

Rutgers Plain Language Guide to Fundamental Ethics and Conflicts Rules Established by State Law, Federal Law and University Policy

Preamble

This Guide explains the requirements of the New Jersey Conflicts of Interest statute and the ethical principles that underlie the statute and many Rutgers policies and procedures. The law states “[i]t is essential that the conduct of public officials and employees shall hold the respect and confidence of the people. Public officials must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.” N.J.S.A. 52:13D-12(a).

The conflicts of interest law provides principles that are generally applicable to all employees as well as standards and prohibitions to guide public employee conduct. The statute acknowledges that some standards of ethical conduct “are best left to the governance of codes of ethics formulated to meet the specific needs and conditions of the several agencies of government,” and as a result will be guided by our needs and conditions as an academic institution. N.J.S.A. 52:13D-12(b). Therefore, the State’s conflicts law is supplemented by Rutgers-specific policies and rules.

The State conflicts statute is directed at the Executive and Legislative branches of government; it also provides that “to the extent consistent with law” it is applicable to “any independent ...instrumentality.” N.J.S.A. 52:13D-13(a). Rutgers is an independent instrumentality of the State for the delivery of higher education services and therefore Rutgers employees are generally subject to the provisions of the State conflicts statute.

The Rutgers Code of Ethics

The university has a “Code of Ethics” which has been approved by the State. The university also has policies which underscore that ethical behavior is a basic requirement of faculty and staff in all aspects of the conduct of their duties.

Federal Laws Address Potential Conflicts of Interest in Research

There are federal laws and regulations governing the elimination or management of conflicts that may cause bias or a lack of objectivity in the “design, conduct or reporting” of research (42 C.F.R. § 50.605(a)) which are applicable to faculty and staff involved in research. These rules are administered by the Office of Research and Sponsored Programs in the grant application process.

Ethical Standards Applicable to All Employees

There are three essential principles in all ethics and conflicts rules:

1. Rutgers employment shall not be used to obtain “unwarranted privileges and advantages” for oneself or others;
2. Rutgers employees are to conduct their duties objectively and maintain the independence which fosters objectivity. Rutgers employees shall avoid any outside interests which could inappropriately benefit them or influence their university activities;
3. Rutgers employees should avoid the appearance of impropriety.

These principles underlie the following standards:

- **Avoid excessive commitments of time to external employment.** University employees should limit the total amount of time devoted to non-university employment so that external employment does not interfere with the time necessary to fulfill university responsibilities. A full time employee's primary employment duty of loyalty is to the university.

Beginning in the calendar year 2008, all full-time Rutgers employees must file with the university an annual report of outside employment.

- **University facilities and property.** All use of facilities, equipment, stationery, and supplies must be directly related to the purposes of the university. Use of university facilities or other resources by any party other than the university requires prior approval and appropriate compensation to the university. No one may borrow university property for personal use. University property may be disposed of only through surplus property procedures.
- **Gifts.** Vendors have been advised that they must not offer gifts to university employees. If gifts are received, the employee, or his or her supervisor, should return them or donate them to charity with a note to the sender.
- **Avoid external relationships and employment which could result in inappropriate personal profit from university decisions.** Without prior approval, a Rutgers employee should avoid external relationships (actual or potential employment, consulting, executive or fiduciary roles, etc.) in which he or she, a family member, or business associate has a financial interest in a university decision or activity and the employee has a decision-making role in that activity.
- **Companies partially owned by Rutgers (or State) employees cannot sell goods or services to the university.** There are very strict limits on the purchase of goods or

services from any company which is partially owned by any Rutgers employee. State law generally prohibits contracts between Rutgers and a company in which (a) a Rutgers employee, his or her family or business associates own directly or indirectly more than 1% of the company or (b) a professional corporation in which any Rutgers employee, family member or business associate has any direct or indirect ownership interest. N.J.S.A. 52:13D-19.

- **No involvement in hiring and no supervision of relatives.** It is prohibited for a Rutgers employee to be involved in the hiring of relatives and/or to directly supervise them. This precludes the hiring of a relative to work on grants and/or in a laboratory of a family member or supervision of a relative in that capacity.
- **University employees cannot represent any party other than Rutgers in any matter that involves the university.** State law prohibits Rutgers employees negotiating on behalf of or representing any party other than the university on any matter which involves the university. For example, a Rutgers employee with a personal or financial interest in an outside entity cannot represent that entity in any business dealings it may have with Rutgers.
- **Lifetime ban on side switching upon retirement.** State law imposes a lifetime ban on switching sides to represent a nonuniversity party against the university in any specific transaction or matter in which the employee has been substantially and directly involved.
- **Confidential information.** Confidential information learned in the course of university employment must be used only for proper university purposes.
- **Some conflicts are inevitable: Appropriate disclosure and/or recusal from decision making often avoids problems.** Not all conflicts can be avoided. When a Rutgers employee (or a family member or associate) has a personal interest in a university decision then it is appropriate to disclose the interest and, if necessary, he or she should have no involvement at all in that decision. The goal is to manage the conflict in some way so that there is no appearance that the employee's personal interest adversely affects the objectivity of university decision making. University review and approval of outside employment affords protection to the employee from accusations of inappropriate behavior.

Special Rules Applicable to Rutgers Faculty and Staff with Academic Responsibilities

- **Annual Reporting of Honoraria and Other Payments from Non-University Sources.** In response to concerns of the State Ethics Commission, the university requires that employees file an annual report with the university (which the university will then forward to the State Ethics Commission) describing those scholarly activities for which

they were compensated by non-university sources. "Scholarly activity" means any pedagogical, academic, artistic, educational or scholarly activity including attending, participation in, or making presentations at colloquia, seminars, conferences, or similar scholarly gatherings. All public institutions of higher education in New Jersey comply with this rule.

- **Textbooks.** A Rutgers employee may require the use of his or her own published work in a course that he or she teaches. However, in cooperation with the State Ethics Commission, royalties (if any) resulting from such use must be donated to the university or other nonprofit institution. Additionally, a Rutgers employee may accept royalties for the use of his or her published work in a course that he or she does not teach provided that he or she is not involved in the selection of the published work for use in that course. All public institutions of higher education in New Jersey comply with this rule.

Examples of Conflicts of Interest for Faculty and Staff with Academic Responsibilities

- University policy 60.5.8D, "Conflicts of Interest - Faculty," also incorporated into the Rutgers Code of Ethics, provides that the following are some examples of conflicts of interest:
 1. Orienting university research, teaching, or other university activity for inappropriate private advantage or, without disclosure to the university, to serve the needs of outside individuals, organizations, or institutions with which the faculty member is associated for financial gain.
 2. Transmitting, without disclosure to and approval by the university, to outside individuals, organizations, or institutions with which the faculty member is associated for financial gain, or other inappropriate nonacademic use for financial gain or other private advantage, of university-sponsored work products, results, materials, records, or information that are not made generally available.
 3. Undertaking for financial gain or other private advantage, and without permission from the university, either in the employment of oneself or in that of outside individuals, organizations, or institutions, contracted research or other similar contracted professional activity that the faculty member would normally engage in under university auspices.
 4. Participating in or influencing the purchase or lease of equipment, instruments, materials, or other items for university use from individuals, organizations, or institutions with which the faculty member is associated for financial gain without disclosure of the association to the university.

5. Using university equipment, materials, services, students, or facilities without proper authorization, and compensation where appropriate, for the faculty member's own benefit or for the benefit of other individuals, organizations, or institutions with which the faculty member is associated for financial gain.
6. Accepting gifts, favors, or services having value from individuals, organizations, or institutions seeking access to university facilities or programs, or with which the university does business, under circumstances that might reasonably be interpreted as an attempt to influence the recipient in the conduct of his or her duties.

Startup Companies

Under the State conflicts law a Rutgers employee, his or her partners, or any corporation or firm in which he or she owns or controls more than 1% of the stock, assets, or profits may enter into a contract or agreement with Rutgers where the contract or agreement is for the development of scientific or technological discoveries or innovations in which Rutgers has an ownership interest (typically a patent). N.J.S.A. 52:13D-19.1. There is a procedure, University Policy 60.5.9, for evaluating, and if appropriate, authorizing these contracts or agreements which minimizes actual conflicts of interest as deemed appropriate under the university Code of Ethics.

WHEN IN DOUBT DISCUSS THE MATTER WITH YOUR SUPERVISOR

Concerns as to suspected violations of these rules should be reported to your supervisor. Suspected violations relating to financial matters may be filed through the "EthicsPoint Hotline" at 1-800-445-7079, or at <http://www.financialconcerns.edu> . For reporting and/or addressing concerns relating to a variety of non-financial issues please go to <http://financialconcerns.rutgers.edu/nonfinancial.shtml> .

If you have specific questions about the application of ethical standards that are not addressed elsewhere you may email them to ethics@oldqueens.rutgers.edu . Please provide contact information so there can be follow-up as necessary.

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