



## FAIRLEIGH DICKINSON UNIVERSITY POLICY ON CONFLICTS OF INTEREST AND NEPOTISM

Fairleigh Dickinson University is committed to the highest standards of ethics in all aspects of the operation of the University. Trustees, administrative officers and employees are obligated to display honesty and integrity in the course of their duties and to refrain from using their positions for personal gain or to benefit any other person or organization.

This policy requires Trustees, administrative officers and employees to avoid conflicts of interest and the appearance of conflicts of interest in University business transactions and to refrain from nepotism and the appearance of nepotism.

### **A. Definitions:**

For the purpose of this section of the Policy, the following terms shall be defined as indicated:

**“Administrative Officer”** – means employees of the University with duties and responsibilities directly related to the operations of the University, including those in a position to affect decisions as to the purchase or disposal of property or services, settlement of claims or other business obligations. The definition of *Administrative Officer* includes, but is not limited to, those in the following positions:

- The President
- Any Vice President, Associate Vice President or Assistant Vice President
- The General Counsel
- The Treasurer and the Controller
- The Campus Provosts
- Any Director or Dean reporting directly to a Vice President or Provost
- Executive Assistants to the President
- The University Director of Purchasing and his/her subordinates
- The Assistant to the Vice President for Administration and his/her subordinates
- The Director of Academic Computing

**“Business Transaction”** – any sale, purchase, contract, lease, license, settlement, award of aid, loan, or agreement to which the University is a party or a beneficiary. A Business Transaction under a multi-year contract is considered terminated when the contract term is over.

A **“Conflict of Interest”** – occurs when an employee or Trustee (together referred to as “person”) is in a position to affect or to influence significantly the business transactions of the University with the Organization in which the person has an interest. A person is considered to have an interest in an Organization

1. in which that person and/or his/her immediate family own more than 5% of the equity, directly or beneficially.

2. that is a creditor of that person (except a home mortgage obtained on market terms from a bank or similar lending organization shall not be so considered); or that owes the person more than \$500 (except that any kind of saving or checking account or generally available banking arrangement or a holding of less than 5% of any part of a publicly issued debt offering shall not be so considered).
3. that employs, has employed within the 24 months before a Business Transaction, or has an arrangement to employ, to retain as a consultant, to fund the research of, or to pay a commission or stipend to that person and/or his immediate family.
4. that has retained as a consultant or paid a commission or stipend to or is funding the research of that person or his immediate family.
5. that intends to provide or has provided the person or his or her immediate family with goods and services on other than market terms, gratuities or gifts of more than \$200 in the previous 12 months (not including examination copies of text books or the value of any business meals).

**“Employee”** – includes any person placed on the payroll or retained as a consultant, whether or not an independent contractor.

**“Immediate Family”** – a person’s spouse, parents and parents-in-law, children, siblings and their spouses.

**“Organization”** – a trust or corporation (including any subsidiary or parent, or a corporation under common control of such corporation), joint venture, partnership, unincorporated association, or individual proprietorship.

**“Trustee”** – means a member of the University’s Board of Trustees.

## **B. Board of Trustees:**

Trustees shall disclose any known conflict of interest and shall avoid participating in any decision or advocating any subject matter before the Board or with University personnel in which the Trustee or a member of his or her immediate family has a real or potential conflict of interest. When a Trustee learns that a business transaction presents a conflict of interest, he or she must make an immediate, full disclosure to the Chairman of the Board (or in the case of the Chairman, to a Vice Chairman) of his or her interest in the subject. The Trustee shall not participate in any discussion of or decision on the issue. Failure to make disclosure shall void any resulting agreement at the option of the University.

Within the provisions of the prior paragraph, this policy shall not prohibit a Trustee, an organization that employs a Trustee, or an organization in which a Trustee has financial interest (1) from pursuing a University Request for Proposal (“R.F.P.”) or contract to be awarded by competitive bidding or (2) from supplying services to the University as a public utility.

The General Counsel of the University shall obtain a disclosure form from each Trustee periodically and prior to a Trustee's first attendance at a Board meeting.

**C. Administrative Officers:**

Administrative Officers shall immediately disclose to their administrative superiors any known conflict of interest and shall avoid participating in any decisions or deliberations related to University business transactions in which a potential or actual conflict of interest exists. The administrative superior of the President is the Chairman of the Board of Trustees. A potential conflict of interest includes the preparation or approval of an R.F.P. in cases in which an Organization is likely to respond. Administrative Officers shall also disclose any conflicts of interest related to any research in which they are involved.

Any Administrative Officer who fails to disclose a conflict of interest shall be subject to discipline up to, and including, termination from employment. When appropriate, discipline shall include restitution to the University of the benefit received or the value of any opportunity the University lost. Administrative Officers also have an obligation to disclose knowledge of any other employee's actual or potential conflict of interest when they have reason to believe that a conflict of interest may exist.

**D. Faculty and Staff:**

1. In General

Every member of the Faculty and Staff of the University shall immediately disclose to his or her administrative superior any business transactions which present an actual or potential conflict of interest. As applied to Faculty, failure to disclose conflicts of interest will be considered adequate cause for discipline under the *Faculty Handbook* as a failure to observe professional standards.

Faculty and Staff shall also disclose conflicts of interest related to research in which they are involved.

2. Provisions of Particular Application to Faculty and other Department Members

a) Consulting and Related Activities

The ability of faculty members to engage in outside consulting is set forth in the *Faculty Handbook*, which indicates that the primary professional responsibility of each faculty member is to the University. In explication of the definition of "Conflict of Interest," outside consulting activities bear upon this Policy as follows:

- i. A faculty member cannot have a consulting arrangement with an organization at the same time he or she is teaching a class containing a student whom he or she knows to be involved in negotiating or evaluating the consulting agreement. Should the faculty member discover the conflict of interest after the

beginning of the class, then the faculty member shall immediately consult with Dean on making arrangements for the evaluation of the student's academic work.

Faculty members should be sensitive to the realities and appearances of a situation covered by this Policy and should not, for example, teach a class with a student described above in expectation of submitting a proposal for a consulting arrangement to the organization for which the student works in a capacity described in the foregoing paragraph.

- ii. No University employee shall intervene with a faculty member or administrator on behalf of a student who is negotiating or evaluating a consulting agreement with that University employee.
- iii. No full time faculty member may represent or advise a client in a matter adverse to the University or its direct interest, for example, as a lawyer or expert. The University's direct interests include those of the subsidiary organizations it controls.

Should a part-time faculty member undertake such representation or work, he/she must give the earliest possible notice to the Campus Provost. In some situations, conflict of interest codes or standards of professional groups would prohibit such representation; but should they not, the faculty member will be deemed to accept the University's decision whether or not to terminate the employment relationship, which decision will not bar the University from raising any objections or claims of privilege.

- iv. A faculty member cannot participate in reviewing for the University a response to an R.F.P. from an Organization with which the faculty member consults or has consulted in the prior 18 months. This prohibition extends to the faculty member's intervening on behalf of the Organization once the procurement procedure has begun without having disclosed in writing to the Vice President in whose name the R.F.P. is issued (the "Vice President") the existence of the consulting arrangement.

Should the faculty member participate in preparing the Organization's response to the University R.F.P., the faculty member must disclose the existence of the consulting arrangement to the Vice President before the response is submitted.

- v. Receiving Compensation from Students: No department or faculty member may without prior written approval of the Dean of his/her College, enter into an arrangement involving the sale of educational goods or services with an enrolled student that provides for payments to be made by or on behalf of the student to the department or employee. In the case of an approved agreement, payment belongs to the University and must be made to the Office of the Bursar except that payment for sale of goods shall be made to the University Bookstore.

With the prior written consent of the Dean of the College, adjunct faculty may be paid by students for tutoring in courses other than those he or she is assigned to teach or for providing individual instruction in fine arts or performing arts.

- vi. Textbooks: Faculty members should consult the Textbook Adoption policy adopted by the Academic Council on April 29, 1993 and other relevant guidance.

**E. In General:**

All business transactions that violate conflict of interest requirements are voidable at the option of the University. The initiative and responsibility for reporting known conflicts of interest rests upon the individual and failure to make timely reports of known conflicts shall be subject to disciplinary action. Failure to disclose a known conflict of interest may make the organization that is the subject of the conflict of interest ineligible to do business with the University.

Any Administrative Officer, Faculty or Staff making a disclosure of an actual or potential conflict of interest or seeking interpretation of University policy or legal requirements shall consult his or her superior for advice, after which the Office of the General Counsel shall be available to advise on matters of conflict of interest. Advice given an Administrative Officer, Faculty, or Staff concerning an interpretation of university policy to legal requirements shall be in writing and be made a matter of record. In any case of conflict of interest involving the General Counsel and his or her staff, the President may seek the advice of independent legal counsel.

Any administrative superior receiving a disclosure of conflict of interest shall notify the General Counsel, who shall report as soon as practical to the President whether the business transaction that is the subject of the conflict of interest should be voided. The President shall inform the Board of Trustees of any potential or actual conflict of interest that makes a particular organization ineligible to do business with the University, and the organization involved shall be so advised.

No person has the authority to authorize exceptions to this Policy. Questions about or interpretations of this Policy shall be directed to the General Counsel.

## II. NEPOTISM IN UNIVERSITY EMPLOYMENT AND EDUCATIONAL PROGRAM

### A. In General:

Decisions about employment and academic evaluations or benefits such as grading, assignments, or internships are based and often made in a comparative or a competitive context. Whether or not the decision is made in such a context, it is University policy that such decisions be made on individual merit. Nepotism is favoritism in according employment benefits toward family members or to persons with whom a familial relationship exists. Nepotism creates the actuality or appearance of favoritism that is inconsistent with the standards of integrity that the University seeks to maintain. Nepotism may expose the University to litigation for bias or discrimination.

For purposes of this section of the Policy, each part of the University is considered either an administrative department or an academic department. For purposes of deciding whether the Policy applies, the campus location of an employee is irrelevant; so, for example, an employee located in a Library at Teaneck-Hackensack or an assistant professor in the Psychology Department in Becton College will be considered to be an employee should one of his or her relatives (as defined) apply for a position in the Friendship Library or in the Psychology Department/University College, respectively.

This section of the Policy shall apply to full-time and part-time employees but shall not apply to relatives of employees applying for summer or vacation period employment, except in cases in which the applicant would be working under the direct supervision of a relative (as defined).

### B. Definitions:

**“Relative”**- the spouse, child, legal ward, parent, sibling, descendant, nephew, niece or cousin of an employee or the spouse of an employee, and the spouses of any such child, legal ward, parent, sibling, descendant, nephew, niece or cousin.

**“Employee”**- an active full time or part time employee, adjunct instructor, visiting professor, research fellow or consultant.

### C. University Employment:

Applicants will not be hired and employees will not be promoted or transferred: (1) into the same department, administrative or academic unit, in which a relative is already employed or (2) into a position in which the direct supervisor of that department is a relative. Also, employment will not be offered anywhere in the University to relatives of University Trustees or officers, for employment in a position that handles confidential medical information about University employees.

### D. Educational Program:

No relative of a University employee shall be permitted to enroll in a class in which that employee is the assigned teacher, nor shall an employee carry out any responsibilities that

will allow the employee to confer an academic benefit on a relative. An academic benefit for the purpose of this Policy includes, but is not limited to, awarding a grade, making an evaluation, waiving an academic requirement, making a selection for an internship or award, sitting on a review panel, writing a letter of recommendation. A University employee shall not intervene with a member of the faculty or an academic administrator on behalf of the particular interests of a relative.

**E. Interpretations and Exceptions:**

The Executive Vice President may grant exceptions to ¶ C and the campus Provost may grant exceptions to ¶ D for good cause. The General Counsel shall interpret this policy.