

College Operating Procedures (COP)



Procedure Title: Conflict of Interest (Academic Standards)
Procedure Number: 03-1402
Originating Department: Provost/Vice President of Academic Affairs

Specific Authority:

Board Policy 6Hx6:5.03
Florida Statute 112.311
Florida Administrative Code n/a

Procedure Actions: Adopted: 06/01/10; 02/15/11

Purpose Statement: A conflict of interest may arise if a faculty member has an economic interest in the classroom materials used for a course that he or she is teaching. Other conflicts may arise if a faculty member or friend or family member gains an economic benefit from contractual obligations obtained by the faculty member.

Guidelines:

The information outlined below clarifies intent and provides direction for the application of said procedure.

Procedures: Florida SouthWestern State College (College) strives to implement strict adherence to a morally responsible code of conduct regarding potential conflicts of interest. In accordance with Florida Statute 112.311, *Misuse of Public Position*, which states: “no officer or employee of a state agency or of a county, city, or other political subdivision of the state, and no member of the Legislature or legislative employee, shall have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her duties in the public interest,” and as directed by the Florida SouthWestern State College District Board of Trustees Policy 5.03 *Code of Ethics for College Employees*, “Employees shall act in a manner that is consistent with their position and shall take all necessary precautions to avoid any actual, potential, or perceived conflicts of interest,” the Academic Standards Committee of the College has compiled the following statements delimiting potential conflicts of interest for College employees.

Article 1: With regard to outside activities and financial interests, conflicts of interest include, but are not limited to, the following actions:

1. A conflict occurs when a faculty or staff member influences a decision of the College or a decision of a student if a personal economic benefit to the faculty or staff member may arise from that decision.
2. There is a conflict of interest when a purchasing agent buys goods from a company and is an employee of the company at the same time.

3. There is a conflict when a College employee recommends that goods be purchased from a company in which the faculty member or employee's spouse or child has a financial interest
4. Personal relationships may also create conflicting interests. For example, a faculty member has a conflict when he or she has an amorous relationship with a student in his or her class. A business manager has a conflict when he or she supervises an employee who is his or her son or daughter.
5. There is a conflict when a faculty member requires the use of books, supplies, equipment or other instructional resources when they are created or published by the employee or by an entity in which the employee has a financial interest. Exceptions may ensue when the faculty member has written a peer-reviewed, widely accepted text or e-pack. In these instances, the text must be agreed upon and used by all instructors of all sections of the course. The use of the text or e-pack must also be approved by the Vice President, Academic Affairs.

In the case of instructional materials, a faculty member or other instructor may not receive personal remuneration for materials created or developed exclusively for use in the instructor's classroom or other instructional activities. Examples of such materials may be class notes, annotated syllabi, and course packs.

6. Any employee engaging in outside activities must recognize that he or she is performing such activities as an individual and may not represent that he or she is acting on behalf of the College. For example, an employee may not use the College letterhead or a College email address in conducting outside activities. The employee must take reasonable precautions to insure that the outside employer or other recipient of services understands that the employee is engaging in the outside activity as a private citizen and not as an employee, agent, or spokesperson of the College.

Outside activities which involve more than an incidental use of college facilities, equipment, and services also represents a conflict of interest. The use of any College personnel is disallowed.

7. Conflicts may arise even in instances in which the faculty or staff member will not receive any economic benefit from the outside activity
8. Conflicts of interest arise with outside activities or financial interests which otherwise interfere with the employee's duties to the institution. These duties include the employee's duties to students and the public clientele served by the faculty or staff member, the duty to maintain the freedom of scholarly inquiry and dissemination of knowledge, and the duty to protect the rights of the College and fellow employees and students to intellectual property developed by them as well as by the faculty or staff member.

9. Outside activities (consulting, employment, management, or other contractual relationships) with a person or entity, or financial interests in an entity, that does business with the college, particularly when the faculty or staff member may influence a College decision involving that business represent a conflict of interest.
10. Conflicts of Interest include outside activities or financial interests in an entity which competes with the College's activities, particularly when these are in the same field as that of the faculty or staff member or when the employee has access to college confidential information of interest to the entity.

Article 2: Although not necessarily prohibited, many outside activities may pose a potential conflict of interest to the College. The following activities and financial interests must be reported to the Vice President, Academic Affairs and approved prior to engaging in the activity:

1. Outside activities in which there is more than an incidental use of College facilities, equipment, and/or services.
2. Outside activities in which a college student or other college employee is directly or indirectly supervised by the employee if the employee in any way supervises or evaluates the student or other employee at the College.
3. Management, employment, consulting, and contractual activities with, or ownership interests in, a business entity (or state agency) which does business with the College. In the case of material financial and managerial interests, the information required extends to the spouse and children of the employee, and for managerial interests, to relatives.
4. Management, employment, consulting, and other contractual activities with, or ownership interest in, a business entity which competes with the college.
5. Candidacy for public office.
6. Any employment, contractual relationship, or financial interests of the employee which may create a continuing or recurring conflict between the employee's interests and the performance of the employee's public responsibilities and obligations, including time commitments. This includes any outside activity in which the employee is required to waive rights to intellectual property and any outside activity or financial interest with a business entity which supports the employee's research or training program at the college.
7. Outside activities and financial interests required to be reported under federal contract and grant regulations.

The responsibility for adhering to the law and rules on conflict of interest and outside activities rests with the individual faculty or staff member. Full disclosure and discussion of all potential

and actual conflicts make possible the addressing of the issues involved and prevent problems arising for both the faculty or staff member and the College in the future. The review and oversight responsibility rests with the Department Chairperson and the Dean or another unit in which the faculty or staff member is employed. An employee must provide sufficient information to those with the review and oversight responsibility to enable them to make an informed decision concerning the allowance of the outside activity or financial interest. The deans and directors will in turn, report to the Vice President, Academic Affairs.

An employee's failure to report outside activities and financial interests, an employee's engaging in the activities or holding the financial interests without the College's approval, and an employee's failing to follow any conditions imposed pursuant to the College's approval of such activities is grounds for disciplinary action. Examples of sanctions are: disallowance or limiting outside activities, changes in assignment, limitations on research activities, fines, reduction in pay, demotion, written reprimand, suspension without pay, and termination for cause. The employee may be required to turn over to the College all or part of the compensation from an unapproved outside activity. If an activity or interest has not been properly disclosed, the employee may be required to disclose the activity or interest in all subsequent presentations of research results. Finally, as noted in the following section, a violation of the State's Code of Ethics may be grounds for various penalties imposed under state law.

Article 3: Federal Reporting Requirements relating to Sponsored Projects Federal regulations require that the college manage, reduce, or eliminate any actual or potential conflicts of interest that may be presented by certain compensated outside activities and other financial interests of persons involved in sponsored research projects funded by the Public Health Service (PHS) and the National Science Foundation (NSF). The primary purpose of the federal regulations is to prevent bias in the design, conduct, or reporting of research projects. Principal investigators and others working on projects funded by the PHS or the NSF must abide by these requirements. Any employee submitting a grant or contract proposal to the Public Health Service or the National Science Foundation through the college or conducting research or educational activities pursuant to such a federal grant or contract at the college as an "investigator" must report any "Significant Financial Interest" that would reasonably appear to be affected by the proposed or funded research activities, including interests maintained in entities that would be so affected. An "investigator" is defined as the principal investigator, co-principal investigator, or any other employee responsible for the design, conduct, or reporting of the proposed or funded research or educational activities. For the purpose of determining a Significant Financial Interest, an "investigator" also includes such an employee's spouse and dependent children.

A "Significant Financial Interest" refers to: salary or other payments for services, such as consulting fees and honoraria; equity interests, such as stocks and stock options; and intellectual property rights, such as patents, copyrights, and royalties. A Significant Financial Interest does not refer to salary or other remuneration from the college; income derived from seminars, lectures or teaching engagements sponsored by public or nonprofit entities; income derived from service on advisory committees or review panels for public or nonprofit entities; or salary, royalties or other payments that, when aggregated for the investigator and his or her spouse and dependent children, are not expected to exceed \$10,000 over the next 12 months. An equity

interest that, when aggregated for the investigator, spouse, and dependent children, does not exceed \$10,000 and does not represent more than a five percent ownership interest in any entity is also not considered a Significant Financial Interest.

It must be emphasized that compensation and other financial interests of the employee, although not Significant Financial Interests for the purposes of the federal regulations, may still need to be reported under college procedures. For example, all professional compensated activities must be reported under the college's rule. Significant Financial Interests must be disclosed at the time of the submission of the proposal, but approval of the outside activities and financial interests (with conditions if warranted) need not occur until the project has been funded. All "investigators" on NSF and PHS proposals must fill out and sign a "Sponsored Research Disclosure of Financial Interest" form before the proposal is submitted by the Division of Sponsored Research to these agencies. If a "Significant Financial Interest" is disclosed, the employee must attach a copy of his or her "Disclosure of Outside Activities and Financial Interests" form disclosing the interest. The "Sponsored Research Disclosure of Financial Interest" form (with the "Disclosure of Outside Activities and Financial Interests" form if needed) must be part of the package submitted for review and approval through the usual departmental, college, and unit approval process using the DSR-1 form. It is the principal investigator's responsibility to ensure that "Sponsored Research Disclosure of Financial Interest" forms are obtained from all investigators in order to meet proposal application deadlines. The Division of Sponsored Research requires at least three business days to review proposals.

If there is no Significant Financial Interest at the time of submission of the proposal, but such an interest develops at any point prior to funding, it must be reported and approved prior to the time the project is funded. The federal regulations also require that the disclosures be made annually during the course of the research, which is consistent with the college's requirement that outside activities and financial interests be disclosed at the beginning of each academic year. The employee must file a new disclosure if a new Significant Financial Interest is obtained, which is consistent with the college's requirement that any material changes to outside activities and financial interests must be reported during the academic year. Review and approval or disapproval of the interests disclosed during the course of a research project must be accomplished within 60 days. The Department Chairperson or Supervisor (or designee) and the Dean or Director (or designee) are responsible for reviewing each disclosure to determine if there is a conflict of interest. Under the federal regulations, if a Significant Financial Interest may directly and significantly affect the design, conduct, or reporting of the research, a conflict will be deemed to exist. The College, through the Department Chairperson or Supervisor (or designee) and Dean or Director (or designee), is required to manage, reduce or eliminate the conflict. Conditions that might be imposed in such cases include public disclosure of the conflict, modification of the research design, or monitoring of the research by independent reviewers. If adequate measures are not feasible, the employee may have to discontinue the compensated activities, divest himself or herself of the financial interest, or terminate the research. The employee must abide by the conditions under which the research is permitted.

**A Note on FDA Requirements for Clinical Trials. Under Food and Drug Administration (FDA) regulations, if sponsors of clinical trials are to use the results in support of marketing applications, they*

must obtain certain financial information from clinical investigators. This information includes: (a) Financial arrangements under which the value of the compensation could be influenced by the outcome of the study. (It should be noted that such personal income would be prohibited under Florida's Code of Ethics for Public Employees; please refer to section IV (5) of this brochure.) (b) Payments to the college or the investigator of a value greater than \$25,000 for purposes other than conducting clinical trials. (Such funds paid to the investigator personally would be prohibited under Florida's Code of Ethics for Public Employees.) (c) A financial interest in the products which are the subject matter of the clinical trial (such as, a patent or income from a licensing agreement). (d) A "significant financial interest" in the sponsor of the study. "Significant financial interest" means any financial interest in a no publicly-traded company of any amount or any equity interest in a publicly traded company that exceeds \$50,000. (Generally, such interests would be precluded under Florida's Code of Ethics.) Financial interests include those of the investigator's spouse and minor children. Of course, any disclosure of financial interests in conjunction with a clinical trial should be consistent with the employee's "Disclosure of Outside Activities and Financial Interest."

Conclusion: The outside activities of the College faculty and staff members are often of great value to the community as a whole and further the mission of the College. They also may serve important personal interests. These activities are of concern to the College when they interfere with the faculty member or staff member's obligations to the college. Indeed, all members of the College must be concerned that the College's mission not be compromised through the outside activities and interests of its faculty and staff members. Thus, the College's policies and procedures are designed to encourage allowed activities while providing for the disclosure, review, and oversight, if needed, of activities in which conflicts might occur. The primary responsibility for compliance and for furtherance of these goals rests with the individual faculty or staff member.

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