

# Ethics

## I. Abstract

This module is intended as a “primer” of some of the most salient provisions of the State of Florida Code of Ethics for Public Officers and Employees which is found in [Part III, Chapter 112, Florida Statutes \(2011\)](#) (hereinafter the “Ethics Code”). As public employees, all faculty and staff of Florida International University must ensure that they comply with the provisions of the Ethics Code.

The Ethics Code contains provisions addressing restrictions on the ability to solicit and receive personal gifts, misuse of public position for personal benefit, disclosure or use of certain information for personal benefit or gain and conflicts of interest, among others.

Some situations we must pay particular attention to are:

- Solicitation and acceptance of personal gifts or favors
- Contracts and transactions with the University
- Misuse of public position or confidential information
- Conflicting employment or contractual relationships
- Employment of relatives

The provisions of the Ethics Code are quite complex and comprehensive. Questions regarding the Ethics Code may be addressed to your direct supervisor, the Office of the General Counsel (at extension 7-2103) or the University Compliance Office (at extension 7-2216).

## II. Helpful Contact Information

Office of the General Counsel PC 511 Ext. 7-2103	University Compliance Office PC 520 Ext. 7-2216	Vice President for Academic Affairs PC 526 Ext. 7-2151	Vice President for Human Resources PC 221 Ext. 7-2079	Vice President for Research MARC 430 Ext. 7-2494
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## III. Rules of the Road

This Module is comprised of three subsections:

- A. Gifts
- B. Conflicts of Interest
- C. Nepotism

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## A. Gifts (Solicitation or Receipt of Personal Gifts)

1. Nothing in the Ethics Code restricts your ability to receive gifts from relatives.
2. Nothing in the Ethics Code restricts your ability to receive gifts on behalf of Florida International University.
3. On the other hand, you may not solicit or accept personal gifts or benefits (such as loans, services, discounts) if
  - a) offered or received based solely on the understanding that it will influence your official action
  - b) you know, or have reason to know, that it is being given to influence an action in which you are expected to participate in your official capacity.
4. In fact, the Ethics Code prohibits University personnel from corruptly using or attempting to use their official positions to obtain a special privilege for themselves or others. [Section 112.313\(6\), Florida Statutes.](#)
5. Additional restrictions apply if you are a state “procurement employee” or a “reporting individual.”
6. If you are either of these, your ability to receive gifts from “lobbyists”<sup>1</sup> is severely limited.
7. How do you know if you are a “procurement employee?”
  - a) Quite simple. Do you participate (through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity) in the procurement of contractual services or commodities, if the cost of such services or commodities exceeds \$1,000 in any year?
  - b) If yes = You are a procurement employee.

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<sup>1</sup>For purposes of the gift law, a “lobbyist” is defined as a person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decision-making of a reporting individual or procurement employee or his or her agency, or to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency. “Persons” include individuals and entities, including corporations and groups. Please note that all vendors of the University during the preceding 12 month period or those seeking to do business with the University are considered lobbyists.

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8. Who is a “reporting individual?”
  - a) A reporting individual is an individual who is required by law to file a disclosure of his/her financial interests on an annual basis with the Florida Commission on Ethics pursuant to the requirements of [Section 112.3145, Florida Statutes](#).
  - b) Reporting individuals at the University are: purchasing agents (persons with signature authority for contracts, regardless of their title) having the power to make any purchases exceeding the threshold for Category One purchases (currently \$ 20,000), finance and accounting directors, business managers, personnel officials, grant coordinators, legal counsel, the president, vice presidents and deans of the university and members of the board of trustees.
9. What are the restrictions?
  - a) Procurement employees and reporting individuals cannot solicit any gifts for themselves or immediate family members from lobbyists. Procurement employees and reporting individuals also cannot accept gifts greater than \$100 from any lobbyist of the University. NOTE: If the gift is greater than \$25.00 (and less than \$100.00), the lobbyist must disclose the gift made to the procurement employee or reporting individual to the Florida Commission on Ethics.
  - b) If the lobbyist is a registered lobbyist (a lobbyist who has filed a registration with the appropriate agency), a reporting individual is prohibited from knowingly accepting, directly or indirectly, a gift from the registered lobbyist in any amount.
10. Practical Application: I have determined that I am a procurement employee and a vendor with whom my department does business offers me a gift card in the amount of \$300.00. Is it permissible for me to accept this gift?
  - a) No. If the vendor has done business with the University in the preceding 12 months, or is seeking to do business with the University now, you are not permitted to accept this gift.
  - b) Please note, however, that the law allows you to pay back to the vendor the difference between the value of the gift (\$300) and the maximum permitted by law (\$100) in which case the gift would be permissible. Due consideration must be given to the possible appearance of impropriety that accepting such gifts could have. When in doubt, please consult with your supervisor, the Office of the General Counsel or the University Compliance Office.

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## B. Conflicts of Interest

1. A University officer or employee is prohibited from:
  - a) Employment or doing business with any entity that does business with the University
  - b) Having or holding any employment or contractual relationship that
    - i. would create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her University duties, or
    - ii. would impede the full and faithful discharge of his or her University duties.  
[Section 112.313\(7\), Florida Statutes.](#)
2. Employees may be approved for secondary employment provided such employment does not interfere with the regular work of the employee and does not result in any conflict of interest between the two activities. [University Human Resources Policy: Dual Employment and Compensation.](#)
3. Conflicts of interests, including those arising from University or outside activities, are prohibited. Please refer to:
  - a) University Human Resources Policy: Conflict of Interest available at: <http://policies.fiu.edu/files/106.pdf>;
  - b) Academic Affairs Policy: Conflict of Interest/Outside Activity (UFF) available at: <http://policies.fiu.edu/files/206.pdf>.
4. Outside activities for all University employees are disclosed in the Human Resources Outside Activity/Conflict of Interest Electronic Portal available at: [http://hr.fiu.edu/index.php?name=conflict\\_of\\_interest](http://hr.fiu.edu/index.php?name=conflict_of_interest).

Any adjunct faculty member, temporary staff member, or student who is participating in university research and whose university role permits him or her to control or assign to others the use of university facilities and resources, is also required to disclose conflicts of interest and will need to do so by downloading and completing the form which is available on the Electronic Portal.
5. Doing Business with one's Agency: The Ethics Code provides specific limitations regarding the ability of an employee of the University to do business with an entity in which he or she has an ownership interest.
  - a) A University employee may not do business with an entity in which he or she, his or her spouse, or child owns more than a 5% interest. [Section 112.313\(3\), Florida Statutes.](#)

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- b) University employees are also generally prohibited from doing business with the University in their private capacity. [Section 112.313\(3\), Florida Statutes](#).

6. Exemptions: The prohibitions described in Sections 1 and 5 above may not apply:

- a) When the business is awarded through the bid process and the official, spouse or child has not attempted to persuade University personnel to enter into the contract and certain procedural safeguards are followed.
- b) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.
- c) When an emergency purchase must be made to protect the public health, safety, or welfare and proper certifications are filed.
- d) When the business entity is the sole source and there is full disclosure. (Ethics Commission FORM 4A must be filed).
- e) When the aggregate of the transactions does not exceed \$500 in a calendar year.
- f) When the transaction involves sponsored research or intellectual property provided certain safeguards are met, including specific approval by the University President and Board of Trustees Chairperson.
- g) When the University officer or employee purchases from a business entity which is doing business with his or her agency upon the same terms available to the general public.

## C. Nepotism

1. The University's general policy on nepotism does not preclude related individuals from working at the University. However, no employee at the University may work under the direct or indirect supervision or control of a related individual. Please refer to:
  - a) Human Resources Policy: Nepotism. Available at: <http://policies.fiu.edu/files/61.pdf>.
  - b) Division of Research Policy: Nepotism in Research available at: <http://policies.fiu.edu/files/258.pdf>.
2. "Relationship" is defined as individuals related by blood, marriage, adoption *i.e.* father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister; a person a public employee intends to marry, or with whom the public employee intends to

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form a household, or any other natural person having the same legal residence as the public employee; domestic partnership, dating, or other personal relationship in which objectivity might be impaired.

3. If the hiring official wishes to hire a related individual, he or she must complete a University Nepotism Disclosure Form available at: [http://hr.fiu.edu/index.php?name=procedures\\_and\\_guidelines](http://hr.fiu.edu/index.php?name=procedures_and_guidelines). In addition, if the transfer of an employee would result in two related individuals working within the same department or unit, or the same contract or grant, the supervisor must submit a Nepotism Disclosure Form also available within the Division of Human Resources. The forms must be signed by either the requesting dean or administrative head of the department. In addition, the request must be approved by the Vice President of Human Resources.
4. Please note that the University discourages the employment of related individuals in the same department or unit. All possibilities of employment in other areas of the University should be pursued first. If none are available, then the vice president of the hiring department, or provost, will evaluate such a request when the related individual possesses unique skills required to fill the position and/or has skills that cannot be easily obtained in order to meet the needs of the unit, department or project.