



TEXAS TECH UNIVERSITY™

## Operating Policy and Procedure

### **OP 10.11: Ethics Policy**

**DATE:** May 20, 2019

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to publish the ethics policy for faculty and staff as required by the Texas State Legislature and adopted by the Board of Regents at the August 11, 1995 meeting. The principles and guidelines contained in this policy apply to all persons employed by Texas Tech University without regard to rank or position, length of service, or past performance.

**REVIEW:** This OP will be reviewed in June of odd-numbered years by the Vice Chancellor/General Counsel with substantive revisions forwarded to the President.

## **POLICY/PROCEDURE**

### **1. Introduction**

It is important that the people of the State of Texas have complete confidence in the integrity of their public servants. This need is especially critical in the area of state-supported higher education. The responsibility for education and training the future leaders of the State of Texas and nation carries with it the duty to adhere to the highest ethical standards and principles. The principles and guidelines contained in this policy shall apply to all persons employed by any component institution, agency, or service of Texas Tech University (“TTU”) regardless of rank or position. If a topic also has been addressed in other policy statements or manuals of TTU, the procedures and statements contained therein are hereby reaffirmed and made a part hereof for all purposes. Specifically, TTU Operating Policies (“OP”) should be referenced for further information and/or greater specifics. References to the term “TTU employees” throughout these documents include all persons employed by TTU.

### **2. Standards of Conduct**

#### **\* Texas Government Code § 572.051**

TTU officers and employees should not:

- a. accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;
- b. accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;

- c. accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties;
- d. make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or
- e. intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another.

### **3. Principles of Ethical Behavior**

#### **\* *Regents' Rules, 03.01.2***

TTU officers and employees shall:

- a. obey all federal, state, and local laws or be subject to disciplinary action for a violation of those laws;
- b. put forth honest effort in the performance of their duties;
- c. not make unauthorized commitments or promises of any kind purporting to bind TTU or any component institution of the TTU System;
- d. not use their public offices for private gain;
- e. act impartially and not give preferential treatment to any private or public organization or individual;
- f. protect and conserve public property, including all institutional resources, and shall not use it for anything other than authorized activities;
- g. promptly disclose waste, fraud, abuse, and corruption to appropriate authorities;
- h. adhere to all laws, regulations, and policies that provide equal opportunity for all persons regardless of sex, sexual orientation, gender identity, race, national origin, religion, age, disability, status as a covered veteran, genetic information, or other legally protected categories, classes, or characteristics;
- i. endeavor to avoid any actions that would create the appearance that they are violating the law or the ethical standards of the TTU system;
- j. if involved in procurement or contract management for the TTU System or TTU, disclose to the TTU System or TTU in the manner prescribed by the applicable contract management handbook or institutional operating policy any actual or potential conflict of interest that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor by the TTU System or TTU at any time during: (i) the procurement process, from the initial request for bids for the purchase of goods or services from the private vendor until the completed final delivery of

the goods or services, or (ii) the term of the contract with a private vendor; however, for a contract for the purchase of goods or services solicited through a purchase order, this subsection only applies if the amount of the purchase order exceeds \$25,000; and

- k. participate in regular training concerning ethics policies of the TTU System.

#### **4. Conflict of Interest**

**\* Texas Government Code § 572.001(a); Regents' Rules, 03.01.3**

It is the policy of the State of Texas that a state officer or state employee may not have direct or indirect interests, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.

#### **5. Travel**

**\* [TTU OP 79.01, Travel Authority and Definitions for Texas Tech University and TTU Employees](#)**

A state agency (TTU) may pay or reimburse a travel expense only if the purpose of the travel clearly involves state business and is consistent with the agency's legal authority. The travel voucher must specify the nature of the official state business conducted, including the persons contacted, if applicable, and specify the benefit that the state gained from the travel.

A state agency shall minimize the amount of travel expenses paid or reimbursed by the agency. The agency shall ensure that each travel arrangement, including meals, lodging, transportation and incidental expenses, is the most cost-effective considering all relevant circumstances. To reduce travel expenditures, an agency shall use interactive television, videoconference technology and telephone conferences to the greatest extent possible.

A state agency shall instruct its state employees about the State of Texas Travel Allowance Guide, the Travel Regulations Act, and the travel provisions of the General Appropriations Act. A state agency's failure or inability to instruct a state employee, however, does not excuse or justify the employee's failure to comply with applicable laws or rules.

Trips off campus for employees shall be made only after obtaining appropriate approval by the appropriate designated administrative officials, in accordance with established procedures and when the trip contributes to the mission of the university.

Employee travel may not interfere with the primary academic or administrative responsibilities of the traveler.

#### **6. Benefits, Gifts, and Honoraria**

**\*Texas Penal Code, as amended through the 78th Legislative Session (2003), and Ethics Advisory Opinion (issued by the Texas Ethics Commission)**

A "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare a TTU employee has a direct and substantial interest [PC 36.01(3)].

- a. Bribery: No TTU officer or employee may offer, confer, or agree to confer on another, or solicit, accept, or agree to accept from another: (1) any benefit in exchange for their decision, opinion, recommendation, vote, or other exercise of official power or discretion; or (2) any benefit as consideration for a violation of a duty imposed by law. [PC 36.02; EAO 130]. A benefit that is otherwise allowed by TTU policy is nevertheless prohibited if it is offered in exchange for official action.
- b. Prohibited Benefits: A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he or she solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving a TTU officer or employee's exercise of discretion [PC 36.08(d)]. The prohibition does not apply to:
  - (1) gifts or other benefits conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient [PC 36.10(a) (2)];
  - (2) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in capacity other than as a public servant [PC 36.10(a) (1)];
  - (3) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 305 of the Government Code [PC 36.10(a) (5)]; and
  - (4) items having a value of less than \$50, not including cash or negotiable instruments as described by Section 3.104, Business and Commerce Code [PC 36.10(a) (6)]. A TTU officer or employee who receives an unsolicited benefit that he or she is prohibited from accepting by law may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes [PC 36.08(i) PC 36.08(d); PC 36.10(b); EAO 130].
- c. Food, Lodging, Transportation, and Entertainment Received as a Guest: A public servant may accept food, lodging, transportation, or entertainment from persons or entities he or she knows or reasonably should know, are interested in or likely to become interested in a contract, purchase, payment, claim, decision, or transaction involving the exercise of the public servant's discretion only if the public servant is a "guest" as defined by Texas law [PC 36.10(b)]. A public servant is a "guest" if the person or a representative of the entity providing the food, lodging, transportation, or entertainment is present at the time the food, lodging, transportation, or entertainment is received or enjoyed by the public servant [PC 36.10(b); EAO 130]. Public servants are required to report any such benefits valued at over \$250 on their annual disclosure statements filed with the Texas Ethics Commission [PC 36.10(b); EAO 130].
- d. Benefits from Friends, Relatives, and Associates: Public servants may accept benefits from personal friends, relatives, or business associates with whom they have a relationship independent of their official status, so long as the benefit is not offered in exchange for official action or decision [PC 36.10(a) (2); EAO 130].

- e. Awards: Public servants may accept plaques and similar recognition awards. \*Ethics Advisory Opinion No. 36 (1992) issued by the Texas Ethics Commission.
- f. Honoraria: Public servants may not solicit, accept, or agree to accept an honorarium in consideration for services they would not have been asked to provide, but for their official position or duties [PC 36.07(a); EAO 17, 19]. This prohibition includes a request for or acceptance of a payment made to a third party if made in exchange for such services [PC 36.07; EAO 19]. However, they may accept the direct provision of or reimbursement for expenses for transportation and lodging incurred in connection with a speaking engagement at a conference or similar event [EAO 17]. Meals provided as a part of the event or reimbursement for actual expenses for meals may also be accepted [EAO 17]. Participation by a public servant must be more than merely perfunctory [PC 36.07(b)].

## **7. Political Activities**

### **\* Appropriations Act as passed by the 78th Legislature (2003) and Texas Government Code, as amended through the 78th 2003 Legislative Session**

- a. Use of TTU Funds or Property  
\* [TTU OP 65.06, Conditions of Grants and Consulting Contracts Made Directly to Individuals](#) and [OP 70.31, Employee Conduct, Coaching, Corrective Action, and Termination](#)

No public servant shall expend or authorize the expenditure of any TTU funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure.

- b. Political Contributions

Unless prohibited by state law, public servants may make personal contributions to candidates for office and political organizations.

## **8. Use of Authority**

### **\* Texas Penal Code, as amended through the 78th Legislative Session (2003)**

- a. Misapplication of Property

It is a violation of state law for a public servant, acting with the intent to obtain a benefit or with intent to harm or defraud another, to intentionally or knowingly misuse government property, services, personnel, or anything of value belonging to the government that has come into a public servant's custody or possession by virtue of his or her office or employment. [PC 39.02(a)(2)].

- b. Misuse of Official Information

It is a violation of state law for a public servant if, in reliance on information to which he or she has access by virtue of the person's office or employment and that has not been made public, he or she (1) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; (2) speculates or aids another to speculate on the basis of the information; or (3) as a public servant, coerces

another into suppressing or failing to report that information to a law enforcement agency. [PC 39.06].

## **9. Sexual Harassment**

\* [TTU OPs 40.03, Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure](#) and [70.31, Employee Conduct, Coaching, Corrective Action, and Termination](#); **42 United States Code § 2000e-2**

- a. It is the policy of the public servant to maintain a workplace environment that is free of sexual harassment and intimidation.
- b. It is a violation of Title VII of the Civil Rights Act of 1964 to engage in sexual harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
  - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or education;
  - (2) Submission to or rejection of such conduct by an individual is used as a basis for decisions affecting employment or education; or
  - (3) Such conduct has the purpose or effect of interfering with an individual's work or educational environment.

## **10. Nepotism**

\* **Texas Government Code § 573.041**; TTU [OP 70.08, Nepotism](#)

Employees are prohibited from employing, hiring as an independent contractor, appointing, voting for, or confirming the appointment of any person related to such employee within the third degree by consanguinity (blood) or within the second degree by affinity (marriage) when the salary or compensation for such person is to be paid from public funds.

Relatives within the third degree by consanguinity include the employee's parent, child, sibling, grandparent, grandchild, great grandparent, great grandchild, aunt, uncle, nephew, and niece.

Relatives within the second degree by affinity include the employee's spouse; the spouse's child parent, sibling, grandparent, and grandchild; and the spouses of the employee's child, parent, sibling, grandparent, and grandchild. In addition, employees may not take such action on behalf of any individual who is related to any employee within such degrees. These prohibitions do not apply if the person who is related to the employee has been continuously employed in the office or position for at least 30 days prior to appointment or employment of the employee [Government Code 573.062(2)(A)]. If the related person continues in such a position, the employee may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the related individual if that action applies only to that individual and is not taken regarding a bona fide class or category of employees [Government Code 573.062(b)].

## **11. Affirmative Action**

\* TTU [OP 40.01, Equal Employment Opportunity Policy and Affirmative Action Program](#)

TTU officers and employees will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, genetic information, status as a protected veteran, or any other legally protected category, class, or characteristic. While sexual orientation and gender identity are not explicitly protected categories under state or federal law, it is the TTU's policy not to discriminate in employment, admission, or use of programs, activities, facilities, or services on these bases. TTU personnel will take affirmative action to provide a nondiscriminatory application process. Such actions shall include, but not be limited to the following employment transactions: hiring, promotion, demotion, transfer, rate of pay, or other forms of compensation, selection for training, and termination shall not be made based on an employee's protected status.

## **12. Private Use of University Facilities, Equipment, Supplies, and Services Prohibited; Prohibition of Gift of Public Moneys**

### **\*TTU OPs:**

- [48.04, Cellular Telephones and Data Devices](#),
  - [61.01, Use of University Facilities, Equipment, Vehicles, Supplies, and Services for Private Purposes Prohibited](#),
  - [61.02, Use of University Grounds, Facilities, and Amplification Equipment](#),
  - [61.39, Use of the International Cultural Center](#),
  - [62.10 Prohibition of Gift of Public Moneys](#),
  - [63.08, Property Management](#),
  - [67.01, Campus Mail Services](#),
  - [70.31, Employee Conduct, Coaching, Corrective Action, and Termination](#), and
  - [80.07, Vehicle Fleet Management Program](#)
- a. It is the intent of the Texas Constitution and the Board of Regents that university facilities, equipment, supplies, and services are to be used only for duly authorized university purposes. Accordingly, the use of university-owned resources or resources for which the university has acquired stewardship responsibilities in which title is vested to others including, but not limited to, buildings, equipment, materials, supplies, telephones, utilities, and services of university personnel for personal purposes, is prohibited. Furthermore, equipment the university owns or is responsible for shall not be removed from the university premises.

See OPs [61.01, Use of University Facilities, Equipment, Vehicles, Supplies, and Services for Private Purposes Prohibited](#), and [63.08, Property Management](#), for procedures for the removal of an item of university equipment from university property to an employee's personal residence or other like property to accomplish university work on business at home.

- b. Services of Personnel  
 \* TTU [OP 61.01, Use of University Facilities, Equipment, Vehicles, Supplies, and Services for Private Purposes Prohibited](#)

The use of university personnel for personal work is strictly prohibited. This work includes, but is not limited to, typing and secretarial services on personal and/or private consulting correspondence, running personal errands, and other like personal services.

- c. Prohibition of Gift of Public Moneys  
 \*TTU [OP 62.10 Prohibition of Gift of Public Moneys](#)

At no time shall any officer or other employee of the university use public funds to provide a gift to any individual, association of individuals, corporations, or other entity. State funds may be spent only for proper purposes and must be exchanged for adequate public benefits.

**13. Right to Change Policy**

Texas Tech University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.