



**University Ethics
CU-GA-55**

GENERAL

This Policy is established consistent with WV Code 18B-1-6, 6B-2-5-L, The Ethics Act, which is hereby adopted by reference, and Higher Education Policy Commission, Series 31, Ethics, which sets forth requirements for institutional Ethics policies, if any. The appropriate sections of Series 31, have been adopted as required.

PURPOSE

This policy has been enacted to adopt applicable elements of Series 31, Ethics, as applicable to Concord University.

SCOPE

This policy is applicable to the Board of Governors, Faculty, Staff, and Administrators.

POLICY

It is the policy of Concord University to comply with the WV Ethics Act and HEPC Series 31, Ethics, in the management of ethical conduct as specifically applicable to institutions of public Higher Education in West Virginia.

The WV Ethics Act may be found at the following URL:

<https://ethics.wv.gov/ethicsact/Pages/default.aspx>

HEPC, Series 31, Ethics may be found at the following URL:

<https://www.wvhepc.edu/wp-content/uploads/2020/02/133-31.pdf>

SCOPE

This policy is applicable to all faculty, staff, and administrators.

PROCEDURE

The Chief Human Resources Officer (CHRO), in conjunction with the Chief Procurement Officer, will have the Board of Governors, President, and Cabinet, execute a Conflict of Interest Form periodically.

The CHRO will communicate the policy expectation to faculty, staff, and administrators on a periodic basis.

The Conflict of Interest form may be found in the Forms section of the HR website.

HEPC EXCEPTIONS TO WV ETHICS ACT

The exceptions set forth by the HEPC in Series 31, Ethics, are for exemptions from the general ethic rules, as permitted by the Ethics Act. Said HEPC rules have been adopted by Concord University as follows:

Institutional Approval of Exemptions

- Institutional approval of any activity pursuant to the rule shall be deemed to be a part of the employee's employment contract with the board.
- Any institutional approval granted pursuant to the rule may be revoked upon reasonable notice to the employee.
- Approval for any activity pursuant to this rule may only be given by the president or the president's designee or designees. Such delegation of authority by a president shall be in accordance with the needs of the institution but in no case shall such delegation be at an authority level lower than a departmental chair, director or other similar department supervisor.
- Approval for any activity may be granted on a case-by-case basis or, when such activities are common within an institution, a department or other category or grouping of employees, to all of an institution's employees or any subgrouping thereof.
- The institution shall establish appropriate procedures for the review and approval of those employee activities covered by this rule.
- Disclosures required by the rule are personal in nature and shall be kept confidential, as permitted by law.

SOLICITATION OF GIFTS

- Without specific authorization of the university, employees are not permitted to solicit gifts, including but not limited to those which directly benefit the board or the employing institution. Solicitations on behalf of a particular department, on behalf of the institution's supporting foundation or on behalf of an affiliated corporation or center shall, for the purposes of the rule, be deemed to be a solicitation on behalf of or for the benefit of the institution.
- Permissible solicitations shall include but not be limited to the following, even though the soliciting employee may work in a position which will be directly or indirectly supported thereby:
 - Grants from governmental agencies, foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution;

- Contracts with governmental agencies, foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution;
- Donations from foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution.
- Support for teaching, research, publication and service activities shall include but not be limited to such normal and regular institutional needs as support for salaries; scholarships; capital improvements or repairs; and classroom, laboratory, athletic, medical, scientific, and other similar equipment supplies.

USE OF PUBLIC OFFICE FOR PRIVATE GAIN

- No solicitation or other activity permitted by the rule shall be deemed to be the inappropriate use of an employee's public office (position) or the prestige of that office for one's own private gain or that of another person.
- When an employee uses his or her knowledge and personal prestige for private gain without the use of the employee's public office, then there is no requirement to obtain an exemption under the ethics rule.
- W. Va. Code § 6B-2-5(l) gives institutions of public higher education limited authority to grant exemptions to their employees from the prohibitions in the State Ethics Act relating to the use of public office or the prestige of public office for private gain when the employee is using his or her field of expertise as an author, speaker, consultant or through other approved activities such as service as a board member for outside agencies or businesses and when an employee of the institution seeks to use his or her public office or the prestige of their public office for the employee's private gain or for the private gain of another person, the employee may seek from an appropriate institutional authority an exemption (as limited by the Ethics Act) from the prohibition against the use of public office or the prestige of public office for private gain.
- The appropriate institutional authority may grant the employee an exemption to permit the employee to use the employee's public office to derive private benefit from the employee's field of expertise as an author, speaker, consultant, or through other approved activities such as service on the board of an outside agency or business.
- In granting permission for an employee to engage in such outside activities which may be directly or indirectly associated with the employee's position with the institution, consideration should be given to the following:
 - Whether the employee brings to his/her position his/her own unique personal prestige which is based upon his/her own intelligence, education, experience, skills and abilities, or other personal gifts or traits.
 - Whether such activity is customary and usual within the field;
 - Whether the institution derives any benefit through prestige or otherwise from the activity;
 - Whether the institution expects or anticipates that the employee will gain financially from the activities which are not a part of the employee's required employment activities;

- Whether the employee's activity will increase his/her personal or professional development or will lend service or benefit to the nation, state or community;
- Whether the outside activity will interfere with or create an overriding conflict with the employee's responsibility to the institution or will interfere with the satisfactory performance of the employee's institutional duties.
- The disclosure by an employee of an employee's position, title, and work history with the institution in the promotion of an employee's private activities shall be exempt from the prohibition against the use of prestige of public office for a private gain. However, in these cases the employee has the responsibility to make clear the fact that he or she is not representing the institution but is speaking as a private citizen.
- An employee who obtains an exemption from the Ethics Act prohibitions under the procedure authorized in this rule shall not be deemed an agent of the institutions when the employee is acting outside the scope of his or her other employment for his or her private benefit.
- No exemption granted under this ethics rule shall be deemed to constitute a waiver by the institution of any lawful contractual provision in the employment contract of a full or part-time employee of the institution.

INTERESTS IN PUBLIC CONTRACTS

- Each employee shall be required to **disclose any interest** the employee or any member of the employee's immediate family or a business with which he or she is associated may have in the profits or benefits of a contract which the employee may have direct authority to enter into or over which the employee may have control unless such interest is limited within the meaning of West Virginia Code 6B-2-5(d)(2).
- The institution may review any interest an employee or any member of the employee's family or a business with which he or she is associated may have and determine what, if any, restrictions or limitation should be placed on the employee's activities.
- In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having a prohibited financial interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is awarded a public contract.
- A limited interest for the purposes of this subsection is:
 - (A) An interest which does not exceed one thousand dollars in the profits or benefits of the public contract or contracts in a calendar year;
 - (B) An interest as a creditor of a public employee or official who exercises control over the contract, or a member of his or her immediate family, if the amount is less than five thousand dollars.
- If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited-financial interest.

ADDITIONAL ETHICS RULES

The governing board may establish additional ethical standards for its employees not inconsistent with Series 31 or the WV Governmental Ethics Act.

President

The chair of the governing body shall have the authority to review and grant approval of those activities of the institution’s president, which may involve a conflict of interest pursuant to Series 31, Ethics, or the University’s rule.

REFERENCE / AUTHORITY

WV Code 18B-1-6, 6B-2-5-L, the Ethics Act; and Higher Education Policy Commission, Series 31, Ethics

RESPONSIBILITY FOR IMPLEMENTATION

It is the responsibility of: the Chief Human Resources Officer, who is the Institutional Integrity and Ethics Officer, to implement this policy.

AUTHORITY FOR INTERPRETATION

The final authority for interpretation of this policy rests with the President or designee.

APPROVAL

<u>Intent to Plan Approved by Concord University Board of Governors:</u>	June 06, 2017
<u>Policy Approved by the Board:</u>	July 18, 2017
<u>Effective Date:</u>	July 18, 2017
<u>Affirmed by WVHEPC:</u>	

NON-CONFLICT OF INTEREST FORM

Completion Instructions

The Purchasing Division requires all evaluators of solicitations, despite the type of transaction, to sign a **Certification of Non-Conflict of Interest**, in accordance with the *West Virginia Code* §5A-3-31. The Purchasing Division also requires that the agency procurement officer sign this certification. By signing this certification, the evaluator(s) and/or advisor(s) attest that (1) his or her service on the evaluation committee is not in violation of West Virginia Code § 5A-3-31, § 6B-2-5, or any other relevant code section; (2) his or her service on the evaluation committee does not create a conflict of interest with any of the participating vendors; and (3) he or she has not had or will not have contact relating to the solicitation identified herein with any participating vendors between the time of the bid opening and the award recommendation without prior approval of the Purchasing Division. Agency procurement officers should discuss the non-conflict of interest issue with potential committee members to ensure that individuals who may have a conflict are not chosen to participate as evaluation committee members.

Please note that this requirement applies to all transaction types.

This certification must be submitted at the following time frames:

- Requests for Proposals (RFP) / Expressions of Interests (EOI): Agencies must submit this certification prior to beginning the evaluation of an RFP or EOI.
- Requests for Quotations and All Other Transaction Types: The evaluator(s) must sign the Certification of Non-Conflict of Interest and submit it, along with the recommendation for award, to the Purchasing Division.

This certification applies to all transactions processed through the Purchasing Division. In addition, it is required for agency delegated purchases exceeding \$5,000. Agencies may adopt this policy at their discretion for purchases of \$5,000 or less.

If you have any questions, please feel free to contact Mike Sheets, Assistant Purchasing Director for the Acquisition and Contract Administration Section, at (304) 558-0492. Thank you for your cooperation in this matter.