



INSTITUTIONAL POLICY: PE-14

Category: Personnel
Subject: Ethics
Effective Date: ~~December 13, 2008~~
Last Revision Date: N/A

PE 14-1. Authority

W. Va. Code § 18B-1-6

PE 14-2. Purpose and Scope

- 2.1 The West Virginia School of Osteopathic Medicine ("WVSOM") is dedicated to maintaining the highest ethical standards and fostering a workplace culture grounded in integrity, honesty, and fairness. This policy provides guidance consistent with the West Virginia Governmental Ethics Act and outlines expectations for responsible and ethical behavior in all institutional activities.
- 2.2 This policy applies to all WVSOM employees, including full-time, part-time, and students with an employment relationship with WVSOM; paid and unpaid volunteers; and members of the WVSOM Board of Governors ("Institutional Members").

PE 14-3. Definitions

- 3.1 "Relative" means an immediate or step family member which includes spouse, partner, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, anyone living in your household, or a dependent for which you have legal responsibility, such as through a guardianship, conservatorship, or as a caretaker.
- 3.2 "Public Employee" means any full-time or part-time employee of WVSOM.
- 3.3 "Public Official" means any person who is elected or appointed to the WVSOM Board of Governors or other WVSOM office or position.

PE 14-4. West Virginia Governmental Ethics Act Compliance

- 4.1 All Institutional Members are required by West Virginia state law to comply with the West Virginia Governmental Ethics Act ("Ethics Act"), W. Va. Code § 6B-1 et seq. The Ethics Act is interpreted and administered by the West Virginia Ethics Commission.
- 4.2 The Ethics Act prohibits specific conduct deemed unethical under state law. While not exhaustive, this policy summarizes several of the most frequently applicable provisions. All

Institutional Members are responsible for complying with all requirements of the Ethics Act. The statute, related regulations, and additional resources are available on the WV Ethics Commission website at: <https://ethics.wv.gov>.

PE 14-5. Use of Public Office for Private Gain

5.1 Institutional Members are prohibited from using their WVSOM positions for their own private gain or the private gain of another person or entity.

5.2 Private Pay Prohibited; Exceptions for Higher Education Employees

5.2.1 The Ethics Act generally prohibits full-time employees from receiving outside compensation for services related to their public employment, even when performed outside normal work hours. However, the Act provides an exception for employees of public institutions of higher education.

5.2.2 Faculty and staff who engage in teaching, research, consulting, or publication within their area of expertise may receive compensation or other benefits from those activities, provided the activity is approved as part of their employment contract or by the WVSOM President or appropriate Vice President.

5.2.3 When considering approval of activities that are directly or indirectly related to an employee's position with the institution, the following factors should be evaluated:

5.2.3.1 Whether the activity is based on the employee's personal expertise, reputation, education, experience, skills, or other individual qualifications;

5.2.3.2 Whether the activity is customary within the employee's profession or field;

5.2.3.3 Whether the institution benefits from the activity through enhanced reputation or other advantages;

5.2.3.4 Whether the employee is expected to gain financially from the activities beyond their institutional duties;

5.2.3.5 Whether the activity creates a conflict of interest or interferes with the employee's ability to perform institutional responsibilities effectively; and

5.2.3.6 Whether the employee's activity will increase his/her personal or professional development or will lend service or benefit to the nation, state or community.

5.3 Nepotism

5.3.1 Nepotism means favoritism shown in employment or working conditions by an Institutional Member to a Relative.

5.3.2 An Institutional Member may not influence or attempt to influence the employment or working conditions of a Relative.

5.3.3 WVSOM will administer the employment and working conditions of a Relative of an Institutional Member in an impartial manner. An Institutional Member may not:

5.3.3.1 Participate in decisions affecting the employment and working conditions of a Relative unless required by law and an independent third party is involved in the process.

5.3.3.2 Directly supervise a Relative. This prohibition does not extend to matters affecting a class of five or more similarly situated employees.

5.3.3.3 Use a subordinate as an independent third party required by Section 5.3.3(a) above.

5.3.4 An Institutional Member may not vote on any matter that affects the employment or working conditions of a Relative, unless that person is part of a group of five or more individuals who are similarly affected by the matter. To effectively recuse themselves, the Institutional Member must fully disclose the conflict of interest, refrain from participating in any discussion or decision-making related to the matter, physically leave the room while the matter is being considered, and abstain from voting on the issue.

5.4 Use of Subordinates for Private Gain

5.4.1 Institutional Members may not use subordinate employees for their private gain or that of another person as an implied or express condition to their continued employment. For example, a supervisor may not ask an employee to run personal errands in exchange for keeping their job or receiving favorable treatment at work.

5.4.2 Institutional Members may not use subordinate employees during work hours to perform private work or provide personal services for their benefit or that of another person. For example, a supervisor may not require an employee to repair their garage or pave their driveway while on work time. This prohibition does not apply to *de minimis* work or services.

5.5 Use or Removal of WVSOM Property

5.5.1 Institutional Members may not remove, sell, exchange, trade, or give away WVSOM property from the workplace for their private benefit or that of another person, except as authorized by West Virginia Statute.

5.5.2 Institutional Members may not use WVSOM property or resources for personal projects or activities that result in private gain. Any misuse of WVSOM resources is prohibited unless that use is *de minimis*, that is, involving only an insignificant amount of time, funds, supplies, personnel, or equipment.

5.6 Private Work During Public Work Hours

Institutional Members may not receive private compensation for performing private work during public work hours. This section does not apply to *de minimis* private work.

PE 14-6. Private Interest in Public Contracts

6.1.1 WVSOM Public Employees are prohibited from having a financial interest in any contract, purchase, or sale over which their WVSOM position gives them control, unless the total value of such contract, purchase, or sale does not exceed One Thousand Dollars (\$1,000.00) in a calendar year. This prohibition extends to contracts in which the WVSOM employee's Relatives have a financial interest, as well as to any business with which the WVSOM employee or their Relatives are associated. This prohibition may be subject to the exemption outlined above in Section 4.2.

6.1.2 As part-time appointed officials, WVSOM Board of Governors members may hold an interest in a public contract if they recuse themselves from the decision-making process.

PE 14-7. Gifts

7.1 Solicitation of Gifts

7.1.1 Institutional Members may only solicit gifts that are for a charitable purpose and directly benefit WVSOM. The charitable purpose must be one from which the Institutional Member, or a Relative, derive no direct personal benefit.

7.1.2 Permissible solicitations include, but are not be limited to, grants and donations from governmental agencies, foundations, corporations, or individuals to support teaching, research, publication or service activities of WVSOM.

7.2 Selling to Subordinates

Institutional Members are prohibited from soliciting any gift or donation, including those for a charitable purpose, from a subordinate employee.

7.3 Acceptance of Gifts

Institutional Members may not accept gifts from lobbyists, or from any person that they know, or reasonably should know, is doing or seeking to do business with WVSOM; or has financial interests which may be substantially and materially affected by the Institutional Member's performance or nonperformance of their official duties.

7.4 Exceptions

7.4.1 The following types of gifts may be accepted by Institutional Members:

- meals and beverages if the payer is present, or any meal totaling \$25.00 or less;
- ceremonial gifts of an insignificant monetary value;
- unsolicited gifts of nominal value;
- gifts or free admission to charitable, cultural, or political events if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office and the tickets are given by the sponsor of the event;
- gifts that are purely private and personal in nature;
- and gifts from Relatives.

7.4.2 The Ethics Act permits Public Employees to participate in speaking engagements, conferences, and similar pursuits as part of their institutional duties. WVSOM employees may accept compensation of reasonable expenses, including travel, related to attending such engagements when done on behalf of WVSOM. Reasonable honorariums awarded to an employee may be accepted so long as the employee has been granted approval by their Vice President to participate in the activity as part of their institutional duties.

PE 14-8. Endorsements

In their official capacity, Institutional Members may not endorse or promote any specific product, service, or business, including products, services, or case studies developed or provided by vendors. An endorsement may be permitted by the President only when it serves a clear and overriding public benefit. Sponsorship agreements executed on behalf of WVSOM are considered to provide such an overriding public benefit for purposes of compliance with the Ethics Act.

PE 14-9. Use of Name or Likeness

9.1 Institutional Members are prohibited from placing a Public Official's name or likeness on trinkets, advertising, vehicles, educational materials, websites and social media paid for with public funds.

9.2 Exceptions include press releases to relay specific public safety, health or emergency information; educational materials that provide information about the processes, operations, structure, functions, or history of WVSOM; and lists of contact information.

PE 14-10. Dual Compensation

10.1 WVSOM employees may not receive compensation from two sources of state, county, or municipal government for working the same hours, except under certain limited circumstances. Contact the General Counsel's Office for more information.

10.2 Public Employees may receive their regular salary while on approved jury duty leave and also accept jury duty compensation without violating the Ethics Act's prohibition on dual compensation.

PE 14-11. Conflicts of Interest, Conflicts of Commitment, and Required Disclosure

11.1 Conflict of Interest and Conflict of Commitment

11.1.1 A conflict of interest occurs when there is a divergence between a WVSOM employee's private interests, financial interests, personal relationships, or outside activities and the employee's professional obligations to WVSOM such that a reasonable person could question whether professional judgment, decisions, or actions are or may be improperly influenced by considerations of personal benefit, gain, or advantage.

11.1.2 A conflict of commitment occurs when an employee's outside activities, employment, professional service, consulting, volunteer activities, or other commitments interfere with or detract from the employee's ability to fulfill their responsibilities to WVSOM.

11.1.3 The existence of a conflict of interest or conflict of commitment does not imply wrongdoing. Such situations frequently arise in the normal course of professional activities and must be disclosed, reviewed, and managed appropriately to protect both the employee and WVSOM.

11.2 Outside Employment or Other Activities

11.2.1 WVSOM recognizes that participation in professional, civic, scholarly, clinical, consulting, governmental, charitable, and other outside activities may enhance the professional development of employees and contribute to the mission of WVSOM. Such activities are permitted provided they do not create an actual or apparent conflict of interest, conflict of commitment, or violation of state law.

11.2.2 A full-time employee's primary professional responsibility and commitment of time and effort must be to the teaching, research, scholarly, clinical, administrative and service missions of WVSOM.

11.2.3 Outside employment or other activities include, but are not limited to employment by another organization; consulting or professional services; independent contractor or self-employment activities; clinical practice; board service, fiduciary positions, or officer positions; paid speaking engagements; business ownership or management; expert witness activities; professional association leadership positions; or volunteer activities that may overlap with WVSOM responsibilities. This includes both paid and unpaid activities.

11.2.4 Full-time Public Officials and Public Employees may not have secondary employment with any employer, excluding other government agencies, that:

11.2.4.1 Had a matter on which they or a subordinate is known to have taken regulatory action within the preceding 12 months; or

11.2.4.2 Has a matter before WVSOM on which they or a subordinate are working or is known to be working, or

11.2.4.3 Is a vendor to WVSOM and the Public Official or Public Employee, or a subordinate, exercise authority or control over a public contract with such vendor, or

11.2.4.4 Is prohibited by the Public Official's or Public Employee's annual appointment or other employment contract with WVSOM.

11.2.5 Employees must disclose outside employment or activities that:

11.2.5.1 May create an actual, potential, or perceived conflict of interest;

11.2.5.2 May create a conflict of commitment;

11.2.5.3 Involve entities doing business with WVSOM;

11.2.5.4 Involve entities seeking to do business with WVSOM;

11.2.5.5 Involve entities regulated, monitored, evaluated, contracted with, or otherwise affected by decisions made by the employee or the employee's department;

11.2.5.6 Utilize WVSOM resources, facilities, equipment, confidential information, or intellectual property.

11.3 Financial Interests

11.3.1 Financial interest means any situation in which a WVSOM employee or Relative could receive a financial or other measurable personal benefit. This can include ownership, compensation, investments, referral percentages, or other economic benefits. It also includes private interest in public contracts outlined in Section 6 above.

11.3.2 A conflict of interest may exist when the personal financial interest of a WVSOM employee, or a Relative, could affect or reasonably appear to affect institutional processes, research, business transactions, or other activities at WVSOM.

11.3.3 Employees must disclose any financial interest the employee or a Relative may have:

11.3.3.1 In a business or organization that does business or is seeking to do business with WVSOM, as a vendor or otherwise;

11.3.3.2 In a business or organization that could be affected by decisions the employee makes in their position at WVSOM; and

11.3.3.3 In the profits or benefits of a contract which the employee may have direct authority to enter into or over which the employee may have control unless such interest is limited within the meaning of WV Code §6B-2-5(d)(2).

11.4 Disclosure Requirement

11.4.1 The purpose of disclosure is to allow WVSOM to evaluate potential conflicts and, when appropriate, develop a management plan.

11.4.2 All WVSOM employees must complete a Conflict of Interest Statement immediately upon hire and annually thereafter. Employees must update their disclosure statement within 30 days of discovery of a new outside activity, financial interest or relationship, or material change to a previously disclosed activity, interest, or relationship.

11.4.3 The President, or designee, shall review disclosures submitted under this Policy, determine whether a conflict exists, and what restrictions or management measures, if any, are necessary. The Chair of the WVSOM Board of Governors shall review and approve any of the President's activities that may present a potential conflict under this policy.

11.4.4 WVSOM may require a conflict management plan that includes, as appropriate, recusal from decision-making, reassignment of duties, divestiture of financial interests, modification of outside activities, additional oversight, or other measures necessary to protect institutional interests.

11.4.5 Employees who fail to disclose a conflict of interest or commitment in accordance with the requirements of this Policy shall be subject to disciplinary action, up to and including termination of employment.

11.5 Conflicts of Interest in Research

For information regarding Conflicts of Interest in Research see WVSOM Institutional Policy R-04.

PE 14-12. References

12.1 W. Va. Code § 6B West Virginia Governmental Ethics Act

12.2 W.Va. 158CSR6, Use of Office for Private Gain

12.3 W.Va. 158CSR7, Gifts and Charitable Contributions

12.4 W.Va. 158CSR8, Interest in Public Contracts

PE 14-13. Superseding Provisions

This policy supersedes any rule of the West Virginia Higher Education Policy Commission which relates to the subject matter contained within this policy, and any conflicting provisions within the WVSOM Employee Handbook, the WVSOM Faculty Handbook, or any other WVSOM policies or procedures. This policy also repeals and supersedes WVSOM Institutional Policy PE-14: Ethics (effective December 13, 2008).

~~PE 14-1. Authority~~

~~PE 14-2. WV Code §18B-1-6 and §6B~~

~~PE 14-3. WV CSR §133-4~~

~~PE 14-4. General Provisions~~

~~PE 14-5. Scope~~

~~PE 14-6. This rule implements guidelines in accordance with the West Virginia Governmental Ethics Act for all employees.~~

~~PE 14-7. Purpose~~

~~PE 14-8. In 1989, the West Virginia Legislature enacted the WV Governmental Ethics Act, set out in Chapter 6B of the WV State Code, declaring unlawful certain activities by public employees. Section 5(b), Article 2, of the Act prohibits a public employee from using his or her office or the prestige of that office, for private gain. Section 5(c), Article 2 prohibits solicitation of gifts that may confer pecuniary benefits~~

~~upon the employee. Section 5(d), Article 2, prohibits an interest in the profits or benefits of a public contract which an employee has direct authority to enter into or over which he or she may have control.~~

~~PE 14-9. The original version of the Ethics Act subjected all public employees, including higher education employees, to fines, sanction, and criminal prosecution for violation of the Ethics Act unless they obtained prior approval for the proposed activity from the West Virginia Ethics Commission. Many of the teaching, research, consulting and publication activities of higher education faculty and staff necessarily result in known and appropriate private benefits or gain which are customary and normal in higher education, but which were identified as potential violations of these provisions of the Ethics Act after its enactment.~~

~~PE 14-10. In 1990, the Ethics Act was amended at Section 5(n), Article 2, to allow higher education employees who derive private benefits from teaching, research, consulting, or publication activities the option of seeking exemption from the above prohibitions from their employing institution instead of the Ethics Commission.~~

~~PE 14-11. Therefore, this rule is adopted to set forth an expeditious procedure for granting such approval of exemptions at the institutional level to faculty and staff members who seek to be relieved of certain statutorily imposed prohibitions of the WV Governmental Ethics Act.~~

~~PE 14-12. Interpretation~~

~~PE 14-13. Nothing in this rule shall be interpreted as restricting or prohibiting the otherwise lawful institutional or outside activities of faculty or staff consistent with their institutional duties and responsibilities or employment contracts, or as requiring the prior approval of such activities by the institution. Nor shall this rule be interpreted as restricting academic freedom, as defined by this Board in Series 9, or the constitutional rights of employees to free speech and association. However, this rule shall not be interpreted to require or grant institutional approval or sanction of faculty or staff activities that violate or conflict with their institutional duties or responsibilities, employment contract, federal or state law, the rules of this Board, or the ethical standards imposed by the WV Governmental Ethics Act.~~

~~PE 14-14. Approval Authority~~

~~PE 14-15. Institutional approval of any activity pursuant to this rule shall be deemed to be a part of the employee's employment contract with the Board.~~

~~PE 14-16. Approval for any activity under this rule may only be given by the president or the president's designee. Such delegation of authority by the president shall be in accordance with the needs of the institution but in no case shall such delegation~~

~~be at an authority level lower than a departmental chair, director or other similar department supervisor.~~

~~PE 14-17. Approval for any activity may be granted on a case-by-case basis or, when such activities are common within the School, a department or other category or grouping of employees, to all of an institution's employees or any sub-grouping thereof.~~

~~PE 14-18. Any institutional approval granted pursuant to this rule may be revoked upon reasonable notice to the employee(s).~~

~~PE 14-19. Disclosures required by this rule are personal in nature and shall be kept confidential, as permitted by law.~~

~~PE 14-20. Solicitations~~

~~PE 14-21. Unless otherwise restricted by one's supervisor, employees shall be permitted to solicit gifts which directly benefit the Governing Board or WVSOM. Solicitations on behalf of a particular department, on behalf of the WVSOM Foundation, or on behalf of an affiliated corporation or center shall, for the purposes of this rule, be deemed to be a solicitation on behalf of or for the benefit of the employing institution.~~

~~PE 14-22. Permissible Solicitations~~

~~PE 14-23. Permissible solicitations shall include, but not be limited to, the following, even though the soliciting employee may work in a position which will be directly or indirectly supported thereby:~~

~~PE 14-24. Grants from governmental agencies, foundations, corporations, or individuals to an institution to support teaching, research, publication or service activities of the institution;~~

~~PE 14-25. Contracts with governmental agencies, foundations, corporations, or individuals to an institution to support teaching, research, publication or service activities of the institution;~~

~~PE 14-26. Donations from foundations, corporations, or individuals to an institution to support teaching, research, publication, or service activities of the institution.~~

~~PE 14-27. Donations for Support~~

~~PE 14-28. Support for teaching, research, publication, and service activities shall include but not be limited to such normal and regular institutional needs as support for salaries; scholarships; capital improvements or repairs; and classroom, laboratory, athletic, medical, scientific and other similar equipment supplies.~~

~~PE 14-29. Solicitation in Accord with this Policy Not Inappropriate~~

~~PE 14-30. No solicitation or other activity permitted by this rule shall be deemed to be the in-appropriate use of an employee's public office (position) or the prestige of that office for one's own private gain or that of another person.~~

~~PE 14-31. Exemptions~~

~~PE 14-32. Use of Personal Prestige~~

~~PE 14-33. When an employee in an institution governed by the WVSOM Board of Governors uses his or her knowledge and personal prestige for private gain without the use of the employee's public office, or the prestige of the employee's public office, then there is no requirement to obtain an exemption under this ethics rule.~~

~~PE 14-34. Prestige of Public Office~~

~~PE 14-35. WV Code §6B-2-5(n) gives institutions of public higher education limited authority to grant exemptions to their employees from the prohibitions in the State Ethics Act relating to the use of public office or the prestige of public office for private gain when the employee is using his or her field of expertise as an author, speaker, consultant or through other approved activities such as service as a board member for outside agencies or businesses. Therefore, when an employee in an institution governed by the WVSOM Board of Governors seeks to use his or her public office or the prestige of his or her public office for the employee's private gain or for the private gain of another person, the employee may seek from the appropriate institutional authority an exemption (as limited by the Ethics Act) from the prohibition against the use of public office or the prestige of public office for private gain.~~

~~PE 14-36. The president, upon petition therefore, may grant the employee an exemption to permit the employee to use the employee's public office, or the prestige of the employee's public office, to derive private benefit from the employee's field of expertise as an author, speaker, consultant, or through other approved activities such as service on the board of an outside agency or business.~~

~~PE 14-37. In granting permission for an employee to engage in such outside activities which may be directly or indirectly associated with the employee's position with the institution, consideration should be given to the following:~~

~~PE 14-38. Whether the employee brings to his/her position his/her own unique personal prestige which is based upon his/her own intelligence, education, experience, skills and abilities, or other personal gifts or traits;~~

~~PE 14-39. Whether such activity is customary and usual within the field;~~

~~PE 14-40. Whether the institution derives any benefit through prestige or otherwise from the activity;~~

~~PE 14-41. Whether the institution expects or anticipates that the employee will gain financially from the activities which are not a part of the employee's required employment activities;~~

~~PE 14-42. Whether the employee's activity will increase his/her personal or professional development or will lend service or benefit to the nation, state or community;~~

~~PE 14-43. Whether the outside activity will create an overriding conflict with the employee's responsibility to the institution or will interfere with the satisfactory performance of the employee's institutional duties.~~

~~PE 14-44. Disclosure of Position, Title, and History~~

~~PE 14-45. The disclosure by an employee of an employee's position, title, and work history within WVSOM or other organization under the WVSOM Board of Governors in the promotion of an employee's private activities shall be exempt from the prohibition against the use of prestige of public office for a private gain. However, in these cases, the employee has the responsibility to make clear the fact that he or she is not representing the institution but is speaking as a private citizen.~~

~~PE 14-46. Employee Not Deemed an Agent~~

~~PE 14-47. An employee who obtains an exemption from the Ethics Act prohibitions under the procedure authorized in this rule shall not be deemed an agent of the School when the employee is acting outside the scope of his or her public employment for his or her private benefit.~~

~~PE 14-48. Contractual Provisions Not Waived~~

~~PE 14-49. No exemption granted under this ethics rule shall be deemed to constitute a waiver by the institution of any lawful contractual provision in the employment contract of a full or part-time employee of the WVSOM Board of Governors.~~

~~PE 14-50. Disclosure of Interest Required~~

~~PE 14-51. Each employee shall be required to disclose any interest the employee or any member of the employee's immediate family may have in the profits or benefits of a contract which the employee may have direct authority to enter into or over which the employee may have control unless such interest is limited within the meaning of WV Code §6B-2-5(d)(2).~~

~~PE 14-52. The president may review any interest an employee or any member of the employee's family may have and determine what, if any, restrictions or limitation should be placed on the employee's activities.~~

~~PE 14-53. Without limitation, the following represent examples of interests in public contracts which may be permitted:~~

~~PE 14-54. The employee is the author and copyright owner of a leading textbook in the employee's teaching field and may wish to require the use of the textbook by his/her students;~~

~~PE 14-55. The employee is the inventor and patent owner of a scientific tool necessary for research in the employee's field;~~

~~PE 14-56. The employee is an expert in the region in a particular field and such consulting expertise is being sought by the School or another governmental agency and the providing of such consulting services is not a part of the employee's duties to the School.~~

~~PE 14-57. Activity Permitted by Law or Commission~~

~~PE 14-58. Activity Permitted by Ethics Act~~

~~PE 14-59. Unless otherwise prohibited by the WVSOM Board of Governors, no activity permitted under the West Virginia Ethics Act shall be deemed to be a violation of this rule.~~

~~PE 14-60. Activity Permitted by Ethics Commission~~

~~PE 14-61. Unless otherwise prohibited or restricted by the WVSOM Board of Governors, no activity approved, permitted or exempted by the West Virginia Ethics Commission shall be deemed to be a violation of this rule.~~

~~PE 14-62. Approval of President's Activities Under This Rule~~

~~PE 14-63. The Chair of the WVSOM Board of Governors shall have the authority to review and grant approval of the president's activities which may involve a conflict of interest pursuant to this rule.~~

~~PE 14-64. Other Policies~~

~~his policy describes how exemption may be obtained by WVSOM employees for solicitation, approval of activity or use of prestige of public office. Specific activities having to do with conflict of interest may be governed by more specific provisions of other policies, which will take precedence, such as the WVSOM Policy on Conflict of Interest in Research.~~