether a particular investment creates a conflict of interest, you should ask your supervisor or consult with the Institutional Compliance and Ethics Officer.

If you do have an interest in a business that you think might constitute a conflict of interest, disclose that interest to your supervisor. In some cases, you may be able to cure the conflict by not participating in any decision concerning that business. However, if the conflict is significant, you may be required to divest yourself of the interest that causes the conflict.

Summary: Do not make personal investments that create a substantial conflict between your private interest and the public interest.

6. **Self-dealing/Transactions with Employees:** You may not transact any business in an official capacity with any business entity of which you are an officer, agent, or member, or in which you own a substantial interest.



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Additionally, before UTPA may purchase any supplies, materials, services, equipment, or property from you, the President must approve the purchase, and the purchase may be made only if the cost is less than from any other known source.

Summary: Do not transact public business with your private business. The President must approve any purchases from you, and the purchase may be made only if the cost is less than from any other known source.

- 7. Benefits for Performing Official Duties:** You should not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised your official powers or for having performed your 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: Do not accept a benefit for having done your job in favor of another.

- 8. Required Disclosures:** You must file in a timely manner written disclosure statements as required by law, rule, or policy. Your position with UTPA and your contemplated activity will determine which disclosure statements are required.

Summary: Be aware of any disclosure statements you are required to file and be sure to file them timely.

- 9. 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 is grounds for disciplinary action by UTPA, including termination of employment. Additionally, civil and criminal penalties may apply under certain circumstances.

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

- 10. 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 UTPA, any departmental policy, 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. You are required to comply with the more specific or restrictive policy, contract provision, agreement, law, or rule.



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D. Definitions

1. *Conflict of Interest.* A conflict of interest exists when you owe a professional obligation to UTPA that is 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 UTPA and your private interests and interfere with your ability to make decisions that are in the best interest of UTPA. Even if those outside interests do not actually impair your ability to act in the best interest of UTPA, it may appear to the public that your independence of judgment has been affected.
2. *Gift.* Anything of value, including tickets to entertainment or sporting events, expenses for a trip, and food.
3. *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. You should consult the Institutional Compliance and Ethics Officer (Vice President for Business Affairs) or UT System’s Office of General Counsel to determine if the proposed gift from the student loan lender is permissible under the Texas Higher Education Fair Lending Practices Agreement.

E. Responsibilities

Not applicable.

F. Procedures

Questions or Reports of Violations: The processes for raising any compliance questions, including questions about conflicts of interest, are described in *Handbook of Operating Procedures (HOP)* Section 2.4.1, Compliance with Laws, Regulations, Contractual Obligations, and Policies as well as the UTPA Standards of Conduct Guide. These questions may involve actual or potential conflicts of interest, or questions about possible violations of this policy.

G. Review

The Divisional Head for this policy is the President and this policy shall be reviewed every five years or sooner if necessary by the following Stakeholders:

1. Compliance Officer



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2. Vice Presidents
3. Director of Internal Audits
4. Director of Human Resources
5. Academic Affairs Executive Team
6. Faculty Senate Chair
7. Staff Senate Chair