

Vice President and Provost



Biography | Organization & Staff | Faculty Policies | Documents & Resources

FACULTY POLICIES

Conflict of Interest Policy

Faculty members are public officials whose professional activities may create situations in which their private or personal interests are potentially in opposition to their official responsibilities. A faculty member must be sensitive to the potential for conflict of interest situations and act in a manner to minimize their effects.

As a matter of state law and University policy, it is the responsibility of faculty members to avoid being in a position of authority over a spouse or a member of the immediate family who also is employed by the University (for specific details, see the University's [Financial and Administrative Policies Manual](#) and Code of Virginia 2.1-639.6). A faculty member and his or her spouse or another member of the immediate family may both be employed by the University, so long as the faculty member does not exercise any control over the employment conditions and activities (such as initial appointment, retention, promotion, tenure salary, leave of absence, grievance advantage) of the spouse or relative and is not in a position to influence those activities. Furthermore, the state and local government Conflict of Interests Act permits dual employment of spouses or other immediate family members, in the following limited circumstances: (a) if both the employee and the family member are in teaching, research, or administrative support positions; (b) if the Board of Visitors finds that it is in the best interests of the institution the Commonwealth for such dual employment to exist; and (c) if the Board of Visitors ensures that neither the employee nor family member supervises, evaluates, or otherwise participates in personnel decisions regarding the other.

As a matter of sound judgment and professional ethics, faculty members have a responsibility to avoid any apparent or actual conflict between their professional responsibilities and personal interests in terms of their dealings or relationships with students. It is the responsibility of faculty members to avoid being placed in a position of authority - by virtue of their specific teaching, research, or administrative assignments - over their spouses or other immediate family members who are students at the University. It is also the responsibility of faculty members to avoid engaging in sexual relationships with or making sexual overtures to students over whom they are in a position of authority by virtue of their specific teaching, research, or administrative assignments. [NOTE: In this context, the term "faculty members" broadly includes all full-time and part-time University persons who hold positions on the academic or general faculty, as well as all graduate teaching assistants, graders, and coaches.] The professional constraints derive from AAUP ethical standards and the University's policy prohibiting conflict of interests, in order to ensure that the evaluation of students is conducted fairly and without any perception of favoritism or bias. Perhaps less obvious but equally compelling, is the interest in avoiding potential harm to students as well as the liability that could occur, for example, if facts regarding a sexual relationship or sexual overture are demonstrated that support a legal claim of sexual harassment by either party (see [Policy on Sexual Harassment](#)).

The Conflict of Interests Act also currently contains other pertinent provisions. For example, a University employee may be allowed to have a contract with another state agency if the contract is awarded through a competitive process and the employee discloses the employee's personal interest in such a contract to the administrative head of that agency. [NOTE: The Conflict of Interests Act provisions on contracts between the University and its own employees are too complex to summarize here - faculty members should consult the [Financial and Administrative Policies Manual](#). Except under extraordinary circumstances, the University does not buy goods or services from faculty or staff members. Should an occasion arise where such a purchase appears to be in the best interest of the University, the department should contact the director of Purchasing and Materials Services.] An employee is prohibited from soliciting or accepting money or any other thing of value for performing official duties, except the compensation or expenses paid by the University. Under the Act, an employee of the University may not use for his or her own economic benefit confidential information not available to the public and acquired by reason of his or her position.

In accordance with the Act and the Ethics in Public Contracting section of the Virginia Public Procurement Act, University employees must not accept personal gifts of any kind, including food and beverages, travel, and tickets to sporting and cultural events, from firms with which the University does business. Gifts of goods or services to the University or to an employee can influence the selection of a vendor to provide goods or services to the University. Offers of incentives, free goods and service gifts, and coupons should be reported to the director of Purchasing and Materials Services.

The technical details of these and other conflict of interest situations are set forth in the [Financial and Administrative Policies Manual](#) and in the Code of Virginia, which should be consulted by all faculty members who may be involved in any such situation.

Failure to abide by the conflict of interest principles described above can have serious consequences. Violations of the employment-based restrictions contained in the State Conflict of Interests Act may lead to civil - and if willful, criminal - penalties as well as termination from state employment. Breaches of professional ethics standards (e.g., an abuse of the faculty member authority over students) may also prompt disciplinary action. Moreover, serious misconduct associated with sexual harassment raises the risk, under federal law and state policy, of personal responsibility in terms of both litigation defense and liability exposure.

A deliberate action to obtain an unauthorized personal benefit is a fraudulent transaction. This might include misappropriation of cash or property, unauthorized use of University property, unauthorized use of University employees to perform non-University business, or use of the University telephone system for personal long distance telephone calls. Deans and department chairs are responsible for reporting any fraudulent transactions to the University Police and the Audit Department.

*Office of the Vice President and Provost
September 2, 1993*

Contact Us

P.O. Box 400226
Charlottesville, VA
22904-4227
Tel: 434-982-2362
Fax: 434-924-1497
Office Staff

Maintained by: cpl3b@virginia.edu
Last Modified: Tuesday, 09-Dec-2003 09:44:01 EST
© Copyright 2003 by the Rector and Visitors of the University of Virginia



Policy: XV.A.1	Issued: August 1, 1993
Owner: <u>University Comptroller</u>	Latest Revision: July 5, 2006

CONFLICT OF INTERESTS

- **1.0 Purpose**
- **2.0 Policy**
 - 2.1 Employee Responsibilities
 - 2.2 Departmental Responsibilities
 - 2.3 Employment Restrictions
 - 2.4 Restrictions on Procurement Activities
 - 2.5 Prohibited Conduct Regarding Contracts
 - 2.6 Prohibited Conduct Regarding "Transactions"
 - 2.7 Solicitation and Acceptance of Gifts, Travel, etc.
 - 2.8 Other Restrictions:
 - 2.9 Penalties and Remedies
- **3.0 Definitions**
- **4.0 References**
- **5.0 Approvals and Revisions**

1.0 Purpose

This policy describes the University's position on conflict of interest.

2.0 Policy [[Top](#)]

NOTE: See also the Conflict of Interest policy within the Faculty Handbook.

NOTE: This policy applies to employment contracts, employment renewals, or other contracts entered into July 1, 1983 or later, and reflects changes brought about by the State and Local Government Conflict of Interests Act of 1987 (as amended through 2005).

2.1 Employee Responsibilities

This policy has been established to ensure that each employee (faculty, staff and officer) is aware of his/her responsibilities when performing duties for the University. It is intended to incorporate and also supplement the requirements of the State and Local Government Conflict of Interests Act of the Code of Virginia 2.2-3100 through 2.2-3131, and the Virginia Public Procurement Act, Article 6, Ethics in Public Contracting, Code of Virginia Section 2.2-4367. However, this policy does not restate those Acts verbatim; and employees who have questions about conflict of interests may wish to consult the Acts themselves. Copies of the applicable Code sections are available in the Department of Procurement Services and the Office of the General Counsel.

Employees should disclose actual or potential conflict of interests and should not initiate any contract or transaction to which the University is a party until approval is received from the Assistant Vice President and University Comptroller.

See also:

Procedure 15-1, "Providing Notice of Possible Conflict of Interests."

EMPLOYEES SHOULD BE AWARE THAT FAILURE TO ABIDE BY THE TERMS OF THESE LAWS MAY MAKE THEM SUBJECT TO LEGAL PENALTIES, INCLUDING CRIMINAL PROSECUTION AND/OR FORFEITURE OF EMPLOYMENT. THE LANGUAGE OF THESE ACTS IS COMPLEX, AND THE EMPLOYEE MAY NEED THE ASSISTANCE OF HIS/HER PERSONAL ATTORNEY. EMPLOYEES MAY SEEK ADVISORY OPINIONS FROM THE ATTORNEY GENERAL ON THE CONFLICT OF INTEREST ACT. ONLY RELIANCE ON AN OPINION OF THE ATTORNEY GENERAL SERVES AS A BAR TO PROSECUTION.

2.2 Departmental Responsibilities

It is the responsibility of the dean/department head to investigate and report to the Assistant Vice President for Finance and University Comptroller any potential conflict of interests affecting contracts or transactions to which the University is a party.

It is also the responsibility of the dean/department head to certify that a conflict of interests does not exist in employment situations having the appearance of conflict.

See also:

Procedure 15-2, "Certification that No Conflict of Interest Exists."

2.3 Employment Restrictions

In addition to the Conflict of Interest Act, University policy provides that no faculty or staff member shall serve as the immediate supervisor or exercise any control over the employment or employment activities of a person related by family or marriage or an individual sharing the same household.

See also:

Procedure 15-2, "Certification That No Conflict of Interest Exists."

2.4 Restrictions on Procurement Activities

No employee having official responsibility for a procurement transaction (purchase or lease of goods or services) shall participate in the procurement when the employee knows that:

- He/she is also employed by the bidder, offeror, or contractor.
- The employee, the employee's partner, or any member of the employee's "immediate family":
 - Holds a position with the bidder, offeror, or contractor.
 - Is employed by the bidder, offeror, or contractor in a capacity involving substantial participation in the procurement transaction.
 - Owns or controls an interest exceeding five percent (5%) of the business of the bidder, offeror, or contractor.
 - Has a pecuniary interest in the bidder, offeror, or contractor.
 - Is negotiating, or has an arrangement concerning prospective employment with the bidder, offeror, or contractor.

No employee or former employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom he/she has dealt in an official capacity concerning procurement transactions for a period of one year after termination of the employee's University employment.

Exception: An exception is allowed if the employee/former employee notifies his/her Vice President/former Vice President, the Assistant Vice President for Human Resources, and the Chief Contracting Officer in writing before starting the new position.

2.5 Prohibited Conduct Regarding Contracts

No employee shall have a "personal interest in a contract" with:

- The University other than one's own contract of employment.
- Any other State Agency, unless the contract is awarded through a competitive process as defined by the Virginia Public Procurement Act.

Exceptions:

- An employee may have a "personal interest" in: A University employment contract of a person related by family or marriage or an individual sharing the same household, if the employee neither exercises control nor is in a position to influence the employment or employment activities of the other person.
- *[July 1, 2006] A contract between the University and a firm when the officer's or employee's personal interest in the contract is by reason of ownership in the contracting firm in excess of 3% of the contracting firm's equity, provided that (i) the officer or employee's ownership or other equity interest and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;*

PROCEDURE 15-3 TEMPLATE DISCLOSURE LETTER *The template letter serves only as an example of what is required. You may use another form so long as it complies with the requirements of the Conflict of Interest Act.*

- One's own contract of employment with another State agency.
- A University contract to sell goods or services at uniform prices to the general public.
- The sale, lease, or exchange of real property between the employee and the University, if the employee does not participate in any way for the University in the sale, lease or exchange, and such is stated as a matter of public record. *
- A University contract involving the publishing of official notices.
- A contract between the University and a publisher of educational materials, if the employee's "personal interest" accrues to him/her solely from having authored such educational materials.
- Contracts between the University and a contracting firm when the employee, his/her spouse, or immediate family member's sole interest in the firm is by reason of salary in excess of \$10,000, so long as the employee's spouse or immediate family member
 - Neither participates in nor has authority to participate in the procurement or letting of the contract for the contracting firm, AND
 - Either does not have authority to participate in the contract for the University, or disqualifies him/herself as a matter of public record and does not participate in the negotiations or approval of the contract for the University.
- Contracts between the University and public service corporations, financial institutions, or public utilities in which the employee has a "personal interest", if the employee disqualifies him/herself as a matter of public record and does not negotiate or approve the contract. *
- Contracts purchasing goods or services when the contract does not exceed \$500.
- Grants or other payments under any program wherein uniform rates for, or the amounts paid to,

all qualified applicants are established solely by the University.

- A contract for research and development between the University and a business in which the employee (or member of his/her immediate family) has a personal interest if (1) the personal interest has been disclosed to and approved by the University, in accordance with institutional policy approved by the State Council of Higher Education, prior to the time the contract is entered into; and (2) the employee promptly files a disclosure statement pursuant to the Code of Virginia Section 2.1-639.15 both with appropriate officials of the University as provided by Procedure 15-1 of the FINANCIAL AND ADMINISTRATIVE PROCEDURES MANUAL, and with the Secretary of the Commonwealth of Virginia, and annually thereafter on or before January 15.
- A contract between the University and a not-for-profit, non-stock corporation which operates a clinical practice within the University of which the University employee is also a member or employee.
- A contract of employment of an immediate family member provided, (1) both the employee and the family member are in teaching, research, or administrative support positions, and (2) the Board of Visitors finds that it is in the best interests of the institution and the Commonwealth for such dual employment to exist, and (3) The Board of Visitors ensures that neither the employee nor family member has control or influence over the employment activities of the other.

*** NOTE:** All employees with "personal interests in contracts" should disclose this fact as required and not initiate the contract to which the University is a party until approval is received from the Assistant Vice President for Finance and University Comptroller.

See also:

Procedure 15-1, "Providing Notice of Possible Conflict of Interests."

2.6 Prohibited Conduct Regarding "Transactions"

Each employee shall disqualify him/herself from representing the University in a "transaction" when:

He/she has a "personal interest in the transaction", and the "transaction" has "specific application" to the employee.

In this situation, the employee will not vote or represent the University in the "transaction," and the University will record the disqualification in writing. Even after disqualifying oneself, the employee may still represent him/herself, one's spouse, or any relative in the "transaction." The employee must not be compensated for his/her representation and must comply with the disqualification and recording requirements above.

NOTE: All employees with "personal interests in transactions" should disclose this fact as required.

See also:

Procedure 15-1.

If an employee's disqualification leaves less than the required number of persons needed to act on the "transaction," the remaining members will have authority to act by majority vote or unanimous vote of the remaining members, as required. If action is taken when these above conditions are not met, the University may rescind the action, as required.

NOTE: The above disqualifications and disclosures are in addition to the disclosure of economic interest required for certain positions designated by the Governor. The Department of Human Resources sends out the disclosure form annually to select employees.

2.7 Solicitation and Acceptance of Gifts, Travel, etc.

An employee of the University shall not:

- Solicit or accept money or other things of value, for services performed within the scope of his/her official duties except for compensation, expenses or other remuneration paid directly to him/her or approved for him/her by the University. This prohibition will not prohibit the acceptance of special benefits authorized by law.
- Accept any money, gift, loan, advance, favor, special discount, or service of material value that might reasonably tend to influence him/her in the discharge of his/her duties.

- Offer or accept money or anything of value for or in payment of employment, an appointment, a promotion, or a privilege with the University.
- Accept a business or professional opportunity for financial benefit, if he/she knows or should know that the opportunity is offered to influence the discharge of his/her official duties.
- Accept a business or personal trip paid for by a vendor, for any reason whatsoever, without first obtaining written approval from the executive director of the Hospital or the employee's Vice-President as applicable. SEE NOTES IMMEDIATELY BELOW.

NOTE: The Department of Procurement Services can arrange, through the procurement process, for vendors or potential vendors to pay for travel to inspect or be trained on new equipment. Such arrangements should be approved BEFORE Purchasing and Materials Services issues the request for proposal or invitation to bid.

NOTE: If a department wants an employee to travel at a vendor's expense and the arrangements were not part of the procurement process, several measures should be taken. AT LEAST TWO WEEKS PRIOR TO THE TRAVEL, the department head should:

- Request the Chief Contracting Officer to issue an opinion to the applicable Vice-President(s) on the appropriateness of the vendor- paid travel.
- Notify the applicable Vice-President(s) or Executive Director of the Hospital.

An employee having authority to conduct or influence the buying of goods or services for the University must not solicit or accept any gift, payment, loan or anything else, other than miscellaneous items bearing advertising, such as matches, calendars, rulers, note pads, or other items of nominal or minimal value from a bidder, offeror, contractor, or subcontractor. This rule does not prohibit employees from buying goods or services, or obtaining loans, for their personal use where they pay equal consideration for the goods, services or loans; nor does it prohibit employees from accepting meals or beverages from vendors when offered to a large group of people at a trade show, exhibit or other professional meeting.

2.8 Other Restrictions:

An employee of the University shall not:

Use confidential information not available to the public and acquired through one's University position for one's own or another's economic benefit.

The University shall not:

Purchase building materials, supplies or equipment for a University building or structure from any independent contractor who is providing architectural or engineering (non-construction) services to the University, or from any partnership, association or corporation in which the architect or engineer has a personal interest, except in cases of emergency.

2.9 Penalties and Remedies

Any employee who violates the provisions of the mentioned Acts is guilty of a misdemeanor, and may be fined up to \$1,000 and sentenced up to a year in jail. Any employee may NOT be prosecuted if PRECEDING the potential conflict action:

- The employee made full disclosure of the facts, AND
- The employee relied on a written opinion by the Attorney General stating his/her actions did not violate the Comprehensive Conflict of Interests Act.

If convicted for this violation, the employee shall, in addition to any other fine or penalty provided by law, forfeit his/her employment. In addition, any employee who violates the requirements of this policy may otherwise be disciplined by the University.

Any money or other thing of value derived from a violation of the above policies will be forfeited to the appropriate source of funds, i.e., State Treasurer, University Bursar, etc. If the money, etc., increased in value between the time of violation and the discovery of the violation, the greater value will be forfeited.

Any purchase made in violation of the above policies may be rescinded by the University within five years of the date of such purchase.

If convicted for this violation, the employee shall, in addition to any other fine or penalty provided by law, forfeit his/her employment. In addition, any employee who violates the requirements of this policy may otherwise be disciplined by the University.

Any money or other thing of value derived from a violation of the above policies will be forfeited to the appropriate source of funds, i.e., State Treasurer, University Bursar, etc. If the money, etc., increased in value between the time of violation and the discovery of the violation, the greater value will be forfeited.

Any purchase made in violation of the above policies may be rescinded by the University within five years of the date of such purchase.

Any contract made in violation of the above policies may be declared void by the University within five years of the date of such contract. The contractor or subcontractor will retain or receive only the reasonable value, with no increment of profit or commission, of the property or services rendered prior to receiving notice the contract had been voided. In voiding contracts of sale, any refund will be made to the appropriate source of funds, i.e., State Treasurer, University Bursar, etc.

Approved by SCHEV 3 February 1992.

3.0 Definitions [\[Top\]](#)

"Official Responsibility" - Administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove, or affect a procurement transaction or any resulting claim.

"Exercising control over the employment or employment activities" - This concept includes, but is not limited to, making decisions regarding initial appointment, retention, promotion, tenure, salary, leave of absence, and evaluation. This concept does not include academic or scientific conduct of instruction or research. The instructor or principal investigator of a research project is responsible for the academic or scientific work and for technical leadership.

"Contract" - Any agreement to which the University is a party, or any agreement between or on behalf of the University or any subdivision and a third party for payment from any University fund. Sub-contracts are included only if the University was a party to the original contract.

"Personal Interest in a Contract" - Being a party to a contract or having a "personal interest" in the firm, corporation, partnership, or other business entity which is a party to the contract.

"Transaction" - Any matter considered by the University or one of its subdivisions on which official action is taken or contemplated.

"Personal Interest in a Transaction" - Where an employee or his/her spouse, or immediate family member, has a "personal interest" in property, or in either a firm, corporation, partnership or business entity, or in one representing an entity, which is the subject of the transaction in question, or will benefit or may reasonably be expected to benefit, directly or indirectly, or suffer from the transaction.

"Personal Interest" - A financial benefit or liability of an employee, or immediate family member, if such benefit or liability is included in one of the categories outlined below:

- Ownership interest in a business which exceeds three percent (3%) of the equity of the business;
- Annual income exceeding \$10,000 from ownership in property or in a business;
- Salary or benefits paid by a business which exceeds \$10,000 annually;
- Interest in real or personal property which exceeds \$10,000;
- Liability incurred on behalf of a business, which exceeds three percent (3%) of the asset value of the business.

"Specific Application Transaction" - A transaction affecting the personal interest of an employee. Specific application transactions do not affect the public in general, but general public transactions may include the personal interest of the employee.

"Immediate Family" - An employee's spouse, and any other person living in the same household as the employee, who depends on the officer or employee for more than 50% of his or her support, or provides more than 50% of the support for the officer or employee.

"Related by Family or Marriage" - An employee's spouse, parent, child, sibling, grandparent, grandchild, aunt, uncle, niece, nephew, in-law, or individual for whom an employee has been assigned legal responsibility or guardian.

4.0 References [\[Top\]](#)

5.0 Approvals and Revisions [\[Top\]](#)

Previous version in effect from 8/1/93 to 7/5/06 [available](#) in policy archive.

