
ETHICS IN GOVERNMENT/CONFLICT OF INTEREST

PURPOSE: To ensure that employees of the university are aware of and comply with the provisions of the Idaho Code that deal with ethics in government, relating to conflicts of interest. This policy summarizes the applicable portions of Chapter 7, Title 59 of the Idaho Code and establishes a procedure specific to the university.

- I. Conflict of Interest defined:** "Conflict of interest" means any official or administrative action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the economic gain of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the economic gain arises out of the following:
- A. An interest or membership in particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position.
 - B. Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged;
 - C. Any interest which the person has by virtue of his or her profession, trade or occupation where his or her interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;
 - D. Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree;
 - E. Non-compensated Public Official - Exception: When a person is a public official by reason of his or her appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his or her service on said board, s/he shall not be prohibited from having an interest in any contract made or entered into by the board of which s/he is a member, if s/he strictly observes the procedure set out in section 18-1361A, Idaho Code.

II. Other Pertinent Definitions

- A. "**Official or administrative action**" means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, rate-making proceeding or policy action or non-action by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body.
- B. "**Business**" means any undertaking operated for economic gain, including, but not limited to, a corporation, partnership, trust, proprietorship, firm, association or joint venture.
- C. "**Business with which a public official is associated**" means any business of which the public official or member of his or her household is a director, officer, owner, partner employee or holder of stock over five thousand dollars (\$5,000) or more at fair market value.
- D. "**Economic gain**" means increase in pecuniary value from sources other than lawful compensation as a public official.

- E. **"Members of a household"** mean the spouse and dependent children of the public official and/or persons whom the public official is legally obligated to support.
- F. **"Person"** means an individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether operated for profit or not, and any other legal entity, or agency or servant thereof, or a governmental entity.

III. Required Action in Conflicts

- A. The state law provides that “A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where s/he has a conflict of interest and has failed to disclose such conflict as provided in this section”, Section 59-704, Idaho Code.
- B. In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a University employee, an employee may seek legal advice from the University Counsel or from the Attorney General or from independent counsel. If the legal advice is that no real or potential conflict of interest exists, the employee may proceed and shall not be subject to the prohibitions of this policy. If the legal advice is that a real or potential conflict may exist, the employee must comply with section C. below:
- C. The employee shall prepare a written statement describing the matter to be acted upon and the nature of the potential conflict, and shall deliver the statement to the President of the University. The President may obtain an advisory opinion from the University Counsel, the Attorney General or from another attorney representing the University. The employee may then act on the advice of the University Counsel, the Attorney General or independent counsel.

IV. If there exists any conflict between the terms of this policy and Chapter 7, Title 59, Idaho Code, the terms of the Idaho Code shall control.

V. Sections I-IV of this policy describe the main state law regarding conflicts of interest by state employees.

However, there are many other laws and policies that may apply to an employee’s activities. The following list is an attempt to gather for the university community the various regulations, including state laws, State Board of Education policies, and university policies that may affect employee activities.

- State Law:
 - Bribery and Corrupt Influences Act, Idaho Code §18-1351 *et. seq.*
 - Ethics in Government Act of 1990, Idaho Code §59-701 *et. seq.*
- Idaho State Board of Education Governing Policies and Procedures:
 - “Conflict of Interest”, Section I. Subsection G.
 - “Conflict of Interest and Ethical Conduct – All Employees”, Section II. Subsection Q.
 - “Intellectual Property”, Section V., Subsection M.
- Boise State University Policies:
 - 5366-B Independent Consulting and Outside Employment
 - 5365-B Professional Research, Consulting or Service Activities
 - 6300-B Office of Research Administration
 - 5359-B Absence from Campus
 - [PENDING], Federal Grant Financial Disclosure Requirements
 - 6320-B Intellectual Property