

**SOUTHWEST TENNESSEE COMMUNITY COLLEGE****SUBJECT: Conflict of Interest****EFFECTIVE DATE: November 30, 2020; Revised January 22, 2024 (updating job title)****Purpose**

All employees of Southwest Tennessee Community College (“Southwest” or “the College”) have a duty to avoid activities and situations that actually or potentially put their personal interests before the professional obligations that they owe to the College. This policy is intended to establish standards of integrity and objectivity that should guide the actions of all employees.

It is also intended to define the general principles that should guide employees’ actions, offer illustrations of activities that potentially constitute a conflict of interest, make employees aware of disclosure requirements related to conflicts of interest, describe the process by which disclosures will be evaluated, and describe the decision-making process.

**Definitions**

Conflict of Interest - occurs when the personal interests, financial or otherwise, of a person who owes a duty to the College actually or potentially diverge from the person’s professional obligations to, and the best interests of, the College.

Conflict of Commitment - occurs when the personal or other non-work related activities of an employee of the College impair the ability of that employee to meet commitments of time and energy to the College.

Conflicting Party - a person or entity with, or is seeking to obtain, contractual or other business or financial relations with the College or has interests that may be substantially affected by the performance or nonperformance of the employee.

Immediate Family - for purposes of this policy, it means spouse or minor child living with the employee.

**Policy****I. Applicability**

This policy shall apply to everyone employed by the College whether full-time, part-time or temporary.

## II. General Principles

- A. Conflict of Commitment. Employees of the College should avoid external commitments that significantly interfere with the employee's duties to the College. Disclosure of outside employment shall be made as required by [TBR Policy 5.01.05.00](#), Outside Employment, and evaluated as indicated therein.
- B. Conflict of Interest. Employees should avoid situations where the self-interests of the employee diverge from the best interests of the College.
- C. 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.
  - 1. Where the potential detriment to the College is at most minor and inconsequential, and the conflict does not indicate violation of federal or state law, regulation or policy, individuals charged with evaluating disclosures should allow the activity to proceed without interference after documenting the evaluation process.
  - 2. For those situations that do not implicate federal or state law, regulation or policy, the standard or 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.

## III. Situations and Activities Creating a Conflict of Interest

- A. In the following situations and activities, there is at least the appearance, and possibly the actuality, of an employee allowing personal interests, and not the best interests of the College, to affect that employee's judgment. This list is illustrative and not exhaustive:
  - 1. Self-dealing
    - a. Situations in which an employee can appear to influence or actually influence a College-related decision from which that person or a member of that person's immediate family stands to realize a personal financial benefit are self-dealings and conflicts of interest.
    - b. Examples of self-dealing activities include the following:
      - (1) Purchase of state-owned property by an employee absent fair and open bidding.
      - (2) College purchases from businesses in which an employee or family member has a financial interest.
      - (3) Use of educational material from which a faculty member derives financial benefit in that faculty member's teaching activities.

- (a) Any faculty member who wishes to use in his or her teaching activities educational material (e.g. a textbook) that he or she authored, or in which he or she otherwise stands to benefit financially from such use, a conflict of interest disclosure shall be made per this policy.
- (b) Whether the use of such material shall be permitted shall be evaluated by the Institutional Review Committee established in Section VII of this policy.
- (c) Such evaluation shall include consideration of suitable substitute material and ensure that the needs of students are best served by use of the material in which the faculty member has an interest.

#### (4) Acceptance of Gifts, Gratuities or Favors

- (a) 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 gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee or any other thing of monetary value from any person or entity that:
  - (i) Has, or is seeking to obtain, contractual or other business or financial relations with the College; or
  - (ii) Has interests that may be substantially affected by the performance or nonperformance of the employee.

#### (5) Exceptions

- (a) The prohibition on accepting gifts in Section (4)(a) above, does not apply to:
  - (i) 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;
  - (ii) Informational material in the form of books, articles, periodicals, other written material, audiotapes, videotapes, or other forms of communication;
  - (iii) 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 tradeshows and professional meetings where vendors display and promote their services and products;

- (iv) Food, refreshments, foodstuff, entertainment, or beverages provided as part of a meal or other event, including tradeshows 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 people or entities identified in Section III.A.1.b.(4).
- (v) 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 College. 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 to their immediate supervisor within fourteen (14) days;
- (vi) Food, refreshments, meals, foodstuff, 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 that has regular meetings;
- (vii) Participation in College or foundation fundraising and public relations activities, i.e. golf tournaments and banquets for which conflicting parties provide sponsorships; and
- (viii) Loans from established financial institutions made in the ordinary course of business on usual and customary terms, as long as there are no guarantees or collateral provided by any conflicting party.

b. Inappropriate use of students or support staff

1. Employees shall ensure that the activities of students and support staff are not exploited for the benefit of any external activity of the employee.
2. Prior to assigning any such non-College related task that is more than incidental or *de minimis* in nature to a student or member of the support staff, an employee shall disclose such proposed activity and obtain approval from the College's Associate Vice-President of Human Resources or Vice-President of Academic Affairs, as applicable.

c. Inappropriate use of state-owned resources

Employees may not make significant use of College facilities, equipment, material or other resources, not otherwise available to the public, in the course of activities that are not related to the College and that are intended for personal benefit without prior disclosure and approval of the College's Vice-President of Finance and Administrative Services.

d. Failure to disclose intellectual property

1. [TBR Policy 5.01.06.00](#) governs the rights and responsibilities that people affiliated with TBR and the College have regarding intellectual property developed during the term of their affiliation.
2. Among the responsibilities enumerated in the policy is that of disclosure of inventions and those copyrightable works that may be reasonably expected to have commercial value, which they have jointly or solely developed or created during their affiliation with the TBR and the College.

IV. General Disclosure Requirements

- A. People to whom this policy applies who believe that a conflict of interest may exist personally or with respect to another person covered by this policy shall make a written disclosure of the facts and circumstances surrounding the situation.
- B. Disclosures should adequately describe the pertinent facts and circumstances. [To facilitate this, the accompanying disclosure form \(Exhibit 1\) is attached.](#)
- C. Disclosures shall be submitted to the employee's immediate supervisor or other person designated by the President to receive such disclosures.
- D. Disclosures made by the President shall be submitted online to the Tennessee Ethics Commission.

V. Special Disclosure Requirements for Researchers Applying for or Receiving NSF or PHS Funding, and for Employees Requesting Grants, Service, or Other Contracts with Federal Agencies

- A. Investigators seeking funding from either the National Science Foundation or the Public Health Service are required to disclose to the College all significant financial interests of the investigator:
  1. That would reasonably appear to be affected by the research or educational activities funded or proposed for funding by the NSF or PHS; or
  2. In entities with financial interests that would reasonably appear to be affected by such activities:

- a. Such disclosures must be submitted prior to the time the proposal is submitted to the Federal agency.
  - b. Further, such disclosures must be updated during the period of the award, either annually or as new reportable financial interests arise.
  - c. The College will eliminate or manage such conflicts prior to receipt of the award.
  - d. To facilitate such disclosures, a disclosure form (Exhibit 2) is attached.
3. The College, through each employee requesting a grant, service, or other contract with a federal agency, other than the Public Health Service or the National Science Foundation, is responsible for determining disclosure requirements, management of potential conflicts of interest, and for ensuring that any such requirements are met.
  4. Disclosure of financial interests made pursuant to this Section does not eliminate the responsibility for making disclosures under Sections IV or VI herein when conflict of interest situations arise.

#### VI. Special Disclosure Requirements for the President and Certain College Employees

- A. The President, coaches, assistant coaches and employees of the athletic department 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.
- B. Disclosure of financial interests made pursuant to this Section does not eliminate the responsibility for making disclosures under Sections IV or V herein when conflict of interest situations arise.
  1. The President 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://conflict.app.tn.gov/conflict/>, Form SS-8005 (State Officials). For the President, the Statement of Disclosure will meet the requirements of this policy.
  2. Coaches, assistant coaches, exempt employees of the athletic department and other College personnel required to complete a disclosure form shall also use the Tennessee Ethics Commission document SS-8005, titled Statement of Disclosure of Interest Form, and accompanying instructions (Exhibit 3). The form shall be submitted to the College's Associate Vice-President of Human Resource Officer or another person designated by the President.

#### VII. Review of Disclosures

- A. Disclosures made under Section VI of this policy by the President shall be evaluated by TBR or a duly appointed committee thereof.

B. The College shall establish an Institutional Review Committee (“Committee”) to receive and evaluate conflict of interest disclosures made under Sections IV and V herein in accordance to the following guidelines:

1. Member Selection

- a. The President will appoint a five-member Committee to review and consider disclosures made pursuant to this policy and will designate one of the individuals to serve as Chairperson of the Committee. Any Committee member selected who has an interest in the outcome of a matter or is biased for or against a disclosing employee shall disclose the same to the Chairperson prior to evaluating the disclosure. The Chairperson shall advise the President and, the President shall replace the member with an alternate.
- b. At least one of the five Committee members selected by the President shall be from the faculty and at least one member selected from administrative or support staff personnel. The remaining members designated by the President shall be selected from the College’s Chief of Staff, Finance, Administrative Services, Human Resources, Academic Affairs, or Student Affairs, departments.
- c. Specific departments with subject matter expertise on a given disclosure, such as Campus Police, may be brought in to advise and assist the Committee as needed.
- d. The Committee Chairperson shall serve as the liaison between the Committee and other areas of the College. The Chairperson shall have the responsibility for keeping the President and other appropriate officials informed of Committee activities.
- e. Committee members shall serve a two-year term and may serve multiple, consecutive terms, at the President’s discretion.

2. Meetings

- a. The Committee shall meet as frequently as necessary to conduct its business, but no less than once per semester.
- b. The Chairperson shall be responsible for calling meetings and assuring Committee guidelines are followed.
- c. Each Committee shall select a member to serve as the Committee’s secretary, who will keep the minutes of each Committee meeting.

- d. The minutes shall reflect the date and time of the meeting, members present, members absent, issues discussed, and actions taken by the Committee.
  - e. Approved minutes and records generated by the Committee shall be provided to the Office of the Chief of Staff and kept in accordance with the provisions of item SW25: Administration Documents under [TBR Policy 1.12.01.00](#), Records Retention and Disposal of Records.
3. Disclosure Evaluation and Review Process
- a. The Committee shall evaluate conflict of interest disclosures and make determinations regarding what actions should be required to manage, reduce, or eliminate conflicts of interest.
  - b. The Committee shall conduct an independent and thorough review. In order to do so, the Committee shall have the power to receive evidence and/or information from the employee with the potential conflict (“employee”) and gather evidence and/or information from other sources.
  - c. If the Committee determines that the employee has a potential conflict of interest, the Committee shall notify the employee, in writing, to provide him or her an opportunity to appear before the Committee and be heard before a final determination is rendered. If the employee would like to be heard by the Committee, he or she must advise the Committee in writing.
  - d. The employee will be allowed to present pertinent evidence to the Committee and to have the Committee call those witnesses who have testimony pertinent to its decision. The Committee will hear witnesses, including the employee, separately.
  - e. The Committee shall forward any disclosure that indicates a violation of state or federal law to the President along with the Committee’s findings. The President will determine the appropriate action(s) to be taken.
  - f. For any disclosure that indicates a conflict of interest exists but is not a violation of federal or state law, the Committee is permitted to make a finding that the conflict is de minimis and is permitted to place restrictions on the employee to manage the conflict or to instruct the employee to eliminate the conflict.
  - g. The Committee shall provide its determination to the employee in writing along with a notice advising the employee of the right to appeal the Committee’s determination to the President within ten (10) working days, absent good cause, of receipt of the Committee’s determination.



### VIII. Federal and State Laws on Conflicts of Interest

In addition to this policy, there are state and federal laws regarding conflict of interest that apply to employees of the College. 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. [Pertinent state and federal laws are attached hereto \(Exhibit 4\).](#)

### IX. Sanctions

Failure to observe restrictions imposed by the Committee 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 Southwest and/or TBR policies.


### X. Appeals

#### A. Decisions made by the Committee may be appealed to the President.

1. The Committee shall provide written notice of the appeal process to the employee at the time that the employee is advised of the outcome of the review process.
2. The appeal process shall consist of an opportunity for the employee to provide to the President information that might change the decision.
3. The appeal process will not be a de novo review of the decision, and an employee will not be allowed to present an appeal to the President in person, unless it is determined, in the President's sole discretion, to allow an in-person appeal.
4. The appealing party may send a written appeal to the President within ten (10) working days, absent good cause, of receipt of the Committee's determination.
  - a. The appealing party must explain why, in his or her opinion, the factual information was incomplete, the analysis of the facts was incorrect, and/or the appropriate legal standard was not applied, and how this would change the determination in the case.
  - b. Failure to do so may result in a denial of the appeal.
5. The President will issue a written response to the appeal as promptly as possible. The decision of the President shall be final and binding.

**Exhibits**

- Exhibit 1 - Employee Conflict of Interest Disclosure Form
- Exhibit 2 - Financial Conflict of Interest Disclosure Form
- Exhibit 3 - Statement of Disclosure of Interests Form SS-8005
- Exhibit 4 - Pertinent state and federal laws

Source of Policy: TBR Responsible Administrator: Chief of Staff  
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Related Policy: 5:00:00:00/9; 5:00:00:00/41 TBR Policy Reference: 1.02.03.10; 1.12.01.00  
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Approved:  Date: January 22, 2024  
President