

3364-25-18 **Conflict of interest and nepotism.****(A)** Policy statement

Employees must always conduct themselves in a manner that fosters public confidence in the integrity of the university, its processes and its accomplishments. Employees must abide by protections to the public embodied in the Ohio ethics law and related statutes found in Chapters 102. and 2921. of the Revised Code, and as interpreted by the Ohio ethics commission and Ohio courts. These laws generally prohibit public officials and employees from misusing their position for their own personal benefit or the benefit of their family members or business associates. The conduct and activities of all employees is also subject to the bylaws of the board of trustees of the university (rule 3364-1-06 of the Administrative Code) and this rule.

(B) Purpose of policy

To provide standards of conduct for employees in accordance with the Ohio ethics law and related statutes.

(C) Scope

This policy applies to all employees and applicants, except to the extent the activity or conduct is specifically governed by a separate agreement.

(D) Definitions

- (1)** “Alternative arrangements” mean removing the responsibility or influence to hire, promote, reclassify, supervise, direct, evaluate, or make a salary recommendation, assign work or resources, approve leave requests, give any benefit, or terminate employment for the family member and recusing self from influencing any employment related decision. This includes relationships that are established post-hire.
- (2)** “Anything of value” includes anything of monetary value, including, but not limited to, money, loans, gifts, food or beverages, social event tickets and expenses, travel expenses, golf outings, consulting fees, compensation, or employment. “Value” means worth greater than de minimis or nominal.

- (3) “Business associates” are parties who are joined together in a relationship for business purposes or acting together to pursue a common business purpose or enterprise.
- (4) “Closely related by law, blood or marriage” means the following relatives, regardless of where they reside: spouse, children (whether dependent or independent), parents, in-loco parentis, grandparents, grandchildren, siblings, aunts, uncles, in-laws, step-children, step-parents, step-grandparents, step-siblings, step-aunts, step-uncles, regardless of where they reside. It also includes any other persons related by law, blood or marriage who reside in the same household.
- (5) “Hiring agent” means the university employee responsible for initiating and directing the search and selecting a finalist for hire, or the person responsible for approving the electronic personnel action form. Examples include, but are not limited to, the provost, graduate medical education, faculty affairs, and human resources.
- (6) “Significant relationship” means people living together as a spousal or family unit when not legally married or related where the nature of the relationship may impair the objectivity or independence of judgment of one individual working with the other.
- (7) “Supervise” or “supervision” means the direct ability or power to effectively recommend the hire, transfer, suspension, layoff, recall, promotion, discharge, assignment, reward, discipline or settlement of disciplinary grievances or appeals of another public employee, including the authority to order personnel actions affecting the job.
- (8) “University employee” means any person who is appointed to or is an employee of the university of Toledo, regardless of the source of funding for the employee’s position. University employee includes part-time interns, paid student help, temporary, intermittent and seasonal employees.

(E) Acknowledgement and resources

- (1) Within fifteen days after any employee begins the performance of official duties, human resources will furnish the employee with a copy of Chapter 102. and section 2921.42 of the Revised Code, and may furnish such other materials as the Ohio ethics commission prepares for distribution. The employee must acknowledge receipt in writing, as required by Ohio law. Additional resources are available at <http://ethics.ohio.gov/education/index.html>.
- (2) This policy is neither all-inclusive, nor does it detail all exceptions to the ethics law. The Ohio ethics commission, www.ethics.ohio.gov, provides educational materials and resources. The commission is available to provide advice and opinions regarding the application of the ethics law and related statutes. The commission can be contacted at 614.466.7090 or TTY/TTD: 800.750.0750.
- (3) Employees who are in a situation covered by this policy (nepotism and/or conflict of interest) have a duty to take actions that facilitate compliance with this policy and should consult paragraphs (E)(1) – (2) of this rule to obtain further guidance. In certain situations, actions such as complete recusal after proper advanced disclosure or alternative arrangements approved by human resources could facilitate compliance with this policy and the ethics laws.

(F) Nepotism

- (1) Hiring, promotion, evaluation, salary or pay rate changes, and other personnel actions by and within the university must be conducted in a manner that enhances public confidence in the university, prevents situations that give the appearance of partiality, preferential treatment, improper influence, conflict of interest, and is in accordance with state law.
- (2) All university employees are prohibited from authorizing or using the authority or influence of that employee's position, whether directly or indirectly, to secure the authorization of employment, for a person closely related by law, blood, marriage or other significant relationship including business association.

- (3) All university employees are prohibited from participating in any decision, or using the authority or influence of that employee's position, to secure any decision that affects the compensation or benefits, assignment of duties, evaluations, and actions involving promotion, disciplinary actions, lay-offs, removals, and terminations for a person closely related by law, blood, marriage or other significant relationship including business association.
- (4) Prohibited actions include, but are not limited to the following circumstances:
- (a) No employee, regardless of title, rank, or position, shall influence, use their authority to secure authorization of the employment of, or be involved in any aspect of the hiring process for, a person closely related by law, blood, marriage or other significant relationship, including business association. This includes discussing a family member's application or requesting an interview for a family member.
- (b) Except as provided in paragraph (F)(6) of this rule, no employee, regardless of title, rank, or position, shall have in the employ of that person's department any person closely related by law, blood, marriage or other significant relationship including business association.
- (c) No employee in the human resources department shall process any personnel actions, review or be involved in the disciplinary actions, or use the authority or influence of that employee's position to secure the employment of a person closely related by law, blood, marriage or other significant relationship, including business association.
- (5) No university employee shall supervise any person closely related by law, blood, marriage or other significant relationship including business association. Should a supervisory conflict arise due to a promotion, transfer or another personnel action that otherwise complies with this policy, the department shall work expeditiously to eliminate the conflict to the extent permitted by law and/or any collective bargaining agreement. This may involve alternative

arrangements, relocation or transfer to a comparable position with minimal inconvenience for the transferring employee.

- (6) Provided that the employee(s) complies with any alternative arrangements to avoid a violation of this policy, the following is not prohibited. The department must submit the alternative arrangement in writing to human resources:
- (a) A marital or other significant relationship develops subsequent to the employee's employment with the department and the department and human resources approves alternative arrangements to ensure that no supervisory conflict exists;
 - (b) The university employee is employed by the department prior to the appointment of a person closely related by law, blood, marriage or significant relationship to the supervisory position (e.g., a husband is employed at the university and his wife is offered the appointment of deputy director). Provided that alternative arrangements are approved by human resources to ensure that the wife does not directly supervise her husband, neither the husband nor the wife must leave the university.
 - (c) A person closely related by law, blood, marriage or significant relationship obtains employment with the same department as the result of bumping, displacement, recall or some other non-discretionary personnel action, and human resources approves alternative arrangements.
 - (d) The university employee served in a capacity other than a direct supervisory position at the time the person closely related by law, blood, marriage or significant relationship was hired by the department and human resources approves alternative arrangements (e.g., a sister and brother are both employed by a department and the sister achieves a promotion to the personnel area of the department. In this case, the sister can have no role in any personnel decisions or actions in relation to her brother.).

- (e) A person closely related by law, blood or marriage or other significant relationship including business association with the supervisory employee, is not prohibited from working in the same department as long as the supervisory employee (regardless of title, rank, or position) does not participate in the hiring of the employee and has no direct line of supervision and human resources approves alternative arrangements. This exception is not available to a human resource administrator.

- (7) Because of the special expertise involved in research, it is occasionally scientifically desirable for two related parties to work on the same project. Individuals may seek approval and alternative arrangements from human resources prior to hire or assignment. Individuals who do not notify their supervisors and do not implement approved alternative arrangements are in violation of this policy.

- (8) Disclosure and verification
 - (a) Internal and external candidates are required to disclose, at the time of application, any persons closely related by law, blood or marriage to them who are currently employed by the university.

 - (b) Each employee must identify and disclose to their supervisor any relationship covered by the definitions, prohibitions and requirements of this policy. This includes, but is not limited to, when a family member applies for a position for which the employee would otherwise be responsible or may make or influence employment actions discussed in this policy. This also includes relationships that commence post-hire.

 - (c) Every personnel action form for a new hire, promotion or transfer posted must include a representation that all items contained in the pre-hire review form were verified by either the hiring agent or appointing authority through checking the box immediately above the appointing authority's signature on the forms or inclusion of a typed statement signed by the supervisor or hiring person. The

hiring agent may not process any personnel action for a new hire, promotion or transfer which does not include this representation.

(d) Each department head, supervisor, faculty supervisor, human resource professional, chair, dean, director, including associate positions, should immediately notify the unit's senior human resource professional of relationships involving nepotism unless alternative arrangements approved by human resources are in place.

(G) Conflict of interest. A conflict of interest exists if financial interests or other opportunities for personal benefit may exert a substantial and improper influence upon an employee's professional judgment in exercising any university duty or responsibility. Employees shall not use their positions to secure anything of value, financial gain, or personal benefit that would not ordinarily accrue to them in the performance of their official duties. The following are examples (not all-inclusive) of ethical regulations. No employee shall:

- (1) Vote, authorize, recommend, or in any other way use that position to secure approval of a university contract (including employment or personal services) in which the employee, a family member, or anyone with whom the official or employee has a business, employment or significant relationship, has an interest;
- (2) Hold or benefit from a contract with, authorized by, or approved by, the university, except in very limited circumstances where all criteria under section 2921.42 of the Revised Code are met;
- (3) Solicit or accept anything of value that could have a substantial and improper influence on the performance of public duties;
- (4) Use the employee's public position to obtain benefits for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship;
- (5) Be paid or accept any form of compensation for personal services rendered on a matter before, or sells goods or services to, the university;

- (6) Use or disclose confidential information of the university or protected by law, unless appropriately authorized, for so long as the information remains confidential (including after a person leaves public service);
- (7) Solicit or accept honoraria, with the limited exception expressly related to non-supervisory faculty as discussed in Chapter 102 of the Revised Code and opinions of the Ohio ethics commission (advisory opinion 2011-04)

Employees should consult the Ohio ethics commission website for additional explanation of conflict of interest restrictions.

(H) Penalties

Failure of any employee to abide by this rule, or to comply with the Ohio ethics law and related statutes, may result in sanctioning or discipline, which may include dismissal, as well as any potential civil or criminal sanctions under the law. Any disciplinary action will be in accordance with applicable university policies or collective bargaining agreements.

(I) References

Chapter 102 of the Revised Code (public officer – ethics)

Chapter 2921 of the Revised Code (offenses against justice and public administration)

The Ohio ethics commission educational materials:

<http://ethics.ohio.gov/education/index.html>

Board of trustees' bylaws,

https://www.utoledo.edu/offices/trustees/board_bylaws.html

Directions to request an advisory opinion:

<http://ethics.ohio.gov/advice/index.html>

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