2165 -- Conflict of Interest

For the purpose of these regulations and procedures, the following definition applies. "**Conflict of interest**" is defined as an actual or perceived action that results in, or has the appearance of resulting in personal, organizational, or professional gain which may, or may appear to, impair or compromise the performance of the employee or Board member's duties for or on behalf of Barton Community College. The action may cause the College, or the Board to be legally or otherwise vulnerable to criticism, embarrassment, or litigation in the opinion of the public.

Types of Conflict

A conflict of interest is a situation where an Employee or Board Member exploits relationships with the College for personal, financial, or other gain, which may compromise or have the appearance of compromising professional judgment when making decisions or influencing the decisions of other employees.

- An apparent conflict of interest is a situation where others would think that professional judgment may be compromised.
- A potential conflict of interest is a situation that may develop into an apparent conflict of interest.

Conflicts of interest are broadly divided into two categories:

- Tangible, meaning the gain is financial. Widely recognized types of tangible conflict of interest are those caused by money and financial relationships, e.g., monetary value or award, equity (stock) interests, dividends, royalties, and intellectual-property rights, etc.
- Intangible, meaning the gain is professional or non-material. Widely recognized types of intangible conflict of interest are those driven by self-promotion, fame, prestige, etc.

Other types of intangible conflicts of interest include the following.

- When work time is spent on a secondary personal activity, known as a conflict of effort, or a conflict of commitment.
- When personal, political, or religious views influence objectivity, known as a conflict of conscience.

These are broad statements that reflect some, but not all of the actual and potential conflicts of interest prohibited by College policy.

Personal Gain

The following are examples of conduct that present a conflict of interest when personal gain accrues to the employee, Board member, or a member of their family or others with whom he/she is associated. A person has a direct or indirect financial interest if they, directly or indirectly through business, investment, or family uses or attempts to use:

- His/her position with the College to achieve a material and/or financial benefit for himself/herself or others;
- College property, resources or services, for personal and private purposes to achieve a material or financial benefit for himself/herself or others;
- College employees, students, contractors, or volunteers to achieve a material or financial benefit for himself/herself or others;

- An actual or potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the College is negotiating a transaction or arrangement; or,
- Any confidential information, acquired in connection with College activities or College employment, to achieve material or financial benefit for himself/herself or others, or for other unauthorized purposes.

Other Employment and Activity

The following are examples of other employment (outside or additional college employment) or activity, either with or without compensation~~s~~, which impair the ability of an individual to perform his/her obligations as an employee or representative of the College. Other employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel or refusal to work overtime or different hours. If the College determines that the other employment or activity is not in the best interests of the College, the employee may be asked to terminate the other employment or activity.

- All full-time faculty and staff who are engaged in any additional employment must complete a Disclosure of Additional Employment Form and submit it to their supervisor for review.
- Employment or other activity which occurs at times during which the employee normally is to perform his/her obligations for the College.
- Employment, without the acknowledgement of the employee's immediate supervisor.
- Employment or activity individually or with another person or entity providing goods or services that are in competition with goods and/or services provided by the College.
- Barton Community College Disclaimer. In all employment or activities outside of an employee's College employment, each employee functions in his or her individual capacity, without the support of the College and is solely responsible for his/her acts.
- All persons considering other employment or other activity that may create a conflict of interest have a duty to disclose any actual or potential conflict. They should inform their supervisor by submitting a written statement describing the nature of the potential conflict. Supervisors who become aware of such actual or potential conflict with the College by persons within their supervision have a duty to request such individuals complete an *Annual Conflict of Interest Disclosure Form*. The supervisor shall submit the form to the Vice President of Administration for review and action as warranted.

Disclosure

Disclosure statements will be considered confidential. However, the information may be released in accordance with and as required by federal, state, or local law or court order. The Vice President of Administration or his/her designee is responsible for collecting, reviewing, and maintaining all disclosure documentation.

Duty to Disclose

Purpose: Identify and review Conflicts of Interest and the appearance of Conflicts of Interest.

Officers of Barton Community College, its Board of Trustees, all employees Coordinator level and above, and all employees with the responsibility of maintaining financial records, shall submit a completed *Annual Conflict of Interest Disclosure Form*. If changes in circumstances

arise that (a) create a new Conflict of Interest or (b) change or eliminate a Conflict of Interest previously disclosed, an updated disclosure is required. The process of disclosure includes the following actions:

- Submission of an *Annual Conflict of Interest Disclosure Form* to the immediate supervisor.
- Review of the disclosure by supervisor with a secondary review performed by the Vice President of Administration or his/her designee. These officials will determine whether a Conflict of Interest exists and what conditions or restrictions, if any, should be imposed to manage, reduce or eliminate the Conflict of Interest.

If a Board Member's or employee's family or any firm, corporation, partnership, individual, trust, estate, or business in which the Board Member, employee or a member of the employee's family has any financial or beneficial interest is involved in a transaction which could be construed as a conflict of interest if the employee was involved, full disclosure is required.

Grant-related Disclosure

Barton Community College shall disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

The College must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in § 200.338 Remedies for noncompliance, including suspension or debarment.

Potential conflicts of Interest (real or perceived) must be reported at the following times:

- Board Members/Employees planning to apply for a grant or contract must disclose their significant financial interest (and those of their immediate family) prior to the time of application for the grant. Board Members/Employees must certify whether they have a significant financial interest prior to proposal submission.

- Once a grant or contract has been awarded, all grant related personnel shall certify whether they have a significant financial interest at the time of hiring, assignment to the position, and annually thereafter for the duration of the grant or contract.

- The Project Director will submit relevant documentation to the Vice President of Administration and maintain copies in the project files.

Creation of College Financial Obligations Disclosure

All persons recommending or involved in creating any financial obligation of the College including but not limited to the purchase of goods or services, contracts obligating the College, and leases, shall disclose to their supervisor the nature of any relationship whatsoever they may have with any vendor, contractor, or lessor. A financial obligation in which an employee or representative of the College has an interest will only be entered into if:

- It is deemed to be in the best interests of the College; and,
- Such person's interest with the other party will not conflict substantially or materially with such person's discharge of their College responsibilities.

Having a financial interest does not necessarily constitute a conflict of interest. However, in order to ensure propriety and avoid even the semblance of wrongdoing, each employee and Board member will:

- Immediately disclose any association, relationship, business arrangement, or circumstance that might suggest to disinterested and objective individuals that decisions were made contrary to the best interest of the College. (For personal gain or gain of the family, close friends, or non-College business associates at the expense of the College.)

- Complete an *Annual Conflict of Interest Disclosure Form* and submit to the Vice President of Administration for review and action as warranted. The Dean shall submit a recommendation to the President who shall make a determination on how the matter should be resolved. Completed forms shall be retained in the office of the Vice President of Administration until such time as the conflict no longer exists (e.g., change in employment status or change in relationship status).

- Refrain from participation in any discussion, selection, award, vote or administration of purchase or contract with which the employee or Board member has a potential conflict of interest.

- Comply fully and promptly. Instances of deliberate breach of policy, including failure to file or knowingly filing incomplete, erroneous, or misleading disclosure forms, violations of the guidelines, will be reported to the Vice President of Administration. Failure to appropriately disclose any conflict of interest may result in disciplinary action up to and including termination. Failure to appropriately disclose any conflict of interest may also subject the employee and the College to criminal penalties.

Furthermore, the College must disclose in writing any potential conflict of interest to the cognizant federal awarding agency or pass-through entity in accordance with agency requirements.

Enforcement and Sanctions

A copy of this policy will be sent to each employee and Board member along with an *Annual Conflict of Interest Disclosure Form*. The completed form shall be returned to the Vice President of Administration within 10 calendar days. Any conflict of interest or potential conflict of interest will be reported immediately by any employee regardless of position in the College.

The ultimate responsibility for the enforcement of the policies and regulations on conflicts of interest is that of the President who may delegate authority for enforcement to other College officials.

Violations of the policy or regulations, include, but are not limited to:

- The failure to submit timely disclosures;

- Submission of an incomplete, erroneous or misleading annual or ad hoc disclosure statement;
- Failure to disclose information as required by this Policy; and
- Failure to comply with prescribed monitoring procedures for managing or resolving conflicts or potential conflicts of interest.

Failure to appropriately disclose any conflict of interest may result in disciplinary action up to and including termination. Failure to appropriately disclose any conflict of interest may also subject the employee and/or the College to criminal penalties.

Availability of Assistance

Any person who is in doubt whether he/she is confronted with an actual or potential conflict of interest should seek the advice of his/her supervisor to determine if the interest could conflict impermissibly with the person's obligation to the College.

* Family: spouse or domestic partner, child or stepchild, parent, sibling, grandparent, grandchild or in-law

Contact(s): Vice President of Administration

Related Form(s)
Annual Conflict of Interest Disclosure Form
Disclosure of Additional Employment Form

References

§§ 200.112 *Conflict of Interest* and 200.113 *Mandatory Disclosures* (78621, Federal Register, Vol.78, No. 248/Thursday, Dec. 26, 2013/Rules and Regulations).

Relevant Policy or Procedure(s): 1165 – Conflict of Interest

Approved by: President

Date: 6/1/15

Revision(s): 7/21/16; 5/25/17 (minor revision)