

Ethics, Integrity, and Fairness:  
Legal Issues in Higher  
Education

# Ethics

Moral principles that govern a person's or group's behavior.

# Laws and Policies

- Federal Constitutional Law
- State Constitutional Law
- Federal Laws
- Federal Regulations
- State Laws
- State Regulation
- Criminal/civil
- University policies

# Conflicts of Interest – Ethics Laws

- Cannot accept money from a third party for doing your job or assisting in a transaction outside of your normal compensation.

# Conflicts of Interest – Ethics Laws & PPM 3-54

- Cannot accept employment that could impair independence of judgement or ethical performance of duties.

# Conflicts of Interest – Ethics Laws

- Cannot disclose or improperly use **work information** for own economic interest or to get special privileges for yourself or family.

# Hypothetical

You work in the Performing Arts area in charge of recruiting artists to perform at the University.

A group called Artists United wants to pay you to send them information about the artists you screen for the University.

Can you accept money from them?

# Hypothetical

Artists United wants to send artists to you and will pay you personally if the University ends up using their artists.

Can you do this?



# Conflicts of Interest – Ethics Laws

- Cannot require a donation for the University before granting an approval.

# Conflicts of Interest – Ethics Laws

- Cannot participate in a transaction between the University and a company where you, your spouse, or minor child, is an owner, officer, director, or employee, or has a financial interest in the company.

# Hypothetical

You are a faculty member in the dental hygiene program. Your spouse owns a dental practice in the area. You would like to have your spouse come demonstrate different procedures for all the classes in the section you teach. The University would pay your spouse's practice a fee.

***Can you arrange this?***

# Conflicts of Interest- Ethics Laws

- Cannot use your position for own economic interest or to get special privileges for yourself or family.

# Hypothetical

You work in parking.

Your daughter wants to have her wedding reception in the Alumni center.

Can you tell the Alumni center that if they let your daughter host it for free, you will let them all have free parking passes for the rest of the year?



# GIFTS

Prize

Goodie

Present

Reward

Swag

Transfer

Favor

Gratuity

Offering

Haul

Donation

Award

Contribution

# Hypothetical

You are on a committee to hire an employee for WSU. As you interview people, one person stays behind after the interview and says, "Hey, can I offer you a mint?"

***Can you accept the mint?***

# Hypothetical

You are on a committee to hire an employee for WSU. As you interview people, one person stays behind after the interview and says, "Hey, my daughter works at Disneyland. Can I hook you up with season passes for you and your family?"

***Can you accept the passes?***



# Sources of Rules Governing Gifts

- Bribery Statute
- Utah Public Officers and Employee's Ethics Act
- Procurement Code
- Governor's Executive Order

# Bribery Law

Can't accept gifts, money, favors, etc., when it is with the understanding or agreement that it is with the purpose or intent to influence an action, decision, opinion, recommendation, or the judgement of the employee.

# §67-16-5 ETHICS ACT RE Gifts:

## What can you *not* take?

- It is an offense for a public officer or public employee to knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another
  - a gift of substantial value or
  - a substantial economic benefit tantamount to a gift
    - Loans at an interest rate substantially lower than commercial rate
    - Compensation received for private services at a rate substantially higher than fair market value of service performed

Under one of three circumstances:

## §67-16-5 ETHICS ACT RE Gifts: When does it apply?

- Where the gift would tend to improperly influence the employee to depart from the faithful and impartial discharge of his or her duties; or
- The employee knows or should know that the gift is for rewarding the employee for official action taken; or
- The employee has recently, is now, or will be involved in governmental action directly affecting the donor or lender.

## §67-16-5 ETHICS ACT RE Gifts: When does it not apply?

- WSU employee can potentially accept gifts under circumstances described above where the gift is:
  - **An occasional non-cash item of \$50 value or less**
  - An award publicly presented in recognition of public services
  - Any bona fide loan made in the ordinary course of business
  - A political campaign contribution

# Procurement Code - **Gratuity**

- By **Title** or **Primary Responsibility**
- Has procurement decision making authority and
- Is assigned to be engaged in, or is engaged in:
  - A procurement process, or
  - The process of administering a contract or grant, enforcing contract or grant compliance, or approving contract or grant change orders or amendments

# Procurement Code - **Gratuity**

- Also applies to family members
- Knowingly
- To receive, accept, offer or agree to receive or accept, or ask for a promise or pledge
- Done with the intent that public entity:
  - Award a contract or grant
  - Make a procurement decision
  - Take an action relating to the administration of a contract or grant.

# Procurement Code

Gratuity:

Anything of value given without anything in exchange or in exchange for something in excess of fair market value.



# GRATUITY

GIFT

FAVOR

MONEY  
(GIFT CARD)

AWARD (OTHER  
THAN  
CERTIFICATE,  
TROPHY, PLAQUE)

EMPLOYMENT

ADMISSION  
TO AN  
EVENT

MEAL

TRAVEL

LODGING

PRIZE (RAFFLE,  
DRAWING,  
LOTTERY)

# NOT A GRATUITY

ANYTHING INCLUDED IN CONTRACT UP FRONT (INCLUDING MEAL, TRAVEL, ADMISSION, ETC.)

REBATE, COUPON, DISCOUNT, TRAVEL AWARD, DIVIDENT, INCLUDED IN PRICE OF PROCUREMENT ITEM

MEAL PROVIDED BY PROFESSIONAL ORGANIZATION THAT DOES NOT RESPOND TO SOLICITATIONS

POLITICAL CAMPAIGN CONTRIBUTION

ITEM GENERALLY AVAILABLE TO THE PUBLIC

ANYTHING OF VALUE ONE PUBLIC AGENCY PROVIDES TO ANOTHER PUBLIC AGENCY

HOSPITALITY GIFT

# HOSPITALITY GIFT

A token gift of minimal value given for promotional or hospitality purposes.

Must be less than \$10 per gift and \$50 aggregate from one person per year.

<u>GO</u>		<u>STOP</u>
PEN	BEVERAGE	MONEY
PENCIL	APPETIZER	MEAL
STATIONERY	SNACK	ADMISSION TO AN EVENT FOR WHICH CHARGE IS NORMALLY MADE
TOY	TRINKET	ENTERTAINMENT FOR WHICH CHARGE IS NORMALLY MADE
PIN		TRAVEL
		LODGING

# Artificially Dividing a Purchase

Applies to Everyone

It is unlawful for a person to intentionally or knowingly divide a purchase into one or more smaller purchases with the intent to make the individual purchases fall below a threshold established by the University.

# Artificially Dividing a Purchase

Examples:

- making two or more separate purchases;
- dividing an invoice or purchase order into two or more invoices or purchase orders; or
- making smaller purchases over a period of time.

# Hypothetical

It is your job to purchase chairs for everyone in your division. You really feel that one company sells better chairs than any other.

***Can you direct each person to buy the chairs themselves from your preferred vendor?***

***Can you replace a few chairs at a time over the course of a few months so that you can get your favorite chairs?***

## Hypothetical

You decide you need to go through a procurement process to purchase the chairs. You realize your friend Bob's company is a competitor in the process. His chairs are not the best quality, but you know he is going through some hard times and you'd like to help him out. During the procurement process, you run into Bob at a restaurant on your lunch break.

***Can Bob pay for your lunch?***

***Should you go to lunch with Bob even if  
he doesn't pay?***

***Should you be involved with this  
decision?***



***Can you tell Bob that if he gives a donation to the University, he will get the contract?***

***Can you share with Bob information  
about the other vendors' bids?***

# Other Problematic Procurement Conduct

- Bid rigging
- Improperly steering a contract to a favored vendor
- Participating in collusion
- Other anti-competitive practices

# Ways to Stay Safe When it Comes to Purchases

- Use Paw Place.
- When in doubt, contact the Purchasing Department. x6014

# Hypothetical

You and Kris work together. You and Kris start to become involved romantically. You get promoted to being the supervisor of your area, including supervisor to Kris. What are your responsibilities in this situation?

# Amorous or Sexual Relationship PPM 3-32a

The University views amorous or sexual relationships between those in a position of authority or influence and an individual in a subordinate position (position of special trust), as a power relationship that undermines and/or eliminates the ability of the subordinate to provide consent to engage in a welcome amorous or sexual relationship. **Such relationships constitutes a serious conflict of interest that is prohibited** unless resolved in accordance with this policy. Unresolved conflicts as described herein are a violation of this policy. They also violate [PPM 9-5](#) when they involve relationships between students and faculty.

# NO SEXTING

Cannot share any sexually explicit or lewd communication, image, or photograph.

# Amorous or Sexual Relationship PPM 3-32a

## BEFORE TAKING ACTION:

- Disclose to immediate supervisor/department chair or AA/EO office
- AA/EO office makes a determination about consent
- Supervisor/department chair makes arrangements to resolve the conflict of interest
- Reporting requirement
- Anti-retaliation provision



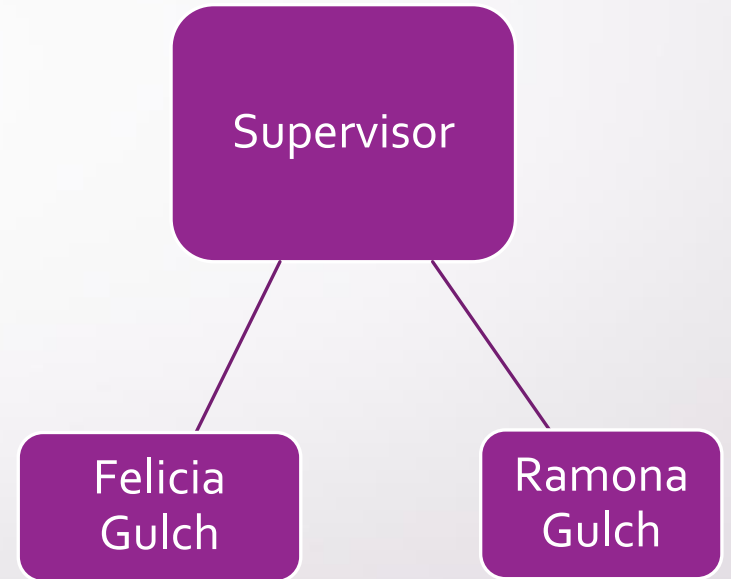
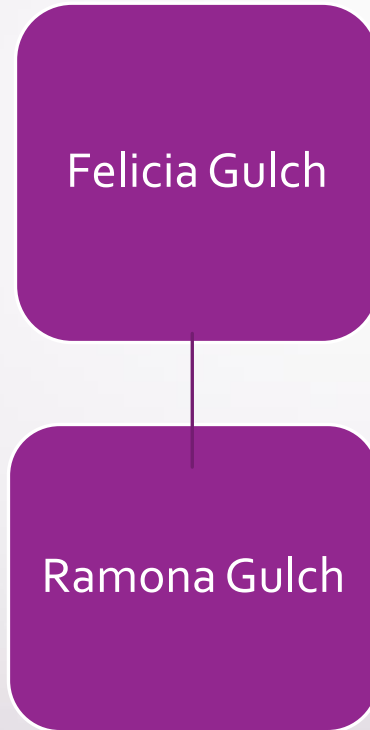
# Hypothetical

You need an office assistant in your area. You put the job open to a search. Your mother applies. She knows you well and is in sync with you on all things and has been an office assistant for 20 years for the United Nations, receiving international commendations. Can you hire her?

# Nepotistic Relationships

PPM 3-6:

- For the purpose of this policy immediate family is defined as fathers, mothers, spouses, sons, daughters, brothers, sisters, uncles, aunts, nieces, nephews, first cousins, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, daughters-in-law, sons-in-law, grandchildren, or grandparents. Includes foster relationships. Also includes **household members**.
- University policy prohibits any individual holding a position for which payment is made from funds administered by the University to employ, appoint or vote for the appointment of members of his/her immediate family, in or to any position or employment, when the salary, wages, pay or compensation of such appointee is to be paid out of such funds. Subordinate supervisors may not hire the immediate family of their superiors, neither may supervisors employ two individuals of the same "immediate family" to positions for which the supervisor is responsible.



- Disclosure
- Approval
- Clear written understanding of evaluation, promotion, general supervision to negate conflict of interest.
- Review every two years.

## PPM 3-36, Conflicts of Interest – HB 163

Employees shall not use University equipment or services for activities not relevant to their University responsibilities. Use of certain University equipment or services are generally available to University personnel for the payment of a reasonable fee.

# PPM 10-2 – Acceptable Use Policy

- Primary Use/Subordinate Use University IT Resources

Such use may not:

- Violate applicable law, rules and policies;
- Disrupt, distract from, or interfere with the conduct of University business (for example, due to nature, volume or frequency);
- Involve regular private business activities; or
- Contravene supervisor direction regarding personal use of University IT Resources.

# Political Issues

Cannot use University email for political purposes. – Utah Code Ann, 20A-11-1205

Cannot spend public funds (anything of value) for political purposes.- Utah Code Ann. 20A-11 -1203

- Influence someone directly or indirectly to vote for candidate, initiative, referendum, to solicit a campaign contribution

Take care with lobbying state employees, except as allowed in Rule R250

# University Information

- FERPA – Student records nearly always confidential
- GRAMA – public, private, protected, controlled
- PPM 10-2, Acceptable Use Policy – privacy interests
- PPM 10-1, Information Security – keeping information secure and confidential



To: Rudy Bonatello

From: Jordan Dimbledore

Subject: Student Request

Dear Rudy,

Please note that student Petunia Peppercorn desires to be enrolled in History 101 for Spring Semester. Her social security number is 555-555-5555.

I have just learned from HR that Barbaduke has a serious medical problem. As his supervisor, I feel I should spread the word to make sure everyone is very sensitive.

My weekend is full – I have my monthly hair removal appointment. I grow hair in places I cannot believe! Good thing my hair removal specialist is hot!

Have a good one,

Jordan

# PPM 3-36, Conflicts of Interest

- Employees engaging in outside activities may identify their association with the University but shall see that the name of the University is not used in any way that implies endorsement or approval of the activity. They shall not use the official stationery of the University or give as a business address any building or unit of the institution in connection with outside non-professional or professional activities.
- Where they are not speaking for the University, they shall either indicate that they are speaking for themselves or shall identify the sponsoring individual, corporation or organization which is supporting or has supported their studies relevant to the testimony or under whose auspices they are appearing or sending the communication. They shall also explain the conditions of their association with the sponsor.

# Falsification of Records

- Keep accurate time cards – watercooler time
- Keep accurate travel accounts
- No co-mingling of personal and University funds

# Contract Liability

- Who can contract for the University?
  - PPM 5-4d specifies certain individuals
- PPM 5-25a: If you did not have authority to sign, the University may hold you personally liable to the vendor