

# ETHICS, CONFLICTS OF INTEREST AND OUTSIDE CONSULTING ARRANGEMENTS FAQs

## BACKGROUND

West Virginia University is committed to ensuring all faculty and staff understand their personal responsibility in helping WVU maintain the highest ethical standards across the University's operations (teaching, research, service, business practices, etc.).

To this end, BOG Governance Rule 1.4 provides guidance on real and perceived conflicts of interest – both in general and in the context of research activities. The rule also offers guidance on the solicitation and acceptance of gifts by WVU faculty and staff and defines when it is permissible to enter into consulting arrangements with third parties outside of a faculty or staff member's employment with the University.

The rule applies to all faculty, staff, officials, unpaid volunteers and other employees of the University (including student workers) across the entire WVU System (WVU, WVU Institute of Technology and WVU Potomac State College). It should be noted that faculty with appointments that are less than 12-months are required to comply with the rule even if they are "off appointment."

## ETHICS

### Q. What is the West Virginia Ethics Act?

**A.** The West Virginia Ethics Act (Ethics Act) was passed by the West Virginia Legislature in January 1989. The Ethics Act serves as a code of conduct for all public servants, including public employees, elected public officials and appointed public officials, whether full-time or part-time, in the legislative, judicial and executive branches of state, county and municipal government, including all boards, commissions and agencies.

The Ethics Act is administered by the West Virginia Ethics Commission, which is an independent, bipartisan board. Visit the [West Virginia Ethics Commission](#) website for more information.

### Q. Are there rules related to gifts, travel expenses or honorariums within the Ethics Act?

**A.** Yes. As a general rule, gifts valued at \$25 or less, compensation for reasonable travel expenses and honorariums are permissible under the Ethics Act. View the complete rule for complete details.

### Q. Are there any exceptions in the Ethics Act on the acceptance of gifts by WVU employees?

**A.** Yes. Under certain circumstances, the following types of gifts may be accepted by University employees:

- Meals and beverages (if the payer is present) or if the meal's total cost is \$25 or less

- Ceremonial gifts of an insignificant monetary value
- Unsolicited gifts of nominal value
- Gifts or free admission to charitable, cultural or political events
- Gifts that are purely private and personal in nature
- Gifts from relatives

### Q. What guidance does the Ethics Act provide on the solicitation and acceptance of gifts by WVU faculty and staff?

**A.** University faculty and staff may not solicit gifts unless the request is for a charitable purpose from which the employee and their family members derive no direct personal benefit. Employees also may not directly solicit gifts from their subordinates – regardless of whether the request is for a charitable purpose. Further, WVU employees may not accept gifts from lobbyists or anyone seeking to do business with the University.

### Q. What about compensation for attending speaking engagements and conferences?

**A.** The University recognizes that faculty and staff may participate in speaking engagements, conferences and similar pursuits as part of their duties at WVU. These activities are permissible under the Ethics Act, and faculty and staff may accept compensation of reasonable expenses (including travel) related to attending such engagements on behalf of the University.

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## Q. What does the Ethics Act state regarding the use of public office for private gain?

**A.** In general, WVU employees are prohibited from using their positions at the University for their own private gain or that of someone else. Further, faculty and staff cannot use public resources in furtherance of outside employment activities. WVU employees also are prohibited from endorsing any products or private businesses.

**Note:** There is a limited exception within the Ethics Act to the rules on private gain for higher education employees. The exemption provides that faculty or staff of public institutions of higher education engaged in teaching, research, consulting or publication in their field of expertise may be exempt from certain private gain prohibitions provided the activity is approved as part of the individual's employment contract or the activity has been approved by their dean, vice president or the University's president.

## Q. What does the Ethics Act say about endorsing products, services or private companies?

**A.** In general, WVU employees are prohibited from endorsing any products, services or private companies in their role as a public employee or when engaging in outside consulting arrangements. The Ethics Commission takes a broad view of what constitutes an "endorsement," so you should be very careful when being asked to review or recommend a product, service or private company.

## Q. Who do I contact with questions about compliance with the Ethics Act?

**A.** Contact the Office of General Counsel at [legalservices@mail.wvu.edu](mailto:legalservices@mail.wvu.edu) or **304-293-5841** with any questions related to the Ethics Act.

## CONFLICTS OF INTEREST – GENERALLY

### Q. What is a "conflict of interest?"

**A.** A conflict of interest occurs when there is a discrepancy between an employee's private personal relationships or interests and their professional obligations to the University. These situations may call into question whether the employee's professional actions or

decisions are influenced by potential personal benefit, gain or advantage.

An institutional conflict of interest may exist when the personal financial holdings of a WVU official which, by virtue of their institutional authority, may affect or reasonably appear to affect processes, research, business transactions or other activities at WVU.

Within the area of research, conflicts of interest may exist where a significant financial interest for research could directly affect (or appear to affect) the design, conduct or reporting of research or other activity sponsored by an outside entity.

## Q. How do I know if something is a conflict of interest?

**A.** Whether a conflict of interest (or the appearance of one) exists depends on the situation, not on the character or actions of the individual. The determination of whether or not a conflict of interest exists is handled objectively on a case-by-case basis.

**Note:** The appearance of a conflict of interest can be as damaging or detrimental as an actual conflict. Therefore, apparent conflicts of interest are treated in the same manner as actual conflicts.

## Q. Who is required to submit an annual institutional conflicts of interest disclosure form?

**A.** University officials are required to annually disclose significant financial interests for institutional conflicts of interest to the Office of Conflict of Interest Compliance. The disclosure form must be submitted annually by July 31, within 30 days of the development of a new Significant Financial Interest and within 60 days of commencing employment.

## Q. How do I know if I'm considered a University official?

**A.** The rule considers the following employees to be University officials:

- ✓ University Board Members
- ✓ President
- ✓ Campus Presidents
- ✓ Vice Presidents
- ✓ Vice Provosts

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- / Deans
- / Associate and Assistant Vice Presidents and Provosts
- / Assistant and Associate Deans
- / General Counsel
- / Director of Internal Audit
- / All Employees within the Office of Technology Transfer

## Q. Who do I contact with questions regarding conflicts of interest?

- A.** If you have questions regarding conflicts of interest, contact Joy Edwards, Director, Conflict of Interest, in the Office of Conflict of Interest Compliance, at [Joy.Edwards@mail.wvu.edu](mailto:Joy.Edwards@mail.wvu.edu) or **304-293-5475**.

## CONFLICTS OF INTEREST – RESEARCH

### Q. What is a conflict of interest in research?

- A.** Within the area of research, conflicts of interest may exist where a significant financial interest for research could directly affect (or appear to affect) the design, conduct or reporting of research or other activity sponsored by an outside entity.

### Q. To whom do the guidelines on conflicts of interest in research apply?

- A.** Any individual acting as a project director or principal investigator and any other person, regardless of title or position, who is responsible for the design, conduct or reporting of research must satisfy the disclosure requirements of the University's guidelines on conflicts of interest in research. This may include faculty, staff, postdoctoral and clinical fellows, graduate students and non-WVU affiliated investigators. Visit the Office of Conflict of Interest Compliance's website for more information.

### Q. When do I have to disclose any potential significant financial interests for research or conflicts of interest in research?

- A.** All investigators or project directors must submit a Conflict of Interest in Research Disclosure at least annually. The disclosures must be updated within thirty (30) days of the development of a new significant financial interest for research. If an investigator or project director does not have an up-to-date annual

disclosure, an up-to-date disclosure must be submitted prior to submitting a research proposal seeking external funds or otherwise participating in research activities regardless of funding.

### Q. Who do I make these disclosures to?

- A.** You can submit your disclosures to the Office of Conflict of Interest Compliance. For directions and more details, visit the office's website.

### Q. Who do I contact with questions regarding conflicts of interest in research?

- A.** If you have questions regarding conflicts of interest, contact Joy Edwards, director, conflict of interest, in the Office of Conflict of Interest Compliance, at [Joy.Edwards@mail.wvu.edu](mailto:Joy.Edwards@mail.wvu.edu) or **304-293-5475**.

## OUTSIDE CONSULTING ARRANGEMENTS

### Q. What is an "outside consulting arrangement?"

- A.** An outside consulting arrangement is any outside employment, arrangement or contract where a full-time faculty or non-classified staff member provides their expertise to a third party as an independent contractor and in which the expertise is, directly or indirectly, related to the employee's employment or job duties with WVU.

### Q. What are the guidelines for faculty and staff around outside consulting?

- A.** Full-time faculty and staff may engage in consulting outside of their employment responsibilities to the University on subjects that are within their area of professional expertise. However, any outside consulting arrangement at a minimum must:
- / Further develop the individual professionally or serve the community, state or nation in an area related to their assignment or professional expertise.
  - / Not constitute a conflict of commitment with the individual's responsibilities at WVU, nor interfere with their teaching, research and service to the University.
  - / Not be in conflict with WVU's mission and objectives.

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## Q. What is meant by a “conflict of commitment?”

**A.** A full-time faculty or staff member’s primary commitment of their time and intellectual effort must be to the teaching, research, scholarship and service missions of WVU. A conflict of commitment may arise when external activities (i.e., those that do not relate to the University) exceed reasonable time limits or become the faculty or staff member’s primary professional responsibilities.

## Q. What are examples of activities that are not considered outside consulting arrangements?

**A.** Examples of activities that are not considered outside consulting arrangements include:

- ✓ **University-sponsored consulting arrangements** – Agreements between WVU and a third party to sell employees services to advance the University’s mission are not considered outside consulting arrangements if payment from the third party goes to WVU and the time committed by the employee to the third party is considered part of the employee’s institutional duties.
- ✓ **Grant reviews, conference participation and speaking engagements** – Participation in federal agency grant reviews or similar pursuits are not considered outside consulting arrangements if these activities are considered part of an employee’s institutional duties. Further, reasonable honorariums and travel may be collected for an employee’s participation in these activities if approved by their supervisor.
- ✓ **Part-time employment** – Faculty and staff are permitted to engage in part-time employment unrelated to their institutional duties outside of their normal working hours at the University (e.g., weeknights, weekends and holidays). However, the employee’s primary responsibility must be to WVU, and their part-time employment must not constitute a conflict or the appearance of one.
- ✓ **Volunteering** – Faculty and staff are permitted to volunteer outside of their normal working hours at the University (e.g., weeknights, weekends and holidays). However, the employee’s primary responsibility must be to WVU, and their volunteering must not constitute a conflict or appearance of one.

## Q. Who is required to seek approval and disclose outside consulting arrangements?

**A.** All full-time WVU faculty and non-classified staff must disclose and seek advance approval for outside consulting arrangements. Part-time employees (e.g., adjunct faculty) are not required to seek approval for consulting arrangements or other employment conducted outside of their part-time employment with the University.

## Q. How do I obtain approval for an outside consulting arrangement?

**A.** Prior to engaging in any outside consulting arrangements, you should complete an **Outside Consulting Arrangement Approval Form** and submit it to your department for approval. Depending on your department, the form may need to be approved by your dean or vice president.

## Q. If I am currently engaging in an outside consulting arrangement previously approved by my department chair or dean, do I need to get my arrangement re-approved in accordance with Rule 1.4?

**A.** No. If you previously obtained appropriate approval for your outside consulting arrangement, you do not need to get the arrangement pre-approved. However, please ensure that you disclose this arrangement on your annual disclosure form on August 31.

## Q. What do I do if I have already been engaged in an outside consulting arrangement that was not approved by either a department chair or dean?

**A.** If you have not previously received approval for your outside consulting arrangement, please immediately consult with your dean or vice president to develop a plan for appropriate disclosure and review. You should immediately raise and manage any conflicts that may come to light that the University was previously unaware of. This may include terminating the outside consulting arrangement. Additionally, you must include all outside consulting arrangements on the annual disclosure form whether they are approved or not.

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## Q. What are some guidelines I should follow when engaging in my outside consulting arrangement?

**A.** While you may not be performing University duties when engaging in an outside consulting arrangement, you still must comply with the Ethics Act and Rule 1.4. Some common pitfalls that you should avoid include:

- Using WVU resources unless you first seek approval and put a reimbursement plan into place.
- If you are not a leave-eligible employee, agreeing to participate in an arrangement that would require more than one day per week of your time during your appointment period.
- Using University intellectual property, including its trademarks and logos, as part of the arrangement.
- Failing to use leave if you are a leave-eligible employee and the outside arrangement will require you to perform work during your normal University working hours.
- Endorsing a commercial product, service or private company.

For more information, view the [Outside Consulting Arrangements Do's and Don'ts](#) document.

## Q. Where do I access the forms related to outside consulting arrangements?

**A.** All forms and reference material related to outside consulting arrangements can be found on the [policies.wvu.edu](#) website.

## Q. Who is responsible for reviewing contracts for outside consulting arrangements?

**A.** The WVU employee entering into a contract with an outside entity is responsible for reviewing the contract and ensuring it does not violate the University's policies, federal law, state law (including the Ethics Act) and the employee's professional ethical standards.

## Q. Am I covered by the University's insurance when I am engaged in an outside consulting arrangement?

**A.** Employees who engage in outside consulting arrangements do so outside of their duties at WVU. Therefore, the University's insurance does not cover your participation in outside consulting arrangements. Additionally, because the University is not a party to this arrangement, it has no obligations nor potential liability under these arrangements, and it does not provide any indemnity for these activities.

## Q. What is the process for annual disclosure of outside consulting arrangements?

**A.** All WVU faculty and non-classified staff must complete an [Outside Consulting Arrangement Annual Disclosure Form](#) detailing their outside consulting arrangements undertaken during the past fiscal year. The form must be completed by August 31, and returned to the employee's dean or vice president (or their designee).

## Q. Where can I find more information on outside consulting?

**A.** Visit the [policies.wvu.edu](#) website for more information and to view the [Outside Consulting Arrangements Do's and Don'ts](#) document. Contact your vice president, dean or the Office of General Counsel with any questions