

## **Procedure III.3003.A.b, Conflicts of Interest: Employees**

### **Associated Policy**

Policy III.3003.A, Ethical Conduct and Conflicts of Interest: Employees

### **Procedures**

The College desires to avoid any conflict of interest (actual, perceived, or potential) between the College's interest and those of any employee. Any circumstances that could cast doubt or even the appearance of doubt upon an individual's ability to act with total objectivity regarding the College's interest represent a potential conflict of interest situation.

This procedure meets all requirements of state and federal law. In some areas, the College has adopted standards that are more restrictive than the minimum legal requirements in order to support institutional values and ensure a safe and compliant environment. All employees are required to follow the College's standards as set forth in this procedure.

### **Conflicts of Interest**

A conflict of interest exists when any employee owes a professional obligation to the College that is or might be compromised by the pursuit of outside interests. Outside interests, such as professional activities, personal financial interests, family relationships or the acceptance of gifts from third parties, can create conflicts between the interests of the College and the employee's private interests and may prevent the employee from making decisions that are in the best interest of the College. Even when outside interests do not actually impair the employee's ability to act in the best interest of the College, the appearance of a conflict may suggest that the employee's independence of judgment has been affected, or it may erode public confidence in the employee.

On an annual basis, identified individuals will complete the internal Conflict of Interest questionnaire provided by the Internal Audit Department. These individuals include, but are not limited to, employees identified as leaders and/or key decision-makers at the College. In addition to the annual disclosure, all employees, regardless of position, must complete and submit the internal Conflict of Interest questionnaire to the Internal Audit Department any time a conflict (or the appearance of a conflict) arises during the course of the year no later than 5pm on the fifth business day after the employee becomes aware of the conflict.

### **Gifts**

Employees shall never accept gifts (which include vendor paid entertainment, travel, lodging, registration fees, etc.) intended to influence, or appear to influence, their work or decisions (Texas Penal Code Chapter 36).

Employees must also adhere to the standards listed below in their dealings with vendors. In this context, the term "vendor" means any person or entity with whom the College contracts, or is

considering a contract for the sale or purchase of goods, services or real estate, including any person or entity competing (formally or informally) for a contract with the College. The term “vendor” does not include a person or entity that merely aspires to someday do business with the College, but is not currently being considered for or competing for a contract. Nor does it include a former vendor, provided such former vendor is not currently being considered for or competing for another contract. An aspiring or former vendor may, however, become a current or potential “vendor” as defined above. A trade or membership association whose primary purpose is to provide professional and industry support, education, resources and advocacy for its members, rather than to sell goods and services for a profit, is not vendor.

- It is illegal to accept gifts or benefits from vendors in exchange for influencing decisions regardless of the dollar value.
- Employees should never accept gifts from **vendors, including entertainment, transportation, lodging, registration fees or other items of value**; however, on occasion vendors will give employee holiday gifts or provide giveaways at conferences. Employees may accept such **non-cash gifts, valued at less than \$50 per item**, as long as the aggregate value of all gifts from the same vendor does not exceed \$100 in a 12-month period (see *Conflicts of Interest Legal Disclosures* section below). **Cash or cash equivalent gifts (such as gift cards) shall never be accepted.**

If an employee accepted a gift but is concerned that the value of the item is \$50 or greater, they can donate the item to the San Jacinto College Foundation.

- Employees should exercise sound judgment and consider optics when accepting meals in a private setting paid for by a vendor. Employees shall not accept meals paid for by a vendor in a private setting while the vendor is competing in a formal solicitation process, or if the vendor is paid with federal funds.
- Employees may also accept a gift from a person such as a relative, friend, or business associate with whom the employee has a relationship independent of the employee’s official status, provided the gift is given on account of that relationship rather than the employee’s official status.
- An employee’s attendance at or participation in vendor paid entertainment or activities, such as sporting events, concerts, recreational activities, etc. constitute the receipt of a gift. Employees should either pay their own way or reimburse the vendor for the cost of the activity.
- Employees offered vendor paid transportation, lodging or registration fees for conferences or other professional events shall, to avoid such benefits constituting gifts as defined by law, either arrange for such expenses to be paid by the College or the employee, or decline the invitation.

- Under limited circumstances vendor paid entertainment, travel, or professional event expenses may be permitted when the College determines that acceptance serves a legitimate business purpose and is in the best interest of the College. Such exceptions require prior documented approval from the Senior Leadership Team (SLT) and Chancellor and must comply with all applicable laws and College ethics requirements. Approval may be contingent upon the completion and submission of a Conflict of Interest Statement (CIS) and any other documentation deemed necessary to ensure transparency and compliance.

## **Conflicts of Interest Legal Disclosures**

Texas Local Government Code Chapter 176 requires employees to complete, and the College to publicly post, a state-mandated Conflicts Disclosure Statement (CIS) under certain circumstances. The Chapter 176 requirements only apply to an employee who exercises discretion in the planning, recommending or selecting in connection with contracts, purchases, payments, claims, or other fiscal transactions with a vendor. Such employees must complete a state-mandated Conflicts Disclosure Statement (CIS) if:

1. The employee or a family member (as defined below) earned more than \$2,500 in taxable income from the vendor, excluding investment income, in the past 12 months, or
2. The employee or a family member (as defined below) received gifts with an aggregate value of more than \$100 (including lodging, transportation, registration fees and entertainment) from the same vendor in the past 12 months, or
3. The employee has a family relationship (as defined below) with the vendor.

This procedure generally prohibits any employee actions that would trigger an obligation for an employee to complete the state-mandated Conflicts Disclosure Statement (CIS). However, in the case of family member income or family relationships, complete avoidance of a disclosure obligation may not be possible. If feasible, the College and the employee may take steps to prevent the employee from exercising discretion in the planning, recommending or selecting of the vendor with whom the conflict exists. If the employee's recusal from such duties is not feasible or in the best interest of the College, a state-mandated Conflicts Disclosure Statement (CIS) may be required.

Note: Food as a guest is an exception to this reporting requirement and is not required to be disclosed under Texas Local Government Code Chapter 176.

## **Disclosure Deadline**

If any of the above circumstances requiring disclosure are applicable, the employee must complete the Internal Audit Conflict of Interest questionnaire noted above no later than 5pm on the fifth business day after the employee becomes aware of the conflict or relevant relationship and the Internal Audit department will assist the employee with completing the Texas Ethics Commission CIS form no later than 5pm on the seventh business day after the employee becomes aware of the conflict or relevant relationship. As required by Texas Local Government

Code Chapter §176.009(a), the College is legally required to post CIS forms on the College's website to ensure public access and transparency for the duration of the conflict.

The state mandated form is available on the Texas Ethics Commission's website or by contacting the Internal Audit Department.

Failure to file the form in accordance with the requirements of this procedure may:

- Lead to criminal penalties,
- Result in disciplinary action, and
- Cause the contract to be voided.

### **Honoraria**

An employee may not accept any outside payment for services that the employee would not have been asked to provide but for their official status. For example, an employee may not accept a gift or payment for giving a speech if the employee would not have been asked to provide the speech but for their official position. Employees may either decline payments offered or request that those payments be made directly to the San Jacinto College Foundation.

Employees may accept meals, transportation and lodging, without such benefits constituting an honorarium, if they are providing meaningful, non-superficial services directly related to the event (such as engaging in a seminar or addressing an audience). Employees cannot accept transportation or lodging in exchange for short appearances, greetings, or other minimal involvement in such event, as such benefits would constitute impermissible honoraria. Regardless of an employee's level of involvement at a conference or event, transportation and lodging paid by a vendor may still trigger the gift reporting requirements of Chapter 176 (see *Gifts* above).

### **Personal Investments**

Employees must not make personal investments that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest. This means that the employee must not have a direct or indirect financial interest in a business that conflicts with the College's interests or that might influence how the employee does their job. This applies regardless of ownership percentage or income threshold, but rather the focus is on reasonable expectation of conflict, not just financial metrics. However, some financial interests may be so indirect or so minimal that they do not create conflicts of interest, such as ownership of a minimal amount of stock in a company or an investment in a publicly traded mutual fund in which the employee does not exercise discretion regarding the investment of the assets of the fund.

If an employee or a family member has a business or financial interest in a vendor, the employee must immediately disclose that interest to the Internal Audit Department. In some cases, the employee may be able to resolve the conflict by not participating in any decision concerning that vendor. While the employee should refrain from such conflicts of interest, if recusal is not

feasible, or the College determines that such transaction is in the best interest of the College, the employee or family member's conflict may need to be disclosed if the Chapter 176 income thresholds are met.

### **Self-Dealing/Transactions with Employees**

An employee who exercises discretion in the planning, recommending or selecting contracts, purchases, payments, claims, or other fiscal transactions may not recommend, evaluate or approve any business entity in which the employee or the employee's family member is an officer, agent, or member, or in which the employee or an employee's family member has a business or financial interest that would trigger a disclosure under Texas Local Government Code Chapter 176. If, with respect to a family member, an employee's recusal from such activities is not feasible, the conflict may need to be disclosed if the Chapter 176 income thresholds are met or a family relationship exists.

### **Benefits for Performing Official Duties**

An employee must not intentionally or knowingly solicit, accept, or agree to accept any benefit for performing their official duties or exercising their official powers from another, as doing so may constitute the criminal offense of bribery.

### **Outside Employment or Compensation**

Conflict of interest considerations related to outside employment or compensation can be found in **Policy IV.4003.C, Outside Employment and associated Procedure IV.4003.C.a.**

### **Federal Awards (Grants)**

An employee must not participate in the selection, award or administration of a contract funded in whole or in part with federal grant funds if the employee has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, or any member of the employee's immediate family, the employee's partner, or an organization that employs or is about to employ any of the parties indicated above, has a financial or other interest in or a tangible personal benefit from a vendor.

College employees, regardless of position, must neither solicit nor accept gratuities, favors, or anything of monetary value from vendors (or a subcontractor of a vendor) being paid, in whole or in part, with federally-funded grant or contract funds.

### **Filing a Complaint**

- Employees may report suspected conflict of interest violations as detailed in **Policy III.3003.B for Prevention of Fraud and Fraudulent Actions and associated Procedure III.3003.B.a.**

- The College, through the Internal Audit Department, will annually notify all employees that it encourages employees to report specific instances of suspected violations and that retaliation is prohibited against employees who report such violations, as stated in **Policy IV.4002.A for Protection from Retaliation for Reporting Suspected Wrongdoing and associated Procedure IV.4002.A.a.**

## **Violations**

A College employee who violates this procedure may be subject to disciplinary action, up to and including termination of employment, in accordance with applicable College policies and procedures. See **Procedure 4-24 Employee Performance Counseling and Corrective Action.**

## **Definitions**

**Vendor:** Any person or entity with whom the College contracts, or is considering a contract for the sale or purchase of goods, services or real estate, including any person or entity competing (formally or informally) for a contract with the College. The term “vendor” does not include a person or entity that merely aspires to someday do business with the College, but is not currently being considered for or competing for a contract. Nor does it include a former vendor, provided such former vendor is not currently being considered for or competing for another contract. An aspiring or former vendor may, however, become a current or potential “vendor” as defined above. A trade or membership association whose primary purpose is to provide professional and industry support, resources and advocacy for its members, rather than to sell goods and services for a profit, is not vendor.

**Conflicts of interest:** When a College employee’s direct or indirect personal interests are inconsistent with or interfere in any way with the best interests of the College.

**Employee:** A full-time or part-time employees of the College as defined by Human Resources policy and procedure.

**Family Relationship:** Includes relatives by blood up to the third degree and by marriage up to the second degree

- Spouse
- Parents and children (by blood or marriage/in-law)
- Siblings (by blood or by marriage/in-law)
- Grandparents and grandchildren (by blood or marriage/in-law)
- Aunts, uncles, nieces, nephews
- Great-grandparents and great-grandchildren

**Family Member:** Includes relatives by blood within the first degree and marriage

- Parents, Children (first degree blood)

- Spouses, Spouses of First Degree Relatives by Blood, First Degree Blood Relatives of Spouse (first degree by marriage)

**\*Note** The term “family relationship” is broader than the term “family member” for purposes of gifts and income.

**Business or Financial Interest:** An employee or family member has a business or financial interest in a vendor if the employee or family member receives taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding a transaction with such vendor.

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Associated Policy	Policy III.3003.A, Ethical Conduct and Conflicts of Interest: Employees
Primary Owner of Policy Associated with the Procedure	Vice Chancellor, Fiscal Affairs
Secondary Owner of Policy Associated with the Procedure	Executive Director, Internal Audit