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Academic Affairs Manual (ACD)

Effective: 7/1/1987

Revised: 7/1/2002



ACD 204-08: Conflict of Interest

Purpose

To prevent university employees from engaging in any behavior that would violate the State of Arizona general conflicts of interest laws

Source

Arizona Revised Statutes §§ 38-501 to -511

Applicability

All ASU employees

Policy

All university employees will comply with the State of Arizona general conflicts of interest laws applicable to university employees. It is the responsibility of the ASU employee to learn the requirements of the laws and to comply with them. Substantial civil and criminal penalties may result to the ASU employee from failure to comply with the laws.

Note:	In addition to these general laws, special conflicts of interest rules apply to certain activities conducted by some ASU employees.
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	The following explanation divides the Arizona general conflicts of interest laws into seven rules. These rules are not mutually exclusive. More than one may apply in any situation. The conduct of the ASU employee must comply with each applicable rule.
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	The Arizona conflicts of interest laws are broadly construed.
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	If an ASU employee believes that he or she is involved in a situation to which one of the rules applies, or might possibly apply, the ASU employee is encouraged to consult with the ASU Office of General Counsel.
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Definitions

A "relative" of an ASU employee includes:

1. the employee's spouse
2. the employee's children, grandchildren, parents, grandparents, brothers, and sisters (including half brothers and half sisters)
3. the spouses of each of those persons mentioned in number 2 and
4. the employee's spouse's parents, brothers, sisters, and children.

A "substantial interest" is any pecuniary or proprietary interest, direct or indirect, other than a remote interest.

"Pecuniary interest" means money. Anytime an ASU employee or a relative of an ASU employee might benefit monetarily by an ASU contract, purchase, sale, or decision, the employee or relative has a substantial interest. The monetary benefit to the ASU employee or relative may be direct or indirect.

"Proprietary interest" means ownership. Anytime an ASU employee or a relative of an ASU employee holds an ownership interest in a corporation, partnership, other legal entity that is about to enter into a transaction with ASU, the ASU employee or relative has a proprietary interest.

"Remote interest" means the following:

1. Nonprofit Corporation. An ASU employee or a relative of an ASU employee who is a nonsalaried officer of a nonprofit corporation has a remote interest in any ASU transaction with or decision affecting that corporation.
2. Landlord/Tenant of a Contracting Party. An ASU employee or relative of an ASU employee who is a landlord or tenant of another party has a remote interest in any ASU transaction with or decision affecting the other party.
3. Attorney of a Contracting Party. An ASU employee or relative of an ASU employee who is an attorney for a client has a remote interest in any ASU transaction with or decision affecting the client.
4. Nonprofit Cooperative Marketing Association. An ASU employee or relative of an ASU employee who is a member of a nonprofit cooperative marketing association has a remote interest in any ASU transaction with or decision affecting that

- association.
5. Insignificant Stock Ownership. An ASU employee or relative of an ASU employee who owns shares of a for-profit corporation has a remote interest in any ASU transaction with or decision affecting the corporation, if three conditions are satisfied:
 - a. ownership is less than three percent of the shares of the corporation
 - b. the dividends (including the value of stock dividends) from the corporation do not exceed five percent of the person's total annual income and
 - c. any other payments made to the person by the corporation do not exceed five percent of the person's total annual income.
 6. Reimbursement of Expenses. An ASU employee or relative of an ASU employee being reimbursed for actual and necessary expenses incurred in the performance of official duty has a remote interest in any decision affecting the reimbursement.
 7. Recipient of Public Services Generally Available. An ASU employee or relative of an ASU employee who receives public services provided to the general public by a government or governmental agency by which he or she is employed has a remote interest in any contract with or decision affecting services to the employee or relative. The services must be provided on the same terms and conditions as are provided to nonemployees.
 8. Public School Board Member. The interest of a public school board member is a remote interest when the decision involves a relative who is not a dependent or a spouse of the school board member.
 9. Public Agency Employee. The interest of an ASU employee or relative of an ASU employee is a remote interest when the transaction with ASU or the ASU decision indirectly affects that person as a public officer or employee of another public agency or political subdivision and does not confer a direct economic benefit or detriment upon the ASU employee or relative.
 10. Class Interests. An ASU employee or relative of an ASU employee who is a member of a trade, business, profession, or other class of persons of at least ten members with an interest no greater than the interest of the other members of the class has a remote interest in a decision by ASU affecting the class.

Conflicts of Interest Rules

Rule One (A.R.S. § 38-503 A and B)

An ASU employee who has, or whose **relative** has, a **substantial interest** in any contract with, sale to, purchase from, service for, or decision by ASU must do two things:

1. the employee must disclose the substantial interest to ASU by completing a **Disclosure of Substantial Interest** form. The completed form must be filed with the ASU Office of General Counsel and
2. the employee must refrain from participating in any manner in the contract, sale, purchase, or decision.

Even if the ASU employee is confident that he or she can be objective in the matter and that the public interest would not be harmed by his or her participation, the ASU employee must disclose the substantial interest and not participate in the matter.

Rule Two (A.R.S. § 38-503 C)

An ASU employee may supply equipment, material, supplies, or services to ASU *only if* the contract is awarded after public competitive bidding. The ASU employee should contact the ASU Purchasing and Business Services Department for a description of the competitive bidding requirements.

Note:	When an ASU employee does business with ASU, the employee has a substantial interest and the disclosure and nonparticipation requirements in Rule One also apply.
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Rule Three (A.R.S. § 38-504 A)

During ASU employment and for 12 months after leaving ASU employment, an ASU employee may not represent another person for compensation before ASU on a matter:

1. if the ASU employee was directly concerned with the matter while an ASU employee
2. if the ASU employee personally participated in the matter during his or her ASU employment and
3. if the matter involved a substantial and material exercise of administrative discretion by the ASU employee.

Rule Four (A.R.S. § 38-504 B)

During ASU employment and for two years after leaving ASU, an ASU employee may not disclose or use for his or her personal profit any information disclosed to him or her in the course of his or her official ASU duties that has been clearly designated to him or her as confidential or that is declared confidential by law.

Exception:	A current or former ASU employee may obtain appropriate authorization for the disclosure of the information or use of the information for his or her own personal profit.
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Rule Five (A.R.S. § 38-505 A)

An ASU employee may not receive or agree to receive directly or indirectly compensation (other than as provided by law) for any service rendered or to be rendered by him or her in any matter pending at ASU.

Rule Six (A.R.S. § 38-504 A)

An ASU employee may not use or attempt to use his or her official position to secure any valuable thing or benefit that would not ordinarily accrue to the employee in the performance of his or her official duties, if the thing or benefit is of such character as to manifest a substantial and improper influence on the ASU employee with respect to the employee's official duties.

Rule Seven (A.R.S. § 38-511)

If an ASU employee is significantly involved in initiating, negotiating, securing, drafting, or creating a contract on behalf of ASU:

1. ASU has the right to cancel the contract if the ASU employee is or becomes an employee or agent of any other party to the contract while the contract or any extension of the contract is in effect and
2. ASU has the right to cancel the contract if the ASU employee is or becomes a consultant with respect to the subject matter of the contract to any other party to the contract while the contract or any extension of the contract is in effect.

Cross-References

For related information, see:

1. [ACD 204-05](#), "Sales by Faculty or Academic Professionals to the University"
2. the *Research and Sponsored Projects Policies and Procedures Manual (RSP)* —[RSP 206](#), "Objectivity in Research—Disclosure of Financial Interests and Management of Conflicts of Interest" and
3. the *Staff Personnel Policies and Procedures Manual* —[SPP 813](#), "Code of Conduct for Business Activities."

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