



RUTGERS POLICY

Section: 50.1.12

Section Title: Administrative Governance

Policy Name: Conflicts of Interest Policy for Members of the Boards of Governors and Trustees and University Officers

Formerly Book: 6.4.15

Approval Authority: Board of Governors and Board of Trustees

Responsible Executive: Vice President and General Counsel

Responsible Office: Secretary of the Boards of Governors and Trustees

Originally Issued: 11/11/1983

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Errors or changes? Contact: Office of the Secretary of the Boards of Governors and Trustees
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1. **Policy Statement**
 - Addresses how issues of actual, potential, or perceived conflicts of interest involving members of the Board of Governors, the Board of Trustees, or University officers should be identified, disclosed, and managed
 - Establishes a requirement for the filing of an annual financial disclosure form by members of the Board of Governors, the Board of Trustees, and University officers
 - Sets forth the applicability of the New Jersey Conflicts of Interest statute (NJSA 52:13D-12 et seq.) to members of the Board of Governors, the Board of Trustees, and University Officers
2. **Reason for Policy**
 - To clarify the existing conflicts of interest law and policy applicable to members of the Board of Governors, the Board of Trustees, and University officers
 - To ensure that no detriment or appearance of detriment to the University's interests results from a conflict between the best interests of the University and any personal, financial or other interest of a Board member or University officer
3. **Who Should Read Policy**

Members of the Board of Governors and Board of Trustees
University Officers
4. **Related Documents**

New Jersey Conflicts of Interest statute (NJSA 52:13D-12 et seq.)
<http://www.state.nj.us/lps/ethics/coil.htm>
5. **Contacts**

Vice President and General Counsel; Secretary of the Boards

6. The Policy

Rutgers, the State University of New Jersey Conflicts of Interest Policy for Members of the Boards of Governors and Trustees and University Officers¹

Rutgers, the State University is an instrumentality of the State of New Jersey and provides public higher education services. The University is “impressed with a public trust,” and members of the Boards of Governors and Trustees and University officers have a fiduciary duty to the University. A Board member’s and officer’s fiduciary duty provides that he or she shall always be guided by the best interests of the University. Thus, Board members and officers may not act on matters in which they have a financial or personal interest that might interfere with the performance of their duties. This policy addresses how issues of actual, potential or perceived conflict should be addressed. Particular care shall be exercised by the Board member or officer to assure that no detriment or appearance of detriment to the University’s interests results from a conflict between those interests and any personal, financial or other interests which a Board member or officer may have.

I. Applicability of the New Jersey Conflicts of Interest Statute (NJSA 52:13D-12 et seq.)

Members of the Boards of Governors and Trustees are “Special State Officers” and University officers are “State officers” under the terms of the New Jersey Conflicts of Interest Law (NJSA 52:13D-12 et seq.). The general standards of conduct in the New Jersey Conflicts of Interest Statute specifically applicable to members of the Board of Governors, Board of Trustees and University officers are set forth in the Code of Ethics approved by the Executive Commission on Ethical Standards (the language reflects the wording found in the New Jersey Conflicts of Interest Law):

(1) Members of the Boards of Governors or Trustees or University officers shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

(2) Members of the Boards of Governors or Trustees or University officers who engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government shall promptly file notice of such activity with the University’s Executive Vice President for Academic Affairs.

(3) Members of the Boards of Governors or Trustees or University officers shall not use or attempt to use their official positions at the University to secure unwarranted privileges or advantages for themselves or others.

(4) Members of the Boards of Governors or Trustees or University officers shall not act in their official capacities in any matter wherein they have a direct or indirect personal financial interest that might reasonably be expected to impair their objectivity or independence of judgment.

(5) Members of the Boards of Governors or Trustees or University officers shall not accept any gifts, favors, services or other things of value under circumstances from which it might be reasonably inferred that such gifts, services or other things of value were given or offered for the purpose of influencing them in the discharge of their official duties.

(6) Members of the Boards of Governors or Trustees or University officers shall not undertake any employment or service, whether compensated or not, which might reasonably be expected to impair their objectivity and independence of judgment in the exercise of official duties.

(7) Members of the Boards of Governors or Trustees or University officers shall not knowingly act in any

¹ Pursuant to Board of Governor’s Bylaw III.A., the officers of the University are defined to be “a President, an Executive Vice President for Academic Affairs, an Executive Vice President for Administrative Affairs, a Provost-Newark, a Provost- Camden, a Chief Financial Officer, a Secretary of the University Corporation, University Counsel and such other officers as the Board in consultation with the President may determine.”

way that might reasonably be expected to create an impression or suspicion among the public having knowledge of their acts that they may be engaged in conduct violative of their trust as a special State officer or State officers.

(8) University officers shall file secondary or outside employment forms with the Executive Vice President for Academic Affairs concerning negotiation, appearance or representation on behalf of any party other than the State in connection with any cause, proceeding, application, or other matter pending before any State agency.

In addition to the general code of conduct, which sets forth guiding principles, there are also numerous specific prohibitions. Of course, these specific provisions would raise issues under the code of conduct provisions, but the legislature determined that conduct crossing certain lines should be beyond debate.

For example, no public employee or official may represent or negotiate with any company in which he or she has a 10% interest in any matter pending before any state agency (not just the agency with which the individual is involved) (N.J.S.A. 52:13D-16). Uncompensated "Special State Officers" may represent or negotiate on behalf of third parties on matters that do not concern the agency involved; so members of the Boards may not represent or negotiate on behalf of third parties on Rutgers matters. The statute also prohibits disclosure, whether or not for pecuniary gain, of information a Board member or officer acquires in the course of University service which is not generally available to the public (N.J.S.A. 52:13D-25).

The conflicts of interest law generally does not address how potential conflicts of interest issues are monitored. As a practical matter, most situations in which an employee could potentially have a conflict require approval of a supervisor for the employee to proceed. As a control group, members of the Boards, Trustees, and Officers need to be personally sensitive to potential conflicts issues so that possible conflicts are disclosed and discussed.

II. Identification of Potential Conflict of Interest Situations

Pursuant to the New Jersey Conflict of Interest Statute, a member of the Board of Governors or of the Board of Trustees or a University officer must recuse himself or herself from a matter involving an outside entity in which he or she has an interest if he or she or an immediate family² member has:

1. Any financial interest, direct or indirect, exceeding 10% of the profit, assets or stock of that outside entity or any financial interest, of whatever magnitude, that is incompatible with the discharge of his or her public duties; or
2. Any personal interest, direct or indirect, that is incompatible with the discharge of his or her public duties with respect to that matter.

An incompatible financial or personal interest includes, but is not limited to, outside employment; a debtor/creditor relationship; a fiduciary relationship; a source of income; any matter pertaining to a relative or cohabitant; a relationship with a person providing funds, goods or services without compensation; any matter pertaining to a business associate or business investment; and a leadership role in a professional or trade organization, where such relationship or interest might reasonably be expected to impair a Board member's or an officer's objectivity and independence of judgment in the exercise of his or her official duties, or might reasonably be expected to create an impression or suspicion among the public having knowledge of his or her acts that he or she may be engaged in conduct violative of his or her trust as a Board member or University officer.

III. Annual Financial Disclosure Form

Each member of the Board of Governors and of the Board of Trustees and each University officer shall be required to file with the Secretary of the Boards of Governors and Trustees an annual financial disclosure form, certifying: (1) that he or she has read the Board Conflict of Interest Policy; (2) and agrees

² Immediate family includes one's spouse, child, parent or sibling residing in the same household (pursuant to the definition given in NJSA 52:13D-13.i.).

to be governed by it; and (3) agrees not to disclose any confidential information acquired in the course of University service which is not generally available to the public. The form will include the following questions:

1. Are you or a member of your immediate family³ an officer, director, trustee, partner (general or limited), employee or regularly retained consultant of any company, firm or organization that presently has business dealings with the University or which might reasonably be expected to have business dealings with the University in the coming year? _____ Yes
_____ No

If yes, please list the name of the company, firm or organization, the position held, and the nature of the business which is currently being conducted with the University or which may reasonably be expected to be conducted with the University in the coming year:

2. Do you or does any member of your immediate family have a financial interest of 10% or greater in a company, firm or organization which currently has business dealings with the University or which may reasonably be expected to have such business dealings with the University in the coming year? _____ Yes _____ No

If yes, please list the name of the company, firm or organization, the nature of the interest and the name of the person holding the interest, and the nature of the business which is currently being conducted with the University or which may reasonably be expected to be conducted with the University in the coming year:

3. Have you or your immediate family accepted gifts, gratuities, lodging, dining, or entertainment that might reasonably appear to influence your judgment or actions concerning the business of the University? _____ Yes _____ No

If yes, please provide details below:

If any material change to the responses provided on the annual financial disclosure form occurs before the next form is due, the Board member or officer is required to update the information on the form in writing, and submit the update to the Secretary of the Boards of Governors and Trustees.

IV. Procedures for Disclosure and Management of Conflicts of Interest

In the event the University is considering any transaction which may constitute a conflict of interest for a Board member or University officer, the Board member or officer at the first knowledge of such a transaction must disclose fully in writing the precise nature of the interest (unless previously disclosed) to the Secretary of the Boards of Governors and Trustees and the Vice President and General Counsel, the latter of whom (in consultation with the chair of the Committee on Audit) shall promptly make a written determination as to whether such interest constitutes a conflict of interest requiring recusal. The written determination of the Vice President and General Counsel shall be transmitted to the Board member or officer, the chair of the Committee on Audit and the Chair of the Board on which the member sits, and the Secretary to the Boards of Governors and Trustees. In the case of University Officers, the report shall be transmitted to the University President.

Recusal constitutes a bar to any participation by the Board member or officer on the matter which relates to the Board member's or officer's financial or personal interest and includes a prohibition on all communication by the Board member or officer on the matter to any Board member, University officer or

³ Immediate family includes one's spouse, child, parent or sibling residing in the same household (pursuant to the definition given in NJSA 52:13D-13.i.).

employee. Recusal specifically requires that the Board member or officer absent himself or herself from the room during consideration or discussion of the proposed matter during a Board committee or Board meeting. Recusal also requires that the Board member may not cast a vote on such an issue.

This policy statement shall be interpreted and applied in a manner that will best serve the interests of the University.

On an annual basis, the Vice President and General Counsel shall provide a summary report to the Committee on Audit summarizing the results of these disclosures and the ways in which they were addressed. The chair of the Committee on Audit and the Vice President and General Counsel will subsequently give a brief summary report to the full Board of Governors.